

PUBLIC HEARING of the Town Council held Wednesday, September 24, 2003 at 7:00 P.M. in the Council Chamber, Town Building, Harrisville for and within the Town of Burrillville.

MEMBERS PRESENT: Council President Wallace F. Lees, Councilors Jacqueline Zahn, Louis Bleiweis, Edward F. Bonczek, Ronald E. Faford and William E. Gonyea.

MEMBERS ABSENT: Councilor William A. Andrews was excused.

The hearing was called to order at 7:00 P.M. Council President Wallace F. Lees recessed the meeting due to exceeding capacity of the Council Chambers. The hearing reconvened at A.T. Levy School Cafeteria at 7:15 P.M.

Relative to considering and acting upon proposed amendments to the Burrillville Zoning Ordinance and Map, specifically:

- Adoption of a new **Section 11-8.6 Development Management District Overlay Zone**, along Route 102 – Broncos Highway
- Amendments to **Section 11-5.1 Zoning District Uses, Table 1, Subsections 2, 3, 5, 6, 7, 8, 11 under General Commercial Uses; Subsections 4, 7, 8, 10, 12 under Limited Industrial Uses; Subsections 1, 4, 5, 6, 7, 10, 11, 12 under General Industrial Uses**
- Elimination of the **Highway Commercial District**
- Proposed **rezoning of lots located within the proposed Development Management District Overlay Zone**; specifically: *Map 96, Lot 14; Map 97, Lots 4, 5, 11, 13, 14, 15; Map 98, Lots 31, 32; Map 113, Lots 11, 12; Map 114, Lots 8, 9, 10, 11, 12, 13, 14, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54; Map 115, Lot 1; Map 129, Lots 39, 40; Map 130, Lots 1, 4, 5; Map 131, Lot 7; Map 145, Lot 14; Map 160, Lot 58; Map 161, Lot 4; Map 213, Lots 4, 5, 7; Map 230, Lots 14, 15; Map 231, Lots 22, 23, 44, 45, 46, 47, 48; Map 266, Lot 6*

**NOTE:** The notice of meeting and description was advertised in the legal section of the Woonsocket Call on September 9, September 16 and September 23, 2003.

**NOTE:** Notice was sent to all abutting property owners by certified mail, as required by law.

#### **1. Comments/Input/Recommendation from Route 102 Study Committee**

Norman C. Mainville, member of the Route 102 Study Committee described the vision for Route 102 as consistent with the Town's Comprehensive Plan. Public input was considered throughout the year that the committee spent in drafting the plan. Mr. Mainville introduced David Wescott of The Maguire Group, who served as consultant to the Route 102 Study Committee.

David Wescott of The Maguire Group, consultant to the Route 102 Study Committee, discussed the need for action along Route 102 to maintain a stable tax base. He discussed the importance of planning carefully to maintain the character of the Town and protect the integrity of the commercial village centers. The Route 102 Study Committee was introduced and the process they used to develop the plan was described in some detail. Mr. Wescott described the right of the property owners to develop their land and the Town's obligation to plan carefully for development. He stated that the Burrillville Planning Board and the Burrillville Town Council had approved the plan. The zoning revisions before the public at this hearing, he said, are a step in implementing the plan.

Mr. Wescott described the revisions. First, he said, is adoption of a Development Management District that would apply to all parcels that front on Route 102. This change would result in the requirement of a site plan review by the planning board for development of a large tract of land. The amendments would revise the table of permitted and prohibited uses, eliminating strip commercial development. Also under consideration was the rezoning of 53 parcels: action that would eliminate strip commercial zoning, establish sites for industrial and office parks, and protect the character of Bronco Highway. He described the changes and elaborated on the purpose of these amendments.

Mr. Wescott addressed the question of how residential taxes might change as a result of the proposed zoning amendments. He said that the taxes are based on the actual use of the property, so that if there is a house on a property that is rezoned, the property will continue to be taxed as residential – the actual use of the property. The property would continue to be taxed as residential property until the owner makes a different use of the property. He also said that taxes on a large piece of vacant land might be affected, although no radical change is anticipated.

## **2. Comments/Input/Recommendations from the Ordinance Subcommittee**

Councilor Edward F. Bonczek confirmed that the ordinance subcommittee had carefully reviewed the proposed amendments and strongly supports them. He stated that the ordinance subcommittee believes that the impact on most property owners would be minimal.

## **3. Comments/Input/Recommendation by Administration (Town Solicitor Walter J. Kane, Town Manager Michael C. Wood, Director of Planning and Economic Development Thomas J. Kravitz)**

Walter J. Kane, Town Solicitor, reviewed the public hearing process, as set out by State Law. He discussed the advertising, notification and project explanation. The Town Council, he said, would take input from those present at the public hearing. After the public hearing, the Town Council could decide to adopt the changes to the zoning ordinance, make changes to the proposal or take the matter under advisement for consideration at a subsequent meeting. He pointed out that any changes that the Town Council considers must be as a result of input presented at the public hearing. He said that anyone who wishes to propose amendments must do so at the public hearing because once the hearing is closed, the Town Council by law cannot consider any matter not presented at the public hearing.

In answer to a question from Richard Gagnon of Bronco Highway, Mr. Kane reviewed the assessment of taxes. If property is presently zoned and used as residential property, should the zoning change be adopted but the property continue to be used as residential property, then the property classification for tax purposes would remain residential. A separate, stand-alone vacant lot would be classified and taxed by the zoning that is applied to the parcel. Mr. Kane pointed out that based on the tax assessor's present records, the valuation of residential and commercial properties are approximately the same. Mr. Kane stated that, at the end of the public hearing, the Town Council would consider a resolution to continue the practice of assessing property based on its actual use; and to tax vacant land based on the zoning designation. Mr. Kane also explained that land designated by the State as Open Space would not be affected because the designation is fixed.

Michael C. Wood, Town Manager, further addressed the expectation of minimal tax impact resulting from the proposed amendment. He pointed out that the properties that might be affected are the ten vacant parcels. He reiterated that parcels with residences would continue with the residential tax classification. He suggested that later in the public hearing, the Town Council might recess briefly to allow individuals to discuss the implications for a particular parcel with the tax assessor or David Wescott of The Maguire Group.

Michael C. Wood, Town Manager, discussed the extensive work of the Route 102 Study Committee in encouraging public participation in developing the plan. He identified several reasons for proposing these changes, which included a reasonable plan to offset the loss of revenue when the agreement with Ocean State Power expires. Mr. Wood confirmed that the proposal is a reasonable, sensible plan with minimal negative impact. He acknowledged that people have a right to use their property, but suggested that the community should implement controls for appropriate land use.

Thomas J. Kravitz, Director of Planning and Economic Development, indicated that the proposed ordinance contained a typographical error on page one, section (2) Applicability. In line three, he requested that the word “more” be changed to the word “management”. The following proposed ordinance was entered into the record:

## **DEVELOPMENT MANAGEMENT DISTRICT OVERLAY ZONE**

### **0.10 ESTABLISHMENT OF THE DEVELOPMENT MANAGEMENT DISTRICT OVERLAY ZONE**

**(1) Purpose:** This Development Management District Overlay Zone is established to work in conjunction with underlying zoning districts to implement land use development policies contained in the *Bronco Highway Development Management Study Report of February 2003* (“Bronco Highway Plan”) and the Burrillville Comprehensive Plan.

Design standards for the Development District are structured to encourage development that preserves the rural character of Route 102, protects sensitive environmental and cultural resources, enhances the community and improves the tax base while minimizing traffic impacts on Bronco Highway. The District is intended to prevent strip commercial development and associated commercial sprawl along Bronco Highway by encouraging development of industrial and commercial office parks along the highway and concentrating retail development at commercial nodes in existing and proposed village centers.

**(2) Applicability:** The Development Management District provisions and standards supplement those of the applicable underlying zone and other applicable overlay zones. Where the Development Management District and base zone provisions conflict, the management overlay zone provisions shall control. The overlay zone applies to all properties listed in the Development Management District Overlay Zone Table and shown on the accompanying District Map contained in Attachment A.

**(3) Review Procedure:** All multiple lot and/or multi-unit residential, commercial and industrial development proposals within the Development Overlay District shall be subject to site plan review procedures as specified in Section 11.8.1 of the zoning ordinance.

### **0.20 ALLOWED USES AND SPECIAL USE LIMITATIONS**

**(1) Allowed Uses:** Table 1.A shows the schedule of allowed uses within each base zone. With some exceptions, the activities allowed within the base zone are also allowed within the Development Management District. The District adds the flexibility of mixing compatible uses on a given site. Mixed use development is encouraged within the District.

## **ZONE USE AMENDMENTS**

### **TABLE 1. A**

### **ROUTE 102 OVERLAY ZONE USES**

PRINCIPAL USE	F-5	F-2	R-40	R-20	R-12	OS	VC	GC	LI	GI
<b>1. Agricultural Uses</b>										
A building or structure to be used for the display and sale of the products produced by the uses allowed herein on the land										N
<b>2. Residential uses</b>										
Mixed use building								Y		
<b>3. Open recreational uses</b>										
Drive-in theatre								N		
<b>4. Public and semi-public uses</b>										
Church or other place of worship (subject to development plan review)										N
Trade school / technical school										N
Daycare center or nursery school									N	
<b>5. Office uses</b>										
Professional, scientific, medical and technical services and finance and insurance industries										Y
Temporary real estate (one-year renewal and limited to new subdivisions or other new developments)								N		
<b>6. Restaurant and entertainment</b>										
Lunchroom or restaurant as an integral part of an industrial development: (a) not including entertainment										S
Drive-in restaurant								N		
<b>7. Service Business</b>										
Auto body or paint shop								N	N	N
Package Store								N		
Personal convenience service, including but not limited to barber shop, shoe repair, dry cleaner, laundry pickup								N		
Specialty services, including but not limited to copy center, photo studio, interior decorating shop, tailor, catering service, etc.								N		
Mortuary or funeral home								N		
Radio or television studio								N		
Veterinary office or animal hospital								N		
Vehicle rental agency								N	N	
<b>8. Retail business</b>										
Auto, truck or heavy equipment sales in a building (including repairs)										
Recreational trailer sales and service									N	
Truck or heavy equipment sales in a building (including repairs)								S	S	

PRINCIPAL USE	F-5	F-2	R-40	R-20	R-12	OS	VC	GC	LI	GI
<b>10. Wholesale business and storage</b>										
Wholesale business and storage of non-flammable and non-explosive material in a building										N
Open lot storage of new building material and machinery									N	N
<b>11. Service Industries</b>										
Blacksmith, machine or welding shop										N
Bus, truck and heavy equipment repair										N
Professional, scientific, medical and technical services and finance and insurance industries								Y		
<b>12. Industrial uses</b>										
Professional, scientific, medical and technical services and finance and insurance industries									Y	Y
The smoking, canning or curing of meat and fish products									N	N
The manufacture, compounding, processing or packaging of bakery goods, candy, cosmetics, drugs, food products (not including meat, fish, yeast, vinegar and the rendering of fats and oils, and other similar operations)									S	S
Retail outlet for industrial use (as an accessory use)										S
Textile dyeing or finishing										N

**(2) Prohibited Uses:** Commercial retail, rental, sales and service uses are not permitted to have access on Bronco Highway within the Development Management District. Where permitted by the underlying zone, such uses may be allowed within the District provided that they obtain frontage and access from roads other than Bronco Highway. Specific uses prohibited along Bronco Highway include but are not limited to:

- (a) Convenience Stores
- (b) Fast food restaurants
- (c) Service stations, including quick servicing
- (d) Car washes
- (e) Flea Markets
- (f) Self service storage facilities
- (g) Open lot storage (except agricultural products)

**(3) Temporary Uses:** The short-term use of land for the sale of agricultural products may be allowed by special permit within the Development Management District provided that such use is temporary, is restricted exclusively to the sale of agricultural products, and the property owner has demonstrated adequate provisions for traffic control, site security and public health and sanitation. No permit for this use may be issued for a term exceeding 3 years.

**(4) Buffer Zones and Setbacks:** In order to maintain the rural and forested appearance of Bronco highway within the Development Management District, a vegetated buffer with a minimum depth of 50’ must be maintained along both sides of Bronco Highway as measured from the limit of the highway right-of-way. No buildings, signs, structures or other site improvements may be constructed within this buffer zone. Existing trees, shrubs, and other naturally occurring vegetation may not be removed from this buffer zone without express written permission from the Planning Board. Permission may be granted by the Planning Board for the selective removal of dead, dying, or diseased trees upon submission of documentation by a licensed arborist certifying that such removal is necessary to protect the health of the surrounding forest and/or to protect the public health, safety and welfare.

**(5) Signs:** Internally illuminated signs and signs incorporating blinking, flashing, or moving lights are prohibited within the Development Management District.

<i>Development Management District – Overlay Zone</i>			
<i>Map</i>	<i>Lot</i>	<i>Existing Zoning</i>	<i>Proposed Zoning</i>
96	14	F-5	GC
97	4	F-5 / HC	GC
97	5	HC	GC
97	11	HC	GC
97	13	F-5	GC
97	14	F-5	GC
97	15	F-5	GC
98	31	HC	GC
98	32	HC	GC
113	11	R-40	VC
113	12	R-40	VC
114	8	F-5	GC
114	9	HC	GC
114	10	HC	GC
114	11	HC	GC
114	12	HC	GC
114	13	HC	GC
114	14	HC	GC
114	43	HC	GC
114	44	HC	GC
114	45	HC	GC
114	46	HC	GC
114	47	HC	GC
114	48	HC	GC
114	49	HC	GC

<b><i>Development Management District – Overlay Zone</i></b>			
114	50	HC	GC
114	51	HC	GC
114	52	HC	GC
114	53	HC	GC
114	54	HC	GC
115	1	HC	GC
129	39	HC	GC
129	40	HC	GC
130	1	HC	GC
130	4	HC	GC
130	5	HC	GC
131	7	R-40 / F-5	VC
145	14	GC*1	GC
160	58	R-12 / R-20	GI
161	4	R-12 / R-20	GI
213	4	HC*1	GC
213	5	HC	GC
213	7	HC*1	GI
230	14	R-40/HC	R-40
230	15	R-40/HC	R-40
231	22	R-40/HC	GC
231	23	R-40/HC	GC
231	44	HC	GC
231	45	HC	GC
231	46	HC	GC
231	47	HC	GC
231	48	HC	GC
266	6	HC	R-40

<b>Zoning Districts Referred to Above</b>	
F-5	Farming/Residential
HC	Highway Commercial
R-12	Village Residential
R-20	Suburban Residential
R-40	Suburban Residential
GC	General Commercial
GI	General Industrial

## Questions and Answers

Council President Wallace F. Lees opened the discussion for questions and comments.

**Dennis F. Laboissoniere, Victory Highway**, asked whether his property would be subject to “adverse possession” for the betterment of the community. In the opinion of Walter J. Kane, Town Solicitor, the Town would have no legal right to take property by eminent domain for development. The courts, he suggested, might uphold the right of the State to take land by eminent domain if they find land critical in a venture that would benefit the people of the State. Mr. Laboissoniere also asked what types of businesses have shown interest in developing along Route 102. Thomas J. Kravitz, Director of Planning and Economic Development, explained that substantial planning has been done and marketing would be the next step. Mr. Laboissoniere asked about notification of abutters, which Mr. Kane stated would be part of the site plan review.

**Doris Beaulieu, Glendale**, asked for an explanation of the zoning districts, relative to her concern that a portion of her residential lot would be taken for commercial or industrial development. Walter J. Kane, Town Solicitor, explained that the property would not be taken over. He said that the owner, or a subsequent owner, might make the decision to use a particular property for a use permitted by the zoning ordinance. Michael C. Wood, Town Manager, briefly elaborated that property owners would not be forced to change the use of their property if the town adopts the zoning amendments – only that a different use, such as general commercial, would be allowed.

**Vicki S. Dawes, Douglas Pike**, pointed out a recent situation in a neighboring town when the State took farmlands for development. Michael C. Wood, Town Manager, did not believe that the proposed changes would expose property owners to an increased risk of having their property taken by the State. David Wescott of The Maguire Group, consultant to the Route 102 Study Committee, stated that the zoning changes under consideration would not be relative to a situation such as that because the State is exempt from most zoning requirements.

**Robert A. Dawes, Douglas Pike**, asked whether there was any State bonding associated with this proposal. Walter J. Kane, Town Solicitor, said that this was a local, not a State, matter and that there is no money involved. Mr. Dawes discussed traffic concerns. Michael C. Wood, Town Manager, elaborated briefly on the plans for limited access from Bronco Highway included in the plan. There was a brief general discussion of State requirements for development and how the Development Management District Overlay Zone would provide certain controls to preserve the character of the area.

**Donald St. Germain, Douglas Pike**, opposed changing farming designations to general commercial designations and voiced concerns about traffic on Route 102. Michael C. Wood, Town Manager, pointed out that most of the zoning changes are from highway commercial to general commercial. The purpose is to plan and control the anticipated development.

**Mary Ryan, Victory Highway**, discussed zoning amendments that she recalled from the mid 1980s that she believed included a reversion to a farming designation if there were no development within a certain timeframe. That area, she said, was subsequently zoned highway commercial. Additionally, she acknowledged that development is necessary. Mrs. Ryan pointed out that, as the area is currently zoned, developers are required to obtain Planning Board approval. Mrs. Ryan also voiced concerns about traffic.

**Paul Vanasse, Log Road**, spoke as a potential business owner on Route 102, suggesting that the proposed zoning changes are too restrictive and that maintaining the highway commercial designation would benefit the businesses and the town. He generally supported the plan but also supported encouraging fast food establishments and other retail businesses in the district. Michael C. Wood, Town

Manager, addressed this point, stating that surveys and public input have verified that the majority of residents were not interested in retail development along Route 102. This concept, he said, supports retail in the village centers and controls the traffic issues.

Mr. Vanasse pointed out that properties that are now residential-use would ultimately be sold for the “highest and best use”, which will most likely be commercial. He asked whether State law provided for property to be taxed at “highest and best use”. Walter J. Kane, Town Solicitor, stated that the tax assessor’s practice, which is not unique to Burrillville, is to tax on current use.

**Barbara Carter, east side of Victory Highway**, asked for clarification related specifically to her parcel of land. Her question was address individually during a recess later in the hearing.

**Norman C. Mainville, Route 102 Study Committee**, identified the village centers and reviewed the plan for Route 102 and the strategy of concentrating retail business in the village centers. He discussed that the Route 102 development would take time, but stressed the importance of planning now for future development. He emphasized that the committee seriously considered traffic and safety issues, as well as maintaining the rural atmosphere of the town, in developing the plan.

Mr. Mainville asked for elaboration on the “Open Space” designation. Walter J. Kane, Town Solicitor, explained that the underlying zoning does not affect the property owners’ ability to request an open space designation. If a property is currently designated open space, it can remain so. An owner of land eligible under the Farm, Forest and Open Space Act may apply for that designation.

**Linda Glennon, Route 102, Mapleville**, asked whether the zoning would be phased in over 20 years. Walter J. Kane, Town Solicitor, explained that the zoning would become effective upon adoption of the ordinance. Ms. Glennon also asked whether the change from F5 to general commercial would prohibit her from running her agricultural business. Michael C. Wood, Town Manager, stated that the agricultural use could continue.

**Sam Potter, Central St.**, questioned whether the Clear River Industrial Park would have access on Central Street. Michael C. Wood, Town Manager, indicated that the road has not been approved yet, but that the proposed zoning changes would not address those specific issues. Matters such as this would be considered during a site plan review.

**Thomas J. Kravitz, Director of Planning & Economic Development**, read the following section of the Town of Burrillville Zoning Ordinance:

*The highway commercial district is intended for land fronting on and having access to Route 102. It is seen as an area for large-scale modern commercial development with large parking lots, usually in the front of the buildings. These businesses will be of all commercial varieties often clustered together in shopping centers or strip malls.*

Mr. Kravitz emphasized that it would be inappropriate to allow this to remain in the code and then expect that the Planning Board would prevent legal strip mall development.

**Shawn Sprague, Douglas Turnpike**, asked about the buffer zone, which was described as 50 feet. He also asked about the distance from waterways to construction. The jurisdiction of wetlands by DEM provides for 50 feet, 100 feet or 200 feet.

**Rod Timpany, Donahue Road**, suggested that people should not be concerned about commercial development because, in his opinion, it is difficult to get a permit for commercial construction within the

Town of Burrillville. He suggested that the town should streamline the review process and work more closely with developers.

**Michael C. Wood, Town Manager**, discussed the infrastructure aspect of this project. The cost of bringing water, sewer and other services is very expensive. The infrastructure is proximate to Route 102 and costs to the taxpayer would be less for this area than they would be should the town locate the commercial/industrial districts elsewhere.

**Thomas Trimble, Alice Avenue**, asked whether access to development would be restricted to Route 102. Michael C. Wood, Town Manager, said that the Planning Board would encourage access via Victory Highway or common driveways from Route 102. Individual driveways, he said, would be discouraged.

**Bill Hayden, Central Street**, identified two parcels near the industrial park that he said are currently zoned residential and proposed to be general industrial. David Wescott of The Maguire Group, consultant to the Route 102 Study Committee, explained that, if accepted, these parcels would then carry the same designation as the industrial park.

**John Sherkarchi, Esq., Lincoln, RI**, spoke on behalf of his clients, Mr. Montigny and Mr. Slader, who own Map 113, Lot 12. He stated that they endorse the overall intent of the proposal but do not want a zone change for the portion of their parcel that fronts on Victory Highway.

**Note:** There was a 15-minute recess at 8:50 P.M. to allow individuals to view the maps more closely and ask specific questions related to their parcels.

**John Sherkarchi, Esq., Lincoln, RI**, representing Mr. Montigny and Mr. Slader requested that Map 113, Lot 12 be exempt from the vote so that they might submit engineering/survey plans showing their request for a line change to allow some residential use along Victory Highway and allow commercial use along Bronco Highway.

**Heather Daily, Remington Ave**, commented that she supported the plan before the Town Council because it seems to avoid the over development that has occurred in some communities.

**Roger Bourbonniere, Victory Highway**, stated that he supported the proposed plan. He supported eliminating strip commercial development and focusing retail in the village centers.

**Richard Gagnon, Broncos Highway**, requested that the Cardi lot located at Map 131, Lot 7 be exempt from the plan and be allowed to remain residential.

Thomas J. Kravitz, Director of Planning and Economic Development, stated that the concept went before the planning board, the planning board was unanimous in its finding of facts on the plan. Specifically, he said, the plan will inherently preserve and help develop the goals of the town. He further stated that the Planning Board found the plan consistent with the Comprehensive Plan. The proposal brings the zoning code more in conformance with the Comprehensive Plan, which has been approved by the State of Rhode Island. Mr. Kravitz stated that, in his professional opinion as Director of Planning and Economic Development, the plan is in conformance with the Comprehensive Plan. He encouraged those present to visit the town building and review the Comprehensive Plan.

## **6. Town Council Members Comments/Input**

Council President Wallace F. Lees stated that, based on his experience and input from residents, the plan addresses the concerns of many residents. He commended Town Manager Michael C. Wood, Town

Solicitor Walter J. Kane and Director of Planning and Economic Development Thomas J. Kravitz for their efforts.

Councilor William E. Gonyea highly favored the plan. He stated his belief that this is an opportune time to adopt this plan. Otherwise, the town is destined to be a bedroom community. However, he said that he believed the Town Council should give due consideration to the two requests for temporary exemptions.

Councilor Louis Bleiweis reviewed the zoning experience in the Town of Burrillville, pointing to problems that arose before zoning was in place because it was not in place. He voiced confidence that individual problems would be addressed. He supported the proposed changes, commended the civic-minded people who worked on the plan, and stated that action should not be delayed.

Councilor Edward F. Bonczek reviewed the two years' work that led to the proposal. He discussed the appointment of the Route 102 Study Committee, which represented all sectors of the community, and the efforts to satisfy all objections that had been raised. He pointed out that the Committee had discussed at length all the questions that had been raised during the public hearing. In closing, he supported the plan as the wisest approach to commercial development in the Town of Burrillville.

Councilor Ronald E. Faford agreed with Councilor Bonczek, supporting careful planning as the best direction for the Town. In particular, he supported the elimination of strip commercial development.

7. **VOTED** to close the public hearing.

Motion by Councilor Jacqueline Zahn. Seconded by Councilor William E. Gonyea. The vote was unanimous by the six members in attendance. Voting in favor of the motion were Council President Wallace F. Lees, Councilors Jacqueline Zahn, Louis Bleiweis, Edward F. Bonczek, Ronald E. Faford and William E. Gonyea. Councilor William A. Andrews was excused.

8. **MOTION** to adopt the amendments to the ordinances of the Town of Burrillville, Chapter XI, entitled "Zoning": adoption of new §11-8.6 Development Management District Overlay Zone; amendments to §11-5.1 Zoning District Uses, Table 1; Elimination of the Highway Commercial District and rezoning of lots located within the proposed Development Management District Overlay Zone, in the form of the amendment presented tonight.

Motion by Councilor Jacqueline Zahn. Seconded by Councilor William E. Gonyea.

**Discussion:** Councilor Edward F. Bonczek asked for clarification of the amendments mentioned in the motion. Walter J. Kane, Town Solicitor, mentioned several technical corrections in the latest version, such as the typographical error on page one, renumbering the table to indicate 1.A, and a change that provides that the "management overlay zone provisions shall control".

**MOTION** by Councilor William E. Gonyea to amend the main motion to exclude Map 131, Lot 7 and Map 113, Lot 12, as requested.

There was no second to the amendment.

**VOTED** to pass the main motion. Motion by Councilor Jacqueline Zahn. Seconded by Councilor Edward F. Bonczek. The vote was unanimous by the six members in attendance. Voting in favor of the motion were Council President Wallace F. Lees, Councilors Jacqueline Zahn, Louis Bleiweis, Edward F. Bonczek, Ronald E. Faford and William E. Gonyea. Councilor William A. Andrews was excused.

The Town Council of the Town of Burrillville hereby ordains as follows:

**DEVELOPMENT MANAGEMENT DISTRICT OVERLAY ZONE**

**0.10 ESTABLISHMENT OF THE DEVELOPMENT MANAGEMENT DISTRICT OVERLAY ZONE**

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**(2) Applicability:** The Development Management District provisions and standards supplement those of the applicable underlying zone and other applicable overlay zones. Where the Development Management District and base zone provisions conflict, the management overlay zone provisions shall control. The overlay zone applies to all properties listed in the Development Management District Overlay Zone Table and shown on the accompanying District Map contained in Attachment A.

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**0.20 ALLOWED USES AND SPECIAL USE LIMITATIONS**

**(1) Allowed Uses:** Table 1.A shows the schedule of allowed uses within each base zone. With some exceptions, the activities allowed within the base zone are also allowed within the Development Management District. The District adds the flexibility of mixing compatible uses on a given site. Mixed use development is encouraged within the District.

**ZONE USE AMENDMENTS**

**TABLE 1. A ROUTE 102 OVERLAY ZONE USES**

PRINCIPAL USE	F-5	F-2	R-40	R-20	R-12	OS	VC	GC	LI	GI
<b>1. Agricultural Uses</b>										
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<b>3. Open recreational uses</b>										
Drive-in theatre								N		

<b>PRINCIPAL USE</b>	<b>F-5</b>	<b>F-2</b>	<b>R-40</b>	<b>R-20</b>	<b>R-12</b>	<b>OS</b>	<b>VC</b>	<b>GC</b>	<b>LI</b>	<b>GI</b>
<b>4. Public and semi-public uses</b>										
Church or other place of worship (subject to development plan review)										N
Trade school / technical school										N
Daycare center or nursery school									N	
<b>5. Office uses</b>										
Professional, scientific, medical and technical services and finance and insurance industries										Y
Temporary real estate (one-year renewal and limited to new subdivisions or other new developments)								N		
<b>6. Restaurant and entertainment</b>										
Lunchroom or restaurant as an integral part of an industrial development: (a) not including entertainment										S
Drive-in restaurant								N		
<b>7. Service Business</b>										
Auto body or paint shop								N	N	N
Package Store								N		
Personal convenience service, including but not limited to barber shop, shoe repair, dry cleaner, laundry pickup								N		
Specialty services, including but not limited to copy center, photo studio, interior decorating shop, tailor, catering service, etc.								N		
Mortuary or funeral home								N		
Radio or television studio								N		
Veterinary office or animal hospital								N		
Vehicle rental agency								N	N	
<b>8. Retail business</b>										
Auto, truck or heavy equipment sales in a building (including repairs)										
Recreational trailer sales and service									N	
Truck or heavy equipment sales in a building (including repairs)								S	S	
<b>10. Wholesale business and storage</b>										
Wholesale business and storage of non-flammable and non-explosive material in a building										N
Open lot storage of new building material and machinery									N	N
<b>11. Service Industries</b>										
Blacksmith, machine or welding shop										N
Bus, truck and heavy equipment										N

PRINCIPAL USE	F-5	F-2	R-40	R-20	R-12	OS	VC	GC	LI	GI
repair										
Professional, scientific, medical and technical services and finance and insurance industries								Y		
<b>12. Industrial uses</b>										
Professional, scientific, medical and technical services and finance and insurance industries									Y	Y
The smoking, canning or curing of meat and fish products									N	N
The manufacture, compounding, processing or packaging of bakery goods, candy, cosmetics, drugs, food products (not including meat, fish, yeast, vinegar and the rendering of fats and oils, and other similar operations)									S	S
Retail outlet for industrial use (as an accessory use)										S
Textile dyeing or finishing										N

**(2) Prohibited Uses:** Commercial retail, rental, sales and service uses are not permitted to have access on Bronco Highway within the Development Management District. Where permitted by the underlying zone, such uses may be allowed within the District provided that they obtain frontage and access from roads other than Bronco Highway. Specific uses prohibited along Bronco Highway include but are not limited to:

- (a) Convenience Stores
- (b) Fast food restaurants
- (c) Service stations, including quick servicing
- (d) Car washes
- (h) Flea Markets
- (i) Self service storage facilities
- (j) Open lot storage (except agricultural products)

**(3) Temporary Uses:** The short-term use of land for the sale of agricultural products may be allowed by special permit within the Development Management District provided that such use is temporary, is restricted exclusively to the sale of agricultural products, and the property owner has demonstrated adequate provisions for traffic control, site security and public health and sanitation. No permit for this use may be issued for a term exceeding 3 years.

**(4) Buffer Zones and Setbacks:** In order to maintain the rural and forested appearance of Bronco highway within the Development Management District, a vegetated buffer with a minimum depth of 50' must be maintained along both sides of Bronco Highway as measured from the limit of the highway right-of-way. No buildings, signs, structures or other site improvements may be constructed within this buffer zone. Existing trees, shrubs, and other naturally occurring vegetation may not be removed from this buffer zone without express written permission from the Planning Board. Permission may be granted by the Planning Board for the selective removal of dead, dying, or diseased trees upon submission of documentation by a licensed arborist certifying that such removal is necessary to protect the health of the surrounding forest and/or to protect the public health, safety and welfare.

**(5) Signs:** Internally illuminated signs and signs incorporating blinking, flashing, or moving lights are prohibited within the Development Management District.

<i>Development Management District – Overlay Zone</i>			
<i>Map</i>	<i>Lot</i>	<i>Existing Zoning</i>	<i>Proposed Zoning</i>
96	14	F-5	GC
97	4	F-5 / HC	GC
97	5	HC	GC
97	11	HC	GC
97	13	F-5	GC
97	14	F-5	GC
97	15	F-5	GC
98	31	HC	GC
98	32	HC	GC
113	11	R-40	VC
113	12	R-40	VC
114	8	F-5	GC
114	9	HC	GC
114	10	HC	GC
114	11	HC	GC
114	12	HC	GC
114	13	HC	GC
114	14	HC	GC
114	43	HC	GC
114	44	HC	GC
114	45	HC	GC
114	46	HC	GC
114	47	HC	GC
114	48	HC	GC
114	49	HC	GC
114	50	HC	GC
114	51	HC	GC
114	52	HC	GC
114	53	HC	GC
114	54	HC	GC
115	1	HC	GC
129	39	HC	GC

<i>Development Management District – Overlay Zone</i>			
129	40	HC	GC
130	1	HC	GC
130	4	HC	GC
130	5	HC	GC
131	7	R-40 / F-5	VC
145	14	GC*1	GC
160	58	R-12 / R-20	GI
161	4	R-12 / R-20	GI
213	4	HC*1	GC
213	5	HC	GC
213	7	HC*1	GI
230	14	R-40/HC	R-40
230	15	R-40/HC	R-40
231	22	R-40/HC	GC
231	23	R-40/HC	GC
231	44	HC	GC
231	45	HC	GC
231	46	HC	GC
231	47	HC	GC
231	48	HC	GC
266	6	HC	R-40

<b>Zoning Districts Referred to Above</b>	
F-5	Farming/Residential
HC	Highway Commercial
R-12	Village Residential
R-20	Suburban Residential
R-40	Suburban Residential
GC	General Commercial
GI	General Industrial

Adopted this 24<sup>th</sup> day of September 2003.

9. **VOTED** to adopt a resolution that the tax assessing practice of the Tax Assessor’s Office of the Town of Burrillville to tax property based on its actual use shall be continued as the standard tax assessing practice of the Town of Burrillville; and that the resolution be included in the record of the meeting.

Motion by Councilor Jacqueline Zahn. Seconded by Councilor Louis Bleiweis. The vote was unanimous by the six members in attendance. Voting in favor of the motion were Council President Wallace F. Lees,

Councilors Jacqueline Zahn, Louis Bleiweis, Edward F. Bonczek, Ronald E. Faford and William E. Gonyea. Councilor William A. Andrews was excused.

*BURRILLVILLE TOWN COUNCIL  
RESOLUTION*

*WHEREAS, the Burrillville Town Council voted at its meeting of August 27, 2003, to schedule a public hearing on a proposed change in the Zoning Ordinance to create a Development Management District Overlay Zone for certain property located adjacent to Route 102. The Public Hearing was scheduled for September 24, 2003; and*

*WHEREAS, an issue arose as to what impact the Development Management District Overlay would have on the tax assessments of the affected property; and*

*WHEREAS, to determine the impact on property assessments a workshop was scheduled with the Tax Assessor; and*

*WHEREAS, the Tax Assessor explained to the council that it was standard tax assessing practice to assess property on the use of the property and not on how property was zoned. The Tax Assessor stated if property presently has a residential use and is classified as such, the residential classification will not change if the property is rezoned commercial or industrial. The only time the classification for tax purposes would change is if the actual use of the property changed. The Tax Assessor further explained the vacant land that was affected by the zoning change would be assessed on the basis of the new zoning designation. The Assessor stated that there is a town wide revaluation under way that regardless of any zoning changes could result in new assessments on most properties throughout the Town. However, property will still be assessed based on its actual use not on the zoning district in which it is located, that is property that is used for residential purposes would continue to be in a residential classification for tax purposes.*

*NOW, THEREFORE, based on the detailed explanation of the tax assessing practice of the Town Tax Assessor, which according to his testimony is standard tax assessing procedure throughout the area, the Town Council resolves as follows:*

*That the tax assessing practice of the Tax Assessor's Office of the Town of Burrillville to tax property based on its actual use shall be continued as the standard tax assessing practice of the Town of Burrillville. Vacant land shall be taxed based on the zoning designation.*

*Nothing in this resolution shall have any affect on the revaluation of taxable property presently underway.*

*This resolution passed this 24<sup>th</sup> day of September, 2003.*

**VOTED** to adjourn at 9:40 P.M.

Motion by Councilor Jacqueline Zahn. Seconded by Councilor Edward F. Bonczek. The vote was unanimous by the six members in attendance. Voting in favor of the motion were Council President Wallace F. Lees, Councilors Jacqueline Zahn, Louis Bleiweis, Edward F. Bonczek, Ronald E. Faford and William E. Gonyea. Councilor William A. Andrews was excused.

The meeting was taped. The tape is on file with the minutes.

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Louise R. Phaneuf, Town Clerk