

From: Chris Loreti <cloreti@verizon.net>
To: Doug Heim <DHeim@town.arlington.ma.us>
 MByrne@town.arlington.ma.us, 'Jenny Raitt' <jrait@town.arlington.ma.us>,
Cc: "'abunnell@town.arlington.ma.us'" <ABunnell@town.arlington.ma.us>, 'Adam Chapdelaine'
 <achapdelaine@town.arlington.ma.us>
Date: 11/07/2018 06:15 PM
Subject: Re: Retail Marijuana Sales in the Industrial Zone

Hi Doug,

Thanks for your quick response...and for confirming my memory.

Note that I wasn't suggesting that the Town couldn't vote to allow retail marijuana sales in the industrial zone (or that such sales would not be allowed if it did so vote). Rather, I was simply stating my opinion that it was a bad idea to carve out a special exception for retail marijuana sales when other retail uses (whether stand-alone or in mixed use) are prohibited in the I zone except in the limited case of the sale of goods produced on site.

Chris

On 11/7/2018 5:23 PM, Doug Heim wrote:

Hi Chris,

You're referencing the 2016 Town Meeting discussion, correct? I don't recall issuing a formal opinion on this so I assume we're talking about a question on the floor of Town Meeting. To the best of my recollection Mr. Bunnell and Mike Cayer addressed the concern about mixed-use being exploited to provide for disallowed uses in a given district before Town Meeting.

In any event, it is indeed the Town's position that only those uses that are allowed in any given zoning district can be employed in a mixed-use building. Applied to the proposed amendments before the ARB, is the question seems to me whether or not marijuana retail could be allowed in the Industrial District under its definition in the bylaw:

I: Industrial District. The Industrial District in the Mill Brook Valley allows uses requiring the manufacture, assembly, processing, or handling of materials which because of their traffic, noise, appearance, odor, or hazards would be disruptive to residential and other business uses. In this district, the Town discourages residential uses, retail business uses, or uses which would otherwise interfere with the intent of this Bylaw. Mixed-use development is allowed without residential space.

While the district "discourages... retail business uses, or uses which would otherwise interfere with the intent of [the] Bylaw," it does not forbid retail businesses (as you point out, one kind of retail is already allowed), nor does it forbid retail within mixed-use buildings (as it explicitly forbids mixed-use with residential space). Hence, if Town Meeting approves the proposed bylaw, the definition of the Industrial District is not prohibitive.

I leave it to the Town Meeting members, you, the ARB, and others to debate the merits of allowing marijuana uses by special permit in an amended section 5.6.3. But if the table is amended to allow for marijuana establishments, the definition of the Industrial District would not prohibit them just because they're considered retail (mixed-use or otherwise).

Sincerely yours,

Douglas W. Heim
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From: Chris Loreti [<mailto:cloreti@verizon.net>]
Sent: Wednesday, November 7, 2018 12:24 PM
To: Douglas Heim
Cc: MByrne@town.arlington.ma.us; Jenny Raitt; abunnell@town.arlington.ma.us; Adam Chapdelaine
Subject: Retail Marijuana Sales in the Industrial Zone

Hi Doug,

At the warrant article hearing Monday on medical and recreational marijuana, I made the point that retail sales are generally not allowed in Arlington's industrial zoning (I) district, and a special exception should not be carved out for marijuana sales. (See excerpts from the bylaw below.)

Jenny Raitt then stated that retail could be done in the I district as part of mixed use. I do not believe this is correct. During the debate on mixed use zoning at the time it was adopted, I raised the question of whether "mixed use" could be used to allow uses that would not otherwise be permitted within a particular zoning district. I recall that you (or possibly Mike Byrne) gave the opinion that unless the underlying use was already allowed within a district, it would not be allowed as part of mixed use.

Can you confirm whether this is still the Town's position or whether it has changed? If so, I think the bylaw needs to be clarified to prevent "mixed use" being used as a Trojan horse.

Thanks,

Chris Loreti

From the description of the Industrial district in the Zoning Bylaw:
In this district, the Town discourages residential uses, retail business uses, or uses which would otherwise interfere with the intent of this Bylaw.
The only time retail is allowed in the I district is under this use: "Manufacture, assembly, packaging of goods where at least 50% of goods are sold at retail primarily on the premises"

