

**Planning Board
Town of Great Barrington
Public Hearing**

The Great Barrington Planning Board will hold a public hearing, pursuant to the provisions of Massachusetts General Law Ch. 40A, s. 5, on Thursday, March 8, 2018 beginning at 6:00 PM at Town Hall, 334 Main Street, Great Barrington, to provide interested parties with an opportunity to comment on proposed changes to the Great Barrington Zoning Bylaw and Zoning Map. Proposed changes include the following: (1) a rezoning of the State Road area between the Housatonic River and Belcher Square from B2 to B2X, including rezoning of parcels on Avery Lane, North Street, Mechanic Street, Hillside Ave., Gilmore Ave., East St., and Everett St. from B2 to B2X or to R3, as shown on the proposed zoning map; and, (2) revisions to the Bylaw to regulate Marijuana establishments, including marijuana retail stores.

A copy of the proposed text and map amendments may be reviewed in the Town Clerk's office at Town Hall during regular business hours, or at the Mason or Ramsdell Library, or on the town website www.townofgb.org. Any person wishing to be heard on these matters should appear at the time and place designated, or may provide written comments to the Board prior to the public hearing.

Brandee Nelson, Chairman

Article : **State Road Mixed Use (B2X)**

To see if the Town will vote to amend the Zoning Bylaw by adding a new Section 9.14, State Road Mixed Use; amending Section 2.1.2, List of Business Districts; amending Section 3.1.4, Table of Use Regulations, amending Section 4.1, Schedule of Dimensional Requirements, as proposed below, and amending the Zoning Map as shown below, or to take any other action relative thereto.

Purpose of the Amendment: This amendment is proposed pursuant to the recommendations of the 2013 Master Plan to update the zoning in certain commercial areas within walking distance of a village center, to preserve and enhance the mix of residential and retail uses, and to reflect the context of the built fabric. This amendment would affect the area of State Road approximately between the Housatonic River and Belcher Square, as shown on the accompanying map, most of which is currently zoned B-2. Most of the B-2 parcels would be rezoned to B2X, while some would be rezoned to reflect their adjacent residential districts, e.g., R3 or R1B.

The B-2 designation allows for a wide variety of business and retail uses, but it is more restrictive with regards to residential and mixed-uses. The B-2 designation also sets strict building setback and lot size requirements. Few of the lots and existing structures meet the dimensional requirements of the B-2 zone, and many of the uses, which predated the B-2 designation, would not be permitted today under the B-2 regulations. Some lots with business uses are currently zoned residential. Many lots, which are residential in use and character, are nonconforming under current zoning because they are zoned for business. These include some lots on Avery Lane, Everett Street, Gilmore Avenue, Mechanic Street, and Hillside Avenue. Making improvements or modifications to properties that do not conform to their zoning designation requires a potentially onerous and expensive permitting process, which discourages owners from investing in their properties.

The Planning Board is proposing to address these issues by rezoning the area, to reflect more closely the mix of business and residential uses that already exists. The new zone would continue to allow retail and commercial establishments, like the current B-2, but it would also allow for a variety of residential uses. It would also allow buildings to be built close together and close to the street line, in much the same way they exist now. The overarching goal of this effort is to bring currently nonconforming structures and uses into conformance to the extent possible, allow for mixed-uses and a variety of housing options, and reduce parking requirements.

Proposed additions are underlined.
Proposed deletions are ~~struck through~~.

Add a new Section 9.14, as follows:

9.14 State Road Mixed Use (B2X)

9.14.1 Purpose. The State Road Mixed Use district (B2X) is hereby established to preserve and enhance the mix of business and residential uses, to enhance the existing character of the area, and to bring existing uses and structures more into compliance with the Zoning Bylaw, thereby facilitating a variety of business and housing opportunities.

9.14.2 Location. The B2X shall consist of the land shown on the 2016 Town of Great Barrington Assessors' Map 11 as Parcels 72, 74, 97, 105-111, 114-116; on Map 12 as Parcels 75, 75A, 79, 81, 84, 85, 88 and 89; on Map 14 as Parcels 8-24, 43, 44, 57, 57A; and on Map 15 as Parcels 1-6, and a portion of 57.

9.14.3 Permitted Uses. Permitted uses in the B2X are set forth in Section 3.1.4, the Table of Use Regulations.

9.14.4 Dimensional Requirements. Minimum setback and dimensional requirements for the B2X shall be as set forth in Section 4.1.2, Schedule of Dimensional Requirements.

9.14.5 Parking. The off-street parking requirements in Section 6.1 shall not apply in the B2X except as provided in this section. Off-street parking requirements in the B2X shall be as follows:

1. For new buildings, required off-street parking spaces shall not be located within the front yard area.
2. Only one space shall be required for any dwelling unit, whether in residential-only or in mixed-use buildings.
3. For permitted uses in existing buildings (those in existence as of May 7, 2018) that are not substantially expanded but no new spaces shall be required. A substantial expansion is defined, for the purpose of this section, as one which involves increasing the gross floor area of a structure by more than 25% or 500 square feet, whichever is less.
4. For permitted uses in new buildings or existing buildings that are substantially expanded, as defined in this section, or for any building greater than 5,000 square feet gross floor area, parking is required as follows:
 - (a) one parking space shall be required for each dwelling unit;
 - (b) the parking requirements for business or industrial uses in Section 6.1.2 through 6.1.6 shall be calculated as follows: the sum of the required parking for each use multiplied by 0.5 with the product rounded down to the nearest whole number, plus handicapped parking as may be required by law or building code (Example: 3 spaces required for retail, 4 spaces required for offices: $(3 + 4) \times 0.5 = 3.5$, so 3 spaces, + 1 handicapped space, = 4 spaces are required); and
5. The parking requirements of paragraphs 2, 3, or 4 of this section may be waived if the SPGA grants a special permit pursuant to section 6.1.9.

Amend Section 2.1.2 to add the B2X district, as follows:

2.1.2 Business Districts.

B	Downtown Business
B1	Neighborhood Business
B2	General Business
B2A	Transitional Business
<u>B2X</u>	<u>State Road Mixed Use</u>
B3	Downtown Business Mixed Use
HVC	Housatonic Village Center
MXD	Mixed Use Transitional

Amend Section 3.1.4, Table of Use Regulations, to add a new column, B2X, as follows:

Permitted Use		ZONING DISTRICT ¹														ADDITIONAL APPLICABLE REGULATIONS	
		R1A	R1B	R2	R3	R4	B	HVC	B1	B2	B2A	<u>B2X</u>	B3	MXD	I		I2
A. Residential uses																	
(1)	Dwelling, Single family	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	<u>Y</u>	Y	Y	SB	SB	
(2)	Dwelling, Two-family	Y ²	Y ²	Y ²	Y ²	Y ²	Y ²	Y ²	Y ²	Y ²	Y ²	<u>Y²</u>	Y ²	Y ²	Y ²	Y ²	See also 8.1 , 8.7 .
(3)	Dwelling, multifamily 3 to 8 units	SB	SB	SB	SB	N	SB	SB	SB	SB	SB	<u>Y</u>	Y	Y	N	SB	See also 8.3
	9 units or more	N	N	N	SB	N	SB	SB	N	SB	SB	<u>SB</u>	Y	SB	N	SB	See also 8.3
(4)	Assisted living residence	PB	PB	PB	PB	PB	PB	PB	PB	PB	PB	<u>PB</u>	PB	PB	PB	PB	See also 8.8
(5)	Live/work units	N	N	N	N	N	N	Y	N	N	N	<u>Y</u>	Y	Y	Y	Y	See also 9.4 , 9.6 .
(6)	Lodging house or tourist home for transient guests	SB	SB	SB	SB	SB	SB	SB	N	SB	SB	<u>SB</u>	SB	SB	SB	SB	See also 7.16
(7)	Mixed use	N	N	N	N	N	SB	Y	SB	SB	SB	<u>Y</u>	SB	Y	Y	Y	See also 8.4 , 9.6 .
(8)	Open Space Residential Development	N	N	PB	N	PB	N	N	N	N	N	<u>N</u>	N	N	N	N	See also 8.7
(9)	Planned unit residential development (PURD)	SB	SB	SB	SB	SB	SB	N	N	SB	SB	<u>SB</u>	SB	SB	N	N	See also 8.5
(10)	Publicly Financed Nonprofit Age-Restricted Housing	N	N	N	SB	N	SB	SB	N	SB	SB	<u>SB</u>	SB	SB	N	N	See also 8.9
(11)	Trailer or mobile home	SB	SB	SB	SB	SB	SB	N	SB	SB	SB	<u>SB</u>	N	N	SB	SB	See also 8.6
B. Community, educational, & recreational uses																	
(1)	Camping facilities	N	N	SB	N	SB	N	N	N	N	SB	<u>SB</u>	N	N	N	N	See also 7.4
(2)	Cemeteries	N	N	SB	N	SB	N	N	N	N	N	<u>N</u>	N	N	N	N	
(3)	Child care center	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	<u>Y</u>	Y	Y	Y	Y	
(4)	Clubhouses or fraternal lodges not conducted for profit	SB	SB	SB	SB	SB	SB	SB	SB	SB	SB	<u>SB</u>	SB	SB	SB	SB	

Permitted Use		ZONING DISTRICT ¹														ADDITIONAL APPLICABLE REGULATIONS	
		R1A	R1B	R2	R3	R4	B	HVC	B1	B2	B2A	<u>B2X</u>	B3	MXD	I		I2
(5)	Commercial amusements, fairgrounds	N	N	N	N	N	SB	SB	N	SB	N	<u>N</u>	N	SB	SB	SB	
(6)	Community center operated by a municipal or private not-for-profit organization	SB	SB	SB	SB	SB	SB	SB	SB	SB	SB	<u>SB</u>	SB	SB	SB	SB	
(7)	Educational use, exempt	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	<u>Y</u>	Y	Y	Y	Y	
(8)	Educational use, nonexempt	N	N	SB	N	SB	SB	SB	N	SB	SB	<u>SB</u>	SB	SB	SB	SB	See also 7.6
(9)	Golf or country clubs	N	N	SB	N	SB	N	N	N	N	SB	<u>N</u>	N	N	SB	SB	
(10)	Hospitals, sanitariums, nursing or convalescent homes or philanthropic institutions, provided that no principal building so used shall be within 50 feet of any lot line	N	N	SB	N	SB	SB	SB	N	SB	SB	<u>SB</u>	SB	SB	SB	SB	
(11)	Municipal parks and playgrounds, including recreational buildings therein	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	<u>Y</u>	Y	Y	Y	Y	
(12)	Public libraries, public museums, municipal buildings and facilities	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	<u>Y</u>	Y	Y	Y	Y	
(13)	Riding stables on less than 5 acres, provided that any buildings or structures are set back not less than 50 feet from any lot line	N	N	SB	N	SB	SB	N	N	SB	SB	<u>N</u>	N	N	SB	SB	
(14)	Ski tows, provided that any buildings or structures are set back not less than 50 feet from any lot line	N	N	SB	N	SB	SB	N	N	SB	N	<u>N</u>	N	N	SB	SB	
(15)	Summer camps operated for children on sites not less than 10 acres in area	N	N	SB	N	SB	N	N	N	N	SB	<u>N</u>	N	N	N	N	
(16)	Use of land or structures for religious purposes	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	<u>Y</u>	Y	Y	Y	Y	

Permitted Use		ZONING DISTRICT ¹														ADDITIONAL APPLICABLE REGULATIONS	
		R1A	R1B	R2	R3	R4	B	HVC	B1	B2	B2A	<u>B2X</u>	B3	MXD	I		I2
C. Office, retail and consumer service establishments																	
(1)	Banks and other financial institutions	N	N	N	N	N	Y	Y	Y	Y	Y	<u>Y</u>	Y	Y	Y	Y	
(2)	Fast-food eating establishments	N	N	N	N	N	SB	SB	N	SB	N	<u>SB</u>	N	SB	N	N	See also 7.7 , 7.9
(3)	Fuel storage and sales, excluding motor vehicle fuel stations	N	N	N	N	N	SB	N	N	SB	N	<u>N</u>	N	SB	SB	SB	
(4)	Garages, public	N	N	N	N	N	SB	SB	N	SB	N	<u>SB</u>	SB	SB	SB	SB	See also 9.7
(5)	Garden centers, including associated landscaping services	N	N	N	N	N	Y	Y	N	Y	Y	<u>Y</u>	Y	Y	Y	Y	
(6)	General service establishment	N	N	N	N	N	SB	Y	N	Y	N	<u>Y</u>	SB	Y	Y	Y	
(7)	Greenhouses, commercial, on less than 5 acres, provided that no heating plant for a greenhouse shall be within 50 feet from any side or rear lot line	N	N	Y	N	Y	Y	Y	Y	Y	Y	<u>Y</u>	Y	Y	Y	Y	
(8)	Hotels	N	N	N	N	N	SB	SB	N	SB	SB	<u>SB</u>	SB	SB	SB	SB	See also 7.10
(9)	Institutional administrative offices or planned professional office developments or research centers, provided that in R2 & R4 Districts such uses are subject to special requirements	N	N	SB	N	SB	SB	SB	SB	SB	SB	<u>SB</u>	SB	SB	SB	SB	See also 7.13
(10)	Kennel	SB	SB	SB	SB	SB	SB	SB	SB	SB	SB	<u>SB</u>	SB	SB	SB	SB	See also 7.17
(11)	Large-scale commercial development	N	N	N	N	N	Y	SB	SB	SB	N	<u>N</u>	SB	N	SB	SB	See also 7.9 , 7.12 , 9.6
(12)	Lumberyards	N	N	N	N	N	SB	N	N	SB	N	<u>N</u>	SB	SB	SB	SB	
(13)	Motels or overnight cabins	N	N	N	N	N	SB	SB	N	SB	N	<u>SB</u>	SB	SB	SB	SB	See also 7.10
(14)	Motor vehicle fuel station	N	N	N	N	N	SB	SB	N	SB	N	<u>SB</u>	N	SB	SB	SB	See also 7.8
(15)	Motor vehicle general and	N	N	N	N	N	SB	SB	N	SB	N	<u>SB</u>	N	SB	SB	SB	

Permitted Use		ZONING DISTRICT ¹														ADDITIONAL APPLICABLE REGULATIONS	
		R1A	R1B	R2	R3	R4	B	HVC	B1	B2	B2A	<u>B2X</u>	B3	MXD	I		I2
	body repair																
(16)	Motor vehicle sales rooms, including used car lots	N	N	N	N	N	SB	SB	N	SB	N	<u>SB</u>	N	SB	SB	SB	
(17)	Offices	N	N	N	N	N	Y	Y	Y	Y	Y	<u>Y</u>	Y	Y	Y	Y	
(18)	Parking lots, commercial	N	N	N	N	N	SB	SB	N	SB	N	<u>SB</u>	SB	SB	SB	SB	
(19)	Personal service establishment	N	N	N	N	N	Y	Y	Y	Y	N	<u>Y</u>	Y	Y	Y	Y	
(20)	Professional offices	SB	SB	SB	SB	SB	Y	Y	Y	Y	Y	<u>Y</u>	Y	Y	Y	Y	See also 7.14
(21)	Registered Marijuana Dispensary	N	N	N	N	N	N	N	N	Y	N	<u>Y</u>	Y	N	Y	Y	See also 7.18
(22)	Restaurants and other places for serving food, other than fast-food eating establishments	N	N	N	N	N	Y	SB ⁴	SB	SB	SB	<u>SB</u>	SB	SB	SB	SB	See also 7.3 See also footnote 4, below.
(23)	Retail stores or centers and/or wholesale sales and service with total aggregate floor area less than or equal to 20,000 square feet	N	N	N	N	N	Y	Y ⁵	Y	Y	SB	<u>Y</u> ⁵	Y	Y ⁵	Y	Y	See also footnote 5, below.
(24)	Retail stores and shops for custom work or making of articles sold on the premises	N	N	N	N	N	Y	Y	SB	Y	SB	<u>Y</u>	Y	Y	Y	Y	
D. Agricultural uses																	
(1)	Agriculture, as defined by MGL c. 40A, s. 3, on tracts larger than 5 acres, including sales of products raised on premises on stands or structures erected in accordance with front yard setback requirements, provided that soil fertilizer shall be stored not less than 100 feet from any lot line,	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	<u>Y</u>	Y	Y	Y	Y	

Permitted Use	ZONING DISTRICT ¹															ADDITIONAL APPLICABLE REGULATIONS	
	R1A	R1B	R2	R3	R4	B	HVC	B1	B2	B2A	<u>B2X</u>	B3	MXD	I	I2		
unless kept in air-tight containers																	
E. Utilities, communication and transportation																	
(1) Aviation field, public or private	N	N	N	N	SB	N	N	N	N	N	<u>N</u>	N	N	N	N	N	See also 7.2
(2) Essential services	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	<u>Y</u>	Y	Y	Y	Y	Y	
(3) Freight terminals, truck or rail	N	N	N	N	N	SB	N	N	SB	N	<u>N</u>	N	SB	SB	SB		
(4) Low-power FM broadcast radio licensed by FCC																	See also 7.15
(a) Studio	N	N	N	N	N	Y	Y	Y	Y	Y	<u>Y</u>	Y	Y	Y	Y	Y	
(b) Antenna	SB	SB	SB	SB	SB	SB	SB	SB	SB	SB	<u>SB</u>	SB	SB	SB	SB	SB	
(5) Passenger stations	SB	SB	SB	SB	SB	SB	SB	SB	SB	SB	<u>SB</u>	SB	SB	SB	SB	SB	
(6) Personal wireless tower or structure as a principal (or accessory) use in the Overlay District, and the initial and any subsequent personal wireless service facility located upon that tower or structure (see Section 9.3 of this Bylaw)																	See also 9.3
(7) Solar Energy Systems:																	
Roof-mounted (any size)	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	<u>Y</u>	Y	Y	Y	Y	Y	See also 9.12
Accessory use, up to 750 sf project area ⁶	Y	Y	Y	Y	Y	PB	PB	Y	Y	Y	<u>Y</u>	Y	Y	Y	Y	Y	See note ⁶ and 9.12
Accessory use 750 sf project area or larger ⁶	PB	PB	Y	PB	Y	PB	PB	Y	Y	PB	<u>PB</u>	Y	Y	Y	Y	Y	See note ⁶ and 9.12
Commercial scale	N	N	PB	N	PB	PB	N	N	PB	N	<u>N</u>	PB	N	Y	PB		See also 9.12
F. Industrial, manufacturing and storage uses																	
(1) Contractor's and Landscaper's yards	N	N	N	N	N	N	N	N	N	N	<u>N</u>	N	SB	Y	Y		
(2) Gravel, loam, sand and stone removal for commercial purposes	N	N	SB	N	SB	SB	N	N	SB	N	<u>N</u>	N	N	SB	SB		See also 7.5

Permitted Use		ZONING DISTRICT ¹														ADDITIONAL APPLICABLE REGULATIONS	
		R1A	R1B	R2	R3	R4	B	HVC	B1	B2	B2A	<u>B2X</u>	B3	MXD	I		I2
(3)	Light manufacturing	N	N	N	N	N	N	SB	N	N	N	<u>SB</u>	SB	SB	Y	Y	See also 6.4
(4)	Saw (log) mill and manufacture of forest products, provided that any saw (log) mill shall be located at least 200 feet from any lot line, and no piles of sawdust or other refuse shall be maintained within 100 feet of any lot line	N	N	N	N	N	N	N	N	N	N	<u>N</u>	N	N	SB	SB	
G Accessory uses																	
(1)	Any structure or use customarily incidental and subordinate to the principal permitted use in the district	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	<u>Y</u>	Y	Y	Y	Y	See also 3.2 , 7.1
(2)	Home occupation (low impact)	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	<u>Y</u>	Y	Y	Y	Y	See also 3.3
(3)	Adult day care	PB	PB	PB	PB	PB	PB	PB	PB	PB	PB	<u>PB</u>	PB	PB	PB	PB	See also 8.8
(4)	An accessory use to a by-right use, whether or not on the same parcel, which is necessary in conjunction with scientific research or development or related production, provided that the Board of Selectmen finds that the proposed accessory use does not substantially derogate from the public good	SB	SB	SB	SB	SB	SB	SB	SB	SB	SB	<u>SB</u>	SB	SB	SB	SB	See also 3.2
(5)	Drive-up or drive-through facilities	N	N	N	N	N	SB	N	SB	SB	SB	<u>SB</u>	SB	SB	SB	SB	See also 7.9 , 9.6
(6)	Family day care (small)	Y	Y	Y	Y	Y	SB	Y	SB	SB	SB	<u>SB</u>	SB	SB	SB	SB	
(7)	Family day care (large)	SB	SB	SB	SB	SB	SB	SB	SB	SB	SB	<u>SB</u>	SB	SB	SB	SB	
(8)	Home occupation (moderate impact)	SB	SB	SB	SB	SB	SB	SB	SB	SB	SB	<u>SB</u>	SB	Y	SB	SB	See also 3.3
(9)	Incidental stripping of sod	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	<u>Y</u>	Y	Y	Y	Y	

Permitted Use		ZONING DISTRICT ¹														ADDITIONAL APPLICABLE REGULATIONS	
		R1A	R1B	R2	R3	R4	B	HVC	B1	B2	B2A	<u>B2X</u>	B3	MXD	I		I2
	or removal of topsoil, gravel, loam, sand, stone or other earth materials																
(10)	Keeping of horses, for whatever purpose, subject to Board of Health regulations and only on lots of 5 acres or more	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	<u>Y</u>	Y	Y	Y	Y	
(11)	Private garage or off-street parking for private automobiles registered at the premises	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	<u>Y</u>	Y	Y	Y	Y	
(12)	Swimming pools, inground or aboveground. Pool must be surrounded by a continuous fence having a minimum of 4 feet height and with a gate that can be locked; so designed and built to restrain entry by unauthorized persons.	Y	Y	Y	Y	Y	SB	Y	SB	SB	SB	<u>SB</u>	SB	Y	SB	SB	
(13)	Wind Energy Generator	SB	SB	SB	SB	SB	SB	SB	SB	SB	SB	<u>SB</u>	SB	SB	SB	SB	

Amend Section 4.1.2, to add a new row, B2X, as follows:

4.1.2 Schedule of Dimensional Requirements

District	Minimum lot area (sq. ft.)	Width (ft.)	Minimum front yard ¹ (ft.)	Minimum side yard (ft.)	Minimum rear yard (ft.)	Maximum lot coverage by buildings (percent)	Stories ^{2,6}	Height (ft.) ^{2,6}
<u>B2X</u>	<u>5,000</u>	<u>50</u>	<u>0</u> ⁹	<u>0</u> ¹⁰	<u>0</u> ¹⁰	<u>75</u>	<u>3</u>	<u>40</u>

9. Zero front setbacks are encouraged for the purpose of maintaining the integrity and continuity of the street facade. The maximum front setback shall be five feet.

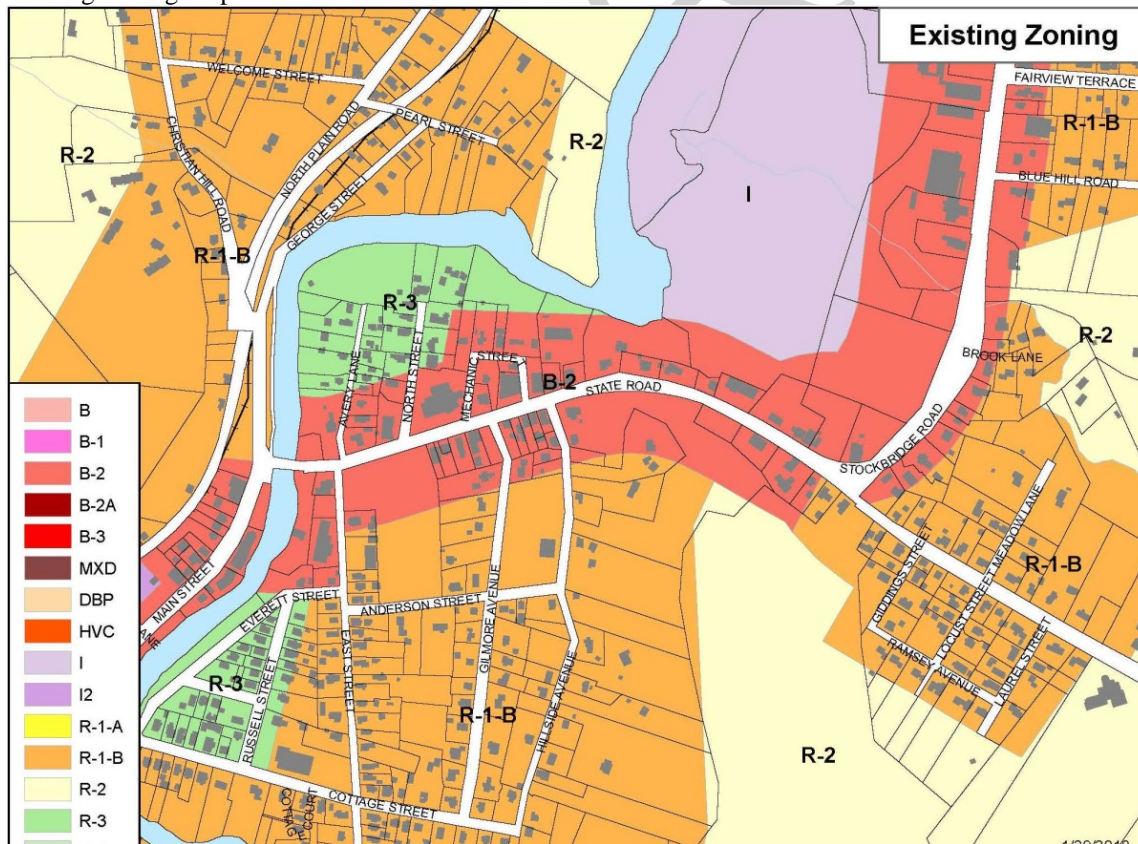
10. Existing side yards, rear yards and the rights-of-way shall be retained. Parking areas that currently exist to meet parking requirements for housing units shall be retained.

And rezone certain other land as follows:

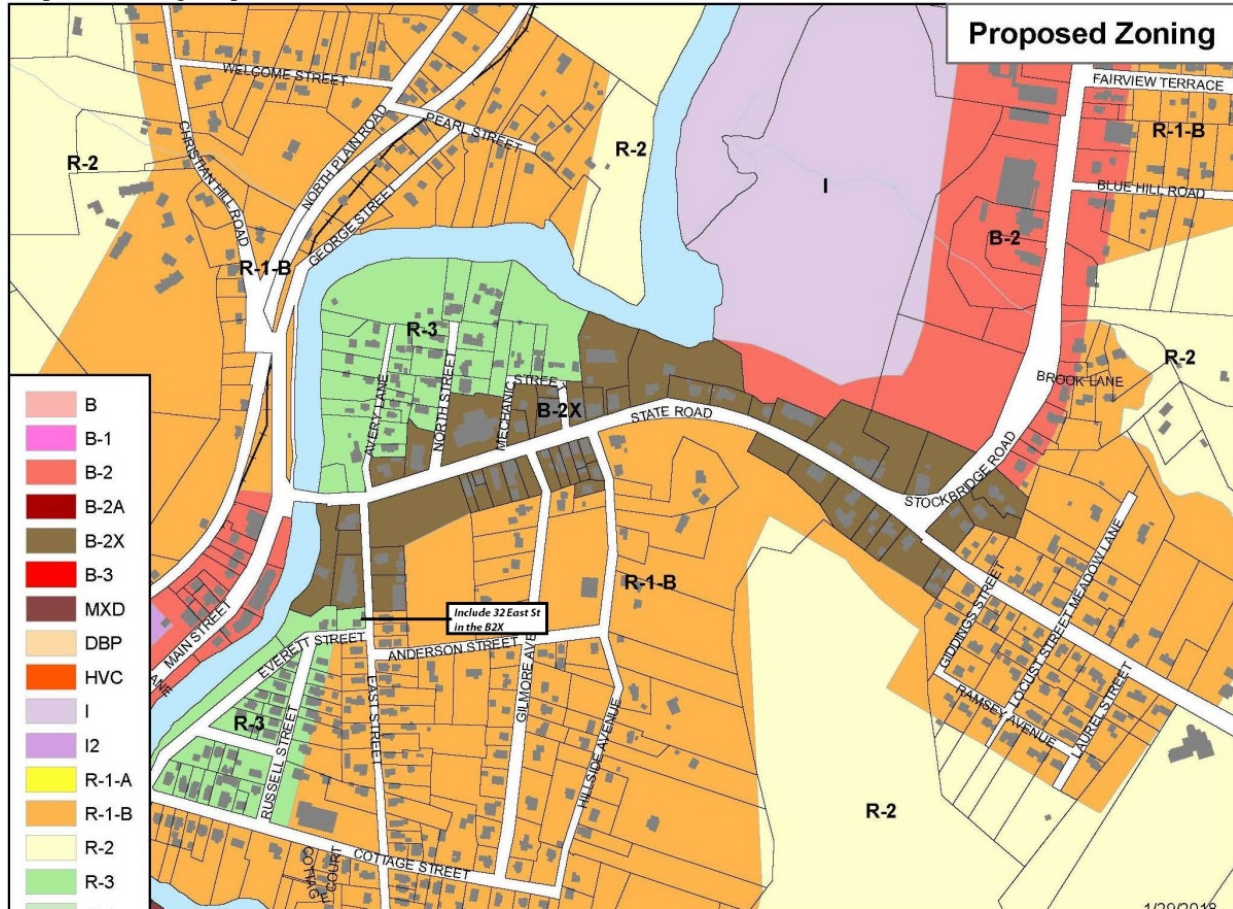
Rezone the land shown on the 2016 Town of Great Barrington Assessors' Map 11, Parcels 69, 71, 73, 75, 76, 78, and 90-93 and on Map 14, Parcel 40, to R3; and, rezone Map 14, Parcels 48, 58, and 59 and Map 15 Parcels 58, 58A, and 59A to R1B.

And amend the Zoning Map to as shown below:

Existing Zoning Map:



Proposed Zoning Map:



DRAFT

Article : Marijuana Establishments

To see if the Town will vote to amend the Zoning Bylaw to regulate both medical and recreational marijuana establishments, as proposed below, or to take any other action relative thereto.

Purpose of the Amendment: This amendment is proposed to provide for the placement of marijuana establishments, licensed by the Commonwealth in accordance with General Law, in suitable locations in the town. Without this amendment, it may be possible to locate a marijuana retail location anywhere that retail might be allowed in the town. This proposal limits marijuana establishments to appropriate districts and sets additional requirements for the location of the establishments.

Proposed additions are underlined.
Proposed deletions are ~~struck through~~.

Amend Section 7.18, as follows:

7.18 REGISTERED MARIJUANA DISPENSARY ESTABLISHMENT

7.18.1 Purposes. To provide for the placement of Registered Marijuana Dispensaries (RMDs) Establishments in recognition of and accordance with ~~the Humanitarian Medical Use of Marijuana Act, G.L. c.94C, and the implementing regulations, 105 CMR 725~~ G.L. c.94I, Medical Use Of Marijuana, and G.L. c.94G, Regulation of the Use and Distribution of Marijuana Not Medically Prescribed, in suitable locations in Great Barrington, in order to minimize potential adverse impacts of RMDs.

7.18.2 Definitions. Terms are defined in Section 11 and by applicable governing statutes or regulations.

7.18.3 Site Plan Review Required. All proposed ~~uses under this Section, including those that qualify for the agricultural use exemption under G.L. Ch. 40A, s.3,~~ Marijuana Establishments shall be subject to Planning Board Site Plan Review as set forth in Section 10.5.

7.18.4 Locational Requirements. Marijuana Establishments may be located in accordance with Section 3.1.4, Table of Use Regulations, except as follows:

1. No ~~RMD-Marijuana Establishment~~ may be located closer than 200 feet from ~~any school, daycare center, or other similar facility where minors may commonly congregate~~ a pre-existing public or private school providing education in kindergarten or grades 1 through 12.
2. The distance is to be measured in a straight line from the nearest point of the property line of the proposed ~~RMD-Marijuana Establishment~~ and the nearest point of the property line of the protected uses stated above.
3. The Planning Board may, by special permit pursuant to Section 10.4, authorize a deviation from this distance requirement if it finds ~~specific circumstances or barriers adequately separate the RMD and a protected use. The burden shall be on the applicant to satisfy the Planning Board that these barriers are adequate to serve the purpose of this Section.~~ the Marijuana Establishment is not detrimental to a protected use.

4. Marijuana cultivation may be located by right in the I district, and by right on parcels of not less than five acres in the R2 or R4 districts.

5. Other types of marijuana establishments licensed by the Massachusetts Cannabis Control Commission may be permitted in accordance with the appropriate use category in the Table of Use Regulations.

7.18.5 Physical Requirements. In addition to pertinent requirements of implementing regulations of ~~105-CMR 725, RMDs~~ the Massachusetts Cannabis Control Commission, Marijuana Establishments shall comply with the following:

1. All aspects of a ~~RMD~~ Marijuana Establishment relative to the acquisition, cultivation, possession, processing, sales, distribution, dispensing, or administration of marijuana, products containing marijuana, related supplies, or educational materials shall take place at a fixed location within a fully enclosed building and shall not be visible from the exterior of the business.
2. No outside storage of marijuana, related supplies, or educational materials is permitted.

7.18.6 Use Regulations. In addition to pertinent requirements of implementing regulations of ~~105-CMR 725, RMDs~~ the Massachusetts Cannabis Control Commission, Marijuana Establishments shall comply with the following:

1. Uses under this Section may only consist of the uses and activities permitted by its definition as limited by state law, ~~and may not include other businesses or services in the same building.~~
2. No marijuana shall be smoked, eaten or otherwise consumed or ingested on the premises, ~~except as permitted by 105-CMR 725.000 unless authorized by the Town pursuant to G.L. 94G.~~
3. ~~The hours of operations for sales, delivery and dispensing purposes, and that the facility is open to qualifying patients, shall be between the hours of 8:00 AM and 8:00 PM, Monday through Saturday. Retail sales of marijuana products shall not occur earlier than 8:00 AM or later than 8:00 PM.~~
4. ~~The agricultural component of an RMD operation may be allowed in any zone on lots of five acres or more, or two acres or more if the sale of products produced from the agricultural use on the parcel annually generates at least \$1,000 per acre based on gross sales dollars, pursuant to the agricultural use exemption under G.L. Ch. 40A, s.3. The dispensing of medical marijuana, however, is permitted only in locations specified in the Table of Use Regulations.~~
- 5 ~~4.~~ Additional regulations may be imposed as Site Plan Review or Special Permit conditions.

7.18.7 Submittal Requirements. Above and beyond the standard application for Site Plan Review, an application under this section shall include the following:

1. Copies of all required ~~RMD~~ Marijuana Establishment licenses or registrations issued to the applicant by the Commonwealth of Massachusetts and any of its agencies for the facility;
2. Evidence that the applicant has site control and the right to use the site for a facility in the form of a deed, valid lease, or purchase and sale agreement, and a signed statement from the property owner;
3. In addition to what is normally required in a site plan pursuant to Section 10.5, submittal shall also include details showing all signage, exterior proposed security measures for the premises, including lighting, fencing, gates and alarms, etc. ensuring the safety of employees and patrons and to protect the premises from theft or other criminal activity.

7.18.8 Discontinuance of Use

1. Any ~~RMD~~ Marijuana Establishment permitted under this section shall be required to remove all material, plants, equipment and other paraphernalia in compliance with ~~105 CMR 725 implementing regulations of the Cannabis Control Commission~~ prior to expiration of its ~~DPH Registration operating permit issued by the Commonwealth of Massachusetts~~ or immediately following revocation or voiding of its ~~DPH Registration such permit~~.

Amend Section 11, Definitions, as follows:

MEDICAL MARIJUANA TREATMENT CENTER (MMTC): ~~See Registered Marijuana Dispensary. A premises approved under a medical use marijuana license per 105 CMR 725.100, also known as a Registered Marijuana Dispensary (RMD).~~

REGISTERED MARIJUANA DISPENSARY (RMD): ~~A use operated by a not for profit entity registered, approved, and regulated by the Massachusetts Department of Public Health in accordance with 105 CMR 725.000, and pursuant to all other applicable state laws and regulations, to be known as a Registered Marijuana Dispensary (RMD), that acquires, cultivates, possesses, processes (including development of related products such as food, tinctures, aerosols, oils, or ointments), transfers, transports, sells, distributes, dispenses, or administers marijuana, products containing marijuana, related supplies, or educational materials to registered qualifying patients or their personal caregivers. See Medical Marijuana Treatment Center.~~

MARIJUANA ESTABLISHMENT: A marijuana cultivator, independent testing laboratory, marijuana product manufacturer, marijuana retailer or any other type of licensed marijuana-related business registered, approved, and regulated in accordance with the regulations of the Massachusetts Cannabis Control Commission and pursuant to all other applicable state and local laws and regulations.

Amend Section 3.1.4, Table of Use Regulations, by renaming existing row C (21), Registered Marijuana Dispensary, to “Marijuana Establishment, Retail” inserting it into the Table as row C (13), and renumbering subsequent rows accordingly, as follows:

Permitted Use		ZONING DISTRICT ¹														ADDITIONAL APPLICABLE REGULATIONS	
		R1A	R1B	R2	R3	R4	B	HVC	B1	B2	B2A	B2X	B3	MXD	I		I2
C. Office, retail and consumer service establishments																	
(24) (13)	Registered Marijuana Dispensary Establishment, Retail	N	N	N	N	N	N <u>Y</u>	N <u>Y</u>	N	Y	N	<u>Y</u>	Y	N	Y	Y	See also 7.18