

TOWN FARM ROAD 40B PROJECT

LIST OF WAIVERS

List of Waivers (See Also Specific Waivers Described Below)

As required under 760 CMR 56.05(2)(h), the following is a list of Waivers to “Local Requirements and Regulations” in effect as of the date of the filing of the Comprehensive Permit Application with the Town of Ipswich Zoning Board of Appeals, including waivers from the Town of Ipswich General Bylaws, as Amended through the Special Town Meeting held on October 25, 2016, as further amended through the date of the filing of this Application (“Ipswich General Bylaws”), VI. Protective Zoning Bylaw -- Town of Ipswich, Massachusetts (dated May 7, 1977, as Amended through the Special Town Meeting held on October 25, 2016, as amended through the date of the filing of this Application (“Zoning Bylaw”), the Town of Ipswich Planning Board Rules and Regulations Governing the Subdivision of Land in Ipswich, Massachusetts, as amended through July, 2013 (Subdivision Rules) if applicable, and other Local Requirements and Regulations as defined under Section 56.02 of the Chapter 40B Regulations, including all local legislative, regulatory, or other actions which are more restrictive than state requirements, if any, including local zoning and wetlands bylaws, subdivision and board of health rules, and other local bylaws, codes, and regulations, in each case which are in effect on the date of the Project’s application to the Board. In addition to the following list of requested Waivers listed below, the Applicant requests an exception from each and every provision or requirement of all Local Requirements and Regulations issued by a “Local Board” (defined under the Chapter 40B Regulations as means any local board or official, including, but not limited to any board of survey; board of health; planning board; conservation commission; historical commission; water, sewer, or other commission or district; fire, police, traffic, or other department; building inspector or similar official or board; board of selectmen, as well as all boards, regardless of their geographical jurisdiction or their source of authority [that is, including boards created by special acts of the legislature or by other legislative action] if such local board perform functions usually performed by locally created boards) with which any aspect of its Comprehensive Permit Application, including but not limited to its proposed site development plans and any other information hereinafter submitted to the Board, is inconsistent.

TOWN FARM ROAD 40B PROJECT

TOWN OF IPSWICH GENERAL BYLAWS, AS AMENDED THROUGH OCTOBER 25, 2016 (THE “IPSWICH GENERAL BYLAWS”)

CODE/REG.	TITLE	DESCRIPTION	REQUIRED	PROPOSED
Part I, Chapter 15, Article III, Section 15-22	Streets	Work in Streets	No such parties shall, for the space of one year, break up or disturb the surface of any such way or street, or any way within the area so constructed and repaired, except in case of reasonable necessity demonstrated to the Town Manager.	A waiver is requested to the extent any work in a public way has been completed within one year prior to the Project work in any street or way. To be governed by the Comprehensive Permit Decision.

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CODE/REG.	TITLE	DESCRIPTION	REQUIRED	PROPOSED
Part I, Chapter 193, Article III, Sections 193-1 through 193-12	Stormwater	Stormwater Bylaw and Stormwater Regulations	No person may undertake any alteration of drainage characteristics, which alteration may include, without limitation, clearing, grading, and excavation that will result in a land disturbance exceeding an area of 10,000 square feet, or more than 50% of a parcel or lot, whichever is less, without a Storm Water Management Permit from the Permitting Authority; except for an activity which requires Site Plan Review, Definitive Subdivision Approval, or a Special Permit from the Planning Board, or which requires an Order of Conditions from the Conservation Commission.	A waiver is requested as stormwater will be managed in accordance with the MassDEP's Stormwater Policy and Technical Guidance, unless otherwise exempt. Stormwater to also be managed in accordance with a US EPA Stormwater Construction Permit for Massachusetts.
Part I, Chapter 197, Section 197-20	Streets and Sidewalks	Permit Required for Excavation	No person, except Town employees duly authorized to do so, shall excavate, dig up, or otherwise open or occupy any portion of a street or public place, except in accordance with a permit therefor from the Board of Selectmen.	Waive. A waiver is necessary to allow for street excavations without a permit issued by the Select Board, but as conditioned in the Comprehensive Permit Decision.

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TOWN OF IPSWICH GENERAL BYLAWS, AS AMENDED THROUGH OCTOBER 25, 2016 (THE “IPSWICH GENERAL BYLAWS”)

CODE/REG.	TITLE	DESCRIPTION	REQUIRED	PROPOSED
Part I, Chapter 220, Article I, Section 220-1	Water & Sewer	Sewer Tie-Ins	All buildings erected on any lot of land adjoining the sewerage system of the Town of Ipswich shall be required to tie in by pipeline to the said sewerage system and to dispose of such sewerage through such tie-in; ... The owners of buildings in the Town of Ipswich shall be responsible for compliance with this section. Each day of continued noncompliance with this section shall be deemed to be a separate violation.	Waive. Any sewer tie-in to be governed by Comprehensive Permit Decision.
Part I, Chapter 220, Article IV, Section 220-6	Water & Sewer	Sewer Certificate of Compliance Pre-Transfer	No person shall cause or permit the transfer of any occupied real property for which the sanitary sewer is available by gravity without first having obtained from the Town a certificate of compliance that the premises are properly connected to the sanitary sewer system and there is no condition which permits the introduction of any groundwater and/or surface water to the public sanitary sewer ("infiltration/inflow conditions").	Waive. Any pre-transfer inspection and certificate to be governed by Comprehensive Permit Decision.

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TOWN OF IPSWICH GENERAL BYLAWS, AS AMENDED THROUGH OCTOBER 25, 2016 (THE “IPSWICH GENERAL BYLAWS”)

CODE/REG.	TITLE	DESCRIPTION	REQUIRED	PROPOSED
Part I, Chapter 224, Article IV, Sections 224-1 through 22418, and all local wetlands bylaw regulations and policies	Wetlands Protection	Local Wetlands Protection Bylaw, Ipswich Wetlands Protection Rules and Regulations, and related policies of the Conservation Commission	Procedures, jurisdictional requirements, applications, fees and costs, regulations, and enforcement.	Waive. Project to be governed by a Wetlands Order of Condition issued pursuant to the Massachusetts Wetlands Protection Act (MGL c. 131, s. 40) and State Wetlands Regulations at 310 CMR 10.00.

TOWN FARM ROAD 40B PROJECT

PROTECTIVE ZONING BYLAW - TOWN OF IPSWICH, MASSACHUSETTS, DATED MAY 7, 1977, AS AMENDED THROUGH OCTOBER 25, 2016 (ZONING BYLAW)

CODE/REG.	TITLE	DESCRIPTION	REQUIRED	PROPOSED
Section V.A.	Use Regulations	Applicability of Use Regulations	Except as provided by Chapter 40A of the Massachusetts General Laws, as amended, or this bylaw, in each district no building, structure, water body, or lot shall be used or occupied except for the purposes permitted in the district as described in this section. Any use not listed in these regulations.... shall be construed to be prohibited.	Waive to the extent the Board waives zoning requirements in the Comprehensive Permit Decision.
Section V.D, Footnote 18.	Use Regulations	Table of Use Regulations, Inclusionary Zoning		Allow more than one principal building per lot.

TOWN FARM ROAD 40B PROJECT

PROTECTIVE ZONING BYLAW - TOWN OF IPSWICH, MASSACHUSETTS, DATED MAY 7, 1977, AS AMENDED THROUGH OCTOBER 25, 2016 (ZONING BYLAW)

CODE/REG.	TITLE	DESCRIPTION	REQUIRED	PROPOSED
Section VI.A	Dimensional and Density Regulations	Applicability of Dimensional and Density Regulations	The regulations for each district pertaining to minimum lot area, minimum lot width, minimum lot frontage, minimum front setback, minimum side setback, minimum rear setback, maximum height of buildings, maximum number of stories, maximum building area, minimum open space, and other dimensional controls shall be as specified in this section and subject to the further provisions of this bylaw. Unless otherwise exempted elsewhere in this bylaw, all structures must comply with minimum setback distances, even if the structures do not require a building permit.	A waiver is necessary to enable the Project to be developed and operated in accordance with the dimensional requirements of Section VI., except as waived as depicted on the Site Plans and as provided within the Comprehensive Permit Decision.
Section VI.B	Table of Dimensional and Density Regulations	Dimensional and Density Regulations for Principal Buildings and Structures Located within the RRA District	Dimensional and Density Requirements within the RRA District are as follows: Min Lot Area - 87,120 s.f. Min. Lot Width - 175 ft (FN22) Min Lot Frontage - 150 (FN22) Min. Setbacks: Front - 50 ft (FNs 1,2, 7) Side - 40 ft (FNs 2, 7) Rear - 30 ft (FNs 2, 7) Max Lot Area: Max Bldg Area 20% (FN20) Max Floor Area N/A Min Open Space 50%	Min Lot Area – N/A Min. Lot Width – N/A Min Lot Frontage – N/A Min. Setbacks: Front – 5.9 ft Side – 19.2 ft Rear – N/A Max Lot Area: Max Bldg Area – N/A Max Floor Area -N/A Min Open Space -N/A

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PROTECTIVE ZONING BYLAW - TOWN OF IPSWICH, MASSACHUSETTS, DATED MAY 7, 1977, AS AMENDED THROUGH OCTOBER 25, 2016 (ZONING BYLAW)

CODE/REG.	TITLE	DESCRIPTION	REQUIRED	PROPOSED
Section IX.A	Special Regulations	Open Space Preservation	Subdivision of open space cluster development plan and adherence to all open space preservation requirements.	Waive.
Section IX.C	Special Regulations	Water Supply Protection District Regulation	Item #12 under Table of Uses limits percentage of lot that can be impervious surface.	Waive.

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PROTECTIVE ZONING BYLAW - TOWN OF IPSWICH, MASSACHUSETTS, DATED MAY 7, 1977, AS AMENDED THROUGH OCTOBER 25, 2016 (ZONING BYLAW)

CODE/REG.	TITLE	DESCRIPTION	REQUIRED	PROPOSED
XI. A	Administration	Enforcement	This bylaw shall be enforced by the Building Inspector who may institute appropriate legal proceedings to enforce the provisions of this bylaw or to restrain by injunction any violation thereof, or both, and shall do all further acts, revoke the certificate of use and occupancy, institute and take any and all such action as may be necessary to enforce the provisions of this bylaw. If the Building Inspector is requested in writing to enforce this bylaw against any person allegedly in violation of same, and he declines to act, he shall notify in writing the party requesting such enforcement of any action or refusal to act, and the reasons therefore, within fourteen (14) days of receipt of such request.	Waive to the extent that the Building Inspector may enforce the Zoning Bylaws as modified and waived under the Comprehensive Permit Decision
XI.E	Administration	Violations	The Building Inspector shall serve a notice of VIOLATION AND ORDER to any person responsible ... any violation of any approved plan, information, or drawing pertinent thereto; or in violation of a permit or certificate issued under the provisions of this bylaw, or in violation of this bylaw, and such order shall direct the immediate discontinuance of the unlawful action, use, or condition and the abatement of the violation.	Waive to the extent that Building Inspector may serve and prosecute violations of the Zoning Bylaw, as modified by the waivers granted in the Comprehensive Permit Decision.

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PROTECTIVE ZONING BYLAW - TOWN OF IPSWICH, MASSACHUSETTS, DATED MAY 7, 1977, AS AMENDED THROUGH OCTOBER 25, 2016 (ZONING BYLAW)

CODE/REG.	TITLE	DESCRIPTION	REQUIRED	PROPOSED
Section XI.B	Administration of Zoning Bylaw	Permits, Certificates Required	<p>--Building Inspector shall issue no building or shed permit except for work in conformity with the provisions of this bylaw.</p> <p>--No building hereafter erected, altered, or moved shall be used and no change shall be made of the use of any building or any parcel of land, ...unless a certificate of use and occupancy signed by the Building Inspector has been granted to the owner or occupant of such land or building....Such certificate shall not be granted unless the proposed use of the land or building and all accessory uses comply in all respects with this bylaw, and no use shall be made of such land or building except the use or uses authorized by such certificate of use and occupancy.</p>	<p>Waive to the extent provisions of Zoning Bylaw are waived in Comprehensive Permit Decision. A waiver is necessary to enable the development of the Project in compliance with Zoning Bylaw provisions except for those conditions waived by the Comprehensive Permit Decision.</p>

TOWN FARM ROAD 40B PROJECT

PROTECTIVE ZONING BYLAW - TOWN OF IPSWICH, MASSACHUSETTS, DATED MAY 7, 1977, AS AMENDED THROUGH OCTOBER 25, 2016 (ZONING BYLAW)

CODE/REG.	TITLE	DESCRIPTION	REQUIRED	PROPOSED
Section XI.E	Administration	Violations	The Building Inspector shall serve a notice of VIOLATION AND ORDER to any person responsible for the erection, construction, reconstruction, conversion, alteration of a building or structure or change in use, or extension or displacement of use of any building, structure, sign, other structure or lot in violation of...the [Zoning bylaw]...	Waive to the extent provisions of Zoning Bylaw are waived in Comprehensive Permit Decision.
Section XI.I	Administration	Compliance with Zoning Bylaw	Board of Selectmen may at their reasonable discretion impose as an essential condition on the issuance and/or renewal of any permit and/or license which they are authorized to issue or renew, the requirement that there are and will be during the term, or terms, of such permit and/or license no violation(s) of the Protective Zoning Bylaw conducted and/or permitted on the lot on which such permit or license is located by anyone, including, but not limited to, the Permittee or Licensee.	Waive. Enforcement of the Zoning Bylaw or other Town requirements pursuant to local requirements to be enforced by the Building Inspector, except to the extent that such local requirement is waived as a part of this Comprehensive Permit Decision.

TOWN FARM ROAD 40B PROJECT

TOWN OF IPSWICH COMPREHENSIVE PERMIT RULES OF ZONING BOARD OF APPEALS (ADOPTED APRIL 14, 2011)

REGULATION	TITLE	DESCRIPTION	REQUIRED	PROPOSED
Section 3.01(a)(viii)	Submission Materials	Documents Required to be Filed With Application	Requires copy of all materials submitted to the subsidizing agency to be filed with the Board to allow the Board to periodically confirm that the applicant continues to fulfill the project eligibility requirements of 760 CMR 56.04(1).	Waive. A letter of project eligibility documenting the requirements of the subsidizing agency has been filed with the Board, and it is the Subsidizing Agency's sole jurisdiction to confirm project eligibility requirements are met by the Applicant.
Section 3.01(a)(ix)	Submission Materials	List of Exceptions.	Waivers filed with application must include an analysis of... the location on the plans for the waiver ...	Waive. To be governed by Section 56.05(2)(h) of the 40B Rules.
Section 3.01(b)(iii)	Submission Materials	Long Term Monitoring	Requires submittal of cost estimate to implement the longterm monitoring plan.	Waive. Rules is inconsistent with Section 56.05(1) of the 40B Rules and is within the sole purview of Subsidizing Agency.

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TOWN OF IPSWICH (OTHER LOCAL REQUIREMENTS)

REGULATION	TITLE	DESCRIPTION	REQUIRED	PROPOSED
Sewer Regulations	Sewer Regulations, Town of Ipswich, Massachusetts, Adopted July 9, 1979 Amended through August 1, 2000	Technical, administrative, permit and fee requirements in connection with connections to the Town's Sewer System	No unauthorized person shall uncover, make any connections with or opening into, use, alter, or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the Town Engineer.	Waive all requirements to apply to the DPW, Wastewater Department, and/or Board of Health in connection with sewer connections, extensions and hookups, including connection and mitigation fees, and except for the technical review of the plans to ensure appropriate engineering practices and compliance with state requirements, and except for sewer use fees customarily charged for such sewer discharge usage.
Water Regulations	Town of Ipswich Massachusetts Water Rules and Regulations, Adopted on December 20, 1978, as amended.	Technical, administrative, permit and fee requirements in connection with connections to the Town's Water System	All applications for water must be made at the Water Division Office and be signed by the owner of the premises supplied. Such application shall constitute a contract between the Water Division and the applicant, his heirs and assigns. All applications for the use of water in new construction shall be made at the same time as the building permit is applied for.	Waive all requirements to apply to the Water Department in connection with water connections, extensions, service and hookups, including connection and mitigation fees, except for the technical review of the plans to ensure appropriate engineering practices and compliance with state requirements, and except for water use fees customarily charged for such water usage.

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TOWN OF IPSWICH (OTHER LOCAL REQUIREMENTS)

REGULATION	TITLE	DESCRIPTION	REQUIRED	PROPOSED
Town Fee, Bond and Security and Related Requirements	Town Fee, Bond and Security and Related Requirements			Waive all fee, bond and surety requirements except as provided in the Comprehensive Permit.
Waivers from Town of Ipswich Local Requirements	Waivers	Waivers	Waivers not requested but shown on Approved Plans.	Waive. To the extent that the Site Plans approved by the Board show the need for additional waivers not expressly set forth in the list of approved waivers granted as a part of the Comprehensive Permit Decision, the Applicant requests that these waivers shall also be deemed granted.

****Note that pursuant to the Chapter 40B Rules described under 760 CMR 56.05(7), “Zoning waivers are required solely from the “as-of-right” requirements of the zoning district where the project site is located; there shall be no requirement to obtain waivers from the special permit requirements of the district.” Accordingly, any waivers which reference special permit requirements are included only for illustration purposes.**