



TOWN OF IPSWICH PLANNING BOARD

TOWN HALL, 25 GREEN STREET, IPSWICH, MASSACHUSETTS 01938

Final Report of the Planning Board to Special Town Meeting September 24, 2020

This document is the final report of the Planning Board, including recommendations on seven proposed zoning articles on the Warrant for the October 17, 2020 Special Town Meeting, prepared and submitted in accordance with Section XI.L of the Ipswich Zoning Bylaw and Section 5 of Chapter 40A of the General Laws of the Commonwealth of Massachusetts.

The Planning Board initiated four zoning amendment articles and three citizens each initiated one zoning amendment article. The four Planning Board initiated articles pertain to: 1) adult use marijuana (Article 4); 2) medical marijuana (Article 5); 3) clarification article (Article 6); and 4) energy efficiency (Article 7). The three citizen petitions are: 1) Water Use Mitigation Plan regulations (Article 16); 2) Building Permit Moratorium (Article 17); and 3) Inclusionary Housing amendments (Article 18). In accordance with Section 5 of Chapter 40A of the Massachusetts General Laws, the Select Board referred the proposed zoning articles to the Planning Board for public hearings.

The Planning Board held three public hearings on the proposed articles. The Board held a public hearing on Articles 4, 5, and 6 on August 20, 2020. The Board held a public hearing on Article 7 on September 24, 2020. The Board also held a separate public hearing on Articles 16, 17, and 18 on September 24, 2020. After closing the public hearings on September 24, the Board voted as indicated below to recommend Town Meeting action on these seven zoning amendment articles.

Article 4 **Adult Use Marijuana**

This article would amend Section III. Definitions, modify the Table of Use Regulations in Section V and add a new Section IX.T, Adult Use Marijuana Establishments.

Special Town Meeting in October, 2019 approved a General Bylaw change to allow for adult use marijuana establishments in Ipswich, with the exception of retail. Currently, there are no zoning regulations to address adult use marijuana establishments in Ipswich. The current Zoning Bylaw allows, with conditions, registered medical marijuana dispensaries and should be modified to also allow for and regulate the allowable recreational marijuana establishments. Absent zoning regulations, the permissible recreational marijuana establishments would fall under enclosed manufacturing or some specialized uses would not be considered to be permitted at all, which is not the Town's desire. Allowed adult use marijuana establishments (again, not including retail) would be allowed in the PC and LI districts (Route 1) by special permit, which is where medical marijuana dispensaries are allowed.

The Planning Board recommends 4 to 0 that the 10/17/20 Town Meeting adopt Article 4.

Article 5 **Registered Medical Marijuana Dispensaries**

As the Planning Board and its Staff reviewed potential zoning regulations for Marijuana Establishments related to Article 4, it became apparent that the Town's existing Registered Marijuana Dispensary regulations could and should be expanded to better address certain potential impacts associated with such uses, and also, that they should be fairly consistent with the proposed Marijuana Dispensary regulations. Accordingly, this article proposes amendments to Section IX.R, Registered Marijuana Dispensaries, that will help ensure that these uses can exist in a manner that does not adversely affect the public health, safety and welfare.

The Planning Board recommends 4 to 0 that the 10/17/20 Town Meeting adopt Article 5.

Article 6
Clarification Amendment

In the fall of 2016 Town Meeting adopted a new definition for “Use, Residential Mixed” and added this use to the Table of Uses in Section V of the Zoning Bylaw. The intent of this change was to make it explicit that mixed use (residential plus an allowable non-residential use) is permitted in certain zoning districts. Recently, the Planning Board learned that “Use, Residential Mixed” is unintentionally omitted from the list of residential uses called out in the Table of Dimensional and Density Regulations in Section VI, and some have suggested that this use category should therefore fall under “All other permitted uses”, which clearly was not the intent. Accordingly, the Board has proposed this article to clear up any confusion and affirm that the multiple principal uses in a “Use, Residential Mixed” must comply with their respective density and dimensional requirements.

The Planning Board recommends 4 to 0 that the 10/17/20 Town Meeting adopt Article 6.

Article 7
Energy Efficiency Related Zoning Amendments

This article would 1) amend Section I (Purpose) to add language related to fossil fuel reduction and renewable development practices; 2) amend Section III (Definitions) to add a definition of Ipswich Zero Energy Ready Building; 3) amend Section VI.G.1 (Other Density and Density Requirements) to allow heat pumps to be located in setbacks; 4) add new Section VI.G.2 to allow reduction of required setbacks for super-insulated building envelopes; and 5) amend Section VI Footnote 25 of the Table of Dimensional and Density Regulations to require certain residential developments to be Ipswich Zero Energy Ready Buildings.

The Planning Board recommends 4 to 0 that the 10/17/20 Town Meeting adopt Article 7.

The Planning Board unanimously recommends Town Meeting adopt this article for doing so will, in certain new construction, promote electrification of buildings. This article is important for the Town to increase energy efficiency and reduce Green House Gas (GHG) emissions, goals which were identified in the Town’s current Community Development Plan. In addition, this article was drafted with support of the Ipswich Electric Light Department (ELD) and is included in the ELD’s 2021 goals and work plan. The proposed changes would increase electrification of homes as a way to curb overall GHG pollution, and would allow residents the flexibility to have certain energy efficiency improvements protrude into building setbacks. This article would not require existing homeowners to make changes to their properties. Compliance with the changes set forth in this article is tied to an optional density bonus.

Article 16
Implementation of Water Use Mitigation Plan
Petitioner: James McCarthy

This article would amend Section IX, Special Regulations, by inserting a new subsection IX.T, Water Use Mitigation Plan, which would impose a water use management/conservation special regulation for certain new development.

The Planning Board recommends 4 to 0 that the 10/17/20 Town Meeting take no action on Article 16.
In the event that Town Meeting does take action, the Board recommends 4 to 0 that Town Meeting not approve Article 16.

The Petitioner informed the Planning Board at its September 24, 2020 public hearing that he intends to request that Town Meeting take no action on this article. Accordingly, the Board supports the Petitioner’s wish that Town Meeting take no action. Should the Petitioner change his mind or should Town Meeting wish to vote on the article, the Board recommends that Town Meeting not approve the article. The Town is actively working on implementing the recommendations of the Water Neutral Growth Plan completed in Spring of 2020 of which a Water Use Mitigation Program (WUMP or Water Bank) was a key recommendation. The Planning Board commits to examining the other recommendations of the Water Neutral Growth Plan and pursuing changes to the Zoning Bylaw as well as the Board’s practices and policies, in coordination with the Water Subcommittee and the Select Board in their role as Water Commissioners.

Article 17

Building Moratorium

Petitioner: Robert Richter

This article would amend Section II, Applicability, by imposing a building permit moratorium on construction of multi-unit residential developments consisting of three or more units throughout the entire Town for a period of two years.

The Planning Board recommends 4 to 0 that the 10/17/20 Town Meeting not adopt Article 17.

The Planning Board does not support this article because it is in conflict with the Housing Production Plan currently being considered by the Board and Select Board for approval this fall. The Board fully acknowledges the warranted concern about water supply, but does not believe that a moratorium will contribute to solutions already being acted on through the Water Neutral Growth Plan and Infrastructure Prioritization planning being completed currently under the Tri-Board. Further, the Board believes that the proposed moratorium is unnecessary and would stifle needed housing development that is controlled by the Zoning Bylaw and would only allow 40B projects to be considered (40B projects would not be impacted by this article). The Planning Board, other boards and Town Staff have shown that they have the capacity to complete and implement plans without a building permit moratorium, and are committed to doing so.

Article 18

Remove Inclusionary Housing Payment-in-Lieu-of-Option for non-fractional Affordable Housing Units

Petitioner: Christopher Florio

This article would amend Section IX.I, Inclusionary Housing Requirements, 3.a.ii, by removing the affordable housing payment-in-lieu-of affordable unit fee option for non-fractional affordable housing units.

The Planning Board recommends 4 to 0 that the 10/17/20 Town Meeting not adopt Article 18.

The Town's 2020-2025 Housing Production Plan, drafted and presented to the Planning Board and Select Board in September, includes the goal: "Strengthen the Inclusionary Zoning Provisions to promote unit production." Thus, the Planning Board supports the intent behind this Citizen's Petition and is committed to working with the Ipswich Housing Partnership, Affordable Housing Trust Fund Board, and Affordable Housing Program staff to achieve this goal; however, the Planning Board does not support this article as it is currently drafted. The proposed changes include conflicting language and may be deemed unimplementable. It is incumbent on the Town to carefully consider the ramifications of changes to the bylaw and include professional and legal guidance in its revisions. The Planning Board strongly supports measures that would help the Town achieve its 10% Subsidized Housing Inventory as quickly as possible, but believes doing so must be done carefully and comprehensively. When it voted to not recommend this article, the Planning Board added language to its motion that the Board commit to directly look at issues related to the payment-in-lieu option.