



Seaport West  
155 Seaport Boulevard  
Boston, MA 02210-2600

617.832.1000 main  
617.832.7000 fax

Tad Heuer  
617-832-1187 direct  
THeuer@foleyhoag.com

May 20, 2022

***By Electronic Mail***

Carolyn Britt, Chair  
Ipswich Planning Board  
25 Green Street  
Ipswich, MA 01938

**Re: 55 Waldingfield Road**

Dear Chair Britt and Members of the Board:

I write to provide three factual responses for the benefit of the Board following the discussion at last night's hearing.

**First**, Ora's counsel declared emphatically that Ora has "never" proposed 125,000 square feet of space at 55 Waldingfield. Ora's counsel is apparently unfamiliar with Ora's own October 20, 2021 "GEPD Calculations" submission.<sup>1</sup> On page 2, under the unambiguous heading "Proposed Floor Area", Ora proposed **29,199** GSF of "Existing Buildings," and **95,000** GSF of "Proposed Buildings," or **124,199** GSF. Ora's obvious confusion about its *own prior submissions* merely confirms why a single updated consolidated submission containing Ora's current requests, plans, and all supporting narratives and materials in *one place* is not only reasonable, but crucial.

**Second**, the failure of previous non-owner applicants to follow the Board's requirement to attach "a copy of any option [or] purchase agreement" to site plan and special permit applications does not authorize Ora to also disregard those rules. If the Board wishes to change that express requirement going forward, it can. But at present, the Board's own standard application form requires that "[i]f the Applicant is not the owner," the application attach "a copy of any option [or] purchase agreement". The fact that Ora does not want to comply with the rules does not entitle Ora — or the Board — to simply ignore them.<sup>2</sup>

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<sup>1</sup> Posted on the Planning Board's website at <https://ipswichma.gov/DocumentCenter/View/13592/ORAGEPD-Qualifications-Letter-102021-FINAL>

<sup>2</sup> Section III.B of the *Rules and Regulations* requires submission of a "completed application form and any other materials as identified in the form." Section 8 of that application form requires non-owner applicants to submit a copy of any option or purchase agreement. The "applicant" on the July 12, 2021 forms is "Ora, Inc." The "owner" is "Donald Curiale, Trustee." The "other materials" submission requirement therefore expressly applies to Ora. Having refused to submit these materials, Ora's application is — by definition — not "completed."

**Third**, statements were made that there is never an expectation that an applicant’s special permit application materials will contain information about how the Bylaw’s special permit criteria will be met. Both Section XI.J.2.b of the Bylaw and Section II.A.2 of the *Rules and Regulations Governing the Granting of Special Permits* state otherwise:<sup>3</sup>

The petitioner’s **application materials** [must] include, in the Board’s opinion, sufficiently detailed, definite, and credible information to show the project meets the intent of the Bylaw. (Emphasis supplied)

To be clear, *there is absolutely no dispute* that applications may (and frequently do) change post-submission during the public hearing process, in response to comments from the Board, other Town boards, and the general public. Nor have the Friends or their counsel ever stated otherwise. Indeed, that is the entire purpose of the public hearing process.

However, the starting point for those discussions must be a complete application — not a partial application that omits essential information expressly required by both the Bylaw and *Rules and Regulations*. The absence of this required information (or its belated and *ad hoc* piecemeal submission) makes it impossible for either the Board or the general public to evaluate the merits of Ora’s application, and whether it “meets the intent of the Bylaw” — undermining the very reason the public hearing process exists in the first place.

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Please do not hesitate to contact me or my colleague Doug McGarrah if you should have any questions.

Sincerely,



Thaddeus Heuer

Cc (by email): Ethan Parsons, Director of Planning and Development  
Kristen Grubbs, Town Planner  
Anthony Marino, Town Manager  
Tammy Jones, Chair, Select Board

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<sup>3</sup> The version applicable on July 12, 2021 is at <https://www.ipswichma.gov/DocumentCenter/View/14090/Special-Permit-Regulations--Final-Stamped-021122>. The current version, which adds an additional requirement that the petitioner “present[] to the Board illustrating how each criterion is met,” is at <https://www.ipswichma.gov/DocumentCenter/View/14090/Special-Permit-Regulations--Final-Stamped-021122>.