

**PRELIMINARY LIST OF REQUESTED EXEMPTIONS/
EXCEPTIONS/WAIVERS FROM THE APPLICABLE
TOWN OF AMHERST BYLAWS AND REGULATIONS
(As of August 17, 2016)**

ZONING BYLAW

<u>Section</u>	<u>Provision</u>	<u>Requested Exemption/Exception/Waivers and Notes</u>
1. § 3.01 Use Regulations	The development or operation on a single lot of more than one dwelling or more than one of the Principal Uses described in Section 3.3 is expressly prohibited except where the Principal Uses are clearly complementary to each other, or where otherwise provided by this Bylaw.	To allow the proposed mixed use Development as shown on the Plans; some of the existing uses may be pre-existing, nonconforming. A Comprehensive Permit may provide all local permits and approvals per M.G.L. c. 40B.
2. § 3.325 Use Table	Mixed Use Building requires Site Plan Review and if more than 10 dwelling units located above the first floor in the COM zoning district, a Special Permit is also required. The proposed use shall meet the criteria of Section 10.38 or Section 11.24, as applicable, with respect to the site and potential conflicts between the residential and commercial uses. Management Plan included as an integral part of any application made under this Section. In the COM zoning district, no dwelling unit or any internal space associated with a dwelling unit shall occupy any first floor portion of a building facing onto a street, public plaza or other space customarily used by the public. First floor residential dwelling units, and any required entries thereto, shall be located on the rear of buildings, adjacent to any required parking and private open space associated with and serving those units. No more than 40% of the first floor Gross Floor Area shall be used for residential purposes, which shall include no more than 15% of said GFA associated with or incidental to, whether for storage, required entries, stair/elevator towers, or other purposes, any residential uses on upper floors.	To waive the requirement for Site Plan Review and/or a Special Permit and to allow the proposed Development as shown on the Plans, including more than 10 dwelling units above the first floor and dwelling units on the first floor in the configuration set forth on the Plans which may include unit(s) that (a) face a street, public plaza or other space customarily used by the public and (b) have entries on the front(s) or side(s) of buildings. A Comprehensive Permit may provide all local permits and approvals per M.G.L. c. 40B.
3. § 3.350 Use Table	Retail Establishments in the COM zoning district require Site Plan Review.	To waive the requirement of Site Plan Review and to allow the proposed Development as shown on the Plans. A Comprehensive Permit may provide all local permits and approvals per M.G.L. c. 40B.
4. § 3.351 Use Table	Personal Care Establishments in the COM zoning district require Site Plan Review.	To waive the requirement of Site Plan Review and to allow the proposed Development as shown on the Plans. A Comprehensive Permit may provide all local permits and approvals per M.G.L. c. 40B.

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5. § 3.352 Use Table	Food and Drink Establishments in the COM zoning district require Site Plan Review and/or Special Permit.	To waive the requirement of Site Plan Review and/or a Special Permit and to allow the proposed Development as shown on the Plans. A Comprehensive Permit may provide all local permits and approvals per M.G.L. c. 40B.
6. § 3.355 Use Table	Studios and Repair Shops in the COM zoning district require Site Plan Review.	To waive the requirement of Site Plan Review and to allow the proposed Development as shown on the Plans. A Comprehensive Permit may provide all local permits and approvals per M.G.L. c. 40B.
7. § 3.358 Use Table	Office Uses in the COM zoning district require Site Plan Review.	To waive the requirement of Site Plan Review and to allow the proposed Development as shown on the Plans. A Comprehensive Permit may provide all local permits and approvals per M.G.L. c. 40B.
8. § 5.041 Accessory Uses	Seasonal outdoor dining, including sidewalk cafes, courtyard or terrace dining and similar uses may be permitted in the COM zoning district as an accessory use to (1) a restaurant, café, lunchroom, cafeteria, refreshment stand, drive-up, fast-food eatery or similar eating establishment, or (2) to a bakery, deli or other similar establishment for the production and sale of food or beverage on the premises, or (3) to a retail store or convenience store selling prepared and packed food or beverage on the premises, under a Special Permit or Site Plan Review approval, whichever is required for the principal use. In the case of a retail or convenience store selling prepared and packaged food on the premises, any unpackaged food or beverage such as ice cream or soft drinks sold in association with any accessory seasonal outdoor dining use shall be sold and served only through a limited-access walk-up window or similar facility, to be consumed out of doors.	To waive the requirement of Site Plan Review and/or a Special Permit and to allow the proposed Development as shown on the Plans without the necessity of the conditions set forth in Section 5.0410 through Section 5.0413. A Comprehensive Permit may provide all local permits and approvals per M.G.L. c. 40B.
9. § 5.042 Accessory Uses	Live or pre-recorded entertainment involving music and/or human voice, whether amplified or unamplified, may be permitted in the COM district as an accessory use to a restaurant, bar, inn or bed and breakfast under a Special Permit or Site Plan Review, whichever is required for the principal use, except that a Special Permit shall be required whenever any accessory entertainment is proposed and any outside wall of that portion of the building occupied by the principal use is located 150 feet or less from a residential dwelling in a Residence district.	To waive the requirement of Site Plan Review and/or a Special Permit and to allow the proposed Development as shown on the Plans without the necessity of the conditions set forth in Section 5.0420 through Section 5.0422. A Comprehensive Permit may provide all local permits and approvals per M.G.L. c. 40B.

<u>Section</u>	<u>Provision</u>	<u>Requested Exemption/Exception/Waivers and Notes</u>
10. Article 6 – Table 3 Dimensional Regulations and §6.102	Additional Lot Area/Family = 4,000 sf in the COM zoning district.	To waive the requirement for a dimensional variance and to allow the proposed Development as shown on the Plans. Based on a Ground Lease Area of 231,220 sf, the additional lot area/family will be approximately 1,637.36 sf/unit.
11. Article 6 – Table 3 Dimensional Regulations and §6.120	Minimum front setback = 20'	To waive the requirement for a dimensional variance and to allow the proposed Development as shown on the Plans including the location of Building A near Cowls Road.
12. Article 6 – Table 3 Dimensional Regulations and §6.130 and §6.140	Minimum Side and Rear Yards = 25'	To waive the requirement for a dimensional variance and to allow the proposed Development as shown on the Plans including the location of Building B which is not abutting a property line but is less than twenty-five feet (25') from the western boundary of the Ground Lease Area and ancillary buildings as shown on the Plans.
13. Article 6 – Table 3 Dimensional Regulations and §6.160 and §6.161	Maximum Lot Coverage = 70%	The existing site is pre-existing, non- conforming with respect to Maximum Lot Coverage. The proposed Development will increase the pre-existing non-conformity within the Ground Lease Area. To waive the requirement for a Special Permit to expand a pre-existing non-conformity and/or a dimensional variance and to allow the proposed Development as shown on the Plans.
14. Article 6 – Table 3 Dimensional Regulations and §6.180	Maximum floors = 3	To waive the requirement for a dimensional variance and to allow the proposed Development as shown on the Plans including three four-story buildings.
15. Article 6 – Table 3 Dimensional Regulations and §6.170	Maximum Height = 35'	To waive the requirement for a dimensional variance and to allow the proposed Development as shown on the Plans including two buildings that exceed the maximum building height of thirty-five feet (35').
16. §7.0000 Parking and Access Regulations	For dwelling, including apartments, two (2) parking spaces for each dwelling unit.	To waive the requirement for a dimensional variance and to allow the proposed Development as shown on the Plans. The proposed Development will contain 181 parking spaces for the dwelling units, a ratio of 1.39 parking spaces per dwelling unit.
17. §7.005 Parking and Access Regulations	For all other permitted uses, adequate parking spaces to accommodate under normal conditions the cars of occupants, employees, members, customers, clients, and visitors to the premises.	To allow the proposed Development as shown on the Plans.

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18.	§7.10 Parking and Access Regulations – Design Standards and Landscape Standards	Specific design standards including paving; slope; set back from buildings; dimensions, marking and delineation; lighting; entrance and exit driveways; and landscape standards.	To allow the proposed Development as shown on the Plans.
19.	§7.2 Parking and Access Regulations – Shared Parking	Shared parking may be allowed with permission, provided certain conditions are met.	To allow the proposed Development as shown on the Plans which includes some shared parking for residential and non-residential uses.
20.	§7.713 Access Requirements and Driveways	Maximum length of a common driveway shall be 400'. The length of an individual driveway originating at a common driveway plus the length of the common driveway shall not exceed 1200'. The Planning Board may allow longer driveways.	To waive the requirement for a dimensional variance and to allow the proposed Development as shown on the Plans.
21.	§7.718 Access Requirements and Driveways	Turnaround at the end of a common driveway adequate for fire and other emergency vehicles required.	To allow the proposed Development as shown on the Plans.
22.	§7.720 Access Requirements and Driveways	The Planning Board may require engineered plans for the driveways and drainage if it deems such plans necessary.	To allow the proposed Development as shown on the Plans.
23.	Article 9 Sign Regulations	Establishes requirements for signage.	To allow the proposed Development as shown on the Plans, including any proposed signage.
24.	§ 11.2 Site Plan Review	Establishes requirements for Site Plan Review.	To waive the requirement for Site Plan Review and to allow the proposed Development as shown on the Plans, including the proposed uses. A Comprehensive Permit may provide all local permits and approvals per M.G.L. c. 40B.
25.	§ 11.3 Maintenance of Common Areas, Landscaping, Improvements	Establishes requirements for landscaping including the size and caliper of shrubs and trees.	To allow the proposed Development as shown on the Plans with ongoing maintenance post-construction.
26.	Article 15 Inclusionary Zoning	Establishes requirements for Inclusionary Zoning and affordable housing, requiring at least 12% of units (in a development of 21 units or greater) to be affordable.	To allow the proposed Development as shown on the Plans which constitutes an affordable housing development and which will exceed the requirement that at least 12% of the units are affordable (20% of the dwelling units will be affordable). A Comprehensive Permit may provide all local permits and approvals per M.G.L. c. 40B.

GENERAL BYLAWS

<u>Section</u>	<u>Provision</u>	<u>Requested Exemption/Exception/Waivers and Notes</u>
1. Article I - Street Names and Numbers	The Planning Board shall assign numbers to houses in conformity with the uniform system of house numbering adopted by the Selectmen in 1938.	To waive the requirements of this provision of the General Bylaws and allow the Zoning Board of Appeals to assign addresses and house number(s) for the proposed Development as shown on the Plans. A Comprehensive Permit may provide all local permits and approvals per M.G.L. c. 40B.
2. Article II - Public Works	No excavation in a public way or disturbance of curbing or pavement without a written permit from the town manager.	To waive the requirements of this provision of the General Bylaws and allow the Zoning Board of Appeals to allow any necessary excavation or disturbance of any public way needed for the construction and operation of the Development, as shown on the Plans. A Comprehensive Permit may provide all local permits and approvals per M.G.L. c. 40B.
3. Article II - Public Works	Driveway permits required from town manager.	To waive the requirements of this provision of the General Bylaws and allow the Zoning Board of Appeals to allow any necessary driveway permits and approvals needed for the construction and operation of the Development, as shown on the Plans. A Comprehensive Permit may provide all local permits and approvals per M.G.L. c. 40B.

LANDSCAPING GUIDELINES

<u>Section</u>	<u>Provision</u>	<u>Requested Exemption/Exception/Waivers and Notes</u>
1. Town of Amherst Landscaping Guidelines	Guidelines regarding location(s) of trees and shrubs, how to plant trees and shrubs, size of plantings, and care after planting.	To the extent that the Landscaping Guidelines mandate certain types of landscaping, to allow the proposed Development as shown on the Plans. A Comprehensive Permit may provide all local permits and approvals per M.G.L. c. 40B.
2. Town of Amherst Landscaping Guidelines – Section 2.0	Guidelines require consultation with Tree Warden prior to removing any tree(s) along or near a public road.	

OTHER REGULATIONS/APPROVALS/REQUIREMENTS

<u>Section</u>	<u>Provision</u>	<u>Requested Exemption/Exception/Waivers and Notes</u>
1. Fuel Storage Permit/ Approval	Requires Fire Department approval and potential Special Permit from ZBA for certain types of fuel storage.	To waive the requirement for separate Fire Department approval and/or to waive the requirement for a Special Permit from the ZBA (if required) and to allow fuel storage for emergency generator(s), restaurant uses (propane) and potentially heating oil for proposed Development. A Comprehensive Permit may provide all local permits and approvals per M.G.L. c. 40B.
2. Town of Amherst Landscaping Guidelines – Section 2.0	Guidelines require consultation with Tree Warden prior to removing any tree(s) along or near a public road.	To waive the requirement for separate Tree Warden approval prior to removing trees for proposed Development to be constructed. A Comprehensive Permit may provide all local permits and approvals per M.G.L. c. 40B.
3. Sewer Connection Permit – Engineering Department	Requires Engineering Department approval for sewer connection.	To waive the requirement for separate Engineering Department approval and to allow sewer connection for proposed Development. A Comprehensive Permit may provide all local permits and approvals per M.G.L. c. 40B.
4. Water Connection Permit	Requires Department of Public Works approval for water connection.	To waive the requirement for separate Department of Public Works approval and to allow water connection for proposed Development. A Comprehensive Permit may provide all local permits and approvals per M.G.L. c. 40B.
5. Demolition Permit	Requires Inspection Services approval prior to demolition of existing structure.	To waive the requirement for separate Inspection Services approval to allow demolition of existing structures that will be removed prior to commencing construction of the proposed Development. A Comprehensive Permit may provide all local permits and approvals per M.G.L. c. 40B.

<u>Zoning Requirement</u>	<u>COM Zoning District</u>	<u>Proposed Development</u>
Minimum Lot Area (90% of total lot area must be in contiguous upland acreage)	20,000 sf	Complies. Ground Lease Area is 231,220 sf
Additional Lot Area/Family	4,000 sf	Waiver required - Based on a Ground Lease Area of 231,220 sf, the additional lot area/family will be approximately 1,637.36 sf/unit.
Minimum Lot Frontage	125'	Complies.
Minimum Front Setback	20'	Waiver required for Building A along Cowls Road.
Minimum Side and Rear Yards	25'	Waiver required for (a) the location of Building B which is not abutting a property line but is less than twenty-five feet (25') from the western boundary of the Ground Lease Area and (b) ancillary buildings as shown on the Plans.
Maximum Building Coverage	35%	Complies – Maximum Building Coverage within the Ground Lease Area will be approximately 25.7%.
Maximum Lot Coverage	70/85%	The existing site is pre-existing, non-conforming with respect to Maximum Lot Coverage. The proposed Development will increase the pre-existing non-conformity within the Ground Lease Area to approximately 81.4%. Waiver will be requested from the requirement for a Special Permit to expand a pre-existing non-conformity and/or a dimensional variance.

Maximum Floors	3	Waiver required for Building B – 4 stories.
Maximum Height	35'	Waiver required for: Building A – 41'± Building B – 52'± Building C – 41'±
Off-Street Parking Spaces - Residential	For dwelling units, including apartments, two (2) parking spaces for each dwelling unit.	Waiver required - the proposed Development will contain 181 parking spaces for the dwelling units, a ratio of 1.39 parking spaces per dwelling unit.
Off-Street Parking Spaces – Non-residential	Based on number of square feet of commercial and retail space.	Complies – Proposed Development requires 111 off-street parking spaces for non-residential uses. Proposed Development will designate 111 off-street parking spaces for non-residential uses.
Maximum driveway length	Maximum length of a common driveway shall be 400'. The length of an individual driveway originating at a common driveway plus the length of the common driveway shall not exceed 1200'.	Waiver required to allow driveway and site drives as shown on the Plans.