

**LIST OF REQUESTED EXEMPTIONS/
EXCEPTIONS/WAIVERS FROM THE APPLICABLE
TOWN OF AMHERST BYLAWS AND REGULATIONS
(As of ~~November 28, 2016~~[January 5, 2017](#))**

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.	The proposed Development will not be permitted through a Mixed Use Special Permit pursuant to Section 3.325 of the Zoning Bylaws. The Applicant seeks zoning relief to allow the proposed mixed use Development (including multifamily residential and commercial uses as shown on the Plans) as the residential and commercial uses are complementary to one another. 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.	The proposed Development is not seeking zoning relief as a Mixed Use Building pursuant to Section 3.325; however, to the extent this provision could be applicable, 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, § 3.351, § 3.352.0, § 3.355, § 3.358 Use Table	Retail Establishments, Personal Care Establishments, Food and Drink Establishments (Class I only), Studios and Repair Shops, 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 but to require future approval relative to: (i) appearance of exterior façade of commercial space; (ii) individual signage for proposed commercial uses (and not

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4. § 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 Site Plan Review approval that 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.	monument sign which is being permitted as part of the Comprehensive Permit); and (iii) management plan (which will include the information required by the Town of Amherst management plan revised as of February 1, 2014). No waivers are being requested for any uses that require a Special Permit. A Comprehensive Permit may provide all local permits and approvals per M.G.L. c. 40B. To waive the requirement of Site Plan Review 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 but to require future approval relative to: (i) appearance of exterior façade of commercial space; (ii) individual signage for proposed commercial uses (and not monument sign which is being permitted as part of the Comprehensive Permit); and (iii) management plan (which will include the information required by the Town of Amherst management plan revised as of February 1, 2014). No waivers are being requested for any uses that require a Special Permit. A Comprehensive Permit may provide all local permits and approvals per M.G.L. c. 40B.
5. § 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 with Site Plan Review (as required for the principal use).	To waive the requirement of Site Plan Review and to allow potential live or pre-recorded entertainment without the necessity of the conditions set forth in Section 5.0420 through Section 5.0422 but to require future approval relative to: (i) appearance of exterior façade of commercial space; (ii) individual signage for proposed commercial uses (and not monument sign which is being permitted as part of the Comprehensive Permit); and (iii) management plan (which will include the information required by the Town of Amherst management plan revised as of February 1, 2014). A Comprehensive Permit may provide all local permits and approvals per M.G.L. c. 40B.
6. §5.10 Filling of Land	Special Permit required for any filling of land accessory to the development of property which raises the existing grade of any portion of a property 5,000 sf or more in area by an average of two (2) feet or more.	To waive the requirement for a Special Permit and to allow approximately 1,600 cubic yards of material (i.e., soil, special processed gravel and crushed stone) to be brought to the site to be used under the buildings and pavement areas. A Comprehensive Permit may provide all local permits and approvals per M.G.L. c. 40B.

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<p>6-7 * Article 6 – Table 3 Dimensional Regulations and §6.102</p>	<p>Additional Lot Area/Family = 4,000 sf in the COM zoning district.</p>	<p>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 233,974 sf, the additional lot area/family will be approximately 1,645.95 sf/unit.</p>
<p>7-8 * Article 6 – Table 3 Dimensional Regulations and §6.120</p>	<p>Minimum front setback = 20’</p>	<p>To waive the requirement for a Special Permit (pursuant to footnote a) and to allow the proposed Development as shown on the Plans including the location of Building A1 to be approximately three feet (3’) from Cows Road.</p>
<p>8-9 * Article 6 – Table 3 Dimensional Regulations and §6.130 and §6.140</p>	<p>Minimum Side and Rear Yards = 25’</p>	<p>The proposed Ground Lease Area boundary for the Development is within the boundaries of the parcel. While Building A1, <u>Building A2,</u> Building B and the maintenance- building<u>Maintenance Shed</u> will be located less than 25’ from the side Ground Lease Area boundary; only the maintenance- building<u>Maintenance Shed</u> will be located less than 25’ from the side/rear lot line of the parcel. Nevertheless<u>The Maintenance Shed will be</u> <u>located approximately 2’4” from the side yard</u> <u>line and a maximum of 9’2” from the rear yard</u> <u>line. To the extent required,</u> the Applicant seeks to waive the requirement for a Special Permit (pursuant to footnote a) and to allow the proposed Development as shown on the Plans including the locations of Building A1, <u>Building A2,</u> Building B and the maintenance- building<u>Maintenance Shed</u>.</p>
<p>9-1 <u>0.</u> Article 6 – Table 3 Dimensional Regulations and §6.160 and §6.161</p>	<p>Maximum Lot Coverage = 70%</p>	<p>The existing site is pre-existing, non-conforming with respect to Maximum Lot Coverage; currently, the lot coverage in the portion of the parcel is 71.3%. The proposed Development will increase the pre-existing non-conformity within the Ground Lease Area to approximately 81.3%. To waive the requirement for a Special Permit (pursuant to Article 9) to expand a pre-existing non-conformity and/or a dimensional variance and to allow the proposed Development as shown on the Plans.</p>
<p>10. <u>11.</u> Article 6 – Table 3 Dimensional Regulations and §6.180</p>	<p>Maximum floors = 3</p>	<p>Buildings A1 and B will contain 3 floors but Building A2 will contain 4 floors. To waive the requirement for a Special Permit (footnote a) and to allow the proposed Development as shown on the Plans.</p>
<p>11. <u>12.</u> Article 6 – Table 3 Dimensional</p>	<p>Maximum Height = 35’</p>	<p>Building A1 will be approximately 49.07’ in height; Building A2 will be approximately 61.65’ in height (<u>due in large part to the</u></p>

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Regulations and §6.170		required calculation for measuring building height on sloping terrain ; Building B will be approximately 42.6' in height. To waive the requirement for a Special Permit (footnote a) and to allow the proposed Development as shown on the Plans.
12. 13. §7.0000 Parking and Access Regulations	For dwelling, including apartments, two (2) parking spaces for each dwelling unit.	To waive the parking requirement and to allow the proposed Development as shown on the Plans pursuant to the provisions of the Zoning Bylaw, including Section 7.90. The proposed Development will contain 206 211 parking spaces for the dwelling units, a ratio of 1.58 1.62 parking spaces per dwelling unit.
13. 14. §7.1000 and §7.1001 Parking and Access Regulations – Design Standards and Landscape Standards	Parking plan required to be submitted to the Building Commissioner demonstrating compliance of the proposed parking with the Zoning Bylaw with respect to driveways, grading, slope, drainage, design, setbacks, layout, location on the site, circulation, lighting, landscaping and other pertinent features. Any provision of Section 7.1 may be waived or modified by the Building Commissioner for compelling reasons of safety or design.	The Applicant has submitted a preliminary parking plan and will submit a final parking plan, but seeks a waiver to allow the Zoning Board of Appeals to approve such parking plan with input from the Building Commissioner through the Comprehensive Permit process, but without a separate formal approval or any waivers required from the Building Commissioner.
14. 15. §7.103 Parking and Access Regulations – Design Standards and Landscape Standards	No parking space shall be located within eight feet of a building wall.	To allow the proposed Development as shown on the Plans including the location of six parking spaces within eight feet of Building B_ (in 3 locations) and the Maintenance Shed.
15. 16. §7.104 Parking and Access Regulations – Design Standards and Landscape Standards	Zoning Board of Appeals or Planning Board may allow, upon application, small car parking spaces (8' x 16') to be substituted for up to fifty percent of the standard parking spaces.	To allow the proposed Development as shown on the Plans including +02 149 of the 206 211 parking spaces for the residential development to be compact spaces. To waive the requirement for separate approval from the Zoning Board of Appeals or Planning Board. A Comprehensive Permit may provide all local permits and approvals per M.G.L. c. 40B.
16. 17. §7.106 Parking and Access Regulations – Design Standards and Landscape Standards	Maximum width of driveways at the property line shall be 24 feet.	To allow the proposed Development as shown on the Plans including the proposed driveways to be 32 feet in width to accommodate the large turning radius required for certain types of trucks.
17. 18. §7.110 Parking and Access	Parking areas of 10 or more spaces shall provide a minimum of 10 percent of the total parking area as landscaped open space.	To allow the proposed Development as shown on the Plans including landscaped open space within the parking areas to be less than 10

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<u>19.</u> §7.111 Parking and Access Regulations – Design Standards and Landscape Standards	Parking areas of 25 or more spaces shall provide landscaped islands of a minimum width of four feet with raised curbs throughout the parking area.	To allow the proposed Development as shown on the Plans including a continuous row of 34 parking spaces with no islands and a separate row with no island at the end.
<u>20.</u> §7.112 Parking and Access Regulations – Design Standards and Landscape Standards	Effective screening required of the parking area from adjacent streets or properties.	To allow the proposed Development as shown on the Plans including the screening as shown to the northeast of Building B and to the south of Building B. Technically the adjacent areas are portions of the same or related parcels; however, the Lease Line creates a boundary.
18. <u>21.</u> §7.200 Parking and Access Regulations – Shared Parking	Shared parking may be allowed with permission, provided certain conditions are met.	To allow the shared parking at the proposed Development as shown on the Plans which includes some shared parking for residential and non-residential uses
19. <u>22.</u> §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.
20. <u>23.</u> §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.
21. <u>24.</u> §8.230 - Sign Regulations	In the COM District, one freestanding sign or one monument sign is allowed for each street frontage and the maximum height for a monument sign is 6 feet high.	To allow two freestanding signs at a height of up to 8 feet high for the proposed Development, as shown on the Plans.
22. <u>25.</u> § 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.
23. <u>26.</u> Article 13 – Demolition Delay	Establishes demolition delay procedure for significant structures.	To the extent any of the existing structures that are proposed for demolition are subject to Article 13, to waive the requirement for demolition delay and to allow the demolition of

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the designated structures, but to include Historical Commission input during Comprehensive Permit process. A Comprehensive Permit may provide all local permits and approvals per M.G.L. c. 40B.

24. Article 15
27. 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 so that no separate approval is required from the Planning Board. To allow the Zoning Board of Appeals to delegate the task of assigning addresses and house number(s) for the proposed Development to the Building Department, to be completed prior to issuance of Certificates of Occupancy. 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 so that no separate approval is required from the Town Manager; however, as an administrative matter, the Contractor will apply for and obtain a permit from the Town/ Public Works Department . To 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, with final administrative approval of the Town Manager and/or Town Engineer. 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 so that no separate approval is required from the Town Manager; however, as an administrative matter, the Contractor will apply for and obtain a permit from the Town. To 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, with final administrative approval of the Town Manager and/or Town Engineer. A Comprehensive Permit may provide all local permits and approvals per M.G.L. c. 40B.

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 Zoning Board of Appeals (if required) and to allow fuel storage for provision of propane-fired hot water, emergency generator(s) restaurant uses (propane) and potentially heating oil for proposed Development, all to be reviewed and approved by the fire department during Comprehensive Permit process. 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, but to include Tree Warden input during Comprehensive Permit process. 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, but to include Engineering Department input during Comprehensive Permit process. As an administrative matter, the Applicant's Contractor will apply for and obtain a sewer connection permit. A Comprehensive Permit may provide all local permits and approvals per M.G.L. c. 40B.
4. Water Connection Permit	Requires Inspection Services Department approval for water connection.	To waive the requirement for separate Inspection Services Department approval and to allow water connection for proposed Development, but to include Inspection Services input during Comprehensive Permit process. As an administrative matter, the Applicant's Contractor will apply for and obtain a water connection permit. 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, but to include Inspection Services input during Comprehensive Permit process. A

Comprehensive Permit may provide all local permits and approvals per M.G.L. c. 40B.

6. Irrigation Well To the extent any permits or approvals are required for an Irrigation Well for landscaping.

To waive any requirements for separate local permits or approval to allow an irrigation well for landscaping purposes at the Development, but to include input from the Board of Health during Comprehensive Permit process. A Comprehensive Permit may provide all local permits and approvals per M.G.L. c. 40B.

7. Grease Trap To the extent any local permits or approvals are required from the Board of Health, Engineering Department or Inspectional Services for any grease trap at a proposed restaurant or café use.

To waive any requirements for separate local permits or approval to allow grease trap(s) at proposed restaurant or café uses at the Development as shown on the Plans but to include input from the Board of Health and Plumbing Inspector during the Comprehensive Permit process. A Comprehensive Permit may provide all local permits and approvals per M.G.L. c. 40B.

8. Emergency Access in R-N Zoning District Zoning precedent and caselaw forbids access to less restrictive zoning district and uses (i.e., COM zoning district) over more restrictive zoning district (i.e., R-N zoning district).

To waive any requirements regarding access over R-N zoning district and to allow emergency access and utility access only over R-N zoning district to access Development in COM zoning district.

9. Pedestrian Access in R-N Zoning District Zoning precedent and caselaw forbids access to less restrictive zoning district and uses (i.e., COM zoning district) over more restrictive zoning district (i.e., R-N zoning district).

To the extent required, to waive any requirements regarding access over R-N zoning district and to allow pedestrian access over R-N zoning district to access Development in COM zoning district.

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