

LIST OF WAIVERS

Swampscott Housing Limited Partnership ("Applicant") requests that a Comprehensive Permit for the Project, as shown on the Plans, be issued in lieu of the requirement that the Applicant apply to the individual local boards, departments and officials separately and that waivers from Local Requirement and Regulations, as defined under Section 56.02 of the Chapter 40B Regulations (760 CMR 56.00), be granted as set forth below.

Applicant seeks waivers for the proposed Elm Place Project, a 120-unit rental project ("Project"), as shown on the plans submitted by the Applicant (and as they may be revised during the public hearing process) ("Plans"), from the Town of Swampscott's Local Requirements and Regulations in effect as of the date of the filing of the Comprehensive Permit Application with the Town of Swampscott Zoning Board of Appeals, as set forth below, for all municipal Boards and Departments, including, but not limited to, the following Boards: Board of Health, Select Board, Conservation Commission, Historical Commission, Local Historic District Commission, Planning Board and the Zoning Board of Appeals and the following Departments: Building Department, Fire Department, Police Department, Community Development Department, Health Department, Highway Department, Planning Department, Public Works Department, and Water and Sewer Department.

The Applicant reserves the right to amend the requested Waivers during the public hearing process.

The Applicant requests the following specific waivers from the Zoning Board of Appeals ("ZBA") for the Project from the following Local Requirements and Regulations:

Note 1: 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 for informational purposes only.

TOWN OF SWAMPSCOTT GENERAL BYLAWS, AS AMENDED THROUGH NOVEMBER 17, 2020 (THE “SWAMPSCOTT GENERAL BYLAWS”)				
CODE/REG.	SECTION	DESCRIPTION	REQUIRED	PROPOSED
ARTICLE V - Streets and Sidewalks	SECTION 2	Excavation of a Public Street or Way	Written permission required from the Director of Public Works.	Waived. Excavation work to be approved by the ZBA as part of the Comprehensive Permit
	SECTION 4	Obstructions on Public Streets and Sidewalks	Select Board approved required for obstructing a public street or sidewalk. Written permission required from the Director of Public Works as designee.	Waived. Any temporary obstructions to be approved by the ZBA as part of the Comprehensive Permit
ARTICLE IX - Uses of Land	SECTION 2	Removal of Soil, Loam, Sand or Gravel	Removal of soil, loam, sand or gravel from land in any of the residential districts is prohibited, except for excavation for construction or alteration of the residential property or, for the removal of < 600 cubic yards, and upon Building Inspector approval.	Waived. Any required material removal of soil, loam, sand or gravel to be approved by the ZBA as part of the comprehensive Permit.
	SECTION 3	Trimming or cutting down of trees	Cutting down or trimming trees within an unaccepted way which is open to public use requires Conservation Commission and the Department of Public Works approval.	Waived. Comprehensive Permit Any required tree work to be approved by the ZBA as part of the Comprehensive Permit.

	SECTION 4, and RULES & REGULATIONS of the HISTORIC DISTRICT COMMISSION	The Preservation of Historically Significant Buildings	Historical Commission to advise Building Inspector regarding demolition.	Waived. Approval to raze all existing structures on the Premises, to the extent defined as a "SIGNIFICANT BUILDING OR STRUCTURE," to be issued by the ZBA as part of the Comprehensive Permit.
ARTICLE XIII – EARTH REMOVAL	ALL SECTIONS (1-14)	Earth Removal	The removal of more than 600 cubic yards of earth from any parcel of land shall, except as herein provided, be allowed only in accordance with a written permit issued by the Board of Selectmen.	Waived. Comprehensive Permit shall provide all local permits per M.G.L. Chapter 40B. Any required earth removal to be approved by the ZBA as part of the Comprehensive Permit.
ARTICLE XIX – Construction and Post-Construction Stormwater Management & Town of Swampscott Rules and Regulations for Stormwater Management and Erosion Control	ALL SECTIONS (1-10)	Stormwater Management	Stormwater Management Permit; Town of Swampscott Construction and Post-Construction Stormwater Management Bylaw and accompanying Town of Swampscott Rules and Regulations for Stormwater Management and Erosion Control and from the requirement of action by the Director of the Department of Public Works as Enforcement Authority, and associated filing fees.	Waived. Stormwater Management to be in compliance with MADEP Stormwater Management Policy as well as the requirements of the US EPA Construction General Permit for Massachusetts, all as provided in the Comprehensive Permit Decision.

ARTICLE XXVI – Trees	ALL SECTIONS	Tree Bylaw	A “Public Shade Tree” or “Town Tree” may not be trimmed, pruned, cut or removed by any Person unless and until the Tree Warden issues a written approval pursuant to this bylaw.	Waived. Any required work involving a Public Shade Tree or Town Tree to be approved by the ZBA as part of the Comprehensive Permit.
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TOWN OF SWAMPSCOTT ZONING BY-LAW, AS AMENDED THROUGH JUNE 22, 2020 (ZONING BYLAW)				
CODE/REG.	TITLE	DESCRIPTION	REQUIRED	PROPOSED
ARTICLE II. USE, DIMENSIONAL AND TIMING REGULATIONS.	2.2.1.0.	General Use Requirements.	No structure shall be erected or used or land used except as set forth in Section 2.2.3.0., "Table of Principal Uses", or as otherwise provided in this By-Law or by statute. Uses not expressly provided for herein are prohibited.	Waived. All uses to be approved by the ZBA as provided under the Comprehensive Permit Decision.

TOWN OF SWAMPSCOTT ZONING BY-LAW, AS AMENDED THROUGH JUNE 22, 2020 (ZONING BYLAW)				
CODE/REG.	TITLE	DESCRIPTION	REQUIRED	PROPOSED
	2.2.0.0, 2.2.3.0, 2.2.4.0, 2.2.5.0.	Table of Principal Uses; Accessory Uses	The Project is located within 2 districts: Residence A-4 District (A4 District), and Business B-2 District (B2 District), as shown on the Zoning Map. Within the A4 District, Multi-family dwellings containing more than 8 dwelling units is prohibited, and within the B2 District, is allowed only by ZBA Special Permit.**	Waived. To allow use of the Property for no less than a total of 120 multifamily rental units in a single building, and accessory uses, including without limitation, utilities, generator, and management/leasing office, resident indoor and outdoor common area spaces, related customary accessory uses, parking, access, rights of commercial access onto Project site, water and sewer and stormwater management improvements and appurtenances, signs, the removal and movement of earth necessary to allow for the construction of Project improvements, and other appurtenant uses customary to such residential uses, including bus shelter, covered bicycle facilities, and fences, all as may be depicted in the Site Plans.

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CODE/REG.	TITLE	DESCRIPTION	REQUIRED	PROPOSED
	2.2.7.0, 2.2.7.1., 2.2.7.2.	Improved Lots - Nonconforming Uses and Structures	Lawfully existing nonconforming uses and structures may continue, provided that no modification of the use or structure is accomplished, unless authorized. ZBA may grant a special permit to change or extend a nonconforming use, or to reconstruct, extend, alter, or change a nonconforming structure.**	Waived. Allow for proposed Project parking uses and improvements on Lot 2 and 27 Elm Place as shown on Plans. The Existing Approvals (as defined in the Comprehensive Permit Decision) on Lot 2 and 27 Elm Place are hereby modified to allow the building and related building uses and parking on such real property to lawfully continue and exist and to co-exist with the Project uses on the Property (including the groundleased premises), all as shown on the Plans and described in the Comprehensive Permit Decision
	2.3.1.0.	General Dimensional Requirements	No structure shall be erected or used, premises used, or lot changed in size or shape except in conformity with the requirements of this section, unless otherwise provided in this By-Law or by statute.	Waived. Allow for proposed Project as shown on the submitted Plans.

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CODE/REG.	TITLE	DESCRIPTION	REQUIRED	PROPOSED
	2.3.2.0. 2.3.6.0	Table of Dimensional Requirements, and Exhibit A; Dimensional Special Permit.	Various dimensional requirements in the A4 and B-2 Districts. The ZBA may grant a special permit to reduce otherwise applicable requirements for yard, height, open space, or lot coverage restrictions upon making specific findings. See Note 1.	Waived, subject to allowing for proposed Project as shown on the submitted plans.
			Min. Lot Area (s.f.) --A-4 10,000 s.f. --B-2 10,000 s.f.	Note: Entire lot includes 60,971 (of which 19,799 s.f. is within A4 District, and 41,172 s.f. is within B-2 District) Complies Complies
			Min. Lot Frontage: --A-4 80 Feet --B-2 80 Feet	Waived, subject to allowing for proposed Project as shown on Plans. A-4: 170 Feet B-2: 193 Feet
			Max. Stories/Building Height --A-4 2.5/35 Feet --B-2 40 Feet plus 2 feet above the Max. Building height	Waived. Building stories and height as depicted on Plans. A-4 3-5 stories/60 Feet Max. B-2: 4 stories/60 Feet Max. including garage

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CODE/REG.	TITLE	DESCRIPTION	REQUIRED	PROPOSED
			Min. Open Space (%) --A-4 25% --B-2 15%	Allow overall Site Open Space on Lot to be 16% 14% Waived or portion of site within A-4 District 17% Complies for portion of site within B-2 District.
			Min. Front Yard (ft) --A-4 20 Feet --B-2 None Required	Waived for setbacks for A-4 District Only: -From Face of Building = 13.1 Feet -From Edge of Overhang = 3.6 Feet -From Overhang Support Column = 5.9 Feet N/A
			Min. Side Yard (ft) --A-4 7.5 Feet --B-2 None Required, but see Section 2.3.8.6. below	9.5 Feet [Complies] N/A
			Min. Rear Yard (ft) --A-4 20 Feet --B-2 10 Feet, but see Section 2.3.8.7. below	9.5 Feet [Waived] 10.0 Feet [Complies]
			Max. Building Coverage (% of Lot) --A-4 30% --B-2 30%	Entire Lot = 57% 58% Waived for portion of Lot within A-4 District 56% Waived for portion of Lot within B-2 District

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CODE/REG.	TITLE	DESCRIPTION	REQUIRED	PROPOSED
2.3.3.0 (Accessory Structures)	2.3.8.0 2.3.8.1 2.3.8.2 2.3.8.3 2.3.8.8		Required open yards, projections, for accessory structures such as fences, bus shelter, and covered bicycle facilities.	Waived, and allow for the yards on Project lot as proposed and as shown on the Plans.
ARTICLE III. GENERAL REGULATIONS.	3.1.1.0 3.1.1.2 3.1.1.3	General Off-Street Parking Requirements	Minimum parking requirements for the new demand without counting existing parking necessary for existing uses to meet these requirements. Any parking or loading requirement may be reduced upon the issuance of a ZBA special permit if ZBA finds the reduction is not inconsistent with public health and safety, or that the reduction promotes a public benefit, and that the requirements set forth in Section 5.3.0.0. are fulfilled. See Note 1.	Waived. Allow for proposed Project parking as shown on the Plans.
	3.1.2.0	Number of Parking Spaces.	Use Group A-MF requires 1.5 parking spaces per residential unit, or a total of 180 parking spaces.	Waived. Allow for proposed parking as show on plans.
	3.1.2.3	Parking Space Location	Required spaces may be provided on a nearby lot in the same district, and distance between such parking lot and the use shall not exceed two hundred (200) feet.	Waived. Allow for proposed parking and related access on Lot, on Lot 2 and on 27 Elm Place as shown on the Plans.
	3.1.3.0	Size of Parking Spaces.	Parking space shall be 9x18 Feet except that up to 25% can be reduced to 8.5 x 16 Feet	Waived. Allow 8x22 Feet parking for parallel parking spaces as shown on Plans.

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CODE/REG.	TITLE	DESCRIPTION	REQUIRED	PROPOSED
	3.1.5.0, 3.1.5.1, 3.1.5.2, 3.1.5.3 3.1.5.4 and 3.1.5.5	Parking Lot Design	Snow storage, lighting, rails, landscaping and parking setbacks.	Waived. Allow for proposed Project as shown on the submitted plans.
	3.3.2.0, 3.3.2.1, and 3.3.2.6	Screening.	Property line(s) between nonresidential and residential uses or districts; off-street parking facilities containing six (6) or more spaces, and refuse disposal areas shall be screened from adjacent residentially used or classified properties as set forth herein	Waived. Screening to be provided as shown on the Plan.
	3.4.2.0,	Lighting.	All exterior lighting shall be shielded so as not to cast light directly on adjacent streets or properties.	Waived. Comprehensive Permit shall provide for lighting as provided in the photometric plan filed by the Applicant.
	3.5.0.0., 3.5.1.0	Approved Street Plan	No permit for the erection of any building shall be issued unless the lot to be built upon has frontage on a street, as defined in this Zoning By-Law.	Waived. Frontage is depicted as shown on the Plan

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CODE/REG.	TITLE	DESCRIPTION	REQUIRED	PROPOSED
ARTICLE IV. SPECIAL REGULATIONS	4.4.2.0	Access to Commercial or Industrial Buildings.	No driveway or other means of access for vehicles other than accepted streets shall be maintained or used in the Residence A1, A2, A3, or A4 Districts for the servicing of a commercial or industrial building in the Business B1, B2, B-3, B-4, or I Districts.	Waived. Allow for access within A-4 and B-2 Districts as shown on the Plans.
	4.8.0.0.	Inclusionary Housing Regulations	Requires set-aside of 10% of the units as affordable qualifying for the Subsidized Housing Inventory, along with other requirements, for a project resulting in a net increase of ten (10) or more dwelling units.	Waived. Project to comply with the affordability requirements of Chapter 40B as described in the Comprehensive Permit Decision.
ARTICLE V. ADMINISTRATION AND PROCEDURES.	5.1.1.0.	Permits.	Buildings, structures or signs may not be erected or changed in use and land may not be substantially altered or changed with regard to principal use without written certification by the Building Commissioner that such action complies with applicable zoning.	Waived. Building Inspector may enforce the Zoning Bylaw as modified and waived under the Comprehensive Permit Decision.

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CODE/REG.	TITLE	DESCRIPTION	REQUIRED	PROPOSED
	5.1.1.1.	Survey and As-built Site Plans	Requires filing of plan with building permit application, as well as as-built survey plot plan after work is completed, with Building Commissioner to confirm compliance with applicable zoning and approvals and relief granted under this By-law.	Will submit required documentation but waived to the extent that compliance will be based upon the Zoning Bylaw except as modified and waived under the Comprehensive Permit Decision.
	5.1.2.0.	Enforcement.	The Building Commissioner take any action necessary to enforce full compliance with all of the provisions of this By-Law and of permits, special permits, variances, and site plan approval issued thereunder.	Waived only to the extent that enforcement will be based upon compliance with Zoning Bylaw, but subject to waivers or modifications provided in Comprehensive Permit Decision.
	5.3.0.0.- 5.3.3.0, and Site Plan Review & Special Permit Rules & Regulations	Special Permits	Criteria for the grant of Special Permits by the Special Permit Granting Authority.	See Note 1.

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CODE/REG.	TITLE	DESCRIPTION	REQUIRED	PROPOSED
	5.4.0.0.- 5.4.9.1; 5.6.0.0.- 5.6.7.0., and Site Plan Review & Special Permit Rules & Regulations	Site Plan Special Permit; Procedures for Special Permits**	Requires site plan approval special permit for multi-family unit residential construction; described procedures.	See Note 1.
	5.7.1.0.	Other Laws.	Where the application of the Zoning By-Law imposes greater restrictions than those imposed by any other regulations, permits, restrictions, easements, covenants, or agreements, the provisions of the Zoning By-Law shall control.	Waived only to the extent that the ZBA grants waivers of the Zoning Bylaw, as provided in Comprehensive Permit Decision.
	5.7.2.0.	Conformance.	Construction or operations under a Building Permit shall conform to any subsequent amendment of this Zoning By-Law.	Waived. Construction compliance shall conform to Zoning Bylaw as modified by waivers granted by ZBA, and as governed by the Comprehensive Permit Decision.

TOWN OF SWAMPSCOTT (OTHER LOCAL REQUIREMENTS)				
REGULATION	TITLE	DESCRIPTION	REQUIRED	PROPOSED
Swampscott Subdivision Regulations	Section 2	Approval Not Required (ANR) Plan Requirements	Application and endorsement form application and other requirements for ANR Plan	Waived. ZBA to endorse ANR Plan in accordance with Chapter 40B.
Town of Swampscott Water & Sewer Department Water and Sewer Connection Requirements		Water & Sewer Department connection and fee requirements	Water & Sewer Department connection permit and fee requirements	Waived except that the Applicant will comply with all Town Water & Sewer Department technical requirements related to connecting to the municipal water and sewer system.
Waivers from Town of Swampscott Local Requirements	Waivers	Waivers	Waivers not requested but shown on Approved Plans.	Waived. To the extent that the 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.