

WAIVER REQUEST

The Applicant requests the following waivers from the Zoning Board of Appeals. To the extent that the Plans require further waivers which are not expressly requested herein and are in all material respects consistent with the Plans provided then the Applicant requests the Board grant said waivers.

1. **Subdivision Control Rules and Regulations:** The Project is not a subdivision. However, to the extent and of the Planning Board Rules and Regulations apply to the Project, the Applicant requests a waiver therefrom.
2. **Town of Hamilton General Bylaws Article XVII, General Wetlands Protection / Conservation Bylaw.**
 - a. **Section 3: Jurisdiction** – *“...Except as permitted by the Conservation Commission...no person shall...discharge into...the Associated Upland Resource Area (AURA)...”*

While no work is proposed within the AURA, the project includes stormwater basins that will discharge stormwater into these areas. The projects' stormwater management system has been designed in accordance with the Massachusetts Stormwater Management Policy and will therefore provide the level of treatment required for Stormwater discharges. The applicant requests a waiver from the entirety of the General Bylaws Article XVII.

3. **Town of Hamilton General Bylaws Article XX Section 4 Building Permit Fees and the Building Permit Fee Schedule.** The Applicant requests a waiver of these fees as they apply to the 15 affordable units.
4. **Town of Hamilton General Bylaws Article XXIX, Stormwater Management Bylaw.** To the extent the Stormwater Management Bylaw is more restrictive than the State Stormwater Policy, the Applicant requests a waiver therefrom.
 - a. **Section 4. A.** – The applicant requests a waiver from the requirement for a Permit from the Planning Board in virtue of the fact that the proposed project is a 40B and is being reviewed by the Zoning Board of Appeals (ZBA) through the Comprehensive Permit Process.
 - b. **Section 4. B** – The applicant requests a waiver from the requirement for administrative review in virtue of the fact that the proposed project is a 40B and is being reviewed by the ZBA through the Comprehensive Permit Process.
 - Section 4. C** - The applicant requests a waiver from the requirement for a Permit from the Planning Board due to the triggers established by this subsection, in

virtue of the fact that the proposed project is a 40B and is being reviewed by the ZBA through the Comprehensive Permit Process.

- c. **Section 6. A** - The applicant requests a waiver from the requirement for administrative review in virtue of the fact that the proposed project is a 40B and is being reviewed by the ZBA through the Comprehensive Permit Process.
- d. **Section 6. B** - The applicant requests a waiver from the requirement for a Permit from the Planning Board in virtue of the fact that the proposed project is a 40B and is being reviewed by the ZBA through the Comprehensive Permit Process.
- e. **Section 6. C** – The applicant requests a waiver to this section as the ZBA is functioning as the approval authority and has the authority to conduct site visits under the Comprehensive Permit Process.
- f. **Section 6. D** – The applicant requests a waiver to the requirement for a Public Hearing due as the ZBA will act as the Permitting Authority as part of the Comprehensive Permit Process.
- g. **Section 6. G** – The applicant requests a waiver to this section as the ZBA will be ZBA will act as the Permitting Authority as part of the Comprehensive Permit Process.
- h. **Section 9** – The applicant requests a waiver from this requirement as the project will be peer reviewed as part of the ZBA process.
- i. **Section 10** – The applicant requests a waiver from the requirement for a performance guarantee.
- j. **Section 11** – The applicant requests a waiver to this section as the status of the Comprehensive Permit will govern this project.
- k. **Section 12** – The applicant requests a waiver to this section.

5. The Town of Hamilton Zoning Bylaw

- a. **Section 3.0 – Table of Use Regulations** – Insofar as the Table of Use Regulations prohibit multifamily dwellings or two family dwellings or more than one principal residential dwelling on a single lot.
- b. **Section 3.1 – Table of Use Regulations A.4. “Senior Housing”** – The applicant requests a waiver from the requirement for a Special Permit from the Planning Board in virtue of the fact that the project is being proposed through the Comprehensive Permit process administered by the Zoning Board of Appeals (ZBA).
- c. **Section 4.0 Dimensional and Density Regulations** – Insofar as any of these requirements conflict with the Proposed Plan.
- d. **Section 6.2.1 – Driveway Plan** – The applicant requests a waiver form the requirement to provide a driveway plan to the Building Commissioner as the driveways for the project are incorporated into the site plans being reviewed by the ZBA.
- e. **Section 6.2.6 – Common Driveway** – While the applicant does not believe that this section is applicable to the proposed project (the project includes only one

LOT), a waiver is requested to avoid any ambiguity. Alternatively, if the ZBA agrees with the applicant's position that the section does not apply, we respectfully request a finding be made to this effect.

- f. **Section 6.3 – Signs** – The applicant requests a waiver from this section to allow the proposed signage as depicted on the Site Plans.

- g. **Section 8.2 – Senior Housing**

The applicant does not believe that compliance with Section 8.2 is required, as this section relates to projects being proposed as a Special Permit pursuant to the Table of Use Regulations A.4. However, the following waivers are requested to avoid ambiguity. Alternatively, if the ZBA agrees with the applicant's position that the Section does not apply, we respectfully request a finding be made to this effect.

- i. **Section 8.2.5 – Age Restriction** – A waiver is requested from this requirement should this requirement be in conflict with State Housing Affordability requirements.
- ii. **Section 8.2.6** – The applicant requests a waiver from this section to allow 59 units.
- iii. **Section 8.2.12.2** – A waiver is requested from this section to allow conformance of the project with Comprehensive Permit (40B) requirements for inclusionary and affordable housing.
- iv. **Section 8.2.12.3** - A waiver is requested from this section to allow conformance of the project with Comprehensive Permit (40B) requirements for inclusionary and affordable housing.
- v. **Section 8.2.13.1** – While some Low Impact Development (LID) methods have been employed in the development of the project, the applicant requests a waiver from this requirement, to the extent the Plan does not meet the requirement. The site is employing the following LID methods:
 - 1. Reduction in the road pavement width,
 - 2. Clustering of the development of 59 units on ~16 acres of land, leaving ~40.81 acres of undisturbed Open Space
 - 3. Use of Constructed Stormwater Wetlands for Stormwater Management Areas.
- vi. **Section 8.2.13.2** – The applicant believes that the disturbance associated with the project has been minimized while still allowing for the construction of the proposed roadways, buildings and required infrastructure. However, the applicant requests a waiver from this section.
- vii. **Section 8.2.16.4** – The applicant requests a waiver from this section to allow building spacing of 15-feet in one case (Units 25 & 26). All other units are spaced at least 25-feet apart.

- viii. **Section 8.2.16.6** – The applicant requests a waiver from this section to allow construction as proposed on the Site Plans.
 - ix. **Section 8.2.18 – Signs** – A waiver is requested from this section to allow construction of the proposed sign as depicted on the Site Plans.
 - x. **Section 8.2.21.1** – A waiver is requested from this requirement to allow the visitor parking spaces as depicted on the Site Plans.
 - xi. **Section 8.2.21.2** – A waiver is requested from this requirement to allow the parking configuration for mail deliveries as depicted on the Site Plans.
 - xii. **Section 8.2.21.3** – A waiver is requested from this requirement to allow construction of the parking areas and associated methods for drainage in accordance with the Site Plans.
 - xiii. **Section 2.21.5** – A waiver is requested from this section to allow construction of the parking areas as depicted on the Site Plans.
 - xiv. **Section 8.2.24.3** – A waiver is requested from this requirement as the ZBA will review the project as part of the Comprehensive Permit process.
 - xv. **Section 8.2.25** – A waiver is requested from this section as the ZBA will function as the permit authority as part of the Comprehensive Permit process.
 - xvi. **Section 8.2.27** - A waiver is requested from this section as the ZBA will function as the permit authority as part of the Comprehensive Permit process.
 - xvii. **Section 8.2.29** - A waiver is requested from this section as the ZBA will function as the permit authority as part of the Comprehensive Permit process.
 - xviii. **Section 8.2.30** - A waiver is requested from this section as the ZBA will function as the permit authority as part of the Comprehensive Permit process.
 - xix. **Section 8.2.31** - A waiver is requested from this section as the ZBA will function as the permit authority as part of the Comprehensive Permit process.
 - xx. **Section 8.2.32** - A waiver is requested from this section as the ZBA will function as the permit authority as part of the Comprehensive Permit process.
 - xxi. **Section 8.2.33** - A waiver is requested from this section as the ZBA will function as the permit authority as part of the Comprehensive Permit process.
- h. **Section 8.3 – Inclusionary Housing** – A waiver is requested from this section to allow conformance of the project with Comprehensive Permit (40B) requirements for inclusionary and affordable housing.
- i. **Section 9.1.9.3** – A waiver is requested from the requirement of a Special Permit pursuant to this section as the ZBA will function as the Approval Authority as part of the Comprehensive Permit process.

- j. **Section 9.1.10** - A waiver is requested from the requirement of a Special Permit pursuant to this section as the ZBA will function as the Approval Authority as part of the Comprehensive Permit process.
- k. **Section 9.1.11** - A waiver is requested from the requirement of a Special Permit pursuant to this section as the ZBA will function as the Approval Authority as part of the Comprehensive Permit process.
- l. **Section 10.5** – A waiver is requested from the requirements for any and all Special Permits as the ZBA will function as the Approval Authority as part of the Comprehensive Permit Process.
- m. **Section 10.6** – A waiver is requested from the requirement for Site Plan review as the ZBA will function as the Approval Authority as part of the Comprehensive Permit Process.