

**Re136/140 WORCESTER ROAD
PROPOSED WAIVER LIST**

ZONING BYLAW

SECTION II A. SINGLE FAMILY DISTRICTS (SR10)

REQUIRED: One-Family Dwelling in SR10 – Single Residence Zoning District

PROPOSED: Multi-family rental project consisting of 40 units (30 market rate and 10 affordable) under M.G.L. c. 40B with parking and appurtenances as shown in accompanying plans (the “Multi-family Project”)

SECTION XVI RESTRICTIONS AFFECTING ALL DISTRICTS

REQUIRED: Construction of other than single- or two-family buildings per Section XVIA (Project Approval) and Section XXV (Special Permit)

PROPOSED: Multi-family Project per M.G.L. c. 40B Comprehensive Permit process

SECTION XVIA PROJECT APPROVAL FOR PROJECTS OF SIGNIFICANT IMPACT

REQUIRED: Design Review, Site Plan Review and Special Permit

PROPOSED: ZBA review through M.G.L. c. 40B Comprehensive Permit process in accordance with state law and regulations

SECTION XVIB INCLUSIONARY ZONING

REQUIRED: Provide affordable housing or cash contribution for Projects of Significant Impact under Section XVIA (Project Approval)

PROPOSED: Provide affordable units per Multi-family Project and Comprehensive Permit

SECTION XVIC DRAINAGE REVIEW

REQUIRED: Review by DPW and Planning Director of grading and drainage plans and other materials as may be required in accordance with local specifications

PROPOSED: ZBA review through M.G.L. c. 40B Comprehensive Permit process in accordance with state law and regulations

SECTION XVIE TREE PROTECTION & PRESERVATION

REQUIRED: Submission of Tree Protection & Mitigation Plan for review and approval by Building Commissioner and/or Planning Board in accordance with local specifications

PROPOSED: ZBA review and approval of Landscaping Plan through M.G.L. c. 40B Comprehensive Permit process in accordance with state law and regulations

SECTION XVIII.B AREA REGULATIONS/RATIO OF BUILDING TO LOT AREA

REQUIRED: 6,000sf

PROPOSED: 13,854sf (excluding garage outside the building foundation and entrance canopy)

SECTION XIX YARD REGULATIONS

REQUIRED: Front Yard 30'; Side Yard 20'; Rear Yard 20'

PROPOSED: Front Yard 30'; Side Yard 10.4'; Rear Yard 14.9'

SECTION XX HEIGHTS OF BUILDINGS

REQUIRED: 45' or 3 stories

PROPOSED: 58.6' or five stories (based on existing average ground grade of 73.12') Excludes elevator penthouse height as a necessary projection

SECTION XXI OFF-STREET PARKING

REQUIRED: Parking Plan approved by the Building Commissioner and/or Planning Board with local specifications for setbacks, quantity of spaces, design, construction, landscaping, screening and administration including no tandem spaces;

PROPOSED: ZBA review and approval of Site Plan through M.G.L. c. 40B Comprehensive Permit process in accordance with state law and regulations including 63 parking spaces, including a waiver to allow 33% of total as compact spaces;

SECTION XXII DESIGN REVIEW

REQUIRED: Signage and Project Approvals (Section XXIIA) reviewed by Design Review Board

PROPOSED: ZBA review and approval of Site Plan and Signage Plans through M.G.L. c. 40B Comprehensive Permit process in accordance with state law and regulations

SECTION XXIIIA SIGNS

REQUIRED: Design Review Board, Building Commissioner and/or ZBA review of quantity, location and design of signs per local specifications

PROPOSED: ZBA review and approval of Site Plan and Signage Plans through M.G.L. c. 40B Comprehensive Permit process in accordance with state law and regulations

DPW MUNICIPAL STORMWATER DRAINAGE SYSTEM RULES AND REGULATIONS

REQUIRED: Storm water management approved by DPW in accordance with local regulation

PROPOSED: Storm water management reviewed and approved by ZBA through M.G.L. c. 40B Comprehensive Permit process in accordance with state law and regulations

DPW SEWER RULES AND REGULATIONS

REQUIRED: Sewer connection, construction and fees pursuant to DPW Sewer Rules And Regulations

PROPOSED: Sewer connection, construction and fees reviewed and approved by ZBA through M.G.L. c. 40B Comprehensive Permit process in accordance with state law and regulations.

DPW WATER RULES AND REGULATIONS

REQUIRED: Water connection, construction and fees pursuant to DPW Water Rules And Regulations.

PROPOSED: Water connection, construction and fees reviewed and approved by ZBA through M.G.L. c. 40B Comprehensive Permit process in accordance with state law and regulations.

TOWN OF WELLESLEY WETLAND PROTECTION REGULATIONS

REQUIRED: Regulation(s) section 2.4(4)(a): no-touch requirement

PROPOSED: Approximately 557 square feet of the northern portion of a degraded, local Isolated Vegetated Wetland is required to be filled in order to construct a corner of the proposed building, a porous paver walkway, a transformer and grading in the eastern portion of the site. The Isolated Wetland does not qualify as a state wetland resource area. Although replication is not required under state wetlands regulations, 558 square feet of replication will be provided at a 1:1 ratio in the southern portion of the site. The replicated wetland shall include native woody and herbaceous plantings and provide for enhanced values and functions on the site upon completion.

REQUIRED: Regulation(s) section 2.5(4)(a)1: 25-foot no-touch zone

PROPOSED: The Isolated Vegetated Wetland in the eastern portion of the site would contain a 25-foot No Touch Zone under the Wetlands Protection Bylaw. The Isolated Wetland does not qualify as a state wetland resource area and does not contain a Buffer Zone under the state wetlands regulations. Due to site constraints, work is required within the local 25-foot No-Touch Zone including; a portion of the building, driveway, stormwater management system,

grading, porous paver walkway and transformer. Additionally, a degraded portion of the Riverfront Area in the southern portion of the site is located within the 25-foot No-Touch Zone associated with a Bordering Vegetated Wetland and shall be restored to include native tree plantings.

REQUIRED: Regulation(s) section 2.5(4)(a)2: limit of 10% or 5,000 sf (whichever is less) of the 100-foot Buffer Zone important to wildlife habitat

PROPOSED: The 100-foot Buffer Zone does not have performance standards under the Massachusetts Wetlands Protection Act Regulations. The proposed work area is previously developed and greater than 10% and 5,000SF of the Buffer Zone on the site has already been developed. The Buffer Zone work area includes paved and gravel driveways and existing structures and provides limited wildlife habitat value. Due to site constraints, work is required within the Buffer Zone including; construction of a portion of the building, driveway, parking areas, walkway, play area, stormwater management system, grading and landscaping, and resource area mitigation. It is the applicant's opinion that the Buffer Zone work area would provide limited, at best, "important wildlife habitat functions" and is therefore seeking a waiver for Bylaw wildlife habitat procedure and mitigation of altered habitat requirements contained in Section 2.10 for work in the 100 foot buffer zone, as directed under section 2.5(4)(a)2.

REQUIRED: Notification of Abutters within 300 feet of the property.

PROPOSED: Consistent with Wetlands Protection Act Regulations, the Applicant will notify all abutters within 100 feet of the property.

REQUIRED: Regulation(s) section 2.5(4)(a)3: replacement of 5" dbh trees with 1.5" dbh trees, where 2.5(4)(a)2 (above) is triggered

PROPOSED: ZBA acceptance of the planting and landscaping plan, as shown on the final submitted plan set; and the proposed plantings within the "Proposed Replication and Restoration Protocols" narrative prepared by EcoTec, Inc. It is estimated that 29 trees (dbh 5 inches or greater) shall be removed as part of the proposed project. Of these trees to be removed, at least 13 are noxious invasive Norway maple (*Acer platanoides*) specimens. Under the landscaping and resource area restoration and replication protocols, a combined 29 trees and 249 shrubs of various caliper and height shall be planted on the site. The waiver is sought as not all proposed plantings shall be of 1.5" dbh. However, it is the applicant's opinion that the proposed planting plans shall provide a "functionally equivalent mitigation plan" as allowed in the provision.

REQUIRED: Regulation(s) section 2.5(4)(a)4: stormwater is managed according to Section 1.6(8)(b)4.g. in addition to DEP Stormwater Standards

PROPOSED: ZBA acceptance of the stormwater design in accordance with DEP Stormwater Standards, as required.

REQUIRED: Regulation(s) bylaw section 1.6(9)(b)3: waiver of regulation – discussion of performance standards

PROPOSED: The Applicant requests that the ZBA grant a waiver to this bylaw section. The Applicant has demonstrated a need for this waiver over the last 8 months of public hearings as the Applicant's consultants, Town peer review consultants, and the Town's own Engineering and Fire Departments have confirmed that the project meets or exceeds all applicable 40B design and site planning requirements and standards. Moreover, the 40B statute was enacted in part as the need for affordable housing was determined to be greater than adherence to local conservative and zoning bylaws. As such, the Applicant requests a waiver to specify compliance or lack thereof with performance standards to local bylaws. Put simply, the project can't be built consistent with the plans that have been reviewed and approved by the Town and its consultants without the approval of this waiver."

The Applicant has filed a Notice of Intent with the Wellesley Conservation Commission under the Massachusetts Department of Environmental Protection Wetlands Protection Act.

TOWN OF WELLESLEY RULES AND REGULATIONS GOVERNING UPGRADING OF INADEQUATE WAYS

REQUIRED: Requires Planning Board oversight of this local provision

PROPOSED: Asks that the Zoning Board serve in place of the Planning Board and approve the upgrading as part of the review and approval of the Comprehensive Permit Plan set.