



TOWN OF IPSWICH PLANNING & DEVELOPMENT DEPARTMENT

TOWN HALL, 25 GREEN STREET, IPSWICH, MASSACHUSETTS 01938

TO: Select Board and Interim Town Manager
FROM: Planning Board and Planning Department Staff
SUBJECT: **Request for Referral of Proposed Zoning Amendments for 2022 Special Town Meeting**
DATE: July 5, 2022

This memo constitutes the Planning Board's formal submission to the Select Board of proposed zoning amendments for inclusion on the 2022 Special Town Meeting warrant. In accordance with Section V of Chapter 40A of the Massachusetts General Laws, the Select Board shall, within fourteen (14) days of the date of receiving this submission, refer the proposed zoning amendments to the Planning Board for review and consideration. The text of each article is below. The Planning Board asks that you vote to refer the articles to the Planning Board at your July 11, 2022, meeting.

The three articles proposed herein were initiated by a formal vote of the Planning Board at its June 30, 2022 public meeting. Should the Select Board refer these articles back to the Planning Board on July 11, the Planning Board will then conduct public hearings for inclusion of the articles on the warrant for the 2022 Special Town Meeting. The Planning Board has decided to open its public hearing at a meeting to be held on July 21.

The articles would amend the Town's Protective Zoning Bylaw as follows:

- Article 1: a) Amend Section IX.C. OSPZ by limiting the yield plan for lots within the Water Supply Protection District and by prohibiting encumbrances associated with the built portion of projects within the protected open space; b) Amend Section IX.U. Detached Accessory Dwelling Units by requiring the property owner to reside on the property associated with the ADU dwelling unit; c) Amend the Table in Section V. Use Regulations by allowing retail and personal consumer service establishments by right in the PC District; and d) Amend Section III. Definitions by adding a new definition of "Drive Through Facility", and amend the table in Section V. Use Regulations by inserting a new accessory use for "drive through facility" and allowing them in the CB, HB and PC districts.
- Article 2: a) Amend the definition of "Lot Area" in Section III. Definitions to require greater upland for determining minimum lot area; b) Amend the table in Section V. Use Regulations by inserting floor area ratio limits within the RRA, IR, CB, and GB districts; c) Amend Section VI. Dimensional and Density Regulations by removing a Special Permit opportunity to increase building height in the IR District and by amending the height allowances in the GB and HB District by requiring a Special Permit to increase height from 37 to 45 feet; d) Amend Section VII. Off Street Parking by limiting the Special Permit Granting Authority's power to allow tandem parking; and e) Amend the definition of "Multi-family Residential Development" in Section III. Definitions to allow single family units in said developments to constitute up to 50% of the total allowed number of dwelling units.
- Article 3: Amend Sections II, V, IX.K and XI by substituting "Board of Selectmen" with "Select Board".

To comply with the 14-day time frame established by Section 5 of 40A, please refer the above articles to the Planning Board at your meeting of July 11. Please be sure to make a motion to this effect and reflect it in your minutes.

The proposed articles and synopses included below are posted on the Town's website. Ethan will be available at your July 11, 2022 meeting to answer any questions about this referral and Planning staff anticipate attending a future meeting of your Board, accompanied by Planning Board members, to discuss the substance of the articles.

Proposals:

1. Article 1- Amendments to Use-Related Regulations

a. Open Space Preservation Zoning (OSPZ) & Water Supply Protection

Issue: The most recent OSPZ project, on Linebrook Road and Mile Lane, is located partially within the Town's Water Supply Protection District. The project raised some questions about the Town's approach toward OSPZ development within the Water Supply Protection Districts, specifically related to the number of units and scope of development permitted, as well as encumbrances on the required open space land. Further, as the Planning Department worked with the Zoning Bylaw for the permitting of the aforementioned project, Staff became aware of opportunities to improve the OSPZ section to better align the regulations with the purposes of OSPZ projects.

Proposal: Decrease the permissible number of dwelling units permitted to be constructed within a Water Supply Protection District and prohibit encumbrances associated with the built portion of the OSPZ lot on the protected open space.

Proposed Zoning Amendment Article:

- 1) Amend Section IX. Special Regulations, A. Open Space Preservation (Cluster) Zoning (OSPZ). 5. Development Requirements, by adding a new subsection a. and renumbering the subsequent subsections accordingly. The new subsection a. to read as follows:

a. No more than 50% of the allowed maximum number of units derived from the Yield Plan is permitted to be constructed within a Water Supply Protection District as defined in Section IX.C.

- 2) Amend Section IX. Special Regulations, A. Open Space Preservation (Cluster) Zoning (OSPZ). 5. Development Requirements, b. as follows:

Sanitary Sewer/Septic: the property shall be served by the town's sanitary sewer system, by a private central sanitary sewer system, or by an individual septic system. ~~If, however, in the judgement of the board, the topography and /or soil conditions are such that it would be more efficient to allow the underground common septic system or individual septic systems to be placed in the preserved open space, this configuration may be permitted.~~ All systems are subject to the approval by the Board of Health and any other permitting authority of competent jurisdiction.

- 3) Amend Section IX. Special Regulations, A. Open Space Preservation (Cluster) Zoning (OSPZ). 5. Development Requirements: c by adding a new subsection vii to read:

vii. All preserved open space must be unencumbered by any regulations or essential functions of the developed portion of the lot.

b. Section IX.U. Detached ADU Amendment

Issue: Since adopting Section IX.U at the 2021 Special Town Meeting, it has been suggested that the Planning Board propose adding a component of ownership to the property on which the Detached Accessory Dwelling Unit sits.

Proposal: Add language requiring that an owner occupy a dwelling on the property where the Detached Accessory Dwelling Unit is located.

Proposed Zoning Amendment Article:

Amend Section IX.U. Detached Accessory Dwelling Units, 4. Conditions of Approval, by adding a new subsection d. as follows:

Any special permit approved by the Planning Board pursuant to this subsection shall be subject to the following conditions: ...

- d. The Special Permit shall be issued to the record owner of the property and shall specify that the owner must occupy one of the dwelling units on the property.*

c. Retail and Personal & Consumer Service Establishments by right along Route 1 in PC district

Issue: Allow reasonable reuse of existing buildings along Route 1 north of Linebrook Road without the need for a special permit for certain uses. Currently, any new Retail (other than convenience) or Personal & Consumer Service Establishment business over 1,000 sq. ft. must go through the special permitting process even if they are moving into an existing space. This change would not alter the requirements that would apply to new construction or changes of use, parking, dimensional requirements (covered under site plan review) and any other applicable requirement.

Proposal: Amend Table of Use Regulations in Section V to allow Retail and Personal & Consumer Service Establishments by-right in PC district.

Proposed Zoning Amendment Article:

TABLE OF USE REGULATIONS (cont'd)										
PRINCIPAL USE	DISTRICT									
Commercial	RRA ¹	RRB ¹	RRC ¹	IR ¹⁶	GB ¹⁶	CB ¹⁶	HB ¹⁶	PC ¹⁶	I ¹⁶	LI ¹⁶
Retail establishment selling general merchandise, including but not limited to dry goods, apparel and accessories, furniture and home furnishings, home equipment, small wares, and hardware, and including discount and limited price variety stores (Added 10/15/07 STM; AG 1/23/08; Amended 10/25/16 STM; AG 2/14/17)	---	---	---	---	P	P	P	P SPB ₂₄	SBA	---
Personal & consumer service establishment (Amended 10/21/2014 STM; AG 2/4/15) (Amended 10/25/16; AG 2/14/17)	---	---	---	---	P	P	P	P SPB ₂₄	SBA ₂₄	SBA

d. Drive-through

Issue: Current regulations allow drive-through facilities by-right as a use type in certain zoning districts, but subject to Site Plan Review. Drive-through facilities are prohibited if associated with formula fast food establishments in the CB District (the only district in which fast-food establishments are allowed, and then only by special permit). Drive-through facilities can increase traffic, cause queuing, and generally are incompatible with pedestrian-focused areas.

Proposal: Add definition of Drive-through facility in Section III. Definitions. Amend Table of Use Regulations in Section V by creating new accessory use for Drive-through facilities to only be allowed in PC, HB, and GB districts.

Proposed Zoning Amendment Article:

- 1) Amend Section III. Definitions by adding a new definition for the term “Drive- through Facility” in the correct alphabetical order to read as follows:

DRIVE-THROUGH FACILITY: A commercial facility, which provides a service directly to a person operating a motor vehicle or where a customer drives a motor vehicle onto the premises and to a window or mechanical device through or by which the customer receives service without exiting the vehicle.

- 2) Amend Section V. Use Regulations, Table of Use Regulations, by adding a new row under “Accessory Use” to read as follows:

TABLE OF USE REGULATIONS (cont'd)										
ACCESSORY USE	DISTRICT									
	RRA	RRB	RRC ¹	IR ¹⁶	GB ¹⁶	CB ¹⁶	HB ¹⁶	PC ¹⁶	I ¹⁶	LI ¹⁶
<i>Drive through Facility</i>	---	---	---	---	<i>P</i>	---	<i>P</i>	<i>P</i>	---	—

2. Article 2- Amendments to Density and Dimensional-Related Regulations

a. Lot Area

Issue: The current definition of lot area requires that for all residential dwellings (except for those built under OSPZ), a minimum of 70% of the required lot area for zoning compliance must be upland. The 70% upland rule only applies to residential dwellings. There has been some concern about the 70% requirement being too low. The concern is that by allowing 30% of required lot area to be wetlands, in particular on multi-unit developments, greater density is squeezed into upland areas that are too small to accommodate said development (in other words, greater number of units is allowed than the land can handle, resulting in a need for waivers, oversized buildings, and similar impacts).

Proposal: Amend lot area definition to increase the required amount of upland for residential dwellings.

Proposed Zoning Amendment Article:

LOT AREA: The horizontal area of a lot exclusive of any area in a street or way. For all residential dwellings, except for those built on lots created under Section IX.A (OSPZ) of the zoning bylaw, a

~~minimum of seventy~~ *one hundred* percent (~~70~~*100*%) of the minimum lot area applicable to the lot, as determined by the Table of Dimensional and Density Regulations, shall consist of land not classified as creek, stream, river, pond, lake, estuary or bank, fresh water wetland, coastal wetland, beach, dune, flat, marsh, wet meadow or swamp as defined by Massachusetts General Laws, Chapter 131, Section 40, as amended.

b. Floor Area Ratio

Issue: Much of the concern that people express about development appears to center around the size/scale/massing of new buildings. While building height, unit density, setbacks, and other existing regulations control new buildings, they impose a fairly one-size-fits-all approach. A “floor area ratio”, which is a different approach that will promote better-sized projects, establishes a maximum floor area for buildings on individual lots. This approach is taken in the RRB District.

Proposal: Amend the Table of Dimensional and Density Regulations in Section VI to include a maximum floor area ratio for buildings in certain zoning districts.

Proposed Zoning Amendment Article:

Adjust or amend the table of dimensional and density regulations in Section 6 to include floor area ratio per district as follows:

**TABLE OF DIMENSIONAL AND DENSITY REGULATIONS
PRINCIPAL BUILDINGS AND STRUCTURES**

District	Use	Min. Lot Area (Sq. Ft.) ²³	Min. Lot Width (foot)	Min. Lot frontage (foot)	Minimum Setbacks			Expressed as % ratio of lot area		
					Front ^{1,2,7} (foot)	Side ^{2,7} (foot)	Rear ^{2,7} (foot)	Max. bldg. Area (%) ²⁰	Max. floor area ²¹	Min. open space (%)
Rural Residence (RRA & RRC) (Amended 10/15/01 STM; AG 2/19/02)	Single-family, detached (Amended 10/22/90 STM; AG 1/14/91) (Amended 10/15/01 STM; AG 2/19/02)	87,120 ^{25,26}	175 ²²	150 ²²	50 ¹²	40 ¹²	30 ¹²	20	10	50
	Single-family, attached (Amended 10/22/90 STM; AG 1/14/91) (Amended 10/15/01 STM; AG 2/19/02)	See \exists IX.A. ^{25,26}	20	20	20 ¹²	None ^{4,12}	20 ¹²	See \exists IX.A.	—	See \exists IX.A.
	Two-family (Amended 10/18/04 STM; AG 1/27/05)	130,680	250	150	50	40	30	20	10	50
	Open Space Preservation zoning	See \exists IX.A. ²⁵	—	—	—	—	—	—	—	—
	All other permitted uses (Amended 4/7/86 TM; AG 5/13/86)	87,120	175 ²²	150 ²²	50	40	30	20	10	50
Rural Residence (RRB ¹⁸) (Amended 10/15/01 STM; AG 2/19/02)	Single-family, detached (Amended 10/22/90 STM; AG 1/14/91) (Amended 10/15/01 STM; AG 2/19/02)	87,120 ^{25,26}	175 ²²	150	20	20 ¹⁹	20 ¹⁹	20	30	50
	Single-family, attached (Amended 10/22/90 STM; AG 1/14/91) (Amended 10/15/01 STM; AG 2/19/02)	See \exists IX.A. ^{25,26}	—	—	—	—	—	—	—	—
	Two-family (Added 10/16/06 STM; AG 1/04/07)	130,680	250	150	50	40	30	20	—	50
	All other permitted uses (Amended 10/17/11 STM; AG 2/2/12)	87,120 ²⁵	175 ²²	150	20	20 ¹⁹	20 ¹⁹	20	30	50
Intown Residence	Single-family, detached	10,000 ²⁸	90	50	20	10	20	40	40	30
	Two-family (Amended 10/18/04 STM; AG 1/27/05)	12,000	90	50	20	10	20	40	40	30
	Multi-family, Multi-family Residential Development (Amended 4/6/87; AG 8/24/87) (STM 10/17/05; AG 12/12/05) (STM 10/16/21, AG 2/2/22)	9,000 for first dwelling unit + 5,000 per	90	50	20	10	20	40	40	30

		DU there- after								
	All other permitted uses	8,000	90	50	20	10	20	40	40	30
Central Business (CB) ⁹ (Added 10/20/03 STM; 1/22/04 AG)	Multi-family, Multi-family Residential Development (Amended 10/17/05; AG 12/12/05)	5,000 for first dwelling unit + 2,500/DU thereafter up to 6 units; 5,000/ DU each unit over 6 ¹¹	50	50	0 ²⁴	10 ⁵	20	80	170	5
	Mixed residential/business use (Amended 10/16/06; AG 1/4/07)	3,000 for first dwelling unit + 2,000/DU thereafter ^{11, 30}	50	50	0 ²⁴	10 ⁵	20	80	170	5
	All other permitted uses	5,000	50	50	0 ²⁴	10 ⁵	20	80	170	5



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**TABLE OF DIMENSIONAL AND DENSITY REGULATIONS (cont.)
PRINCIPAL BUILDINGS AND STRUCTURES**

District	Use	Min. Lot Area (Sq. Ft.) ²³	Min. Lot Width (foot)	Min. Lot frontage (foot)	Minimum Setbacks			Expressed as % ratio of lot area		
					Front ^{1,2,7} (foot)	Side ^{2,7} (foot)	Rear ^{2,7} (foot)	Max. bldg. Area (%)	Max. floor area (%) ²¹	Min. open space (%)
General Business (GB) (Added 10/20/03 STM; 1/22/04 AG)	Multi-family, Multi-family Residential Development (Amended 10/17/05; AG 12/12/05)	5,000 for first dwelling unit + 2,500/DU thereafter up to 6 units; 5,000/DU each unit over 6 ¹¹	50	50	10 ²⁹	10 ⁵	20	80	80	5
	Mixed residential/business use (Amended 10/16/06; AG 1/4/07)	3,000 for first dwelling unit + 2,000/DU thereafter ^{11,30}	50	50	10 ²⁹	10 ⁵	20	80	80	5
	All other permitted uses	5,000	50	50	10 ²⁹	10 ⁵	20	80	80	5
Highway Business (HB) ¹⁶	Multi-family, Multi-family Residential Development (Amended 10/17/05 and 10/19/09; AG 12/12/05 and 2/16/10)	25,000 for first dwelling unit+ 5,000/DU thereafter	125	100	50	20	30	30	—	50
	All other permitted uses (Amended 10/23/95 STM; AG 1/29/96) (Amended 10/20/97 ATM; AG 2/10/98)	20,000	125	100	50	20	30	40	—	15

c. Building Height

Issue: The Planning Board and Department have heard concerns about excessive building height on certain projects, in particular in the Highway Business District and to a lesser extent within the General Business District. Building height is a contributing factor to overall building massing. In the IR District the maximum building height is 37 feet/3 stories, except the Planning Board may allow an increase to 45 feet by special permit. In the General Business and Highway Business Districts (among other non-residential districts and the CB District) the maximum building height is 45 feet. Because the Highway Business and General Business District abut Intown Residence and Rural Residence Districts, there is potential for a large disparity of building height and associated massing between these districts.

Proposal: Eliminate the 45-foot maximum height by special permit exception for buildings in the IR District. Require 37-foot height in GB and HB District, except up to 45 feet by special permit.

Proposed Zoning Amendment Article:

Amend Section VI.G.2.e as follows:

2. The maximum building height for buildings and structures is three (3) stories, not to exceed forty-five (45) feet, with the following exceptions: ...
 - e. In the IR, RRA, and RRC Districts, the maximum building height is three (3) stories, not to exceed thirty-seven (37) feet. ~~except that in the IR District, by Planning Board special permit, the height may be increased to no more than forty five (45) feet; ...~~
 - h. *In the GB and HB Districts, the maximum building height is three (3) stories, not to exceed thirty-seven (37) feet, except by Planning Board special permit the height may be increased to no more than forty-five (45) feet.*

d. Parking and Layout: Tandem Parking

Issue: Tandem parking, which in many cases can be a less than optimal parking situation for safety and convenience reasons, is currently subject to a special permit. The special permit granting authority is authorized to allow 100% of parking spaces to be tandem (on certain projects). The Planning Board proposes to limit the special permit granting authority to be able to allow no more than 50% of parking spaces associated with a project to be tandem.

Proposal: Limit the amount of tandem parking allowed to no more than 50% for residential uses. The proposal also clarifies the meaning of tandem parking.

Proposed Zoning Amendment Article:

Amend Section VII.M.2. Layout, as follows

M. Parking and Loading Layout

1. Layout – Required parking and loading facilities shall be laid out so that each vehicle may proceed to and from its parking space without requiring the movement of any other vehicle. The Special Permit Granting Authority may waive this requirement, *up to a maximum of 50% of the parking spaces in a project for residential uses or 100% for non-residential uses*, for parking

facilities under full-time attendant supervision or for parking associated with a special permit. *For the purposes of this section in a case where one vehicle must be moved to allow another to exit or enter a space, both vehicles will be considered to be required to be moved and each of these would be considered a tandem spot.*

In no case shall parking or loading spaces be located so as to require the backing or maneuvering of a vehicle onto a sidewalk or onto a public way in order to *allow another vehicle to* enter or leave ~~the~~ *its* space.

e. Percent Single Dwelling Unit Buildings in Multifamily Developments

Issue: As Planning Department Staff work with developers and design professionals, as well as boards and committees such as the APDC and Planning Board, Staff has learned that the requirement that detached single units in multifamily developments not exceed 25% of the total units in the development may have the undesired effect of creating larger multi-unit buildings. For example, on a lot where a four-unit multifamily dwelling or development is permitted and a single unit exists, if a developer wishes to retain the single-unit, they are only allowed to create a second building with three-units rather than a single-unit and a two-unit building. If a developer were able to build two single-unit buildings and a third, two-unit building, then that scenario may allow for better massing, siting and layout on a lot. Where this issue has particularly presented is within the Architectural Preservation District, where there is a heightened desire for design flexibility in order to complement the existing development pattern.

Proposal: Allow up to 50% of the units in a multifamily development to consist of single-unit freestanding buildings by amending the definition of Multi-family residential development.

Proposed Zoning Amendment Article:

Amend Section III. Definitions, as follows:

MULTI-FAMILY RESIDENTIAL DEVELOPMENT: A lot which contains or has built upon it: (a) one or more residential mixed-use buildings; (b) one or more multi-family dwellings; (c) one or more multi-family dwellings and one or more single or two-family dwellings, provided that the single family dwellings constitute no more than *fifty percent 2550%* of the total units in the residential development, or (d) two (2) or more two-family dwellings (Added by 10/17/05 STM; approved by AG 12/12/05) (Amended by 10/16/06 STM; approved by AG 1/4/07) (Amended by 10/19/09 STM; approved by AG 2/16/10) (Amended by 10/26/10 STM; approved by AG 2/24/11) (Amended by 10/17/20 STM; approved by AG 3/18/21)

Article 3- Clarification Change

a. Select Board Title

Issue: The Select Board changed its name from Board of Selectmen in 2019. The Zoning Bylaw still refers to the Board as the Board of Selectmen in Sections II, V, IX.K and XI.

Proposal: Change “Board of Selectmen” to “Select Board”.

Proposed Zoning Amendment Article:

Amend the bylaw to replace “Board of Selectmen” with “Select Board” as follows:

- 1) Amend Section II. Administration.

C. Municipal Construction Projects

... All municipal construction projects, including additions to existing public buildings, that create 2,500 square feet or more of new building area, shall be certifiable under the U.S. Green Building Council's most current applicable LEED® standards for design and construction, unless the ~~Board of Selectmen~~ **Select Board** determines that meeting the LEED® standard will be economically infeasible based on a cost analysis and the projected cost savings, including operations...

- 2) Amend Section V. Use Regulations, Footnotes to the Table of Uses.

B. Permitted Uses

In the following Table of Use Regulations, the uses permitted by right are designated by the letter "P". Those uses that may be permitted by special permit in accordance with conditions, safeguards, and limitations of the Zoning Act and this bylaw are designated as follows by the appropriate special permit granting authority:

- SPB = special permit of the Planning Board
- SBA = special permit of the Zoning Board of Appeals
- SBS = special permit of the ~~Board of Selectmen~~ **Select Board**

Footnote 17. By special permit of the ~~Board of Selectmen~~ **Select Board**, a private individual, corporation, or other for-profit entity may be designated to manage and/or operate any of the above facilities on Town-owned land.

- 3) Amend Section IX. Special Regulations, K. Design Review.

Appointments to the Design Review Board shall be made as follows:

- a. Two members shall be appointed by the Planning Board;
- b. One member shall be appointed by the Historical Commission;
- c. Four members shall be appointed by the ~~Board of Selectmen~~ **Select Board**, two of whom shall be alternates.

The terms of all members and alternate members of the Design Review Board shall be three years, except that when the Board is originally established, members shall be appointed as follows: the Planning Board shall appoint one member to a one-year term and one member to a two-year term; the ~~Selectmen~~ **Select Board** shall appoint one member for a two-year term and one member for a three-year term, and the Historical Commission shall appoint one member for a three-year term. The term of the alternates appointed by the ~~Board of Selectmen~~ **Select Board** shall be one and two years when the Board is originally established.

- 4) Amend Section XI. Administration.

D. Building Application and Permit Fees

Before a building permit may be issued, a fee shall be paid to the Town on the basis of a schedule of fees established by the ~~Board of Selectmen~~ **Select Board** in accordance with the provisions of "Section 7. Establishment of Fees" of CHAPTER IV of the General Bylaws of the Town of Ipswich...

I. Compliance with Zoning Bylaw

The ~~Board of Selectmen~~ **Select Board** may at their reasonable discretion impose as an essential condition on the issuance and/or renewal of any permit and/or license which they are authorized to issue or renew, ... such order or decision shall not constitute the basis for the ~~Board of Selectmen~~ **Select Board** to refuse to renew, revoke, and/or suspend any such permit and/or license during the pendency of such good faith appeal.

J. Special Permits

1. Special Permit Granting Authority. As provided in this bylaw, certain classes of special permits shall be issued by the designated special permit granting authority, which will be the Zoning Board of Appeals, the Planning Board, or the ~~Board of Selectmen~~ **Select Board**, as indicated in the Table of Use Regulations or elsewhere in this bylaw.