

G. Waivers

As required under Section 56.05(2)(h) of the 40B Regulations, the following is a list of requested Waivers to Local Requirements and Regulations, and the Applicant requests approval of the following Waivers from certain local requirements of the Town of Concord, including the Concord Zoning Bylaws, and other Local Requirements and Regulations as defined under Section 56.02 of the Chapter 40B Regulations, including all local legislative, regulatory, or other actions which are more restrictive than state requirements, if any, including local zoning and wetlands bylaws, subdivision and board of health rules, and other local ordinances, codes, and regulations, in each case which are in effect on the date of the Project's application to the Board. In addition to the following list of requested Waivers listed below, the Applicant requests an exception from each and every provision or requirement of all Local Requirements and Regulations issued by a "Local Board" (defined under the Chapter 40B Regulations as meaning any local board or official, including, but not limited to any board of survey; board of health; planning board; conservation commission; historical commission; water, sewer, or other commission or district; fire, police, traffic, or other department; building inspector or similar official or board; city council, as well as all boards, regardless of their geographical jurisdiction or their source of authority [that is, including boards created by special acts of the legislature or by other legislative action] if such local board perform functions usually performed by locally created boards) with which any aspect of its Comprehensive Permit application, including but not limited to its proposed site development plans and any other information hereinafter submitted to the Board, is inconsistent.

See Waiver List addendum attached hereto.

LIST OF WAIVERS

TOWN OF CONCORD GENERAL BYLAWS, AS AMENDED THROUGH ANNUAL TOWN MEETING ON MAY 1, 2023 (THE “CONCORD GENERAL BYLAWS”)				
BYLAW/ REG.	TITLE	DESCRIP TION	REQUIRED	PROPOSED
No New Construction of Utility Poles and Overhead Wires Bylaw, Sections 1-5	Overhead Utility Poles	Regulation of Overhead Utility Poles and Wires; Violations; Penalties	No utility shall install or construct, except for direct one for one replacement or upgrading of existing facilities, any poles and overhead wires and associated overhead structures upon, along or across any public or private way within the parts of the Town listed in Section 2.	Waived to allow overhead wires/poles on a temporary basis during construction, to be governed by Comprehensive Permit.
Road Opening Bylaw	Public Ways	Regulation of public street opening, obstruction, filling and planting.	No public way shall be opened for any purpose, nor shall any material be dumped or placed thereon or removed therefrom, nor obstruction or structure placed thereon or removed therefrom, nor any alteration made, nor shall any tree be planted thereon or removed, without first obtaining a written permit from the Commissioners of Public Works (acting as the Road Commissioners), and then only in accordance with its regulations.	Waived. ZBA to issue road opening permits (right of way and/or driveway permits) to perform work in accordance with DPW and State requirements and for purposes of installing curbing, modifying striping as shown on Proposed Site Entrance Plan, dated 7/31/23, constructing certain sidewalk segments within public right of ways as shown on the Site Plans and conditioned by the Comprehensive Permit.
Sewer Improvements Fund Bylaw, and Concord Public Works Sewer Rules and Regulations (April 26, 2004)	Sewer Fees/Sewer Connection Fees	Sewer Improvement Fees, Connection Fees and Permits	The Public Works Commissioners shall assess a sewer improvement fee for all connections to the Town sewer system which will generate a sewage flow rate in excess of the flow rate for the relevant property in the Facilities Planning Study prepared by Camp, Dresser and McKee, dated May, 1984, or any amendments thereto approved by a Town Meeting or any subsequent study approved by appropriate authorities. The sewer improvement fee assessed shall equal the estimated cost of constructing, reconstructing, and expanding sewer lines, treatment plants, and other related facilities or reducing infiltration or inflow to handle an incremental amount of sewage equal to such excess flow.	Waive sewer improvement fee only for the portion of said sewer improvement fee attributable to each of the affordable units. ZBA to issue sewer connection permit through the Comprehensive Permit, subject to Applicant’s compliance with the Concord Public Works Sewer Rules and Regulations (April 26, 2004) and generally recognized engineering standards.

<p>Sign Bylaw, Sections 8, 10</p>		<p><u>Section 8.</u> In a business, limited business, or industrial district, only the following signs are permitted in addition to those permitted under Section 5 of this bylaw:</p> <p style="padding-left: 40px;">a. <u>Total Sign Area.</u> The total area of all signs erected on a lot shall not exceed one and one-half (1½) square feet in area for each horizontal linear foot of the building face(s) parallel to, or substantially parallel to, a street line. However, if the primary facade is on a parking area, then said facade shall be used to determine the amount of allowable signage.</p> <p style="padding-left: 40px;">b. <u>Principal Signs.</u> No more than two principal signs shall be allowed for each business establishment. A principal sign may be a flat wall sign, a projecting sign, or a freestanding sign.</p> <p style="padding-left: 80px;">1. The total area of all flat wall signs shall not exceed fifty (50) square feet on any one wall of the business establishment. Flat wall signs shall not project more than twelve (12) inches from the face of the wall. Subject to the approval of the Building Inspector, a flat wall sign may be located anywhere on any wall of a building, provided that it does not conceal any part of a window, and that its length does not exceed seven-eighths (7/8) of the facade of the business establishment.</p> <p style="padding-left: 80px;">2. A projecting sign shall not extend beyond the curb line or more than 50 inches, exclusive of any supporting structure from the building. A projecting sign shall not be less than 10 feet from the ground level at the base of the building, over a vehicular way, 10 feet over a sidewalk, or a lesser distance so long as public safety is not endangered nor more than 20 feet from the ground level to the top of the sign. Allowable area of a projecting sign will be computed as one-half (½) square foot for each horizontal linear foot of the facade of the establishment on which it hangs. Such sign shall not extend above the building, nor be more than twelve (12) square feet in area.</p> <p style="padding-left: 80px;">3. A freestanding sign shall not exceed fifty (50) square feet of area when the establishment fronts on Route 2, or more than twenty-five (25) square feet of area when the establishment fronts on a street other than Route 2. No more than one freestanding sign shall be permitted on a lot. A freestanding sign shall not extend over a public way.</p> <p><u>Section 10.</u> In Industrial Parks the same restrictions on signs shall apply as in Business Districts except that a directory sign not to exceed 50 square feet in area may be placed at each public entrance to such park and more than one freestanding sign for the purpose of traffic direction and control may be erected, and shall not be included in the total permissible sign area calculations for the lot(s) within the Park.</p>	<p>Waiver of sign standards applicable to Industrial Park A to allow for a) update to freestanding sign at Baker Avenue entrance to incorporate panel with NOVO Riverside addresses (292/294 Baker Avenue) and relocation of Baker Avenue sign consistent with revised entrance drive location as depicted on the plans; b) update to freestanding sign at Baker Avenue Extension entrance to incorporate panel with NOVO Riverside addresses (292/294 Baker Avenue); and c) wall signs on each residential building (292 Baker and 294 Baker), all as shown on the Project Plans and as may be conditioned within the Comprehensive Permit The Existing Approvals (as defined in the Comprehensive Permit Decision) on the adjacent 300-310 Baker Avenue property to be modified to allow the signage on such real property to lawfully continue and exist and to co-exist with the Project signage all as shown on the Final Plans and described in the Comprehensive Permit Decision.</p>
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Concord Wetlands Bylaw, Wetlands Bylaw Regulations & Wetlands Policies	Local Wetlands Protection	Regulation of defined “resource areas protected by the Bylaw”	No person shall commence to remove, fill, dredge, build upon, degrade, discharge into, or otherwise alter any defined “resource areas” (including the 50-foot No Build Zone and the 25-foot No Disturb Zone) without a permit issued by the Concord Natural Resources Commission.	Waived in their entirety. Wetlands approval to be governed by an Order of Conditions issued pursuant to the Massachusetts Wetlands Protection Act, M.G.L. c. 131, s. 40 and State Wetlands Regulations at 310 CMR 10.00.
ZONING BYLAW, TOWN OF CONCORD, AS AMENDED THROUGH ANNUAL TOWN MEETING AMENDED THROUGH MAY 1, 2023 (THE “CONCORD ZONING BYLAW”)**				
ZONING BYLAW	TITLE	DESCRIPTION	REQUIRED	<u>PROPOSED</u>
Sections 3, 4, 5 & 6	Use & Dimensional Regulations			
Section 3 (Subsections 3.1, 3.2), Section 4, Table I –Principal Use Regulations, Section 5, Accessory Uses, (Subsections 5.1, 5.2, Table II – Accessory Use Regulations, and Subsection 5.4 (temporary accessory uses and structures)	Use Regulations/ General Provisions	Permitted uses with Zoning Districts, including Industrial Park A, and the Wetlands and Floodplain Conservancy Districts	<p>--No land shall be used or building or other structures erected or modified in any district for any use not set forth in Section 4, Table I, except accessory uses permitted pursuant to Section 5 and nonconforming uses as provided in subsection 7.1.</p> <p>It is the intent of this Bylaw to prohibit in any district any use, which is not specifically permitted, as well as any use, which is denoted in Section 4, Table I, by the word “no”.</p> <p>--Accessory uses are permitted only in connection with lawful principal uses. Where a principal use is allowed under special permit, its accessory use is also subject to the provisions and limitations of that special permit. **See Note 1.</p> <p>--In all districts except the residential districts, the Planning Board may, by special permit, authorize the use of a trailer, modular container transportable by trailer or other similar vehicle or mobile structure as a temporary office for not more than two (2) years provided that adequate parking is provided for the office use.</p>	<p>Waived. To allow use of Property for no less than a total of 201 Multi-unit dwelling units with accessory uses, including without limitation, vehicular/bicycle parking, utilities, management/leasing office, resident indoor and outdoor common area spaces, resident community rooms, solar uses and solar panels on structures, reciprocal rights of access with Concord Meadows, signage, the removal and movement of earth incident to the construction of the Project, and other appurtenant uses customary to residential uses, all as may be depicted in the Final Plans.</p> <p>Waiver also to allow the use of a temporary construction/marketing trailer(s) use/structure commencing prior to construction commencement through Project construction completion. **See Note 1</p>

<p>Section 3 (Subsections 3.1, 3.2),</p> <p>Section 4, Table I –Principal Use Regulations,</p> <p>Section 5, Accessory Uses, (Subsections 5.1, 5.2, Table II – Accessory Use Regulations, and Subsection 5.4 (temporary accessory uses and structures)</p>	<p>Use Regulations/ General Provisions</p>	<p>Permitted uses with Zoning Districts, including Industrial Park A, and the Wetlands and Floodplain Conservancy Districts</p>		<p>(cont'd from page 3) Moreover, such existing uses and/or improvements on the parcel identified as Lot A on Site Plans together with existing approvals issued for the same (collectively, the “Existing Approvals”) be deemed modified so as to allow the existing uses and structures on Lot A to lawfully continue and co-exist with the proposed Project uses and improvements at the Property, all as shown on the Site Plans and as provided in the Comprehensive Permit Decision.</p>
<p>Section 1.3.2</p>	<p>Definitions</p>	<p>Definition of “Affordable Housing”</p>	<p>Affordable housing under the Bylaw is defined as “[a] dwelling unit that by deed restriction is and will remain (a) for sale and sold at a selling price that will result in an annual shelter cost (which for this purpose shall include, to the extent required by the applicable federal, state or local program, real estate taxes, insurance and mortgage interest) of not more than thirty percent (30%) of the annual household income of a qualified affordable housing unit purchaser; or (b) available for rent and rented at an annual rent (which for this purpose shall include, to the extent required by the applicable federal, state or local program, an appropriate, allowance for utilities to the extent they are not otherwise included in the rent) that will result in an annual shelter cost of not more than thirty percent (30%) of the annual household income of a qualified affordable housing unit tenant; and/or, (c) a dwelling unit that qualifies and that will be included in the Affordable Housing Inventory for the Town of Concord that is maintained by the Massachusetts Department of Housing and Community Development or any successor entity. A qualified affordable housing unit purchaser or a qualified affordable housing unit tenant with respect to a unit is an individual or household with total annual income which qualified such purchaser or tenant under the appropriate provisions of the federal, state or local program applicable to the unit.</p>	<p>Waiver to define “affordable housing” as consistent with the definitions set forth in Chapter 40B Regulations at 760 CMR 56.03(3) of low to moderate income housing and as per the requirements of MassHousing under the NEF Subsidy Program.</p>

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<p>Section 6 (Dimensional Regulations), Subsections 6.1., 6.2., and Table III, Dimensional Regulations</p>	<p>Dimensional Requirements</p>	<p>Dimensional Requirements in an Industrial Park A (IPA) Zoning District</p>	<p>Minimum lot area, frontage, lot width, yard, and corner clearance requirements and maximum lot coverage, height and floor/area ratio shall be as prescribed in Section 6, Table III, Dimensional Regulations.</p> <p>--Min. Lot Area in S.F.: 4 Acres, of which Section 6.2.2 requires a minimum of fifty (50) percent of required lot area be provided by land located outside of the Flood Plain Conservancy District and Wetlands Conservancy District.</p> <p>-- Frontage Exception in Feet: N/A</p> <p>-- Min. Lot Frontage in Feet: 50 Feet on a Private Interior Street constructed as part of a development of lot, or 200 Feet on an Existing Public Way.</p> <p>--Min. Lot Width in Feet: N/A.</p> <p>--Min. Front Yard in Feet: 20 Feet from the side lines of private streets constructed as development of site and 100 feet from existing public ways. No parking areas may be closer than 30 Feet from the side lines of any public way, or 20 Feet from the side lines of private streets within boundaries of the Industrial Park development.</p> <p>-- Min. Side Yard in Feet: 20 Feet (except 100 Feet from property lines of parcels zoned residential and in residential use, 50 Feet of which must be a landscaped buffer).</p> <p>--No parking may be placed within the minimum side yard and rear yard except where joint parking areas are permitted by the Planning Board through site plan approval.</p> <p>--Min. Rear Yard in Feet: 20 Feet except 100 Feet from property lines of parcels zoned residential and in residential use, 50 Feet of which must be a landscaped buffer.</p> <p>-- Corner clearance in Feet: 10 Feet.</p>	<p>Waived except as shown as compliant on Site Plans, including the waiver of the following:</p> <p>Property is 10.2 Acres (444,312 S.F.) [No waiver requested]</p> <p>More than 50% of the minimum lot area is outside of the Flood Plain Conservancy District and Wetlands Conservancy District. [No waiver requested]</p> <p>N/A.</p> <p><u>Waiver.</u> Lot frontage of 155.95 feet on Baker Avenue</p> <p>N/A</p> <p>Front yard is 128.9 feet [No waiver requested]</p> <p>Side Yard is 39.4 feet. [No waiver requested.]</p> <p><u>Waiver.</u> Waived to allow parking within side yard</p> <p>Rear yard is 305 feet. [No waiver requested.]</p> <p>Complies. [No wavier requested.]</p>
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<p>Section 6 (Dimensional Regulations), Subsections 6.1., 6.2.2, and Table III, Dimensional Regulations (Cont'd.)</p>			<p>-- Maximum Height: 40 Feet, but not more than three stories excluding basements, subject to Section 6.2.11 which excludes chimneys, spires, towers, and other projections not used for human occupancy or storage which may extend above such height limits above.</p> <p>--Max. Lot Coverage: 50%, which includes all principal and accessory structures and paved areas, and</p> <p>20% max. lot coverage by all structures.</p> <p>-- Max. Floor Area Ratio: N/A</p>	<p><u>Waiver</u>. Waived to allow a maximum building height of no more than 66 feet for 292 Building and no more than 61 feet for 294 Building, and waived to allow 5 residential stories for each of 292 and 294 Baker Avenue buildings.</p> <p>28.8 % [No waiver requested.]</p> <p>10.5 % lot coverage by all structures [No waiver requested.]</p> <p>N/A (Max FAR)</p>
<p>Section 6.2.9</p>	<p>Landscaped Buffer</p>	<p>Buffer Requirements</p>	<p>Side yards, rear yards and the other lot lines noted in Table III shall be suitably landscaped to reduce the visual impact of the principal use upon adjacent property by the use of trees, shrubs, walls, fences, or other landscape elements. Where the developed area adjoins land developed for residential use, suitable landscaping shall consist of a substantially sight-impervious screen of evergreen foliage at least eight (8) feet in height or planting of shrubs and trees complemented by a sight-impervious fence of at least five (5) feet, but not more than eight (8) feet, in height, or such other type of landscaping as may be required under site plan approval. In all developments, to the extent practicable, existing trees shall be retained and used to satisfy the provisions of this Section 6.</p>	<p>Waived. Landscape buffer to be as depicted on Site Plans; those existing trees to be retained as depicted on Site Plans.</p>
<p>Section 7</p>	<p>Special Provisions</p>			
<p>Section 7.2 – Flood Plain Conservancy District</p>	<p>Work and Uses in Designated District Area</p>	<p>Work and Uses in Designated District Area</p>	<p>Any person who desires to use land within the Floodplain Conservancy District for a use permitted subject to review by the Board shall submit a written application for a special permit to the Board, with copies to the Planning Board and Natural Resources Commission.</p> <p>Compensatory storage is to be provided at ratio of 1.5:1 (see Section 7.2.6.3), which may be reduced to ratio of 1:1 upon a finding that the reduced ratio allows for overall improvement to site, such as reducing volume of structure in floodplain, improving stormwater management or improving natural environment.</p>	<p>Waived. **See also Note 1. All work, uses and structures within floodplain to comply with Massachusetts State Building Code, as well as comply with conditions and terms of an Order of Conditions issued pursuant to the State Wetlands Protection Act, MGL c. 131, s. 40, and State Wetlands Regulations at 310 CMR 10.00, and any other applicable state and federal permits,</p>

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Section 7.3 – Wetlands Conservancy District	Work and Uses in Designated District Area	Work and Uses in Designated District Area	Development of a site or property that has wetlands located thereon shall be required to comply with any Order of Conditions issued under the Wetlands Protection Act and/or the Town’s Wetlands Bylaw.	Waived. All work, uses and structures within District to comply with a Wetlands Order of Conditions issued pursuant to the State Wetlands Protection Act, MGL c. 131, s. 40, and State Wetlands Regulations at 310 CMR 10.00.
Section 7.5 – Earth Removal and Fill	Earth Removal and Filling	Requirements and exemptions related to Earth Removal and Filling	The removal or filling of soil, loam, peat, sand, gravel or stone (herein, “earth”) from or into any property not in public use is prohibited in all districts, except when incidental to and in connection with construction of a building or street or other activity authorized by this Bylaw. No earth removal or filling permit shall be required for moving earth within the limits of a lot or contiguous lots in the same ownership, if no such moving shall take place across or within a street. Earth removal or filling in excess of 1,000 cubic yards of earth requires a special permit issued by Board.	Waived but see Note 1.** Earth removal or filling to be conducted pursuant to a Wetlands Order of Conditions issued under the State Wetlands Protection Act (M.G.L. c. 131 s.40) and State Wetlands Regulations under 310 CMR 10.00, and other conditions to be governed by Comprehensive Permit.
Section 7.7 – Off-Street Parking, Loading, and Design Standards., incl. Subsections 7.7.1, 7.7.2, and Table IV, Minimum Parking.	Requirements for Off-Street Parking, Loading, and Design	Requirements for Off-Street Parking, Loading, and Design	Two (2) spaces per dwelling unit or one and one-half (1-1/2) spaces per dwelling unit for subsidized low and moderate income housing or elderly housing developments. Board may grant relief from Section 7.2 from other parking and loading requirements pursuant to 7.2.2.12.	Waived to allow for a total of 304 parking spaces, or an average of 1.5 spaces per Dwelling Unit.
Section 7.3 Parking design, and related standards	Parking Design Standards	Parking Design Standards	Parking Design Standards for space size including compact spaces, accessibility, lighting, landscaping, bicycle parking, driveways and circulation.	Waived. Parking design to be as shown on the Site Plans and as conditioned within Comprehensive Permit.
Section 11	Administration & Enforcement			
Section 11.2	Building Permit	Conditions To Issuance of Building Permit	No structure or part thereof shall be constructed, altered, or moved without a permit from the Building Inspector. The Building Inspector shall not grant such permit if such construction, alteration or movement would be in violation of any of the provisions of this Bylaw, nor shall any officer of the Town of Concord grant any permit or license for the use of any land or structure if such use would be in violation of this Bylaw.	Waived to the extent that Zoning Bylaw requirements for Building Permit are superseded/waived by the Comprehensive Permit Decision.

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Section 11.3	Certificate of Occupancy	Conditions To Issuance of Certificate of Occupancy	No use or occupation of land for any purpose for which a certificate of occupancy is required shall be made, in whole or in part, until such a certificate has been issued by the Building Inspector stating that the use of the land and structure, if any, complies with this Bylaw and other applicable codes in effect at the time of issuance.	Waived to the extent that Zoning Bylaw requirements for Certificate of Occupancy are superseded/waived by the Comprehensive Permit Decision.
Section 11.6	Special Permits	Requirements for the grant of Special Permits	Certain uses are designated in this Bylaw as requiring a special permit. The Board and the Planning Board may, in accordance with Chapter 40A of the General Laws, grant such special permits for such designated uses without any finding of hardship. A special permit is a permit to use property for the purpose specified and shall not reverse, alter or vary any provision of this Bylaw applicable thereto.	** <u>See</u> Note 1 below.
Section 11.8	Site Plan Review	Requirements for approval of Site Plan Review.	In all instances specified in Section 4, Table I, Use Regulations, indicating site plan approval, whether approved by special permit or otherwise, no building permit to establish a new building shall be issued by the Building Inspector; no change in use of an existing building or lot shall be permitted; no area for parking, loading, or vehicular access shall be established or substantially altered; and, no exterior light fixtures shall be installed or substantially altered unless a site plan has been submitted and approved in accordance with the requirements set forth in this section. No certificate of occupancy shall be issued by the Building Inspector until the site has been developed in compliance with the approved site plan.	Waived. ** <u>See</u> Note 1 below. To be governed by Comprehensive Permit Decision.
Section 11.9	Bylaw Construction		This Bylaw shall not interfere with or annul any other Town Bylaw, rule or regulation, which is more restrictive, except where this Bylaw is more restrictive, it shall control.	Waived to the extent that Comprehensive Permit Decision grants waivers/exceptions from the applicability of specific provisions of the Zoning Bylaw and general Bylaws.

**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 CONCORD PUBLIC WORKS DEPARTMENT/PUBLIC WORKS COMMISSION REQUIREMENTS				
REGULATION	TITLE	DESCRIPTION	REQUIRED	<u>PROPOSED</u>
Stormwater	Concord Public Works Stormwater Regulations (March 15, 2011)	Stormwater Management regulations governing: Illicit Discharges and Connections; Storm Water Management Plan and/or Erosion and Sedimentation Control Plan; and Long Term O & M Plan	Department of Public Works review for compliance with Concord Public Works Design and Construction Standards and Details (“Standards”) regarding drainage and erosion and sedimentation control, with approval by the ZBA. No person shall commence, conduct or continue any illicit discharge to, or illicit connection to, the storm drain system, or cause or allow others under its control to do so unless approved by Concord Public Works through a Right-of-Way Permit.	Waived. Stormwater Management to be in compliance with MADEP Stormwater Management Policy as regulated under the Massachusetts Wetlands Protection Act and regulations at 310 CMR 10.00, as well as the requirements of the US EPA Construction General Permit for Massachusetts, all as provided in the Comprehensive Permit Decision.
TOWN OF CONCORD ZONING BOARD OF APPEALS APPLICATION FORMS AND INFORMATION				
	TITLE	DESCRIPTION	REQUIRED	<u>PROPOSED</u>
Zoning Board of Appeals Special Permit Application Process	Application Review, Filing Instructions and Application Submission Deadline	Three step process, including application review, preparing documentation and filing with Planning Office	Requires that applications and supporting documentation be submitted to the Building Commissioner 15 days before the application filing deadline. Filing deadlines with Zoning Board are approximately 5-6 weeks prior to hearing.	Waived. To the extent that local application review, filing and application submission deadline written process does not otherwise conflict with 760 CMR 56.05, to be waived and the procedure for submittal of Comprehensive Permit application and timing of opening of public hearing to be in accordance with Chapter 40B Regulations, 760 CMR 56.05(2)/(3). Per Section 56.05(2) submittal of Comprehensive Permit application is directly to the Board, and providing that the failure to submit a particular item shall not necessarily invalidate such application.