

LANCASTER AFFORDABLE HOUSING TRUST

Prescott Building
701 Main Street - Suite 2
Lancaster, MA 01523

November 4, 2021

Lancaster Planning Board
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701 Main Street - Suite 4
Lancaster, MA 01523

Re: Plan Approval Authority for 40R Smart Growth Overlay District

Dear Lancaster Planning Board Members,

On behalf of the Lancaster Affordable Housing Trust, thank you for your September 27, 2021 correspondence regarding the Plan Approval Authority (“PAA”) for the 40R Smart Growth Overlay District proposed on Route 70. The Planning Board’s letter was received by the Trustees on September 28, 2021. It was included in the Trust’s October 7, 2021 meeting materials and discussed at the October 7, October 21, and November 4, 2021 meetings. We sincerely appreciate your interest in this topic and welcome the thoughts you have shared with us.

As referenced in the proposed 40R bylaw, a PAA is required for Smart Growth Overlay Districts under M.G.L. Chapter 40R and 760 CMR 59.00. Its composition is not dictated by the enabling statutes. Instead, it is decided at the municipal level as described in the following definition from Chapter 40R, Section 2: *“Approving authority”, a unit of municipal government designated by the city or town to review projects and issue approvals under section 11.*” CMR 59.00 states *“Plan Approval Authority or Approving Authority. A unit of Municipal government designated by the Municipality to review projects and issue approvals under M.G.L. c. 40R, § 11. See 760 CMR 59.04(1)(f).”* CMR 59.04(1)(f) further states *“(f) Plan Review. Plan Review is the procedure by which a proposed Project within a District is made subject to review by the Plan Approval Authority under the provisions of the 40R Zoning, in accordance M.G.L. c. 40R, § 11*

and 760 CMR 59.00. 760 CMR: 1. If the 40R Zoning provides for Plan Review of Projects within the District, it shall specify: a. the composition of the Plan Approval Authority”.

According to DHCD, 40R District bylaws have designated the local Select Board, Planning Board, Zoning Board of Appeals, hybrid composite groups, and others. Therefore, the Trust considered a variety of options in its deliberations. We first considered the Planning Board with MRPC, and then cast the net more widely, reviewing the respective roles of Lancaster’s boards and commissions for a large, phased, mixed-use project. We considered that the 40B Comprehensive Permit process for affordable housing is handled by the Zoning Board of Appeals, and replied to inquiries of recommending this Board based upon its role in this regard. We debated the advantages and disadvantages of a single board versus a hybrid, composite board. We also considered the Town’s pluridisciplinary strategy to structuring the Memorial School Re-Use Committee and the similar approach unfolding for the DCAMM campus. More recently, the Trust reached out to several Massachusetts towns for their lived experience with 40R Districts, and how the choice of the PAA has functioned on the ground.

Ultimately, after much discussion, the benefits of diverse board perspectives available for this 40R mixed-use site were undeniable . It is an approximately 80-acre proposed District with a variety of important opportunities and considerations for Lancaster, as well as a long and complex site development history and environmental concerns. We would very much like the Planning Board’s voice to be heard clearly in the PAA, and to be enriched by other colleagues.

The proposed 40R bylaw was drafted with MRPC, and reviewed by the Town’s Planning Consultant (Mike Antonellis), Town Counsel (KP Law, PC), and DHCD. All of these subject matter experts have provided feedback to the complete draft bylaw text, but none have suggested changing the PAA designation. As discussed at the Planning Board meeting, the Town’s planning consultant actually included his support for the PAA choice in his review comments of September 15, 2021.

The Trust would like to respectfully reply to the four perceived drawbacks cited in the Planning Board’s correspondence. The first is a “technical hurdle with including [the] ‘Economic Development Committee’...” as it “is not a permanent committee...”. We appreciate this observation, and note the Select Board is reviewing permanency status for this Committee.

Additionally, the Trust approved the following additional provision at its October 7, 2021 meeting: “if the Economic Development Committee (EDC) is no longer in existence when the 40R District is under development, then a Select Board member or designee shall replace the EDC member.” Pending the outcome of the Select Board discussion, this clause shall be inserted.

The second drawback cited is a “Scope too limited to justify a new agency” and “in the short run there would only be a single Smart Growth Overlay District in Lancaster and the intention seems to be to fully build-out that district at the first opportunity. As a result there may only ever be a single application for the ‘Plan Approval Authority’ to consider.” The District is comprised of approximately 80 acres and five different, unrelated land owners. One landowner is currently working on a 40R proposal, however, this is not the full build-out of their 40R acreage, nor does the current project include any of the eligible 40R parcels under separate ownership.

The third drawback cited is “Establishing regulations may prove an administrative burden.” After reviewing the established regulations for administration of the SGOD bylaw, it is likely this is quite feasible given they are fairly standard in nature. Draft review from Lancaster’s Planning Director and/or MRPC, DHCD, as well as Town Counsel can further ensure they are well written to amply protect the Town.

Lastly, the letter refers to a fourth drawback,

Not free to act independent of influence: In the event of controversy, it would be difficult to establish that the composite board is free to act independently.

Although it’s a five-member board, it’s appointed by the three-member Select Board. Furthermore, four of the five members must be drawn from boards also appointed by the Select Board. As it might only ever handle a single project it would inevitably appear that the composition of the board was selected to weigh that specific project.

As referenced at the September 27, 2021 Planning Board meeting, the choice of the representative members is made by each Committee, and not by the Select Board. This is stated in the portion of the bylaw included in the letter: “The 40R Plan Approval Committee shall

include one (1) representative member chosen by each of the following Town of Lancaster Boards from their membership: ...” Appointed versus elected boards are dictated by M.G.L. and not decided locally. Moreover, whether a board is appointed or elected should not matter in that every member takes the same oath to uphold and protect the interests of Lancaster.

The Town of Lancaster and its residents are fortunate to have a strong and committed Planning Board. The Trust is eager to continue to work together with Planning Board Members to ensure the Town’s best production and preservation of compliant affordable housing. We are especially looking forward to working with the Planning Board’s chosen representative for the 40R District’s PAA, and we are confident in the important role he or she will play. We respectfully request your support in the Trust’s recommendation, and our desire for the best outcome for a team-based, multi-disciplinary approval team.

On behalf of the Lancaster Affordable Housing Trust and its Members,

A handwritten signature in blue ink that reads "Victoria Petracca". The signature is fluid and cursive, with a long horizontal flourish extending to the right.

Victoria Petracca, Chair