



Commonwealth of Massachusetts  
DEPARTMENT OF HOUSING &  
COMMUNITY DEVELOPMENT

Charles D. Baker, Governor ♦ Karyn E. Polito, Lt. Governor ♦ Jennifer D. Maddox, Undersecretary

May 27, 2022

Kate Hodges  
Town Administrator  
Prescott Building – 2<sup>nd</sup> Floor  
701 Main Street  
Lancaster, MA 01523

RE: North Lancaster Smart Growth Overlay District – Letter of Conditional Eligibility

Dear Ms. Hodges:

I am writing with regard to the application for a preliminary determination of eligibility pursuant to MGL, Chapter 40R and 760 CMR 59.00 that was submitted by the Town of Lancaster (Town) to the Department of Housing and Community Development (DHCD/Department) for the proposed North Lancaster Smart Growth Overlay District (District). DHCD has completed its review of the application, including the attached Smart Growth Zoning and determined that, subject to the conditions outlined herein, the proposed District satisfies the applicable statutory and regulatory requirements.

The proposed District would allow for up to an estimated 339 Future Zoned Units (i.e., as-of-right residential units), with up to the same estimated number of units able to qualify as Incentive Units to the extent all other applicable conditions herein are met and to the degree eligible 40R Bonus Units are confirmed by DHCD.

The proposed location is characterized by certain Smart Growth features, mainly a location with relative access substantially comprised of previously developed/disturbed, underutilized land with reasonable potential for mixed-use redevelopment adjacent to existing (if limited) and planned retail, services, and employment, and the opportunity to preserve open space. The application includes documentation that necessary infrastructure and other Smart Growth attributes, including adequate water and wastewater facilities, transportation/access improvements, and additional pedestrian-accessible destinations, while not currently in place, are in the planning stage or feasible to a degree sufficient for the District to qualify for Conditional Eligibility.

Until such time these missing infrastructure and Smart Growth elements are in place, as more particularly described below in the case of those elements not otherwise already subject to existing local and/or state requirements, any subsequent DHCD approval of the District, if adopted, shall be conditional. This means that such approval would be primarily for the purposes of implementation of the zoning, with eligibility for the 40R payments contingent upon satisfaction of the conditions herein. Accordingly, DHCD hereby grants the proposed District Conditional Eligibility with any corresponding Final Approval and eligibility for 40R payments subject to the conditions outlined below.

In addition to the standard requirements including an approved Density Bonus Payment Application form with evidence of full building permits and a 40R-compliant Affordable Housing Restriction (AHR) and Affirmative Fair Housing Marketing Plan (AFHMP) approved or otherwise accepted as such by DHCD, eligibility for any corresponding 40R Density Bonus Payments, is contingent upon the following:

- The Department's receipt and explicit acceptance of a Pedestrian and Multi-modal Access Plan (Access Plan) for the District. The Access Plan shall show and provide for:
  - a safe, illuminated, continuous, convenient, and ADA-compliant pedestrian and bicycle access network connecting and serving each parcel within the District and to all otherwise existing and future Pedestrian Destinations and other similar uses adjacent or proximate to the District. At a minimum, these adjacent/proximate uses shall include, the existing athletic facilities (Parcel 14-9.0), Mobil Station/convenience store (Parcel 14-4.0), Dunkin' coffee shop (Parcel 14-4.B), 1497 Lunenburg Road (Parcel 14-4.C), 1340 Lunenburg Road (14-6.0), and 0 White Pond Road (Parcel 8-45.0). To the extent the town amends the zoning applicable to 0 White Pond Road (Parcel 8-45.0) to allow the proposed distribution/logistics center or other significant employment opportunity or there is other cause to signalize the intersection of Lunenburg Road and McGovern Boulevard at any time prior to the town qualifying for Final Approval, the Access Plan's pedestrian and bicycle network should further show and provide for such connections across Lunenburg Road/Route 70 to Kimball Farm (Parcel 9-17.0);
  - access to any existing or planned recreational trail systems on parcels adjacent to the District;
  - a seasonal maintenance policy for the access network, including commitments for timely and effective snow clearance;
  - adequate lighting (preferably dark-sky compliant, pedestrian-scale) to ensure greater safety and utility of the access network;
  - access to an expanded Route 8 MART bus service with direct service to the District, including planned bus stops within the District, the route and schedule, and associated agreements, including all services and funding, in place at the time of any Density Bonus Payment Application; and,
  - commitments and procedures for sharing the Access Plan with residents and prospective residents of the District. In the case of residents, the Access Plan shall be shared, along with the opportunity to provide feedback, at least annually and at least until the access network and Access Plan more generally are fully implemented.
- Evidence that the Access Plan has been implemented such that the portion of access network necessary to connect the associated 40R Project/residents to the applicable existing, or nonetheless approved, uses at the time of application, is in place. Relative to the proposed 150-unit mixed-use 40R Project that has been discussed, at a minimum such applicable connected parcels/uses would include all parcels immediately adjacent to the project site, including the athletic fields and Mobile station, as well as the existing Dunkin' coffee shop on the north side of McGovern Boulevard and any other parcels, whether within or adjacent to the District for which there is an approved project

that would provide a new retail, service, office, health, or recreational amenity, or potential employment opportunity within walking distance of the 40R Project.

- As referenced above, the Department understands that there is a significant adjacent development proposal involving 0 White Pond Road that is undergoing MEPA review and that such proposal will be required to address concerns related to that entire project site as part of that review. The Town must notify the Department in a timely manner if it becomes aware of any conflicts between the Access Plan and the requirements associated with the MEPA review process or any other state or federal requirement, in which case the Department may determine that modifications to the Access Plan will be warranted.

Except as provided for below, eligibility for all or a portion of the Zoning Incentive Payment will be contingent upon the following:

- evidence that the entire Access Plan has been fully implemented
- a Density Bonus Payment Application form approved by DHCD for Bonus Units corresponding to the Zoning Incentive Payment amount requested.
- To the degree that there are surplus 40R funds available for a partial payment corresponding to eligible Bonus Units associated with an approved Density Bonus Payment Application, DHCD may consider releasing all or a portion of a corresponding Zoning Incentive Payment prior to the full completion of the Access Plan where development to date within the District and general geographic area (e.g., underlying zoning, adjacent parcels) has given the Department confidence that the Access Plan will be completed and build-out of the District and general geographic area will achieve a compact, walkable, mixed-use environment, with any non-residential uses, whether retail, office, institutional, industrial, or other, are designed and implemented in an integrated manner compatible with residential development. If DHCD elects to issue all or a portion of the Zoning Incentive Payment prior to completion of the Access Plan, it may restrict the use of such funds to capital expenditures directly related to the District.
- In the context of the preceding condition, DHCD encourages the Town to review and, as applicable, consider amending the Underlying Zoning that corresponds to the proposed District and adjacent parcels to address any incompatible uses or standards that may undermine the Smart Growth characteristics articulated in the preceding condition. Examples of such modifications might include but are not limited to eliminating or updating standards for any otherwise incompatible or potentially incompatible uses, reducing excessive parking requirements that reduce the amount of land available for buildings or open space while increasing travel/walking distance between primary active uses, improving landscaping requirements, and/or applying the proposed District's Design Standards to such underlying zoning.

In addition to the required, District-specific conditions above, in the interest of facilitating a built environment and policies that reduce dependency on single-occupancy automobiles and support a multi-modal transportation options, DHCD further encourages the Town to work with its development partners, business owners, etc., within the District and general geographic area to implement effective Transportation Demand Management (TDM) measures that may be appropriate and viable. Such TDM strategies could include setting aside one or more motor vehicle parking spaces to provide on-site access to a dedicated,

energy-efficient car-sharing system, subsidizing MART passes for residents or employees in the District and general geographic area, etc.

If the Smart Growth Zoning, as preliminarily found to be eligible herein, is adopted and approved by the Attorney General, the Town must complete and submit the attached application for Conditional Approval, pursuant to 760 CMR 59.05(4)(d). With a complete and compliant application, DHCD will issue a Letter of Conditional Approval and the District will be in full effect subject to the conditions for any corresponding projected 40R payments as outlined above, and the Town can begin to approve 40R Projects pursuant to the new Smart Growth Zoning. Subject to 760 CMR 59.06(3)(d), at any subsequent time that the Town fulfills the respective conditions outlined in this Letter of Conditional Eligibility and incorporated into such Letter of Conditional Approval, the Town may apply for the corresponding 40R payments for which it is eligible and, as applicable, Final Approval.

Pursuant to 760 CMR 59.05, DHCD issues this Letter of Conditional Eligibility with the following additional, standard conditions:

1. Unless subsequently otherwise approved in writing by DHCD, the Town adopts the Smart Growth Zoning as enclosed and herein preliminarily determined to be conditionally eligible. Adoption of the Smart Growth Zoning must occur within three years of the date of this letter. After adoption of the Smart Growth Zoning, the Town must submit proof of adoption to DHCD in order to receive Conditional or Final approval, as applicable. As further outlined on the attached application form for Conditional/Final Approval, proof of adoption requires the submission of the following information:

a) a copy of the Smart Growth Zoning adopted by Town Meeting and certified by the Town Clerk;

b) a copy of the amended Zoning Map adopted by Town Meeting and certified by the Town Clerk;

c) a copy of the Attorney General's letter approving the Smart Growth Zoning;

d) if there are any changes to the enclosed version of Smart Growth Zoning between this preliminary determination of eligibility and adoption by the Town Meeting, an annotated version of the amendments to the Smart Growth Zoning must be submitted that clearly indicates all changes; and

e) a certification by the Town Clerk that the Smart Growth Zoning has been published and posted pursuant to applicable law.

2. If there are substantial changes to the Smart Growth Zoning, DHCD may treat such submission as an amendment to the application and will notify the Town of its decision to do so in writing. DHCD must confirm its Conditional or Final Approval within 60 days of receipt of such submission provided the amended application satisfies all the approval criteria set forth in 760 CMR 59.04(1).

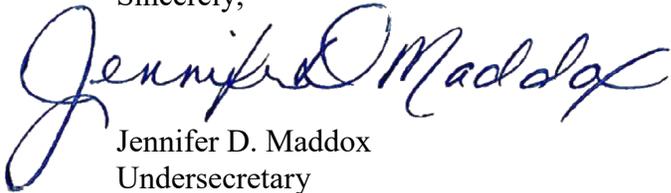
3. Except to the extent provided expressly herein or otherwise incorporated, there is no local rule, regulation, ordinance, or agreement that would prevent the 339 Future Zoned Units from being developed in the District. Any memorandum of understanding or similar agreement that places or would place restrictions not otherwise contained in the Smart Growth Zoning on the development of a 40R Project or respective parcel(s) of land, such as limiting the density below that which would otherwise be allowed under the Smart Growth Zoning, shall be subject to review and approval by DHCD for the purposes of Bonus Unit eligibility in conjunction with the Department's review and approval of the corresponding AHR and AFHMP.

4. DHCD must approve any additional Design Standards, rules, regulations, guidelines, application forms and any amendments to such that are adopted by the Plan Approval Authority or otherwise required of applicants as part of the Plan Review process. Such DHCD-approved additional Design Standards, rules, regulations, guidelines and application forms must also be filed with the Town Clerk.

5. Please be advised that for any 40R Plan Approval application filed after the release of the 2019 Income Limits, in order for any associated units to qualify as Bonus Units, DHCD shall require that the maximum affordable monthly rent (including any applicable utility allowance) not exceed the lower of (1) 30% of 1/12 of 80% of the area median income, or (2) the Section 8 payment standard established by or on behalf of the applicable local housing authority. This condition may be waived by DHCD for a given Project if there is evidence that compliance would Render Development Infeasible.

On behalf of the Department of Housing and Community Development, we appreciate the Town of Lancaster's efforts to encourage Smart Growth development and expanded housing opportunities. If you have any questions regarding this Letter of Conditional Eligibility, please contact Bill Reyelt at 617. 564.3105 or [william.reyelt@mass.gov](mailto:william.reyelt@mass.gov).

Sincerely,

A handwritten signature in black ink, reading "Jennifer D. Maddox". The signature is written in a cursive, flowing style with a large initial "J".

Jennifer D. Maddox  
Undersecretary

cc: Jasmin Farinacci, Director of Community Development and Planning  
Victoria Petracca, Chair, Affordable Housing Trust