

750 George Hill Road
Lancaster, MA 01523
December 4, 2020

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COMMUNITY DEVELOPMENT
AND PLANNING

Mr. Russell Williston, Chair
Prescott Building, Suite 4
701 Main Street
Lancaster, MA 01523

Dear Mr. Williston,

Thank you for bringing up ongoing issues with the Hawthorne Lane Flexible Development subdivision at the Planning Board meeting on November 25, 2020. It is completely unacceptable to allow a developer to intentionally not implement Planning Board Conditions in the "Flexible Development Special Permit Certificate of Approval" signed on January 11, 2016, specifically not to place a perpetual conservation or agricultural preservation restriction on the Open Space **or** to transfer the Open Space to the Town of Lancaster. This was to be completed **prior** to the "Planning Board's endorsement of Definitive Subdivision Approval on the Flexible Development plan" (endorsed January 25, 2016). It has been pointed out to no avail in meetings, in written correspondence, and in Stop Work Order requests that this and other Conditions have been ignored by the developer. The Town of Lancaster is now left with a far different and far less desirable development than would have been the case if Conditions had been followed.

There are enough linked requirements in the Planning Board Conditions, Lancaster Bylaws, and Massachusetts General Law to assure protection of the open space, whether the open space was under the control of the developer or the Town of Lancaster. These are described in the Conditions of the Lancaster Planning Board Flexible Development Special Permit; Lancaster Flexible Development Zoning Bylaw Section 220-15 A.(1), B.(3)(d), C.(3),(5); and MGL Chapter 40A, Section 9, Cluster Development.

This open space was **required** in order for the high-density development to be built. The developer's actions, including and not limited to, placing a 228 SF industrial-style metal building, emergency power generator, buried propane tank, ground-mounted transformer, curb-cut with 50 ft service road on a developed 900 SF site; installing hundreds of feet of pipe below grade; making a construction road across the parcel; and now permitting the operation of dirt bikes and ATVs on an oval track and elsewhere as if no controls apply, should not have been allowed on open space.

The developer is being allowed to ignore the perpetual conservation or agricultural preservation restriction until some future date when it will be convenient for him. It can be argued that the open space has been so significantly altered and misused that the Town should refuse to accept this land as open space until rectified by the developer, and that the developer has remained in continuous violation of the Conditions of the Planning Board Special Permit for almost five years. For the Town to knowingly allow this behavior to continue is to join the developer in legal culpability.

Town Counsel has played the very narrow role of defending the Planning Board to allow inaction on specific challenges. For example, Town Counsel offered the opinion that resident complaints were "untimely" in challenging the water booster station because the challenge was filed in December 2019, only a few days after the water booster station was delivered fully-built from the factory, not within 20 days of approval of the "Flexible Development Special Permit Certificate of Approval" signed on January 11, 2016. Never mind the absurdity of the argument that residents were required to object to something that would not be designed for another 3 ½ years, the fact that the scope of the building and site were never discussed in public meeting, and the building was installed without the required Zoning Board of Appeals Special Permit or a Building Permit.

Not only have Town Boards and Town departments with oversight responsibility ignored the rules and laws they are sworn to uphold, lasting harm has been done to the Town and its residents. High density housing has been built without any benefit to the Town as stated in the Flexible Development By-law. In such a situation, one would at least expect this extensive problem to be recognized and remedial action taken. Instead, problems compound as oversight and enforcement are non-existent.

Sincerely,

A handwritten signature in cursive script, appearing to read "Larry Shoer".

Larry Shoer
750 George Hill Road
Lancaster, MA 01523