



**Town of Lancaster
Planning Board
Lancaster, Massachusetts 01523**

**7:00 P.M., Monday, October 25, 2021
Remote Access Via Zoom**

Join Zoom Meeting: <https://us02web.zoom.us/j/88245113974>

Meeting ID: 882 4511 3974

Administrative

1. Attendance Roll Call

Public Hearing

2. Five SAC Self-Storage Corporation (U-Haul), applicant, seeks approval for a Stormwater Permit under the requirements of the Town of Lancaster Stormwater Control Bylaw Section 170-5, and Stormwater Management Rules and Regulation Section 305-5. The site is located 90 Duvall Road, (Map 3, Lot 2) and within the Enterprise Zone district and within the Integrated Planning Overlay District (IPOD). The regulated activity under the stormwater control bylaw is the disturbance of land greater than 1 acre. The applicant is conducting site improvements for a commercial use in association with a change in ownership of the land.

Public Meeting

3. Review Subdivision, Definitive Site Plan and Stormwater Permit Approval Letters for Harbor Hills Subdivision, Lunenburg Road (Map 4, Lot 9): These are approval letters written after decisions on June 8th, 2020, that were mislaid for some time. Chair wants to ensure the board reviews them before he signs them. (Continued from September 27 to let Mr. Christopher review them.)
4. Discuss status of the affordable units at Harbor Hills Subdivision, Lunenburg Road (Map 4, Lot 9): two affordable units are required by the IPOD Special Permit granted on June 8th, 2021. The board will take any action appropriate.
5. Review any material received regarding the proposed 40R bylaw and district under development by the Affordable Housing Trust: review any feedback from the Trust received by meeting time or hear from Trust members about the bylaw if they desire.
6. Review and consider Assessing Fines for new or ongoing stormwater violations at: 201 Hilltop Road
7. Review proposed amendments to the IPOD bylaw, specifically changes proposed by the chair to allow all-business IPOD applications. Review feedback from Planning Board

*Lancaster Town Offices • Prescott Building • 701 Main Street Lancaster, MA 01523 •
978-365-3326 ext. 1310 • Hours of Operation: Mon 9a.m. - 5 p.m. • Tue-Thur 9 a.m. - 4:00 p.m. •
Fri – closed to public. All Planning Board Meetings are recorded and broadcast by SLC TV*



**Town of Lancaster
Planning Board
Lancaster, Massachusetts 01523**

members and review any feedback from the Economic Development Committee received by meeting time. Take any action appropriate. (Continued from 9/13 and 9/27)

8. Discuss Homeowners Trust Required at Hawthorne Hills Subdivision, off Hilltop Road and George Hill Road: update from the chair regarding correspondence with Town Administrator. A Homeowners Trust was filed at the registry in June 2020: subdivision approval condition 15 required that prior to the conveyance of any lots a homeowner's association be recorded in a form approved by the Planning Board. The recorded trust does not seem to have been recorded in a timely manner, approved by the Planning Board, or to meet the condition. Consider an advisory letter to the Select Board drafted by the chair and/or take any other action appropriate.
9. Review memo from the Attorney General's Office regarding their review and approval of the Annual Town Meeting Bylaws and Amendments.
10. Designate Planning Board Member of the Lancaster "Community Preservation Committee", for a term of three (3) years.
11. Update from chair on progress dealing with Barrett IZ Study, double payment from Planning Board Revolving Fund. Review new information, if any, and received by meeting time and take any action appropriate. (The board is waiting for the Finance Committee to meet.)
12. Review any available info on progress with the Town Planner search
13. Correspondence
 - a. Email from James Broderick: Perkins Project Drainage Concerns
 - b. Email from Karen Chapman: CPTC Webinar Series 2021
14. Vouchers
15. Review and Approve Minutes
 - a. September 13th, 2021 •
 - b. September 27th, 2021 •

Adjourn

***If you are interested in any of the agenda items, please contact Debra Dennis at ddennis@lancasterma.net to provide comments.**

Link below for Town of Lancaster Remote Participation Guidelines

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Town of Lancaster
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Lancaster, Massachusetts 01523

https://www.ci.lancaster.ma.us/sites/g/files/vyhli4586/f/uploads/remote_participation_guidelines_2020_master.pdf

Join Zoom Meeting

<https://us02web.zoom.us/j/88245113974>

Meeting ID: 882 4511 3974

One tap mobile

+16465588656,,88245113974# US (New York)

+13017158592,,88245113974# US (Washington DC)

Dial by your location

+1 646 558 8656 US (New York)

+1 301 715 8592 US (Washington DC)

+1 312 626 6799 US (Chicago)

+1 669 900 9128 US (San Jose)

+1 253 215 8782 US (Tacoma)

+1 346 248 7799 US (Houston)

Meeting ID: 882 4511 3974

Find your local number: <https://us02web.zoom.us/j/88245113974>

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Town of Lancaster
Planning Board
Lancaster, Massachusetts 01523

PUBLIC HEARING NOTICE
Lancaster Planning Board
90 Duval Street (Assessor's Map 3 - Lot 2)

Five SAC Self-Storage Corporation (U-Haul), applicant, seeks approval for a Stormwater Permit under the requirements of the Town of Lancaster Stormwater Control Bylaw Section 170-5, and Stormwater Management Rules and Regulation Section 305-5. The site is located 90 Duvall Road, (Map 3, Lot 2) and within the Enterprise Zone district and within the Integrated Planning Overlay District (IPOD). The regulated activity under the stormwater control bylaw is the disturbance of land greater than 1 acre. The applicant is conducting site improvements for a commercial use in association with a change in ownership of the land.

Notice is hereby given that the Lancaster Planning Board will hold a remote public hearing on this petition on Monday, October 25, 2021 at 7:00 PM via Zoom™. A copy of the petition and accompanying documents are on file at the Community Development and Planning Office Prescott Building, 701 Main Street, Lancaster, MA. 978-365-3326 ext. 1310. ddennis@lancasterma.net

Lancaster Planning Board

c/o Community Development & Planning Office

Advertising Dates: Friday, October 8, and October 15, 2021
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Town of Lancaster, Massachusetts
Office of Community Development and Planning

RECEIVED

SEP 22 2021

COMMUNITY DEVELOPMENT
AND PLANNING

LANCASTER PLANNING BOARD
STORMWATER MANAGEMENT PERMIT APPLICATION

1. **OWNER/PETITIONER** Five SAC Self-Storage Corporation (U-Haul)
 Address 207 E. Clarendon Ave, Phoenix, AZ 85012
 Telephone _____

2. **AGENT FOR OWNER (if applicable)** Mr. Jeffery Vaine, U-Haul Moving & Storage of West Springfield
 Address 380 Union Street, West Springfield, MA 01809
 Telephone (603) 762-5535

3. **PROPERTY LOCATION**
 Street Address 90 Duval Road
 Registry Worcester District Book 65142 Page 154
 Assessors Map 003 Parcel 0002.0

4. **REQUIRED SUBMITTALS**
 - Completed Stormwater Management Permit application
 - Stormwater Management Plan
 - Erosion Control Plan
 - Operation and Maintenance Plan
 - Certified list of abutters (within 300 feet)
 - Revenue Certification Form
 - Application Fee of \$500 (made payable to Town of Lancaster)
 - Advertising Fee of \$50 (made payable to Town of Lancaster)

Please note that the applicant is responsible for payment of expenses incurred for consultants hired by the Planning Board for review of the plans and project.

5. SIGNATURE OF OWNER _____

DATE _____

6. SIGNATURE OF AGENT FOR OWNER (if applicable)

John H. Van

DATE Sept. 2, 2021

CERTIFIED LIST OF PARTIES IN INTEREST

OWNERS NAME: Five SAC Self-Storage Corporation (U-Haul), 207 E. Clarendon Ave, Phoenix, AZ 85012
ADDRESS OF PROPERTY: 90 Duval Road
MAP & PARCEL: Map 003 Parcel 0002.0

The following is a list of all parties of interest, as defined by Massachusetts General Laws, Chapter 40A, Section 11.

PARTIES IN INTEREST shall mean the Petitioner, abutters, owners of land directly opposite on any Public or Private Street or way and abutters to the abutters within 300' of the property line, even though said land is in another city and/or town, and the Planning Boards of Lancaster and contiguous towns.

NAME		LEGAL MAILING ADDRESS (ZIP)
APPLICANT:	Mr. Jeffery Vaine, U-Haul Moving & Storage of West Springfield, 380 Union St, West Springfield, MA 01809	
OWNER:	Five SAC Self-Storage Corporation (U-Haul), 207 E. Clarendon Ave, Phoenix, AZ 85012	
AGENT/ATTORNEY:		
	LANCASTER PLANNING BOARD	
	HARVARD PLANNING BOARD	
	BOLTON PLANNING BOARD	
	CLINTON PLANNING BOARD	
	LEOMINSTER PLANNING BOARD	
	SHIRLEY PLANNING BOARD	
	LUNENBURG PLANNING BOARD	

8

Last Revised: December 2016

REVENUE CERTIFICATION

Application/Petition/Appeal of:

1. **Applicant:** Mr. Jeffery Vaine, U-Haul Moving & Storage of West Springfield, 380 Union St, West Springfield, MA 01809
2. **Owner:** Five SAC Self-Storage Corporation (U-Haul), 207 E. Clarendon Ave, Phoenix, AZ 85012
3. **Property: Assessors Map** 003 **Parcel** 0002.0

Pursuant to G.L. c. 40D, Section 57, and the General By-Laws of the Town of Lancaster, the undersigned applicant hereby certifies as follows:

- 1) The following named persons, firms or corporations constitute the complete list of all parties having an ownership or proprietary interest in the property or use subject to the above-entitled application.
- 2) Each of the below listed parties have complied with the laws of the Commonwealth of Massachusetts and the Town of Lancaster in that they have not neglected or refused to pay any local taxes, fees, assessments, betterments or other municipal charges for not less than a twelve month period.

**NAME OF
INTERESTED PARTY**

ADDRESS

OWNER: Five SAC Self-Storage Corporation (U-Haul), 207 E. Clarendon Ave, Phoenix, AZ 85012

APPLICANT: Mr. Jeffery Vaine, U-Haul Moving & Storage of West Springfield, 380 Union St, West Springfield, MA 01809

OTHER:

Signed under the pains and penalties of perjury,

Jeffery Vaine
Signature of Applicant

Dated: Sept 2, 2021

CERTIFIED BY TOWN OF LANCASTER TOWN COLLECTOR

May E. Stetson

Dated: 9-7-21

Last Revised: December 2016



300 foot Abutters List Report

Lancaster, MA
August 25, 2021

Subject Property:

Parcel Number: 003-0002.0
CAMA Number: 003-0002.0
Property Address: 90 DUVAL RD

Mailing Address: FIVE SAC SELF STORAGE CORP
207 E CLARENDON AVE
PHOENIX AZ 85012

Abutters:

Parcel Number: 003-0001.0
CAMA Number: 003-0001.0
Property Address: 0 DUVAL RD REAR

Mailing Address: BOSTON & MAINE RR
C/O GUILFORD TRANSPORTATION
INDUSTRIES 1700 HIGH ST Ext Iron Horse Par
N BILLERICA, MA 01862

Parcel Number: 004-0006.0
CAMA Number: 004-0006.0
Property Address: 0 DUVAL RD REAR

Mailing Address: KEATING P J CO
ATTN: ACCOUNTS PAYABLE DEPT 998
RESERVOIR RD
LUNENBURG, MA 01462

Parcel Number: 004-0006.A
CAMA Number: 004-0006.A
Property Address: 100 DUVAL RD

Mailing Address: RICHARDS TIMOTHY W ETAL ACMC
LTD PART
C/O ORCHARD HILLS ATHLETIC CLUB
100 DUVAL ROAD
LANCASTER, MA 01523

Parcel Number: 004-0006.E
CAMA Number: 004-0006.E
Property Address: 0 DUVAL RD

Mailing Address: ACMC LIMITED PARTNERSHIP NO 1
100 DUVAL RD
LANCASTER, MA 01523

Parcel Number: 004-0006.C & 6.D
CAMA Number: 004-0006.C
Property Address: 0 Duval Rd

Mailing Address: ACMC LIMITED
PARTNERSHIP CO
100 DUVAL RD
LANCASTER MA 01523

CERTIFIED COPY:

Debra A Sanders

Debra A Sanders, Member
Lancaster Board of Assessors

August 25, 2021

1 page



www.cai-tech.com

8/25/2021

Data shown on this report is provided for planning and informational purposes only. The municipality and CAI Technologies are not responsible for any use for other purposes or misuse or misrepresentation of this report.

Page 1 of 1

33 OHP LLC
83 ORCHARD HILL PARK DR
LEOMINSTER, MA 01453

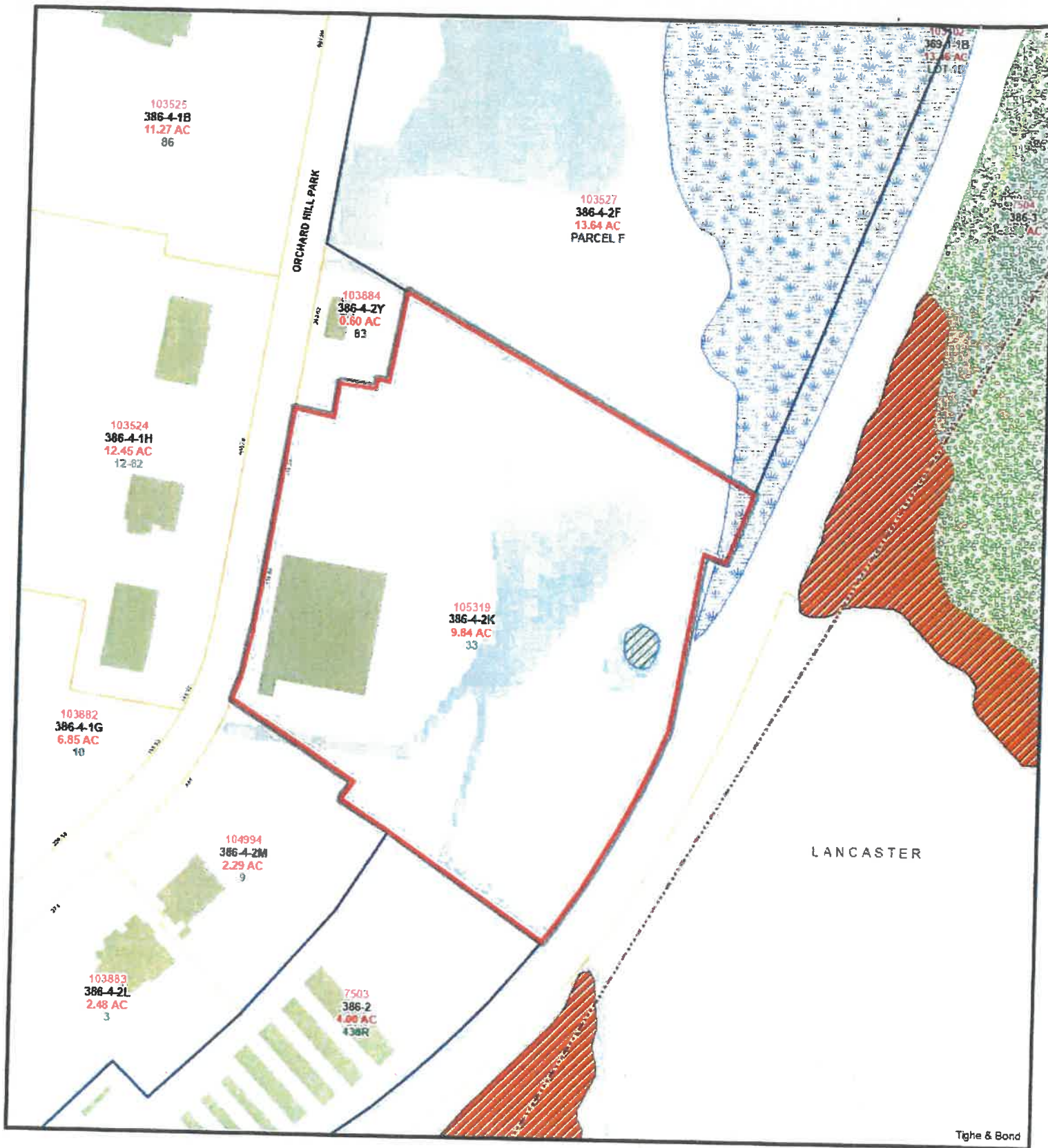
SCRIBNER JOHN JR TR
83 ORCHARD HILL PARK DR
LEOMINSTER, MA 01453

THREE-A SAC SELF-STORAGE
207 E CLARENDON
PHOENIX, AZ 85012 2072

A handwritten signature in cursive script, appearing to read "Richard L. Donker", written over a horizontal line.

MEMBER BOARD OF ASSESSORS

DATED: 8/25/2021



LACASTER ABUTTERS

8/25/2021 2:45:02 PM

Scale: 1"=200'

Scale is approximate

The information depicted on this map is for planning purposes only. It is not adequate for legal boundary definition, regulatory interpretation, or parcel-level analyses.



Property Owner: Five SAC Self-Storage Corporation

Parcel Number: Map 386 Block 4 Lot 2K
386 4 2F

Request Made by: Christopher Peretti

Phone Number: 508-952-6300

Purpose: ☐ Conservation 100'
☐ Zoning Board of Appeals 300'
☐ Planning Board 300'
☐ Special Permit 300'
☐ Liquor License Direct & 500' to a Church & School
☐ Subdivision 300'
☒ Pole Hearing Adjacent
☒ Other Property located in Lancaster

Signature: Chris Peretti

Department Signature (if Applicable): _____

Method of Delivery: ☐ Pickup ☒ Email ☐ Fax

Fee: \$30.00

PLEASE ALLOW 10 BUSINESS DAYS TO PREPARE CERTIFIED ABUTTERS LIST.

Three Oaks Environmental

P.O. Box 404 Hubbardston, MA 01452
(978) 855-3180

August 26, 2021

Michael Scott
miscott@ldcollaborative.com

Re: 90 Duval Rd Lancaster
Wetlands delineation on 8/20/21

I conducted a site investigation at the above-referenced property in response to an enforcement order issued by the Lancaster Conservation Commission for earthwork that had occurred on the site (photo below). The property is located at a former roller skating facility and is partially paved. The purpose of the investigation was to delineate any wetland resource areas subject to jurisdiction under the MA Wetlands Protection Act (WPA), MGL Ch. 131 §40, and the Town of Lancaster Wetlands Bylaw, Ch.215.



Stormwater off the paved area is directed toward a swale along the property line to the right in this photo



Even after recent heavy rains there was no flow within the swale.

The swale appears to have been created by the discharge of stormwater off of the adjoining properties. There were puddles in the swale but no flow. There was no wetland plant community associated with the swale which flows from the glacial till of Paxton soils to the loamy sand of the Hinkley soil. There is a stormwater discharge culvert at flag S7 that appears to originate from the adjacent Orchard Hills club. There is broken asphalt, construction and landscaping debris, and tires along the embankment to the swale. The coarse sand and gravel of the Hinkley soil is evident in the channel downstream of that discharge (photo below). I flagged the upper boundary of the swale closest to the site with blue flags numbered S1 to S17. I stopped flagging the bank once the stream entered the Bordering Vegetated Wetland (BVW) and began flagging the edge of the BVW with blue flag W1 not far from flag S17. The swale is not jurisdictional under the WPA. While streams upgradient of any wetland are not subject to jurisdiction under the WPA it appears that all intermittent streams are protected under the Lancaster Wetlands Bylaw. This stream is highly degraded by years of stormwater inputs and would benefit greatly from upgradient stormwater improvements.

Vegetation along the swale is dominated by upland plants including multiflora rose, virginia creeper, euonymus, asian bittersweet, red oak and white pine. Some facultative wetland plants are present including silky dogwood, red maple and poison ivy.



At flag S11 turbidity was noted in the puddles within the swale. The turbidity continued into the wetland area at the lower end of the swale. The topography and wetland plant community present were sufficient to delineate the BVW boundary.

Vegetation observed in the wetland includes: highbush blueberry, winterberry holly, Silky dogwood, meadowsweet, red maple, northern arrowwood, tussock sedge, wool grass, sensitive fern and jewelweed.

Vegetation observed in the upland includes: red oak, sarsaparilla, shagbark hickory, white pine, japanese barberry, multiflora rose, asian bittersweet, basswood, white ash, and quaking aspen.

Pockets of sediment were observed in the upland woods which should be stabilized to prevent them from eroding into the wetland during the next significant storm event. I measured the layer of sediment that was deposited on the organic soils of the wetland. It was generally a quarter-inch thick throughout. I would recommend leaving the sediment in place since more damage would be done in the process of removing it. Where there may be deeper pockets of sediment these can be removed by hand with buckets and shovels. More investigation is needed to determine which areas would benefit from sediment removal.



There are two points where the work came closest to the existing wetland boundary. Some direct impact to the wetland may have occurred between flags W12 and W13 though the vegetation above the hay bale line in this area is dominated by red oak, multiflora rose, pokeweed, and virginia creeper.



Existing ground based upon undisturbed vegetation



There is evidence in the above photograph that multiple sediment ponds were constructed and that the one closest to the wetland had breached and resulted in the discharge of turbid water to the wetland. Unfortunately the hay bale/silt fence barrier ends at the grape vines adjacent to the upland and the sediment was able to get around the barrier (photos below).





I continued the wetland line above the hay bale barrier where it appears some wetland was filled when the sediment pond breached in the vicinity of flags W20 & W21. The flags then continue beyond the end of the erosion control barrier towards the powerline easement where I ended with flag W28 where the BVW continues away from the site. Vegetation in the upland above the wetland flags includes sarsaparilla and maple-leaved viburnum with royal fern on the wetland side of the line.

The attached copy of the NRCS soil mapping indicates that the upland soil is predominantly Paxton fine sandy loam with Hinckley loamy sand at its boundary. While wetland soils are not depicted on the site, a minor component of Paxton soil is Ridgebury, which is hydric. This is consistent with what I observed in the field. I researched MassGIS data layers further and determined that there are no rare species, priority habitats, certified or potential vernal pools on the site or within 100-feet. The wetland area is not considered to be an Outstanding Resource Water (ORW) or an Area of Critical Environmental Concern (ACEC). There is no 100-year floodplain depicted on the site according to the MassGIS FEMA data layer map attached.

Please feel free to contact me if you have any questions regarding this report.

Respectfully submitted,
MaryAnn DiPinto, PWS #0227
threeoaksenvironmental@gmail.com



90 Duval Rd Lancaster

Zoom to a town



90 Duval Rd Lancaster

Zoom to a town



0 m

Basemaps

Available Data Layers

Search data layers

BioMap2

Active Data Layers

Check all Uncheck all

☒ NHESP Estimated Habitats of Rare Wildlife

Legend

NHESP Estimated Habitats of Rare Wildlife



NHESP Priority Habitats of Rare Species



NHESP Certified Vernal Pools



Potential Vernal Pools



DEP Wetlands

DEP Wetlands Arcs

SHORELINE

HYDROLOGIC CONNECTION

MEAN WATER LINE

APPARENT WETLAND LIMIT

CLOSURE LINE

EDGE OF INTERPRETED AREA

Tax Parcels for Query

90 Duval Rd Lancaster

Zoom to a town

Available Data Layers

Search data layers

Images

Active Data Layers

Check all Uncheck all

☒ Outstanding Resource Waters

Legend

Outstanding Resource Waters

ACEC

Cape Cod National Seashore

Protected Shoreline

Public Water Supply Watershed

Retired Public Water Supply

Scenic/Protected River

Wildlife Refuge

DEP Wetlands

DEP Wetlands Arcs

SHORELINE

HYDROLOGIC CONNECTION

MEAN WATER LINE

APPARENT WETLAND LIMIT

CLOSURE LINE

EDGE OF INTERPRETED AREA

Tax Parcels for Query

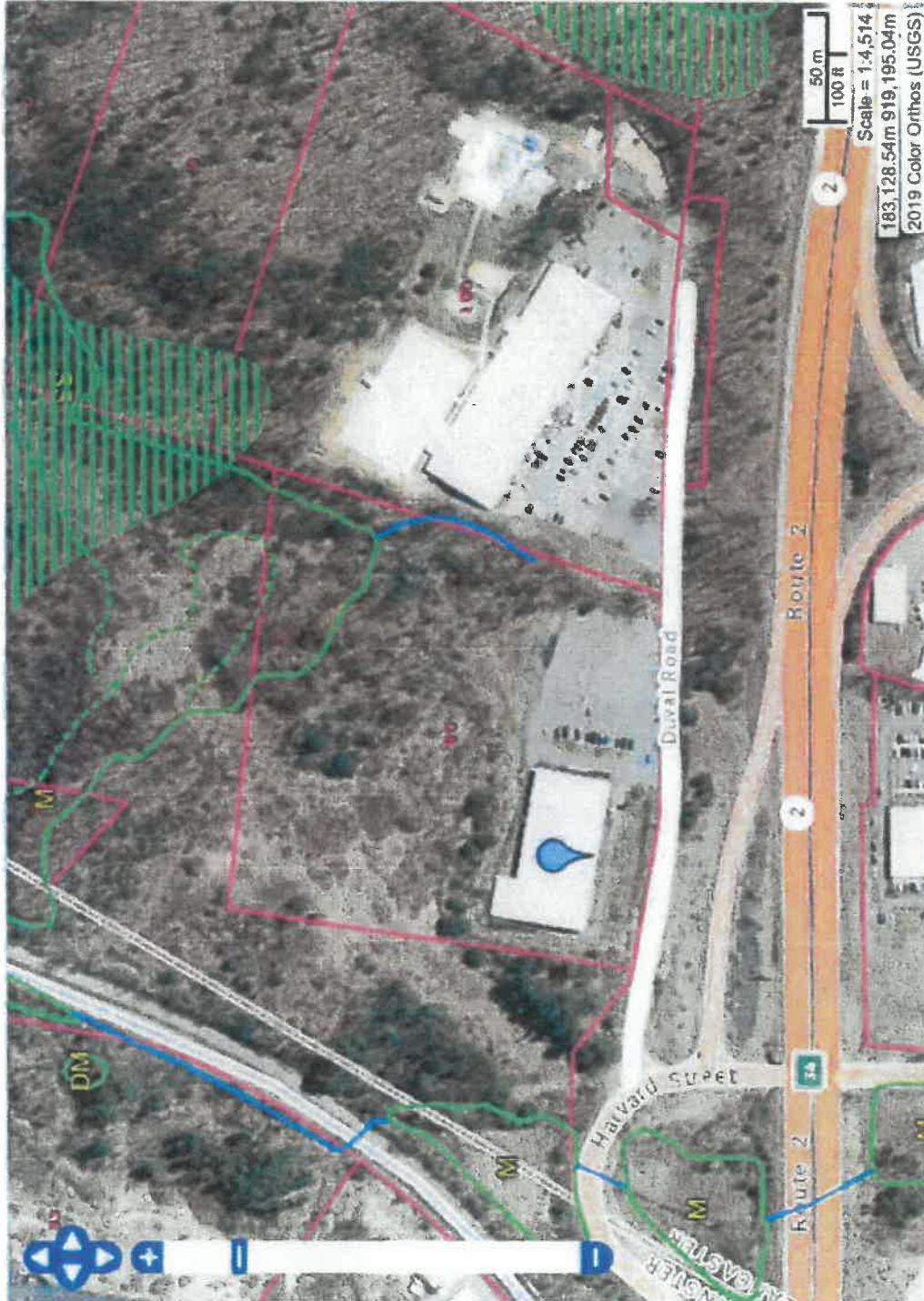


0 m

Basemaps

90 Duval Rd Lancaster

Zoom to a town



0 m

Basemaps

Available Data Layers

Search data layers

DEP 2014 Integrated List of Waters 305b

Active Data Layers

Check all Uncheck all

☒ Q3 Flood Zones (from Paper FIRMs, All Available)

Legend

Q3 Flood Zones (from Paper FIRMs, All Available)

-  A
-  AE
-  AE Floodway
-  AH
-  AO
-  D
-  V
-  VE


Area Not Included

 X500

DEP Wetlands


DEP Wetlands Arcs

 SHORELINE

 HYDROLOGIC CONNECTION

 MEAN WATER LINE

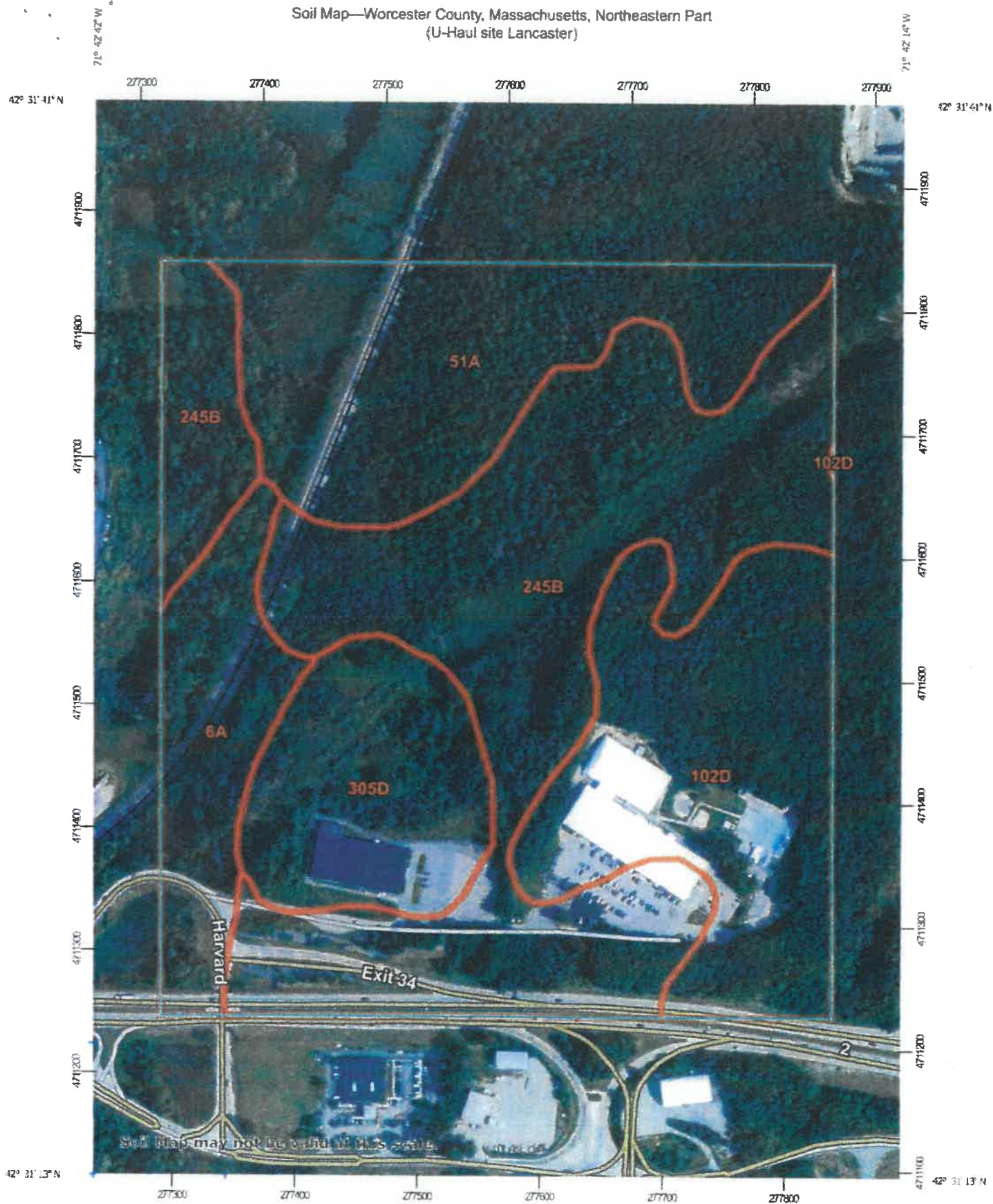
 APPARENT WETLAND LIMIT

 CLOSURE LINE

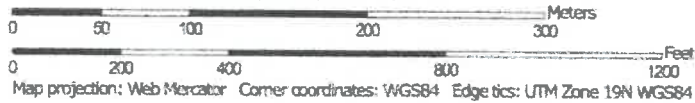
 EDGE OF INTERPRETED AREA

 Tax Parcels for Query

Soil Map—Worcester County, Massachusetts, Northeastern Part
(U-Haul site Lancaster)



Map Scale: 1:4,250 if printed on A portrait (8.5" x 11") sheet.



Natural Resources
Conservation Service

Web Soil Survey
National Cooperative Soil Survey

8/27/2021
Page 1 of 3

Map Unit Legend

Map Unit Symbol	Map Unit Name	Acres in AOI	Percent of AOI
6A	Scarboro mucky fine sandy loam, 0 to 3 percent slopes	7.4	8.9%
51A	Swansea muck, 0 to 1 percent slopes	15.6	18.7%
102D	Chatfield-Hollis-Rock outcrop complex, 15 to 35 percent slopes	16.9	20.3%
245B	Hinckley loamy sand, 3 to 8 percent slopes	34.3	41.1%
305D	Paxton fine sandy loam, 15 to 25 percent slopes	9.2	11.0%
Totals for Area of Interest		83.4	100.0%



Worcester County, Massachusetts, Northeastern Part

245B—Hinckley loamy sand, 3 to 8 percent slopes

Map Unit Setting

National map unit symbol: 2svm8

Elevation: 0 to 1,430 feet

Mean annual precipitation: 36 to 53 inches

Mean annual air temperature: 39 to 55 degrees F

Frost-free period: 140 to 250 days

Farmland classification: Farmland of statewide importance

Map Unit Composition

Hinckley and similar soils: 85 percent

Minor components: 15 percent

Estimates are based on observations, descriptions, and transects of the mapunit.

Description of Hinckley

Setting

Landform: Kames, outwash plains, moraines, outwash deltas, outwash terraces, kame terraces, eskers

Landform position (two-dimensional): Summit, backslope, footslope, shoulder

Landform position (three-dimensional): Nose slope, side slope, base slope, crest, tread, riser

Down-slope shape: Linear, convex, concave

Across-slope shape: Convex, linear, concave

Parent material: Sandy and gravelly glaciofluvial deposits derived from gneiss and/or granite and/or schist

Typical profile

Oe - 0 to 1 inches: moderately decomposed plant material

A - 1 to 8 inches: loamy sand

Bw1 - 8 to 11 inches: gravelly loamy sand

Bw2 - 11 to 16 inches: gravelly loamy sand

BC - 16 to 19 inches: very gravelly loamy sand

C - 19 to 65 inches: very gravelly sand

Properties and qualities

Slope: 3 to 8 percent

Depth to restrictive feature: More than 80 inches

Drainage class: Excessively drained

Runoff class: Very low

Capacity of the most limiting layer to transmit water

(Ksat): Moderately high to very high (1.42 to 99.90 in/hr)

Depth to water table: More than 80 inches

Frequency of flooding: None

Frequency of ponding: None

Maximum salinity: Nonsaline (0.0 to 1.9 mmhos/cm)

Available water supply, 0 to 60 inches: Very low (about 3.0 inches)

Interpretive groups

Land capability classification (irrigated): None specified

Land capability classification (nonirrigated): 3s

Hydrologic Soil Group: A

Ecological site: F144AY022MA - Dry Outwash

Hydric soil rating: No

Minor Components

Windsor

Percent of map unit: 8 percent

Landform: Eskers, kames, outwash plains, moraines, outwash
deltas, outwash terraces, kame terraces

Landform position (two-dimensional): Summit, shoulder, backslope,
footslope

Landform position (three-dimensional): Nose slope, side slope,
base slope, crest, tread, riser

Down-slope shape: Linear, convex, concave

Across-slope shape: Convex, linear, concave

Hydric soil rating: No

Sudbury

Percent of map unit: 5 percent

Landform: Moraines, outwash deltas, outwash terraces, kame
terraces, outwash plains

Landform position (two-dimensional): Backslope, footslope

Landform position (three-dimensional): Side slope, base slope,
head slope, tread

Down-slope shape: Concave, linear

Across-slope shape: Linear, concave

Hydric soil rating: No

Agawam

Percent of map unit: 2 percent

Landform: Outwash plains, moraines, outwash deltas, outwash
terraces, kame terraces, eskers, kames

Landform position (two-dimensional): Summit, shoulder, backslope,
footslope

Landform position (three-dimensional): Nose slope, side slope,
base slope, crest, tread, riser

Down-slope shape: Linear, convex, concave

Across-slope shape: Convex, linear, concave

Hydric soil rating: No

Data Source Information

Soil Survey Area: Worcester County, Massachusetts, Northeastern Part

Survey Area Data: Version 15, Jun 10, 2020

Worcester County, Massachusetts, Northeastern Part

305D—Paxton fine sandy loam, 15 to 25 percent slopes

Map Unit Setting

National map unit symbol: 2w67j

Elevation: 0 to 1,450 feet

Mean annual precipitation: 36 to 71 inches

Mean annual air temperature: 39 to 55 degrees F

Frost-free period: 140 to 240 days

Farmland classification: Not prime farmland

Map Unit Composition

Paxton and similar soils: 85 percent

Minor components: 15 percent

Estimates are based on observations, descriptions, and transects of the mapunit.

Description of Paxton

Setting

Landform: Drumlins, hills, ground moraines

Landform position (two-dimensional): Backslope

Landform position (three-dimensional): Side slope

Down-slope shape: Linear, convex

Across-slope shape: Convex

Parent material: Coarse-loamy lodgment till derived from gneiss, granite, and/or schist

Typical profile

Ap - 0 to 8 inches: fine sandy loam

Bw1 - 8 to 15 inches: fine sandy loam

Bw2 - 15 to 26 inches: fine sandy loam

Cd - 26 to 65 inches: gravelly fine sandy loam

Properties and qualities

Slope: 15 to 25 percent

Depth to restrictive feature: 20 to 39 inches to densic material

Drainage class: Well drained

Runoff class: High

Capacity of the most limiting layer to transmit water (Ksat): Very low to moderately low (0.00 to 0.14 in/hr)

Depth to water table: About 18 to 37 inches

Frequency of flooding: None

Frequency of ponding: None

Maximum salinity: Nonsaline (0.0 to 1.9 mmhos/cm)

Available water supply, 0 to 60 inches: Low (about 4.1 inches)

Interpretive groups

Land capability classification (irrigated): None specified

Land capability classification (nonirrigated): 4e

Hydrologic Soil Group: C

Ecological site: F144AY007CT - Well Drained Dense Till Uplands
Hydric soil rating: No

Minor Components

Chariton

Percent of map unit: 8 percent
Landform: Hills
Landform position (two-dimensional): Backslope
Landform position (three-dimensional): Side slope
Down-slope shape: Convex
Across-slope shape: Convex
Hydric soil rating: No

Woodbridge

Percent of map unit: 6 percent
Landform: Hills, ground moraines, drumlins
Landform position (two-dimensional): Backslope
Landform position (three-dimensional): Side slope
Down-slope shape: Concave
Across-slope shape: Linear
Hydric soil rating: No

Ridgebury

Percent of map unit: 1 percent
Landform: Ground moraines, drumlins, drainageways, depressions,
hills
Landform position (two-dimensional): Toeslope, footslope
Landform position (three-dimensional): Head slope, base slope
Down-slope shape: Concave, linear
Across-slope shape: Concave, linear
Hydric soil rating: Yes

Data Source Information

Soil Survey Area: Worcester County, Massachusetts, Northeastern Part
Survey Area Data: Version 15, Jun 10, 2020



September 21, 2021

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

Re: Civil Disposition Violation
Disturbance of more than 1 acre without a Stormwater Permit
90 Duval Road
Lancaster, MA

Dear Mr. Williston and Members of the Board:

On behalf of U-Haul Moving & Storage (Applicant), we are submitting the enclosed Stormwater Management Permit Application with the required supporting documentation in response to the Civil Disposition Violation issued by the Planning Board on September 2, 2021 for disturbance of more than one acre of land without a Stormwater Permit at 90 Duval Road (the Property).

Enclosed are the following documents (seven copies of each):

- Stormwater Management Permit Application;
- Site Plan set (5 sheets);
- Stormwater Management Report including the Operation and Maintenance Plan;
- Three Oaks Environmental Report (dated August 26, 2021);
- Certified list of abutters – Lancaster & Leominster (within 300 feet);
- Revenue Certification Form;
- Application Fee of \$500 (payable to Town of Lancaster);
- Application Fee of \$50 (payable to Town of Lancaster);

Existing Conditions

The Property is Assessor's Parcel ID 003-0002.0. The Property is on the north side of Duval Road approximately 500 feet east of Harvard Street. Access to the Property is via a driveway opening along Duval Road. The Property lies within the Enterprise Zone (EZ) District. The northern portion of the lot is also within FEMA Special Flood Hazard Area (SHFA) A, areas of the one (1) percent chance flood (aka, 100-year flood zone), which is also within the Lancaster Flood Plain Overlay District. There are wetland areas on site and on adjacent lots to the east, west, and north of the Property. The wetland resources on site were delineated in August 2021 by 3 Oaks Environmental and have been by field survey located by RealMapInfo. There is a bordering vegetated wetland in the northern portion of the lot with an intermittent stream along the eastern side of the property. The southern edge of the bordering vegetated wetland (flags W1 – W28) and the west side of the stream (flags S1 – S17) were delineated with blue flagging. The wetland resource buffer zones extend into an area that had been wooded and was cleared sometime this summer. The buffer also extends onto the eastern side of the existing paved parking lot. The intermittent stream appears to be fed primarily with parking lot runoff from both the Property as well as the neighboring lot (Orchard Hills Athletic Club) to the east. A historic MassDOT plan shows a culvert daylighting on the Property, which may be another source of flow to the intermittent stream. This culvert is not shown on the attached survey plan as it was not evident to the surveyor who performed the on-the-ground survey nor was it evident during our site walks.

Proposed Conditions

The Applicant intends to restore and stabilize the wetland buffer zone and upland above the buffer zone. Per the report by 3 Oaks Environmental, sediment that has reached the wetland is of a shallow depth and the recommendation is to leave the minimal amount of fine material in place. An isolated area in the BVW and portions of the intermittent stream channel may require some sediment removal via shovels and buckets. Based on a recent site walk, the stream was not severely impacted by the recent clearing and subsequent erosion, rather it is evident the stream has degraded over many years.

The objectives of the enclosed plans are 1) to improve the erosion/sediment control barriers on site, 2) add erosion control barriers, 3) remove soil and debris from the buffer zone, 4) return site grades to their original condition within the 100' buffer zone, 5) construct a stormwater basin to control flow and provide some recharge in the upland area, and 6) establish vegetation in the disturbed area to stabilize soil. The stormwater basin has been sited above the 100' wetland buffer zone and the slopes above the basin will be graded to 3:1 or flatter. All disturbed areas are to be stabilized with hydroseed and tackified mulch. The stormwater basin will be seeded with New England Erosion Control/Restoration Mix for Detention Basins and Moist Sites and all other disturbed areas will be seeded with New England Erosion Control/Restoration Mix for Dry Sites. Both seed mixes shall be applied in a hydraulic mulch at a rate per manufacturer's specifications and as shown on the enclosed plans.

Stormwater

The stormwater basin has been designed to capture flow from most of the disturbed upland area above the 100 foot buffer zone. The stormwater basin, in conjunction with the revegetation of the disturbed area, returns stormwater runoff rates to pre-existing rates and satisfies the MassDEP Stormwater standards for quality and quantity. The proposed site stabilization and stormwater basin is meant as a solution to immediately address the clearing and grading work that took place. U-Haul intends to file a new site plan for Site Plan Review for use of the site as a self-storage facility. This future site plan will address all zoning and stormwater required for the reconfiguration/reconstruction of the parking and loading areas. Landscaping, lighting, accessibility, and stormwater improvements will be included in this future plan.

An Enforcement Order was issued by the Conservation Commission and an initial Notice of Intent was filed with the Commission on September 1, 2021. Since the field survey had not been completed at the time of this filing conceptual plans were submitted to address the Enforcement Order. We will be providing the Commission the updated plans included herewith and are scheduled to meet with them again on September 28, 2021.

We appreciate your attention to this application and look forward to discussing the Project at an upcoming Planning Board meeting. Please call should you wish to discuss in advance of the meeting or require additional information.

Sincerely,

LAND DESIGN COLLABORATIVE



Michael J. Scott, PE
Principal



James T. Almonte, RLA
Principal

cc: Mr. Jeffrey Vaine (via email)

October 20, 2021

Planning Board,

Attached find a formal draft of the IPOD Bylaw Amendments that I have proposed at the past two meetings.

Amendment 6 is a new addition, to reduce allowable dwelling units, as suggested by Carol Jackson.

The intention of these amendments is to accommodate IPOD Special Permit applications for integrated plans that include less than 25% residential gross square footage, or none, and to allow the inclusion of large Enterprise Zone buildings that are not practical in our current bylaw.

If you support these amendments, I recommend the following schedule:

10/25/2021 Planning Board Meeting:

- Review and reach a consensus on the elements of the draft
- Vote to submit the draft to town counsel and Planning Consultant Michael Antonellis for review, requesting feedback by our 11/15 meeting.
- Vote to send a copy of the draft bylaw amendments, with the attached letter, to the:

Select Board
Zoning Board of Appeals
Conservation Commission
Economic Development Committee

11/8/2021 Planning Board Meeting:

As part of our normal agenda, introduce the draft amendments to meeting attendees and take feedback:

1. Introduce the proposed bylaw
2. Review the feedback from town counsel
3. Review the feedback from the Planning Consultant
4. Review any feedback from the boards we contacted
5. Take comments on the proposed amendments

Amend the draft bylaw as required and consider scheduling a public hearing if practical.

Thank you,

Russ Williston

10/25/2021

To: Lancaster Select Board
Lancaster Zoning Board of Appeals
Lancaster Conservation Commission
Lancaster Economic Development Committee
Interested Lancaster Residents

Re: Proposed amendments to the Lancaster IPOD Bylaw for your review

The Lancaster Planning Board is currently drafting amendments to the existing IPOD bylaw. The aim of the amendments is to accommodate applications for development under an IPOD special permit with integrated plans that include less than the 25% residential gross square footage currently required, or none. The amendments also accommodate Enterprise Zone use buildings larger than permitted by the present bylaw. Any amendments would be submitted for town approval at a future town meeting.

The board would appreciate your feedback on the proposed amendments before 11/8/2021. Please send comments to Debra Dennis, Administrative Assistant in the Community Development and Planning Office (ddennis@lanasterma.net).

Please find a copy of the draft amendments attached for your review. They have also been submitted to Town Counsel and the Town Planning Consultant for review.

At our 11/8/2021 Planning Board meeting we intend to introduce the bylaw amendments for attendees, review all the feedback received and take comments from attendees.

On behalf of the Lancaster Planning Board,

Russell W. Williston, Chair



THE COMMONWEALTH OF MASSACHUSETTS
OFFICE OF THE ATTORNEY GENERAL

CENTRAL MASSACHUSETTS DIVISION
10 MECHANIC STREET, SUITE 301
WORCESTER, MA 01608

MAURA HEALEY
ATTORNEY GENERAL

(508) 792-7600
(508) 795-1991 fax
www.mass.gov/ago

September 28, 2021

Lisa J. Johnson, Town Clerk
Town of Lancaster
701 Main Street
Lancaster, MA 01523

Re: Lancaster Annual Town Meeting of June 21, 2021 -- Case # 10288
Warrant Article # 9 (Zoning)
Warrant Articles # 7, 8, 10, and 13 (General)

Dear Ms. Johnson:

Article 13 - We approve Article 13 from the June 21, 2021 Lancaster Annual Town Meeting.ⁱ

Note: Pursuant to G.L. c. 40, § 32, neither general nor zoning by-laws take effect unless the Town has first satisfied the posting/publishing requirements of that statute. Once this statutory duty is fulfilled, (1) general by-laws and amendments take effect on the date these posting and publishing requirements are satisfied unless a later effective date is prescribed in the by-law, and (2) zoning by-laws and amendments are deemed to have taken effect from the date they were approved by the Town Meeting, unless a later effective date is prescribed in the by-law.

Very truly yours,
MAURA HEALEY
ATTORNEY GENERAL

Kelli E. Gunagan

By: Kelli E. Gunagan
Municipal Law Unit
10 Mechanic Street, Suite 301
Worcester, MA 01608

cc: Town Counsel Brian M. Maser

ⁱ In a decision dated September 27, 2021, we approved Articles 7, 8, 9, and 10.

October 25, 2021

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3

4

**To: Lancaster Select Board
Lancaster Conservation Commission
Lancaster Building Inspector**

5

6

7

Re: Advisory Regarding the reported status of Melanson Bros. Inc., the Homeowner Association at Hawthorne Lane, and the "Open Space" parcel at that subdivision.

8

9

10 The Lancaster Planning Board urges the town to take immediate action to secure the "Open Space"
11 parcel at the Hawthorne Lane subdivision.

12 Hawthorne Lane is a subdivision off Hilltop Road that was constructed after approval by the Planning
13 Board on January 11, 2016. The final units in that subdivision were conveyed this past summer.

14 The Planning Board previously shared concerns about this development with the Interim Planning
15 Director and Building Inspector on November 25, 2020 and with the Select Board via a letter on January
16 11, 2021. In that letter to the select board the Planning Board urged the Select Board to act with
17 urgency to secure the "Open Space" parcel at that subdivision. The town is entitled to that "Open
18 Space" parcel, totaling at least 40% of the total area of the subdivision, as a requirement of the "Flexible
19 Development Special Permit" issued to the development. The "Open Space" was to have been either
20 transferred to the town or permanently restricted as open space; neither was done. Furthermore, a
21 water pump station serving the subdivision has been sited on the Open Space.

22 The Select Board was notified in January because specifically that board or the Conservation
23 Commission was to have received the "Open Space" parcel on behalf of the town.

24 The situation has only grown more dire: the Planning Board received reports in September that
25 Melanson Bros, Inc. is altering its business and selling equipment. Furthermore, the Homeowner
26 Association for the subdivision was not properly established prior to the conveyance of any homes,
27 and the responsibility for upkeep of the trust that exists seems to lie solely with that business.

28 Condition 15 of the subdivision approval required that prior to the conveyance of any lots, the applicant
29 was to have established a Homeowner's Association for the common portions of the subdivision:

15. Prior to the conveyance of any lots, the Applicant shall provide to the Planning Board evidence of recording in the Worcester District Registry of Deeds a declaration of trust for a homeowner's association for maintenance of any subdivision improvements, including but not limited to the roadway, drainage facilities, and fire cisterns, until such time, if any, as ownership of the parcels and/or subdivision improvements may be accepted by the Town. Said declaration to be in a form approved by the Planning Board and Town Counsel.

(from "Certificate of Approval of a Definitive Subdivision", dated January 26th 2016)

A "trust" document for the subdivision was filed at the Worcester South Registry of Deeds on May 20th, 2020. The subdivision approval required that these documents be approved by the Planning Board and Town Counsel. The Planning Board neither reviewed nor approved the association documents. Town Counsel reportedly reviewed and rejected the association documents as they were subsequently filed.

Despite the requirement that an approved Homeowner's Association be in place before any lots were conveyed, all lots were conveyed. Some were conveyed before any trust was established, others were conveyed after the unapproved trust was established.

The building inspector and Town Administrator were aware of the issues regarding the Homeowner's Association as the Occupancy Permits at the subdivision were issued. (See enclosed email correspondence with Mr. Dick Trussell from May 7th, 2020.)

We submitted the registered documents for the "Hawthorne Lane Homeowners Trust" to town counsel for review on September 28th, 2021. Town Counsel responded:

Based on my review of the title for the subdivision, no homeowners' association was ever established as of record. The Trust document that was recorded is not sufficient for that purpose. A draft was submitted in 2020 (attached), which we reviewed and identified issues to be addressed, but I don't see any follow-up with or from the developer. Because lots have been conveyed, establishing a working homeowner's trust/association at this point will require the consent and signatures of all the landowners in the subdivision, which includes the present lot owners. If the Planning Board is holding security for the subdivision I recommend that you require the developer to complete this process to the satisfaction of the Planning Board before security is released. That would involve making the changes in the proposed Declaration we outlined previously, submitting it for our review and making any further changes we require, identifying all landowners in the subdivision, and obtaining signatures of all those landowners. I can review the changes and work with the developer's counsel as necessary to finalize the document. I don't know if Daniel Burger is still counsel to Melanson Bros., but I recommend that the Town start with requiring the developer to undertake the necessary work and he will direct us to his counsel from there.

*Jonathan D. Eichman, Esq.
KP LAW*

Relative to Town Counsels recommendations above:

1. Bonds: As of July 1, 2020 a \$182,100 performance bond was in place for this subdivision. On July 10, 2020 Haley and Ward recommended a reduction of that bond to \$84,227 and that was approved by the Planning Board on July 30, 2020. On August 4, 2021 Melanson Bros. requested a further reduction of the bond to \$41,300. That reduction was formally declined by the Planning Board, and the performance bond in place is still \$84,227.

- 70 2. Establishment of the Association: On October 18th, via the Town Administrator, the Planning
71 Board began the process of "requiring the developer to undertake the necessary work" to
72 properly establish the Homeowners Association.

73
74 **Remedying the disposition of the "Open Space" parcel at the Hawthorne Lane Subdivision is now a**
75 **matter of great urgency.** All units at the subdivision now conveyed, the homeowners association that
76 should take on perpetual responsibility for the common areas at the subdivision is not properly
77 established, and the open space parcel is still held by Melanson Bros, Inc without restriction and hosts a
78 pump station. The reports of changes in the Melanson Bros, Inc business are not auspicious.

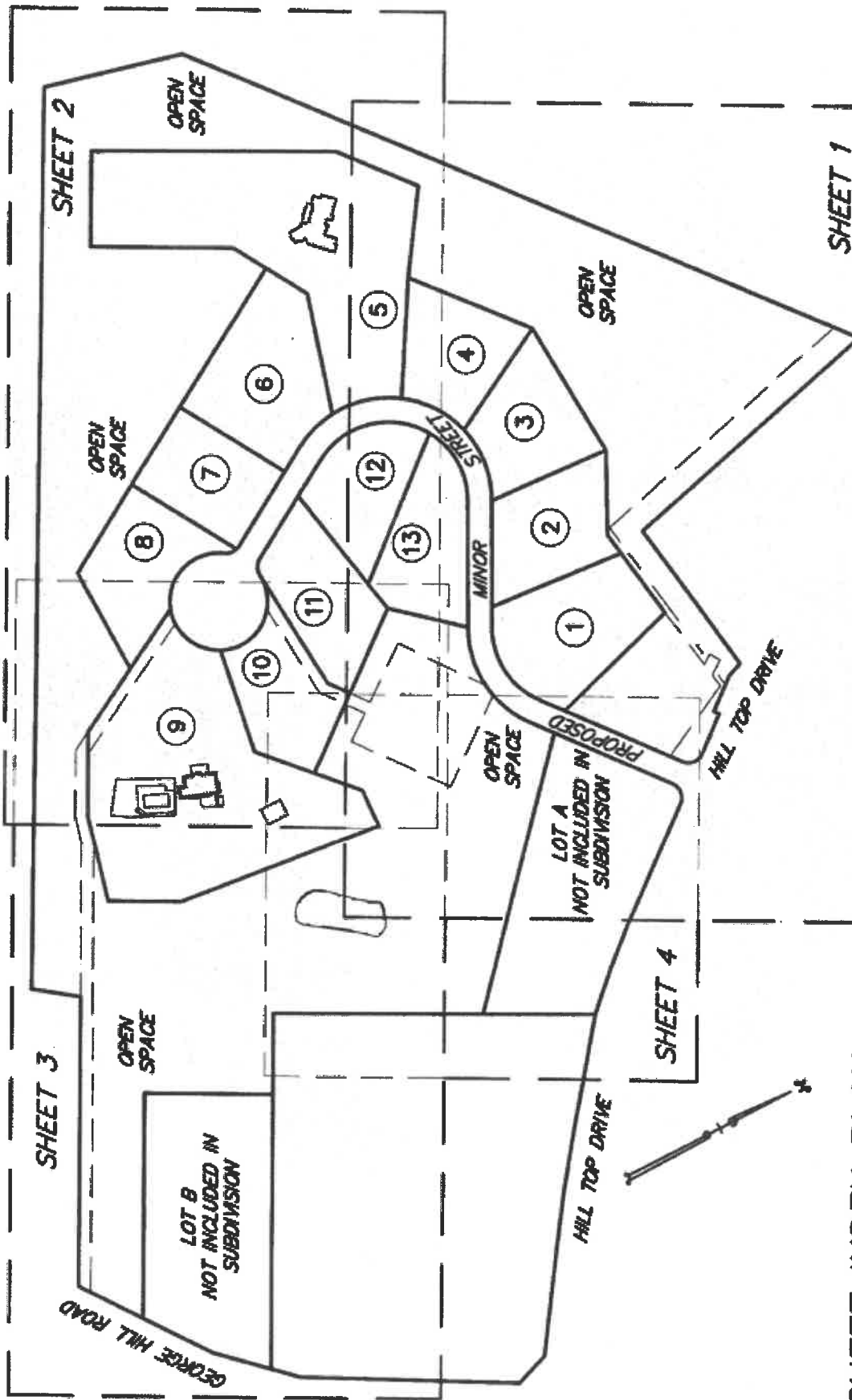
79 To aid in understanding the history of this project, Mr. Larry Shoer, an abutter on George Hill Road who
80 is very familiar with issues at the subdivision, has assembled a timeline and collection of the pertinent
81 documents. A copy of that is included with this letter.

82
83 On behalf of the Lancaster Planning Board,

84
85
86 Russell W. Williston, Chair

87
88 Enc:

- 89 1. Subdivision plan showing location of the "Open Space."
90
91 2. Email correspondence dated May 7, 2020 between Mr. Dick Trussell, a Lancaster resident, and
92 Town Administrator Orlando Pacheco regarding the issuance of occupancy permits at the site
93 despite the issues without a Homeowners Trust established.
94
95 3. A letter from Mr. Larry Shoer, George Hill Road resident, detailing the history of issues at the
96 development and requesting action, dated
97
98 4. A copy of the Planning Boards letter to the Interim Planning Director and Lancaster Building
99 Inspector urging action regarding the open space parcel at Hawthorne Lane, dated November
100 25, 2020.
101
102 5. A copy of the Planning Boards letter to the Selectboard urging action regarding the open space
103 parcel at Hawthorne Lane, dated January 11, 2021.



108

109 **Email correspondence between the Town Administrator and Mr. Dick Trussell**

110 **From: Orlando Pacheco**
111 **Sent: Thursday, May 7, 2020 3:06 PM**
112 **To: Richard Trussell**
113 **Subject: RE: Hawthorne**

114

115 Hi Dick, I spoke to Tony at length about this. The issue with
116 the Booster station was resolved at each house point but the
117 Melanson built what was on the approved plans and this was and
118 should be entitled to sell homes. There was an appeal to the
119 booster station, which was not due to the developer. The
120 Building Commissioner could not let those individuals cancel the
121 transactions on those grounds. The individuals involved, many of
122 them would have been done financial harm by not allowing them to
123 close. We are not hurting the developer we would be hurting
124 innocent people. I respect the right of folks at appeal the
125 decision of the booster station location but that does not
126 correlate with hurting all the potential buyers.

127

128 The issue around the homewoner's association is an easy
129 resolution with no impact to the actual process. I know we
130 reached out to have this resolved asap but the language is
131 unusual and I do feel we were ignorant to this.

132

133 **From: Richard Trussell [mailto:rtrussell1830@hotmail.com]**
134 **Sent: Thursday, May 7, 2020 12:17 PM**
135 **To: Orlando Pacheco**
136 **Subject: RE: Hawthorne**

137

138 I agree it seems quirky, but it says no property will be
139 transferred. I didn't write or agree to it, but that IS what is
140 says. Melanson and Tony MUST abide by what is written!!

141 The 5 plus CO's issued before the Booster was operable (it still
142 isn't technically fully functional) and the above is what
143 "Melanson is getting away with".

144 Tony is not following the conditions and Melanson is benefitting
145 financially to the tune of over \$500,000. That is what he is
146 "getting away with".

147

Email correspondence between the Town Administrator and Mr. Dick Trussell (Continued)

The Building Inspector is incompetent or uninformed or ignorant of the conditions, and that is me being "friendly" again. Melanson is "getting away with it"

Why???

Sent from Mail for Windows 10

From: Orlando Pacheco
Sent: Thursday, May 7, 2020 11:37 AM
To: Richard Trussell
Subject: RE: Hawthorne

Hi Dick, having a homeowners association as a condition of occupancy has never made any sense because the association does not have any responsible until the last house is sold. The houses have individual boosters as a condition of occupancy. Melanson is only building what is on the plans, I am not sure what he is "getting away with". He did communicate back to the Planning Depart that he would have an association in place but until the last house is sold the developer is the association and no release of bonds will occur until on conditions are met.

From: Richard Trussell [mailto:rtrussell1830@hotmail.com]
Sent: Thursday, May 7, 2020 11:22 AM
To: Orlando Pacheco
Subject: RE: Hawthorne

Hi Orlando: So he is going to issue it before the Association is registered in Worcester? Under what auspices, because he wants to move into his own house?

How can the Booster Station be approved by the Fire Chief if the backup generator is not operable.

MELANSON IS GETTING AWAY WITH A LOT, and the Town is CONDONING it. Unbelievable!!

186 **Email correspondence between the Town Administrator and Mr. Dick Trussell (Continued)**

187

188 And no penalty for Melanson or Tony for PHONY
189 CO's. Irresponsible Town management!!

190 Why would any builder adhere to conditions in this Town? They
191 are meaningless!! This warrants further investigation for
192 sure. The Building Inspector is to enforce the rules, not ignore
193 them out of "friendliness". I am being nice with that word,
194 possible it goes beyond that, but that will be for another day.

195 Melanson has 4 more lots to build before his permit expires in
196 October. Will friendly OC's be issued for these too?

197

750 George Hill Road
Lancaster, MA 01523
October 19, 2021

Planning Board
Prescott Building
Suite 4
701 Main Street
Lancaster, MA 01523

Dear Planning Board,

For generations the Town of Lancaster has been a welcoming community and wonderful place to live. In recent years Lancaster has seen dramatic residential growth with the expectation that significant commercial growth will not be far behind. To preserve the characteristics that make Lancaster special, it is critical that the Town boards and Town professionals perform at their best to manage this growth.

We are very pleased to see that the Town has recently decided to hire a full-time, experienced, building inspector. In recent years, the Town has not been well-served by a part-time building inspector and critical construction oversight has been deficient.

An early and important test for the new building inspector will be to address serious compliance issues with some projects now under construction. If these projects can not be made to follow Massachusetts General Law, Lancaster Bylaws, and Town Board Conditions, then our Town will forever lose those qualities that make it so attractive.

The Hawthorne Lane Flexible Development subdivision has become a benchmark for problematic construction oversight in Lancaster. This letter summarizes these problems and includes the request that the Lancaster Building Inspector take initiative to require compliance of this project with Massachusetts General Law, Town Bylaws, and Town Board Conditions. Compliance is essential for the liability and financial protection of the Town of Lancaster, homeowners, residents, and contractors.

Sincerely,


Larry Shoer

***Hawthorne Lane Flexible Development
As Reported to appropriate Lancaster Town Boards and Building Inspector
Most reported multiple times and by multiple people***

Infractions of:

- **Lancaster Planning Board Flexible Development Conditions of Approval**
- **Town of Lancaster Bylaws**
- **Massachusetts General Law**

Specific Infractions:

1. **Infraction:** Issuing *Certificate of Approval for Special Permit endorsement* before required *Conditions* of approval were satisfied.
Reference: PB Flexible Development Condition 5 required a "perpetual conservation or agricultural preservation restriction" be submitted to the Town and reviewed by Town Counsel prior to PB endorsement. See Appendix 1.
Date: Endorsement signed January 25, 2016.
Status: This condition has not yet been met.
2. **Infraction:** Issuing *Certificate of Approval for Special Permit endorsement* before required *Conditions of Approval* were satisfied.
Reference: PB Flexible Development Condition 6 required open space be conveyed to the Town of Lancaster, Town of Lancaster Conservation Commission, or "a non-profit organization the principal purpose of which is the conservation of open space." See Appendix 1.
Date: Endorsement signed January 25, 2016.
Status: This condition has not yet been met.
3. **Infraction:** Issuing *Building Permits* before Flexible Development required *Conditions of Approval* were satisfied.
Reference: Bylaw Section 220-15 B (3) (d) Missing required permanent conservation or agricultural restriction prior to issuing Building Permits. See Appendix 2.
Status: This condition has not yet been met.
4. **Infraction:** "Each individual deed for the lots in the flexible development, the open space deed, and the trust or articles of incorporation shall include provisions" for an association to protect and maintain open space, if open space not transferred to Town. Hawthorne Lane homeowner indicates that deed does not have such provisions.
Reference: Bylaw Section 220-15 C (5). See Appendix 2.
Status: This condition has not yet been met.
5. **Infraction:** Construction of a water booster station without required *Board of Appeals Special Permit*
Reference: Lancaster Use Regulation Schedule 220-8.4 required BOA SP, as required by private utilities in the past and as confirmed by PB on Apr 13, 2020 by supermajority vote.
The BOA Special Permit requires abutter notice and public hearing. See Appendix 3.
Status: Required BOA Special Permit has not been obtained.

6. **Infraction:** Construction of a water booster station without a *Building Permit*
Status: Building Permit issued after-the-fact. See Appendix 4.
7. **Infraction:** Construction of a water booster station on open space on which building is not allowed
Reference: PB Flexible Development Condition 5: "...said parcel shall not be used as the site of any buildings or other permanent structures". See Appendix 1.
Reference: Bylaw Section 220-15 C (3): "The open space shall be used for wildlife habitat and conservation and one or more of the following additional purposes: historic preservation, education, outdoor education, recreation, park purposes, agriculture, horticulture, forestry, visual amenity... See Appendix 2.
Status: Water booster station remains sited on open space.
8. **Infraction:** Construction of a water booster station with insufficient setbacks
Open space parcel should be considered as having two front setbacks, one on Hill Top Road and one on George Hill Road, therefore the minimum setback is 30 feet, not the actual less than 21 foot setback.
Reference: Bylaw Section 220-11 A, B, & C
Status: Water booster station remains sited on open space.
9. **Infraction:** Construction of underground potable water infrastructure on open space where building is not allowed.
Reference: PB Flexible Development Condition 5 required "said parcel shall not be used as the site of any buildings or other permanent structures; except that the two (2) Drainage Easements on the Open Space parcel may be used for storm water management." See Appendix 1.
Bylaw Section 220-15 C (3): "The open space shall be used for wildlife habitat and conservation and one or more of the following additional purposes: historic preservation, education, outdoor education, recreation, park purposes, agriculture, horticulture, forestry, visual amenity... See Appendix 2.
Status: Water infrastructure presently in use.
10. **Infraction:** Construction of underground sewer infrastructure on open space on which building is not allowed.
Reference: PB Flexible Development Condition 5 required "said parcel shall not be used as the site of any buildings or other permanent structures; except that the two (2) Drainage Easements on the Open Space parcel may be used for storm water management." See Appendix 1.
Bylaw Section 220-15 C (3): "The open space shall be used for wildlife habitat and conservation and one or more of the following additional purposes: historic preservation, education, outdoor education, recreation, park purposes, agriculture, horticulture, forestry, visual amenity... See Appendix 2.
Status: Sewer infrastructure presently in use.

11. Infraction: Issuing *Certificates of Occupancy* before Flexible Development *Conditions of Approval* were satisfied and before water booster station was operating. COs issued starting in Aug 2019. Water booster station would not be operational until mid-2020.

Reference: See Appendix 5.

Status: PB Conditions now satisfied.

12. Infraction: Operation of dirt bikes, all terrain vehicles, and snowmobiles on open space, when operation of such vehicles is not allowed.

Reference: Not a permitted use on open space, not permitted on land with a conservation restriction. See Appendix 1.

See: Code of Massachusetts Regulations Title 323, Section 3.03 (2) Property Owner Permission and (3) Distance from Residences.

Status: Ongoing issue; Lancaster Police Department and MA Environmental Police have also been engaged.

Appendix 1

LANCASTER PLANNING BOARD CERTIFICATE OF APPROVAL- SPECIAL PERMIT APPLICATION

Condition 5.

Prior to the Planning Board's endorsement of Definitive Subdivision Approval on the Flexible Development plan, and in the event the Open Space parcel is not conveyed to the Town or its Conservation Commission, the Applicant shall provide to the Planning Board a proposed perpetual conservation or agricultural preservation restriction, of the types described in M.G.L. Chapter 184, Section 31 and Lancaster Zoning Bylaw Section 220-15, running to and enforceable by the Town, with respect to the ownership, maintenance and use of the Open Space parcel. Such proposed restriction shall provide that said parcel shall be retained in perpetuity for one or more of the following uses: conservation, agriculture, passive recreation; and that said parcel shall not be used as the site of any buildings or other permanent structures; except that the two (2) Drainage Easements on the Open Space parcel may be used for storm water management as represented on the Flexible Development plan. Any and all documents required for this condition shall be submitted to Town Counsel for review and approval prior to Planning Board endorsement.

Condition 6.

Prior to the Planning Board's endorsement of Definitive Subdivision Approval on the Flexible Development plan, the Applicant shall make provision pursuant to Lancaster Zoning Bylaw Section 220-15 for the ownership and maintenance of the Open Space parcel either by the Town of Lancaster acting by and through its Board of Selectmen or Conservation Commission; or by a nonprofit organization, the principal purpose of which is the conservation of open space; or by a membership corporation, trust or association of lot owners within the development upon proper finding by the Planning Board and review and approval by Town Counsel of all documents creating and establishing same.

Condition 7.

Prior to the Planning Board's endorsement of Definitive Subdivision Approval on the Flexible Development plan, the Applicant shall provide to the Planning Board a 30-foot wide Utility Easement spanning one of the proposed lots and the open space parcel to the west of the development and to the Eagle Ridge property. This easement would allow the option to tie into the existing water high-level service area and municipal sewer through the Eagle Ridge development. This may provide more favorable options for domestic water use, fire protection, and wastewater disposal services to the proposed subdivision.

Appendix 2

Lancaster Zoning Bylaws Section 220-15, Flexible development

A. Intent. The intent of these flexible development provisions is to allow greater flexibility and creativity in residential development in order to gain:

(1) Location of development on sites best suited for development, and protection of land not suited for development, reflecting such considerations as:

- (a) Permanent preservation of open space for agriculture, conservation, or recreational use, especially in large contiguous areas within the site or linked to off-site protected areas;
- (b) Protection of water bodies, streams, wetlands, wildlife habitats, and other conservation resources;
- (c) Protection of the character of the community through preserving open space within view from public roads, preservation of stone walls and other historic landscape features, preservation of scenic vistas, and through siting of dwellings at low visibility locations;
- (d) Protection of street appearance and capacity by avoiding development

B. Dimensional requirements...

(3) Transfer of development rights...

(a) The land used in such calculation (the "transfer land") must be determined by the Planning Board to be of special importance to remain in a natural state because of its visual prominence or potential vista blockage, because of its ecological significance and fragility, because it has special importance as farmland, or because it is important to the Town's open space plan.

...

(d) Prior to issuance of any building permit dependent upon the transfer, such transfer and shall be made subject to a permanent conservation restriction held by the Town pursuant to MGL Chapter 194, Sections 31-33, prohibiting nonagricultural development.

C. Open space requirements...Any proposed open space land, unless conveyed to the Town or its Conservation Commission, shall be subject to a recorded restriction and/or conservation easement enforceable by the Town. Such restriction or easement shall be in a form satisfactory to the Planning Board, and shall provide that such land shall be perpetually kept in an open state, that it shall be preserved exclusively for one or more of the purposes set forth in Subsection C(3) below, and that it shall be maintained in a manner which will ensure its suitability for its intended purposes.

...

(3) The open space shall be used for wildlife habitat and conservation and one or more of the following additional purposes: historic preservation, education, outdoor education, recreation, park purposes, agriculture, horticulture, forestry, visual amenity, and shall be served by suitable access for such purposes. The Planning Board may permit up to 5% of the open space to be paved or built upon for structures accessory to the dedicated use or uses of such open space (i.e., pedestrian walks and bike paths).

...

(5) Ownership of the open space. The designated open space shall be conveyed to:

- (a) The Town or its Conservation Commission; or
 - (b) A nonprofit organization, the principal purpose of which is the conservation of open space and any of the purposes for such open space set forth above; or
- A corporation or trust owned jointly or in common by the owners of lots or dwelling units within the flexible development. If such corporation or trust is utilized, ownership thereof shall pass with conveyance of the lots or units. Maintenance of such open space and facilities shall be permanently guaranteed by such corporation or trust through provisions for mandatory assessments of maintenance expenses to each lot or unit. The trust or corporation documents shall include an express consent to allow the Town, at its own option, to enter and access the open space and facilities and perform repairs, if the trust or corporation fails to provide adequate

maintenance. Each individual deed for the lots in the flexible development, the open space deed, and the trust or articles of incorporation shall include provisions to effect these requirements. Documents creating such trust or corporation shall be subject to Planning Board approval, and shall thereafter be recorded.

Massachusetts General Law Chapter 184, Section 31

“A conservation restriction means a right, either in perpetuity or for a specified number of years, whether or not stated in the form of a restriction, easement, covenant or condition, in any deed, will or other instrument executed by or on behalf of the owner of the land or in any order of taking, appropriate to retaining land or water areas predominantly in their natural, scenic or open condition or in agricultural, farming or forest use, to permit public recreational use, or to forbid or limit any or all (a) construction or placing of buildings, roads, signs, billboards or other advertising, utilities or other structures on or above the ground, (b) dumping or placing of soil or other substance or material as landfill, or dumping or placing of trash, waste or unsightly or offensive materials, (c) removal or destruction of trees, shrubs or other vegetation, (d) excavation, dredging or removal of loam, peat, gravel, soil, rock or other mineral substance in such manner as to affect the surface, (e) surface use except for agricultural, farming, forest or outdoor recreational purposes or purposes permitting the land or water area to remain predominantly in its natural condition, (f) activities detrimental to drainage, flood control, water conservation, erosion control or soil conservation, or (g) other acts or uses detrimental to such retention of land or water areas.”

“A preservation restriction means a right, whether or not stated in the form of a restriction, easement, covenant or condition, in any deed, will or other instrument executed by or on behalf of the owner of the land or in any order of taking, appropriate to preservation of a structure or site historically significant for its architecture, archaeology or associations, to forbid or limit any or all (a) alterations in exterior or interior features of the structure, (b) changes in appearance or condition of the site, (c) uses not historically appropriate, (d) field investigation, as defined in section twenty-six A of chapter nine, without a permit as provided by section twenty-seven C of said chapter, or (e) other acts or uses detrimental to appropriate preservation of the structure or site.”

Appendix 3

750 George Hill Road
Lancaster, MA 01523
May 14, 2020

To: Tony Zahariadis, Building Commissioner
cc: Michael Antonellis, Planning Director
cc: Orlando Pacheco, Town Administrator

Prescott Building, Suite 4
701 Main Street
Lancaster, MA 01523

Dear Mr. Zahariadis,

This letter is with reference to a water booster station and associated equipment located at a work site directly opposite our house at 750 George Hill Road, Lancaster, MA. This is a privately owned facility, located on a privately owned parcel identified as "open space." Construction activities are now underway on this water booster station. Work must not proceed, because the project lacks required permits.

Construction of the water booster station is controlled by Town of Lancaster "Use Regulation Schedule" Section 220-8.4.A. This schedule predates the Hawthorne Lane Flexible Development subdivision and regulates "Underground or overhead communications, gas, electrical, sewerage, drainage, **water**, traffic, fire, and police system services, appurtenant equipment, and installations." For a water booster station that is not "provided by a public service corporation or governmental agencies" a Special Permit from the Board of Appeals is required (see supporting materials).

A Special Permit from the Board of Appeals has not been obtained for this project, so a stop-work order must be issued.

There is ample precedent to establish the requirement for a Special Permit from the Board of Appeals for this project. As a result of a Freedom of Information Act request, we were provided with information about all Special Permits that were considered under Use Regulation Schedule Section 220-8.4.A. A total of six Special Permits were requested, all directed to the Lancaster Board of Appeals.

Four Special Permit applications were submitted for solar projects (electrical) on George Hill Orchards. One Special Permit was submitted for a solar project (electrical) at Manny's Dairy Farm on Brockelman Road. One Special Permit was submitted for a solar project (electrical) on the former Shirley Airport. All of these non-residential, larger-scale projects were privately funded, on private land, and proposed the installation of solar panels that would be connected to the public electric utility in the street.

It is illustrative to cite the July 9, 2012, letter from Valerie Harper, Natural Resources Division Manager, New England Environmental, Inc., on behalf of UGT10 LLC (see supporting materials). Ms. Harper submitted her letter and Special Permit application to the Lancaster Board of Appeals for the solar project at the former Shirley Airport. In her letter Ms. Miller stated:

"This special permit application is being submitted in accordance with Section 220-8.4.A of the Lancaster Zoning By-laws. Specifically, this By-law applies to underground or overhead communications, gas, **electrical**, sewerage, drainage, **water**, traffic, fire and police system services, appurtenant equipment and installations. **Filing of a special permit is mandated under this By-law** if it is not

regulated under Article XI, and provided by other than a public service corporation or governmental agency. UGT10 is requesting approval to install this renewable energy system in this residentially zoned property, under this By-Law." [emphasis added]

We note that Ms. Miller's letter describes a Special Permit issued by the Board of Appeals as mandated for electrical (or water) projects, as described in Use Regulation Schedule Section 220-8.4.A. Every one of these projects submitted a Special Permit application to the Board of Appeals, as required by Use Regulation Schedule Section 220-8.4.A. Some projects received a Special Permit from the Board of Appeals, some were denied. In each case, the Board of Appeals recognized that they were the permitting authority.

The water booster station installed on George Hill Road is a privately funded project, on a privately owned parcel, to serve private residences. As mandated by the Planning Board Special Permit for the Hawthorne Lane Flexible Development subdivision, a discrete parcel of land is designated as "open space." The industrial-style, metal, water booster station, whose dimensions are 12.5 feet wide, 18.3 feet long, and 10 feet high and adjacent emergency power generator and ground-mounted transformer are the only structures on the open space parcel. As a water project (connected to the public water utility in the street), this project required a Special Permit from the Board of Appeals.

With this well-established precedent, there should not have been ambiguity as to whether the water booster station required a Special Permit by the Board of Appeals. Nonetheless and at the request of the Board of Appeals, the Planning Board reviewed Use Regulation Schedule Section 220-8.4.A at its meeting on April 13, 2020. By a vote of four in favor and one opposed, the Planning Board affirmed that a water booster station requires a Special Permit from the Board of Appeals. Nowhere other than Section 220-8.4.A is a facility like a water booster station considered in the Use Regulation Schedule, whether as a principal use or as an accessory or accessory use. Further, the water booster station and its appurtenant structures are the only structures on this open space parcel, so it must be considered a principal use.

It should be noted that the Planning Department maintains a document titled "Important Information on Special Permits." This is posted on the town website and is part of the Board of Appeals Application for Special Permit. In this document it states:

"[T]he authority for granting special permits is, in most cases, assigned to the Board of Appeals (designated by "SP") and, in other cases, to the Planning Board (designated by "PB"). You must initially determine the appropriate Board with which to file your special permit application and the application and materials filed with it must comply with the rules of that Board."

It was the responsibility of the developer of the Flexible Development subdivision to recognize precedent, years after it was amply demonstrated, and to apply to the Board of Appeals for a Special Permit. Without this required Special Permit, a Building Permit should not have been issued, but it was issued 31 days after the fully factory-built water booster station was placed by crane alongside George Hill Road.

The points we raise are not mere technicalities. By not requiring a Special Permit for this project from the Board of Appeals, abutters were not notified and the required public meeting was not held. Because the water booster station never appeared as a Planning Board agenda item the community did not have an opportunity to comment on a project representing a 228 SF industrial-style metal building, emergency power generator, ground-mounted transformer, curb-cut including an asphalt service road approximately 50 ft long, and 30 ft by 30 ft x 8 ft high chain link fence to be constructed

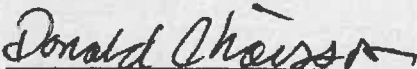
on a parcel designated as "open space," alongside a designated Scenic Roadway. Unfortunately, without the better scrutiny that a public meeting might have provided, the project as built is deficient.

We ask that a stop-work order be issued to the developer for continuance of work on the water booster station until an application is made for a Special Permit issued by the Board of Appeals, as required by the Town's Use Regulation Schedule Section 220-8.4.A. Work must be halted until the Board of Appeals reviews the application with regard to all pertinent regulations in accordance with Lancaster zoning By-Laws as stated in the Use Regulation Schedule guidance.

Sincerely,



Larry Shoer
750 George Hill Road



Donald Chaisson
710 George Hill Road



Elzira Deoliveira
712 George Hill Road



Ronald Gaulin
774 George Hill Road



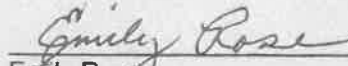
Pamela Vanasse
793 George Hill Road



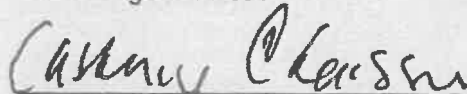
Michelle Saidella
748 George Hill Road



Ruth Ghia
730 George Hill Road



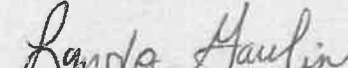
Emily Rose
750 George Hill Road



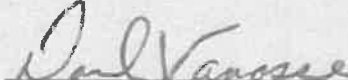
Catherine Chaisson
710 George Hill Road



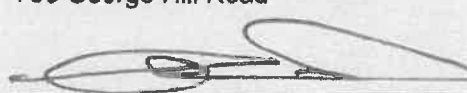
Jeremias Deoliveira
712 George Hill Road



Lynda Gaulin
774 George Hill Road



David Vanasse
793 George Hill Road



Thomas Seidenberg
748 George Hill Road



Ajay Ghia
730 George Hill Road

ZONING

220 Attachment 1

Town of Lancaster

Use Regulation Schedule

§ 220-8

KEY:

P = A use permitted as a matter of right in the district, subject to all applicable dimensional and special regulations.

SP = A use permitted only upon granting of a special permit by the Board of Appeals, subject to any additional limitations which may be required by the Board.

PB = A use permitted only upon granting of a special permit by the Planning Board, subject to any additional limitations which may be required by the Board.

N = A use prohibited in the district.

		Zoning Districts						Notes
Item	Use	R	NB	LI	LI2	GI	EZ	
§ 220-8.1. RESIDENTIAL USES.								
Principal uses								
A.	Single-family detached dwelling	P	P	N	N	N	N	One per lot.
B.	Two-family dwelling	P	N	N	N	N	N	Only by conversion of single-family dwelling existing 2-13-1950, without exterior building change except for required exits and ventilation, and the total habitable floor area of at least 1,536 square feet.
C.	Living facility for seniors	SD	SD	N	N	N	DD	See § 220.0A

EE.	Day camp accessory to a permitted use	SP	SP	N	N	N	P	
§ 220-8.4. PUBLIC, HEALTH, EDUCATIONAL AND INSTITUTIONAL USES.								
Principal uses								
A.	Underground or overhead communications, gas, electrical, sewerage, drainage, water, traffic, fire, and police system services, appurtenant equipment, and installations	SP	SP	SP	SP	SP	PB	If personal wireless service facilities regulated under Article XI of Ch. 220.
		P	P	P	P	P	P	If not regulated under Article XI, and provided by a public service corporation or governmental agencies.

Article XI

Personal Wireless Service Facility Regulations

¹ Editor's Note: As regulated under Article XII of Chapter 220, Zoning.

July 9, 2012

Town of Lancaster
Zoning Board of Appeals
695 Main Street
Suite 4
Lancaster, MA 01523

RE: Special Permit Application
Solar Array Project at Shirley Airport, Lancaster, MA
NEE File 12-4110

Dear Board Members:

New England Environmental Inc., (NEE), on behalf of UGT Renewable Energy 10 LLC (UGT10), is pleased to submit this application for a solar energy project located at the former Shirley Airport in Lancaster, Massachusetts. This project proposes the installation and operation of a 5.86 Megawatt (DC) solar array requiring approximately 25 acres to be located on a property consisting of approximately 46 acres. The site includes the existing development at the Shirley Airport. Approximately 8.5 acres of land are proposed to be converted from non-developed to developed land. The site is zoned as "Residential," and is not listed as a "Priority Development Site." The site is also not located in a water resource district.

This special permit application is being submitted in accordance with Section 220-8 4A of the Lancaster Zoning By-laws. Specifically, this By-law applies to underground or overhead communications, gas, electrical, sewerage, drainage, water, traffic, fire and police system services, appurtenant equipment and installations. Filing of a special permit is mandated under this By-law if it is not regulated under Article XI, and provided by other than a public service corporation or governmental agency. UGT 10 is requesting approval to install this renewable energy system in this residentially zoned property, under this By-Law.

If you have any questions or comments, please do not hesitate to contact me.

Sincerely,
NEW ENGLAND ENVIRONMENTAL, INC.



Valerie Miller
Division Manager, Natural Resources

cc:

Robert Berman, Urban Green Technologies, LLC
Rayo Bhurngara, Sustainable Strategies 2050, LLC
Zachary Schulman, Urban Green Technologies, LLC



Town of Lancaster
Office of Community Development & Planning
701 Main Street – Suite 4
Lancaster, Massachusetts 01523

MEMORANDUM

Date: 4/23/20

To: Jeanne Rich, Chair, Board of Appeals

CC: Planning Board, Board of Appeals

From: Michael Antonellis, Director of Community Development & Planning

RE: Request for Interpretation regarding Bylaw

After being asked by the Board of Appeals to provide an opinion on the applicability of Section 220-8.4.A regarding a water pump station located on George Hill Road serving the Poras Subdivision development, at the April 13, 2020 Planning Board meeting the Planning Board voted 4-1 to in agreement that the noted section does apply, and that such a use/structure would require a Special permit from the Board of Appeals. Specifically, it was discussed whether "Underground or overhead...water...appurtenant equipment and installations"not "provided by a public service corporation or governmental agencies" require a Special Permit issued by the Board of Appeals. After discussion which included how this regulation has been interpreted in all past Special Permit applications.

Michael Antonellis
Director of Planning & Community Development
701 Main Street, Suite 4
Lancaster, MA 01523
O: 978-365-3326 x1311
F: 978-368-4009

Appendix 4



TOWN OF LANCASTER BUILDING PERMIT

Owner of record **Melanson Bros. Inc.**

This Certifies that

Owner's Contractor: **Melanson Bros. Inc.**

Has permission **water boost station**

Telephone: **508-769-4314**

on the property at **Hawthorne Lane** the Town of Lancaster.

Provided that the person accepting this permit shall, in every respect, conform to the terms of the application therefor, on file in this office, to the applicable laws of the Commonwealth of Massachusetts, and to the Town of Lancaster Zoning By-Laws relating to the locating, erecting, enlarging, altering, raising, moving, repairing, demolishing, renovating, and inspecting of a building or structure and builds under current edition of 780 CMR in the year the permit is issued.

- This card shall be displayed in a conspicuous place on the premises, maintained in good condition, and must not be removed until all work has been approved
- Each Department must be notified when its portion of work is ready for inspection. On a 24 notice, allow 48 hours for inspections to take place.
- No building or structure shall be occupied until all inspections have been completed and a Final inspection has been approved by the Building Department
- If any terms or conditions of this permit are not complied with, it shall result in fines, fees and revocation of this permit

(Electrical Inspection)

(Plumbing/Gas Inspections)

(Building Inspections)

Electrical Rough	Date	Rough Plumbing	Date	Frame	Date
Electrical Final	Date	Final Plumbing	Date	Insulation	Date
Fire Department	Date	Rough Gas	Date	Final	Date
Board of Health	Date	Final Gas	Date	Other	Date

Building Official **Tony Zahariadis**

Date: **12/9/19**

Fee: \$ **250.00**

Permit # **19-394**

Building Department - (978) 365-3326 Ext 1310

Appendix 5

Hawthorne Lane Flexible Development Subdivision Certificates of Occupancy

Planning Board minutes (Mar 11, 2019 meeting)

"Gary Melanson was present to represent the interests of the Poras Subdivision. Mr. Melanson said he is okay with a condition that "No Certificate of Occupancy shall be given until the booster pump is online."

"Mrs. Rich made a motion to approve the bond amount of \$180,052 with the condition that no Certificate of Occupancy be granted until the pump station is in. Tom Christopher seconded the motion. The motion passed 4-0-0."

53 Hawthorne Lane
Aug 20, 2019



49 Hawthorne Lane
Sep 18, 2019



54 Hawthorne Lane
Oct 2, 2019



41 Hawthorne Lane
Oct 31, 2019



39 Hawthorne Lane
Mar 2, 2020



Water Booster Station Timeline

Delivered
from factory
Nov 8, 2019

As of Apr 23, 2020
Water Booster Station
is not yet operational

November 25, 2020
701 Main Street
Lancaster, MA 01523
United States

Orlando Pacheco
Interim Planning Director, Town of Lancaster
CC: Lancaster Board of Selectmen, Lancaster Building Inspector

Dear Mr. Pacheco,

We request your assistance with the subdivision dependent on the Flexible Development special permit issued by the Lancaster Planning Board on January 11, 2016 to "Poras Realty Trust and Weinerwald II Realty Trust" to resolve a non-compliance with that special permit. We would like to review your suggestions for "next steps" at our December 14th meeting. If you do consult with town counsel, we ask that you do so in writing and include both your questions and the attorney's responses for us to review.

It has been brought to the Planning Board's attention that the development is currently not in compliance with the requirements of that special permit. The developer has placed a structure in the "open space" parcel.

The special permit includes a clear requirement for the "open space" parcel required within the subdivision in Condition 5 of the approval: "...said parcel shall not be used as the site of any buildings or other permanent structures; except that the two (2) Drainage Easements on the Open Space parcel may be used for storm water management as represented on the Flexible Development plan."

No alteration has been made to the conditions of that special permit that would allow the construction of any structure on that open space parcel. As you are aware, altering the conditions of a special permit would require a new noticed hearing and a super-majority vote of the Planning Board. No other board or town officer is authorized to alter the conditions of that special permit.

Board Chair Williston asked you during the week of 11/15/2020 to review the developer's commitment to complete Condition 5, regarding conveying the parcel to the Conservation Commission or providing a restriction. Gary Melanson, the developer, stated to you that his intention is to convey the parcel to the Conservation Commission. As the town will ultimately receive the benefit of this parcel, allowing the structure

to remain on the open space parcel would require that the town also accept reduced utility of that open space and also accept the risk associated with the structure constructed on the parcel.

The Planning Board met and discussed this issue on November 25th, 2020 and voted to recognize this non-compliance with Condition 5 and initially proceed by forwarding this issue to you. We are also sending copies of this letter to the Lancaster Building Inspector and the Board of Selectmen.

The Planning Boards enduring requirement is that the open space parcel be conveyed or restricted in accordance with Condition 5 of the subdivision special permit: free of any building or permanent structures.

Sincerely, on behalf of the Lancaster Planning Board,

A handwritten signature in black ink, reading "Russell W. Williston". The signature is written in a cursive, flowing style.

Russell W. Williston

Chair, Lancaster Planning Board

Enclosed: a copy of the 2016 "Flexible Development" special permit decision

January 11, 2021
Lancaster Planning Board
701 Main Street
Lancaster, MA 01523

Lancaster Board of Selectmen
701 Main Street
Lancaster, MA 01523

Members of the Lancaster Select Board,

The Planning Board recommends that you act immediately to protect the open space that the town will receive the benefit of as a result of the Flexible Development Special Permit issued to the "Poras Realty Trust and Weinerwald II Realty Trust" in a certificate of approval dated January 11, 2016.

A "Flexible Development Special Permit" (see 220-15 Flexible Development) grants special allowances for a subdivision in exchange for a commitment to place an open space parcel, typically including 40% of the total land on the plan, under either an agricultural restriction or conservation restriction or for conveying the parcel to the town for restriction.

For the permit issued to the "Poras Realty Trust and Weinerwald II Realty Trust" Conditions 5 and 6 of the approval for this special permit set the expectations for this open space:

5. **Prior to the Planning Board's endorsement of Definitive Subdivision Approval on the Flexible Development plan, and in the event the Open Space parcel is not conveyed to the Town or its Conservation Commission, the Applicant shall provide to the Planning Board a proposed perpetual conservation or agricultural preservation restriction, of the types described in M.G.L. Chapter 184, Section 31 and Lancaster Zoning Bylaw Section 220-15, running to and enforceable by the Town, with respect to the ownership, maintenance and use of the Open Space parcel. Such proposed restriction shall provide that said parcel shall be retained in perpetuity for one or more of the following uses: conservation, agriculture, passive recreation; and that said parcel shall not be used as the site of any buildings or other permanent structures; except that the two (2) Drainage Easements on the Open Space parcel may be used for storm water management as represented on the Flexible Development plan. Any and all documents required for this condition shall be submitted to Town Counsel for review and approval prior to Planning Board endorsement.**
6. **Prior to the Planning Board's endorsement of Definitive Subdivision Approval on the Flexible Development plan, the Applicant shall make provision pursuant to Lancaster Zoning Bylaw Section 220-15 for the ownership and maintenance of the Open Space parcel either by the Town of Lancaster acting by and through its Board of Selectmen or Conservation Commission; or by a nonprofit organization, the principal purpose of which is the conservation of open space; or by a membership corporation, trust or association of lot owners within the development upon proper finding by the Planning Board and review and approval by Town Counsel of all documents creating and establishing same.**

As of today this “Open Space” is still owned by the current developer, “Melanson Bros. Inc” and has not been conveyed or restricted. Furthermore, the developer has constructed a substantial water pump station to service the homes in the subdivision on the open space. Town Administrator Orlando Pacheco had a conversation with the developer in November, 2020 in which the developer indicated his intention to convey the parcel to the Conservation Commission.

Had the developer acted in accordance with the conditions of the special permit, he could have met the requirements of the special permit by following one of several paths:

1. **Prior to the definitive subdivision plan endorsement, convey the open space to the town.** Had this occurred the town would have received an open space parcel free of structures.
2. **Prior to the definitive subdivision plan endorsement, provide a proposed conservation or agricultural restriction that “...said parcel shall not be used as the site of any buildings or other permanent structures; except that the two (2) Drainage Easements on the Open Space parcel may be used for stormwater management as represented on the Flexible Development plan.”** Had this occurred the town would have received the benefit of an open space parcel free of structures.

The developer failed to do either and subsequently used the open space for a structure to serve the development. It would not have been possible for the developer to use the open space parcel for structures had it been restricted or conveyed as required in the special permit decision.

The town must insist that this parcel either be restricted or conveyed as it should have been in 2016: free of buildings and structures.

1. If any buildings or structures are permitted to remain on that parcel when this lot is conveyed to the conservation commission, the town is at risk of accepting a reduced and less useful amount of open space or assuming maintenance and future responsibility for a pump station that serves a handful of private homes.
2. The abutters to this subdivision had a right to appeal the 2016 approvals granting this special permit and approving this subdivision. Based on the decision issued by the Planning Board, which explicitly forbids any structures or buildings should the parcel be restricted or that it be conveyed prior to the site plan decision, they could never have anticipated that a pump station would be placed on this property. Ignoring this deviation, which would certainly not have stood if challenged, would be unsympathetic to those abutters: some are clearly aggrieved.

The town's expectation should be that this open space parcel be free of buildings and structures when it is conveyed to the town as that is the enduring commitment that the town received in exchange for the special allowances granted to the applicant.

To protect the town's interest in this parcel, it is important that you immediately request enforcement from the building inspector. On January 11 the Planning Board met, reviewed the issue, and voted to send your board this recommendation.

Sincerely, on behalf of the Lancaster Planning Board,

A handwritten signature in black ink, reading "Russell W. Williston". The signature is written in a cursive style with a large, stylized "R" and "W".

Russell W. Williston

Chair, Lancaster Planning Board

Enclosed:

A copy of the January 11, 2016 "Flexible Development Special Permit" certificate of approval

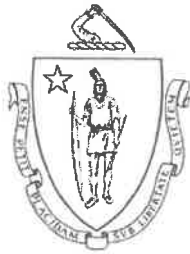
A copy of the January 26, 2016 "Definitive Subdivision Plan" certificate of approval

An overview showing the “Open Space” parcel in orange.



An image showing the “Water Pump Station” constructed on the above parcel, adjacent to George Hill Road





MAURA HEALEY
ATTORNEY GENERAL

THE COMMONWEALTH OF MASSACHUSETTS
OFFICE OF THE ATTORNEY GENERAL

CENTRAL MASSACHUSETTS DIVISION
10 MECHANIC STREET, SUITE 301
WORCESTER, MA 01608

(508) 792-7600
(508) 795-1991 fax
www.mass.gov/ago

September 27, 2021

Lisa J. Johnson, Town Clerk
Town of Lancaster
701 Main Street
Lancaster, MA 01523

Re: Lancaster Annual Town Meeting of June 21, 2021 -- Case # 10288
Warrant Article # 9 (Zoning)
Warrant Articles # 7, 8, and 10 (General)

Dear Ms. Johnson:

Articles 7, 8, 9, and 10 - We approve Articles 7, 8, 9, and 10 from the June 21, 2021 Lancaster Annual Town Meeting.

Note: Pursuant to G.L. c. 40, § 32, neither general nor zoning by-laws take effect unless the Town has first satisfied the posting/publishing requirements of that statute. Once this statutory duty is fulfilled, (1) general by-laws and amendments take effect on the date these posting and publishing requirements are satisfied unless a later effective date is prescribed in the by-law, and (2) zoning by-laws and amendments are deemed to have taken effect from the date they were approved by the Town Meeting, unless a later effective date is prescribed in the by-law.

Very truly yours,
MAURA HEALEY
ATTORNEY GENERAL
Kelli E. Gunagan
By: Kelli E. Gunagan
Municipal Law Unit
10 Mechanic Street, Suite 301
Worcester, MA 01608

cc: Town Counsel Brian M. Maser

October 25th, 2021

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To: Lancaster Town Clerk

CC: Lancaster Board of Selectmen

RE: Designated Planning Board Member of the "Community Preservation Committee"

On October 25th, 2021 the Lancaster Planning Board met and designated a member for service on the Lancaster Community Preservation Committee. This committee was established at this years annual town meeting and this was the Planning Board's first vote to designate a member.

The new bylaw allows us to designate a member to serve "for a term of three (3) years." For convenience, we chose to designate a member to serve until the anticipated date of the 2024 town election: May 13th, 2024.

After a roll call vote with all five members voting in support, the Lancaster Planning Board designated _____ to serve as the Planning Board member of the Lancaster Community Preservation Committee until May 13th, 2024.

On behalf of the Lancaster Planning Board,

Russell W. Williston, Chair

Debra Dennis

From: JAMES BRODRICK <brodrick1@comcast.net>
Sent: Sunday, October 17, 2021 8:21 PM
To: Steve Young; Debra Dennis
Subject: Perkins Project Drainage Concerns
Attachments: berm1.jpg; berm3.jpg; berm4.jpg

Dear Steve and Debra,

Prior to the project at Perkins beginning, my wife and I had questions concerning drainage onto our property with the building of the new dormitory, since the Pappas Building caused some issues. We attended a virtual Planning Board Meeting to discuss these concerns and were assured that the grading with prevent runoff onto our property.

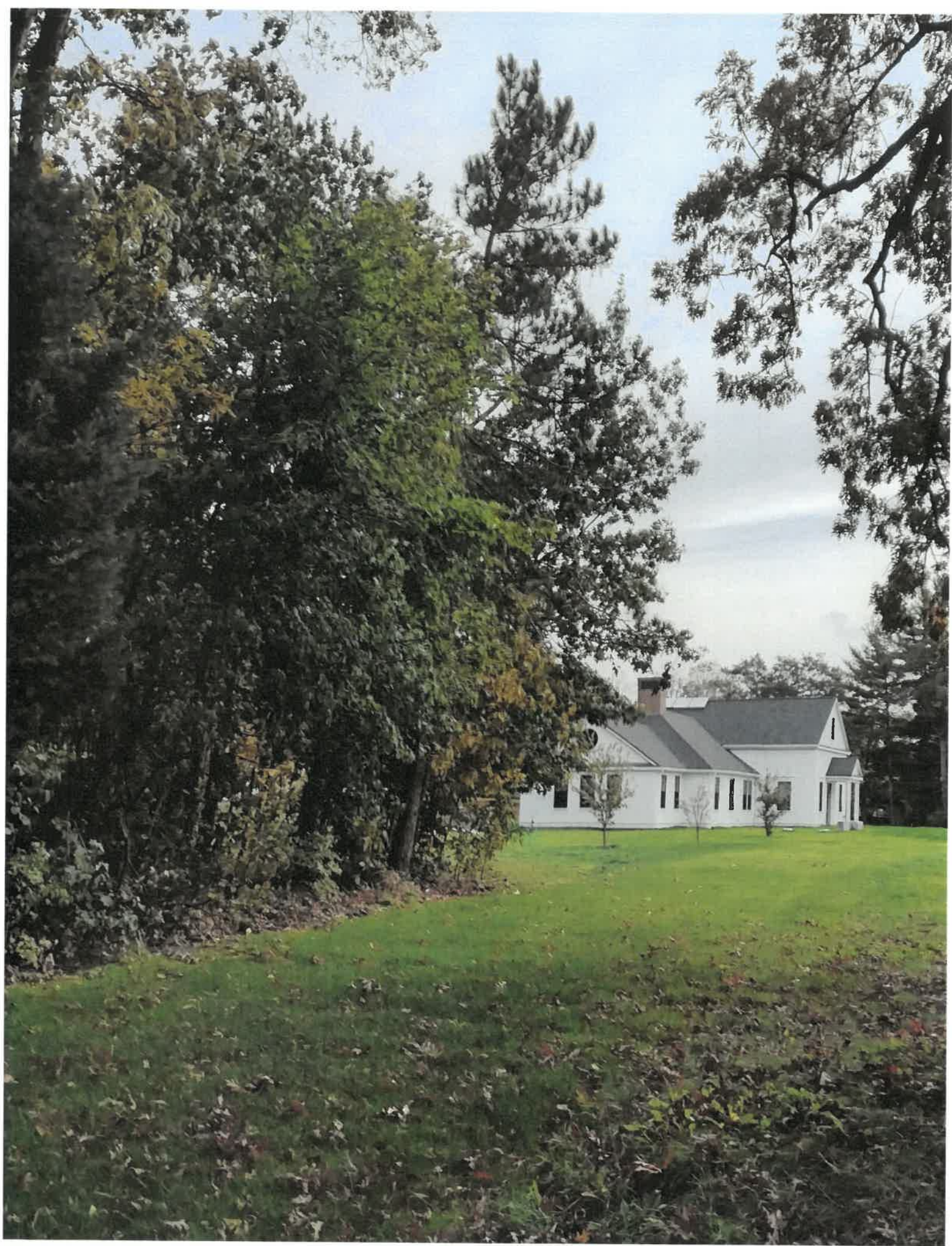
On a recent walk through the Perkins property, we noticed that there is a substantial berm/slope on the rerouted Pinfeather Lane that directs the water to our back property line.

I have attached two pictures to show what we are talking about. We are VERY concerned with the water impact on our property.

Marianne and Jim Brodrick







Debra Dennis

From: Karen Chapman <kchapman@mrpc.org>
Sent: Monday, October 18, 2021 11:01 AM
To: walt.meissner.12254@gmail.com; planning@shirley-ma.gov; planning@townofathol.org; Stephanie Whitten; planning@ashbysma.gov; marchambault@ayer.ma.us; pduffy@clintonma.gov; ewood@leominster-ma.gov; Takashi Tada; lallard; Hubbardston MRPC MJTC Plan Alice Livdahl (alivdahl@hubbardstonma.us); plan@hubbardstonma.us; cryan@harvard.ma.us; Beth Faxon; Winchendon Tracy Murphy (tmurphy@townofwinchendon.com); mohara@fitchburgma.gov; mmata@fitchburgma.gov; Kate Collins; Debra Dennis; cfucile@gardner-ma.gov; rtaylor@gardner-ma.gov; aburney@lunenburgonline.com; Inormandin@lunenburgonline.com; fraser.sinclair@gmail.com; djo@oneilbarrister.com; planning@phillipston-ma.gov; zba@phillipston-ma.gov; Wiita, Laurie; swallace@westminster-ma.gov
Cc: Glenn Eaton
Subject: FW: CPTC Webinar Series 2021 is beginning soon
Importance: High
Follow Up Flag: Follow up
Flag Status: Completed
Categories: BOA, planning

Good Morning All –

See email below for Citizen Planner Training Collaborative's Fall Training Webinar Series. All of the sessions are virtual, so very convenient for everyone. MRPC is hosting the Dec. 7th training *Roles & Responsibilities of Planning and Zoning Boards*.

You can register from the link below for our session and any other sessions that interest you or your board members. Please forward this to the Planning and Zoning Boards and Building Departments in your community, or any others that would benefit from these training sessions.

Thank you,

Karen Chapman, Planning & Development Director
 Montachusett Regional Planning Commission (MRPC)
 464 Abbott Avenue
 Leominster, MA 01453
 (978)798-6168 Office, (978)348-2490 FAX
www.mrpc.org

Please be advised that the Massachusetts Secretary of State considers e-mail to be a public record, and therefore subject to the Massachusetts Public Records Law, M.G.L. c. 66 § 10.

From: Citizen Planner Training Collaborative <webmaster+masscptic.org@ccsend.com>
Sent: Monday, October 18, 2021 7:30 AM

To: Karen Chapman <kchapman@mrpc.org>
Subject: CPTC Webinar Series 2021 is beginning soon

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.



CPTC Webinar Series 2021

Registration is Open

Registration is now open for workshops in CPTC Webinar Series 2021. The workshops are designed for citizen and professional planners in Massachusetts. The workshops cover subjects such as zoning, housing, design review, special permits and more. Each workshop is led by an Massachusetts expert in the subject area. The fee is \$20.00 per workshop.

Each workshop is sponsored by a regional planning agency and is open for anyone to attend. Subjects range from the basics like Roles and Responsibilities of Planning Boards and Boards of Appeals to more specialized information such as Fair Housing Laws. This is a great way for board members and staff to bring themselves up to date on any one of a number planning areas.

Registration closes 2 days prior to the workshop. so don't wait until the last minute. The fee can be paid online (preferred) or by check. All workshops include a pdf handout and the slides. Click on [registration](#) to get more information about the workshops.

Webinar Series 2021 - Workshop List

1. Fair Housing Laws, 11/10/21
2. Fair, Defensible Land Use Decisions, 11/15/21
3. Adopting and Revising Rules and Regulations, 11/17/21
4. Drafting Zoning Amendments, 11/18/21
5. Adopting and Revising Rules and Regulations, 11/23/21
6. Introduction to Subdivision Control Law/ANR, 11/29/21
7. Fair, Defensible Land Use Decisions, 12/2/21
8. Roles and Responsibilities of Planning and Zoning Boards, 12/7/21
9. Special Permits and Variances, 12/15/21
10. Use of Design Review, 12/16/21

Don't delay. Register today!

A Note On Payment: We ask all those who can to pay by credit card. We will accept checks but we have very limited access to our office and the mail at UMass. Checks may take several months to process.

The Citizen Planner Training Collaborative is a nonprofit organization providing training to citizen planners in Massachusetts.

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Citizen Planner Training Collaborative c/o UHI, UMass Boston | 100 Morrissey Blvd., Boston, MA 02125

[Unsubscribe kchapman@mrpc.org](mailto:kchapman@mrpc.org)

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Approved: Not Yet Approved

MINUTES OF THE PROCEEDINGS OF THE
PLANNING BOARD OF THE TOWN OF LANCASTER
Meeting conducted via ZOOM internet conferencing
Monday September 13th, 2021

Present: Russell Williston, Chair; Roy Mirabito, Vice Chair; Carol Jackson, Clerk; Tom Christopher;
Peter Christoph

Absent: None

Staff Present: Debra Dennis, Administrative Assistant

List of Documents:

- Hawthorne Hill Estates: Request for Partial Release of Bond
- Hawthorne Hill Estates: Copy of a memo sent from Planning Board to Board of Selectmen detailing issues with transfer of Open Space to the town, from January 2021.
- Proposed amendments to the Lancaster Stormwater Regulations, drafted by Roy Mirabito
- Proposed letter to Lancaster Farmers, with proposed distribution list, asking for comments on Lancaster Zoning. Drafted by Russ Williston.
- Proposed IPOD Bylaw amendments, drafted by Russ Williston, with an introduction letter.
- Request to discontinue a section of Old Lunenburg Road shown on an ANR plan.
- Email invitation to a Public Meeting for the 2021 Multi-Hazard Mitigation Plan-Sept 15th at 6PM
- Email Notice of Devens Enterprise Commission (DEC) Meeting & Executive Committee Meeting on September 15th, 2021
- Email from Cody Blair about runoff from the Harbor Homes development
- Draft minutes for the July 21st, 2021 Planning Board Meeting
- Draft executive session minutes for the July 1st, 2021 Planning Board Meeting.

Chair Russell Williston called the meeting to order at 7:00 PM.

Administrative

1. Attendance Roll Call

Roll Call for Attendance:
Roy Mirabito: Present
Carol Jackson: Present
Tom Christopher: Present
Peter Christoph: Present
Russell Williston: Present

Public Meeting

2. Review Hawthorne Hill Estates - Request of Partial Release of Bond (Continued from August 23rd)

The chair introduced this item and presented a memo that the board sent to the Board of Selectmen in January, 2021 sharing concerns that the open space related to the Flexible Development permit granted for this subdivision has not been transferred.

Member Tom Christopher stated that given the concerns over the land transfer, a reduction in the bond is not warranted.

Member Roy Mirabito stated that he concurred with Mr. Christopher. He also noted that a homeowners association is required as part of the subdivision.

Member Carol Jackson noted that the land was to be transferred before occupancy permits were issued for the subdivision.

Member Mirabito asked about the process for receiving the open space land.

Larry Shoer, 750 George Hill Road, stated that the transfer of the open space land would require a town meeting vote. He reviewed the history of the Subdivision Approval and deficiencies in meeting the conditions with regard to the open space.

Eric Watson, 717 George Hill Road, stated that the bond should not be reduced for the reasons stated earlier.

Motion by Carol Jackson: deny request to reduce the performance bond amount. Second by Roy Mirabito. Discussion:

Member Mirabito suggested that the board enumerate the reasons for denying the bond reduction.

Member Carol Jackson asked to cite concerns with Condition 5 of the approvals for the subdivision, regarding transfer of the open space parcel to the town.

Member Tom Christopher asked to cite that the subdivision has yet to receive a Certificate of Compliance from the Conservation Commission regarding issues at the site.

Member Christopher asked to cite that the developer has not yet established a homeowners association that would be able to accept ongoing responsibility for the subdivisions common areas.

Mr. Shoer offered a comment reiterating concerns about the subdivision conditions.

Roll Call Vote: Roy Mirabito: Yes, Carol Jackson: Yes, Tom Christopher: Yes, Peter Christoph: Yes, Russ Williston: Yes. Motion approved, 5-0.

3. Review and Consider Assessing Fine for new or ongoing Stormwater Violations at: 201 Hilltop Road

The chair recapped the situation; at the last meeting the board approved two weeks of fines. As of meeting time no stormwater application has been received and the fines have not been paid.

Tom Christopher noted that the developer has issued a restoration plan to the Conservation Commission related to work done within the wetland setbacks. They are contesting some of the consultant's findings. The Conservation Commission has not fined them yet.

Motion by Roy Mirabito: approve fines for the continuing violation from 8/24/2021 through 9/13/2021, with a note that fines may continue until a complete stormwater application is received. Second by Carol Jackson. Roll Call Vote: Roy Mirabito: Yes, Carol Jackson: Yes, Tom Christopher: Yes, Peter Christoph: Yes, Russ Williston: Yes. Motion approved, 5-0.

90 Duvall Road

The chair recapped the situation; the board approved a cease and desist on 9/13, and two weeks of fines on 9/27.

Deb Dennis notified the board that the developer paid the issued fines. A complete stormwater permit has not been received yet.

Tom Christopher relayed that the Conservation Commission's fines have also been paid.

Motion by Carol Jackson: authorize Deb Dennis as the board's agent to issue fines for the continuing violation from 8/24/2021 through 9/13/2021. Second by Roy Mirabito. Roll Call Vote: Roy Mirabito: Yes, Carol Jackson: Yes, Tom Christopher: Yes, Peter Christoph: Yes, Russ Williston: Yes. Motion approved, 5-0.

Harbor Hills development, Lunenburg Road

The chair recapped the situation: there is a stormwater permit approved for this project. A stormwater issue was reported by Tom Christopher, David Koonce and others after rainfall. At the prior meeting the board discussed the retention basin at the site. The board authorized David Koonce, as the board's agent under the stormwater bylaw, to review the situation and issue a cease and desist if it's appropriate. David Koonce did issue a cease and desist for the board between meetings.

Tom Christopher relayed that the applicant appeared at the last Conservation Commission and that the Conservation Commission likely will issue fines in regards to the issues they are handling.

Carol Jackson asked if fines should be issued. Tom Christopher, Roy Mirabito and Carol Jackson discussed whether fines should be issued. There were possibly two documented violations.

Tom Christopher spoke at length about the status of the detention basins of the site; they have not yet been constructed as designed and there are several "temporary" basins on the site.

Russ Williston noted that there is currently an issue with the Stormwater approval letter issued on the project; it was not published and delivered last year. The board is currently working to resolve that..

4. Review Proposed Stormwater Regulation Amendments, take any action appropriate (Roy Mirabito)

The chair introduced the agenda item: at the last meeting the Board asked Roy Mirabito to draft some stormwater regulation amendments to effect his suggestions regarding solar panels as impervious surfaces. The board has in its packets Roy's draft amendments.

Roy Mirabito introduced his proposal, to amend the regulations to include the total area of solar panels on a site as impervious surface for the required calculations.

Tom Christopher commented that his inclination is to amend the stormwater regulations or bylaws to prohibit ground mounted solar panels on extreme slopes, or possibly in areas with problematic soil as that has historically been where Lancaster has encountered issues. 33% is the natural slope of soil. Even 15% might be too steep a grade for solar panels; he would recommend 10%.

Roy noted that he feels we should make the stormwater regulations as firm and guiding as possible; he feels they're currently pretty loose.

Resident Frank Streeter made a comment on solar panels as impervious surfaces: the panel's effect is to move the water several feet to the side, but most of the surface at a site remains permeable beneath the panel. As a surface the panels are "striped" rather than "solid."

Roy inquired about running some sample stormwater calculations through a town engineer. Carol Jackson, Russ Williston and Tom Christopher concurred that this would be helpful, possibly with several of the real-world projects the board has had experience with.

Tom Christopher moved that the board ask Tom Christopher and Roy Mirabito to prepare an RFP for Deb to send out for quotes, requesting feedback on the effects of altered stormwater regulations for several sample projects. Second by Roy Mirabito. No discussion. Roll Call Vote: Roy Mirabito: Yes, Carol Jackson: Yes, Tom Christopher: Yes, Peter Christoph: Yes, Russ Williston: Yes. Motion approved, 5-0.

5. Update from chair on progress dealing with the Barrett IZ Study, double payment from Planning Board Revolving Fund. Review letter sent to the Finance Committee. Take any action appropriate.

The chair introduced this agenda item. At a previous Select Board meeting the town administrator had recommended that the board reach out to the finance committee to have \$8000 transferred back to the Planning Board revolving fund. The recording of that Select Board meeting was lost, but at the last Planning Board meeting, finance committee member Dick Trussell spoke to share this information.

As recommended, the chair drafted a letter to the finance committee requesting the transfer to the Planning Board revolving fund. Finance Committee chair Michell Vasquez acknowledged receipt of the letter, and the topic will appear on the next finance committee agenda.

Carol Jackson stated concerns about how the double payment happened.

6. Review proposed letter to Lancaster farmers, Soliciting feedback on existing zoning and opportunities for agritourism improvements. Take any action appropriate. (Russ Williston)

The chair introduced the agenda item. The chair wants to send a request for comments to farms in Lancaster. He wants to ask if there's any zoning in Lancaster that is making agritourism difficult in Lancaster. He prepared a draft letter and distribution list based on a 2021 61A list received from the town assessor.

Carol Jackson expressed support for sending a letter.

Tom Christopher spoke of his desire to support farms, and to make sure that it's clear what's allowed and what's not allowed.

Roy Mirabito commented on the importance of farms in town, and his desire to support agriculture.

Motion by Carol Jackson: send the letter as drafted from the board, with the proposed distribution list. Second by Roy Mirabito. Discussion:

Deb Dennis is available tomorrow to prepare the letters on the Planning Board letterhead.

Roll Call Vote: Roy Mirabito: Yes, Carol Jackson: Yes, Tom Christopher: Yes, Peter Christoph: Yes, Russ Williston: Yes. Motion approved, 5-0.

7. Review proposed amendments to the IPOD bylaw, specifically changes to allow all business IPOD applications. Take any action appropriate. (Russ Williston)

The chair introduced the agenda item. In the board's packet are some proposed amendments to the IPOD bylaw that he drafted, with an introduction letter. The impetus for the changes is to allow IPOD applications with site plans that don't meet the current requirement for a minimum of 25% residential gross floor area.

The chair walked through the five amendments he recommends: the amendments would remove the residential requirement, alter the intent statement, remove an ambiguous requirement that the development “not have a material impact on the neighborhood”, alter the phasing requirement, and remove a cap on the size of enterprise zone use structures outside of the enterprise zone.

Roy Mirabito approved of reworking the IPOD bylaw as an approach to this need, maintaining the protections for the town that the IPOD bylaw includes.

Carol Jackson is pleased the board is working on this and thinks the draft is a great start. Would like to see an amendment to ensure that IPODs aren’t just a vehicle to build dense housing. The chair commented that an additional amendment might be a change to the allowed number of housing units per acre.

Carol Jackson, question about amendment 3: would like to see some limit on gross square footage of a single structure outside the Enterprise Zone. Some discussion ensued on how to word that and whether it should be a hard limit or an advisory of the towns preference.

Tom Christopher noted that the IPOD districts are overlay districts to allow special uses in the residential zone: they should be carefully reviewed. The requirements should be specific and protect the environment -- traffic is critical.

Chair says what he would like to do tonight is get approval to send the bylaw changes to the “Economic Development Committee” for review. Roy Mirabito notes they’re meeting on Wednesday.

Motion by Roy Mirabito: allow the chair to send the proposed amendments to the Economic Development Committee for review. Second by Carol Jackson. Discussion:

Peter Christoph asked for clarification on how the proposed amendments would affect housing in an IPOD: the chair clarified that they would still allow housing to be included, it just wouldn’t require it. Peter asked whether housing in this area has a benefit to the town: some discussion ensued.

Tom Christopher stated that he doesn't necessarily see the benefit of mixing housing with commercial and industrial development.

Roll Call Vote: Roy Mirabito: Yes, Carol Jackson: Yes, Tom Christopher: Yes, Peter Christoph: Yes, Russ Williston: Yes. Motion approved, 5-0.

8. Review request to discontinue a section of Old Lunenburg Road, issue a report on the

proposal.

The chair introduced this item: the board has in their packets a letter from May requesting that the town discontinue a small section of “Old Lunenburg Road” near the Nationwide Auto facility on Lunenburg Road and an ANR plan showing the road stub. The board is required to make a report regarding the request.

The board has in their packets a report drafted by the chair that states the the board found no reason to dis advise discontinuing the road section described in the letter: that draft report is available for the board to approve if it’s accurate.

Before the meeting the chair confirmed that this is a different section of Old Lunenburg Road than the one discontinued at the 2009 Annual town meeting. They are both shown on the same plan, but this request refers to the other section that was not previously discontinued. The chair is not aware of any reason to dis advise the discontinuance.

Tom Christopher is not aware of any reason to not discontinue the road.

Resident Martha Moore spoke to confirm that this section of road is not the section she is familiar with and uses to get onto 70. It is not.

Motion by Peter Christoph: approve the report drafted by the chair, reporting that the board found no reason to dis advise discontinuing the road section requested. Second by Tom Christopher. No discussion. Roll Call Vote: Roy Mirabito: Yes, Carol Jackson: Yes, Tom Christopher: Yes, Peter Christoph: Yes, Russ Williston: Yes. Motion approved, 5-0.

9. Correspondence

The chair reviewed an email from Cody Blair on September 10th: Mr. Blair shared runoff concerns related to the Harbor Homes development, water use on the site, and the location of the road discontinuance. With the board's consent the chair will respond.

a. Public Meeting for the 2021 Multi-Hazard Mitigation Plan-Sept 15th at 6PM

The board reviewed the invitation

b. Notice of Devens Enterprise Commission (DEC) Meeting & Executive Committee Meeting on September 15th, 2021

The board reviewed the invitation.

10. Review any available info on progress with Town Planner Search

Carol Jackson relayed that the search committee will interview three applicants on 9/22. The posting is also still open and receiving resumes.

11. Vouchers

Motion by Tom Christopher: approve voucher from Haley Ward for \$772.50 for professional services on 438 Old Union Turnpike. Second by Carol Jackson. Discussion:

Chair notes that this is an invoice from May that was unpaid. Project is closed out but Deb Dennis confirmed that there's still money in the project account to pay this.

Roll Call Vote: Roy Mirabito: Yes, Carol Jackson: Yes, Tom Christopher: Yes, Peter Christoph: Yes, Russ Williston: Yes. Motion approved, 5-0.

12. Minutes:

At meeting time minutes for the following meetings were outstanding:

- a. July 1st (Executive Session)
- b. July 26, 2021
- c. August 9, 2021
- d. August 23, 2021

Draft minutes for July 1st (Executive Session) and July 26 are available to approve.

Motion by Carol Jackson: approve, but not release, the July 1st 2021 Executive Session draft minutes. Second by Tom Christopher. No discussion. Roll Call Vote: Roy Mirabito: Yes, Carol Jackson: Yes, Tom Christopher: Yes, Peter Christoph: Yes, Russ Williston: Yes. Motion approved, 5-0.

Chair noted that the state's recommendations is that the board review unreleased executive session minutes for release at least quarterly, and the board will do so at the end of September.

Motion by Carol Jackson: approve the July 26th, 2021 draft minutes. Second by Tom Christopher. No discussion. Roll Call Vote: Roy Mirabito: Yes, Carol Jackson: Yes, Tom Christopher: Yes, Peter Christoph: Yes, Russ Williston: Yes. Motion approved, 5-0.

Adjourn

Motion by Carol Jackson: adjourn, Roy Mirabito seconded. No discussion. Roll Call Vote: Roy Mirabito: Yes, Carol Jackson: Yes, Tom Christopher: Yes, Peter Christoph: Yes, Russ Williston: Yes. Motion approved, 5-0.

The meeting was adjourned at 8:54PM.

Approved: Not Yet Approved

MINUTES OF THE PROCEEDINGS OF THE
PLANNING BOARD OF THE TOWN OF LANCASTER
Meeting conducted via ZOOM internet conferencing
Monday September 27th, 2021

Present: Russell Williston, Chair; Roy Mirabito, Vice Chair; Carol Jackson, Clerk;
Peter Christoph

Absent: Tom Christopher

Staff Present: Debra Dennis, Administrative Assistant

List of Documents:

- McGovern Blvd Subdivision Amendment: Written request to continue until December 13th, 2021.
- Email from Erin Smith, Hawthorne Hills, regarding contractor equipment in the road
- Email from Victoria Petracca, Affordable Housing Trust, relaying a review of their 40R bylaw by Michael Antonellis.
- Proposed response the Affordable Housing Trust regarding 40R bylaw approval authority, drafted by the chair
- Draft minutes for the August 23rd, 2021 Planning Board meeting.

Chair Russell Williston called the meeting to order at 7:00 PM.

Administrative

1. Attendance Roll call

The chair relayed that Tom Christopher called before the meeting to let him know he would be absent.

Russell Williston: Yes
Roy Mirabito: Yes
Carol Jackson: Yes
Tom Christopher: No

Peter Christoph: Yes

Public Meeting

2. Request for continuance: North Lancaster for approval of an Amended Definitive Plan

Phase 2 entitled "McGovern Boulevard Phase II: Roadway Construction in Lancaster Mass, relative to the roadway construction for the approved Definitive Subdivision (continued from August 23rd)

Between meetings the applicant submitted a written request to continue this hearing until December 13th, 2021.

Motion by Carol Jackson: continue the hearing until December 13th, 2021 at the applicants request. Second by Roy Mirabito. No discussion. Roll Call Vote: Roy Mirabito: Yes, Carol Jackson: Yes, Peter Christoph: Yes, Russ Williston: Yes. Motion approved, 4-0.

3. Review and Consider Assessing Fine for new or ongoing Stormwater Violations at: 201 Hilltop Road

This is a project that has received a stormwater cease and desist some time ago; the board has issued additional fines at each subsequent meeting. The board received notice between meetings that they're appealing the initial fine, but no date has been set yet. As of meeting time a complete stormwater permit application has yet to be received.

Richard Harrington, engineer for the project, spoke to request a stay of further fines until November 8th. The developer is engaged with the conservation commission on wetlands issues. Mr. Harrington also requested a reprieve from the cease and desist to seed the site with winter rye.

David Koonce, Town Conservation Agent, expressed that allowing stabilization on the site is desirable.

Carol Jackson expressed that the applicant should have had this permit prior to work, and opposes withholding further fines.

Roy Mirabito believes fines should continue until the completed stormwater permit is received.

Carol Jackson asked David Koonce to confirm that the grass proposed is appropriate: Mr. Koonce expressed that it would be fine for the winter.

Motion by Roy Mirabito: grant relief from the cease and desist to plant grass for the next two weeks. Second by Carol Jackson. No discussion. Roll Call Vote: Roy Mirabito: Yes, Carol Jackson: Yes, Peter Christoph: Yes, Russ Williston: Yes. Motion approved, 4-0.

Motion by Carol Jackson: approve continuing fines, for September 14th through September 27th, with the warning that fines may continue until a complete stormwater permit application is received. Second by Roy Mirabito. No discussion. Roll Call Vote: Roy Mirabito: Yes, Carol Jackson: Yes, Peter Christoph: Yes, Russ Williston: Yes. Motion approved, 4-0.

90 Duvall Road-Stormwater Application Received

The board has previously issued a cease and desist and subsequent fines for this project. They submitted a complete stormwater application between meetings; it was received on September 21st, 2021.

Motion by Carol Jackson: approve continuing fines, for September 14th through September 21st. Second by Roy Mirabito. No discussion. Roll Call Vote: Roy Mirabito: Yes, Carol Jackson: Yes, Peter Christoph: Yes, Russ Williston: Yes. Motion approved, 4-0.

Harbor Hills development, Lunenburg Road

The board has a cease and desist in place for this project, related to stormwater issues observed in August at the site.

Atty. Peter Campobasso was in attendance for the developer. They've been monitoring the site closely since the issue occurred, and stopped work after receiving the cease and desist. They are preparing a site stabilization plan but don't have an estimated date of completion yet. Atty. Campobasso requested relief from the cease and desist to perform stabilization work at the site, including loaming and seeding with piles already at the site. Another unused loam pile would be seeded.

The chair asked how long stabilization work would take. Atty. Campobasso said it would take two weeks; if any issues arose they would notify Town Conservation Agent David Koonce.

Roy Mirabito requested David Koonces input. David Koonce affirmed that stabilization work as Atty. Campobasso described would be desirable.

Resident Cara Sanford stated that she had requested the EPA investigate the lack of an MPDES stormwater permit at this site. She stated that the developer was recently fined in Lunenburg for lacking this permit.

David Koonce relayed a draft report from the EPA representative who visited the site the previous Friday. It cited the lack of stabilization at the site.

Carol Jackson asked David Koonce if a violation of the Stormwater Bylaw occurred. David Koonce noted that it probably had, but that the stormwater permit approval had never been published. (An issue the board has been working to resolve.)

Motion by Carol Jackson: approve relief from the cease and desist to perform stabilization work at the site through September 13th. Second by Roy Mirabito. No discussion. Roll Call Vote: Roy Mirabito: Yes, Carol Jackson: Yes, Peter Christoph: Yes, Russ Williston: Yes. Motion approved, 4-0.

4. Missing approvals for Harbor Hill Subdivision: review new information available at meeting time, if any, and take any action appropriate

The chair introduced this item. Between meetings Debra Dennis located the approval letters for the Harbor Hills Definitive Subdivision Plan, Site Plan, and Stormwater Permit. Those were all affirmatively voted on June 8th, 2020 but the approvals were never signed and delivered.

The chair recommended that the board hang onto these until the next meeting so that Tom Christopher can also review them.

The chair recognized Victoria Petracca who had some related questions about the two affordable units that were required as a condition of the IPOD Special Permit issued to the developer. There are two applications that should be submitted for the approved affordable units; they could have been filed as soon as the project was approved.

Atty. Campobasso confirmed that he did receive the information that Victoria Petracca forwarded. He will be happy to look into it and will be ready to talk about it again at the 10/25/2021 Planning Board meeting. Victoria Petracca confirmed that she will attend to participate in that conversation.

5. Proposed Stormwater Regulation Amendments: review any new information received

and take any action appropriate

At the previous meeting the board asked Roy Mirabito and Tom Christopher to prepare an RFP that the board could send out to get quotes for engineering work to investigate the effect of considering solar panels an “impervious surface” for purposes of the Lancaster Stormwater Regulations.

Roy relayed that after considering the problem, he would like to take a different approach to the problem. Considering solar panels an impervious surface may not be desirable. He is going to investigate further and will report back at a future meeting.

6. Update from chair on progress dealing with Barrett IZ Study, double payment from Planning Board Revolving Fund. Review new information, if any, received by meeting time.

The Finance Committee has not met yet: the chair had no update.

7. Review proposed amendments to the IPOD bylaw, specifically changes to allow all-business IPOD applications. Review by Planning Board members and review any Economic Development Committee feedback received by meeting time. Take any action appropriate. (Continued from the previous meeting.)

At the previous meeting the board reviewed IPOD bylaw amendments drafted by the chair, and authorized him to send them to the Economic Development Commission for review.

The chair relayed that the Economic Development Committee met twice since the prior Planning Board meeting and did not discuss the IPOD bylaw amendments. The chair relayed that Phillip Eugene subsequently stated that “he did not feel it was appropriate to review another committee’s bylaw.”

The chair stated that he felt the board should continue to develop the IPOD amendments.

Carol Jackson also stated that the board should continue to develop the IPOD amendments. She stated a preference toward reducing the allowed housing units per acre in the IPOD district. The chair noted the the IPOD bylaw permits 15 units per acre now, and if the residential requirement is removed that may not be necessary. The allowed units per acre was increased from 1 to 15 in 2017.

Resident Cara Sanford stated that the ICOD bylaw being developed by the Economic Development Committee seems like spot zoning.

Roy stated a preference for a solution using a special permit process, which the IPOD bylaw uses and the ICOD bylaw in development does not.

Deb Dennis relayed a concern from Greg Jackson about building height in the IPOD and ICOD bylaws. Right now IPOD allows a greater peak height, but has more requirements for ensuring the peak is concealed.

8. Review any available info on progress with Town Planner Search

Carol Jackson relayed that the search committee has interviewed two applicants and is still accepting applications.

Other Business

9. Correspondence

a. Email from Erin Smith, Hawthorne Hills, Contractor Equipment on Road

The board reviewed Ms. Smith's email. There is a great deal of Melanson Bros., Inc contractor equipment on the road on Hawthorne Lane. Despite efforts by the fire chief and Health Agent, the problem still persists as of meeting time.

Roy Mirabito expressed concern about Ms. Smith's note that Melanson Bros. appears to be undergoing a business change and is selling off equipment.

Carol Jackson questioned if this might be a special permit violation.

Discussion ensued about other unfulfilled requirements at the subdivision that could be impacted by a change in the contractors business. The chair indicated that will run this item on the next agenda, with the aim of sending a letter to the Select Board.

b. Email from Victoria Petracca, Affordable Housing Trust, review of 40R bylaw by Michael Antonellis. Consider providing feedback regarding Approval Authority. (See draft)

Current draft of the 40R bylaw specifies an alternate approval authority for the 40R district: rather than the Planning Board it would be a hybrid authority assembled with members of five committees.

The board has a draft response in their packets to consider. The draft response disrecommends the use of an alternate approval authority for the 40R district.

The board reviewed the draft response.

Victoria Petracca and Frank Streeter from the Affordable Housing Trust spoke to some of the points in the board's draft response.

Motion by Peter Christoph: approve sending the response letter as drafted to the Affordable Housing Trust. Second by Carol Jackson. Discussion:

Peter Christoph prefers the approval authority recommended by the Montachusett Regional Planning Commission: the Planning Board.

Russ Williston feels strongly that the approval authority should be the Planning Board; an alternate approval authority would be conspicuous and raise questions about the bylaw.

Deb Dennis read several text chat comments: Martha Moore felt the Economic Development Committee duplicated the work of other boards, and should not be focused on specific bylaws.

Frank Streeter: spoke in opposition to the comment in the letter that an appointed board would be less independent.

The chair read text chat comments: Kathy Hughes stated that the approval authority should be elected officials.

Roy Mirabito stated that the Economic Development Committee had this discussion with regard to the ICOD bylaw, and decided that the approval authority should be the Planning Board.

Roll Call Vote: Roy Mirabito: Yes, Carol Jackson: Yes, Peter Christoph: Yes, Russ Williston: Yes. Motion approved, 4-0.

10. Vouchers

No vouchers were available for review at meeting time.

11. Minutes:

Minutes for two past meetings were outstanding:

- a. August 23, 2021
- b. September 13, 2021

Draft minutes for the August 23rd Planning Board meeting were available to approve.

The board reviewed the draft August 23rd Planning Board minutes. A number of minor spelling errors were addressed, including multiple misspellings of "Mirabito."

Motion by Roy Mirabito: approve the August 23rd draft minutes as amended. Second by Peter Christoph. Roll Call Vote: Roy Mirabito: Yes, Carol Jackson: Abstain, Peter Christoph: Yes, Russ Williston: Yes. Motion approved, 3-0-1 with Carol abstaining.

12. Quarterly review of retained Executive Session Minutes. Consider approving for release:
a. July 1st (Executive Session)

The chair recommends finding that the reason for the executive session on July 1st, 2021 still exists and that the board continue to retain those minutes for now.

Motion by Peter Christoph: find that the reason for the Executive session on July 1st still exists, and continue retaining those minutes. Second by Roy Mirabito. No discussion. Roll Call Vote: Roy Mirabito: Yes, Carol Jackson: Yes, Peter Christoph: Yes, Russ Williston: Yes. Motion approved, 4-0.

The chair noted that the board should review its executive session minutes again in December, at the end of the next quarter.

Adjourn

Motion by Carol Jackson: Adjourn. Second by Peter Christoph. Roll Call Vote: Roy Mirabito: Yes, Carol Jackson: Yes, Peter Christoph: Yes, Russ Williston: Yes. Motion approved, 4-0.

The meeting was adjourned at 8:51PM.