

December 14, 2020
Lancaster Planning Board
701 Main Street
Lancaster, MA 01523

Lancaster Board of Selectmen
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Lancaster, MA 01523

Members of the Lancaster Select Board,

The Planning Board recommends that you contact the building inspector to request enforcement regarding “Condition 5” 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. In this specific case the parcel designated as “Open Space” is still owned by the developer, “Melanson Bros. Inc”, and the developer intends to convey the parcel to the Conservation Commission.

This special permit was issued with several conditions. “Condition 5” on the “Certificate of Approval” for that “Flexible Development Special Permit” clearly requires 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.” The developer has constructed a substantial water pump station and parking lot on that open space with access from George Hill Road.

“Condition 5” from the Flexible Development Special Permit was subsequently included by reference in the “Definitive Subdivision Plan” approved by the Planning Board, in a Certificate of Approval dated January 26th, 2016.

The town should request enforcement and continue to expect that this open space parcel remain 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, 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 towns expectation should be than 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 towns interest in this parcel, it is important that you immediately request enforcement from the building inspector. On December 14th the Planning Board met, reviewed the issue, and voted to send your board this recommendation.

Sincerely, on behalf of the Lancaster Planning Board,

Russell W. Williston

Chair, Lancaster Planning Board

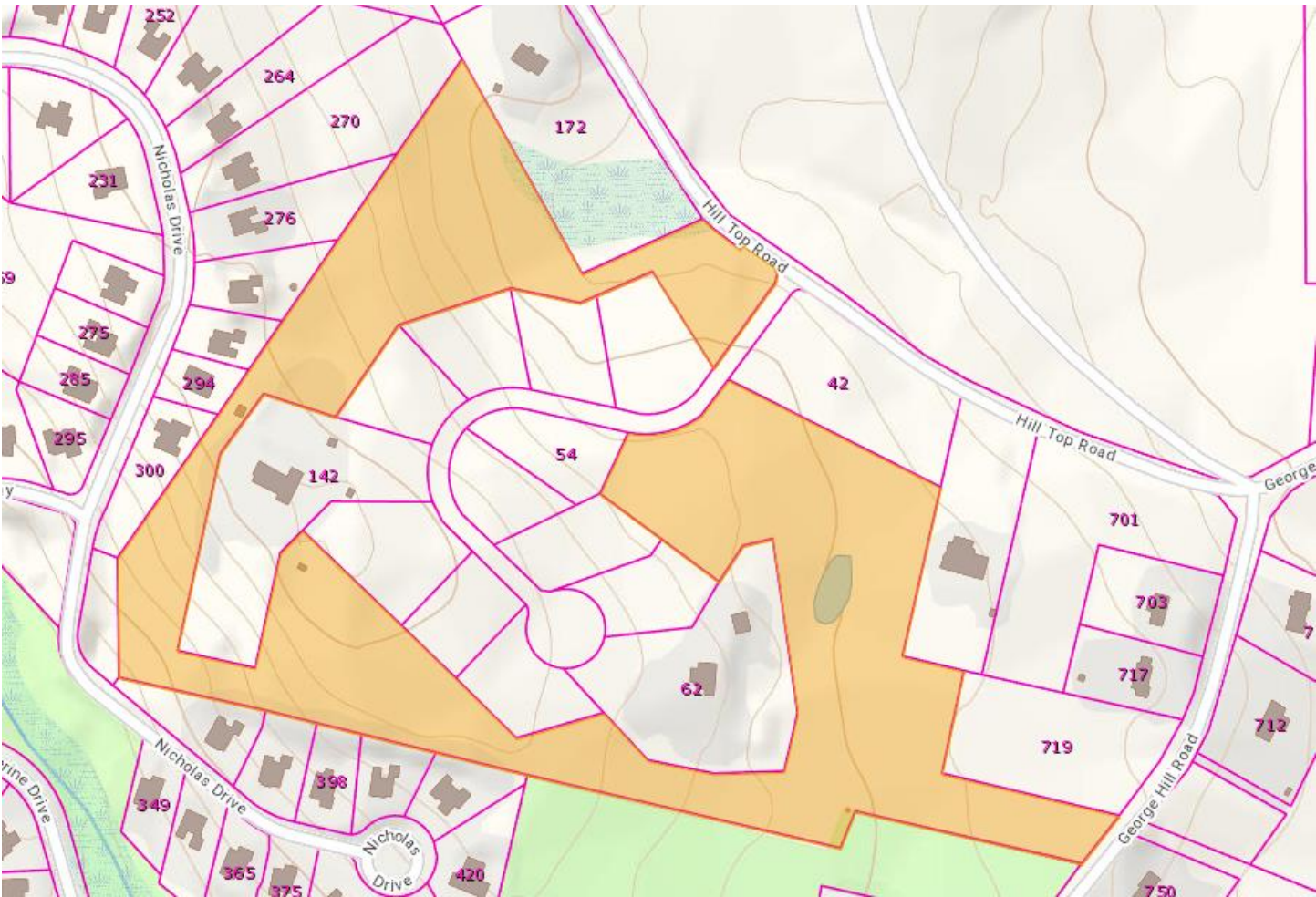
Enclosed:

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

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



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

