



Town of Lancaster
Planning Board
Lancaster, Massachusetts 01523

**7:00 P.M., Monday, January 10, 2022
Meeting Minutes**

Administrative

1. Attendance Roll Call

Present: Russ Williston, Chairman
Roy Mirabito, Vice Chairman
Carol Jackson, Member
Peter Christoph, Member
Tom Christopher, Member

2. Welcome New Director of Community Development and Planning, Jasmin Farinacci

Chairman Williston introduces the new Director of Community Development and Planning. Haven't had a Planning Director since June 2020 and thank you Mrs. Jackson for sitting on the hiring committee.

Chairman Williston has been in touch with Director Farinacci about the items on the agenda and feels she is off to a good start. Chairman Williston asks Director Farinacci if she will be joining their meetings regularly, which she states is her intention to join the Planning Board hearings as the Zoom host.

Chairman Williston states that the office has been receiving digital and paper copies of applications, and asks the Board if they would like to consider receiving electronic copies of the filings. Member Christopher states that he is amenable to receiving digital copies and recommends still requesting paper copies for record purposes. Member Jackson and Member Mirabito state they would like to receive paper copies. Director Farinacci confirms she will provide Member Mirabito and Member Jackson with paper copies and will request paper filings from applicants for record retention purposes.

Chairman Williston states that the last few years have been a challenging and quickly changing time and commends Office Manager Debra Dennis for taking on the tasks of keeping the office running while there was not a Director of Community Development and Planning or a Conservation Commission agent. Chairman Williston states that Mrs. Dennis was a stabilizing force for the

Planning Board and would like to recognize this and would approve a copy of a memo being sent to the Selectmen and also the Director Farinacci for Mrs. Dennis' personnel file. Chairman Williston reads the memo of accolade he wrote for Mrs. Dennis into the record.

Roll Call Vote: Roy Mirabito - Aye

Carol Jackson - Aye

Tom Christopher - Aye

Peter Christoph - Aye

Russ Williston - Aye

Public Hearing

- 3. Fort Pond LLC seeks a Special Permit under the requirements of the Lancaster Zoning Bylaw Section 220-39, Stormwater Permit** under the requirements of Lancaster Stormwater control Regulations Ch 170, and Site Plan Approval under the requirements of the Lancaster Zoning Bylaw Section 220-34. The applicant proposes to construct a 211,200 SF addition to the existing building for increased manufacturing and production capacities with related parking, loading and other site improvements at a property located at 580 Fort Pond Road and within the Enterprise Zone zoning district, the Integrated Planning Overlay District, and the Water Resource Protection Overlay District. (Continued from 12/13/2021)

NOTE: APPLICANT HAS SUBMITTED A WRITTEN REQUEST TO CONTINUE THIS HEARING UNTIL MARCH 14, 2022

Chairman Williston notes that a request for continuance was received by the applicant to continue the hearing until March 14, 2022.

Mrs. Dennis confirms that March 14th is not a holiday.

MOTION: Member Jackson moves to continue the hearing until March 14th, 2022, seconded by Member Mirabito.

Roll Call Vote: Roy Mirabito - Aye

Carol Jackson - Aye

Tom Christopher - Aye

Peter Christoph - Aye

Russ Williston - Aye

Public Meeting

- 4. Review Violations and Active Orders:** Review and respond as appropriate to any new information received by meeting time and consider assessing fines where applicable for new or ongoing stormwater violations at:

201 Hilltop Road (Cease & Desist delivered, Stormwater Permit Application in progress)
2038 Lunenburg Road (Cease & Desist delivered, resolution in progress)
90 Duvall Road (Cease & Desist delivered, Stormwater Permit Application in progress)
Old Union Turnpike, Assessors Map 3 Parcel 4 (Cease & Desist delivered, town counsel engaged)

Chairman Williston states that he does not have any updates on these. 90 Duval Road's Stormwater Permit has been resolved and was on the agenda as an error.

201 Hilltop Road, Member Christopher states they have set up a meeting with another consultant to review conservation issues on the site next week. The hearing for this site will begin next meeting.

2038 Lunenburg Road is on the agenda still, Member Christopher states the site is stable.

Old Union Turnpike, Assessors Map 3 Parcel 4, Chairman Williston states the Town has changed Town Counsel without any notice, but he has been in contact with Director Farinacci on the site. Chairman Williston is not sure how this impacts the work Alex did for the Board, there was supposed to be another Executive Session item on the agenda in January. Chairman Williston forwarded correspondence to Director Farinacci and asked what she can find out about the Town Counsel situation to see who will be moving this forward and Chairman Williston will keep the Board informed.

5. Discuss Homeowners Trust Required at Hawthorne Hills Subdivision, off Hilltop Road and George Hill Road: update from the chair with info, if any, available at meeting time.
(Continued from 10/25, 11/8, 11/22, 12/13 and 12/27.)

Chairman Williston said he has been in contact with Jay Moody and they will put together something based on what he gathered to present to the Select Board. The residents on the cul-de-sac went before the Selectmen as they were concerned about the road being plowed and other issues.

Member Miribito asks if the performance bond they had with Melanson if the work would include the formation of a homeowners association in a timely fashion as it was supposed to be done and can we pull from the bond to plow the road during the winter.

Chairman Williston states he does not believe the money from the road bond would be able to be used for plowing the road or if it could be used to form the Homeowners Association. Chairman Williston said he will look into this.

Member Jackson states the Homeowners Association was a condition of the roadway and is not sure why we would not consider using the bond for plowing. The punchlist and homeowners association has not been completed yet and feels enforcement would be the way to go. Chairman Williston states the new building inspector said he feels he may have a new way to approach the situation and that it would be a good idea to find the performance bond and the details of the bond. Chairman Williston asks Director Farinacci to find the performance bond. (Director Farinacci found that there was no performance bond taken it, it was cash taken in).

Member Christopher states they have not filed for compliance with the Conservation Commission at this time and the open space was not conveyed to the Town. Member Christopher is unsure that the

town should accept the open space property due to the nature of complications on the property as it exists and feels this should be worked out with new Town Counsel and that they have not satisfied Conservation requirements yet.

6. Discuss and submit comments from the Planning Board to be included with Affordable Housing Trust's 40R District Application for Determination Preliminary Eligibility.

If desired by the board; a Select Board hearing is scheduled for 1/19 @ 6PM.

Chairman Williston states this Determination for Preliminary Eligibility has been written and the LAHT has drafted the 40R language that they propose to submit to DHCD and one of the items they can include are comments from the interested boards and notes to include changes based on those recommendations. This hearing has been scheduled for January 19th. Chairman Williston created a list of comments to share with the Board for them to discuss on the 40R. Chairman Williston went through the application with the most recent available documents. Member Mirabito recommends some Scribner's edits. Chairman Williston states he was surprised when he first looked at the application due to the number of incentive units of 674. They have created a large district with a density of 25 units/acre (which was received by dividing the amount of developable land by the 25 units/acre), which the Chairman feels is an alarming number of units as they were attempting to avoid a 600-unit 40B. Member Jackson states that she believes the number of units allowed is higher than 674. Chairman Williston shares the proposed 40R map on the screen. Chairman Williston states he added the green numbers to get to the number of 674, which is slightly rounded. Member Jackson states if you add the purple number, of future allowed development, creates the potential of 1,100 units by-right. Chairman Williston agrees that the unit number is allowing. The soccer field would allow 377 units by-right under the purple (potential units) zoning number. Chairman Williston states that the Town was not prepared to propose this number of units by-right and is not sure what can be done to reduce the number.

Member Christoph states this is a scary potential.

There is a reference on the application for an eligible location and the one they identified was 1C which is a city or town center or commercial district. One of the requirements is that there be access to existing sewer and water or scheduled service for water and sewer within five years. Regardless of the definition it is unlikely that would be in place within five years. There was a letter from the state that was submitted for a hydrological study for the site, which has not been updated since 2020 which was not included in the 40R application, and there was not a plan to provide the required water and sewer on the site within five years.

The provisions to ensure this does not exceed the threshold for affordability was familiar to Chairman Williston and he is familiar with the language the Town by-law would be required to include to have a percentage of affordable units. The language states a project shall not be divided to evade the affordability threshold.

The Plan Approval Authority for 40R is a concern for the Planning Board and Chairman Williston listed the Economic Development Committee, that Site Plans currently go to Planning Board and now they will end up in front of other committees and the way the applicability section of the 40R by-law is written is that essentially the remainder of the zoning by-laws do not apply, and that primarily residential developments submit a site plan. Chairman Williston is concerned with what

happens when a commercial development is submitted, he is concerned with the lack of following the remaining by-laws, and he is concerned if an earth removal project is proposed. Chairman Williston states he is unsure what the solution is and recommends potentially looking at some other towns 40R by-laws.

The infrastructure impacts and upgrades section, under Planned Infrastructure Upgrades (and impacts) the application is supposed to include updates to benefit the development including a water and sewer agreement. Chairman Williston is concerned with this and more concerned after reading the incentive agreement. The Town is eligible to receive \$600,000 incentive payment because our incentive units are above 501 in this district, but if either construction or the infrastructure upgrades are not completed within three years – there are serious ramifications if the water or sewer upgrades are not completed.

Member Jackson states the number of future zoned units is 1,100. Chairman Williston agrees that water and sewer for 1,100 units is a lot and is something the LAHT should look at.

Member Mirabito states that the proposed water supply is too low for the number of units. Chairman Williston thought he recalled Member Mirabito previously mentioning that the agreement with Leominster for the water was only for 25 years.

Member Christopher states in regard to this the Goodrich project was less than 200 units and they had difficulty getting that approved. The issue is leakage in the sewer system and there was discussion from the sewer board was that the leakage was more on the Clinton end of the sewer lines and it is not reasonable to have Lancaster pay for Clinton's line upgrades to have successful housing in North Lancaster. Member Christopher notes that there is no sewer system on the site currently.

Chairman Williston states he believes an MOU is being negotiated that will impact the district which may limit the number of housing units that may be constructed and if anything impacts the number of units that can be constructed it should be mentioned in the application as any other restrictions on housing in the district that make it not by-right. The district should allow multi-family housing by-right.

Member Jackson asked if this can be available during the hearing so people may read it. The Town is entitled to 501 + units because that's how many incentive units are allowed in the created district.

Member Mirabito asks how this impacts underlying districts, if they can use the underlying zoning beneath the 40R. Chairman Williston states they may use the 40R uses or the uses of the underlying zoning, which is likely the Enterprise Zone.

Chairman Williston states one of the uses listed is a registered marijuana dispensary. This was proposed as a by-right use. In 2016 the Town adopted a by-law specifically for medical dispensaries. They are all non-profit and does not have some of the same incentives to the Town as other establishments and he is not sure why is it on this list as the Town currently only allows this in one other district and is unsure if this was intentionally and is unsure if they could build one there due to proximity of where children congregate, which can't be within 500'.

Present before the Board: Frank Streeter, LAHT

Mr. Streeter states that marijuana is not allowed through the 40R, that was removed, a marijuana dispensary would have to go through the underlying zoning. All marijuana retail use was removed from the proposed 40R by-law. Mr. Streeter will follow-up with the language in the draft by-law.

The Site Plan review set up for 40R omits any evaluation for traffic and does not have the option to have the applicant run a traffic assessment, but follows other typical Site Plan review processes, and Chairman Williston is concerned with the lack of traffic in the Site Plan review for 40R.

Member Jackson would like to point out the number of future units as shown on the map. 1,139 future units are proposed. Discussion is held as to where the line item of the change will be written.

Member Jackson states there is a line where it states 702 LLC is the landowner, and they are not. Member Jackson is concerned that 702, LLC will be responsible for the water when they will not be the owners within the 40R district. There should be attention drawn to this prior to the agreement with Leominster. Member Mirabito states the agreement needs clarification on proof that the water supply is eligible to go to multiple land owners, they need clarification on the landowners and the ability to supply water to multiple owners. Chairman Williston re-phrases the question and reads it back to the Board and revises it per discussion.

MOTION: Member Jackson moves for Chairman Williston to forward the Memo to the Selectmen, seconded by Member Mirabito.

Roll Call Vote: Roy Mirabito - Aye

Carol Jackson - Aye

Tom Christopher - Abstain

Peter Christoph - Aye

Russ Williston – Aye

Present before the Board: Victoria Petracca, LAHT

Mrs. Petracca requests that she be forwarded the memo sent to the Selectboard on the 40R district draft zoning.

Present before the Board: Rob Zidek, 103

Mr. Zidek states that the primary issue with the application for 40R is misleading the reviewers (state industries and citizens) in the way it grossly misrepresents the neighborhood in which the future residents would live together. The development of this district is only available with the rezoning of the adjacent district and the entire area must be considered. The large industrial complex near the site must be considered alongside the review, and not as separate from the review. Mr. Zidek is concerned this would create an Environmental Injustice community by constructing the warehouse near the housing.

Present before the Board: Karen Cavaoli,

Mrs. Cavaoli is concerned with the potential for the warehouse to be 24/7 as the by-laws don't have a means to limit hours of operations. Mrs. Cavaoli is also concerned with noise and sound mitigation.

Chairman Williston states there is something to protect abutters from noise for up to 40 feet from the site. Hours of operation could be a condition of the site plan.

7. Update from the Chair regarding "Ad Hoc North Lancaster MOU Committee"

Chair was notified between meetings that he was added to this Select Board ad-hoc committee as the "Planning Board Chair." Discuss and take any action desired.

Chairman Williston states that they sent a request to Capital Group that they draft a Memorandum of Agreement and send the draft to them, and have not received the MOU at this time.

8. Correspondence

a. Any correspondence received by meeting time.

9. Vouchers

Chairman Williston states there are two vouchers, from Comprehensive Environmental, and Meade, Tallerman, and Costa, about legal advice on signing an old mylar.

MOTION: Member Christopher moves to approve the payment of \$1,621.50 to Comprehensive Environmental, Inc. for the work they have completed to date for 90 Duval Road. Member Jackson seconds.

Roll Call Vote: Roy Mirabito - Aye

Carol Jackson - Aye

Tom Christopher - Aye

Peter Christoph - Aye

Russ Williston - Aye

MOTION: Member Christopher moves to approve the payment of \$45.00 to Meade, Tollerman, and Costa, LLC for review and reply of an e-mail from Debra Dennis. Member Mirabito seconds.

Roll Call Vote: Roy Mirabito - Aye

Carol Jackson - Aye

Tom Christopher - Aye

Peter Christoph - Aye

Russ Williston - Aye

Mrs. Dennis asked if Director Farinacci can approve invoices for advertising, supply fees, and public hearing invoices, as long as the fees are not related to project review fees – nothing from the

revolving fund, simply from the budget. Chairman Williston agrees that Director Farinacci may approve invoices from the budget.

10. Review and Approve Minutes

- a. Minutes for Planning Board Meeting on December 13, 2021 @ 7PM

Member Christopher Corrects line 53 to Fort Pond Inn Road and not Fort Pond Road.

Member Christoph moves to approve the minutes of December 13, 2021. Member Jackson seconds.

Roll Call Vote: Roy Mirabito - Aye

Carol Jackson - Aye

Tom Christopher - Aye

Peter Christoph - Aye

Russ Williston - Aye

- b. Minutes for Planning Board Meeting on December 27, 2021 @ 7PM

These minutes are not prepared at this time.

11. Review Upcoming Meetings

1/18/2021 @ 7PM: Special Meeting, public hearing for Select Board Zoning Change Article

1/24/2021 @ 7PM: Regular Meeting: continued hearing for North Lancaster LLC subdivision amendment, hearing opens for 201 Hilltop Stormwater

2/14/2021 @ 7PM: Valentine's Day

2/15/2021: *Anticipated Special Town Meeting*

2/28/2021 @ 7PM

Adjourn

MOTION: Member Mirabito moved to adjourn the public hearing, seconded by Member Jackson.

Roll Call Vote: Roy Mirabito - Aye

Carol Jackson - Aye

Tom Christopher - Aye

Peter Christoph - Aye

Russ Williston - Aye