

July 16, 2024

To the Upton Board of Selectmen, Upton Zoning Board of Appeals, Lobisser Building Corp., MassHousing, and the Upton Community:

In light of Attorney Hill's memo and the Conservation Committee's Peer Review being released, mirroring our own hesitations that have stuck with us over the course of this Public Hearing, we would like to call for a **denial** of the comprehensive permit for the Upton Apartments at 47 Main Street. As many in our community have been consistently stating over the past year, this project would be detrimental to our community, based solely on the parcel of land chosen. As Attorney Hill stated, "The Project is the antithesis of smart growth," (p. 3). The Memo from Attorney Hill, the opinion piece from Linda Gay, and Ecosystem Solutions, Inc.'s Peer Review have all used the 40B Design Handbook (2011) to comprise their findings.

I am a downhill abutter to the proposed site, at 6 School Street, and here is what should stick out the most to the Zoning Board of Appeals, The Selectboard, Lobisser Building Corp., and MassHousing, all due to the project's location:

### 1. Design

Upton has a beautiful historic district that dates back hundreds of years, and our community prides itself with preserving our small town's history and feel. Linda Gay stated in an opinion piece, that Lobisser submitted a narrative that "misrepresented" our town's Historic District: "First, there is no mention of the Upton's National Register Historic District at all," (Gay, 2024, p. 1). That is concerning. Gay (2024) further states, and we agree, "Lobisser continues to ignore the significant time and expense that the Community has undergone in regard to Town Planning surrounding the recognition and protection of the historic elements of the town," (p. 2). While Chapter 40B's focus on affordable housing is a necessity, there needs to be a level of thoughtfulness on the part of the builder, the Upton Zoning Board of Appeals, and MassHousing regarding the sites approved and how they fit into the community. Attorney Hill quotes the Chapter 40B Guidelines: "[W]ith careful design and consideration of the project elements in relationship to the adjacent streets and properties, the projects can better integrate with the surrounding context," (2024, p. 3). As the progress over the past year regarding design on behalf of Lobisser Building Corp. has been trivial, especially with our town's large regard for historic elements, this shows a lack of respect for a town that he has claimed to have such a good working relationship with.

Lobisser said in the initial Public Hearing meeting, "During all 27 of those years, we've been very active in Upton, and have enjoyed a very strong and private, public partnership with the town" (UCTV, 2023, 32:24). With the amount of local concern regarding this property, a more feasible way, in which to continue a strong partnership with the town, would be to locate a spot where this building could be constructed in a less detrimental way to the community members. One that also meets the needs of our town's compliance with MassHousing's 40B statutory minima.

Further, in regards to building height, the project has decreased the size by a single story, but only due to safety reasons in regards to the Town's fire equipment. To veer off of the topic of building height for just a moment, Hill (2024) pointed out that it is still unclear how safe the driveway is for our firetrucks:

[T]he plan actually proves that the design of the Project's driveway does not comply with the state Fire Prevention Code. The use of the opposite travel lane is prohibited in the design of all new fire access roads. 527 CMR §18.2.3.5.8.3 Yet, at the main driveway entrance, fire apparatus would need to enter the opposite lane of travel when entering the Project driveway and at several other points along the route inside the Project Site. Oddly, the simulation does not show how a fire truck [will] exit the Project Site, but given the sharp turning radii proposed at that intersection, the truck would most likely need to cross over the center line of Route 140 when taking a right turn. (p. 4)

Even the Upton Fire and EMS Department commented on the driveway in their letter (January 19, 2024). Here, we have both vehicle and fire safety issues at play.

However, back to building height. The MassHousing Project Eligibility Letter states, "The Applicant should be prepared to work closely with its design team to address concerns regarding the architectural design of the proposed Project, particularly as it relates to mitigating concerns about building height," (Mass Housing, 2023, p. 4). Currently, the prospective area is zoned as *Single Residential A* which limits residential buildings to 2.5 stories. As the elevation of the site is much higher, especially than the eastern border of the parcel (School Street), it is reasonable that the Local Concern voiced over this design on this parcel be taken more seriously than it has been. Hill (2024) states:

The Project consists of 60 apartment units and associated parking areas, driveways, and utilities on approximately 6.75 acres of land, much of it wetlands and associated buffer zone. This population concentration is more typical of an urban environment where there is ready access to mass transportation, and where employment, retail, recreational and municipal services are within walking distance. **The Project evokes urbanism in a suburban/rural context.** (p. 3)

We are not an urban town, and we do not need urban buildings designed to be built on a parcel of land that could possibly destroy many of the buildings and homes (most historic) that surround it. We do not believe enough thought and care has been done to reach this guideline and eliminate Public Concern, and that is greatly disappointing.

As the elevation of the proposed site is of concern to many, including the town, it is worth asking whether "the identification of specific sites for which the municipality will encourage the filing of Comprehensive Permit applications" (Comprehensive Permit, 2020, p. 8) was investigated, or still could be. Either way, we call for a denial of the Comprehensive Permit for this specific location.

## 2. Water

There is no doubt that those attending the Public Meetings realize how important the issue of water is to both the ZBA and the community. While Lobisser Building Corp. has assured us that all of our problems will be fixed with the water systems in the proposed plan, what looks good on paper does not always work in real life. The Peer Review by Ecosystem Solutions, Inc., completed on June 30 and July 2, 2024 has shown just that. The Review states:

There is a wetland area that receives stormwater / drainage from this site behind the Pickering Funeral Home at 45 Main St (east of the building and south of proposed Basin 1). This area is just beyond the property limits but has additional Buffer Zone impacts (see attached sketch). This wetland, along with the flow best described as an intermittent stream, should be identified on the plan, especially where it discharges into the School Street Drainage System.

First off, why is the intermittent stream not identified on the plan, especially when it runs through our yard—an abutter's yard? While it "may be outside of the project limits" (Ecosystem

Solutions, 2024, p. 3), it will likely be effected by the project. How has this been overlooked for more than a year? This should be looked into further, as that culvert leads to our downtown area, before the project is allowed to proceed, although at this point, it should not be allowed to proceed at all due to the lack of research put into the water that exists on the parcel and how exactly it does affect the surrounding properties. Ecosystem Solutions (2024) states, “Based upon our field review, we notice there are two locations on School Street, that currently receive most of the stormwater from the existing site and proposed development,” (p. 4). They further state, “Since this site flows towards residential properties and the School Street Drainage System, with minimal recovery areas, it is important that engineering safety factors, such as additional capacity measures, are included in this project to prevent any impacts of stormwater runoff on adjacent properties,” (p. 4). The recovery area for 6 School Street is our front yard, near the sidewalk, including our driveway. Therefore, we pose this question: In what type of community do existing members not matter, that their properties don’t matter? In what type of community is it okay to damage several abutting properties for the construction of one poorly planned property? Not in Upton, which is why we are calling for a denial of the comprehensive permit. See attachment.

### **3. Wetlands**

The Project Application shows that the 6.75 acre parcel includes 3.8 acres of Buffer Zone and .87 acres of wetlands, and Ecosystem Solutions (2024) states that, “Per the NOI the proposed project will impact over 50% of the Buffer Zone,” (p. 3). It would be difficult not to, as approximately two-thirds of the parcel is either a Buffer Zone or a Wetland, which further speaks to the viability of this site for a project of this size. As Ecosystem Solutions (2024) points out, MGL 310 CMR 10.53(1) states: “The potential for adverse impacts to Resource Areas from work in the Buffer Zone may increase with the extent of the work and the proximity to the Resource Area. The Issuing Authority may consider the characteristics of the Buffer Zone, such as the presence of steep slopes, that may increase the potential for adverse impacts on Resource Areas.” Hill also commented on the probable water issues due to the lacking stormwater report by the Applicant.

Furthermore, looking at the Project blueprint, there is minimal woodlands that will be left undisturbed. With construction within the Buffer Zones, our wetlands will certainly be impacted, flooded, and polluted. This calls for a denial.

### **4. Traffic Safety and Parking**

I believe one of the most interesting points that Hill made in his Memo was regarding the sight lines a vehicle would have when exiting the proposed driveway, and it all comes down to the location of the proposed site, (Hill, 2024, p. 5). Not only do we have a dangerous intersection at School Street and Main Street, but now we have decreased sight lines just down the street? This puts so many citizens at risk of vehicular accidents, where injuries, and possibly deaths, could, and should, be prevented. Nothing should matter more than the lives of human beings. Human beings on their way to and from dropping their children off at school, driving to work to make a living, driving for any possible reason.

As Hill (2024) pointed out, the Project is only providing 92 parking spaces for 60 units, which does not meet the Institute of Traffic Engineers Parking Generation Manual (p. 8). Instead, 136 spaces would be needed, as this building would be completely auto-dependent. However, the question is, where do you put an extra 44 parking spaces? There isn’t room within the parameters of the parcel, making this Project unrealistic and unfeasible. Is there visitor parking? If there is a

gathering on holidays or a special day to a member of the community residing at the site, has there been thought given to overflow parking? Mass Transit isn't an option. If there isn't enough parking for residents, the answer to both of those questions is likely no, and as we already know, the street is unable to safely handle extra cars parked on the side of the road, especially with already obstructed sight lines.

However, while a small amount of thought went into electric vehicles, it seems even less went into loading areas for delivery vehicles, moving trucks, etc., which is surprising as it is a rental property. We call for a denial of the Comprehensive Permit based on the safety of our community members.

## **5. Lack of Transparency**

All of this brings us to lack of transparency, which we have felt continuously throughout this Public Hearing, on the part of the Builder. It began when presenting the views from the most impacted sights that abut the property, Architect Jeremy Baldwin, said, "We were concerned about a lot of trees being down in that area, but, one, we have a pretty heavy buffer of arborvitaes and other shrubs right along the detention pond, but on top of that, there are pretty significant pine trees" (UCTV, 2023, 1:13:05). I was surprised to hear about the "pretty significant pine trees" that are within the proposed buffer between our home and the proposed building, as the property has been walked several times. There are no existing pine trees in that buffer zone, which you can see from the attachment of this letter; therefore, these "evergreen trees" will not aid in creating a more private environment in regards to building height. While Lobisser has personally offered us a 6 foot privacy fence, the building's elevation still exceeds the height of the fence, and the area by our fence is dense shade in the summer, where no arborvitaes would grow to actually provide privacy when the trees are leafless.

Furthermore, the images of our home presented by Lobisser and colleagues at the Zoning Board of Appeals meeting on October 18 were photoshopped in ways that were unnecessary. Yes, it was nice to see how the building *might* look, but there were trees inserted in both the "original" and edited version of our property that simply do not exist, and are not of that height. With these misleading, and unnecessary changes, it had broken our trust of the developer and the companies he works with, in regards to being truthful about the community impact when it comes to building height. Why was the photoshopping necessary if there was true transparency? With all of the new information recently brought to light, the lack of transparency makes us continue to wonder that if something as small as trees needed to be enhanced, then what else might be misleading?

## **A Denial is Appropriate**

One issue with Chapter 40B is that the legislation allows a site to appear to be "generally eligible" (MassHousing, 2023), because people who do not live in the community believe it *could* be feasible. Under the current legislation, most any site may be "generally eligible;" however, the definition of generally is "usually, for the most part, without reference to or disregarding particular persons, things, situations, etc., that may be an exception" (Dictionary.com LLC, n.d.). The abutters are the particular persons here, and this project is disregarding our current living situations, as we stated above. Therefore, with not living in this community, the builder and MassHousing do not have to deal with the aftereffects, but simply get to profit off of something that will change a beautiful, quintessential New England town forever, and **not** in the right ways. Please, **deny** the permit.



Respectfully,  
Meghan and Daniel LaCasse  
6 School Street

Attachments:



December 18, 2023  
After heavy rainfall.  
Front Yard.



December 18, 2023  
After heavy rainfall.  
Front Yard.



December 18, 2023  
After heavy rainfall.  
Side Yard – Driveway.



December 18, 2023  
After heavy rainfall.  
Backyard.





December 25, 2022  
Backyard after built up winter snow  
and rain.



April 9, 2022  
Melting snow.  
Backyard.



October 21, 2023  
Culvert on 6 School almost full.



November 4, 2023  
Houses on Hazeltine.  
No Evergreens.



## 47 Main Street



2021 Aerial Imagery  
DEP Wetlands Labels

### DEP Wetlands Linear Features

- SHORELINE
- HYDROLOGIC CONNECTION
- MEAN WATER LINE
- APPARENT WETLAND LIMIT
- CLOSURE LINE
- EDGE OF INTERPRETED AREA

Contours 1ft (Labels in Feet)

Property Tax Parcels



B. Stream continuing through 6 School St.



A. Intermittent Stream.



C. Culvert on 6 School.





## References

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<https://drive.google.com/file/d/1ZkAYHHfSdHWdUSDhnpE44kTuVT32ky8/view>
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