

Robert Dellorco, Chair
Franklin Town Council
355 East Central Street
Franklin, MA 02038

December 17, 2025

Edward Augustus, Secretary
Catherine Racer, Undersecretary
Derya Samadi, Esq., General Counsel
Rieko Hayashi, Director, Local Initiative Program (LIP)
Commonwealth of Massachusetts
Executive Office of Housing and Livable Communities
100 Cambridge Street, Suite 300
Boston, MA 02114

Re: Local Initiative Program (LIP) Development Project – 444 East Central Street, Franklin, MA

Dear Secretary Augustus, Undersecretary Racer, Attorney Samadi, and Director Hayashi:

The Franklin Town Council submits this correspondence to explain the basis of its November 19, 2025 vote to withdraw municipal support for the proposed Local Initiative Program (LIP) development at 444 East Central Street. This decision is grounded in the requirements of the LIP Guidelines, particularly those beginning at page 70 concerning material changes to the project and in the Applicant's failure to follow the amendment procedures required under those guidelines. These guidelines were adopted to create a collaborative process between the Applicant and the Town's governing body. This did not happen in this case as no amendments were requested for the Determination of Project Eligibility (even as multiple material changes were made to the project plan), and neither did the Developer secure concurrence of the Town Council or Town Administrator to confirm continued local approval.

The Town of Franklin remains strongly committed to affordable housing. Our concern here is not with affordable housing itself, but rather with ensuring that the LIP process is followed faithfully, transparently, and collaboratively, as intended.

I. Role of the Town Council

The Town of Franklin has adopted a Home Rule Charter. Under the Charter, all general, corporate, legislative and appropriations powers of the Town are vested in the Town Council.

The Town Council appoints the Town Administrator who is the chief executive and administrative officer of the Town and is responsible to the Council for the effective administration of all Town affairs placed in his charge, including affordable housing matters.

II. Background and Original Support

On June 5, 2024, the Town Council voted to support a specific set of plans that were jointly submitted with the Applicant to EOHLC. The Project Eligibility Letter (PEL) issued in February 2025 was based on that original configuration and reflected a careful balance of density, site layout, setbacks, environmental protections, and compliance with local standards. Those components formed the foundation of the Town's support.

The ZBA subsequently opened the hearing in March of 2025, during which the ZBA provided feedback to the developer on an issue with the number of parking spaces being too low. The response from the applicant in June was to substantially change the project, removing many of the benefits including combining the two buildings closest to the abutters into one large 4 story building that created a wall effect within a few hundred feet of the abutter's property.

After considerable pressure from residents, the Town Council submitted a letter to the ZBA, in August 2025 and before the election of the current Town Council, stating they were no longer in support of the project. Subsequently, the Applicant again adjusted its design to remove 10 apartments, remove one story from the building closest to the abutters and make other changes to reduce the parking requirement originally requested by the ZBA. During this period, to our knowledge, the Applicant did not submit an amended PEL nor did it ever request that the Franklin Town Council approve of these changes.

The LIP process is clear as to how changes need to be handled procedurally because it is meant to provide for cooperation between the Town's governing body and the Applicant. This cooperation, to date, has not happened. By choosing to work solely with the ZBA, which is not familiar with this process, the Applicant prevented the Town's governing board from providing any feedback on the design changes.

The Town of Franklin, being above the statutory minimum of 10% on the Subsidized Housing Inventory (SHI), should retain control of the project at 444 East Central Street. Since the Town Council believes the project is not consistent with local needs, it has voted to remove its support within the LIP program. This project, with 39 requested waivers to local bylaws, rules, and regulations (up from 18 waivers requested at the time that local approval was granted), is no longer consistent with what the Town originally approved and therefore the Town Council has rescinded its support.

III. The LIP Requirements for "Material Changes" and Amendments

The LIP Guidelines (Section VI.8) require that when a project undergoes material changes, the Applicant must amend the determination of project eligibility.

a. Amending the Determination of Project Eligibility

- (1) **Material Change** - Any material changes in any of the conditions of a Determination of Project Eligibility (e.g., a change in the development team, the number of units, unit mix, size, design, location, extension of the term of the Determination of Project Eligibility, proposed sale of the project, etc.) REQUIRE that the Determination be amended. DHCD shall be notified immediately if either the Developer or the municipality anticipates any material change in the terms of the initial Determination of Project Eligibility.
- (2) **Local Approval** - The Developer must secure concurrence of the chief executive officer for the proposed change. DHCD will not issue an amended Determination without such local approval, unless it is unreasonably withheld, and without compliance with these requirements.
- (3) **DHCD Review** - DHCD may perform an additional site visit, meet with representatives of the municipality and the Developer, and/or request additional financial information, revised site plans, etc., prior to acting on a requested amendment.
- (4) **Final Approval Withheld** - Final approval may be withheld if the Project is not consistent with the Determination of Project Eligibility.

IV. Material Changes Made Without Following the LIP Amendment Process

The Applicant made multiple changes to the project that were significant enough to require an amendment under VI.8, including, but not limited to:

a. Additional Waiver Requests

The original LIP-supported plan included approximately 18 waivers. The revised submission now contains **39**, an increase of 86% as documented in the Applicant's filings. A list of waivers added since the original proposal is in Appendix A.

These new waiver requests include:

- **Reduced side-yard setbacks** for primary and accessory structures (4.a, 6a, 7a, 8a), moving development closer to abutters.
- **New parking dimension waivers (12a)** allowing denser parking fields.
- **A major earth removal waiver (13a)** eliminating protections normally required for large-scale excavation.

- Numerous new **stormwater and wetlands waivers** (1c–18c, 2b, 3b), replacing Franklin’s local environmental safeguards with state minimums.
- Expanded **signage waivers** (9a–10a) affecting aesthetics and neighborhood character.

These changes directly affect the design, intensity, environmental impact, and zoning compliance of the project, and thus constitute **material changes**.

b. Loss of Benefits That Formed the Basis of Original Support

Several benefits embedded in the original LIP-supported design were weakened or removed, including:

- Larger buffers and deeper setbacks,
- Compliance with local stormwater standards,
- Local wetlands protections above the state minimum,
- A more limited number of accessory structures and site disturbance, and
- Lower impervious surface coverage.

While the Applicant reverted from a four-story building to the originally supported height near abutters, this modification came **at the cost** of expanded zoning relief and weakened environmental protections elsewhere. The net result was **not** a reduction in impact—it was a redistribution of impacts and an increase in regulatory exceptions.

By definition, these are **material changes** under the LIP Guidelines.

V. How the Failure to Follow Guideline VI.8 Prevented a Collaborative Solution

The LIP process depends on transparency and ongoing collaboration. Guideline VI.8 provides the mechanism for ensuring that municipalities remain active partners when material changes occur.

Had the Applicant followed VI.8,

- The Town would have formally reviewed the revised plans early;
- The CEO could have provided concurrence or requested adjustments;
- EOHLC could have evaluated whether the revised project remained consistent with its LIP objectives; and
- The project may well have advanced with continued municipal support.

In other words, if the Applicant had followed the amendment process required by the LIP Guidelines, it is entirely possible that a revised project could have earned continued Town Council support.

Instead, the Applicant advanced a materially different project through nearly a full year of ZBA hearing sessions **without** seeking an amendment or CEO concurrence. This procedural failure—not political dynamics—left the Town Council with a project significantly different from the one it had approved and no opportunity to address these changes through the required LIP framework. Therefore, since the project no longer meets the LIP Guidelines, your agency should rescind its Determination of Project Eligibility.

VI. Answers to questions provided by the EOHLC

Your agency provided the following answers highlighted in red in response to the questions that precede them:

Question 1: If a developer is already in the ZBA public hearing process of a Friendly 40b filed under the LIP program and the town, who has partnered and written a letter in support for that project, now decided to withdraw its support (through a letter from the CEO aka Town Council), what happens to the project? Without the town support, the project would no longer be able to proceed under LIP. However, the developer could apply for a project eligibility letter and then a comprehensive permit on its own through a different program.

Question 2: If the support is withdrawn and the developer has to file on their own to continue with the project: A) Does the project start over from a timeline perspective? If the developer is no longer proceeding under LIP and wanted to pursue a different program, the developer would need a new project eligibility letter and comp permit application. B) Can the ZBA invoke Safe Harbor? Yes, if a board believes it has satisfied a safe harbor for a new comp permit application, it can assert that claim in accordance with the timing and procedures provided in 760 CMR 56.03(8).

Question 3: I've found the following passages in the LIP section of the Comprehensive Permit guidelines. I give specific pages.

My question is: If a 40b project has undergone considerable changes, does the CEO need to continue to confirm support and if they do not, what happens to the project? Material changes would require an amendment of the project eligibility letter, and EOHLC would not issue an amended PEL without the CEO's concurrence, in accordance with the 40B guidelines, including the provision you cited below. If the CEO withdraws their/the municipal support, then the project would not be able to proceed as a LIP.

VII. Conclusion

For all of the reasons described above, the Town Council's withdrawal of support is consistent with LIP Guideline VI.3.1(a), which allows municipalities to withdraw support when a project undergoes material changes that make it no longer consistent with what the municipality approved.

The Town Council acted not out of opposition to affordable housing, but to uphold the integrity of the LIP process. The Applicant's failure to comply with the amendment procedures deprived both the Town and EOHLC of the collaborative tools necessary to maintain municipal support.

Franklin remains committed to the LIP program and to working in good faith with developers who follow its requirements.

Respectfully submitted,



Robert Dellorco

Recused
Gene Grella



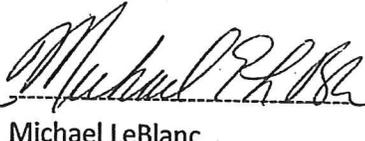
Ted Cormier-Leger



Jane Callaway-Tripp



Caroline Griffith



Michael LeBlanc

Recused
Stephen Malloy

Maxwell Morrongiello



Kenneth Ojukwu

cc:

Jamie Hellen, Town Administrator

Mark Cerel, Esq., Town Attorney

Julie McCann, Town Council Operations Manager

Franklin ZBA

Appendix A.

Zoning Bylaw Waiver Changes from initial proposal approved by CEO

Category	Local Regulation	Requirement	Proposed	Explanation
4.a	Section 185-13 Attachment 9 – Schedule of Lot, Area, Frontage, Yard and Height Requirements	Minimum side yard setback of 30’.	Waiver granted to allow a minimum side yard setback of less than 30’.	A waiver is granted to allow Building #1 to be constructed with a setback of 20’+/-.
6a	185-19.B.(2) – Accessory Building and Structures	No accessory building or structure shall be located in any side yard area nearer to the side lot line than 10 feet in any zoning district.	Waiver granted to allow accessory buildings and structures to be constructed within 10 feet of the side lot line.	A waiver is granted to allow two garages to be built with an 8-foot setback to the side lot line.
7a	185-19.B.(4) – Accessory Building and Structures	No accessory building or structures shall be less than a distance equal to the common building height to common grade to any rear or side lot line.	Waiver granted to allow accessory buildings and structures to be constructed within distance equal to the common building height to common grade to any rear or side lot line.	A waiver is granted to allow two garages to be built with an 8-foot setback to the side lot line.
8a	185-19.B.(5) – Accessory Building and Structures	No accessory buildings or structures of any size shall be closer than 10 feet to any principal building, or other accessory building or	Waiver granted to allow accessory buildings and structures to be constructed within 10 feet of each other.	A waiver is granted to allow garages and retaining walls to be constructed within 10’ of each other. Additionally, any other objects that are considered to be “structures” other than the five primary buildings, shall be allowed to be built as

Appendix A.

Zoning Bylaw Waiver Changes from initial proposal approved by CEO

		structure.		shown on the approved site plans. (Definition of structure is vague in bylaw)
9a	Section 185-20.C.(4)(c)[1] – Signs	Properties within the IOPD and CBCD that are directly abutting or facing a residentially zoned district, shall have all signs reduced in size by 50%.	Waiver granted allowing the monument sign area to be up to 50 square feet.	A waiver is granted to allow a full-size sign although property abuts a residential zoned district at the rear of site. The sign will be in the front of the site as located on plans, Sheet C-102B.
10a	Section 185-20.H – Signs	All signs within the Commercial and Business Corridor Sign District (CBCD) are required to obtain approval from the Design Review Commission prior to the issuance of a sign permit from the Building Commissioner.	Waiver granted allowing the ZBA to grant approval of monument sign as shown on Plans prior to the issuance of a sign permit. No separate signage permit required.	This is a customary waiver request for a 40B proceeding. As the regulations mandate, the Zoning Board of Appeals is required to act in place of all local permit granting authorities as part of the issuance of the Comprehensive Permit.
12a	Section 185-21 C(9) – Parking space dimensions	§ 185-21 C(9)(a) states: “Parking spaces in a layout other than parallel shall not be less than nine feet in width and 19 feet in length.”	Waiver granted to provide smaller parking spaces than zoning mandates.	Refer to parking table on Layout and Materials Plan Sheet C-102A in plan set entitled Revised Comprehensive Permit Plans dated 10/29/25. Portion of parking spaces are less than 8’ & 8.5’ wide. All standard parking stalls are 18’ in length and compact stalls are 16’ in length.

Appendix A.

Zoning Bylaw Waiver Changes from initial proposal approved by CEO

13a	Section 185-23.A.2.d – Earth Removal Permit	Earth removal in excess of 1,000 cubic yards in any areas as noted in Subsection A(2)(a)[1], [2] and [3] above shall require a special permit by the Board of Appeals. In addition, earth removal in excess of 1,000 cubic yards within the same industrial subdivision requiring hauling on public roads within the subdivision shall not require a special permit and shall be permitted, subject to the applicant providing a performance guaranty satisfactory to, and in an amount determined by, the Board of Appeals. Any earth removal outside of the boundaries of the industrial subdivision shall require a special permit by the Board of Appeals.	Waiver granted to allow earth removal in excess of 1,000 cubic yards be removed outside of the property incidental to the construction of the multifamily housing without a special permit from the Board of Appeals.	The earth removal would be approved as part of the comprehensive permit.
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Appendix A.

Zoning Bylaw Waiver Changes from initial proposal approved by CEO

1b	Section 153-10 – Surety	Posting a Surety at the discretion of the Director of Franklin Department of Public Works.	Waiver requested not to require a surety.	This is a customary waiver request for a 40B proceeding. As the regulations mandate, the Zoning Board of Appeals is required to act in place of all local permits granted by authorities as part of the issuance of the Comprehensive Permit.
2b	Section 153-15.A(9) – Groundwater	Groundwater levels measured (November to April) in areas to be used for stormwater retention, detention, or infiltration.	Waiver granted to provide groundwater elevations agreeable to the third-party stormwater peer review engineer.	This is a customary waiver request for a 40B proceeding. As the regulations mandate, the Zoning Board of Appeals is required to act in place of all local permits granted by authorities as part of the issuance of the Comprehensive Permit. The project will be permitted under the MassDEP Stormwater Guidelines.
3b	Section 153-16.A	Control of stormwater shall meet the Town of Franklin’s Subdivision of Land Stormwater Regulations.	Waiver granted to allow the control of stormwater not meet the Town of Franklin’s Subdivision of Land Stormwater Regulations.	This is a customary waiver request for a 40B proceeding. As the regulations mandate, the Zoning Board of Appeals is required to act in place of all local permits granted by authorities as part of the issuance of the Comprehensive Permit. The project will be permitted under the MassDEP Stormwater Guidelines.
1c	Franklin Wetlands Protection Bylaw Chapter 181-1 –	Additional functions, characteristics, standards and procedures under	Waiver granted from application of additional standards and procedures	Proposed work to comply with requirements of MA Wetlands Protection Act.

Appendix A.

Zoning Bylaw Waiver Changes from initial proposal approved by CEO

	Purpose	bylaw.	listed in local bylaw.	
4c	Franklin Wetlands Protection Bylaw Regulations Section 2	Additional performance standards under bylaw.	Waiver granted for compliance with bylaw performance standards.	Project to be subject to performance standards as regulated by the MA Wetlands Protection Act.
8c	Franklin Wetlands Protection Bylaw Regulations 5	Procedure for requesting variance from bylaw regulations.	Waiver granted for variance request requirement.	Applicable bylaw provisions and regulations thereunder expected to be waived, therefore rendering this section unnecessary.
9c	INSTRUCTIONS FOR FILING A NOI IN FRANKLIN 7.4.4 – Local filing fee	Waiver requested for local filing fee.	Waiver granted for local NOI filing fee.	Waiver from local Conservation Commission Regulations. Project will comply with MA Wetlands Protection Act.

Appendix A.

Zoning Bylaw Waiver Changes from initial proposal approved by CEO

10c	Franklin Wetlands Protection Bylaw Regulations 7.11.1 & 7.11.2	Not to follow certain instructions which are specific to local regulations relating to the submittal of a mitigation plan and are not applicable/required in MA WPA. In 7.11.1: Narrative to describe the application of "avoid, minimize, and mitigate calculus" and, in 7.11.2: A separate narrative required that may include items from the Franklin Best Development Practices Guidebook.	Waiver granted to not follow certain local instructions related to the submittal of a mitigation plan for wetland/buffer zone impacts.	Mitigation plan required for compliance with MA Wetlands Protection Act has been provided.
11c	Franklin Wetlands Protection Bylaw Regulations 7.13	Submittal of Alternatives Analysis.	Waiver granted for Alternatives Analysis submittal for: - Riverfront resource area - Alteration of riparian zone - Wetland filling up to 5,000 square feet - Structures proposed within the 50-foot buffer zone resource area.	Waiver from local regulation requirements for Alternatives Analysis. Alternatives Analysis for work in Riverfront Area has been included in Notice of Intent.

Appendix A.

Zoning Bylaw Waiver Changes from initial proposal approved by CEO

12c	Franklin Wetlands Protection Bylaw Regulations 7.14	Replication ratio of 2:1; functions and values included in Replication Plan and Protocol.	Waiver granted for evaluation of functions and values of lost wetlands and inclusion of these functions and values in Replication Plan/Protocol and replication at 2:1 ratio. Replication provided at less than 2:1.	Waiver from local regulation requirements. Project will comply with MA Wetlands Protection Act.
14c	Franklin Wetlands Protection Bylaw Regulations 7.18.1.5 – Information to be shown on plans	Information to be shown on plans including existing vegetation (i.e. lawn, cultivated herbaceous and woody plant areas, un-cultivated field, scrub and woodland areas and woody plants larger than 1" diameter proposed to be removed).	Waiver of requirement that plans show existing vegetation.	Waiver from local regulation requirements.
15c	Chairman: Powers and Duties 271-6.C(3)	Waiver requested for the project to be subject solely to the Massachusetts Wetlands Protection Act (WPA) and regulations thereunder.	Waiver granted allowing the project to be subject solely to the WPA and regulations thereunder.	Waiver from local Conservation Commission Regulations. Project will comply with MA Wetlands Protection Act.

Appendix A.

Zoning Bylaw Waiver Changes from initial proposal approved by CEO

16c	16c. Vote Requirements 271-9.D.	Waiver requested to conduct separate hearings under the Town Wetland Protection Bylaw, Chapter 181, shall require a vote.	Waiver granted allowing voting requirements solely to the WPA and regulations thereunder.	Waiver from local Conservation Commission Regulations. Project will comply with MA Wetlands Protection Act.
17c	Vote Requirements 271-9.H,I,K,L & M.	Motions under or per the Town Wetland Protection Bylaw, Chapter 181.	Waiver granted allowing voting requirements solely to the WPA and regulations thereunder.	Waiver from local Conservation Commission Regulations. Project will comply with MA Wetlands Protection Act.
18c	Definition of key terms in Town Wetland Protection Bylaw 271-13	Definitions of terms under the Bylaw.	Waiver granted from local Bylaw definitions and requirements to the extent these vary from the WPA and regulations thereunder.	Waiver from local Conservation Commission Regulations. Project will comply with MA Wetlands Protection Act.
1d	Section 300-6 – Plan believed not to require approval	Waiver requested to allow the Zoning Board of Appeals, not the Planning Board, to determine whether the plan does not require approval and endorse the plan.	Waiver granted allow the Zoning Board of Appeals, not the Planning Board, to determine whether the plan does not require approval and endorse the Approval Not Required (“ANR”) Plan submitted to the Board.	This is a customary waiver request for a 40B proceeding. As the regulations mandate, the Zoning Board of Appeals is required to act in place of all local permit granting authorities as part of the issuance of the Comprehensive Permit.

Appendix A.

Zoning Bylaw Waiver Changes from initial proposal approved by CEO

<p>1e.</p>	<p>1e. Art. 2, §2-4-1, Art. 2, §2-6-4, "Acceptance of Gift"</p>	<p>Waiver requested to allow the Zoning Board of Appeals to approve the donation of land located along the southern perimeter of the property as shown on the ANR Plan which shall be conservation/open space land as a potential addition to the Town Forest. An Acceptance of Gift Resolution, or any further action by or granted by the Town Council shall not be required to gift/convey/deed land to Town. Applicant to follow applicable state-laws.</p>	<p>Waiver granted to allow the Zoning Board of Appeals to approve all aspects of the land conveyance to the Town as a part of this Comprehensive Permit and no further approvals, votes, actions or Resolutions by the Town, including the Town Council, is required. Land to be conveyed to Town is Parcel B (+/- 1.56 ac.) as shown on the Approval Not Required Plan dated 8/25/25.</p>	<p>This is a customary waiver request for a 40B proceeding. As the regulations mandate, the Zoning Board of Appeals is required to act in place of all local permit granting authorities as part of the issuance of the Comprehensive Permit.</p>
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