

September 27th, 2021

Lancaster Affordable Housing Trust
701 Main Street, Suite 2
Lancaster, MA 01523

Re: “Plan Approval Authority” for Smart Growth Overlay Districts

Dear Trustees,

Thank you for forwarding Michael Antonellis’s September 15th, 2021 review of the proposed 40R bylaw that your committee has been developing. The Planning Board reviewed that information under the “Correspondence” portion of our meeting on September 27th, 2021. Thank you for working on a new bylaw for our town. We wanted to share some feedback on one concept it mentioned: a composite “Plan Approval Authority”:

Understanding that your proposed bylaw is still under active development, we did not review the full draft bylaw.

In his review Mr. Antonellis wrote:

“I do like the idea of the 5-member Plan Approval Authority. I think that will provide a well rounded perspective from all the different Land Use Boards. I assume there are volunteers ready to staff that board. I don't think the town has any current problems with getting volunteers on boards, but if that were the case, obviously the creation of a new board would be troublesome.”

We referred to one of your 40R bylaw drafts, from the meeting materials available on the town website, dated “9/2/2021.”

- (2) **Plan Approval Authority (PAA).** The 40R Plan Approval Committee, consistent with M.G.L. Chapter 40R and 760 CMR 59.00, shall be the Plan Approval Authority (the “PAA”), and it is authorized to conduct the Plan Approval process for purposes of reviewing Project applications and issuing Plan Approval decisions within the SGOD. The 40R Plan Approval Committee shall include one (1) representative member chosen by each of the following Town of Lancaster Boards from their membership: Planning Board, Zoning Board of Appeals, Conservation Commission, Affordable Housing Trust, and Economic Development Committee. The 40R Plan Approval Committee shall be appointed by the Lancaster Select Board for three (3) years. The Zoning Board of Appeals representative will be ineligible to act on an appeal under Chapter 40A §8 to the Zoning Board of Appeals for a 40R application decision.

We considered this portion of the draft bylaw – it appears to require the use of a “Plan Approval Authority” of five members, drawing one member from each of the Planning Board, Zoning Board of Appeals, Conservation Commission, Affordable Housing Commission, Affordable Housing Trust and Economic Development Committee.

We identified some drawbacks to the use of a composite “Plan Approval Authority”:

1. **Technical hurdle with including “Economic Development Committee” as a permitting authority:** The “Economic Development Committee” is not a permanent committee in Lancaster; it is currently meeting as an advisory committee assembled by the Select Board. Within the scope of our bylaws there is nothing establishing an “Economic Development Committee” and this reference may not be clear in the future.
2. **Scope too limited to justify a new agency:** The scope of the “Plan Approval Authority” would be administration of this single bylaw. In the short run there would only be a single Smart Growth Overlay District in Lancaster and the intention seems to be to fully build-out that district at the first opportunity. As a result, there may only ever be a single application for the “Plan Approval Authority” to consider.

The overhead required to establish, populate, organize, and administer this committee may not be justified by the limited amount of work that might ever come before it. Presumably this authority would need to linger on – if only to meet often enough to reorganize annually and approve the minutes from it’s last reorganization – until the deadline to challenge any applications it approved had passed.

3. **Establishing regulations may prove an administrative burden:** The bylaw allows the “Plan Approval Authority” to establish regulations for administration of the SGOD bylaw. That may be a challenge for a composite board whose members have other town obligations, meeting on an uncertain schedule.

4. **Not free to act independent of influence:** In the event of controversy, it would be difficult to establish that the composite board is free to act independently. Although it’s a five-member board, it’s appointed by the three-member Select Board. Furthermore, four of the five members must be drawn from boards also appointed by the Select Board. As it might only ever handle a single project it would inevitably appear that the composition of the board was selected to weigh that specific project.

In a random sampling of other communities, including Lakeville and Littleton, the Planning Board is typically the “Approval Authority” for SGODs in communities that have established one.

Establishing the Planning Board as the approval authority for Lancaster’s SGOD bylaw will ensure that it’s administered by a 5-member elected board free to act independently of influence, allow the Planning Board to establish regulations as required and allow the Planning Board to hear SGOD applications within its established meeting schedule.

On behalf of the Lancaster Planning Board,

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

Russell W. Williston, Chair