



September 28, 2015

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The Honorable Kathleen O'Connor Ives, Senate Chair  
Joint Committee on Community Development and Small Businesses  
Room 519  
State House  
Boston, MA 02133

The Honorable Ann-Margaret Ferrante, House Chair  
Joint Committee on Community Development and Small Businesses  
Room 26  
State House  
Boston, MA 02133

**RE: Support for An Act Promoting the Planning and Development of Sustainable Communities (S.122)**

Dear Chairwoman O'Connor Ives and Chairwoman Ferrante:

The Association to Preserve Cape Cod (APCC) writes in strong support of *An Act Promoting the Planning and Development of Sustainable Communities (S.122)*.

APCC is Cape Cod's leading nonprofit environmental advocacy and education organization, founded in 1968 and currently representing over 5,000 members from all 15 towns on Cape Cod. APCC works for the adoption of laws, policies and programs that protect and enhance Cape Cod's natural resources and quality of life. One major focus of APCC's work is advocacy for regional and local planning that directs housing and business growth to designated village centers with supportive infrastructure, while at the same time protecting outlying sensitive natural resource areas. Paradoxically, the greatest impediment to the adoption of such smart growth concepts is found in the state's existing zoning, planning and subdivision control laws.

In fact, across Massachusetts, sprawling development is threatening the distinctive character of our cities and towns. Existing zoning perpetuates sprawl and even provides cost advantages for developers to choose sprawl over smart growth. Yet for the community, poorly planned growth results in high housing costs, loss of habitat and farmland, and strained municipal budgets.

The planning and regulatory authority of municipalities is often undermined by confusing and unreasonably limiting state law. Our zoning laws actually thwart local planning through exemptions, prohibitions and zoning freezes that block implementation of local master plans. Massachusetts land use loopholes, such as excessive vested rights for subdivisions, consistently stymie attempts to update local master plans or adopt modern zoning bylaws. The Approval Not Required law, which is found nowhere else in the United States, allows development along any road, including inadequate one-lane dirt roads, without the benefit of local review. State laws make it extremely difficult for communities to modernize their

zoning by requiring a 2/3 super-majority vote by town meeting.

The end result is a broken system that does not serve community, regional or state interests.

*An Act Promoting the Planning and Development of Sustainable Communities* is the first major update of the Commonwealth's zoning and subdivision control laws in over 40 and 60 years, respectively.

S.122 provides much-needed revisions to Massachusetts' most egregiously outdated laws governing local land use planning, including the examples cited above. S.122 contains effective planning tools such as inclusionary housing, development impact fees, natural resource protection zoning and form-based zoning that, although widely and successfully used elsewhere in the nation, have not been embraced in Massachusetts due to statutory uncertainty.

For business owners and developers, S.122 provides prompt, predictable and fair permitting reforms. Additionally, the new Chapter 40Y opt-in section of S.122 encourages communities to implement local planning that is consistent with the state's Sustainable Development Principles for housing, economic development and environmental protection. It achieves this through the creation of designated growth districts that are balanced with measures to help protect natural resources outside those districts. As incentive for adopting these optional planning strategies, S.122 offers communities enhanced planning tools and preferential consideration for state discretionary funds and grants.

S.122 is a true consensus bill that represents a very broad constituency of supporters, providing a balance of state, municipal, housing, economic development, environmental, public health and landowner interests. This legislation provides the necessary revisions and updates to state zoning, planning and subdivision control laws that will enable communities to effectively address modern planning challenges. APCC urges the Joint Committee on Community Development and Small Businesses to act swiftly in moving S.122 forward by giving it a positive recommendation this autumn.

APCC thanks the committee chairs and the members of the committee for their thoughtful consideration of this important legislation.

Sincerely,



Ed DeWitt  
Executive Director



Don Keeran  
Assistant Director

cc: Senate President Stanley Rosenberg  
Speaker of the House Robert DeLeo  
Sen. Daniel Wolf  
Rep. Stephen Kulik  
Sen. Viriato deMacedo

Rep. Randy Hunt  
Rep. Timothy Madden  
Rep. Brian Mannal  
Rep. Sarah Peake  
Rep. David Vieira