



THE COMMONWEALTH OF MASSACHUSETTS  
OFFICE OF THE ATTORNEY GENERAL

CENTRAL MASSACHUSETTS DIVISION  
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June 8, 2023

Cathryn J. Kato, Town Clerk  
Town of Wellesley  
Wellesley Town Hall  
525 Washington Street  
Wellesley, MA 02482

RECEIVED  
TOWN CLERK'S OFFICE  
WELLESLEY MA 02482

2023 JUN - 8 PM 1:52

**Re: Wellesley Annual Town Meeting of March 27, 2023 – Case # 10901**  
**Warrant Articles # 41 (Zoning)**  
**Warrant Articles # 9, 37, 38, 39, and 40 (General)**

Dear Ms. Kato:

**Articles 9, 37, 38, 39, 40, and 41** – We approve Articles 9, 37, 38, 39, 40, and 41 from the March 27, 2023 Wellesley Annual Town Meeting. Our comments on Article 41 are provided below.

**Article 41** – Under Article 41 the Town amended the Wellesley Park Smart Growth Overlay District (Overlay District) to increase the permissible number of multi-family dwellings units from six hundred (600) to eight hundred fifty (850), and to delete hotels from the list of allowed uses. The Overlay District was adopted pursuant to G.L. c. 40R. General Laws Chapter 40R encourages “smart growth” zoning and establishes the procedure by which a municipality may establish a Smart Growth Zoning District. By-laws adopted pursuant to Chapter 40R must be approved by this Office and by the Executive Office of Housing and Livable Communities (EOHLC).<sup>1</sup>

We approve Article 41. However, the Town must comply with the provisions of G.L. c. 40R, § 6 (g) by obtaining written approval from EOHLC of the amendments to the Overlay District.<sup>2</sup> We suggest that you discuss this issue with Town Counsel.

<sup>1</sup> The Executive Office of Housing and Livable Communities was formerly known as the Department of Housing and Community Development (DHCD). See Chapter 7 of the Acts of 2023.

<sup>2</sup> General Laws Chapter 40R, Section 6 (g) states that “[a]ny amendment or repeal of a zoning . . . by-law affecting an approved smart growth zoning district shall not be effective without the written

Note: Pursuant to G.L. c. 40, § 32, neither general nor zoning by-laws take effect unless the Town has first satisfied the posting/publishing requirements of that statute. Once this statutory duty is fulfilled, (1) general by-laws and amendments take effect on the date these posting and publishing requirements are satisfied unless a later effective date is prescribed in the by-law, and (2) zoning by-laws and amendments are deemed to have taken effect from the date they were approved by the Town Meeting, unless a later effective date is prescribed in the by-law.

Very truly yours,

ANDREA JOY CAMPBELL  
ATTORNEY GENERAL

*Kelli E. Gunagan*

By: Kelli E. Gunagan  
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cc: Town Counsel Thomas J. Harrington

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approval by the department. No such amendment or repeal shall be effective until the . . . town has made the payment required under subsection (b) of section 14. Each amendment or repeal shall be submitted to the department with an evaluation of the effect on the number of projected units that will remain developable, if any, in relation to the number of units that have been built and the number of units that determined any corresponding zoning incentive payment paid to the city or town. Amendments shall be approved only to the extent that the district remains in compliance with this chapter. . . .”