

## **FOR IMMEDIATE RELEASE**

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### **Contact:**

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### **Statement from Denny Swenson: Violations of the Administrative Procedure Act (APA)**

Milton, MA – Denny Swenson has released the following statement regarding the Healey administration’s failure to adhere to the Administrative Procedure Act (APA) in promulgating guidelines with the force of regulation, specifically with regard to the zoning mandates imposed on Milton.

To promulgate a guideline that has the effect and force of a regulation, the agency is required by the Administrative Procedure Act (APA) to have a public hearing that is first publicly posted. That did not happen here.

Nor did the state have posted public hearings or a process for small businesses to participate in a small business impact assessment, or file a small business impact assessment, as required by the APA.

**The Healey Administration wants it both ways: they don’t want to go through the promulgation process to make the guidelines regulations, but they do want to enforce the guidelines as if they are regulations.**

The state acknowledged in one of their briefs that they broke that Administrative Procedure Act (APA) law but said no one was harmed.

We believe that when our elected leaders toss the public hearing process to the side it is harmful.

### **Public Hearings**

Our democracy is built on a representative form of Government.

One of the ways representatives listen to their constituents is through public hearings. I sat on a Planning Board for 5 years. We posted notice of all hearings and through the public hearing process, we took in information allowing us to carefully assess the impacts of a proposal to the area – the topography, underground water, sustainability, traffic impacts, affordability, and more. During these hearings, we did our best to be

sensitive with all the parties involved. It is simply a truism that public feedback and ideas make for better development outcomes when they are thoughtfully considered.

**If you really listen, engage and work with a community great thing can happen.**

People know their neighborhood better than anybody else. They know the traffic patterns, the water issues, what makes that neighborhood valuable to the people who live there, and they know what can be improved. The residents know how to make development work.

**Impacts to our small businesses**

- Small businesses make up our local economies and provide the amenities that serve our communities. The APA recognizes they should have a voice and up until now they have been completely left out of the discussion.
- The small business representatives that we spoke with stressed that when there are no plans for how to pay for infrastructure costs like roadways, water ways and sewage it makes it difficult or near impossible to forecast various business expenses or to create meaningful business plans.
- There are cascading effects to not addressing such matters as parking, loading docks, and traffic needs.
- There has been no avenue of open communication or even an apparent willingness by the state to hear the feedback or concerns of the small businesses that make up our local economies and serve our communities.
- In a town like Milton, we are already built out. Zoning for an increase of “at least” 25% of Milton’s total housing will significantly impact sustainability. That level of concrete, pavement and impermeable surface area with no open spaces set aside in the zoning is a real concern. For instance, in East Milton where we already have density and flooding issues, adding 1,100 units without any open space areas, sustainability plans or funds is a long-term harm to this business area.

Please see section IV of this Amicus Brief for further detail on impacts to our small businesses:

[https://www.ma-appellatecourts.org/pdf/SJC-13580/SJC-13580\\_09\\_Amicus\\_Eastern\\_Massachusetts\\_Small\\_Business\\_Coalition\\_Brief.pdf](https://www.ma-appellatecourts.org/pdf/SJC-13580/SJC-13580_09_Amicus_Eastern_Massachusetts_Small_Business_Coalition_Brief.pdf)

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