

Testimony of Scott Wolf, Grow Smart RI Executive Director
to the State Land Use Reform Commission, 1/19/2023

**Grow Smart RI's Land Use Reform Perspective and Preliminary
Recommendations**

Our Perspective

Grow Smart RI believes that revisiting and reforming RI's approach to land use, growth and development is of paramount importance to realize our vision of a state in which every person benefits from flourishing neighborhoods and Downtowns and Main Streets, access to good affordable housing as well as to restored and protected natural resources, and a just, thriving and resilient economy.

If we allow and encourage smart growth development patterns in more built up neighborhoods--- development patterns that feature an easily accessible mix of residential, commercial, institutional and recreational uses, well designed density, and that are bike, ped multifamily housing and transit friendly--we will make this state more opportunity rich for more people; more marketable to businesses and tourists from around the country and world, and more healthy for our residents, by facilitating increased safe physical activity. **This kind of virtuous cycle is within our grasp but can only become a reality if we are willing to be both bold and thoughtful in our approach to land use reform.**

Capacity Enhancement is Critical

For land use reform to be effective it has to go beyond changing the "rules of the game". Effective reform also requires giving local officials the capacity and tools to take advantage of these changes so that these officials can pursue complicated redevelopment opportunities in their own backyards. Right now, many of our municipalities only have one planner and that planner is frequently fighting fires and being primarily reactive, lacking the bandwidth to promote complicated but highly beneficial mixed-use compact, mixed income, bike and ped friendly development.

So these hard working staffers need guidance, technical assistance, sometimes even more FTE's. We like you, have several proposals to advance that set of objectives.

The importance of Focusing on targeted, location sensitive reforms , and avoiding “one Size fits All mandates, especially to dramatically expand our supply of “attainable” housing

While there are many challenges facing our state that could be addressed effectively through land use reform, **such reform is most essential to make enduring progress in increasing our supply of affordable and workforce housing.**

But one size does not fit all when it comes to many aspects of land use reform. **Sometimes, especially in rural areas, the smartest growth is very little growth, whereas in urban areas and the many built up sections of our suburbs, , the smartest growth is often a lot of growth,** provided that it is growth which is well designed , compact, context sensitive and features a mix of uses as well as provisions for ped and bike friendliness .Our many underutilized industrial and commercial areas, including so called grayfields (decaying strip malls) offer especially promising opportunities for mixed use redevelopment with a major housing component.

So we strongly recommend that this Commission craft land use reform initiatives which will help steer growth to communities and neighborhoods where growth can do the most good and the least harm . This means not imposing one size fits all rules that will require growth in our rural areas beyond their environmental and infrastructure carrying capacity. Such a one size fits all approach is neither sound from a sustainability standpoint nor worth the grass roots and political resistance such an approach is guaranteed to engender, ---especially considering that our rural towns represent only 7.6% of RI’s population and probably less than 5% of the opportunity to address our housing crisis in a highly impactful way. Let’s not pick unnecessary time wasting fights that take our eyes off the ball.

There should nevertheless be an expectation and **a mix of carrots and sticks for targeted growth** and expanded housing opportunities in the sections of our rural communities where some infrastructure exists, primarily **in the village centers** within these places—the Ashaways, Chepachets, Harrisvilles, Hope Valleys, etc. of our region

But the bottom line is to make sure that we not require or even encourage the same level of density and growth in a place such as Olneville or Valley Falls or Rolfe Square or Riverside as we push for in a Richmond or Hopkinton.

The importance of incentives to overcome municipal resistance to population/housing growth

One inescapable reality in achieving more smart growth development patterns and multi-family housing is that there will need to be significant incentives for this production even in our urban and built up suburban areas, along with at least one new carrot.

I think we all know that **the conventional fiscal wisdom among most municipal leaders is that growth is generally fiscally harmful to them**, especially growth represented by families with kids. We don't think that our municipal leaders are always correct about this, but that's the prevailing mindset, and if we are going to overcome that mindset we need to make it more financially attractive for municipalities to permit and promote mixed use and mixed income development that includes significant additional multifamily housing .

One of the legitimate reasons municipalities need incentives to maximize their acceptance of pro density, pro housing land use reforms is **that the fiscal benefits of population growth accrue mainly to state government while the fiscal costs of growth are mainly being borne by local government**. These conclusions are based on an extensive study we did two plus years ago for the City of Providence with your brilliant Commission member Edi Tebaldi and the RI Builders Association

If we don't change this fundamental equation by having the state provide some financial incentives to local communities for denser and multifamily housing development, we will continue to lack the full buy in we need from them to make a serious dent in our shortage of housing, especially our shortage of affordable and workforce housing.

As a reasonable complement to new financial incentives we **support at least one new carrot the elimination of special exemptions from the 10% affordable housing goal currently in place for a total of 10 of our larger cities and big suburbs, places where some of the best opportunities for enhance housing supply exists—communities such as Providence, Pawtucket, Warwick, Cranston, West Warwick, North Providence**. But this carrot by itself can only generate a modest amount of positive action if not accompanied by new and substantial incentives for these communities to go way beyond the 10% affordable housing threshold, a threshold which several of them have already exceeded anyway.

Specific Land Use and Development reforms we support

All the money in the world will not by itself produce the additional attainable housing and revitalized Downtowns and Main Streets which Rhode Islanders need , if there isn't a willingness on the part of municipalities to embrace that direction.

This is why we support such development and redevelopment incentives/reforms as :

- **Enacting a housing production incentive** modeled after a Massachusetts program known as 40-R to expand multi-family housing development in smart growth locations. This program would provide municipalities with funding to develop zoning reforms that establish levels of density and mixed use conducive to additional multi family housing development as well as providing direct financial subsidies for each unit of new multi family housing created in these locations.
- **Implementing the Rhode Islandized version of Massachusetts' 40 S program enacted almost two years ago.** Unfortunately, this innovative program is languishing. It is designed to fund both municipal zoning reforms in smart growth locations AND demonstrated upticks in local education costs attributable to additional multi family housing development. **We encourage state officials to prioritize its implementation before the end of this year.**
- **Seriously consider advancing a Rhode Islandized version of Massachusetts 40 A program.** This initiative would require municipalities with a significant level of transit service to establish at least one section of their jurisdiction where relatively high levels of density, mixed use development and multi family housing would be allowed by right.
- **Expanding the funding and impact of the RI Municipal Infrastructure Grant program** – support supplemental capitalization of the 2018 enacted program at \$ 20 million per year for three years to unlock housing and economic redevelopment opportunities in urban and town centers and along transit corridors.
- **Institute a Local Development Fellows Program and a State Community Development entity,** both of which are key revitalization recommendations of the State's Economic Strategy. The Local Development Fellows Program, modeled after Massachusetts' highly successful Transformative Development Initiative, would provide municipalities with extra technical assistance and expertise in the form of a full time economic development professional for up to three years. This individual would help municipalities complete development and redevelopment projects in location efficient, smart growth neighborhoods, while a State Community Development entity would help assemble financing for these projects.
- **Extend the State's existing "Super TIF" redevelopment incentive program** beyond its upcoming sunset date and make it easier for a variety of projects in a variety of neighborhoods to take advantage of this powerful redevelopment tool.

- Fully fund the state-approved **Transit Master Plan** and **Bicycle Mobility Plan** to provide viable alternatives to single-occupancy auto travel and create major new opportunities for Transit oriented development (TOD) and the housing development often associated with TOD.
- **Reduce substantially the number of standards currently required to evaluate both dimensional and use zoning variance requests, and revising those which remain.** We believe that the primary standards for evaluating both of these requests should be whether the zoning relief sought is consistent with the pertinent municipal comprehensive plan, and whether the relief, if granted, will not be injurious to the vitality and character of the neighborhood in which the property seeking relief is located.

Several of the other existing standards for review, based on my nearly 20 years of experience on the Providence Zoning Board, are subject to a vast range of interpretation because of their vagueness, and are superfluous at best, and counterproductive at worst for achieving sorely needed housing production. **For example how is a group of non-financial experts on a Zoning Board supposed to evaluate whether an applicant is requesting relief primarily to achieve greater financial gain.** In any event, why is it relevant if a variance applicant is seeking a high level of financial gain as long as the relief request is supportive of the character and vitality of the neighborhood and consistent with the local Comp Plan.

We also believe that the standard which requires that the request represents the least relief necessary is **overly prescriptive and not focused on what matters for the well-being of the neighborhood and municipality in question.**

The extra standard which needs to be applied to grant a Use variance— a finding that the applicant will be **denied all beneficial use of his or her property if the relief is not granted, is almost impossible to demonstrate when interpreted literally.** Moreover, in a state in which much of our development and smart growth potential depends on reusing our many old, historic vacant and underutilized buildings,, why do we set such a high bar for approving the often very beneficial activity of reusing such properties?

So we recommend a much less stringent use variance standard than the denial of all beneficial use standard currently in place.

We also believe that the this use variance standard in RI is more stringent than that on the books in several other nearby states. It could be productive therefore for the Commission to review how other “greater New England” states handle this form of zoning variance review.

We also support at least the thrust of a number of your Commission’s preliminary recommendations including the following (language in bold is our proposed additions to your specific preliminary recommendations) :

Recommendations	HWG	ZWG	LDWG	CPWG	GL Ref	Notes
Development Review – Procedural Changes						
Mandate Unified Development Review (UDR) as statewide process	X	X	X		[45-23-40.1]	
Remove “least relief necessary” language	X	X			Use Variance [45-24-41]	
Remove “realize greater financial gain” language		X			Use Variance [45-24-41]	
Provide a process by which a Nonconforming use becomes the legal, permitted, use after a period of time		X			Use Variance [45-24-41]	
For properties with a legacy of use variances, create a less intensive standard to review new proposals		X				
	X		X			
Allow transfer of development rights as an optional tool statewide	X	X			Currently available to NK and Exeter [45-24-46.2;46.3]	ZWG rec: combine existing sections to enable TDR statewide
Establish standards for merging of undersized lots	X	X				
Systemic Changes						

Fund Division of Statewide Planning to provide technical assistance to municipalities	X			X		
Establish grants to municipalities to support local staff or consultants (e.g., the Local Development Fellows Program we referenced earlier) in planning activities	X			X		
Clarify guidance on education requirements for zoning and planning board members		X				
Institute Universal Forms and E-Permitting statewide	X	X	X			
Make zoning ordinances easier to amend for more adaptable regulation of land use	X					
Fund land use regulatory processes at the state level, (including potentially the building inspection process through state budget			X			LDWG note: relieves municipal planners/solicitors of burden of regulatory drafting and management
Changes to encourage housing development						
Incentivize housing development through density bonuses- but avoid one size fits all approach	X	X				
	X					
Amend ADU legislation for clarity and ease of use	X					
Ban use of ADUs for short term rentals	X					

Allow for ease of redevelopment of single family stock to two family or small multifamily by right at least in relatively built up neighborhoods with adequate water and sewer infrastructure.	X						HWG note: allows for development of missing middle housing
Identify "transition zones"; areas between commercial, industrial, and single family, for development of multifamily or duplexes	X						HWG note: allows for development of missing middle housing
Reduce or remove parking requirements for residential development	X						
Use state funding to incentivize development projects that incorporate affordable housing units and act on climate goals A Rhode Islandized version of MA's 40 R and 40 A programs could achieve these goals.	X						
Use state funding to support technical assistance to municipalities for housing planning	X						
	X						
Require developments that receive TSAs to include affordable units within the development	X						
Comprehensive Plan							
Re-establish the authority of the Comp Plan; Clarify relationship between zoning ordinance and comprehensive plan	X	X	X	X	[45-24-34, 45-24-50, 45-24-51, 45-24-55]		ZWG rec: these sections of the law should be combined
Review Comp Plan every 5 years			X	X			CPWG notes: prior to 2011 change, CP

						were required to be updated every 5 yrs
Future Land Use Map should be directly related to the Comp Plans; and used as a guiding document for planning and zoning decisions			X		[45-22.2-8(c)]	LDWG rec: establish a process of change where the CP and FLUM are reviewed every year; even years – planning recommendation; odd years – council ordinance
Add sections on Equity, Climate Change and Resiliency				X	[42-22.2]	
Create actionable housing goals or growth metrics within the Comp Plan process that include affordable housing	X					
Other related concerns beyond the enabling acts						
Invest in the building trades and contractor workforce statewide to support residential development	X					
Re-establish a graduate degree program in Community Planning in RI						
Create municipal tax incentives for municipalities who are making progress towards the 10% AH goal or growth metrics	X					

Conclusion

We applaud your commitment to getting land use reform right so that it can have both reasonably quick and enduring positive impact on the economic and environmental well-being of all Rhode Islanders, as well as on their physical and mental health.

We commend you for your sense of urgency about pursuing land use reform and for your thorough and bold approach to addressing this multi-faceted issue.

We would like to have the opportunity to weigh in on more of your recommendations as you refine them and as we have a chance to dig into them further, I encourage you to consider us as an ongoing resource for your deliberations.