Land Use Commission
Zoning Working Group

Goals of the Zoning Working Group: Revise the zoning enabling act so that it:

- Improves what exists today;
- Can serve as a model piece of legislation;
- Creates a process that is clear, concise, and rationale;
- Provides greater efficiency while protecting local community flexibility; and
- Takes implicit bias and impacts from climate change into consideration.

Running List of Working Group Recommendations:

1. Create a process within zoning that streamlines small applications. Consider requiring certain dimensional or modifications to be decided at the staff level. [45-24-58?]
2. Standardize and make clear the standards for:
    - Use variance [45-24-41] – revisit ALL standards:
        - Remove the "least relief necessary" language – consider modification or improve criteria for standard.
        - Remove the "realize greater financial gain" language.
        - If Housing Working Group recommends keeping the 10%, consider failure to meet the 10% affordable housing standard is grounds for a use variance. If Low-Mod changes the %, then this percentage should change.
            - Rural communities take issue with this.
        - Nonconforming uses after a period of time can become legal: provide a process where a use variance can be changed to a permitted use.
    - Special Use Permit [45-24-42] – revisit ALL standards:
        - Make law clearer. If have special use permit, require municipality to create special standards per each specific use. Consider requiring that if municipality does not have specific standards, not use permit is needed. AND/OR If use has X impacts, special use permit; if no X impacts, no special use permit is needed.
        - Consider whether a special use permit should have a limited time/be finite or be contingent on transfer.
    - Dimensional variance [45-24-41] – revisit ALL standards.
    - Modifications [45-24-46] – revisit ALL standards.
        - Consider broadening to more than dimensional requirements.
        - In 45-24-46, it says we can grant modifications from "the literal dimensional requirements of the zoning ordinance in the instance of the construction, alteration, or structural modification of a structure or lot of record." But then it says, "a modification does not permit moving of lot lines." And in the definitions, modification is "Permission granted and administered by the zoning enforcement officer of the city or town, and pursuant to the provisions of this chapter to grant a dimensional variance other than lot area requirements from the zoning ordinance to a limited degree as determined by the zoning ordinance of the city or town, but not to exceed twenty-five percent (25%) of each of the applicable dimensional requirements." This all needs to be rewritten.
    - Waiver: Underdevelopment Plan Review [45-24-49] – should clarity be provided?

- Variance & SUP at the same time – consider allowing these to be considered together to respond to court decision and provide consistency across the state.
- Create a process for handling legacy of uses created by variances; maybe create a “less intensive” standard.

3. Revisit requirements for what information needs to be on notice. [45-24-53]
   - Consider requiring more modern means of advertising and providing same standard for everything:
     - 2 weeks – first class mail.
     - Require posting on community webpage & SOS.
     - Do not require newspaper.
     - For certain applications, require sign (18X24) on property.
       - Zoning Application – Hearing Date: X
4. Review and revise the definition section, as needed, to ensure standardized language. [45-24-31 & 45-24-35]
   - This should include defining overlay districts or overlay zones statewide and create opportunities for communities to adopt this type of mechanism.
   - Is 45-24-35 still needed?
   - Revise definition of land development project but do not make it too limited?
     - Confusion regarding definitions: 1 or more lots of 1 or more uses – could be read as 1 lot with 1 use = any commercial development is a land development, maybe change to 1 or more lots of more than 1 uses
   - 5 members and 3 alternates allowed.
5. Provide clear guidance on what needs to be in education for Zoning Board members.
   - Communities with 1 or fewer planners, require Statewide Planning to support.
   - Enable Statewide Planning through appropriate means to create a guidebook on Zoning implementation.
6. Density bonus. Incentivize housing by allowing bonuses for middle and affordable housing. Add a definition of middle housing.
7. Clarify the relationship between zoning ordinance and comprehensive plan. [45-24-34, 45-24-50, 45-24-51 & 45-24-55]
   - (If we revise, I recommend we consider combining these sections.)
8. Create a standard for preexisting/historic uses. [45-24-40]
   - Will need to define preexisting/historic use.
9. Create enabling flexibility development legislation that encourages greater density through zoning. For example, maybe allow certain modifications by right if for a certain density percentage. Consider capacity of the community. Another example would be to encourage parking modifications to allow for resiliency.
10. Revisit section on the number of zoning board members. [45-24-56]
    - (Quorum is an issue in some communities; hopefully revising this section could address some quorum issues.)
11. Consider requiring each municipality to provide UDR. [45-24-46.4]
    - Is this too heavy-handed?
12. Consider requiring each municipality to allow by right a certain percentage of multifamily housing.
    - Tie to services, not population.
    - Is this too heavy-handed?

13. Revise merging to provide standards for merging of undersized lots. Several communities across the state have down-zoned developed areas to ensure that existing vacant lots cannot be built upon without a variance or require lots to merge when they are adjacent and owned by the same individual. Merger should not be permitted where most of the lots have been developed under the old zoning standards. The vacant lots should be allowed to develop in conformance with the prior zoning standards without the need to seek a zoning variance.
14. Make zoning certificates appealable. It is not clear in the law if a zoning certificate, which is an action of the zoning official, is appealable. The certificate limits what a person can do with their property. May not be as big an issue now with the change in the number of votes required to grant a variance. And there should be no concern about removing the authority of a building official if the decision is made on the facts.
15. Allow transfer of development rights as an optional tool statewide. As I read the law, this tool is only available to North Kingstown (45-24-46.2) and Exeter (45-24-46.3). Would like to combine these sections into one an enable TDRs statewide.
16. Fix or remove the fee-in-lieu provision for Inclusionary Zoning.
    - Concerns with the fee-in-lieu of provision: Applicant's decision to use this tool; rating system from RIHousing; is not equal from one town to another; if a community collects the money and an entity doesn't use it, the money goes back to RI housing.