

Special Legislative Commission to Study Land Use

January 2, 2023

Summary of Commission Goals:

- Address issues of land use, preservation, development, and regulation in a way that properly manages the use of this important resource to insure and promote land use which allows for both growth and sustainability
- Address the impact of land use regulations and zoning ordinances on the state's shortage of affordable housing
- Address implications of global warming and climate change on land use planning
- Undertake a broad based review of comprehensive land use regulation in RI

Working Groups

- Housing Working Group (HWG), Chair Kristina Brown
- Zoning Working Group (ZWG), Chair Nicole Verdi
- Land Development Working Group (LDWG), Chair Dylan Conley
- Comprehensive Plan Working Group (CPWG), Chair Meredith Brady

Consolidated Recommendations from Land Use Commission Working Groups (*see chart below*)

Recommendations		HWG	ZWG	LDWG	CPWG	GL Ref	Notes
Development Review – Procedural Changes							
	High Impact – Medium Impact – Low Impact - De Minimis						
	Establish state regulations for a standardized review process	X		X		[45-23-52; 45-23-54]	LDWG notes: municipalities already follow this type of regulatory process with Liquor Licensing
	Create consistency across municipalities; supports establishing precedent and clarity of process	X		X			
	Variance and Special Use Permit requests should be considered at the same time and processes for approval should be standardized statewide		X				
	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]	
	Enable municipal staff to use third-party experts at developer expense/Explicit permission and indemnity for reliance on professional stamps	X		X			
	Establish explicit permission and indemnity for reliance on professional stamps; use of third party experts at developer expense			X			
	Establish a statewide hearing officer for development appeals	X		X		[45-23-66, 45-23-73]	HWG rec: evaluate whether this change would trigger elimination of the SHAB
	Establish a statewide appeals process with clear regulations	X		X		[45-23-66, 45-23-73]	See LDWG rec pg. 4 for list of details; “Due Process”
	Make zoning certificates appealable		X				
	Establish standards for merging of undersized lots	X	X				

	Eliminate Public Hearing for development proposals that conform to zoning, i.e. "by-right" projects	X	X	X			LDWG rec: substituting informational meeting for hearing on by-right projects
	Implement a Consent Agenda that pre-vets proposals and streamlines board meetings			X			LDWG notes: pre-vetted agenda items allows board members to focus on proposals that need full hearing
	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 clear standards for special use permit; based on assessment of impact	X	X			Special Use Permit [45-24-42]	
	For properties with a legacy of use variances, create a less intensive standard to review new proposals		X				
	Provide a process by which a Nonconforming use becomes the legal, permitted, use after a period of time		X			Use Variance [45-24-41]	
	Review ALL standards for dimensional variances	X	X			[45-24-41]	
	Modifications section of the enabling act needs to be rewritten for clarity and effective use		X			[45-24-46]	
	Systemic Changes						
	Zoning Code should become regulation; this would empower the Comp Plan and FLUM			X			LDWG note: this is the CT model
	Address planning and zoning board membership/quorum issues	X	X			[45-24-56]	
	Institute Universal Forms and E-Permitting statewide	X	X	X			

Establish Development Fees that support a fund for planning activities			X			
Revise notice procedures; <i>see LDWG recommendations on notice changes – public information v. public hearing</i>		X	X		[45-24-53]	ZWG rec: 2 weeks first class mail, posting on community website & SOS, no newspaper requirement, sign on property
Make zoning ordinances easier to amend for more adaptable regulation of land use	X					
Fund land use regulatory processes at the state level, through state budget			X			LDWG note: relieves municipal planners/solicitors of burden of regulatory drafting and management
Consider revising Real Estate Transfer Tax to create sustainable funding source for statewide planning activities				X		
Update State Guide Plan elements, adopt long-range plans				X		
Fund Division of Statewide Planning to provide technical assistance to municipalities	X			X		
Establish grants to municipalities to support local staff or consultants in planning activities	X			X		
Clarify guidance on education requirements for zoning board members		X				
Changes to encourage housing development						
Mandate residential development by right in commercial zones	X					
Amend ADU legislation for clarity and ease of use	X					
Reduce or remove parking requirements for residential development	X					
Reform statewide minimum lot sizes	X					
Mandate residential development by right along state highways and transportation corridors	X					HWG note: similar to Section 3A of MA 40S
Mandate by right infill development in Growth Centers that matches existing fabric	X					
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
	Allow for ease of redevelopment of single family stock to two family or small multifamily by right	X					HWG note: allows for development of missing middle housing
	Establish zero lot line development in urban and dense suburban areas	X					
	Incentivize housing development through density bonuses	X	X				
	Consider requiring each municipality to allow by right a percentage of multifamily housing	X	X				
	Mandate that non-compliance with the 10% AH law is grounds for state level approval of AH development project	X					
	Create a "builders remedy" for developers to override local zoning to build housing under certain conditions	X					HWG note: other states have done this, see Schuetz p. 8
	Establish an exclusionary test to regulate municipalities that use zoning and land use law to exclude certain types of housing development	X					
	Establish clear consequences for municipalities that have not met their 10% year round AH stock goal	X					
	Use state funding to incentivize development projects that incorporate affordable housing units and act on climate goals	X					
	Use state funding to support technical assistance to municipalities for housing planning	X					
	Remove fee-in-lieu for Inclusionary Zoning	X	X	X			HWG rec: replace IZ fee-in-lieu with density bonuses for development proposals that include affordable units
	Ban use of ADUs for short term rentals	X					
	Establish state level growth rates for each municipality, regulate progress	X					
	Require developments that receive TSAs to include affordable units within the development	X					
	Regulate short term rentals, seasonal, and student housing	X					

Comprehensive Plan						
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
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
Assess the effectiveness of the SHAB, potentially remove the SHAB	X					
Review Comp Plan every 5 years			X	X		CPWG notes: prior to 2011 change, CP were required to be updated every 5 yrs
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					
Review and revise the procedural pain points within the Comprehensive Permitting process	X					
Stagger timing of Comp Plan review				X		
Require Council to make separate findings of compliance or non-compliance with Comp Plan if decisions vary from Planning Board recommendation				X		
Statute Clarification						
Reorganize enabling acts, all land use statutes, into a single act			X			
Review definition section of the enabling acts for clarity and consistency across statutes	X	X	X		[45-24-31; 45-24-35]	HWG rec: Definitions be

							consistent across the LMIHA and the enabling acts
	Create municipal tax incentives for municipalities who are making progress towards the 10% AH goal or growth metrics	X					
	Define "preexisting/historic use"		X			[45-24-40]	
	Define "middle income housing" and "middle housing"	X	X				
	Other related concerns beyond the enabling acts						
	Re-establish a graduate degree program in Community Planning in RI				X		
	Re-evaluate the funding formula for public schools and its impact on housing development/growth	X					
	Coordinate municipal incentives for water and sewer upgrades with growth goals	X					
	Invest in the building trades and contractor workforce statewide to support residential development	X					