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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2016

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A N A C T

RELATING TO TOWNS AND CITIES -- LAND DEVELOPMENT AND SUBDIVISION
REVIEW--UNIFIED DEVELOPMENT REVIEW

Introduced By: Senator Maryellen Goodwin

Date Introduced: March 23, 2016

Referred To: Senate Judiciary

(Administration)

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 45-22-7 of the General Laws in Chapter 45-22 entitled "Local
2 Planning Board or Commission" is hereby amended to read as follows:

3 ~~45-22-7. Other duties of a planning board or commission~~ **Powers and duties of a**
4 **planning board or commission.** -- (a) A planning board or commission shall have the sole
5 responsibility for performing all those acts necessary to prepare a comprehensive plan for a
6 municipality in accordance with the provisions of chapter 22.2 of title 45.

7 (b) Pursuant to §45-23-51, a planning board or commission shall be empowered by the
8 city or town council, by ordinance, to adopt, modify and amend regulations and rules governing
9 land development and subdivision projects within that municipality and to control land
10 development and subdivision projects pursuant to those regulations and rules. The planning board
11 or commission shall also provide for the administration, interpretation, and enforcement of land
12 development and subdivision review regulations, pursuant to §45-23-52.

13 (c) When directed by the city or town zoning ordinance pursuant to §45-24-46.4 and the
14 city or town land development and subdivision review regulations pursuant to §45-23-50.1, a
15 planning board or commission shall have the power to review and approve, approve with
16 conditions, or deny requests for variances and special-use permits submitted as part of land
17 development and subdivision applications.

18 (d) A planning board or commission established under the provisions of this chapter shall

1 make studies and prepare plans and reports on the needs and resources of the community with
2 reference to its physical, economic, and social growth and development as affecting the health,
3 safety, morals, and general welfare of the people. The studies, plans, and reports shall concern,
4 but not necessarily be limited to, the following:

- 5 (1) Land use and land use regulation;
- 6 (2) Transportation facilities;
- 7 (3) Public facilities including recreation areas, utilities, schools, fire stations, police
8 stations, and others;
- 9 (4) Blighted areas including the designation of general areas for redevelopment, renewal,
10 rehabilitation, or conservation;
- 11 (5) Problems of housing and the development of housing programs.
- 12 (6) Environmental protection;
- 13 (7) Natural resource conservation;
- 14 (8) Protection from disaster.
- 15 (9) Economic and social characteristics of the population;
- 16 (10) Preservation of historic sites and buildings; and
- 17 (11) Economic development.

18 ~~(b)~~(e) When directed by the city or town council or by the appointing authority, a
19 planning board or commission shall prepare an annual capital budget and a comprehensive long
20 range capital improvement program for submission to the council, the appointing authority, or
21 other designated official or agency.

22 ~~(e)~~(f) A planning board or commission shall submit an advisory opinion and
23 recommendation on all zoning matters referred to it by the zoning board of review under the
24 provisions of the city or town zoning ordinance and report on any other matter referred to it, by
25 the city or town council, the chief executive, or the appointing authority.

26 ~~(d)~~(g) A planning board or commission shall perform any other duties that may be
27 assigned to the board or commission from time to time by any act of the general assembly or by
28 any ordinance, code, regulation order, or resolution of the city or town council or by the
29 appointing authority.

30 ~~(e)~~(h) A planning board or commission has authority to call upon other departments,
31 boards, and committees of the city or town and upon regional, state, and federal agencies for
32 information and assistance necessary to the performance of its duties, and shall cooperate with the
33 city or town, regional, state, and federal agencies on matters of community, regional, and state
34 planning and development.

1 ~~(i)~~(i) Each planning board or commission must adopt a provision requiring any person
2 who will be required to file a request for access pursuant to § 24-8-34 to file that request not later
3 than the day on which that person files any document in connection with the project in question
4 with the applicable town or city, and to provide a copy of the request to the town or city.

5 SECTION 2. Sections 45-23-38, 45-23-40, 45-23-41, 45-23-61 and 45-23-63 of the
6 General Laws in Chapter 45-23 entitled "Subdivision of Land" are hereby amended to read as
7 follows:

8 **45-23-38. General provisions -- Minor land development and minor subdivision**
9 **review.** -- (a) Review stages. - Minor plan review consists of two (2) stages, preliminary and
10 final; provided, that if a street creation or extension is involved, [or a request for variances and/or](#)
11 [special-use permits are submitted, pursuant to the regulation's unified development review](#)
12 [provisions](#) a public hearing is required. The planning board may combine the approval stages,
13 providing requirements for both stages are met by the applicant to the satisfaction of the planning
14 officials.

15 (b) Submission requirements. - Any applicant requesting approval of a proposed minor
16 subdivision or minor land development, as defined in this chapter, shall submit to the
17 administrative officer the items required by the local regulations. [Requests for relief from the](#)
18 [literal requirements of the zoning ordinance and/or for the issuance of special-use permits related](#)
19 [to minor subdivisions and/or minor land development projects that are submitted under a zoning](#)
20 [ordinance's unified development review provisions shall be included as part of the preliminary](#)
21 [plan application, pursuant to §45-23-50.1\(b\).](#)

22 (c) Certification. - The application shall be certified, in writing, complete or incomplete
23 by the administrative officer within twenty-five (25) days or within fifteen (15) days if no street
24 creation or extension is required, [and/or unified development review is not requested,](#) according
25 to the provisions of § 45-23-36(b). The running of the time period set forth in this section will be
26 deemed stopped upon the issuance of a certificate of incompleteness of the application by the
27 administrative officer and will recommence upon the resubmission of a corrected application by
28 the applicant. However, in no event will the administrative officer be required to certify a
29 corrected submission as complete or incomplete less than fourteen (14) days after its
30 resubmission.

31 (d) Technical review committee. - The technical review committee, if established, will
32 review the application and will comment and make recommendations to the planning board. The
33 application will be referred to the planning board as a whole if there is no technical review
34 committee. When reviewed by a technical review committee:

1 (1) If the land development or subdivision [application does not include a request for](#)
2 [unified development review and the](#) plan is approved by a majority of the committee members,
3 the application is forwarded to the planning board with a recommendation for preliminary plan
4 approval without further review.

5 (2) If the plan is not approved by a majority vote of the committee members [or the](#)
6 [application includes a request for unified development review](#), the minor land development and
7 subdivision application is referred to the planning board.

8 (e) Re-assignment to major review. - The planning board may re-assign a proposed
9 minor project to major review only when the planning board is unable to make the positive
10 findings required in § 45-23-60.

11 (f) Decision. - If no street creation or extension is required, the planning board will
12 approve, deny, or approve with conditions, the preliminary plan within sixty-five (65) days of
13 certification of completeness, or within any further time that is agreed to by the applicant and the
14 board, according to the requirements of [§§45-23-60 and](#) 45-23-63. If a street extension or creation
15 is required, the planning board will hold a public hearing prior to approval according to the
16 requirements in § 45-23-42 and will approve, deny, or approve with conditions, the preliminary
17 plan within ninety-five (95) days of certification of completeness, or within any specified time
18 that is agreed to by the applicant and the board, according to the requirements of [§§45-23-60 and](#)
19 ~~§~~45-23-63.

20 (g) Failure to act. - Failure of the planning board to act within the period prescribed
21 constitutes approval of the preliminary plan and a certificate of the administrative officer as to the
22 failure of the planning board to act within the required time and the resulting approval will be
23 issued on request of the application.

24 (h) Final plan. - The planning board may delegate final plan review and approval to
25 either the administrative officer or the technical review committee. The officer or committee will
26 report its actions, in writing to the planning board at its next regular meeting, to be made part of
27 the record.

28 (i) Expiration of approval. - Approval of a minor land development or subdivision plan
29 expires ninety (90) days from the date of approval unless within that period a plat or plan, in
30 conformity with approval, and as defined in this act, is submitted for signature and recording as
31 specified in § 45-23-64. Validity may be extended for a longer period, for cause shown, if
32 requested by the application in writing, and approved by the planning board.

33 **45-23-40. General provisions -- Major land development and major subdivision --**
34 **Master plan.** -- (a) Submission requirements.

1 (1) The applicant shall first submit to the administrative officer the items required by the
2 local regulations for master plans.

3 (2) Requirements for the master plan and supporting material for this phase of review
4 include, but are not limited to: information on the natural and built features of the surrounding
5 neighborhood, existing natural and man-made conditions of the development site, including
6 topographic features, the freshwater wetland and coastal zone boundaries, the floodplains, as well
7 as the proposed design concept, proposed public improvements and dedications, tentative
8 construction phasing, and potential neighborhood impacts.

9 (3) Initial comments will be solicited from

10 (i) local agencies including, but not limited to, the planning department, the department
11 of public works, fire and police departments, the conservation and recreation commissions;

12 (ii) adjacent communities;

13 (iii) state agencies, as appropriate, including the departments of environmental
14 management and transportation, and the coastal resources management council; and (iv) federal
15 agencies, as appropriate. The administrative officer shall coordinate review and comments by
16 local officials, adjacent communities, and state and federal agencies.

17 [\(4\) Requests for relief from the literal requirements of the zoning ordinance and/or for the](#)
18 [issuance of special-use permits related to major subdivisions and/or major land development](#)
19 [projects that are submitted under a zoning ordinance's unified development review provisions](#)
20 [shall be included as part of the master plan application, pursuant to §45-23-50.1\(b\).](#)

21 (b) Certification. - The application must be certified in writing, complete or incomplete
22 by the administrative officer within sixty (60) days, according to the provisions of § 45-23-36(b).
23 The running of the time period set forth herein will be deemed stopped upon the issuance of a
24 certificate of incompleteness of the application by the administrative officer and will recommence
25 upon the resubmission of a corrected application by the applicant. However, in no event will the
26 administrative officer be required to certify a corrected submission as complete or incomplete less
27 than fourteen (14) days after its resubmission.

28 (c) Technical review committee. - The technical review committee, if established, shall
29 review the application and shall comment and make recommendations to the planning board.

30 (d) Informational meeting.

31 (1) A public informational meeting will be held prior to the planning board decision on
32 the master plan, unless the master plan and preliminary plan approvals are being combined, in
33 which case the public informational meeting is optional, based upon planning board
34 determination, [or unified development review has been requested, in which case a public hearing](#)

1 [shall be held pursuant to §45-23-50.1\(b\).](#)

2 (2) Public notice for the informational meeting is required and must be given at least
3 seven (7) days prior to the date of the meeting in a newspaper of general circulation within the
4 municipality. Postcard notice must be mailed to the applicant and to all property owners within
5 the notice area, as specified by local regulations.

6 (3) At the public informational meeting the applicant will present the proposed
7 development project. The planning board must allow oral and written comments from the general
8 public. All public comments are to be made part of the public record of the project application.

9 (e) Decision. - The planning board shall, within one hundred and twenty (120) days of
10 certification of completeness, or within a further amount of time that may be consented to by the
11 applicant, approve of the master plan as submitted, approve with changes and/or conditions, or
12 deny the application, according to the requirements of [§§45-23-60 and 45-23-63](#).

13 (f) Failure to act. - Failure of the planning board to act within the prescribed period
14 constitutes approval of the master plan, and a certificate of the administrative officer as to the
15 failure of the planning board to act within the required time and the resulting approval will be
16 issued on request of the applicant.

17 (g) Vesting.

18 (1) The approved master plan is vested for a period of two (2) years, with the right to
19 extend for two (2) one year extensions upon written request by the applicant, who must appear
20 before the planning board for the annual review. Thereafter, vesting may be extended for a longer
21 period, for good cause shown, if requested by the applicant, in writing, and approved by the
22 planning board. Master plan vesting includes the zoning requirements, conceptual layout and all
23 conditions shown on the approved master plan drawings and supporting materials.

24 (2) The initial four (4) year vesting for the approved master plan constitutes the vested
25 rights for the development as required in § 45-24-44.

26 **45-23-41. General provisions -- Major land development and major subdivision --**

27 **Preliminary plan.** -- (a) Submission requirements.

28 (1) The applicant shall first submit to the administrative officer the items required by the
29 local regulations for preliminary plans.

30 (2) Requirements for the preliminary plan and supporting materials for this phase of the
31 review include, but are not limited to: engineering plans depicting the existing site conditions,
32 engineering plans depicting the proposed development project, a perimeter survey, all permits
33 required by state or federal agencies prior to commencement of construction, including permits
34 related to freshwater wetlands, the coastal zone, floodplains, preliminary suitability for individual

1 septic disposal systems, public water systems, and connections to state roads.

2 (3) At the preliminary plan review phase, the administrative officer shall solicit final
3 written comments and/or approvals of the department of public works, the city or town engineer,
4 the city or town solicitor, other local government departments, commissions, or authorities as
5 appropriate.

6 (4) Prior to approval of the preliminary plan, copies of all legal documents describing the
7 property, proposed easements and rights-of-way.

8 (5) If the applicant is requesting alteration of any variances and/or special use permits
9 granted by the planning board or commission at the master plan stage of review pursuant to
10 adopted unified development review provisions, and/or any new variances and/or special-use
11 permits, such requests and all supporting documentation shall be included as part of the
12 preliminary plan application materials, pursuant to §45-23-50.1(b).

13 (b) Certification. - The application will be certified as complete or incomplete by the
14 administrative officer within sixty (60) days, according to the provisions of § 45-23-36(b). The
15 running of the time period set forth herein will be deemed stopped upon the issuance of a
16 certificate of incompleteness of the application by the administrative officer and will recommence
17 upon the resubmission of a corrected application by the applicant. However, in no event shall the
18 administrative officer be required to certify a corrected submission as complete or incomplete less
19 than fourteen (14) days after its resubmission.

20 (c) Technical review committee. - The technical review committee, if established, shall
21 review the application and shall comment and make recommendations to the planning board.

22 (d) Public hearing. - Prior to a planning board decision on the preliminary plan, a public
23 hearing, which adheres to the requirements for notice described in § 45-23-42, must be held.

24 (e) Public improvement guarantees. - Proposed arrangements for completion of the
25 required public improvements, including construction schedule and/or financial guarantees shall
26 be reviewed and approved by the planning board at preliminary plan approval.

27 (f) Decision. - A complete application for a major subdivision or development plan shall
28 be approved, approved with conditions or denied, in accordance with the requirements of §§ 45-
29 23-60 and 45-23-63, within one hundred twenty (120) days of the date when it is certified
30 complete, or within a further amount of time that may be consented to by the developer.

31 (g) Failure to act. - Failure of the planning board to act within the prescribed period
32 constitutes approval of the preliminary plan and a certificate of the administrative officer as to the
33 failure of the planning board to act within the required time and the resulting approval shall be
34 issued on request of the applicant.

1 (h) Vesting. - The approved preliminary plan is vested for a period of two (2) years with
2 the right to extend for two (2) one year extensions upon written request by the applicant, who
3 must appear before the planning board for each annual review and provide proof of valid state or
4 federal permits as applicable. Thereafter, vesting may be extended for a longer period, for good
5 cause shown, if requested, in writing by the applicant, and approved by the planning board. The
6 vesting for the preliminary plan approval includes all general and specific conditions shown on
7 the approved preliminary plan drawings and supporting material.

8 **45-23-61. Procedure -- Precedence of approvals between planning board and other**
9 **local permitting authorities.** -- (a) Zoning board.

10 (1) Where an applicant requires both a variance from the local zoning ordinance and
11 planning board approval, [and the application is not undergoing unified development review](#)
12 [pursuant to §45-23-50.1 and the local zoning ordinance](#), the applicant shall first obtain an
13 advisory recommendation from the planning board, as well as conditional planning board
14 approval for the first approval stage for the proposed project, which may be simultaneous, then
15 obtain conditional zoning board relief, and then return to the planning board for subsequent
16 required approval(s).

17 (2) Where an applicant requires both a special-use permit under the local zoning
18 ordinance and planning board approval, [and the application is not undergoing unified](#)
19 [development review pursuant to §45-23-50.1 and the local zoning ordinance](#), the applicant shall
20 first obtain an advisory recommendation from the planning board, as well as conditional planning
21 board approval for the first approval stage for the proposed project, which may be simultaneous,
22 then obtain a conditional special-use permit from the zoning board, and then return to the
23 planning board for subsequent required approval(s).

24 (b) City or town council. - Where an applicant requires both planning board approval
25 and council approval for a zoning ordinance or zoning map change, the applicant shall first obtain
26 an advisory recommendation on the zoning change from the planning board, as well as
27 conditional planning board approval for the first approval stage for the proposed project, which
28 may be simultaneous, then obtain a conditional zoning change from the council, and then return
29 to the planning board for subsequent required approval(s).

30 **45-23-63. Procedure -- Meetings -- Votes -- Decisions and records.** -- (a) All records
31 of the planning board proceedings and decisions shall be written and kept permanently available
32 for public review. Completed applications for proposed land development and subdivisions
33 projects under review by the planning board shall be available for public review.

34 (b) Participation in a planning board meeting or other proceedings by any party is not a

1 cause for civil action or liability except for acts not in good faith, intentional misconduct,
2 knowing violation of law, transactions where there is an improper personal benefit, or malicious,
3 wanton, or willful misconduct.

4 (c) All final written comments to the planning board from the administrative officer,
5 municipal departments, the technical review committee, state and federal agencies, and local
6 commissions are part of the permanent record of the development application.

7 (d) Votes. - All votes of the planning board shall be made part of the permanent record
8 and show the members present and their votes. A decision by the planning board to approve any
9 land development or subdivision application requires a vote for approval by a majority of the
10 current planning board membership. [A decision by the planning board to approve a variance or
11 special-use permit pursuant to any adopted unified development review regulations requires a
12 vote for approval by a majority of the planning board members that were present at the public
13 hearing at which the request was heard.](#)

14 (e) All written decisions of the planning board shall be recorded in the land evidence
15 records within thirty-five (35) days after the planning board vote. A copy of the recorded decision
16 shall be mailed within one business day of recording, by any method that provides confirmation
17 of receipt, to the applicant and to any objector who has filed a written request for notice with the
18 administrative officer.

19 SECTION 3. Chapter 45-23 of the General Laws entitled "Subdivision of Land" is hereby
20 amended by adding thereto the following section:

21 **45-23-50.1. Special provisions -- Unified development review.** -- [\(a\) When a municipal
22 zoning ordinance provides for unified development review pursuant to §45-24-46.4, the local
23 regulations must include procedures for the filing, review and approval of applications, pursuant
24 to this section.](#)

25 [\(b\) Review of variances and special-use permits submitted under the unified development
26 review provisions of the regulations shall adhere to the following procedures:](#)

27 [\(1\) Minor subdivisions and land development projects. Requests for relief from the literal
28 requirements of the zoning ordinance and/or for the issuance of special-use permits related to
29 minor subdivisions and land development projects shall be submitted as part of the application
30 materials for the preliminary plan stage of review. A public hearing on the application, including
31 any variance and special use permit requests, which meets the requirements of §45-23-50.1\(c\),
32 shall be held prior to consideration of the preliminary plan by the planning board or commission.
33 The planning board or commission shall conditionally approve or deny the request\(s\) for the
34 variance\(s\) and/or special-use permit\(s\) before considering the preliminary plan application for](#)

1 the minor subdivision or land development project. Approval of the variance(s) and/or special-use
2 permit(s) shall be conditioned on approval of the final plan of the minor subdivision or land
3 development project.

4 (2) Major subdivisions and land development projects – Master plan. Requests for relief
5 from the literal requirements of the zoning ordinance and/or for the issuance of a special-use
6 permit related to major subdivisions and land development projects shall be submitted as part of
7 the application materials for the master plan stage of review. A public hearing on the application,
8 including any variance and special use permit requests which meets the requirements of §45-23-
9 50.1(c), shall be held prior to consideration of the master plan by the planning board or
10 commission. The planning board or commission shall conditionally approve or deny the requests
11 for the variance(s) and/or special-use permit(s) before considering the master plan application for
12 the major subdivision or land development project. Approval of the variance(s) and/or special-use
13 permit(s) shall be conditioned on approval of the final plan of the major subdivision or land
14 development project.

15 (3) Major subdivisions and land development projects – Preliminary plan. During the
16 preliminary plan stage of review, applicants shall have the ability to request alteration of any
17 variance(s) and/or special-use permit(s) granted by the planning board or commission during the
18 master plan stage of review, and/or to request new variance(s) and/or special-use permit(s), based
19 on the outcomes of the more detailed planning and design necessary for the preliminary plan. If
20 necessary, the applicant shall submit such requests and all supporting documentation along with
21 the preliminary plan application materials. A public hearing on the application, including any
22 alterations and new requests, which meets the requirements of §45-23-50.1(c), shall be held prior
23 to consideration of the preliminary plan by the planning board or commission. The planning
24 board or commission shall conditionally approve, amend, or deny the requests for alteration(s),
25 new variance(s) and/or new special-use permit(s) before considering the preliminary plan
26 application for the major subdivision or land development project. Approval of the alteration(s),
27 new variance(s), and/or new special-use permit(s) shall be conditioned on approval of the final
28 plan of the major subdivision or land development project. If the planning board or commission
29 denies the request for alteration(s), new variance(s), and/or new special-use permit(s) the
30 planning board shall have the option of remanding the application back to the master plan stage of
31 review. Alternatively, if the planning board or commission denies the request for alteration(s),
32 new variance(s), and/or new special-use permit(s), the applicant may consent to an extension of
33 the decision period mandated by §45-23-41(f) so that additional information can be provided and
34 reviewed by the board or commission.

1 (4) Decision. The time periods by which the planning board or commission must approve
2 or deny applications for variances and special-use permits under the unified development review
3 provisions of the local regulations shall be the same as the time periods by which the board must
4 make a decision on the applicable review stage of the subdivision or land development project
5 under review.

6 (c) All subdivision and land development applications that include requests for variances
7 and/or special-use permits submitted under the development review provisions of the regulations
8 shall require a singular public hearing, held pursuant to §45-23-50.1(b). All such public hearings
9 must meet the following requirements:

10 (1) Public hearing notice shall adhere to the requirements found in §45-23-42(b).

11 (2) The notice area for notice of the public hearing shall be specified in the local
12 regulations, and shall, at a minimum, include all property located in or within not less than two
13 hundred feet (200') of the perimeter of the area included in the subdivision and/or land
14 development project. Notice of the public hearing shall be sent by the administrative officer to the
15 administrative officer of an adjacent municipality if: (1) The notice area extends into the adjacent
16 municipality; or (2) The development site extends into the adjacent municipality; or (3) There is a
17 potential for significant negative impact on the adjacent municipality. Additional notice within
18 watersheds shall also be sent as required in §45-23-53(b) and (c).

19 (3) Public notice shall indicate that dimensional variance(s), use variance(s) and/or
20 special-use permit(s) are to be considered for the subdivision and/or land development project.

21 (4) The cost of all public notice is to be borne by the applicant.

22 (d) The time periods by which the planning board or commission must approve or deny
23 requests for variances and special-use permits under the unified development review provisions
24 of a zoning ordinance shall be the same as the time periods by which the board must make a
25 decision on the applicable review stage of the subdivision or land development project under
26 review.

27 (e) Requests for the variance(s) and/or special-use permits that are denied by the planning
28 board or commission may be appealed to the board of appeal pursuant to §45-23-66.

29 SECTION 4. Sections 45-24-41 and 45-24-42 of the General Laws in Chapter 45-24
30 entitled "Zoning Ordinances" are hereby amended to read as follows:

31 **45-24-41. General provisions -- Variances.** -- (a) An application for relief from the
32 literal requirements of a zoning ordinance because of hardship may be made by any person,
33 group, agency, or corporation by filing with the zoning enforcement officer or agency an
34 application describing the request and supported by any data and evidence as may be required by

1 the zoning board of review or by the terms of the ordinance. The zoning enforcement officer or
2 agency shall immediately transmit each application received to the zoning board of review and a
3 copy of each application to the planning board or commission.

4 (b) A zoning ordinance provides that the zoning board of review, immediately upon
5 receipt of an application for a variance in the application of the literal terms of the zoning
6 ordinance, may request that the planning board or commission and/or staff report its findings and
7 recommendations, including a statement on the general consistency of the application with the
8 goals and purposes of the comprehensive plan of the city or town, in writing, to the zoning board
9 of review within thirty (30) days of receipt of the application from that board. The zoning board
10 shall hold a public hearing on any application for variance in an expeditious manner, after receipt,
11 in proper form, of an application, and shall give public notice at least fourteen (14) days prior to
12 the date of the hearing in a newspaper of general circulation in the city or town. Notice of hearing
13 shall be sent by first class mail to the applicant, and to at least all those who would require notice
14 under § 45-24-53. The notice shall also include the street address of the subject property. A
15 zoning ordinance may require that a supplemental notice, that an application for a variance is
16 under consideration, be posted at the location in question. The posting is for information purposes
17 only and does not constitute required notice of a public hearing. The cost of notification shall be
18 borne by the applicant.

19 (c) A zoning ordinance may provide for unified development review, pursuant to §45-
20 24-46.4. Requests for dimensional and use variances submitted under a unified development
21 review provision of a zoning ordinance shall be submitted as part of the subdivision or land
22 development application to the administrative officer of the planning board or commission,
23 pursuant to §45-24-46.4(a). All subdivision or land development applications submitted under the
24 unified development review provisions of a zoning ordinance shall have a public hearing, which
25 shall meet the requirements of §45-23-50.1(c).

26 (d) In granting a variance, the zoning board of review, or, where unified development
27 review is enabled pursuant to §45-24-46.4, the planning board or commission, shall require
28 ~~requires~~ that evidence to the satisfaction of the following standards is entered into the record of
29 the proceedings:

30 (1) That the hardship from which the applicant seeks relief is due to the unique
31 characteristics of the subject land or structure and not to the general characteristics of the
32 surrounding area; and is not due to a physical or economic disability of the applicant, excepting
33 those physical disabilities addressed in § 45-24-30(16);

34 (2) That the hardship is not the result of any prior action of the applicant and does not

1 result primarily from the desire of the applicant to realize greater financial gain;

2 (3) That the granting of the requested variance will not alter the general character of the
3 surrounding area or impair the intent or purpose of the zoning ordinance or the comprehensive
4 plan upon which the ordinance is based; and

5 (4) That the relief to be granted is the least relief necessary.

6 ~~(d)~~(e) The zoning board of review, or, where unified development review is enabled
7 pursuant to §45-24-46.4, the planning board or commission, shall, in addition to the above
8 standards, require that evidence is entered into the record of the proceedings showing that:

9 (1) in granting a use variance the subject land or structure cannot yield any beneficial use
10 if it is required to conform to the provisions of the zoning ordinance. Nonconforming use of
11 neighboring land or structures in the same district and permitted use of lands or structures in an
12 adjacent district shall not be considered in granting a use variance; and

13 (2) in granting a dimensional variance, that the hardship suffered by the owner of the
14 subject property if the dimensional variance is not granted amounts to more than a mere
15 inconvenience. The fact that a use may be more profitable or that a structure may be more
16 valuable after the relief is granted is not grounds for relief. The zoning board of review, or, where
17 unified development review is enabled pursuant to §45-24-46.4, the planning board or
18 commission has the power to grant dimensional variances where the use is permitted by special
19 use permit if provided for in the special use permit sections of the zoning ordinance.

20 **45-24-42. General provisions -- Special-use permits. --** (a) A zoning ordinance shall
21 provide for the issuance of special-use permits approved by the zoning board of review, or, where
22 unified development review is enabled pursuant to §45-24-46.4, the planning board or
23 commission.

24 (b) The ordinance shall:

25 (1) Specify the uses requiring special-use permits in each district;

26 (2) Describe the conditions and procedures under which special-use permits, of each or
27 the various categories of special-use permits established in the zoning ordinance, may be issued;

28 (3) Establish criteria for the issuance of each category of special-use permit, that shall be
29 in conformance with the purposes and intent of the comprehensive plan and the zoning ordinance
30 of the city or town;

31 (4) Provide for public hearings and notification of the date, time, place, and purpose of
32 those hearings to interested parties. Special-use permit requests submitted under a zoning
33 ordinance's unified development review provisions shall be heard and noticed in conjunction with
34 the subdivision or land development application, according to the requirements of §45-23-50.1.

1 Public notice [for special-use permits that are not submitted under a zoning ordinance's unified](#)
2 [development review provisions](#) shall be given at least fourteen (14) days prior to the date of the
3 hearing in a newspaper of general circulation in the city or town. Notice of hearing shall be sent
4 by first class mail to the applicant, and to all those who would require notice under § 45-24-53.
5 The notice shall also include the street address of the subject property. A zoning ordinance may
6 require that a supplemental notice, that an application for a special use permit is under
7 consideration, be posted at the location in question. The posting is for information purposes only
8 and does not constitute required notice of a public hearing. The cost of notification shall be borne
9 by the applicant;

10 (5) Provide for the recording of findings of fact and written decisions; and

11 (6) Provide that appeals may be taken pursuant to §[45-24-70](#) [or 45-23-66, dependent on](#)
12 [the board to which application was made.](#)

13 (c) The ordinance additionally may provide that an applicant may apply for, and be
14 issued, a dimensional variance in conjunction with a special use [permit](#). If the special use could
15 not exist without the dimensional variance, the zoning board of review, [or, where unified](#)
16 [development review is enabled pursuant to §45-24-46.4\(b\), the planning board or commission](#)
17 shall consider the special use permit and the dimensional variance together to determine if
18 granting the special use is appropriate based on both the special use criteria and the dimensional
19 variance evidentiary standards.

20 SECTION 5. Chapter 45-24 of the General Laws entitled "Zoning Ordinances" is hereby
21 amended by adding thereto the following section:

22 **45-24-46.4. Special provisions -- Unified development review. --** [\(a\) A zoning](#)
23 [ordinance may provide that review and approval of dimensional variances, use variances and/or](#)
24 [special-use permits for properties undergoing review by the planning board or commission as](#)
25 [land development or subdivision projects pursuant to §45-23-36, be conducted and decided by the](#)
26 [planning board or commission. This process is to be known as unified development review.](#)

27 [\(b\) If unified development review is desired, such review must be enabled within the](#)
28 [zoning ordinance, in accordance with this section, and the local subdivision and land](#)
29 [development regulations must be brought into conformance, pursuant to §45-23-50.1.](#)

30 [\(c\) A zoning ordinance that provides for unified development review shall:](#)

31 [\(1\) Specify which types of zoning approval the planning board or commission shall be](#)
32 [empowered to grant for which types of projects; and](#)

33 [\(2\) Provide that any person, group, agency or corporation that files an application for an](#)
34 [included land development or subdivision project may also file requests for relief from the literal](#)

1 requirements of a zoning ordinance on the subject property, pursuant to §45-24-41, and/or for the
2 issuance of special-use permits for the subject property, pursuant to §45-24-42, by including such
3 within the application to the administrative officer of the planning board or commission with the
4 other required application materials, pursuant to §45-23-50.1(b).

5 (d) A zoning ordinance that provides for unified development review may specify design,
6 use, public benefit or other relevant criteria that must be met in order for an application to qualify
7 for review under the unified development review provisions of the zoning ordinance.
8 Certification as to whether an application meets the established criteria shall be conducted in
9 conjunction with, and following the time lines outlined for, certification of completeness of the
10 application, pursuant to §§45-23-38(c), 45-23-40(b), or 45-23-41(b).

11 (e) All land development and subdivision applications that include requests for variances
12 and/or special use permits submitted pursuant to this section shall require a public hearing that
13 meets the requirements of §§45-23-50.1(b) and 45-23-50.1(c).

14 (f) In granting requests for dimensional and use variances, the planning board or
15 commission shall be bound to the requirements of §§45-24-41(c) and 45-24-41(d) relative to
16 entering evidence into the record in satisfaction of the applicable standards.

17 (g) In reviewing requests for special-use permits, the planning board or commission shall
18 be bound to the conditions and procedures under which a special-use permit may be issued and
19 the criteria for the issuance of such permits, as found within the zoning ordinance pursuant to
20 §§45-24-42(b)(1), 45-24-42(b)(2) and 45-24-42(b)(3), and shall be required to provide for the
21 recording of findings of fact and written decisions as described in the zoning ordinance pursuant
22 to §45-24-42(b)(5).

23 (h) An appeal from any decision made pursuant to this section may be taken pursuant to
24 §45-23-66.

25 SECTION 6. This act shall take effect upon passage.

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LC005181/SUB A
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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T

RELATING TO TOWNS AND CITIES -- LAND DEVELOPMENT AND SUBDIVISION
REVIEW--UNIFIED DEVELOPMENT REVIEW

1 This act would amend the provisions of the law pertaining to subdivisions and zoning
2 ordinances to provide for unified development review by local planning and zoning boards or
3 commissions for major or minor land developments or subdivisions.

4 This act would take effect upon passage.

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LC005181/SUB A
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