New RI Legislation to Significantly Change Land Use Law and Development Process

Description

By Michael L. Mineau and Jeffrey H. Gladstone

The Rhode Island General Assembly recently passed a series of bills through both houses which were transmitted to the Governor for signature on June 19, 2023, commonly known as House Speaker Joseph Shekarchi's housing package. The scope and significance of these bills, assuming they become law (which could have occurred by the time you are reading this alert), should not be understated.

Each of these new bills, if they become law, will be covered in greater depth in the coming months, and will mostly become effective starting January 1, 2024. The key takeaway is that any pending or future real estate development, subdivision, and zoning projects may be affected, and Rhode Island's municipalities will likely also be modifying their local ordinances and subdivision regulations in order to ensure consistency and compliance with the new laws.

Below is a list of each bill with links to the bill text and a summary of some, but not all, of the changes:

2023-H 6081A / 2023-S 1037A – Amends RI's Low and Moderate Income Housing Act

- Streamlines permitting process from three to two steps (preliminary plan and final plan review)
- Clarifies and provides greater detail on standards for approvals and denials of projects
- Local Review Board is now a municipality's Planning Board
- Provides municipal government subsidies and zoning incentives, including density bonuses to allow for more dwelling units than otherwise allowed in a given zone
- Restricts municipalities from overly limiting number of bedrooms

2023-H 6061Aaa / 2023-S 1034A – Amends subdivision and land development permits and processes

- Clarifies and re-defines each category of subdivision and land development project, with new criteria
- Changes development plan review process
- Eliminates a public hearing at the preliminary plan stage of review (except in certain circumstances)
- Changes definition of "permitting authority" to include administrative officer
- Minor subdivision is now up to nine (9) buildable lots, up from current limit of five (5)
- Major subdivision is now ten (10) or more buildable lots
- Streamlines the development process

2023-H 6085A / 2023-S 1033A – Requires all land use approvals to be consistent with future land use maps

- Requires municipalities to update comprehensive plans every ten (10) years
- If comprehensive plan has not been updated for twelve (12) years, a municipality cannot deny an application based on inconsistency with the plan

2023-H 6084B / 2023-S 1052A – Creates transit-oriented development pilot program

- New rules and regulations to be promulgated by the Secretary of Housing which will outline the application, award, and reporting process

2023-H 6090A / 2023-S 1035A – Allows adaptive reuse of existing commercial structures into high density

residential developments

- Creates incentives for development of high density residential developments, including not limiting parking to more than one space required per unit and minimum lot size per dwelling not to determine density
- To qualify, developments must develop at least fifty percent (50%) of the existing commercial building into residential units, which shall then be a permitted use (except in limited circumstances)
- Allows for up to fifteen (15) dwelling units per acre, provided that at least twenty percent (20%) of the development is low and moderate income housing and other criteria are satisfied

2023-H 6083A / 2023-S 1050A – Repeals RI's State Housing Appeals Board (SHAB), to allow for direct appeal process to Superior Court

2023-H 6060A / 2023-S 1053A – Creates a housing/land use calendar in Superior Court (similar to other specialized Court calendars such as the Business Calendar)

- All planning board appeals now proceed to Superior Court
- Streamlines appeal process
- Subject to administrative orders to be established by the Court

2023-H 6058A / 2023-S 1051A – Amends inclusionary zoning statute to require base level density bonus

- Also provides for a "fee-in-lieu" of construction process, which allows a developer to pay a fee for choosing not to construct affordable housing units

2023-H 6059A / 2023-S 1032A – Amends zoning standards

- Changes dimensional variance standard to include the following new provision: "meaning that relief sought is minimal to a reasonable enjoyment of the permitted use to which the property is proposed to be devoted"
- Requires specific and objective criteria for each type of use category of special use permit; if such criteria are not provided, the use is deemed to be a permitted use
- Prohibits "consistency with comprehensive plan" from being one of those objective criteria
- New provisions for substandard lots, including that merger of lots not required when substandard lot has an area fifty percent (50%) of the lots within 200'
- Requires administrative officer to approve modifications which are fifteen percent (15%) of literal dimensional requirements, and permits approval up to twenty-five (25%)

2023-H 6087aa / 2023-S 311A – Prohibits rental application fees

2023-H 6086A / 2023-S 1038A – Standardizes the type of notice and advertising required for all land use permitting

For more information on these sweeping changes coming soon to land use and zoning law in Rhode Island, please connect with land use attorneys, Michael L. Mineau and Jeffrey H. Gladstone. Partridge Snow & Hahn LLP is available to answer questions about these new bills. For additional information and resources, visit the firm's Development, Land Use & Zoning page.

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