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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 §45-22.2.

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  
11 board or commission shall also provide for the administration, interpretation, and enforcement of  
12 land 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 applications for variances and special-use permits.

17 (d) A planning board or commission established under the provisions of this chapter shall  
18 make studies and prepare plans and reports on the needs and resources of the community with

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

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

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

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

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

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

34 ~~(e)~~(i) Each planning board or commission must adopt a provision requiring any person

1 who will be required to file a request for access pursuant to § 24-8-34 to file that request not later  
2 than the day on which that person files any document in connection with the project in question  
3 with the applicable town or city, and to provide a copy of the request to the town or city.

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

7 **45-23-38. General provisions -- Minor land development and minor subdivision**

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

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

21 (c) Certification. - The application shall be certified, in writing, complete or incomplete  
22 by the administrative officer within twenty-five (25) days or within fifteen (15) days if no street  
23 creation or extension is required, according to the provisions of § 45-23-36(b). The running of the  
24 time period set forth in this section will be deemed stopped upon the issuance of a certificate of  
25 incompleteness of the application by the administrative officer and will recommence upon the  
26 resubmission of a corrected application by the applicant. However, in no event will the  
27 administrative officer be required to certify a corrected submission as complete or incomplete less  
28 than fourteen (14) days after its resubmission.

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

33 (1) If the land development or subdivision [application does not include a request for](#)  
34 [unified development review and the](#) plan is approved by a majority of the committee members,

1 the application is forwarded to the planning board with a recommendation for preliminary plan  
2 approval without further review.

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

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

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

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

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

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

30 **45-23-40. General provisions -- Major land development and major subdivision --**  
31 **Master plan.** -- (a) Submission requirements.

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

34 (2) Requirements for the master plan and supporting material for this phase of review

1 include, but are not limited to: information on the natural and built features of the surrounding  
2 neighborhood, existing natural and man-made conditions of the development site, including  
3 topographic features, the freshwater wetland and coastal zone boundaries, the floodplains, as well  
4 as the proposed design concept, proposed public improvements and dedications, tentative  
5 construction phasing, and potential neighborhood impacts.

6 (3) Initial comments will be solicited from

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

9 (ii) adjacent communities;

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

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

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

23 (d) Informational meeting.

24 (1) A public informational meeting will be held prior to the planning board decision on  
25 the master plan, unless the master plan and preliminary plan approvals are being combined, in  
26 which case the public informational meeting is optional, based upon planning board  
27 determination.

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

32 (3) At the public informational meeting the applicant will present the proposed  
33 development project. [The applicant shall include, as part of the presentation, discussion as to](#)  
34 [whether it is anticipated that any variances and/or a special-use permit will be requested for the](#)

1 [proposed development project pursuant to any adopted unified development review procedures.](#)

2 The planning board must allow oral and written comments from the general public. All public  
3 comments are to be made part of the public record of the project application.

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

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

12 (g) Vesting.

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

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

21 **45-23-41. General provisions -- Major land development and major subdivision --**  
22 **Preliminary plan.** -- (a) Submission requirements.

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

25 (2) Requirements for the preliminary plan and supporting materials for this phase of the  
26 review include, but are not limited to: engineering plans depicting the existing site conditions,  
27 engineering plans depicting the proposed development project, a perimeter survey, all permits  
28 required by state or federal agencies prior to commencement of construction, including permits  
29 related to freshwater wetlands, the coastal zone, floodplains, preliminary suitability for individual  
30 septic disposal systems, public water systems, and connections to state roads.

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

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

3 (5) Requests for relief from the literal requirements of the zoning ordinance and/or for the  
4 issuance of a special-use permit related to major subdivisions and/or major land development  
5 projects that are submitted under a zoning ordinance's unified development review provisions  
6 shall be included as part of the preliminary plan application, pursuant to §45-23-50.1(b).

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

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

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

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

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

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

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



1 the approved preliminary plan drawings and supporting material.

2 **45-23-61. Procedure -- Precedence of approvals between planning board and other**  
3 **local permitting authorities.** -- (a) Zoning board.

4 (1) Where an applicant requires both a variance from the local zoning ordinance and  
5 planning board approval, the applicant shall first obtain an advisory recommendation from the  
6 planning board, [and the application is not undergoing unified development review pursuant to](#)  
7 [§45-23-50.1 and the local zoning ordinance](#), as well as conditional planning board approval for  
8 the first approval stage for the proposed project, which may be simultaneous, then obtain  
9 conditional zoning board relief, and then return to the planning board for subsequent required  
10 approval(s).

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

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

24 **45-23-63. Procedure -- Meetings -- Votes -- Decisions and records.** -- (a) All records  
25 of the planning board proceedings and decisions shall be written and kept permanently available  
26 for public review. Completed applications for proposed land development and subdivisions  
27 projects under review by the planning board shall be available for public review.

28 (b) Participation in a planning board meeting or other proceedings by any party is not a  
29 cause for civil action or liability except for acts not in good faith, intentional misconduct,  
30 knowing violation of law, transactions where there is an improper personal benefit, or malicious,  
31 wanton, or willful misconduct.

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



1 (d) Votes. - All votes of the planning board shall be made part of the permanent record  
2 and show the members present and their votes. A decision by the planning board to approve any  
3 land development or subdivision application requires a vote for approval by a majority of the  
4 current planning board membership. A decision by the planning board to approve a variance or  
5 special-use permit pursuant to any adopted unified development review procedures requires a  
6 vote for approval by a majority of the planning board members that were present at the public  
7 hearing at which the request was heard.

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

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

15 **45-23-50.1. Special provisions -- Unified development review.** -- (a) When a municipal  
16 zoning ordinance provides for unified development review pursuant to §45-24-46.4, the local  
17 regulations must include procedures for the filing, review and approval of applications, pursuant  
18 to this section.

19 (b) Review of variances and special-use permits submitted under the unified development  
20 review provisions of the regulations shall adhere to the following procedures:

21 (1) Minor subdivisions and land development projects. Requests for relief from the literal  
22 requirements of the zoning ordinance and/or for the issuance of a special-use permit related to  
23 minor subdivisions and land development projects shall be submitted as part of the application  
24 materials for the preliminary plan stage of review, and a public hearing on such requests shall be  
25 held prior to consideration of the preliminary plan by the planning board or commission. The  
26 planning board or commission shall conditionally approve or deny the request(s) for the  
27 variance(s) and/or a special-use permit before considering the preliminary plan application for the  
28 minor subdivision or land development project. Approval of the variance(s) and/or special-use  
29 permit shall be conditioned on approval of the final plan of the minor subdivision or land  
30 development project.

31 (2) Major subdivisions and land development projects. If known to the applicant at the  
32 time of application for master plan review, any anticipated requests for relief from the literal  
33 requirements of the zoning ordinance and/or for the issuance of a special-use permit related to  
34 major subdivisions and land development projects shall be discussed as part of the applicant's

1 presentation to the planning board or commission during the public informational meeting  
2 required as part of the master plan stage of review. Any discussion regarding such requests shall  
3 be made known to the planning board or commission prior to their making a determination on the  
4 master plan. Official requests for relief from the literal requirements of the zoning ordinance  
5 and/or for the issuance of a special-use permit related to major subdivisions and land  
6 development projects shall be submitted as part of the application materials for the preliminary  
7 plan stage of review, and a public hearing on such requests shall be held prior to consideration of  
8 the preliminary plan by the planning board or commission. The planning board or commission  
9 shall conditionally approve or deny the requests for the variance(s) and/or a special-use permit  
10 before considering the preliminary plan application for the major subdivision or land  
11 development project. Approval of the variance(s) and/or special-use permit shall be conditioned  
12 on approval of the final plan of the major subdivision or land development project.

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

18 (c) All applications for variances and/or special-use permits submitted under the  
19 development review provisions of the regulations shall require a public hearing, held pursuant to  
20 §45-23-50.1(b), which meets the following requirements:

21 (1) The required public hearing shall be held during a meeting at which the associated  
22 subdivision or land development project is to be considered and/or heard by the planning board or  
23 commission.

24 (2) The required hearing for the variance and/or special-use permit may be combined  
25 with any required public hearing for the subdivision and/or land development.

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

27 (4) The notice area for notice of the public hearing shall be specified in the local  
28 regulations, and shall, at a minimum, include all property located in or within not less than two  
29 hundred feet (200') of the perimeter of the area included in the subdivision and/or land  
30 development project.

31 (5) Public notice shall indicate that a dimensional variance, use variance and/or special-  
32 use permit is to be considered for the subdivision and/or land development project.

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

34 (d) The time periods by which the planning board or commission must approve or deny

1 [applications for variances and special-use permits under the unified development review](#)  
2 [provisions of a zoning ordinance shall be the same as the time periods by which the board must](#)  
3 [make a decision on the applicable review stage of the subdivision or land development project](#)  
4 [under review.](#)

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

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

9 **45-24-41. General provisions -- Variances. --** (a) An application for relief from the  
10 literal requirements of a zoning ordinance because of hardship may be made by any person,  
11 group, agency, or corporation by filing with the zoning enforcement officer or agency an  
12 application describing the request and supported by any data and evidence as may be required by  
13 the zoning board of review or by the terms of the ordinance. The zoning enforcement officer or  
14 agency shall immediately transmit each application received to the zoning board of review and a  
15 copy of each application to the planning board or commission.

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

31 (c) [A zoning ordinance may provide for unified development review, pursuant to §45-](#)  
32 [24-46.4. Applications for dimensional and use variances submitted under a unified development](#)  
33 [review provision of a zoning ordinance shall be submitted to the administrative officer of the](#)  
34 [planning board or commission, pursuant to §45-24-46.4\(a\). Applications submitted under the](#)

1 [unified development review provisions of a zoning ordinance shall have a public hearing, which](#)  
2 [shall be noticed according to the requirements of §45-23-50.1\(b\).](#)

3 (d) In granting a variance, the zoning board of review, [or, where unified development](#)  
4 [review is enabled pursuant to §45-24-46.4, the planning board or commission, shall require](#)  
5 ~~requires~~ that evidence to the satisfaction of the following standards is entered into the record of  
6 the proceedings:

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

11 (2) That the hardship is not the result of any prior action of the applicant and does not  
12 result primarily from the desire of the applicant to realize greater financial gain;

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

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

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

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

24 (2) in granting a dimensional variance, that the hardship suffered by the owner of the  
25 subject property if the dimensional variance is not granted amounts to more than a mere  
26 inconvenience. The fact that a use may be more profitable or that a structure may be more  
27 valuable after the relief is granted is not grounds for relief. The zoning board of review has the  
28 power to grant dimensional variances where the use is permitted by special use permit if provided  
29 for in the special use permit sections of the zoning ordinance.

30 **45-24-42. General provisions -- Special-use permits.** -- (a) A zoning ordinance shall  
31 provide for the issuance of special-use permits approved by the zoning board of review, [or, where](#)  
32 [unified development review is enabled pursuant to §45-24-46.4, the planning board or](#)  
33 [commission.](#)

34 (b) The ordinance shall:

- 1 (1) Specify the uses requiring special-use permits in each district;
- 2 (2) Describe the conditions and procedures under which special-use permits, of each or  
3 the various categories of special-use permits established in the zoning ordinance, may be issued;
- 4 (3) Establish criteria for the issuance of each category of special-use permit, that shall be  
5 in conformance with the purposes and intent of the comprehensive plan and the zoning ordinance  
6 of the city or town;
- 7 (4) Provide for public hearings and notification of the date, time, place, and purpose of  
8 those hearings to interested parties. [Special-use permits submitted under a zoning ordinance's](#)  
9 [unified development review provisions shall be heard and noticed according to the requirements](#)  
10 [of §45-23-50.1.](#) Public notice [for special-use permits that are not submitted under a zoning](#)  
11 [ordinance's unified development review provisions](#) shall be given at least fourteen (14) days prior  
12 to the date of the hearing in a newspaper of general circulation in the city or town. Notice of  
13 hearing shall be sent by first class mail to the applicant, and to 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 special use  
16 permit is under consideration, be posted at the location in question. The posting is for information  
17 purposes only and does not constitute required notice of a public hearing. The cost of notification  
18 shall be borne by the applicant;
- 19 (5) Provide for the recording of findings of fact and written decisions; and
- 20 (6) Provide that appeals may be taken pursuant to §[§45-23-66 or 45-24-70](#), [dependent on](#)  
21 [the board to which application was made.](#)

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

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

31 **45-24-46.4. Special provisions -- Unified development review. --** [\(a\) A zoning](#)  
32 [ordinance may provide that review and approval of dimensional variances, use variances and/or](#)  
33 [special-use permits for properties undergoing review by the planning board or commission as](#)  
34 [land development or subdivision projects pursuant to §45-23-36, be conducted and decided by the](#)

1 planning board or commission. This process is to be known as unified development review.

2 (b) If unified development review is desired, such review must be enabled within the  
3 zoning ordinance, in accordance with this section, and the local subdivision and land  
4 development regulations must be brought into conformance, pursuant to §45-23-50.1.

5 (c) A zoning ordinance that provides for unified development review shall:

6 (1) Specify which types of zoning approval the planning board or commission shall be  
7 empowered to grant for which types of projects; and

8 (2) Provide that any person, group, agency or corporation that files an application for an  
9 included land development or subdivision project may also file an application for relief from the  
10 literal requirements of a zoning ordinance on the subject property, pursuant to §45-24-41, and/or  
11 for the issuance of a special-use permit for the subject property, pursuant to §45-24-42, by  
12 submitting an application to the administrative officer of the planning board or commission with  
13 the other required application materials.

14 (d) A zoning ordinance that provides for unified development review may specify  
15 performance standards that must be met in order for an application to qualify for review under the  
16 unified development review provisions of the zoning ordinance.

17 (e) All applications for variances and special-use permits submitted pursuant to this  
18 section shall require a public hearing that meets the requirements of subsection §45-23-50.1(b).

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

22 (g) In reviewing applications for special-use permits, the planning board or commission  
23 shall be bound to the conditions and procedures under which a special-use permit may be issued  
24 and the criteria for the issuance of such permits, as found within the zoning ordinance pursuant to  
25 §§ 45-24-42(b)(1), 45-24-42(b)(2) and 45-24-42(b)(3), and shall be required to provide for the  
26 recording of findings of fact and written decisions as described in the zoning ordinance pursuant  
27 to §45-24-42(b)(5).

28 (h) An appeal from any decision made pursuant to this section may be taken pursuant to  
29 §45-23-66.

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

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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.
- 3           This act would take effect upon passage.

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