

PLANNERS' ROUNDTABLE DISCUSSION: 2024 LEGISLATION



RI Division of Statewide Planning
RI Chapter of the American Planning Association

June 6, 2024

TODAY'S AGENDA

1. Vote – Approve the minutes of the March 2024 Technical Committee Meeting
2. Introductions
3. Presentation – Schoolkids and Economic Development
4. Presentation – 2024 Legislation
5. Questions/discussion
6. Public Comment

This presentation will be shared with all municipal planners and posted on the Statewide Planning and APA RI websites

THE ROLE WE ALL PLAY

APA RI

- Legislative Committee reviews and comments on bills (letters and testimony)
- Chapter representatives met with the Speaker's Staff for specific edits and comments

Statewide Planning

- Tracks legislation
- Provides municipal board training
- Hosts planners' roundtables

RI League of Cities and Towns

- Tracks legislation – shares with affiliate members
- Coordinates with APA RI for planning/land use related legislative comments/concerns

HOUSE BILLS

All bills from the Speaker's housing package have passed the House.

[H 7948 SUB A](#) – Inclusionary zoning amendments

[H 7949 SUB A as amended](#) – Technical amendments to the Subdivision Review Enabling Act, and amendments to the substandard lots dimensional regulations in Zoning Enabling Act

[H 7950 SUB A](#) – Requires three acceptable forms of financial security, limits the maintenance guarantee amount

[H 7951 SUB A](#) – Amends the Comprehensive Planning Act to put restrictions on residential moratoriums by municipalities

HOUSE BILLS, *continued*

[H 7978 SUB A](#) – Mandatory electronic permitting for all planning and zoning applications by October 1, 2025

[H 7979](#) – Sets membership of planning and zoning boards, enables establishment of optional combined review board

[H 7980 SUB A](#) – Allows manufactured homes to be a permitted type of single-family home

[H 7981 SUB A as amended](#) – Establishment of at least one mixed residential-commercial use zoning district, allows residential uses by right in commercial and industrial districts

HOUSE BILLS, *continued*

H 7982 – Wetland buffers from OWTS cannot be regulated by local ordinances

H 7984 SUB A – Mobile and manufactured homes to count as one-half of a LMI unit w/o subsidy or deed restriction

H 7985 SUB A – Comprehensive statewide GIS report

H 7986 SUB A as amended – Mandatory list of abandoned properties to be published annually by municipalities



Also...

ADU BILLS

H 7062 and S 2630

- Amendments to the section of the Zoning Enabling Act governing accessory dwelling units.
- H 7062 is a duplicate of last year's House bill which was introduced first day of the session and passed by the full House on February 14th with no amendments.
- S 2630 is a collaborative bill which APA-RI was involved in drafting.
- Heard by Senate Housing Committee on May 16th.



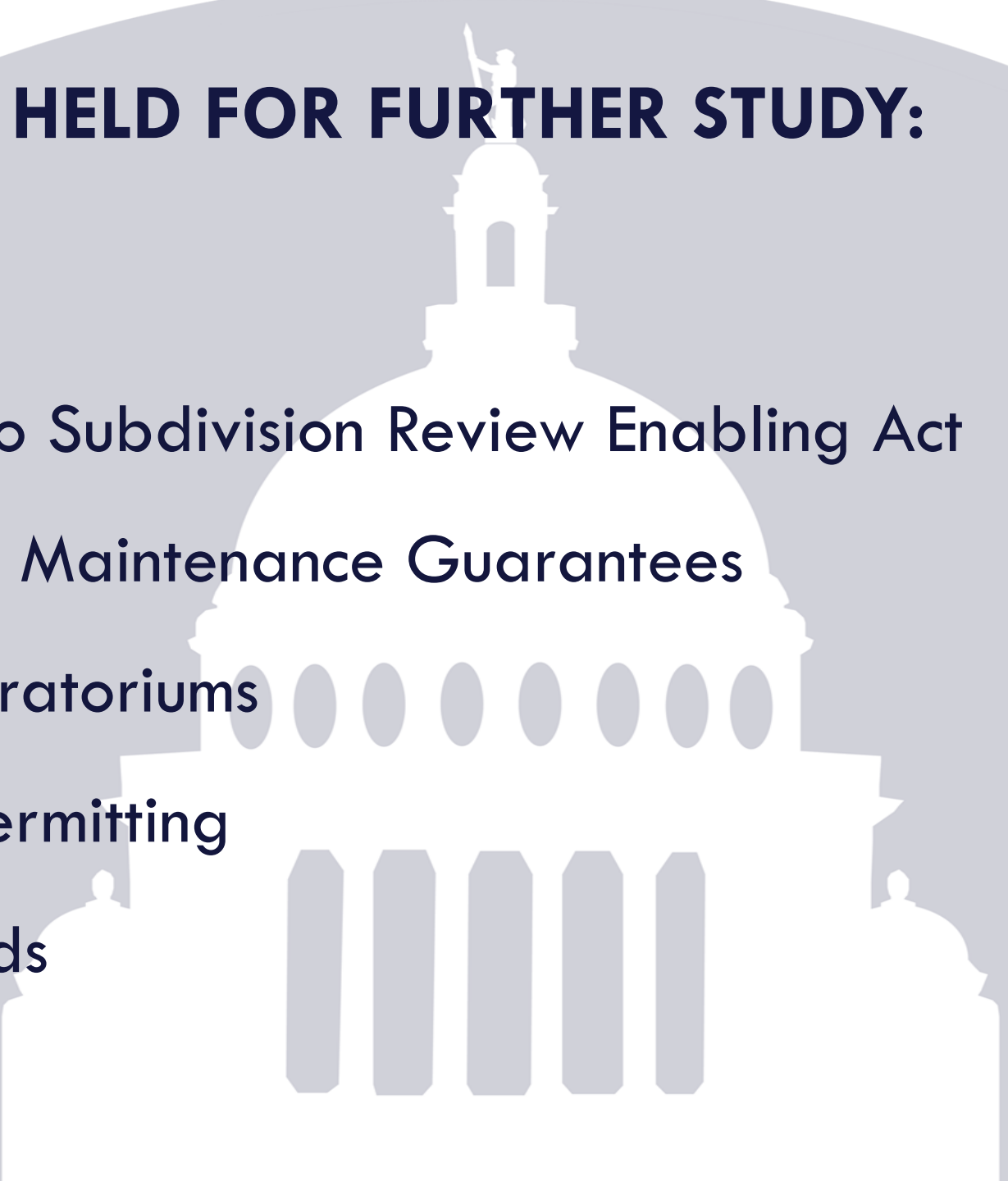
Also...

H 7977 SUB A

Creates a special eleven-member legislative commission to study ability of RI educational institutions to create a graduate planning program in the state to provide a “pipeline” of planners.

- No senate companion bill is needed.

SENATE COMPANION BILLS HELD FOR FURTHER STUDY:

- [S 2999](#) – Inclusionary Zoning
 - [S 3001](#) – Technical Amendments to Subdivision Review Enabling Act
 - [S 3000](#) – Public Improvement and Maintenance Guarantees
 - [S 2988](#) – Limits on Residential Moratoriums
 - [S 3036](#) – Mandatory Electronic Permitting
 - [S 2991](#) – Combined Review Boards
- 
- A large, light gray silhouette of the Utah State Capitol building is positioned on the right side of the slide. The building features a prominent central dome with a statue on top, and a series of columns supporting the base. The background is a light gray gradient.

SENATE COMPANION BILLS HELD FOR FURTHER STUDY, continued:

- [S 2829](#) – Manufactured Homes Permitted as Single Family
- [S 2994](#) – Wetland Buffers from OWTS
- [S 2993](#) – Manufactured/Mobile homes as Affordable Housing Units
- [S 2995](#) – Comprehensive statewide GIS report
- [S 2992](#) – Abandoned Properties List

HIGH IMPACT BILLS



- **H 7948 SUB A** – Amends the inclusionary zoning section of the Zoning Enabling Act to remove the disincentives adopted last year.
 - This includes reducing the required percentage of affordable units from 25% to 15% (takes effect on January 1, 2025)
- **H 7951 SUB A** – Amends the Comprehensive Planning Act to put restrictions on residential moratoriums (takes effect immediately)

HIGH IMPACT BILLS



- **H 7949 SUB A as amended** – Amends Chapter 45-23 to clarify use of development plan review (optional) and who has decision making authority (the “permitting authority”), mandates unified development review when both planning and zoning relief is required.
- Also amends the General provisions section of Chapter 45-24 to clarify procedures for determining reduced dimensional standards for lots substandard in area (takes effect immediately).

HIGH IMPACT BILLS



- **H 7981 SUB A as amended** – Requires establishment of at least one mixed residential-commercial use zoning district, and provisions for by-right duplexes and multi-family developments in every municipality, and mandates residential in every commercial and industrial district unless the municipality adopts an overlay exclusion zone.
- It also amends the adaptive reuse section adopted last year (takes effect October 1, 2024 with local ordinance requirements to be in place by May 15, 2025)

HIGH IMPACT BILLS



- **H 7978 SUB A** - Mandatory electronic permitting (takes effect immediately but permitting must be in place by October 1, 2025)
- **H 7980 SUB A** – Manufactured homes as a permitted single family home in districts zoned for single family use (takes effect immediately)
- **H 7984 SUB A** – Mobile and manufactured homes as affordable housing (takes effect immediately)
- **H 7062** – Zoning standards for accessory dwelling units (takes effect immediately)

H 7951 SUB A – Comp Planning Act -- Moratoriums

- Changes the standards for when a municipality can limit residential development applications and building permits.
- A moratorium related to the submission, review or approval of any residential housing application cannot be enacted unless there is evidence of a need to protect public health and welfare.
- A municipality may impose a limit/moratorium on the number of building permits or other land use approvals for no longer than one hundred twenty (120) days.
- No moratorium is applicable to comprehensive permit projects or units developed under inclusionary zoning.

H 7981 SUB A as amended

Mixed Use Zones and By-right Residential Uses in all Zones

- On or before *May 15, 2025*, a zoning ordinance must include provisions for:
 - Establishment of at least one mixed residential commercial use zone, and
 - Provisions which permit by-right duplexes and multifamily development.
- Effective *October 1, 2024* residential uses are considered a permitted use in all commercial and industrial districts – this means that any residential use now has the status of a household, a community residence and a family daycare.

H 7981 SUB Aaa, continued

“By May 15, 2025, if residential use is to be prohibited for public health and safety reasons in any part of a commercial or industrial zoning use district, the city or town shall enact a specific zoning ordinance and zoning map amendment that creates a mapped overlay zoning district delineating where residential use is so prohibited, and setting forth specific findings as to the reasons for determining those areas to be a threat to public health and safety.

This shall be known as the residential exclusion health and safety overlay zone.”

H 7981 SUB Aaa, Continued

Adaptive re-use amendments: (conversions allowed for projects which include at least 50% of gross floor area as residential):

- Not allowed where residential use is prohibited by environmental land use restrictions held by RIDEM or EPA.
- Not allowed in any industrial zoning use district where residential use is prohibited for public health and safety reasons.
- Not allowed in any industrial building which has (not) been vacant for less than two (2) years.
- If development has over four (4) residential units, it must include at least twenty percent (20%) low- and moderate-income housing.

H 7980 SUB A- Manufactured Homes as Permitted Use

- Any manufactured home which complies with federal (HUD) standards for a manufactured home and is to be used as a dwelling on a permanent foundation is a permitted type of single family home on any lot that is zoned for single family use.
- A new definition of “manufactured home” is included in the Zoning Enabling Act and municipalities cannot discriminate against this type of housing.

H 7984 SUB A- Manufactured Homes as LMI

- Allows municipalities to count mobile home units as affordable housing towards the 10% requirement – one half unit without a government subsidy or deed restriction, and income verification is not required
- To qualify the mobile/manufactured home must:
 - be the primary residence of the occupant or occupants
 - be located within a community owned by the residents or the land containing the home is owned by the occupant occupants
 - be constructed after June 15, 1976, and
 - comply with the HUD Manufactured Home Construction and Safety Standards.
- Requires the services of a monitoring agent

H 7978 SUB A - Mandatory Electronic Permitting

- On or before October 1, 2025, all municipalities must adopt and implement electronic permitting for all development applications – planning, zoning and comprehensive permits.
- For applications; submission of plans; completed checklists and checklist documents; reports; plan review; permitting; scheduling; certificates of completeness and incompleteness; supplemental submissions; project tracking; staff and technical review committee comments; fee calculation and collection.

H 7978 SUB A - Mandatory Electronic Permitting

- Municipalities must charge each applicant an additional one-tenth of one percent (.001%) of the total application fee for each application to be sent monthly to the State Building Office at the RI Department of Business Regulation for staff support and operations.
- “DBR shall reimburse annual fees and costs associated with compliance with this program in accordance with procedures established by the department.”

H 7062 – ACCESSORY DWELLING UNITS

Allowed by right:

- ADU for family member with disability, on a lot of 20,000 SF, or located within an existing footprint.
 - Owner-occupancy removed as a requirement for the last two conditions
- By-right ADUs allowed up to 900 SF for one-bedroom or 1,200 SF for two-bedrooms, but not-to-exceed 60% of the floor space of the principal dwelling.

H 7062 – ACCESSORY DWELLING UNITS

Municipalities cannot:

- Impose dimensional requirements/other development standards on ADUs that exceed the requirements for an accessory structure in the same zoning district
- Require additional lot frontage or lot width for conforming lots or legal nonconforming lots of record solely to accommodate an ADU
- Require zoning relief for ADU applications proposed within an existing footprint of the primary or accessory structure that is a legal nonconforming structure
- Require more than one off-street parking space per bedroom of the ADU

H 7062 – ACCESSORY DWELLING UNITS

Limits municipalities' ability to:

- Restrict ADUs to lots with preexisting dwellings, or otherwise prohibit ADUs as part of applications for new primary dwelling units or subdivisions
- Prohibit an ADU that otherwise complies with applicable dimensional regulations from having up to two (2) bedrooms
- Require an ADU to be exclusively occupied by a household that is low-or moderate income or less, unless such ADU is part of an inclusionary zoning or comprehensive permit application
- Revoke the permitted status or otherwise require the disassembly of a legally established ADU upon transfer of title or occupancy

H 7062 – ACCESSORY DWELLING UNITS

- It is assumed that an ordinance governing optional ADUs can otherwise regulate them except that – unless the units are part of a new subdivision –they will be reviewed and approved administratively.
 - However, for ADUs that are part of a larger development, a municipality shall not count such ADUs as part of the allowable density for that development.
- Prohibition against the use of ADUs for tourist or transient use is added to the law, but without a penalty.

S 2630 – ACCESSORY DWELLING UNITS

Allowed by right:

- ADU for a family member with disability
- On a lot of at least 6,000 SF which meets the minimum lot area and which minimum lot area is free from wetlands and floodplains
- On a lot which has a minimum lot area of 40,000 SF in any zoning district and which minimum lot area is free from wetlands and floodplains
- Within the existing footprint of a principal or accessory structure

S 2630 – ACCESSORY DWELLING UNITS

- Contains many of the same conditions as the House bill but differs in a number of ways:
 - Owner Occupancy – left up to the municipality
 - Year-round rentals -- Allows municipalities to establish minimum rentals periods of up to one year
 - Carve outs for environmentally sensitive land: by-right ADUs must be on lots at least 6,000 SF but conforming in area and free from constraints, or at least 40,000 SF free from constraints. By-right ADUs are not permitted on CRMC “lands developed beyond carrying capacity”

S 2630 – ACCESSORY DWELLING UNITS

- The size limit for by-right ADUs is up to 900 SF or 60% of the floor area of the principal dwelling regardless of number of bedrooms
- Dimensional regulations treat ADUs like any other accessory structure
- Limits on density relief for projects already granted a density bonus – an ADU as part of a comprehensive permit project must be counted as part of the development density

S 2630 – ACCESSORY DWELLING UNITS

- Adds incentives for optional ADUs:
 - More than one ADU per property
 - On a property not owner-occupied
 - On a property not located within a residential zoning district
- Includes protection to ensure long-term viability – the ADU cannot be separated from the principal dwelling by ownership, and this restriction on the property is recorded

H 7949 SUB A as amended – Subdivision of Land

- Provides technical amendments to the Subdivision Review Act
- Provides “fixes” to H 6061 Sub A (as amended) from 2023
- Bill is based on feedback from APA-RI and RI League of Cities and Towns
- Replaces “applicable permitting authority with “planning board”
- Adds to Definitions under Development plan review:
 - Final plan. “The final stage of land development and subdivision review or a formal development plan review application.”
 - Minor land development project. “A land development project involving any one of the following categories which has not otherwise been specifically designated by local ordinance development plan review:”

H 7949 SUB Aaa – Subdivision of Land

45-23-61. Procedure — Precedence of approvals between planning board and other local permitting authorities.

- (a) Zoning board. (1) Where an applicant requires both a variance from the local zoning ordinance and planning board approval, ~~and the application is not undergoing~~ shall be reviewed under unified development review pursuant to §§ 45-23-50.1 and 45-24-46.4 ~~the local zoning ordinance, the applicant shall first obtain an advisory recommendation from the planning board, as well as conditional planning board approval for the first approval stage for the proposed project, which may be simultaneous, then obtain conditional zoning board relief, and then return to the planning board for subsequent required approval(s).~~

H 7949 SUB Aaa – Substandard Lots of Record

45-24-38. General provisions — Substandard lots of record.

Adjusted dimensional regulations:

- Minimum building setbacks, lot frontage and lot width requirements shall be reduced by applying those requirements from another zoning district in which the subject lot would be conforming in area or:
- The setback, lot frontage and lot width shall be reduced by the same proportion that the area of such substandard lot meets the minimum lot area of the district in which the lot is located.
- Maximum lot building coverage for lots that are non-conforming in area shall be increased by the inverse proportion that the area of such substandard lot meets the minimum lot area in the district.

H 7949 SUB Aaa – Substandard lots of record

- Setbacks shall be reduced by the same proportion that the area of such substandard lot meets the minimum lot area of the district. By way of example: if the lot area only meets 40% of the minimum lot area, the required setbacks are reduced to 40% of the minimum distances required.
- Maximum lot building coverage shall be increased by the inverse proportion that the area of such substandard lot meets the minimum lot area of the district. By way of example: if the lot area only meets 40% of the minimum lot area, the maximum building coverage is allowed to increase by 60% over the maximum area permitted.

What's next?

- Statewide Planning and APA RI will continue to assist municipal efforts in a meaningful way with our limited resources
- How can municipal planners and their boards be more involved in legislation – now and in future sessions?
 - *Talk to your legislators!!*
 - *Join the APA-RI Legislative Committee!*

***Thank you from
Statewide Planning and
APA RI!***



Discussion

Websites:

Statewide Planning- planning.ri.gov

APA-RI- ri.planning.org