



# PUBLIC HEARING: REGULATIONS & ZONING AMENDMENTS REQUIRED BY 2023 LEGISLATION

November 8, 2023



# AGENDA

1. Introduction
2. Amendments per Bill S1034A & S1038A
3. Public Comments/Questions
4. Recommendation to the Town Council



# INTRODUCTION

- 2023 RI General Assembly passed several bills impacting land use regulation to promote development of housing by reducing regulatory burden and streamlining procedures.
- Several bills require changes to municipal regulations and procedures, including zoning ordinances, development regulations, and comprehensive plans:
  - S1032A - SUP criteria, substandard lots, modifications, variance standards  
<http://webserver.rilegislature.gov/BillText/BillText23/SenateText23/S1032A.pdf>
  - S1033A – Comprehensive Plan Implementation  
<http://webserver.rilegislature.gov/BillText/BillText23/SenateText23/S1033A.pdf>
  - S1034A – Development definitions and review procedures & thresholds  
<http://webserver.rilegislature.gov/BillText/BillText23/SenateText23/S1034A.pdf>
  - S1035A – Adaptive Reuse of commercial structures for multi-family and mixed-use  
<http://webserver.rilegislature.gov/BillText/BillText23/SenateText23/S1035A.pdf>
  - S1037A - Changes to requirements for affordable housing Comprehensive Permit  
<http://webserver.rilegislature.gov/BillText/BillText23/SenateText23/S1037A.pdf>
  - S1038A - Change public notice requirements for major subdivision/land development project and variance applications <http://webserver.rilegislature.gov/BillText/BillText23/SenateText23/S1038A.pdf>
  - S1050A - Appeals of affordable housing Comprehensive Permit decisions directly to Superior Court  
<http://webserver.rilegislature.gov/BillText/BillText23/SenateText23/S1050A.pdf>
  - S1051A - Inclusionary zoning thresholds and density bonus  
<http://webserver.rilegislature.gov/BillText/BillText23/SenateText23/S1051A.pdf>
- Highest Priority for adoption by Jan. 1<sup>st</sup>: S1032A, S1035A, S1034A, S1038A

# S1034A & S1038A

## Summary

**S1034A – Amendments to development review procedures**, including limiting the types of applications that go to the Zoning Board of Review (ZBR) by using unified development review; new definitions for subdivisions and land development projects and development plan review; Administrative Officer given authority to approve minor subdivisions and land development projects, except those proposing new streets or requiring zoning relief; Appeals of Administrative Officer & Planning Board decisions on subdivisions or land developments go directly to superior court, not ZBR. Effective 1/1/2024

**S1038A - Change public notice requirements** for major subdivision/land development project, and variance applications, including required posting of the public notice in the Town Clerk's office and one other town building, and on the town's webpage at least 14 days in advance of the hearing. Became effective upon passage

# S1034A & S1038A(CONT.)

## Proposed Amendments

### Subdivision and Land Development Regulations, Article 2 – Definitions

Changes to definitions for the following:

- Administrative Officer
- Administrative Subdivision
- Board of Appeal
- Certificate of Completeness
- Development Plan Review (new term)
- Land development project (new term)
- Major land development project – Project not meeting definition of a minor land development project.
- Major subdivision – Subdivision creating 10 or more buildable lots.

# S1034A & S1038A(CONT.)

## Proposed Amendments

### Subdivision and Land Development Regulations, Article 2 – Definitions

Changes to definitions for the following (continued):

- Master plan
- Minor land development – new commercial floor area of 7,500 sq.ft. or less; expansion up to 50% of existing floor area or 10,000 sq.ft.; mixed-use development up to 6 dwelling units and 2,500 sq.ft. commercial space; multi-family 9 units or less; change in use with no extensive construction; adaptive reuse in commercial zone up to 25,000 sq.ft. floor area with no extensive construction; adaptive reuse in residential zone with less than 9 residential units.
- Minor subdivision – Subdivision creating 9 or fewer buildable lots.
- Permitting authority
- Preliminary Plan
- Public informational meeting (deleted)
- Re-subdivision (deleted)
- Subdivision

# S1034A & S1038A(CONT.)

## Proposed Amendments

### Subdivision and Land Development Regulations, Article 4 – Procedures for Subdivision & Land Development Approval

#### Section 401 – General

- New language requiring the administrative officer to classify applications by type:
  - Subdivisions (administrative, minor, major)
  - Land development projects (minor, major)
  - Development plan review

#### Section 406 – Procedures for Minor Land Development and Minor Subdivision Approval

- Administrative Officer given authority to approve plans not involving street creation or extension or needing zoning relief. TRC can be utilized. Admin. Officer given authority to grant waivers from requirements of Section 521 of the regulations. Request for zoning modifications must be addressed before review by the administrative officer.
- Other plans require a Planning Board public hearing. Planning Board to consider all zoning relief under unified development review.
- Timeframes and other procedures provided.

# S1034A & S1038A(CONT.)

## Proposed Amendments

### Subdivision and Land Development Regulations, Article 4 – Procedures for Subdivision & Land Development Approval (continued)

#### Section 407 – Procedures for Major Land Development and Major Subdivision Approval

- Three stages of review: master, preliminary, final. Administrative Officer given authority to combine stages of review.
- Request for zoning modifications must be addressed by zoning officer before plan reviewed by the Planning Board.
- Planning Board to consider all zoning relief under unified development review.
- Public hearing required at Master Plan stage.
- At Preliminary Plan only abutters are notified, but no public hearing.
- Admin. Officer given authority to approve Final Plan, unless referred to Planning Board.
- Timeframes and other procedures provided.



# S1034A & S1038A(CONT.)

## Proposed Amendments

### Subdivision and Land Development Regulations, Article 8

#### Section 805 – Appeal Procedure

- Appeals of decisions of the Admin. Officer on minor subdivisions/land developments & administrative DPR go directly to Superior Court. Others go to Board of Appeal.
- Appeals of decisions of the Planning Board or Board of Appeal go directly to Superior Court.
- “the board of appeal shall not substitute its own judgment for that of the administrative officer but must consider the issue upon the findings and record of the administrative officer. The board of appeal shall not reverse a decision of the administrative officer except on a finding of prejudicial procedural error, clear error, or lack of support by the weight of the evidence in the record”

# S1034A & S1038A(CONT.)

## Proposed Amendments

### Subdivision and Land Development Regulations, Article 8

#### Section 805 – Appeal Procedure (continued)

- The court shall not substitute its judgment for that of the planning board as to the weight of the evidence on questions of fact. The court may affirm the decision of the board of appeal or remand the case for further proceedings, or may reverse or modify the decision if substantial rights of the appellant have been prejudiced because of findings, inferences, conclusions or decisions which are:
  1. In violation of constitutional, statutory, ordinance or [planning board] regulations provisions;
  2. In excess of the authority granted to the [planning board] by statute or ordinance;
  3. Made upon unlawful procedure;
  4. Affected by other error of law;
  5. Clearly erroneous in view of the reliable, probative, and substantial evidence of the whole record; or
  6. Arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion
- Timeframes and procedures provided.

# S1034A & S1038A(CONT.)

## Proposed Amendments

### Subdivision and Land Development Regulations, Article 9- Supplementary Regulations

#### Section 904 – Precedence of Approvals between Planning Board and other permitting authorities

- Delete procedures regarding applications needing both Planning Board and ZBR relief, since such applications will be reviewed under unified review by the Planning Board.

#### Section 907

- Delete timeframes for stages of review and endorsement of plans since these are addressed in Article 4.

#### Section 908 –Waivers, Modifications, and Reinstatement of Plans

- Delete since these items are addressed elsewhere in the regulations.

#### Section 908 (new) – Technical Review Committee

- Establishment of TRC consistent with language included in zoning ordinance

# S1034A & S1038A(CONT.)

## Proposed Amendments

### Subdivision and Land Development Regulations, Article 9- Supplementary Regulations (continued)

#### Section 909 (new) – Unified Development Review

- For subdivisions, land development projects and DPR where zoning relief is needed, not include modifications granted by the zoning officer, the Planning Board will consider such relief and special use permits as part of the plan review.
- Consideration of zoning relief is at the first stage of plan review.
- Public hearing is required.
- At preliminary plan stage for major subdivisions and land development projects, additional or alteration of zoning relief can be requested.
- Timeframes and other procedure provided.

# S1034A & S1038A(CONT.)

## Proposed Amendments

### Subdivision and Land Development Regulations, Article 10- Development Plan Review

#### Section 1001 – Applicability

- Reference to Section 306 in the Zoning Ordinance for use requiring DPR, as well as other uses listing in the stature, such as adaptive reuse.
- Distinguish between Administrative DPR (where only façade changes or chage in use is propsed) and Formal DPR (for all other DPR applications)

#### Section 1002 – Waivers

- Specifies conditions for waiving DPR and waiving design standards.

#### Section 1003 – Application requesting relief from the zoning ordinance

- Specifies unified development review

#### Section 1004 – Submission requirements

#### Section 1005 - Certification

# S1034A & S1038A(CONT.)

## Proposed Amendments

### Subdivision and Land Development Regulations, Article 10- Development Plan Review (continued)

#### Section 1006 – Application review and decision

- Specifies procedures for administrative and formal DPR review
- For formal DPR, two stages. Planning Board conducts preliminary plan review, Admin. Officer is delegated final plan review.

#### Section 1007 – Review by Planning Board

- Deleted due to new required procedures.

#### Section 1008 – Expiration of Approval

- Deleted due to timeframes provided elsewhere

#### Sections 1007 – Scope of Review & 1009 – Waivers from design standards

- Delete procedures regarding recommendations to ZBR due to unified review

# S1034A & S1038A(CONT.)

## Proposed Amendments

### Zoning Ordinance Article 3

#### Section 305 - Development Plan Review (DPR)

- Revise procedures, including inserting Administrative Officer to conduct admin DPR and require all DPR applications to be submitted to Admin. Officer.

#### Section 306 – Uses subject to and exempt from development plan review

- Change reference from Town Planner to Administrative Officer

#### Sections 307 & 308 – DPR review procedures

- Deleted due to new required procedures, including unified review.

#### Section 323 (new) – Unified development review

- Establish unified review for subdivisions and DPR applications.
- Public hearing required when zoning relief is requested.
- Reference to Sections 902 & 903 for required findings and criteria for variances and special use permits.

## S1034A & S1038A(CONT.)

Comments &  
Questions





THANK YOU

