



MIDDLETOWN
Rhode Island

PLANNING DEPARTMENT

TOWN OF MIDDLETOWN

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To: William J. Nash, Jr., Chairman
Planning Board members

From: Ron Wolanski, Town Planner

Date: October 17, 2024

Re: Proposed amendments to the *Middletown Rules and Regulations Regarding the Subdivision and Development of Land* and zoning ordinance, Town Code Chapter 152, necessary to address amendments to state law adopted in the 2024 General Assembly, bill H7949.

In the 2024 session of the RI General Assembly, several bills were passed that will require amendments to the Town's zoning ordinance and/or subdivision regulations. Please see the attached proposed amendments to the town's development regulations and zoning ordinance that will address changes required by bill H7949. Note that in order to adopt amendments to the regulations, the Planning Board must first hold an advertised public hearing. The board should select a date to hold this public hearing. (The Town Council will hold the required public hearing on the proposed zoning ordinance amendments.) Following the hearing the Planning Board will consider adoption of the amendments to the development regulations and will then consider forwarding both the regulations amendments and proposed zoning ordinance amendments to the Town Council for consideration.

In summary, H7949 requires the following amendments:

Zoning ordinance amendments

- Section 320 – Regarding public hearing notice requirements.
- Section 805 – Regarding application of dimensional requirements to nonconforming lots.

Subdivision & land development regulations amendments

- Article 2 Definitions – Modifications to definitions for “development plan review”, “final plan”, and “minor land development project”
- Article 4 Procedures for subdivision and land development project approval – Modifications to sections 406 & 407 to clarify procedures for applicants needing zoning relief.
- Article 9 Supplementary regulations –
 - Section 904 - Modifications to clarify procedures for applicants needing zoning relief.
 - Section 906 – Modification to procedure for making changes to recorded plans.

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- Section 909 – Clarification of language regarding unified development review.
- Article 10 Development Plan Review – Modification to sections 1003, 1005 & 1006 regarding review procedures.

In making its recommendation to the Town Council on the proposed zoning ordinance amendments the Planning Board must consider the following findings in accordance with the requirements of Section 45-24-52 of the Rhode Island General Laws:

(1) The proposed amendment is generally consistent with the Middletown Comprehensive Community Plan, including the goals and policies statement, the implementation program, and all other applicable elements of the comprehensive plan; and

(2) This recommendation is made in recognition and consideration of each of the applicable purposes of zoning, as presented in § 45-24-30 RIGL.

Please contact me with any questions.

cc. Town Solicitor
Building/Zoning Official

**ORDINANCE OF THE
TOWN OF MIDDLETOWN, RHODE ISLAND**

**AN ORDINANCE AMENDING THE TOWN CODE OF THE
TOWN OF MIDDLETOWN**

**TITLE XV: LAND USAGE
Chapter 152, Zoning Code**

NOW THEREFORE, BE IT ORDAINED AS FOLLOWS:

FIRST: That Town Code Title XV, Chapter 152, Entitled "Zoning Code" is amended as follows (language to be deleted is **[struck]** and within brackets; language to be added is **underlined**):

§ 320 PUBLIC HEARINGS.

Subject to the provisions of division (D), no actions shall be taken by the Zoning Board of Review on the matter of an appeal, special use permit or variance, or any other matter upon which the Board is authorized to pass, without first holding a public hearing thereon. At such public hearing opportunity shall be given to all persons interested in being heard on the matter of the appeal, special use permit or variance.

(A) The Board shall fix a reasonable time for the hearing of an appeal or application for a special use permit or variance; shall publish public notice thereof at least 14 days prior to the date of the hearing in a newspaper of **[general] local** circulation in the Town of Middletown prior to the date of such hearing.

The Board shall give due notice by first class mail at least 14 days in advance to the applicant, all owners of real property located in or within not less than 200 feet of the perimeter of the subject area and other parties of interest. The notice shall include the street address of the subject property, or if no street address is available, other information which will assist interested parties to identify the property geographically.

The same notice shall be posted in the town or city clerk's office and one other municipal building in the municipality and the municipality must make the notice accessible on the municipal home page of its website at least fourteen (14) days prior to the hearing. For any notice sent by first-class mail, the sender of the notice shall submit a notarized affidavit to attest to such mailing. The cost of the newspaper and mailing notification shall be borne by the applicant.

(B) The Board may:

(1) Request that the Planning Board, other town commissions or town departments review the application and report findings and recommendations, including a statement on the general consistency of the application with the goals and purposes of the comprehensive plan. Such requests shall be acted upon and returned to the Board within 30 days of receipt.

(2) Require that a supplemental notice, when an application for a variance is under consideration, be posted at the location in question. The posting shall be for information purposes only and does not constitute required notice of a public hearing.

(C) The Board shall hear and decide appeals, special use requests and variances within a reasonable time. Any party may appear at the hearing in person, by agent authorized in writing or by attorney. Notice of granting of an appeal. Special use permit or variance shall be sent to the Zoning Officer and Planning Board within ten days after final action.

§ 805 NONCONFORMING LOT OF RECORD.

(A) An unimproved lot or parcel having a lot width or lot area which is less than required by district dimensional regulations, may be considered buildable for a use permitted as a matter of right or by special use permit under § 602, regardless of the lot width or area, provided such lot or parcel of land was shown on a plat or on a deed duly recorded prior to December 18, 1985.

(B) Notwithstanding the failure of that lot or those lots to meet the dimensional and/or quantitative requirements, and/or road frontage or other access requirements, applicable in the district, a substandard lot of record shall not be required to seek any zoning relief based solely on the failure to meet minimum lot size requirements of the district in which such lot is located. ~~[The setback, frontage, and/or lot width requirements of the district in which such lot is located. The setback, frontage, and/or lot wide requirements for a structure under this section shall be reduced and the maximum building coverage requirements shall be increased by the same proportion as the lot area of the substandard lot is to the minimum lot area requirement of the zoning district in which the lot is located.]~~

For any structure proposed under this section on a substandard lot of record, the following dimensional regulations shall apply:

(1) Minimum building setbacks, lot frontage and lot width requirements for a lot which is nonconforming in area shall be reduced by applying the building setback, lot frontage and lot width requirements from another zoning district in the municipality in which the subject lot would be conforming as to lot area. If the subject lot is not conforming as to lot area in any zoning district in the municipality, the setbacks, 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. By way of example, if the lot area of a substandard lot only meets forty percent (40%) of the minimum lot area required in the district in which it is located, the setbacks, frontage and width shall each be reduced to forty percent (40%) of the requirements for those dimensional standards in the same district.

(2) Maximum lot building coverage for lots that are nonconforming in area shall be increased by the inverse proportion that the area of such substandard lot meets the minimum area requirements in the district in which the lot is located. By way of example, if the lot area of a substandard lot only meets forty percent (40%) of the required minimum lot area, the maximum lot building coverage is allowed to increase by sixty percent (60%) over the maximum permitted lot building coverage in that district.

All proposals exceeding such reduced requirements shall proceed with a modification request under R.I. Gen. Laws § 45-24-46 or a dimensional variance request under R.I. Gen. Laws § 45-24- 41, whichever is applicable.

SECOND: This ordinance shall take effect upon adoption and its provisions shall supersede any inconsistent or contrary provision in any other ordinance.

Draft Amendments to the *Middletown Rules and Regulations Regarding the Subdivision and Development of Land per 2024 Legislation, Bill H7949Aaa*

Proposed amendments are identified below with text to be removed [~~struck~~] and within brackets and text to be added underlined.

Regulations Article 2 - DEFINITIONS

As used in these Rules and Regulations, the following definitions shall apply where words or phrases used in this chapter are defined in the definitions section of either the “Rhode Island Comprehensive Planning and Land Use Regulation Act,” section 45-22.2-4, or the “Zoning Enabling Act of 1991,” section 45-24-31, they shall have the meanings stated therein. In addition, the following words or phrases shall have the following meanings.

Development plan review. Design or site plan review of a development of a permitted use. A municipality may utilize development plan review under limited circumstances to encourage development to comply with design and/or performance standards of the community under specific and objective guidelines, for the following categories of developments [~~including, but not limited to~~] :

- (i) Developments specified in Section 306 of the Zoning Ordinance, Chapter 152, or where otherwise called for in the Zoning Ordinance
- (ii) A change in use at the property where no extensive construction of improvements is sought;
- (iii) An adaptive reuse project located in a commercial zone where no extensive exterior construction of improvements is sought;
- (iv) An adaptive reuse project located in a residential zone which results in less than nine (9) residential units;
- (v) Development in a designated urban or growth center; or
- (vi) Institutional development [~~design review~~] for educational or hospital facilities. [~~or~~]
- ~~(vii) [Development in a historic district.]~~

Final plan. The final stage of land development and subdivision review or a formal development plan review application.

Minor land development project. 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 as development plan review:

- a. Seven thousand five hundred (7,500) gross square feet of floor area of new commercial, manufacturing or industrial development; or less, or
- b. An expansion of up to fifty percent (50%) of existing floor area or up to ten thousand (10,000) square feet for commercial, manufacturing, or industrial structures; or
- c. Mixed-use development consisting of up to six (6) dwelling units and two thousand five hundred (2,500) gross square feet of commercial space or less.
- d. Multi-family residential or residential condominium development of nine (9) units or less.
- e. Change in use at the property where no extensive construction of improvements are sought.

- f. An adaptive reuse project of up to twenty-five thousand (25,000) square feet of gross floor area located in a commercial zone where no extensive exterior construction of improvements is sought.
- g. An adaptive reuse project located in a residential zone which results in less than nine (9) residential units.

Regulations Article 4 - PROCEDURES FOR SUBDIVISION AND LAND DEVELOPMENT APPROVAL

Section 406 - Procedures for Minor Land Development and Minor Subdivision Approval

Minor plan review consists of two (2) stages, preliminary and final; provided, that unless otherwise set forth in this section, if a street creation or extension is involved, or a request for variances and/or special-use permits are submitted pursuant to a unified development application, a public hearing is required by the planning board.

a. Application types.

1. Applications requesting relief from the zoning ordinance.

- a. Applications under this section which require relief which qualifies only as a modification [~~shall~~] **may** proceed by filing an application under this chapter and a request for a modification to the zoning enforcement officer. If such modification is granted the application shall then proceed to be reviewed by the administrative officer pursuant to the applicable requirements of this section. If the modification is denied or an objection is received, such application shall proceed under unified development [~~plan~~] review. The administrative officer shall not certify the application complete until action is taken by the zoning enforcement officer on the modification request.
- b. Applications under this section which require relief from the literal provisions of the zoning ordinance in the form of a variance or special use permit, shall be reviewed by the planning board under unified development [~~plan~~] review, and a request for review shall accompany the preliminary plan application.
- c. Any application involving a street creation or extension shall be reviewed by the planning board and require a public hearing.

2. Other applications. The administrative officer shall review and grant, grant with conditions or deny all other applications under this section and may grant waivers of design standards as set forth in the local regulations and zoning ordinance. The administrative officer may utilize the technical review committee for initial review and recommendation. The administrative officer may grant the following waivers:

- Waivers from design standards of Article 5, Section 521 of these Regulations.

- b. Submission requirements. Any applicant requesting approval of a proposed minor subdivision or minor land development, as defined in this chapter, shall submit to the administrative officer the items required by the submission checklist contained in Appendix A of these Regulations.
- c. Certification. For each applicable stage of review, the application shall be certified, in writing, complete or incomplete by the administrative officer within twenty-five (25) days of the submission so long as a completed checklist of the requirements for submission are provided as part of the submission. **If the applicant also submits for a modification to the zoning enforcement officer, the running of the time period set forth herein will not begin until the decision on the modification is made.** If no street creation or extension is required, and/or unified development review is not requested, and a completed checklist of the requirements for submission are provided as part of the submission, such application shall be certified, in writing, complete or incomplete by the administrative officer within fifteen (15) days. The running of the time period set forth in this section will be deemed stopped upon the issuance of a certificate of incompleteness of the application by the administrative officer and will recommence upon the resubmission of a corrected application by the applicant. However, in no event will the administrative officer be required to certify a corrected submission as complete or incomplete less than ten (10) days after its resubmission.
- d. Decision on preliminary plan. If no street creation or extension, [~~or unified development review is~~] **or variance or special permit are** required, the administrative officer shall approve, deny, or approve with conditions, the preliminary plan within sixty-five (65) days of certification of completeness, or within any further time that is agreed to by the applicant and the [~~board~~] **administrative officer**. If a street extension or creation is required, and/or the application is reviewed under [~~the~~] unified development [~~plan~~] review, **or the applicant seeks waivers from design standards and/or requirements of the land development and subdivision regulations that are beyond the authority of the administrative officer to grant,** the planning board will hold a public hearing prior to approval according to the requirements in Section 407.C.d.ii of these regulations and will approve, deny, or approve with conditions, the preliminary plan within ninety-five (95) days of certification of completeness, or within any specified time that is agreed to by the applicant and the board.
- e. Failure to act. Failure of the planning board or administrative officer to act within the period prescribed constitutes approval of the [~~preliminary plan~~] **pending stage of review,** and a certificate of the administrative officer as to the failure to act within the required time and the resulting approval will be issued on request of the applicant.
- f. Re-assignment to major review. The planning board may re-assign a proposed minor project to major review only when the planning board is unable to make the positive findings required in Section 404 of these Regulations.

- g. Final plan. Final plans shall be reviewed and approved by the administrative officer. The officer will report its actions, in writing to the planning board at its next regular meeting, to be made part of the record. The administrative officer shall approve, deny, approve with conditions, or refer the application to the planning board based upon a finding that there is a major change within twenty-five (25) days of the certificate of completeness.
- h. Modifications and changes to plans.
 - (1) Minor changes to the plans approved at any stage may be approved administratively, by the administrative officer. The changes may be authorized without an additional public hearing [~~s, at the discretion of the administrative officer~~]. All changes shall be made part of the permanent record of the project application. This provision does not prohibit the administrative officer from requesting recommendation from either the technical review committee or the permitting authority if the permitting authority is not the administrative officer. Denial of the proposed change(s) shall be referred to the applicable permitting authority for review as a major change. Minor changes include the following:
 - Changes to address typographical errors.
 - (2) Major changes to the plans approved at any stage may be approved only by the applicable permitting authority and must follow the same review and hearing process required for approval of preliminary plans, which shall include a public hearing if originally required as part of the application. Major changes include all changes not classified as a minor change.
 - (3) The administrative officer shall notify the applicant in writing within fourteen (14) days of submission of the [~~final plan application~~] written request for a change if the administrative officer determines the change to be a major change.
- i. Appeal. Decisions under this section shall be considered an appealable decision pursuant to Section 805 of these Regulations. .
- j. Expiration of approvals. Approvals of a minor land-development or subdivision plan expires one year from the date of approval unless, within that period, a plat or plan, in conformity with approval, and as defined in this act, is submitted for signature and recording. Validity may be extended for a longer period, for cause shown, if requested by the [~~application~~] applicant in writing, and approved by the planning board.

Section 407 - Procedure for Major Land Development and Major Subdivision Approval

- a. Stages of review. Major land development and major subdivision review consists of three stages of review, master plan, preliminary plan and final plan, following the pre-application meeting(s). Also required is a public hearing at the master plan stage of review or, if combined at the first stage of review.
- b. The administrative officer may combine review stages [~~and to modify~~], but only the planning board may waive submission requirements as specified in Section 407.C.a.

Review stages may be combined only after the administrative officer determines that all necessary requirements have been met by the applicant or that the planning board has waived any submission requirements not included by the applicant.

c. Master plan review.

a. Submission requirements.

- i. The applicant shall first submit to the administrative officer the items required by the checklist for master plans.
- ii. Requirements for the master plan and supporting material for this phase of review include, but are not limited to: information on the natural and built features of the surrounding neighborhood, existing natural and man-made conditions of the development site, including topographic features, the freshwater wetland and coastal zone boundaries, the floodplains, as well as the proposed design concept, proposed public improvements and dedications, tentative construction phasing; and potential neighborhood impacts, as required by the checklist.
- iii. Initial comments will be solicited from:
 1. Local agencies including, but not limited to, the planning department, the department of public works, fire and police departments, the conservation and recreation commissions;
 2. Adjacent communities;
 3. State agencies, as appropriate, including the departments of environmental management and transportation and the coastal resources management council; and
 4. Federal agencies, as appropriate. The administrative officer shall coordinate review and comments by local officials, adjacent communities, and state and federal agencies.
- iv. Applications requesting relief from the zoning ordinance.
 1. Applications under this chapter which require relief which qualifies only as a modification under Zoning Ordinance Section 906 ~~shall~~ **may** proceed by filing a master plan application under this section **to the administrative officer** and, **separately**, a request for a modification to the zoning enforcement officer. If such modification is granted, the application shall then proceed to be reviewed by the planning board pursuant to the applicable requirements of this section. If the modification is denied or an objection is received as set forth in Zoning Ordinance Section 906, such application shall proceed under unified development ~~plan~~ review pursuant to Zoning Ordinance Section 323 The administrative officer shall not certify the application complete until action is taken by the zoning enforcement officer on the modification request.

2. Applications under this section which require relief from the literal provisions of the zoning ordinance in the form of a variance or special use permit, shall be reviewed by the planning board under unified development [~~plan~~] review pursuant to Zoning Ordinance Section 323.
- b. Certification. The application must be certified, in writing, complete or incomplete by the administrative officer within twenty-five (25) days of the submission, so long as a completed checklist of requirements is provided with the submission. **If the applicant also submits for a modification to the zoning enforcement officer, the running of the time period set forth herein will not begin until the decision on the modification is made.** The running of the time period set forth herein will be deemed stopped upon the issuance of a certificate of incompleteness of the application by the administrative officer and will recommence upon the resubmission of a corrected application by the applicant. However, in no event will the administrative officer be required to certify a corrected submission as complete or incomplete less than ten (10) days after its resubmission.
 - c. Technical review committee. The technical review committee shall review the application prior to the first planning board meeting and shall comment and make recommendations to the planning board.
 - d. Public hearing.
 - i. A public hearing shall be held prior to the planning board decision on the master plan. If the master plan and preliminary plan review stages are being combined, a public hearing shall be held during the combined stage of review.
 - ii. Notice for the public hearing is required with notice in accordance with.
 1. Where a public hearing is required pursuant to the Regulations, the following requirements shall apply;
 - a. Notice requirements. Public notice of the hearing shall be given at least fourteen (14) days prior to the date of the hearing in a newspaper of local circulation within the municipality following the municipality's usual and customary practices for this kind of advertising. The same notice shall be posted in the town clerk's office and one other municipal building in the municipality and the municipality must make the notice accessible on their municipal home page of its website at least fourteen (14) days prior to the hearing. Notice shall be sent to the applicant and to each owner within the notice area, by first class mail, of the time and place of the hearing not less than ten (10) days prior to the date of the hearing. Notice shall also be sent to any individual or entity holding a recorded conservation or preservation restriction on the property that is the subject of the application at least fourteen (14) days

prior to the hearing. The notice shall also include the street address of the subject property, or if no street address is available, the distance from the nearest existing intersection in tenths (1/10's) of a mile.

- b. Notice area.
 - c. The distance(s) for notice of the public hearing shall be 200 feet from project site.
 - d. Watersheds. Additional notice within watersheds shall also be sent as required in RIGL §45-23-53(b) and (c).
 - e. Adjacent municipalities. Notice of the public hearing shall be sent by the administrative officer to the administrative officer of an adjacent municipality if (1) the notice area extends into the adjacent municipality, or (2) the development site extends into the adjacent municipality, or (3) there is a potential for significant negative impact on the adjacent municipality.
 - f. Notice cost. The cost of all newspaper and mailing notices shall be borne by the applicant.
- iii. At the public hearing, the applicant will present the proposed development project. The planning board must allow oral and written comments from the general public. All public comments are to be made part of the public record of the project application.
- e. Decision. The planning board shall, within ninety (90) days of certification of completeness, or within a further amount of time that may be consented to by the applicant through the submission of a written waiver, approve of the master plan as submitted, approve with changes and/or conditions, or deny the application.
 - f. Failure to act. Failure of the planning board to act within the prescribed period constitutes approval of the master plan, and a certificate of the administrative officer as to the failure of the planning board to act within the required time and the resulting approval will be issued on request of the applicant.
 - g. Vesting.
 - i. The approved master plan is vested for a period of two (2) years, with the right to extend for two (2), one-year extensions upon written request by the applicant, who must appear before the planning board for the annual review. Thereafter, vesting may be extended for a longer period, for good cause shown, if requested by the applicant, in writing, and approved by the planning board or commission. Master plan vesting includes the zoning requirements, conceptual layout, and all conditions shown on the approved master plan drawings and supporting materials.
 - ii. The initial four (4) year vesting for the approved master plan constitutes the vested rights for the development as required in RIGL § 45-24-44.

- d. Preliminary plan review.
 - a. Submission requirements.
 - i. The applicant shall first submit to the administrative officer the items required by the checklist for preliminary plans contained in Appendix A of these regulations.
 - ii. Requirements for the preliminary plan and supporting materials for this phase of the review include, but are not limited to: engineering plans depicting the existing site conditions, engineering plans depicting the proposed development project, and a perimeter survey, as included on the checklist.
 - iii. At the preliminary plan review phase, the administrative officer shall solicit final, written comments and/or approvals of the department of public works, the town engineer, the town solicitor, other local government departments, commissions, or authorities as appropriate.
 - iv. Prior to approval of the preliminary plan, copies of all legal documents describing the property, proposed easements, and rights-of-way.
 - v. Prior to approval of the preliminary plan, an applicant must submit all permits required by state or federal agencies, including permits related to freshwater wetlands, the coastal zone, floodplains, preliminary suitability for individual septic disposal systems, public water systems, and connections to state roads. For a state permit from the Rhode Island department of transportation, a letter evidencing the issuance of such a permit upon the submission of a bond and insurance is sufficient, but such actual permit shall be required prior to the issuance of a building permit.
 - vi. If the applicant is requesting alteration of any variances and/or special-use permits granted by the planning board at the master plan stage of review pursuant to adopted unified development review provisions, and/or any new variances and/or special-use permits, such requests and all supporting documentation shall be included as part of the preliminary plan application materials.
 - b. Certification. The application will be certified as complete or incomplete by the administrative officer within twenty-five (25) days so long as a completed checklist of requirements are provided with the submission. The running of the time period set forth herein will be deemed stopped upon the issuance of a certificate of incompleteness of the application by the administrative officer and will recommence upon the resubmission of a corrected application by the applicant. However, in no event shall the administrative officer be required to certify a corrected submission as complete or incomplete less than ten (10) days after its resubmission.
 - c. Technical review committee. The technical review committee shall review the application prior to the first planning board meeting and shall comment and make recommendations to the planning board.

- d. Public notice. Prior to the first planning board meeting on the preliminary plan, public notice shall be sent to abutters only at least fourteen (14) days before the hearing.
 - e. Public improvement guarantees. Proposed arrangements for completion of the required public improvements, including construction schedule and/or financial guarantees, shall be reviewed and approved by the planning board at preliminary plan approval.
 - f. Decision. A complete application for a major subdivision or development plan shall be approved, approved with conditions, or denied, within ninety (90) days of the date when it is certified complete, or within a further amount of time that may be consented to by the developer through the submission of a written waiver. Provided that, the timeframe for decision is automatically extended if evidence of state permits has not been provided, or otherwise waived in accordance with this section.
 - g. Failure to act. Failure of the planning board to act within the prescribed period constitutes approval of the preliminary plan and a certificate of the administrative officer as to the failure of the planning board to act within the required time and the resulting approval shall be issued on request of the applicant.
 - h. Vesting. The approved preliminary plan is vested for a period of two (2) years with the right to extend for two (2), one-year extensions upon written request by the applicant, who must appear before the planning board for each annual review and provide proof of valid state or federal permits as applicable. Thereafter, vesting may be extended for a longer period, for good cause shown, if requested, in writing by the applicant, and approved by the planning board. The vesting for the preliminary plan approval includes all general and specific conditions shown on the approved preliminary plan drawings and supporting material.
- e. Final plan.
- a. Submission requirements.
 - i. The applicant shall submit to the administrative officer the items required by the checklist for the final plan, as well as all material required by the planning board when the application was given preliminary approval.
 - ii. Arrangements for completion of the required public improvements, including construction schedule and/or financial guarantees.
 - iii. Certification by the tax collector that all property taxes are current.
 - iv. For phased projects, the final plan for phases following the first phase, shall be accompanied by copies of as-built drawings not previously submitted of all existing public improvements for prior phases.
 - b. Certification. The application for final plan approval shall be certified complete or incomplete by the administrative officer in writing, within fifteen (15) days, so long as a completed checklist of requirements are provided with the submission. This time period may be extended to twenty-five (25) days by written notice from the

administrative officer to the applicant where the final plans contain changes to or elements not included in the preliminary plan approval. The running of the time period set forth herein shall be deemed stopped upon the issuance of a certificate of incompleteness of the application by the administrative officer and shall recommence upon the resubmission of a corrected application by the applicant. However, in no event shall the administrative officer be required to certify a corrected submission as complete or incomplete less than ten (10) days after its resubmission. If the administrative officer certifies the application as complete and does not require submission to the planning [board or commission], the final plan shall be considered approved.

- c. Decision. The administrative officer, or, if referred to it, the planning board, shall review, grant, grant with conditions or deny final plan approval. A decision shall be issued within forty-five (45) days after the certification of completeness, or within a further amount of time that may be consented to by the applicant, approve or deny the final plan as submitted.
 - d. Failure to act. Failure of the administrative officer or, if referred to it, the planning board to act within the prescribed period constitutes approval of the final plan and a certificate of the administrative officer as to the failure of the to act within the required time and the resulting approval shall be issued on request of the applicant.
 - e. Expiration of approval. The final approval of a major subdivision or land development project expires one year from the date of approval with the right to extend for one year upon written request by the applicant, who must appear before the planning board for the annual review, unless, within that period, the plat or plan has been submitted for signature and recording, Thereafter, the planning board may, for good cause shown, extend the period for recording.
 - f. Acceptance of public improvements. Signature and recording constitute the acceptance by the municipality of any street or other public improvement or other land intended for dedication. Final plan approval shall not impose any duty upon the municipality to maintain or improve those dedicated areas until the Town Council accepts the completed public improvements as constructed in compliance with the final plans.
 - g. Validity of recorded plans. The approved final plan, once recorded, remains valid as the approved plan for the site unless and until an amendment to the plan is approved, or a new plan is approved by the planning board.
- f. Modifications and changes to plans.
- a. Minor changes to the plans approved at any stage may be approved administratively, by the administrative officer. The changes may be authorized without an additional planning board meeting [, ~~to the extent applicable, at the discretion of the administrative officer~~]. All changes shall be made part of the permanent record of the project application. This provision does not prohibit the administrative officer from requesting recommendation from either the technical review committee or the planning board. Denial of the proposed change(s) shall

be referred to the planning board for review as a major change. Minor changes include the following:

- i. Changes to address typographical errors.
- b. Major changes to the plans approved at any stage may be approved only by the planning board and must include a public hearing. Major changes include any change not classified as a minor change.
- c. The administrative officer shall notify the applicant in writing within fourteen (14) days of submission of the ~~[final plan application]~~ **written request for a change** if the administrative officer determines the change to be a major change of the approved plans.
- g. Appeal. Decisions under this section shall be considered an appealable decision pursuant to 805 of these Regulations.

Regulations Article 9 - SUPPLEMENTARY REGULATIONS

Section 904 - 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, **the application shall be reviewed under unified development review.** ~~[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).]~~

2. Where an applicant requires both a special-use permit under the local Zoning Ordinance and Planning Board approval, **the application shall be reviewed under unified development review.** ~~[the applicant shall first obtain an advisory recommendation from the Planning Board, as well as conditional Planning Board approval for the first approval stage of 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).]~~

B. Town Council

Where an applicant requires both Planning Board approval and Council approval for a Zoning Ordinance or Zoning map change, the applicant shall first obtain an advisory recommendation from the Planning Board, as well as conditional Planning Board approval for the first approval stage of 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).

Section 906 - Changes to Recorded Plat and Plans

A. For all changes to the approved **recorded** plans of land development projects or subdivisions subject to this act, an amendment of the final development plans is required prior to the issuance of any building permits. **The procedure for approval and the categorization of whether such change is minor or major shall be in accordance with RIGL Sections 45-23-38(h), 45-23-39(f) or 45-23-50(i), whichever is applicable based on the underlying type of application.** Any **such** changes approved in the final plan shall be recorded as amendments to the final plan in accordance with the procedure established for recording of plats in Section 905.

~~[B. Minor changes to a land development or subdivision plan may be approved administratively, by the Administrative Officer, whereupon a permit may be issued. Such changes may be authorized, without additional public hearings, at the discretion of the Administrative Officer. All such changes shall be made part of the permanent record of the project application. This provision shall not prohibit the Administrative Officer from requesting a recommendation from the Planning Board. Denial of the proposed change(s) shall be referred to the Planning Board for review as a major change.~~

~~—C. Major changes, as defined in the local regulations, to land development or subdivision plan may be approved, only by the Planning Board and must follow the same review and public hearing process required for approval of preliminary plans as described in Section 407.]~~

Section 909 Unified development review.

- a. Review of projects submitted under this section shall adhere to the procedures, timeframes and standards of the underlying category of the project as listed in Sections 406, 407 and Article 10 of these regulations, but shall also include the following procedures:
 1. Minor subdivisions and land-development projects. Except for dimensional relief granted by modification, requests for variances and/or for the issuance of special-use permits related to minor subdivisions and land-development projects shall be submitted as part of the application materials for the preliminary plan stage of review or if combined, for the first stage of reviews. A public hearing on the application, including any variance and special-use permit requests that meets the requirements of subsection [(5)] of this section shall be held prior to consideration of the preliminary plan by the ~~[planning board]~~ **relevant permitting authority**. The ~~[planning board]~~ **authorized permitting authority** shall conditionally approve or deny the request(s) for the variance(s) and/or special-use permit(s) before considering the preliminary plan application ~~[for the minor subdivision or land-development project]~~. Approval of the variance(s) and/or special-use

permit(s) shall be conditioned on approval of the final plan of the minor subdivision or land-development project.

2. Development plan review. Except for dimensional relief granted by modification, requests for relief from the literal requirements of the zoning ordinance and/or for the issuance of special-use permits related to development plan review projects shall be submitted as part of the application materials for first stage of review. A public hearing on the application, including any variance and special-use permit requests that meets the requirements of subsection [(5)] of this section shall be held prior to consideration of the preliminary plan by the [planning board]; see RIGL §45-23-50(d)(1)(ii). The planning board shall conditionally approve or deny the request(s) for the variance(s) and/or special-use permit(s) before considering the preliminary plan application for the development plan review project. Approval of the variance(s) and/or special-use permit(s) shall be conditioned on approval of the final stage of review of the development plan review project.
3. Major subdivisions and land-development projects.
 - i. Master plan. Except for dimensional relief granted by modification, requests for variances for relief from the literal requirements of the zoning ordinance and/or for the issuance of a special-use permit related to major subdivisions and land-development projects shall be submitted as part of the application materials for the master plan stage of review, or if combined, the first stage of review. A public hearing on the application, including any variance and special-use permit requests that meets the requirements of subsection (e) of this section, shall be held prior to consideration of the master plan by the [planning board]. The planning board shall conditionally approve or deny the requests for the variance(s) and/or special-use permit(s) before considering the master plan application for the major subdivision or land-development project. Approval of the variance(s) and/or special-use permit(s) shall be conditioned on approval of the final plan of the major subdivision or land-development project.
 - ii. Preliminary plan. During the preliminary plan stage of review, applicants shall have the ability to request alteration of any variance(s) and/or special-use permit(s) granted by the planning board during the master plan stage of review, and/or to request new variance(s) and/or special-use permit(s), based on the outcomes of the more detailed planning and design necessary for the preliminary plan. If necessary, the applicant shall submit such requests and all supporting documentation along with the preliminary plan application materials. If the applicant requests new or additional zoning relief at this stage a public hearing on the application, that meets the requirements of subsection [(5)] of this section, shall be held prior to consideration of the preliminary plan by the planning board. The [planning board] shall conditionally approve, amend, or deny the requests for alteration(s), new variance(s) and/or new special-use permit(s), before considering the preliminary plan application for the major subdivision or land-development project. Approval of the alteration(s), new variance(s), and/or new special-use permit(s) shall be conditioned on approval of the final plan of the major

subdivision or land-development project. If the planning board denies the request for alteration(s), new variance(s), and/or new special-use permit(s), the [planning board] shall have the option of remanding the application back to the master plan stage of review. Alternatively, if the planning board denies the request for alteration(s), new variance(s), and/or new special-use permit(s), the applicant may consent to an extension of the decision period mandated by Section 407 of these regulations so that additional information can be provided and reviewed by the planning board.

4. Decision. The time periods by which the [planning board] must approve or deny applications for variances and special-use permits under the unified development review provisions of the local regulations shall be the same as the time periods by which the [board] must make a decision on the applicable review stage of the category of project under review.
5. Unless otherwise provided in this chapter all under this section shall require a single public hearing, held pursuant to subsection [(a)(1)] of this section. The public hearing must meet the following requirements:
 - i. Public hearing notice shall adhere to the requirements found in RIGL §45-23-42(b).
 - ii. The notice area for notice of the public hearing shall include all property located in or within not less than two hundred feet (200') of the perimeter of the area included in the subdivision and/or land-development project, and notice of the public hearing shall be sent by the administrative officer to the administrative officer of an adjacent municipality if: (1) the notice area extends into the adjacent municipality; or (2) the development site extends into the adjacent municipality; or (3) there is a potential for significant negative impact on the adjacent municipality. Additional notice within watersheds shall also be sent as required in RIGL §45-23-53(b) and (c).
 - iii. Public notice shall indicate that dimensional variance(s), use variance(s) and/or special-use permit(s) are to be considered for the subdivision and/or land-development project.
 - iv. The cost of all public notice is to be borne by the applicant.
6. The time periods by which the permitting authority must approve, approve with conditions or deny requests for variances and special-use permits under the unified development review provisions of a zoning ordinance shall be the same as the time periods by which the [planning board] must make a decision on the applicable review stage of the underlying type of project under review.
7. The expirations period of an approval of a variance or special use permit granted under this section shall be the same as those set forth in the statute for the underlying type of project under review.
8. Decisions under this section, including requests for the variance(s) and/or special-use permits that are denied by the [planning board] may be appealed pursuant to RIGL §45-23-71.

Regulations Article 10 - DEVELOPMENT PLAN REVIEW

Section 1003 - Application requesting relief from the zoning ordinance

1. Applications under this article which require relief which qualifies only as a modification [~~shall~~] **may** proceed by filing an application and a request for a modification to the zoning enforcement officer. If such modification is granted the application shall then proceed to be reviewed by the administrative officer **as to completeness** as determined in this article. If the modification is denied or an objection is received as set forth in Zoning Ordinance Section 906, such application shall proceed under unified development review and be reviewed by the planning board.
2. Applications under this section which require relief from the literal provisions of the zoning ordinance in the form of a variance or special use permit, shall be reviewed by the planning board under unified development review, and a request for review shall accompany the preliminary plan application.

Section 1005 - Certification

- A. The application shall be certified, in writing, complete or incomplete by the administrative officer within twenty-five (25) days. If no street creation or extension is required, and/or unified development review is not required, the application shall be certified complete or incomplete by the administrative officer within fifteen (15) days. **If an applicant also submits for a modification to the zoning enforcement officer, the running of the time period set forth herein will not begin until the decision on the modification is made.**
- B. The running of the time period set forth in this section will be deemed stopped upon the issuance of a written certificate of incompleteness of the application by the administrative officer and will recommence upon the resubmission of a corrected application by the applicant. However, in no event will the administrative officer be required to certify a corrected submission as complete or incomplete less than ten (10) days after its resubmission.
- C. If the administrative officer certifies the application as incomplete, the officer shall set forth in writing with specificity the missing or incomplete items.

Section 1006 - Application review and decision

- a. *Administrative development plan review.* An application shall be approved, denied, or approved with conditions within twenty-five (25) days of the certificate of completeness or within any further time that is agreed to in writing by the applicant and administrative officer. The administrative officer may refer the application to the Technical Review Committee for review and recommendation.

b. *Formal development plan review.*

1. *Preliminary plan.* Unless the application is reviewed under unified development review, the planning board will approve, deny, or approve with conditions, the preliminary plan within sixty-five (65) days of certification of completeness, or within any further time that is agreed to by the applicant and the permitting authority. The Planning Board shall hold a public hearing consistent with the notice requirements of § 320(A) of chapter 152. The administrative officer shall refer the application to the Technical Review Committee for review and recommendation.
2. *Final Plan.* For formal development plan approval, the permitting authority shall delegate final plan review and approval to the administrative officer. The officer will report its actions in writing to the planning board at its next regular meeting, to be made part of the record. Final plan shall be approved or denied within forty-five (45) days after the certification of completeness, or within a further amount of time that may be consented to by the applicant, in writing.

c. *Failure to act.* Failure of the permitting authority to act within the period prescribed constitutes approval of the preliminary plan and a certificate of the administrative officer as to the failure to act within the required time and the resulting approval shall be issued on request of the application.

d. *Vested rights.* Approval of development plan review shall expire two (2) years from the date of approval unless, within that period, a plat or plan, in conformity with approval, and as defined in this act, is submitted for signature and recording. Validity may be extended for an additional period upon application to the administrative officer or permitting authority, whichever entity approved the application, upon a showing of good cause.

e. *Modifications and changes to plans.*

1. Minor changes to the plans approved at any stage may be approved administratively, by the administrative officer [~~whereupon final plan approval may be issued~~]. The changes may be authorized without an additional planning board meeting [~~at the discretion of the administrative officer~~]. All changes shall be made part of the permanent record of the project application. This provision does not prohibit the administrative officer from requesting recommendation from either the technical review committee or the permitting authority **if the permitting authority is not the administrative officer**. Minor changes shall include:

- i. Changes to correct typographical errors
2. Denial of the proposed change(s) shall be referred to the [permitting authority] for review as a major change.
3. Major changes to the plans approved at any stage may be approved only by the permitting authority and must follow the same review and hearing process required for approval of preliminary plans, which shall include a public hearing, **if originally required as part of the project's approvals**. Major changes shall include any change not classified as a minor change.

4. The administrative officer shall notify the applicant in writing within fourteen (14) days of submission of the [~~final plan application~~] **written request for a change** if the administrative officer determines that there has been a major change to the approved plans.
- f. *Appeal.* A decision under this section shall be considered an appealable decision.

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