

Subdivision Regulations

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), if applicable. 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.1. 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.

1. Submission requirements.

a. The applicant shall first submit to the Administrative Officer the items required by the checklist for master plans.

b. 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.

c. Initial comments will be solicited from:

i. Local agencies including, but not limited to, the planning department, the department of public works, fire and police departments, and the conservation commission;

ii. Adjacent communities;

iii. State agencies, as appropriate, including the departments of environmental management and transportation and the coastal resources management council; and

iv. Federal agencies, as appropriate. The Administrative Officer shall coordinate review and comments by local officials, adjacent communities, and state and federal agencies.

d. Applications requesting relief from the zoning ordinance.

i. Applications under this chapter which require relief which qualifies only as a modification under Zoning Ordinance Section [906](#) shall proceed by filing a master plan application under this section 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 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.

ii. 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](#).

2. 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. 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.

3. 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.

4. Public hearing.

a. 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.

b. Notice for the public hearing is required in accordance with the following:

i. 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 of a mile.

b. Notice area. The distance(s) for notice of the public hearing shall be 200 feet from project site.

c. Watersheds. Additional notice within watersheds shall also be sent as required in R.I.G.L. § 45-23-53(b) and (c).

d. 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.

e. Notice cost. The cost of all newspaper and mailing notices shall be borne by the applicant.

c. 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.

5. 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.

6. 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.

7. Vesting.

a. 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.

b. The initial four (4) year vesting for the approved master plan constitutes the vested rights for the development as required in R.I.G.L. § 45-24-44.

D. Preliminary plan review.

1. Submission requirements.

a. 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.

b. 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.

c. 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, of the local government departments, commissions, or authorities as appropriate.

~~—d. Prior to approval of the preliminary plan, copies of all legal documents describing the property, proposed easements, and rights-of-way.~~

~~—e. 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.~~

fd. 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.

2. 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.

3. 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.

4. 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.

5. 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.

6. 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.

7. 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.

8. 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, which 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.

1. Submission requirements.

a. 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.

b. Arrangements for completion of the required public improvements, including construction schedule and/or financial guarantees.

c. Certification by the tax collector that all property taxes are current.

d. 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.

e. Prior to approval of the final plan, copies of all legal documents describing the property, proposed easements, and rights-of-way.

f. Prior to approval of the final 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.

2. 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.

3. 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.

4. 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 to act within the required time and the resulting approval shall be issued on request of the applicant.

5. Expiration of approval. The final approval of a major subdivision or land development project expires ~~one year~~ two (2) years 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.

6. 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.

7. 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 approved 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 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:

a. Changes to address typographical errors.

2. 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.

3. The Administrative Officer shall notify the applicant in writing within fourteen (14) days of submission of the final plan application 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 Section [805](#) of these regulations.