
**APPENDIX D: PROCEDURES FOR COMPREHENSIVE PERMIT
APPLICATIONS (R.I.G.L. 45-53-1 et. seq.)**

SECTION 1. AUTHORITY TO GRANT COMPREHENSIVE PERMIT

In accordance with Title 45, Chapter 53 of the Rhode Island General Laws, the “Low and Moderate Income Housing Act” (as amended through July 2004) the local review board shall have the power to issue a comprehensive permit for a qualifying low- and moderate-income housing project, which relief shall include all permits or approvals from any local board or official who would otherwise act with respect to such application including, but not limited to, the power to attach to the permit or approval conditions and requirements with respect to setbacks, height, site plan, size, shape, building materials, landscaping, and parking consistent with the terms of the Act.

SECTION 2. DESIGNATION OF LOCAL REVIEW BOARD

The Town’s Planning Board is hereby designated as the local review board and all references in this ordinance to ‘local review board’ shall be to the Planning Board.

SECTION 3. PROCEDURE FOR APPROVAL OF CONSTRUCTION OF LOW OR MODERATE INCOME HOUSING

(a) Any applicant proposing to build low or moderate income housing may submit to the Cumberland Planning Board a single application for a comprehensive permit to build that housing in lieu of separate applications to the applicable local boards. This procedure is only available for proposals in which at least **twenty-five percent (25%)** of the housing is low or moderate income housing. The application and review process for a comprehensive permit shall be as follows:

(1) Submission requirements. Applications for a comprehensive permit shall include:

(i) A letter of eligibility issued by the Rhode Island Housing Mortgage Finance Corporation, or in the case of projects primarily funded by the U.S. Department of Housing and Urban Development or other state or federal agencies, an award letter indicating the subsidy, or by the Cumberland Planning Department (See Application at end of Section).

(ii) A written request to the Cumberland Planning Board to submit a single application to build or rehabilitate low or moderate income housing in lieu of separate applications to the applicable local boards. The written request shall identify the specific sections and provisions of applicable local ordinances and regulations from which the applicant is seeking relief; and

(iii) A proposed timetable for the commencement of construction and completion of the project; and

(iv) A sample land lease or deed restriction with affordability liens that will restrict use as low and moderate income housing in conformance with the guidelines of the agency providing the subsidy for the low and moderate income housing, but for a period of not less than **ninety-nine (99) years**; and

(v) Identification of an approved entity that will monitor the long-term affordability of the low and moderate income units; and

(vi) A financial pro-forma for the proposed development; and

(vii) For comprehensive permit applications: (A) not involving major land developments or major subdivisions including, but not limited to, applications seeking relief from specific provisions of a local zoning ordinance, or involving administrative subdivisions, minor land developments or minor subdivisions, or other local ordinances and regulations: those items included in the checklist for the preliminary plan in the local regulations promulgated pursuant to § 45-23-38 and Section 5. F. 1. of the Town of Cumberland, Rhode Island Land Development & Subdivision Regulations those items required by local regulations promulgated pursuant to applicable state law, with the exception of evidence of state or federal permits; and for comprehensive permit applications; and (B) involving major land developments and major subdivisions, unless otherwise agreed to by the applicant and the town; those items included in the checklist for the master plan in the local regulations promulgated pursuant to § 45-23-40 and Section 5. G. 1. of the Town of Cumberland, Rhode Island Land Development & Subdivision Regulations. Subsequent to master plan approval, the applicant must submit those items included in the checklist for a preliminary plan for a major land development or major subdivision project in the local regulations promulgated pursuant to § 45-23-41 and Section 5.G.2., with the exception of evidence of state or federal permits. All required state and federal permits must be obtained prior to the final plan approval or the issuance of a building permit; and

(viii) Fees: The applicant will be subject to Appendix A: Fee Schedule of the Land Development & Subdivision Regulations, provided, however, that the imposition of such fees shall not preclude a showing by an applicant that the fees make the project financially infeasible; and

(ix) Notwithstanding the submission requirements set forth above, the Planning Board may request additional, reasonable documentation throughout the public hearing, including, but not limited to, opinions of experts, credible evidence of application for necessary federal and/or state permits, statements and advice from other local boards and officials.

(2) *Certification of completeness.* The application must be certified complete or incomplete by the administrative officer according to the provisions of § 45-23-36 and Section 5. B. Town of Cumberland, Rhode Island Land Development & Subdivision Regulations; provided, however, that for a major land development or major subdivision, the certificate for a master plan shall be granted within **thirty (30) days** and for a preliminary plan shall be granted within **forty-five (45) days**. 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 **fourteen (14) days** after its resubmission. If the administrative officer certifies the application as incomplete, the officer shall set forth in writing with specificity the missing or incomplete items.

(3) *Pre-application conference.* Where the comprehensive permit application proposal is a major land development project or a major subdivision pursuant to the provisions of § **45-23-36 and Section 5. D.** Town of Cumberland, Rhode Island Land Development & Subdivision Regulations; the Planning Department may require an applicant proposing a project under this chapter to first schedule a pre-application conference with the Planning Board, or with the administrative officer for the Planning Board and other local officials, as appropriate. To request a pre-application conference, the applicant shall submit a short description of the project in writing including the number of units, type of housing, as well as a location map. The purpose of the pre-application conference shall be to review a concept plan of the proposed development. Upon receipt of a request by an applicant for a pre-application conference, the municipality has **thirty (30) days** to schedule and hold the pre-application conference. If **thirty (30) days** has elapsed from the filing of the pre-application submission and no pre-application conference has taken place, nothing shall be deemed to preclude an applicant from thereafter filing and proceeding with an application for a comprehensive permit.

(4) *Review of applications.* An application filed in accordance with R.I.G.L. Chapter 45-53 shall be reviewed by the Planning Board at a public hearing in accordance with the following provisions:

(i) *Notification.* Upon issuance of a certificate of completeness for a comprehensive permit, the Planning Board shall immediately notify each local board, as applicable, of the filing of the application, by sending a copy to the local boards and to other parties entitled to notice of hearings on applications under the zoning ordinance and/or land development and subdivision regulations as applicable.

(ii) *Public Notice.* Public notice for all public hearings will be the same notice required under local regulations for a public hearing for a preliminary plan promulgated in accordance with § 45-23-42 and the Land Development & Subdivision Regulations. The cost of notice shall be paid by the applicant.

(iii) *Review of minor projects.* The review of a comprehensive permit application involving only minor land developments or minor subdivisions or requesting zoning ordinance relief or relief from other local regulations or ordinances not otherwise addressed in this subsection, shall be conducted following the procedures in the applicable local regulations, **with the exception that all minor land developments or minor subdivisions under this act are required to hold a public hearing on the application, and within ninety-five (95) days of issuance of the certificate of**

completeness, or within such further time as is agreed to by the applicant and the Planning Board, render a decision.

(iv) *Review of major projects.* In the review of a comprehensive permit application involving a major land development and/or major subdivision, **the Planning Board shall hold a public hearing on the master plan and shall, within one hundred and twenty (120) days of issuance of the certification of completeness**, or within such further amount of time as may be agreed to by the Planning Board and the applicant, render a decision. Preliminary and final plan review shall be conducted according to the Land Development & Subdivision Regulations except as otherwise specified in this Chapter (§ 45-53-4).

(v) *Required findings.* In taking final action on an application, the Planning Board shall make positive findings, supported by legally competent evidence on the record which discloses the nature and character of the observations upon which the fact finders acted, on each of the following standard provisions, where applicable:

(A) The proposed development is consistent with local needs as identified in the local comprehensive community plan with particular emphasis on the community's affordable housing plan and/or has satisfactorily addressed the issues where there may be inconsistencies.

(B) The proposed development is in compliance with the standards and provisions of the municipality's zoning ordinance and subdivision regulations, and/or where expressly varied or waived local concerns that have been affected by the relief granted does not outweigh the state and local need for low and moderate-income housing.

(C) All low and moderate income housing units proposed are integrated throughout the development; are similar in scale and architectural style to the market rate units within the project; and will be built and occupied prior to, or simultaneous with the construction and occupancy of any market rate units.

(D) There will be no significant negative environmental impacts from the proposed development as shown on the final plan, with all required conditions for approval.

(E) There will be no significant negative impacts on the health and safety of current or future residents of the community, in areas including, but not limited to, safe circulation of pedestrian and vehicular traffic, provision of emergency services, sewerage disposal, availability of potable water, adequate surface water run-off, and the preservation of natural, historical or cultural features that contribute to the attractiveness of the community.

(F) All proposed land developments and all subdivisions lots will have adequate and permanent physical access to a public street in accordance

with the requirements of Section 7 of the Land Development & Subdivision Regulations and § 45-23-60(5).

(G) The proposed development will not result in the creation of individual lots with any physical constraints to development that building on those lots according to pertinent regulations and building standards would be impracticable, unless created only as permanent open space or permanently reserved for a public purpose on the approved, recorded plans.

(vi) In review of Comprehensive Permit Applications pursuant to § 45-53, the Planning Board has the same power to issue permits or approvals that any local board or official who would otherwise act with respect to the application, including, but not limited to, the power to attach to the permit or approval, conditions, and requirements with respect to height, site plan, size, or shape, or building materials, as are consistent with the terms of § 45-53-4.

(vii) In reviewing the comprehensive permit request, the Planning Board may deny the request for any of the following reasons: (A) The town has an approved affordable housing plan and is meeting housing needs, and the proposal is inconsistent with the affordable housing plan; (B) the proposal is not consistent with local needs, including, but not limited to, the needs identified in an approved comprehensive plan, and/or local zoning ordinances and procedures promulgated in conformance with the comprehensive plan; (C) the proposal is not in conformance with the comprehensive plan; (D) the community has met or has plans to meet the goal of ten percent (10%) of the year-round units or, (E) concerns for the environment and the health and safety of current residents have not been adequately addressed.

(viii) All Planning Board decisions on comprehensive permits shall be by majority vote of the membership of the board and may be appealed by the applicant to the state housing appeals board.

(ix) If the public hearing is not convened or a decision is not rendered within the time allowed in subsection (a)(4)(iii) and (iv), the application is deemed to have been allowed and the relevant approval shall issue immediately; provided, however, that this provision shall not apply to any application remanded for hearing in any town where more than one application has been remanded for hearing provided for in § 45-53-6(f)(2).

(x) Any person aggrieved by the issuance of an approval may appeal to the Supreme Court.

(xi) A comprehensive permit shall expire unless construction is started within **twelve (12) months** and completed within **sixty (60) months** of final plan approval unless a longer and/or phased period for development is agreed to by the Planning Board and the applicant. Low and moderate income housing units shall be built and occupied prior to, or simultaneous with the construction and occupancy of market rate units.



Planning Department
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COMPREHENSIVE PERMIT ELIGIBILITY APPLICATION

Name of Project: _____

Project Classification:

- Minor Subdivision _____
- Major Subdivision _____
- Minor Land Development _____
- Major Land Development _____
- Other _____

Name: _____

Address: _____

Telephone: _____ Fax: _____

Proof of Eligibility:

___ Letter of Eligibility from Rhode Island Housing Mortgage Finance Corporation (Please Attach).

___ Project financing from U. S. Department of Housing and Urban Development (Attach Documentation).

___ Town Density Bonus

___ All low- and moderate-income units have an affordability restriction for a period of ninety-nine (99) years.

Applicant's Signature(s): _____ Date: _____

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