RHODE ISLAND DIVISION OF STATEWIDE PLANNING

Trends and Learnings for Land Use from Rhode Island Supreme Court Decisions

Technical Paper #174

A technical paper for the update of
State Guide Plan 121, Land Use 2050 State Land Use Policies and Plan

DATE : August 27, 2026

RHODE ISLAND STATEWIDE PLANNING PROGRAM
Division of Planning
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Abstract

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Abstract:

The Rhode Island Division of Statewide Planning (RIDSP) is preparing an update to the State Guide Plan Element #121, *Land Use 2025: State Land Use Policies and Plan*, published in 2006. To support the update, this technical paper summarizes key patterns and findings in Rhode Island Supreme Court land use decisions since 2006. The findings will be used to understand current considerations in land use planning by the State's Supreme Court to incorporate into the update of the Land Use State Guide Plan Element. A second use is that the report will advise the Rhode Island Local Official Training program required by Rhode Island General Law Chapter §45-70. The research was primarily completed in 2021 to 2023 by Roger Williams University School of Law juris doctorate candidates as part of their Pro Bono Experiential Learning Requirement, then supplemented by additional research and analysis completed by RIDSP staff.

Table of Contents

Rhode Island Statewide Planning Program 2

Title VI Non-Discrimination Policy 2

Abstract 3

Project Objectives 5

Purpose of this paper 5

How to Use This Information 6

Methodology 7

Data Sources 7

Source for Cases 7

Selection of Cases 7

Analysis 8

Rhode Island Legal Authority 9

Enabling Legislation: From State Law to Local Regulations 9

Legal Powers and Responsibilities of Local Land Use Officials 10

The Rhode Island State Court Appeals Process 11

Findings 13

Importance of Clear Codification 13

Process and Procedure 13

Findings of Fact and Conclusions of Law 15

Language of Regulation 19

Value of Local Authority and Decision Making 22

Recommendations from the Findings 26

Considerations in the Land Use State Guide Plan Update 26

Lessons Learned to Incorporate into the Rhode Island Local Officials Training 26

Further Emphasize the Power of Decisions 27

Stress the Importance of Codification 27

Apply the Learnings from Past Appeals into Future Process and Code 28

Conclusion 29

Appendix A: Rhode Island Land Use Enabling Laws A-1

Project Objectives

Purpose of this paper

This report outlines and analyzes land use decisions of the Rhode Island Supreme Court since 2006 to help guide both 1) an update to the Land Use State Guide Plan (Element #121), *Land Use 2025*, and 2) advise the curriculum for the Rhode Island Local Officials Training program for members of municipal planning and zoning boards and historic district commissions set forth in Rhode Island General Law Chapter §45-70. The research on Rhode Island Supreme Court cases related to land use was primarily conducted by Roger Williams University School of Law Juris Doctorate candidates from 2021 to 2023. The Rhode Island Division of Statewide Planning (RIDSP) staff then reviewed their research and expanded on the cases, identified trends on how the decisions were applicable statewide, and compiled the analysis into this report.

For cases to make it to the level of the State's Supreme Court and be selected by the sitting judges, the case must raise a significant State issue that is in the public interest. With land use conditions continuing to evolve throughout Rhode Island, as seen by actions including amendments to land use Enabling Laws by the General Assembly, understanding the decisions deemed significant statewide is critical in helping set the vision and expectation for long-range land use planning, decision making, and education.

RIDSP is updating the Land Use State Guide Plan (Element #121), *Land Use 2025,* which sets forth statewide land use policy with a 20-year time horizon, covering topics ranging from general land development to more specific topic areas, such as economic development, housing, energy, transportation, water resources, recreation, and open space. Having a detailed understanding of prominent land use cases and corresponding findings since the 2006 update provides more current trends, conflicts, and priorities in land use planning to be addressed in developing a current vision.

In addition, the findings from this report coincide with the topic requirements outlined in the Rhode Island Local Officials Training for municipal planning, zoning, and historic district commission members, and will be incorporated as relevant to better educate members in their role of local land use decision makers. Covered topics include board functions and legal tools related to land use planning (such as zoning ordinances), State laws applicable to land use planning, and understanding due process, review standards, and findings required for making land use decisions. Having concrete examples in recent case

law will better prepare local officials in their roles as decisionmakers and emphasize the importance of their responsibilities and impacts to their communities.

How to Use This Information

- ✓ A resource for the RIDSP staff and consultant team(s) to understand trends in statewide land use decisions from the Rhode Island Supreme Court, helping to identify priorities for incorporation into the update of the Land Use State Guide Plan (Element #121), *Land Use 2025*.
- ✓ A resource for the Advisory Committee for Education and the RIDSP staff for enhancing the Rhode Island Local Officials Training materials as relevant to cover findings of this report to share with municipal land use decision makers.
- ✓ A resource for municipal planning, zoning, and historic district commission members and their staff to consider in local land use decisions.
- ✗ NOT as resource for seeking legal guidance, advisory or otherwise. This report was prepared by RIDSP staff, not legal experts. Please consult legal counsel for expertise and further guidance on a particular case, question, and/or other inquiry.

Methodology

Data Sources

- Pro bono research completed by various Roger Williams University School of Law Juris Doctorate candidates.
- Rhode Island Judiciary website.

Source for Cases

Roger Williams University School of Law Juris Doctorate candidates used the Rhode Island Judiciary website[1] to research Rhode Island Supreme Court court cases from 2006 through 2023. As they reviewed cases, they entered the information into a Microsoft Word document titled "Final RI land use and zoning case list and research" with the following information:

Rhode Island Cases [YEAR]

Initials of student name entering the case information	Date of decision	Body referred from	Summary notes on the case, including context, decision of the court, and takeaway and/or note of pattern

The candidates also prepared a separate document titled "Overturned Zoning Decisions" which specifically called out overturned cases with additional details on the Supreme Court's decision.

RIDSP staff then reviewed all cases provided in the two documents, conducted further research for clarity and context, completed additional research to incorporate new Supreme Court cases since 2023, and then combined all to analyze trends for this technical paper.

Selection of Cases

Not all cases provided in the research documents are included in this report. The research included Rhode Island Supreme Court cases unrelated to land use, such as criminal cases, worker's compensation, landlord-tenant issues, nuisance, life estate, and more. Non land use related cases were not considered.

[1] The original website link used was https://www.courts.ri.gov/Courts/SupremeCourt/Pages/Case%20Summaries/Civil-Case-Summaries.aspx; however, as of 2025, the specific webpage was no longer active. Published case information can still be found on the website under an edited hyperlink (https://www.courts.ri.gov/Courts/SupremeCourt/Pages/default.aspx).

In addition, the research documents also included many Superior Court cases rather than Supreme Court. Given that this technical paper is focused on the decisions of the Supreme Court and the emphasis of cases related to statewide public interest, the analysis excluded cases where only the Superior Court ruled. RIDSP noted that future analysis into the findings from the Superior Court cases in this project may warrant additional research, and such a paper may be beneficial as a future work program item.

Analysis

When reviewing the selection of cases, RIDSP considered the following from the Rhode Island Supreme Court's opinions and decisions:

- How did the Rhode Island Supreme Court rule? I.e., in favor or against a local land use decision or regulation?
- What were the findings for how the Court ruled? I.e., was there a trend in case citations, reason for their decisions, or the like?
- How was the case's ruling applicable statewide? I.e., what were the "lessons learned" from these decisions?

Lists of cases reviewed for this report are provided in their relevant subsections with summaries in the order they appear in the narrative.

Rhode Island Legal Authority

To contextualize the findings from the Rhode Island Supreme Court's decisions, it is important to understand how cases make it from application to appeal.

Enabling Legislation: From State Law to Local Regulations

The Rhode Island General Laws (RIGLs) provide the legal authority to municipalities for enacting land use regulations through Enabling Laws. There are various enabling laws within the RIGLs that grant authority to municipalities to take an array of land use actions, such as:

- ✓ preparing, implementing, and amending local land use planning tools, notably:
  - a municipality's comprehensive community plan (pursuant to Chapter §45-22.2: Rhode Island Comprehensive Planning and Land Use Act);
  - local zoning ordinances (pursuant to Chapter §45-24: Zoning Ordinances);
  - local land development and subdivision regulations (pursuant to Chapter §45-23: Rhode Island Land Development and Subdivision Review Enabling Act).
- ✓ establishment of local land use boards, responsible for decisions such as reviewing land use applications, along with enforcing, providing recommendations to, and amending local land use regulation.
- ✓ setting forth the process and procedure for appealing land use decisions, including timeframes in which decisions are to be made, what decisions are appealable, and who is the reviewing authority of various appeals.

See

Appendix A: Rhode Island Land Use Enabling Laws of this report for additional information on State Enabling Laws.

Municipalities are granted power to locally apply various regulations, requirements, review, and enforcement. However, ordinances, regulations, and decisions of local land use boards and commissions shall not contradict or exceed the powers granted by the State Enabling Laws.

Legal Powers and Responsibilities of Local Land Use Officials

By way of the RIGL Enabling Laws, municipalities establish local land use boards and commissions, comprised of residents who are appointed or elected to review and decide on land use applications and provide input on land use policy within their communities.[2] These include the following:

- Town/City Councils, who serve in a legislative capacity.
    - Adoption of a municipality's comprehensive community plan, including amendments.
    - Fund implementation for initiatives outlined in the comprehensive community plan.
    - Adopt local zoning ordinances and corresponding amendments.
    - Appoint members to planning and zoning boards/commissions (varies by community).
- Planning Boards/Commissions, who serve in a quasi-judicial capacity**.**
    - Development and implementation of a municipality's comprehensive community plan.
    - Draft and provide advisory opinions on local zoning ordinances and corresponding amendments.
    - Adopt and amend local land development and subdivision regulations.

What does "quasi-judicial" mean?

Quasi-judicial refers to a body that performs similar functions as a court, making decisions based on findings of fact and conclusions of law. In Rhode Island, both planning and zoning boards/commissions are quasi-judicial bodies.

However, quasi-judicial bodies do NOT have full authority of a court, and their decisions may be appealed to the Rhode Island State Court System.

[2] It varies by community whether members of various bodies are appointed or elected. Land use boards and commissions may also be enabled to oversee additional responsibilities and actions by way of municipal charters, which were not reviewed for this technical paper.

  - Review applications for land development projects, subdivisions, and comprehensive permits for affordable housing at various stages.[3]
  - Review applications for development plan review (where applicable).[4]
- Zoning Board of Review and Appeals, who serve in a quasi-judicial capacity.
  - Apply standards of review and consistency with local zoning ordinances and the comprehensive community plan to applications for variances and special use permits.
  - Review appeals of the zoning administrative officer.
  - Review appeals of the local historic district commission, where established.

Though each group varies in their role and service to their municipality, there are shared legal powers and responsibilities that come with the appointment or election of each member:

- ✓ Protect the public interest, i.e. matters that affect the general welfare of the whole community.
- ✓ Making decisions that are consistent with the local codified and adopted vision, including the municipality's comprehensive community plan, zoning ordinances, and other regulations.
- ✓ The responsibility to provide due process, protecting the rights and ensuring fair treatment of both individuals and the community at large. This takes two forms of both:
  - *substantive due process* where decisionmakers are tasked with evaluating a project fairly against applicable regulations, regardless of personal preference and
  - *procedural due process*, concerned with public notice and the opportunity to be heard, and ensuring ordinances and regulations are being applied.

What does "due process" mean?

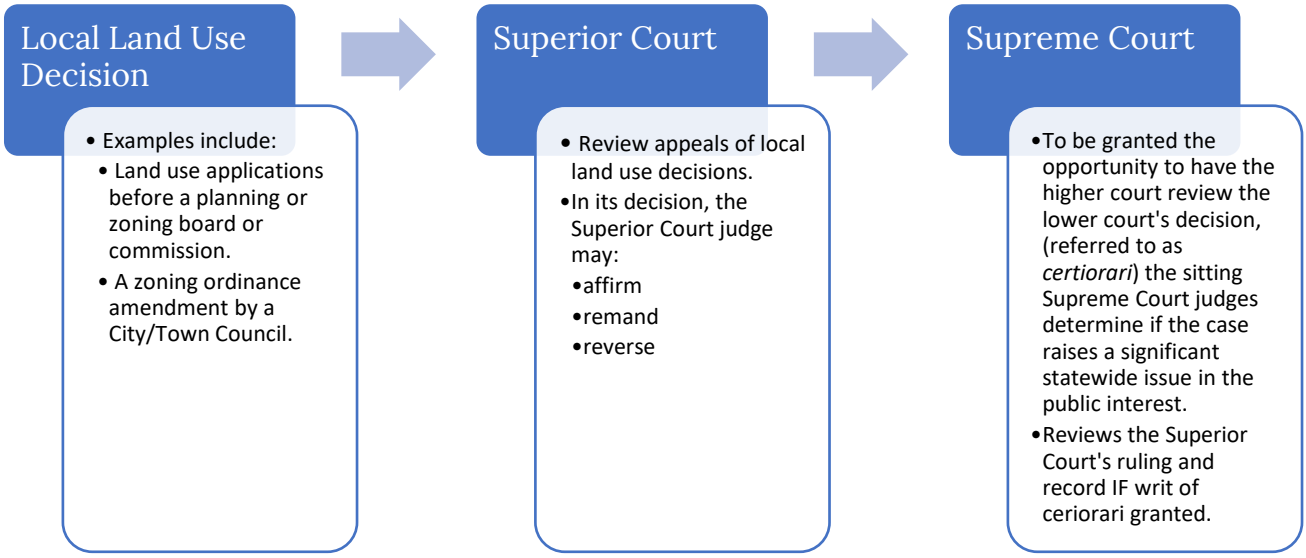
Due process ensures fair treatment of citizens by ensuring that government does not act in an arbitrary or capricious manner.

When applicants and/or citizens believe that a land use decision of a board, commission, or official is in violation of such responsibilities, or a matter does not meet the required standards of review (in the case of quasi-judicial bodies) matters may be escalated to the Rhode Island State Court System.

[3] RIGL, specifically §45-23 Subdivision of Land, sets forth which stages of review for various applications require public hearings and decisions to be made by the Planning Board/Commission versus administrative only stages or optional stages of review.
[4] Development plan review, as of this paper's publication, is an optional tool for municipalities. This type of review is only applicable to municipalities who adopted such into their local regulations.

The Rhode Island State Court Appeals Process

As previously noted, Enabling Laws through RIGL establish timeliness and process for appeals, which can vary depending on the type of decision and the land use authority making the decision. At the point when a land use decision is appealed to the Rhode Island State Court System, the appeal will begin in the Superior Court and make its way to the higher court if escalated.



An appeal of a local land use decision will start in the Superior Court[5] where the appeal will be reviewed based on the record, including application materials, meeting minutes, and any other submitted exhibits. In their ruling, the Superior Court judge may choose to 1) affirm the local decision, 2) remand the local decision for further proceedings, or 3) reverse the local decision.

If there is an unsatisfied party with the Superior Court's decision, one may apply to the State Supreme Court. This involves an appellant applying for a petition of writ certiorari to be heard, which is when the higher court reviews a decision of a lower court. The Supreme Court then reviews the petitions and decides which cases to hear. If certiorari is denied, the Superior Court's judgement stands. If certiorari is accepted, the Supreme Court will hear the appeal, reviewing the record from the Superior Court. Due to selectivity of cases before the Supreme Court, the case must raise a significant statewide issue that is in the public's interest to be heard.

[5] The Superior Court has a Land Use Calendar in which one justice hears all cases related to land use, separate from all other types of cases.

Decisions that come out the appeals process are impactful to local land use regulation. They serve as "lessons learned" to municipal land use decisionmakers in what needs to be considered in decision making, and how they can strengthen their land use processes and regulations in the process.

Findings

Many of the land use cases that made it to the level of the Rhode Island Supreme Court ("the Court") involved local ordinance interpretation and local land use board and commission reviews and decisions. There were also several cases related to nonconforming uses and appeals of the former State Housing Appeals Board (SHAB).[6] There were recurring themes that emerged in the decisions that are applicable to land use decision making throughout Rhode Island.

Importance of Clear Codification

> "The Court follows where the law leads…"
> *– Peter Scotti & Associates v. Turdin (2021)*

The emphasis on codification in the Court's decisions cannot be overstated. Many cases escalated to the Court due to a disagreement of interpretation, such as language and process. Time and time again in their decisions, the Court emphasized the importance of the record, and that arguments and appeals made upon assumptions will not hold.

Process and Procedure

> "Process is important… failure to comply… is fatal."
> *– McLaughlin v. Zoning Board of Review of the Town of Tiverton (2018)*

As noted in the **Legal Powers and Responsibilities of Local Land Use Officials** section of this paper, a primary responsibility of municipal land use officials is to carry out due process, meaning that applicants, process, procedure, and decisions are treated fairly and equally case to case. In cases where the Court found due process mishandled, the sitting judges tended to rule against the party who erred. In *Bellevue-Ochre Point Neighborhood Association v. Preservation Society of Newport County (2017)*, the Supreme Court upheld the Superior

Process and Procedure Cases Cited

- ***Bellevue-Ochre Point Neighborhood Association v. Preservation Society of Newport County (2017):*** Involved the construction of the Welcome Center at The Breakers mansion in Newport.

[6] The State Housing Appeals Board (SHAB) was disbanded effective January 1, 2024, per 2023 legislation.

Court's findings that "the issues raised in [the plaintiff's] complaint were inappropriate for a declaratory judgment action, as the zoning board could and should resolve them." In this case and other decisions, the Court encouraged land use conflict resolution at the local level before being escalated, by way of the local land use boards and commissions, and to resolve matters locally whenever possible.

Having said this, the Court expects local land use officials to uphold those same requirements as well, deciding against a local decision in appeals where due process was not believed to be carried out. For instance, *William C. McLaughlin v. Zoning Board of Review of the Town of Tiverton (2018)* showed both simultaneously. In the same discussion in which the Court noted that the plaintiff's appeal was untimely, the Court noted the Town's failure to comply with State statue, in which it is stated that "Process is important… the Town's failure to comply with 45-24-62 [Judicial aid in enforcement] in obtaining permanent injunctive relief… is fatal" leading to a reversal of the Superior Court's decision that was in favor of the municipality. This was a similar consequence decided in *Peter E. Ucci et al. v. Town of Coventry (2018)* where the Supreme Court affirmed the Superior as the Town failed to formally accept a dedication of land, meaning the land resorted back to private ownership.

When reviewing the judgements of the Superior Court, the Supreme Court "reviews 'a trial justice's ruling in the declaratory judgement context with an eye to whether the court abused its discretion, misinterpreted the applicable law, overlooked material facts, or otherwise exceeded its authority'" per the Standards of Review section of *Koziol Firearms Inc. v. Kevin Marchand (2024)*. In *Koziol Firearms Inc. (2024),* the Supreme Court vacated in part the judgement of the Superior Court where the Superior Court upheld the Central Falls's zoning board of review denial of a variance. The Supreme Court provided instruction for a new hearing regarding the declaratory relief sought in part because "[the Supreme Court had] no meaningful factual findings or legal determinations upon which to base an analysis" from the trial justice. In other words, the record was unclear and incomplete in the opinion of

Process and Procedure Cases Cited (Continued)

- ***William C. McLaughlin v. Zoning Board of Review of the Town of Tiverton (2018):*** Regarded due process with a nonconforming structure violation.
- ***Peter E. Ucci et al. v. Town of Coventry (2018):*** Regarded codification and formalizing a public dedication.
- ***Koziol Firearms Inc. v. Kevin Marchand (2024):*** Involved a zoning appeal of a use variance in Central Falls.

the Supreme Court. As quoted in *Mill Road Realty Associates, LLC, et al. v. Town of Foster et al. (2024),* "[the Supreme] Court does 'not opine on legal issues that have not been explored and analyzed in the first instance by the trial judge'… (deciding that [the Supreme] Court will not review evidence that was not part of the [prior] hearing court's record)." In *Mill Road Realty, LLC et al. (2024),* the Court vacated the Superior Court's judgement with instruction for presentation of evidence on proper grounds. There was outstanding question on the authority for the Superior Court to hear the suit in the first place, "rather than a question about the [Superior' Court's] subject-matter jurisdiction over the case." Even in cases where the Supreme Court understood where the Superior Court was coming from in its decision, proper procedure and process of the case itself was top priority.

Process and Procedure Cases Cited (Continued)

- ***Mill Road Realty Associates, LLC, et al. v. Town of Foster et al. (2024):*** Regarded action following a license violation and zoning board of appeal decision.

Across the Court's decisions, the basic principle of "follow the rules" held immense value and was a recurring factor in their findings.

Findings of Fact and Conclusions of Law

> "There are, of course, situations in which the zoning board members may rely on their own knowledge regarding zoning matters; however, the zoning board must include in its decision the basis on which it rests such knowledge."
> *- New Castle Realty Company v. Dreczko (2021)*

Another recurring trend among the Court's land use decisions involved findings of fact and conclusions of law. Decisions run with the land and are applied years after a decision was made and/or property ownership has changed; therefore, documentation must have clear findings and explanations so that the future reader(s) can understand with certainty the rationale, conditions, and any other expectations of a land use decision applicable to their land.

Several of the Court's decisions since 2006 overturned local decisions due to a lack of findings of fact, either being absent from the record and/or conclusions drawn from perceived improper evidence. For example, the Court overturned the zoning board decision in *East Bay Community Development Corporation v. Zoning Board of Review of Town of Barrington (2006)* where the board used personal observations toward findings of fact. The Court agreed with the SHAB[7] that such observations did not constitute legally component evidence. Likewise, in *New Castle Realty Company v. Raymond Drecsko Jr. et al. (2021)*, nearly 15 years later, the Court found that the Charlestown zoning board using assumptions in their findings of fact was insufficient as the members lacked the specialized knowledge necessary to refute expert testimony. This resulted in the Court voiding, or "squashing", the opinion of the Superior Court, thus overturning the local decision of denying a special use permit. Though the Court reiterated often in their decisions the important role and authority of local land use officials, sufficient evidence in the findings of fact was weighed even more so.

However, the Court tended to apply the same burden of proof on private property owners when it came to supporting their case with sufficient and proper evidence. In both *Richard J. Conti v. Rhode Island Economic Development Corporation et al. (2006)* and *Cecilia Cigarrilha et al. v. City of Providence (2013)*, the Court dismissed the plaintiffs due to lack of evidence to contradict the record. Regarding the "Highest and Best Use" discussion in the eminent domain case of *Richard J. Conti (2006)*, the Court noted how "the plaintiff had the opportunity to present comparables that reflected the development trends in Smithfield… but [the plaintiff] failed to examine any sale actually within the boundaries

Findings of Fact and Conclusions of Law Cases Cited

- ***East Bay Community Development Corp. v. Zoning Board of Review of Town of Barrington (2006):*** Involved the zoning board's denial of a comprehensive permit application.
- ***New Castle Realty Company v. Raymond Dreczko Jr., et al.(2021):*** Involved the Charlestown zoning board's denial on both a special use permit and variance application.
- ***Richand J. Conti v. Rhode Island Economic Development Corporation et al. (2006):*** Related to takings and eminent domain.
- ***Cecila Cigarrilha et al. v. City of Providence (2013):*** Debated proving a nonconforming use.

[7] The State Housing Appeals Board (SHAB) was disbanded effective January 1, 2024, per 2023 legislation.

of Smithfield that might have spoken to the existence of those trends." Likewise, in *Cecila Cigarrilha et al. (2013)*, though a nonconforming use case, it was the burden of proof on the plaintiff to show the use predating the City's zoning ordinance, which the Court determined they failed to do so.

There were cases where clear findings in local decisions impacted future Supreme Court decisions as well. In *Jon E. Cohen v. Charles Duncan et al. (2009)*, a significant finding in the Court's analysis was due to a 2002 zoning board decision where the board concluded that the proposal "did not amount to a change of use" based on the local zoning ordinance of the time. Because this was articulated in the written decision, the Court understood the local board's justification in *Jon E. Cohen (2009)* and ultimately ruled in the favor of the zoning board's decision and voided the Superior Court's judgement. Likewise, but this time in agreement with the Superior Court, in *Edgar Sepulveda v. Buffum et al. and Buffum et al. v. Sepulveda (2025)* the Supreme Court upheld the judgements of the Superior Court because "the trial justice acted well within his discretion in assessing credibility. The trial justice was the factfinder present to observe and evaluate the live witness testimony, and his inference therefrom are informative." Because the Court relies on the record of prior hearings to make their decisions, there must be clarity in the findings and conclusions before them. These decisions elicit the Court's emphasis on findings of fact and conclusions of law as key factor in their decisions. To succeed in an appeal before the Court or have a decision upheld, solid evidence that contribute to findings of fact and conclusions of law must be at the forefront of the argument.

The Court emphasize this point given how they cited their reasoning in cases time and time again. For instance, the Supreme Court ruled on two separate appeals relating to the Westerly Zoning Board of Review in 2025, one in which they upheld the local decision, and the other in which it was overturned. In *Watch Hill Fire District v. Westerly Zoning Board*

Findings of Fact and Conclusions of Law Cases Cited (Continued)

- ***Jon E. Cohen v. Charles Duncan et al. (2009):*** Involved a Newport zoning board decision and interpretation of local ordinances.
- ***Edgar Sepulveda v. John Buffum et al. and Buffum et al. vs. Edgar Sepulveda (2025):*** A combined case over a constructed driveway regarding 1) claim for adverse possession, and 2) separate claim for trespass and declaratory relief.
- ***Watch Hill Fire District v. Westerly Zoning Board of Review et al. (2025):*** Involved an appeal of the Westerly zoning board's granting of a dimensional variance for expanding a nonconforming structure.

of Review et al. (2025), the Court upheld the Superior Court's ruling and local decision in part due to the clarity of the board's findings in relation to the amended definitions within the standards of review, such as interpretation of "mere inconvenience" that is now more elaborately defined in the Zoning Enabling Act.[8] This case cited *New Castle Realty Company (2021)* on several grounds, including that the Supreme Court would not reverse the Superior Court's ruling unless there was a clear wrong of the interpretation of "reasonable alternative" as part of the "least relief necessary" standard.[9]

On the contrary, *RH McLeod Family LLC v. Westerly Zoning Board of Review, 4 Spray Rock, LLC v. Westerly Zoning Board of Review et al. (2025)* was overturned despite the ruling of the local zoning board and Superior Court. This case dealt with a variance for new construction on a nonconforming lot rather than expansion of a nonconforming structure like in *Watch Hill Fire District (2025)*. The *RH McLeod Family LLC. (2025)* case referenced *New Castle Realty Company (2021,)* analyzing the board's findings of fact for the "least relief necessary" standard, and cited *Jon E. Cohen (2009)* regarding ordinance interpretation and how the plain language of the local ordinance was not consistent with the board's findings of fact in this case. These citations reiterate that details and language within the findings of fact and conclusions of law is paramount to upholding a decision on appeal.

Findings of Fact and Conclusions of Law Cases Cited (Continued)

- ***RH McLeod Family LLC v. Westerly Zoning Board of Review , 4 Spray Rock, LLC v. Westerly Zoning Board of Review et al. (2025)***: A combined case which regarded an appeal of the Westerly zoning board's granting of a dimensional variance for new construction on a nonconforming lot.

Both 2025 Westerly zoning board opinions from the Supreme Court showed how the Court continues emphasizing findings of fact, and the importance the Court places on language of the law, both on the State and local levels.

[8] Rhode Island General Law Chapter §45-24 Zoning Ordinances provides legal authority to municipalities for enacting land-use regulation. The standards for review for variances are included in the Act under §45-24-41 and are what all municipal zoning boards consider for variance requests before them.

[9] The "least relief necessary" standard was removed from State statue, effective January 1, 2024, as part of the 2023 General Assembly legislative session. Additional analysis forthcoming in the **Language of Regulation** section of this report.

Language of Regulation

"… if an ordinance is clear and unambiguous, it should be enforced as written, with the words of the ordinance being given their plan and ordinary meaning."
– State ex rel. City of Providence v. Troy Auger

Similarly to the Court's view on having concrete evidence in findings of fact and conclusions of law, there was also emphasis on the clarity of codified ordinances and regulations. In the same spirit of having clear decisions from land use officials and their responsibility to carry out due process, it is also important for the municipal ordinances and regulations to be adopted and amended with clarity in mind for the public at large. Leadership and staff within the community move and change overtime, so it is important that an ordinance be clear, regardless of the reader(s). In fact, the Court made clear that they will interpret language literally.

Language of Regulation Cases Cited

- ***Michael West et al. v. James McDonald et al. (2011)***: Involved comprehensive community plan and zoning ordinance consistency in East Providence.
- ***State ex. Rel City of Providence v. Troy Auger (2012):*** Regarded the City's ordinance relation and consistency to State statue.

In *Michael West et al. v. James McDonald et al. (2011)*, the decision's Standard of Review section noted how "when a legislative enactment consists of clear and unambiguous language, this Court will interpret it literally…" Further, in *State ex rel. City of Providence v. Troy Auger (2012)*, "…if an ordinance is clear and unambiguous, it should be enforced as written, with the words of the ordinance being given their plain and ordinary meaning." In both cases, the Supreme Court affirmed the Superior Court's ruling. The Supreme Court did not seek to speculate meanings, intents, or otherwise, meaning regulations need to be laid out clearly to be enforceable.

The Court tended to favor local decisions and control so long as the decisions did not violate proper procedure and/or Enabling Law. In cases like *State ex rel. City of Providence (2012),* the Court appeared to give a similar benefit of the doubt to local ordinance and regulation. In the Standards of Review section of this case, the Court added how "when [the Court] review[s] a challenge to a statute or ordinance, [the Court] begin[s] with a presumption that the enactment is constitutional" showing how the Court assumes the intent of the ordinance as legitimate until shown otherwise. It should be noted that in the Analysis section of the case of *State ex rel. City of Providence (2012)*, the Court cited case law of how "[a] municipal

ordinance is preempted by statute 'when either the language in the ordinance contradicts the language in the statute or when the [General Assembly] has intended to thoroughly occupy the field.'" Although the Court tended to give weight to what is codified by municipal ordinances, there has historically been consideration of role of the General Assembly in amending statute. This point is especially important when it comes to the land use legislation, including amendments to the Enabling Laws, that the General Assembly passed throughout the early 2020s. If a municipality adopts local ordinances and/or regulation that contradict legislation passed by the General Assembly, the Court may be less inclined to uphold the municipal language when it is in contradiction with the language of the Rhode Island General Laws.

Language of Regulation Cases Cited (Continued)

- ***Peter Scotti & Associates Inc., et al. v. Seth Turdin (2022)***: Involved several community plans within Providence, and consistency with the Providence municipal zoning ordinance.

Part of the favor toward local regulation appeared to be due to the public outreach that is required to go into local plans, ordinances, and regulations with the legal responsibility for municipal land use decisionmakers to carry out due process and ensure fair treatment from case to case (see the **Legal Powers and Responsibilities of Local Land Use Officials** section of this paper for more detail on responsibilities for local land use officials). By way of example, in *Peter Scotti & Associates, Inc. et al. v. Seth Turdin (2022)*, the Court explained in the analysis how "it is worth noting that the Comprehensive Plan must go through an exhaustive statutorily prescribed development and approval process," recognizing this was not the case for the other plan being referenced as evidence by the plaintiffs. In this case, the Court prioritized the local comprehensive community plan, which led to an affirmation of the Superior Court opinion and upheld the City's zoning ordinance amendment. Amendments to local regulations, such as the comprehensive community plan, zoning ordinances, and/or subdivision and land development regulations, require public notice and public hearings by State laws and local charters and regulations. This means that amending any of these land use policy/enforcing documents provide the public the opportunity to be heard and provide comment for consideration and the record prior to any changes being codified. From the Court's rulings, it appeared that the Court believed this provided more grounds for enforcement than other plans with less regulatory requirements for public engagement and comment.

Though the Court appeared to give preference to local regulations, they also held municipalities accountable for the language on the books. In *Watch Hill Fire District v. Westerly Zoning Board of Review et al. (2025)*, the Court included in their discussion how they believe that the statutory amendments to the Zoning Enabling Act "removing the 'no other reasonable alternative way to enjoy a legally permitted beneficial use' language from the definition section… [clarifies] that the more-than-a-mere-inconvenience standards [meaning]." Though the appeal case began prior to the amended definition,[10] between the clarity from the statutory change and the board's findings of fact and conclusions of law in the record, the Court found that the board correctly applied the hardship standard.

In *RH McLeod Family LLC v. Westerly Zoning Board of Review, 4 Spray Rock, LLC v. Westerly Zoning Board of Review et al. (2025)*, a similar argument was made by the appellant – however, in this case, the appellant won and the Court overturned the zoning board's decision. There was significant overlap in the arguments and case law cited in both *Watch Hill Fire District (2025)* and *RH McLeod Family LLC (2025),* however, the Court's distinction between the two comes down to ordinance language. Even though the zoning board granted the variance in *RH McLeod Family LLC (2025)*, the Court ultimately overturned the decision because "the plain language of [the Westerly zoning ordinance on destruction or demolition of a nonconforming structure] is clear" as it did not specify an exception for undersized lots. The Court even noted in the discussion that "if the town desired to create an additional exception… 'we do not doubt that it could have been done so; but the blunt fact is that it did not do so.'" This case serves as an important reminder

Language of Regulation Cases Cited (Continued)

- ***Watch Hill Fire District v. Westerly Zoning Board of Review (2025):*** Involved an appeal of the Westerly zoning board's granting of a dimensional variance for expanding a nonconforming structure.
- ***RH McLeod Family LLC v. Westerly Zoning Board of Review, 4 Spray Rock, LLC v. Westerly Zoning Board of Review (2025):*** A combined case which regarded an appeal of the Westerly zoning board's granting of a dimensional variance for new construction on a nonconforming lot.

[10] The appeal was filed with the Superior Court in April 2021 – the amended statue regarding the "mere inconvenience" meaning was part of the 2023 General Assembly legislative session, and effective January 1, 2024. The Supreme Court opinion recognized that the amendment was after the fact of the board review and Superior Court appeal, however, the amended definition of "mere inconvenience" was enacted by the time the appeal reached the Supreme Court.

of the importance of codifying regulations with the times to meet current conditions. Only what is written in its literal meaning is what is enforceable.

Even in cases where the Court ruled in favor of the local code, there were recommendations on how to make the language clearer for future proposals and reviews. For instance, in *W. Bart Lloyd et al. v. Zoning Board of Review for City of Newport et al (2013)*, the Court ruled in favor of the municipality by affirming the Superior Court's ruling, but advised how "the city could, consistent with its enabling authority, more carefully define… or amend its zoning ordinance… thereby more equitably, and perhaps more fairly, evaluate proposals…"

Language of Regulation Cases Cited (Continued)

- ***W. Bart Lloyd et al. v. Zoning Board of Review for City of Newport et al. (2013):*** Involved relief granted by the Newport zoning board and their interpretation of the zoning ordinance.

Clarity will trump intent and assumption. Though willing to give municipal interpretation the benefit of the doubt, the Court has not let municipalities off the hook for improvement. What is codified is what is enforceable; amendments to provide increased clarity are welcomed and encouraged by the Court.

Value of Local Authority and Decision Making

> "When the provisions of a statute are unclear or subject to more than one reasonable interpretation, construction given by the agency, or board, charged with its enforcement is entitled to weight and deference."
> *- Pawtucket Transfer Operations LLC v. City of Pawtucket et al. (2008)*

The Court tended to favor local discretion, uninterested in undermining local authority unless there were grounds to do so based on what the Court find to be err of process, overstep, or in contradiction with Enabling Laws.

In cases where the Court sided against local authority was typically when there was found to be "an abuse of discretion" (*Joseph T. Murphy et al. v. Zoning Bd of Review of Town of South Kingstown et al. (2008)*). Just over a decade apart, the Court remanded two land use cases involving municipal defendants on the basis for exceeding and/or detouring their authority. In *Joseph T. Murphy et al. (2008),* the Court affirmed the Superior Court that "the zoning board's rejection of… undisputed expert testimony was clearly erroneous." The result of the Court's decision in affirming the Superior Court meant a reversal in the board's decision. On the contrary, the Court also permitted a project that was denied at the local level in part because of the permitting authority overstepping. In *Preservation Society of Newport County et al. v. City Council of City of Newport et al. (2017),* the Court ruled in favor of the petitioner as "several members of [the] Council chose to embark on a detour into zoning concerns, which should not have been the focus of the Council's decision-making" rather than focusing on the proper section of the ordinance related to licensing decisions. The Court recognized the municipality's regulations but found that they were misapplied, and the Court directed the requested licenses be issued by the City as a result.

Aside from instances where the local permitting authority is found to be in breach of process, generally the Court favored local interpretation. In the analysis of *Pawtucket Transfer Operations LLC v. City of Pawtucket et al. (2008),* the Court stated that "when the provisions of a statute are unclear or subject to more than one reasonable interpretation, construction given by the agency, or board, charged with its enforcement is entitled to weight and deference, as long as that construction is not clearly erroneous or unauthorized." In *Pawtucket Transfer Operations LLC (2008),* the Court then stated how "[the Court] also look to the interpretation of the ordinance by the zoning board…" in their analysis. This decision resulted in reversing

Value of Local Authority and Decision Making Cases Cited (Continued)

- ***Joseph T. Murphy et al. v. Zoning Bd of Review of Town of South Kingstown et al.(2008)***: Regarded expert testimony before the zoning board.
- ***Preservation Society of Newport County et al. v. City Council of City of Newport et al. (2017):*** Involved municipal zoning authority and ordinance interpretation.
- ***Pawtucket Transfer Operations LLC v. City of Pawtucket et al. (2008):*** Regarded the zoning board's interpretation of a zoning ordinance definition.

the Superior Court's decision and upholding the local one. This case showed how the Court will look to both local statue and permitting authority and their interpretations in making their decisions.

This same sentiment is reiterated again years later as a citation in the case of *Michael West et al. v. James McDonald et al. (2011)* as part of the Standard of Review section of the Court's opinion. In this case, the plaintiff appealed the East Providence planning board decision, citing inconsistencies between the comprehensive community plan and corresponding zoning ordinance and land development and subdivision regulations. In the Analysis of the case, the Court stated how "…the legislative scheme provides a clear roadmap for resolving seemingly competing provisions of the comprehensive plan and zoning code. [The Court] must, therefore, conclude that there was no error in the denial of the application for a subdivision that did not comply with the comprehensive plan… it was [the applicant's] burden to comply with the municipality's subdivision regulations, its comprehensive plan, and its zoning code." There appears the Court supports the practice that municipalities are within their right to set and amend land use regulation and policy documents, following the public process requirements that accompany each; it is then up to the community at large to comply with what is adopted.

Many of the Court's decisions analyzed the power of local discretion. For instance, in *Dennis M. Dallman et al. v. Michael B. Isaacs et al. (2006)*, regarding the opportunity to appeal a zoning ordinance amendment, the Court noted how municipalities "are free to assign" when an ordinance amendment becomes effective, whether upon passage or by specified later time, ideally stating said date clearly in the final written form upon passage. Similarly, in *N&M Properties, LLC v. Town of West Warwick (2009)* "a municipality has discretion in choosing options for conforming its ordinance or land use decisions to its comprehensive plan." In other words, of the goals, policies, and

Value of Local Authority and Decision Making
Cases Cited (Continued)

- ***Michael West et al. v. James McDonald et al. (2011)***: Involved comprehensive community plan and zoning ordinance consistency in East Providence.
- ***Dennis M. Dallman et al. v. Michael B. Isaacs et al. (2006)***: Regarded East Greenwich's authority of when to enact zoning ordinance amendments.
- ***N&M Properties, LLC v. Town of West Warwick (2009)***: Involved a municipality's discretion in implementing their comprehensive community plan.

actions listed in a comprehensive community plan's implementation program, the municipality decides the prioritization of such. Both cases affirmed the Superior Court's decision and showed how the Court recognized local authority based on Enabling Law.

Value of Local Authority and Decision Making
Cases Cited (Continued)

- ***Town of Exeter by and through Marusak v. State of Rhode Island et al., Town of Richmond v. State of Rhode Island et al.(2020):*** A combined case which regarded State requirement to adhere to municipal comprehensive community plans and zoning.

The Court continued to emphasize the balance of both State and local oversight in their decisions across a decade. Take for instance the "balancing-of-interests" case of *Town of Exeter by and through Marusak v. State of Rhode Island et al., Town of Richmond v. State of Rhode Island et al. (2020)*. In this case, the Rhode Island Department of Environmental Management (RIDEM) and the Towns of both Exeter and Richmond disagreed about what local approval was required to proceed with the State's proposed project, and if there was state immunity from municipal zoning ordinances (i.e., the State not needing to adhere to local zoning). The Court ultimately ruled in favor of the Towns. The Court held that "where there is a conflict between the state's proposed development and local land-use and zoning regulations, the state agency must first bring the project or development before the State Planning Council (SPC) to pass upon the issue of compliance with the municipality's comprehensive plan… If the [SPC] approves the project, the state must then apply to the municipality's zoning board of review for relief and act in conformity with the procedures set forth in the Zoning Enabling Act.[11]" In this case, the Court found comprehensive planning and zoning to be two separate processes, and to balance to state projects while recognizing local land use control, both must be addressed. In the findings from the Court, they set forth how the SPC is responsible for analyzing a proposed state project consistency with the applicable municipality/municipalities comprehensive plan(s), proceeded by then applying to said municipalities for any zoning relief that may be required or otherwise conform to the local zoning ordinance(s). The Court recognized the importance of balancing interests in intergovernmental land use conflicts and emphasizes how jurisdictions must collaborate to achieve a balance broader, statewide objectives and while recognizing and respecting local authority.

[11] Rhode Island General Law Chapter 45-24 Zoning Ordinances provides legal authority to municipalities for enacting land use regulation. These enabling laws provide the power for municipalities to adopt and amend local zoning ordinances and maps, provided they do not conflict nor exceed the RIGLs. Please refer to **Appendix A: Rhode Island Land Use Enabling Laws** for additional details.

Recommendations from the Findings

Knowing the trends in the Court's findings from their land use decisions allows a greater understanding of the appeals process and current considerations in statewide land use planning. The following are recommendations given the analysis of this report to be considered and incorporated into both the Land Use State Guide Plan Element update and Rhode Island Local Officials Training program.

Considerations in the Land Use State Guide Plan Update

State Guide Plan Elements establish the statewide vision on their topic areas by setting proactive policy positions, and providing goals, objectives, and responsible parties for advancing implementation of said positions. By doing so, the Elements serve as tools for evaluating and coordinating various policy across the State and serve as a baseline for local comprehensive community plans. Given how the Land Use State Guide Plan sets the foundation for land use planning and policy across Rhode Island, it is imperative that the implementation plan captures various stakeholder views and understanding of the recurring practices, decisions, and land use conflicts occurring statewide. Having the background of cases that have recently reached the State Supreme Court, knowing some of the common obstacles recurring on the local level, and how the Court ruled as a best practice can be incorporated into the implementation program of the update to come.

In the early 2020s over the course of several legislative sessions in the Rhode Island General Assembly, there have been significant amendments to land use Enabling Laws, notably regarding the Zoning Enabling Act. A handful of the land use cases before the Supreme Court since 2006 involved disputes over the interpretation of the standards of review – amendments to the standards of review for both variances and special use permits were enacted in 2023. It will be important to note and track the trends of how the legislative changes to the Enabling Laws will impact the types of conflicts appearing before the Supreme Court, whether a reduction, or new conflicts which emerge to be addressed.

Lessons Learned to Incorporate into the Rhode Island Local Officials Training

The Rhode Island Local Officials Training, which is the continuing education program for municipal planning, zoning, and historic district board/commission members per Rhode Island General Law §45-70, covers an array of topics, including overviews of how to make sound land use decisions via findings of fact

and conclusions of law, due process, and the process and procedure for appeals. The training already covers several topics that address some of the discussed issues and patterns of the Rhode Island Supreme Court to prepare local officials in their roles that will continue to be covered in the trainings. However, given the findings from the more recent Court decisions, additional information can be incorporated into the program to strengthen the content and better prepare and empower local officials to make land use decisions that best serve their community while staying within the law and their legal authority.

Further Emphasize the Power of Decisions

Although the existing Rhode Island Local Officials Training introductory workshop provides an overview of both the standards for review and overview of decisions for land use boards and commissions, given the Court's emphasis on language, findings of fact, and conclusions of law, the program would benefit from expanding on this. One avenue to doing such may be renewing a former workshop that focused primarily on good decision making for local officials.

Other actions may take the form of developing an annual update workshop focused on reviewing expert testimony, the boundaries of conditions, and drawing on evidence based on personal experience. This also may take the form of incorporating these topics into the existing introductory workshop as well where applicable and as are able with time limits and mandated topic requirements. Another alternative may be as a session topic embedded into the in-person annual Rhode Island Local Officials Training Summit. Incorporating these topics into any of the training options will require legal advice and assistance to do so to ensure that the information developed is legally sound and accurate to then provide to local officials. Though a bit more nuanced, emphasis on findings of facts and conclusions of law may help bring greater attention to this topic for local officials so they can make stronger decisions in real time and perhaps avoid appeals of their decisions in the future.

Stress the Importance of Codification

In the current introductory workshop of the training program, there is an overview of the Enabling Laws, tools for regulating local land use (such as the comprehensive community plan and zoning ordinance), and the roles these tools play in the community. Given that there were several cases before the Rhode Island Supreme Court due to interpretation of local ordinances and regulations, it is valuable to understand and reiterate the imperative role of clear codification. This is especially important for planning and historic

district commission members who play an active role in developing municipal ordinances and amendments (zoning boards being an enforcement body).

By way of example, in action this may take the form of an annual update workshop and/or Rhode Island Local Officials Training Summit session related to best practices for drafting ordinances. In addition, this may also take form of encouraging Rhode Island land use officials, especially planning board members, to engage with planning organizations, such as the national and/or Rhode Island Chapter of the American Planning Association[12], to engage in additional training, reference sharing and resources, and the like, to better prepare local officials to codify the visions they wish to see in their community in a way that is enforceable.

Apply the Learnings from Past Appeals into Future Process and Code

There is the common phrase of "those that fail to learn from history are doomed to repeat it" – in this case, those who fail to learn from the history of land use decision making in the State and/or within their local communities are more susceptible to make it again. The current introductory local officials workshop provides a general overview of the appeals process, primarily how appeals get from the local level up to the State Supreme Court. Understanding at least a general land use legal history that is Rhode Island specific, such as reviewing material covered in this report in a presentation form or otherwise, benefits local land use officials to understand past decisions from the Court in an effort to avoid making similar decisions that may be likely to end in appeal, and making more sound decisions by understanding what areas could use improvement. In the case of planning boards and historic district commissions, who have more of a policy role, they can use such information when reviewing codifying documents to make them more concrete and clearer, therefore being better enforced, and ultimately more successful in implementing the local community's vision.

By way of example, in action this may take the form of conducting additional research on Superior Court decisions not covered in this paper and since the establishment of the Land Use Calendar in 2024, to see if there are emerging trends arising from the early 2020 legislative land use changes.

In addition, an annual update workshop and/or Rhode Island Local Officials Training Summit session offering that is related to a deeper dive on Superior and/or Supreme Court cases, outlining case law, key

[12] In addition to the national American Planning Association (APA), there is a Rhode Chapter of the APA. While the national APA website will generally have more resources, the APA-RI website will have resources geared toward local topics (regulations, training opportunities, etc.)

findings from such, and actionable takeaways that planning, zoning, and historic district commission members can apply in their communities. This technical paper can also be provided to participants as supplemental education to review and have as a resource so that they can review individually and apply to the roles they serve in their communities.

Conclusion

The value the Rhode Island Supreme Court holds for local land use officials and local land use decisions in both setting and uploading community vision is immense**.** From the Court's decisions, there is recognition that Rhode Island is small yet significant in diverse community characteristics across the State. Clear, codified, fair, and balanced local decision making plays a key role in that happening.

The following summarize the lessons learned by this technical paper:

- Decisions that come out of the appeals process impact local land use regulation.
- Clear process and codification in land use matters are important.
- The application record is vital to the Supreme Court judges.
- Due process is held as a top consideration.
- Follow the rules – violations will be ruled against.
- Detailed Findings of Fact and Conclusions of Law matter in decisions.
- To be enforceable, regulations need to be clear and unambiguous.
- Clarity will trump intent and assumption.
- Language of State law will trump inconsistent local ordinances and regulations.
- Do not exceed delegated enabling authority.
- If decisions and regulations hold clarity and are within authority granted by enabling legislation, the Supreme Court will give deference to the local permitting authority and/or decisionmakers.

Appendix A: Rhode Island Land Use Enabling Laws

For more information on each of the Enabling Laws and additional enabling legislation, please seek the following resources:

- Rhode Island Land Use Law webpage of the State of Rhode Island Division of Statewide Planning website – www.planning.ri.gov/planning-areas/land-use-and-natural-resources/land-use-law.
- The Rhode Island Legislature Statutes website – www.webserver.rilegislature.gov/Statutes/

Rhode Island General Law citation	What does it do?	What is the local impact(s)?
Chapter §45-22: Local Planning Board or Commission	Establishes that all municipalities in Rhode Island shall have a planning board or commission.	Establishes the powers and duties of a planning board or commission to carry out on the local level.
Chapter §45-22.2: Rhode Island Comprehensive Planning and Land Use Act	Sets forth the requirement for each community in Rhode Island to prepare and maintain a comprehensive community plan with required contents to ensure: ✓ Each community plans for and recognizes different topics and land use needs within their individual municipality. ✓ Each community's plan is consistent with State land use regulations and the State Guide Plan elements.	- Enables each community's comprehensive plan, including what content is required, the review process, public input, and any updating/amendment requirements. - As part of the comprehensive plan requirements, a Future Land Use Map (FLUM) is produced as part of the plan, which sets forth the vision for long-term land use planning in a particular community.

Rhode Island General Law citation	What does it do?	What is the local impact(s)?
Chapter §45-24: **Zoning Ordinances**	Sets forth that each Rhode Island municipality is empowered to prepare and implement local zoning ordinances to address current and future community needs, given that they are consistent with: ✓ Enabling Laws set forth in RIGL. ✓ Consistent with the municipality's comprehensive plan.	A municipality's zoning ordinance, setting forth local regulations that meet community needs regarding land use, and is a tool for implementing land use goals, policies, and actions set forth in the community's comprehensive plan. - Establishes the local zoning board of review. - The corresponding zoning map that is part of a municipality's zoning ordinance.
Chapter §45-24.1: **Historical Area Zoning**	Sets forth the power of a municipality by ordinance "to regulate the construction, alteration, repair, moving, and demolition of [structures of historic and architectural value and historic cemeteries] within the limits of the city or town."	- Enables historic district zoning by way of a municipality's zoning ordinance. - Establishes local historic district commissions to help carry out the purposes of historic district zoning, as defined by the enabling legislation.
Chapter § 45-23: **Rhode Island Land Development and Subdivision Review Enabling Act** *Also referred to as:* • Subdivision of Land (title on the RIGL webpage) • Development Review Act (short title as noted in §45-23-25)	Sets forth requirement that "all municipalities shall establish the standard review procedures for local land development and subdivision review and approval as specified in this chapter [of RIGL]."	- Enables municipal subdivision and land development regulations that are under review of local planning boards/commissions, including (but not limited to): • public participation • process/procedure for land development and subdivision applications. • design standards and requirements. • the establishment and use of a technical review committee.