Balancing Safe Water Supply and Affordable Housing Goals

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Legal Authority

Rhode Island Low and Moderate Income Housing Act

R.I. Gen Laws Title 45, Chapter 53
amended through 2005
Public Interest

Something that affects the general welfare of a community as a whole. Especially something so important that it justifies government regulation.

Creation of Affordable Housing
Protection of Drinking Water Sources

Enabling Legislation

1988 Comprehensive Planning Act
1991 Zoning Enabling Act
1992 Land Development & Subdivision Review Act

Consistency Doctrine
Local Concerns

Abandoning Preference-based Planning

Evolution of Comprehensive Planning towards Strategic and Production Plans addressing needs

Housing Choices

Environmental Protection

Sustainability

Comprehensive Permit

Comprehensive Permit Application

“In approving an application, the local review 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:”
Comprehensive Permit

- Approving an application
- Local review 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

Legally Competent Evidence

- Reliable, probative and substantial evidence

  Science, Expert
  proof or evidence that is accurate

  Substantial Evidence
  "relevant evidence that a reasonable mind would accept as adequate... more than a scintilla yet less than a preponderance"

  relevant = on point
  scintilla = a very insignificant amount or trifling item
  perponderence = the greater in amount or weight
On the Record

written and recorded information

application through recorded decision

If the facts and evidence is clearly set forth in the decision, a reviewing body will not consult the record.

Standard Provisions

(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.

(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.
> “The proposed development is consistent with local needs...”

> means reasonable in view of the state need for low and moderate income housing, considered with the number of low income persons in the city or town affected and the need to protect the health and safety of the occupants of the proposed housing or of the residence of the city or town, to promote better site and building design in relation to the surroundings, or to preserve open spaces, ...

> “…emphasis on the community's affordable housing plan and/or has satisfactorily addressed the issues where there may be inconsistencies.”

> “There will be no significant negative environmental impacts from the proposed development as shown on the final plan, with all required conditions for approval.”
"There will be no significant negative impacts on the health and safety of current or future residents... in areas including... sewerage disposal, availability of potable water, adequate surface water run-off..."
Consensus Building

Integrate consensus building throughout the Process

Community Planning Activities
Pre-application
During the Public Hearing Process
Post Decision

Changing Attitudes

Early in the Process there is an increased likelihood of reaching an acceptable agreement.

However, there is little incentive to negotiate until the end of the Process.
A Defensible Decision

Timely
Clear direction
Complete
No surprises
Survive a NIMBY challenge

Intangibles

Establish a relationship with local public officials based on trust

Credibility

Effective Advocacy