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March 27, 2024

Robert E. Craven  
Chair, Judiciary Committee  
Rhode Island State House  
Providence, RI 02903

Re: H7948 - An Act Relating to Towns and Cities – Zoning Ordinances

Dear Chairman Craven and Committee Members:

On behalf of the Rhode Island Chapter of the American Planning Association (APA RI), I thank you for the opportunity to offer our support for H-7948, which seeks to make changes to the inclusionary zoning (IZ) bill passed last year. We are strongly in favor of this bill and thank Speaker Shekarchi and his staff for working with our organization on this important legislation.

Enabled as an optional tool under state law, many Rhode Island communities have utilized IZ to promote affordable housing development. Municipalities that chose to implement the tool were able to tailor their IZ provisions in local ordinances to meet their respective community's needs. APA RI can appreciate the intent of last year's changes to bring uniformity inclusionary zoning throughout the state, but there were two key flaws that lead to our organization's opposition to the bill. First, the minimum threshold of project affordability was raised from 10% to 25%. Second, a required density bonus of two market rate units for every affordable unit was established. Because of the resulting increase in density necessary to implement both of these provisions, several municipalities found these changes untenable and responded to last year's legislation by removing their IZ requirements.

The proposed legislation addresses the concerns by reducing the mandated density bonus from two (2) to one (1) market rate bonus unit. The main issue with the two-unit bonus is that it reduced the utility of IZ to work towards community's goals of reaching 10% affordability, as the more market rate units are added onto a project, the lower the rate of affordability achieved by the municipality. Additionally, the 2-unit bonus increases the density of the project by 50%. Under last year's law, a 100-unit IZ project with 25% affordability requirement would have 25 affordable units and would therefore be awarded 50 market rate bonus units, resulting in a 150-unit project. Many municipalities cannot willingly accept a mandatory 50% density increase for all IZ projects. As our position has always been, residential density is a decision that should be made locally, by the municipality who has the best understanding of where within its community higher density of development is appropriate and feasible.

APA RI is also in favor of the provision in the legislation that reduces the affordability minimum requirement from 25% to 15%. This is still an increase from the previous minimum of 10% and is therefore seen as an appropriate compromise. Communities can choose to require higher

percentages of affordability, but now also have the option to require between 15% and 25%. Municipalities are likely to employ IZ within this range because there already is an existing tool for projects with affordable components of 25% or more, comprehensive permits. IZ best applies to housing developments generally fitting within local zoning parameters, where a comprehensive permit is not necessary. Allowing IZ to operate below the threshold of comprehensive permits makes the tool more attractive for developers and municipalities, thereby increasing the likelihood that IZ will be adopted by towns and utilized to combat our housing crisis.

Another welcome change in the proposed bill is that the ability to pay the fee-in-lieu of constructing the affordable housing units now requires approval by the local planning board. For financial reasons, paying the fee-in-lieu has often been the preferred option for developers to building affordable housing, nor are the fees enough to be utilized in any way that is comparable to the loss of the unit that the fee was paid to offset. Furthermore, most municipalities are not equipped to employ the funds appropriately or expeditiously, lacking resources and staffing. Requiring permission from planning boards will expand the fee-in-lieu considerations beyond the financial ramifications of the developer to include the best outcomes for the municipality. This is an important step both in favor of local control and building affordable housing in Rhode Island.

For these reasons, APA RI supports the changes to IZ legislation proposed within H7948. This bill is a great collaboration between planners and legislators. We look forward to continuing to work with Speaker Shekarchi and his staff, housing advocates, and all stakeholders to further address the critical need for more housing in Rhode Island.

Thank you in advance for your consideration.

Sincerely,



Joshua Berry, AICP  
Lincoln Town Planner  
Member of APA RI Legislative Committee  
Member of the Special Legislative Commission to Study Housing Affordability

CC RI League of Cities and Towns