



March 28, 2024

Honorable Chairman Stephen Casey  
Municipal Government and Housing Committee  
Rhode Island State House  
Providence, RI 02903

RE: H-7981 – An Act Relating to Towns and Cities – Zoning Ordinances – Permitted Uses.

Dear Chairman Casey and Committee Members:

Please accept these comments from the RI Chapter of the American Planning Association (APA-RI) regarding H-7981, a bill that amends Section 45-24-37 of the Zoning Enabling Act to allow residential uses by right in any commercial district. Our organization is opposed to this bill.

The proposed amendments significantly change Section 45-24-37 (b) which was originally intended to allow three residential-related uses as by-right uses in any residential district, and within commercial and industrial zoning districts where some residential use is permitted unless the municipality determines that allowing these uses – households, community residences and family daycare – is not appropriate for public health or safety reasons.

The bill amendments include:

1. Separating commercial districts from industrial districts
2. Adding “residential uses” as a general by-right category in commercial districts
3. Removing the language “except where residential use is prohibited for public health or safety reasons” for commercial districts (but leaving that condition in for industrial districts).

The result is that residential would become a permitted use in all commercial districts in Rhode Island. There would be no provision for a municipality to restrict not just households, community residences and family day care centers, but any residential use in any commercial district.

In addition, “residential uses” is not specifically defined for application in this section. Residential uses include a range of types from single family units to apartments. Most municipalities already allow for mixed uses in their neighborhood or other commercial districts, with specific standards. Commercial districts which currently do not permit residential uses do so for specific reasons: either the district is not appropriate for residential use due to the heavy nature of the commerce or its location alongside a busy thoroughfare; or the municipality needs to protect its commercial districts from encroachment by other uses in order to support their businesses and tax base.

This bill represents a wholesale change to zoning in the state. The result could be a rush to convert many commercial areas to residential. While the demand now is for housing, the longer-term impact may result in a permanent loss of commercially used property, impacting the tax base. Local businesses may be forced out if their landlords find that it is more beneficial to convert to housing. Removing the health and safety language is particularly problematic and undermines the fundamental purpose of zoning.

If passed, municipalities will have about six months to amend their zoning ordinances to deal with the consequences of the change in zoning that this bill would mandate, including the following:

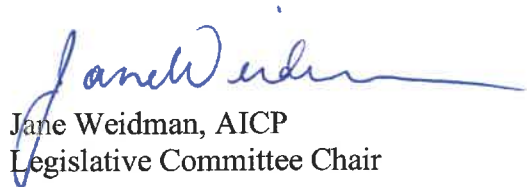
- Protecting their residents from inappropriate living situations by setting some kind of standards in heavily commercialized areas.
- Determining appropriate residential type and density in all their commercial districts.
- Protecting their commercial districts from encroachment or eventual conversion to residential by establishing protective measures for businesses.

City and town councils, supported by their professional planning and zoning departments and local planning and economic development boards, are the ones best equipped to determine where residential, mixed-use, commercial, manufacturing and industrial uses are appropriately located in their communities.

A better solution to provide for additional housing opportunities where appropriate would be to assist municipalities in evaluating their future land use maps to identify unused commercial land and then rezone to allow residential, or to undertake a study of where mixed-use districts would work. Use of the comprehensive permit process under the Low- and Moderate-Income Housing Act is also always an option in any commercial district, and last year APA-RI supported the adaptive reuse bill which allows for by-right conversion of underutilized commercial and institutional buildings.

Thank you for your consideration.

Sincerely,



Jane Weidman, AICP  
Legislative Committee Chair

cc RI League of Cities and Towns