

1.3.24 meeting minutes

This meeting was held remotely

Members present: Alison Anand, Ian Bender, Virginia Clarke, Mark Fausel, Adam Wood

Members absent: Chris Granda, Joy Reap

Others present: Keith Osborne (Richmond Director of Planning and Zoning), Gary Bressor, Matt Dyer, Katie Mather, Bradley Holt, Josi Kytte, Lisa Miller, Brendan O'Reilly, Jason Pelletier, Erin Wagg (MMCTV)

1. Welcome

Clarke opened the meeting at 7:03 PM by welcoming members and guests, and introduced new Planning Commission (PC) member Ian Bender.

2. Review and adjust agenda

As there were no adjustments to the agenda, the meeting proceeded with the published agenda.

3. Public comment on non-agenda items

There were no comments on non-agenda items.

4. Review minutes of 12.20.23 meeting

As there were no corrections or additions to the minutes of the 12.20.23 meeting they were accepted into the record as written.

5. Discussion of the “Master Development Plan” (MDP) language in the Richmond Subdivision Regulations

Clarke introduced this topic as a follow-up to the recently approved packet of amendments that the PC is forwarding to the Selectboard (SB) for their public hearing and approval process. She reminded the commissioners that removal of the MDP language from the Zoning Regulations but not the Subdivision Regulations will, for the moment, have no effect on new PUD or subdivision applications, as far as the requirement for an MDP goes. Applications will still be reviewed under the 3-step subdivision process, which includes the MDP language, so they will need an MDP if applicable. If the amendment packet is approved by the SB, however, the remainder of the changes we have proposed will go into effect. These include the amendments that confirm that dwelling units are an “allowed use” as part of a Residential PUD, with or without subdivision, in the Industrial/Commercial (I/C) district, but only on properties that already have residences on them. The amendments involve sections 3.7 and 5.12 of the Zoning Regulations (RZR). She emphasized that this effort is part of a broader focus on looking for various, localized ways to increase housing to respond to the housing crisis, but without sacrificing other values, in this case, the commercial potential of the I/C district.

So now the task is to look at the MDP language in the Subdivision Regulations (RSR) and see how that language could be replaced with more useful and less problematic language. Clarke mentioned that she and Osborne were looking at a letter submitted by Zoning Administrator Tyler Machia, supported by the DRB, that described the kind of difficulties that they face in dealing with the MDP requirement. Machia's issues include use of the word “appropriate” as too vague and nonspecific for natural resource standards; secondly, the question of whether PUD's that don't involve a subdivision should be called subdivisions; thirdly, the need for greater objectivity and less

subjectivity in the regulations; and fourthly, a lack of specificity about critical permit condition and *Hildebrand/Stowe Club Highlands* language. Additional concerns from the town attorney centered around the fact that a developer might see an MDP as binding the town to future permits that may or may not be granted in future DRB actions. This concern mirrors the concern from the opposite side that neighbors might think of the MDP as binding in the opposite direction, in preventing future development when there is no guarantee that such development would be forever out of the picture – in short, unrealistic expectations on both sides. After suggesting that perhaps developing a set of specific natural resource protection standards for adoption into the RZR to apply as well to the RSR would help with a number of these issues, Clarke opened the floor for discussion. She also said that even with a set of relatively objective standards the DRB might feel that there are times when a more detailed, professionally-prepared plan was needed to assess, for instance, larger phased projects in which infrastructure was proposed for future Town acquisition. She mentioned that she would look into what criteria would cause Act 250 to request a master plan.

As the Buttermilk team (Josi Kytte and Brendan O'Reilly) was present at the meeting, Clarke mentioned that even though the Creamery had been required to have a master development plan, there were no restrictions on amending it, and it is possible that in later phases either the Town's conditions or the project conditions may change, requiring new features, so there is really no certainty about the exact form the project will take 5 or 10 years down the road.

Bradley Holt then offered the following thoughts: he wanted to clarify that his comments were not made in reference to any one specific case, and he wondered what the rush was to change the master development plan language. He questioned whether it was really a barrier to developing new housing, and requested that the PC consider whether they do or don't agree that developers should be forthcoming about their plans. He suggested that the letter from Machia be made public and wondered who was speaking for the DRB. He said he'd have more comments when he saw new language proposed to replace the MDP.

(After a 10 minute pause to remove a zoombomber from the meeting, Part 2 of the meeting began)

Clarke responded to the intent question by saying that the goal was to remove useless language that doesn't actually provide the certainty that either neighbors or developers think they have and that creates false expectations. The goal is to figure out language that might actually help solve the problem that the MDP was trying to solve without burdening the Zoning Administrator and DRB with problematic language.

Fausel said that he agreed with the idea of removing "toothless" language, but that we should leave the language in until we have a better replacement, because it at least indicates that our zoning regulations are interested in the bigger picture and may have some sort of moderation on applications. Clarke indicated that her interest as well is in developing that alternative language, such as standards and cumulative impact language, simultaneously with removing the MDP requirement.

Brendan O'Reilly offered that because of the rapidity of change in our lives it is best to have the flexibility to adapt and pivot and adjust without being bound over time by too many rigid regulations, and that because this ultimately costs time and money, it is better for all, including for the town and the environment, to have flexibility.

Matt Dyer, speaking for himself but as a member of the DRB, then offered his thoughts. He said he appreciated that the PC was discussing this because the DRB struggles with the interpretation of this MDP language every time a project comes before them. It's impossible to decide if a plan is or isn't enough, and, as the regulation is "toothless," it's impossible to force developers with vague plans to assert something that might be changed, or may or may not occur, in 10 years, and for the DRB to make decisions based on the ambiguous wording of the requirement that would stand up to legal challenge. He added that forcing someone to decide what they are going to do with their property for the rest of their lives seems short sighted and unreasonable, given that properties may change hands or needs may change over time.

Bender said he felt that all the onus was on the developer here, and that people moving into an area should also take some responsibility for knowing what kind of development could happen around them in the future. He suggested that maybe the planning staff could also help educate folks on this. Clarke concurred with this point and suggested it would help reduce later complaints if there was foreknowledge of the possibilities. Wood also concurred and added that the Town actually does have a full "master development plan" in the form of our zoning regulations which are written to support our Town Plan, and so what we really need here are strong zoning regulations that apply to all districts and are applied consistently and evenly. He added that the critical permit condition language could cover the gap between the regulations and any PUD deviations. He said he agreed that the MDP gives a false sense of security about the uncertain future, and that the natural resource protection standards will be very important as we replace the MDP language.

Gary Bressor said he also feels that the MDP is meaningless, as both the developer or regulatory changes could render an MDP obsolete, and that it just consists of a guess about the future. He also asked the PC to consider finishing the village neighborhoods zoning rather than going off track to pursue these other topics. Katie Mather agreed that natural resource standards that the DRB could legally use will be important so that standards will be upheld in phased developments. She also thought we should consider what other towns do with MDP, to which Clarke replied she had looked at some and they all seemed similarly vague and nonspecific. Dyer added a further comment, which was that the more guidance there is and the clearer the zoning language is for the DRB, the less guesswork there will be. The DRB's preference would be for less need to interpret the regulations, and for more guidance and clarity, so he likes the direction of tonight's meeting. A short discussion about Act 250 followed, and Clarke she would get more information on this.

6. Discuss Buttermilk request for zoning changes including increased residential density

Clarke asked the commissioners to comment on Buttermilk's short-term proposal: to add 24 residential units into the approved building 2 footprint by making some units smaller and utilizing some of the commercial space for residential units. There would also be less need for parking, courtesy of Act 47 and reduced commercial. Wood said it would be wise to consider the actual short-term proposal, but that he might think about the longer term as well. Anand spoke about her concern with adding more traffic to the area, and possible flooding concerns. Fausel discussed the history of the Creamery project, including the fact that commercial space was reduced and 45 units of housing added, and that now he feels that he is being forced to accept even more housing and even less commercial space by the developers' financial demands. He also expressed concerns with increased traffic, and wondered if it wouldn't be better just to keep building 2 at 31 units and see over time what that does to the traffic and the intersections, and 5 years down the line re-consider allowing additional dwelling units for building 3. He said he wanted to hear more from the community about how they feel about these proposals, so that we should do some public

outreach. He also said he would like to have a town-purchased “real” traffic study., and that he didn’t think that the Creamery developers had the Town’s best interests at heart. Bender countered that he felt that Buttermilk does care about the community.

Josi Kytte of Buttermilk spoke next, responding to Fausel’s comments, saying that counterfactual information was being presented and repeated, and that the documented history of the project shows otherwise. She stressed that the 14 existing units are Buttermilk’s effort to provide workforce housing, which they have achieved as shown by the existing tenants (information submitted for meeting packet). The commercial requirement has been problematic in that for 8 years they have been unable to keep that space fully rented due to lack of commercial interest. The traffic study that Fausel dismissed was, in fact, performed by a legitimate third party, and as it was performed in 2023, it showed impacts from the current situation including building 1, and did not show traffic number elevations beyond the zoning threshold. She questioned Fausel’s assertion that the original traffic study was “weak,” and wondered what his evidence for this is. Clarke added that in terms of a threshold for a traffic study, what is required is that we follow our regulations, which we appear to have done. Kytte continued that Buttermilk supported the Housing Committee study that supported the need for additional housing, and felt they would be able to help deliver that. She summarized by saying that mixed use, environmentally responsible housing is their aim because it is the right thing to do for Vermont, and that they hoped the PC would support them in this goal.

Osborne responded to Wood’s question about the availability of the 2023 traffic study by saying that it was part of the packet that had gone to the DRB and he would forward that information to the commissioners.

Katie Mather, a Richmond village resident, then read a prepared statement. She has four issues: traffic, flooding, environmental impact and town character. On the traffic issue, Mather said she did not want the future to present the village with the dilemma of either having a catastrophic amount of traffic at the Jolina Ct / Bridge St intersection or putting a paved road across the newly renovated Town Center which is in the floodplain (for a second Creamery access). She said that the recent DRB permit allows Buttermilk to tear out a large swath of forest behind the town center which would further impact the floodplain by allowing faster runoff. She cited information from ANR’s Eric Sorenson indicating that the important wetland and wildlife functions in the area might not be protected by a 50 ft buffer. She finished by saying that the proposed 69 units would be changing the zoning yet again to meet developers’ -- rather than the Town’s -- needs for livability, and that the character of the town would be altered. Clarke asked how the character would be altered, and Mather replied that it meant renters would be overrepresented relative to home owners, and might not participate as volunteers for town efforts. She said she weighted her other three concerns more heavily. She also reiterated that the flooding concern has been worsened by the recent decision to allow woodlands to be removed.

O’Reilly responded that Buttermilk had met all the extensive Act 250 requirements for permitting relative to the floodplain and sensitive species area of their project, and that they would never have been allowed to increase their impact on flooding and still have the project approved. He expressed interest in hearing other opinions on a way forward. Clarke responded: this seems like a good place to put the additional housing we need – in an already in-process residential project – that could be seen as part of our more densely populated downtown. There will be more pedestrians to both work in and buy from our businesses. Can we not figure out how to mitigate any

increase in traffic? Some of the units will be small, such as the 80% AMI units in building 1 – should we not encourage more of this level of housing? Could we not think about a simple way to ensure some level of affordability without involving the whole non-profit affordable housing structure? Could we think about the 3-Acre greenspace and what might be possible to do there, at least providing some visual or other amenities for the Creamery residents. She said she would like to get beyond the idea that the Creamery is just a problem, and try to understand whether we can make it into an asset for Richmond, even beyond the benefit of providing more housing.

Wood added that some of these ideas resonated with him, but he would like to see the “Affordable” units stay at AMI in perpetuity, and for some of the units to be condos to incentivize the wealth-building step of home ownership. He feels that traffic is an issue and that we should have more of a long-term plan for possible traffic outcomes which does not include putting a road through the Town Center. He would really like to try to ensure that people of all means are able to live in the town going forward, and that there be a diversity of ownership structures and rental levels. He then asked Buttermilk if these concepts were non-starters.

Kytle responded that in her financing discussions with banks, it was not possible to get a loan with “in perpetuity affordable,” so that was a no-go, but that it might be possible at 10 years. She said Buttermilk did not qualify for the kind of financing that the Vermont Housing Financing Agency could arrange for other projects for various reasons such as size, location etc. She said she could talk to the banks again if there was an actual proposal for some number of units at 80% AMI for 10 years. O’Reilly added that they were open to the condo’s ideas, but that it does complicate the financing and the ownership structure of the project, and does not address the workforce housing issue. Condos in some cases make projects more financially feasible. Kytle also clarified that any plan that had shown a road through the Town Center had been withdrawn and is not now in the plan, and that even with full build-out no traffic mitigation was required. She also concurred that Buttermilk is in favor of green space amenities, but that ANR was restrictive in what they would allow in this protected natural resource space.

Fausel reiterated that he had genuine concerns about increasing the density, but might be open to reducing the commercial requirement. He asked Buttermilk if they could go forward with the 45 unit maximum and reduced commercial space. He found it a tough pill to swallow to increase the density all at once without assessing the impact, and felt it would be better to wait and see what the 45-unit impact was, then perhaps consider more residential density along with commercial space in phase 3. Kytle responded that they could absolutely move forward with their approved building 2, but their ability to provide any “affordable” housing would be diminished. She said that the conversations at the Housing Committee and the Selectboard have emphasized the need for workforce housing, so that has been Buttermilk’s goal in seeking additional units to offset the losses incurred with the more affordable or workforce housing and meet the Town’s needs.

Osborne commented that he found it disconcerting to hear constant references to what has happened in the past, and that, as a planner, he deals with going forward – with what is and what will be. He thanked everyone for going overtime tonight, felt this had been a good discussion, and would like to keep it on the agenda at our upcoming meetings. Clarke reminded everyone that the next meeting would be on January 17, 2024. Fausel motioned to adjourn; seconded by Wood. As there were no objections, the meeting was adjourned at 9:30 PM.

Respectfully submitted Virginia Clarke