

Richmond Planning Commission
REGULAR MEETING MINUTES FOR August 17, 2022

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| Members Present: | Virginia Clarke, Lisa Miller, Mark Fausel, Joy Reap, Chris Granda, Dan Mullen, Chris Cole, Alison Anand, |
| Members Absent: | |
| Others Present: | Ravi Venkataraman (Town Planner/Staff), Angela Cote, Larry Lackey, Jake Flood, Allen Knowles, Jay Furr |

1. Welcome and troubleshooting

Virginia Clarke called the meeting to order at 7:04pm.

2. Review of the agenda and adjustments to the agenda

Clarke reviewed the meeting agenda. Clarke suggested switching items six and seven, and addressing the draft regulations for the districts before reviewing all the associated zoning amendments.

3. Public Comment for non-agenda items

Chris Granda noted the recent passage of the Inflation Reduction Act of 2022 and the possibility of funds for town projects. Clarke said that that subject will be revisited at an upcoming meeting.

4. Approval of Minutes

Joy Reap identified the references to she and Granda in the August 3, 2022 meeting minutes, and said she is open to address any questions the commission may have from the previous meeting that could not be answered.

The minutes were accepted into the record as written.

5. Public Hearing: Establishment of Airport Overlay District

Clarke noted the communication from the Burlington International Airport and more recent recommendations for draft language. Clarke asked the Burlington International Airport representatives for comments. Larry Lackey said that after the July 20, 2022 Planning Commission meeting, the Burlington International Airport representatives spoke to the Federal Aviation Administration about the draft zoning language. Lackey said that an outcome of that discussion was to have the town include in its zoning regulations the request that a FAA 7460-1 form be filed for any developments taller than 35 feet regardless of location. Jake Flood said that the current zoning regulations restricting building height town-wide to 35 feet already restricts any possible development that could conflict with the airspace, and that requesting the filing of the FAA form for buildings taller than 35 feet would imply that that the form is filed for exceptions to the zoning regulations. Lackey reviewed the draft zoning language the Burlington International Airport proposes. Flood said that the FAA said that with the town-wide height restriction, intrusions into the airspace could only occur in rare instances. Clarke asked for clarification

on whether the request would only apply to the previously mapped areas. Flood said that the map creates more confusion than necessary, that removing the map would address concerns about using span numbers as mentioned during the July 20, 2022 meeting, and that applying the request town-wide would be easier. Cole asked clarifying questions about whether the FAA form would be required, and the power of the FAA against structures that did not file the FAA form and are incursions into the airspace. Flood said that the form is not a requirement but a request from the FAA, that the FAA would study the structure further to determine if the structure is an incursion, that the FAA does not have the power to force landowners to take down structures that are incursions into the airspace, that the structure would be a safety hazard for the airport and the property owner, that the approach path may need to be modified, and that changes to the approach path would affect the types of planes that could use the runway.

Miller asked about the FAA processes and when applicants can expect a response from the FAA. Lackey said that the FAA typically responds within 45 days of filing the form. Flood said that Burlington International Airport does not have a role in the FAA review process.

Angela Cote said that she appreciated the notification she received for this meeting, that the new proposed language is more consistent with language in Williston's zoning bylaws, and that Williston's bylaw also has the following language: "The form contains instructions and information to be filled out including the location of the project, the duration of construction, the height of the permanent structure, and the tallest of any construction equipment to be used." Cote suggested that the commission add a similar sentence to the proposed language to provide more guidance to applicants. Flood said that the airport is open to make modifications as needed.

Erin Wagg asked for clarification about the maps and whether the proposed regulations would apply to the entire town. Flood said that the proposed regulations would apply to the entire town, and that the map has been removed from the proposal. Cole asked if the identification of property owners was opposed by the property owners or the FAA. Lackey said that properties were identified because of a request the Planning Commission made years ago to be more specific on the areas the FAA was concerned with. Cote said that she did not her span number included in a town ordinance and that she has no issue with the current proposed language because the span number of her property is not included in a town ordinance. Clarke asked Cote if she was ok with the language applying to the entire town. Cote said that the language does not apply to the entire town and that it only applies to areas within proximity to the approach path. Cole cited the language in the proposed request that states its application to all proposed land development with a height greater than 35 feet, adding that he wanted to see if the non-inclusion of span numbers was a request by community members and that he is in favor of including the proposed language Cote had stated earlier.

Wagg said that considering her need for a crane when building her house, she expects many property owners may want to file this FAA form when building their own houses, and asked how long the review period by the FAA will be. Flood said that the FAA's review period is 45 days.

Clarke asked if the usage of cranes or construction equipment would trigger this request. Flood said that the primary concern is permanent structures above 35 feet, that he figures crane operators would file this FAA form prior to usage, and that the language could be modified to be more explicit to include cranes and other construction equipment.

Cole asked why the proposed language includes structures above 35 feet while Williston's regulations

only includes structures above 100 feet, considering that the height of many trees in the previously identified areas of concern are above 100 feet tall. Flood said that this depends on how the FAA treats the airspace, and the factors surrounding the location of the proposed structure. Lackey noted that the FAA form would not be required for structures lower than the highest possible obstructions, such as 60-foot trees.

Cole asked Venkataraman for the language that was originally proposed by Burlington International Airport years ago. Venkataraman said that he would have to go through the records and get back to Cole. Lackey said that the original language was drafted before his tenure, and that it was materially similar to the language in Williston's bylaw. Cole said that he aims to balance the needs and interests of Burlington International Airport, the FAA, and community members, and that he wants to know the rationale for requesting the FAA form to be filed for structures under 100 feet, considering how forested most of Richmond is. Lackey cited the FAA 7460-1 form that states that the form does not need to be filed for projects shielded by existing structures, natural terrain, or topographic features equal to or greater than the height of the proposed project. Clarke said that based on Lackey's response, the proposed language is not correct because the form does not apply for projects that may be shielded by preexisting conditions. Cole suggested including in the proposed language that the form does not apply to projects that may be shielded by preexisting conditions, and said that he is not ready to vote on the proposed language in its current state. Clarke asked about the 100-foot height allowance. Flood said that a 100-foot structure on the hills identified in the maps from the July 20, 2022 meeting would definitely be within FAA airspace. Cole noted that there probably are trees on the hills that are 100 feet tall. Miller said that she needed more clarification on the rationale for requesting the form for structures taller than 35 feet. Flood said that the 35-foot height limit is from the Richmond Zoning Regulations, that the regulation only allows for structures taller than 35 feet under limited exceptions, and that due to the slope and terrain, to pinpoint the affected areas and the exact allowed height of structures would require involved studies and analyses that they don't have the means to do. Clarke asked the commission if they want to insert the language directly from the FAA form. Miller said that she is hesitant about adding language from federal regulations that could be changed at any time. Clarke said that the draft language could refer to the form in itself.

Clarke asked the commission on how it would like to proceed. Cole asked if an option is to have Burlington International Airport representatives return to another Planning Commission meeting. Clarke clarified that the options include garnering more information, hearing more testimony from the property owners who were notified, and revising the language after the meeting. Granda asked when the property owners were notified. Venkataraman said that he had sent the letters to affected property owners the week before the August 3, 2022 Planning Commission meeting. Clarke asked Cote about the concerns of property owners she spoke to. Cote said that other property owners she had spoken to were concerned about the lack of notification, and the identification of their properties on the map that was proposed to be included in the zoning regulations.

Motion by Miller, seconded by Granda, to close the public hearing. Voting: unanimous. Motion carried.

Lackey asked if he should work with Venkataraman on revising the draft language. Clarke said that the commission will work with Venkataraman to revise the draft language.

Cote asked for notification for the revision. Clarke said that Venkataraman will notify Cote about the revision.

6. Discussion on the Village Residential/Commercial District and Gateway Residential/Commercial District

Clarke reviewed the memo included in the meeting materials about the goals and objectives for revising the district standards in the zoning regulations. Clarke reviewed the changes to the draft zoning map. Clarke reviewed the Village Residential/Commercial draft zoning language, highlighting the changes that were made since the last meeting and items that will have further discussion with the next item on the agenda. Clarke highlighted that revisions will need to be made to Section 4.5 to allow for multiple uses on a lot. Clarke noted that further conversations will be needed on whether to include the statement on the performance standards in the definition of light manufacturing uses. Clarke noted correspondence from Christy Witters regarding the possibility Powered Vehicle and Machinery Service uses in the Village Residential/Commercial District and their possible impacts on the nearby residential areas, and said that further discussion will be needed.

Clarke reviewed the changes to the language regarding minimum lot size and density. Reap was in favor of the changes. Clarke reviewed the site design standards regarding landscaping and screening. Mark Fausel identified that the building design standards specifies standards for facades facing Route 2 and that the proposed district include other public roads. Clarke said that the section will be revised accordingly so that the standard applies to facades facing all public roads.

Reap asked about the pitched roof requirement. Clarke said that per state statute, the town cannot prohibit flat roofs if it inhibits the operation of a rooftop solar system.

Miller asked about the role of the Zoning Administrator with these proposed changes. Clarke said that the Zoning Administrator would be involved with the review process for proposals that do not require site plan review or conditional use review.

Clarke reviewed the changes to the Gateway Residential/Commercial District. Reap said that based on these proposed district standards, hotels would not be allowed town-wide. Clarke said that there could be a possibility for hotel uses in other districts. Granda noted the allowances for inns in other districts, and that allowing hotel uses to the Gateway Residential/Commercial District would be compatible. Cole and Alison Anand concurred. Clarke said that hotel uses will be added in the next iteration of the draft language. Reap noted that the scale of the hotel use would be limited because of the limitations on the building footprint.

Clarke reviewed the site design and building design standards. Reap asked about the EV charging station requirements. Clarke said that after much discussion, the commission decided that the only legally defensible option was to put the EV charging station requirement in the multifamily housing standards, and requiring one EV charging station for every 10 units.

6. Discussion on Amendments to the usage of Travel Trailers and the Multifamily Dwelling Standards (Sections 5.3.2, 5.10.3, 6.5, 6.13, and 7)

Clarke reviewed the changes to the Site Plan review sections of the zoning regulations. Clarke noted that tangentially with the changes to each district regarding Site Plan Review requirements, Section 4.5 still remains in conflict with what the commission is proposing by allowing multiple uses on a lot in certain

districts, and that Section 4.5 could be removed in its entirety. Venkataraman said that the most straightforward change to Section 4.5 would be to strikethrough the restriction on multiple uses on a lot, that the commission needs to address whether they want to allow for multiple principal structures on a lot, and that their response to that issue would dictate whether Section 4.5 should be removed in its entirety or modified to remove the restriction on multiple uses on a single lot. Venkataraman said that he would be in favor of removing Section 4.5 in its entirety because requiring applicants to undergo subdivision review for proposals involving multiple principal structures on a lot without any subdivisions occurring does not make sense. Clarke asked if there would be any negative or unintentional consequences for removing Section 4.5. Venkataraman said that there would not be any unintended consequences in terms of zoning, that there could be issues regarding the hookup of utilities, but that zoning does not cover how property owners connect to utilities. Clarke overviewed the options the commission has to proceed—adding an “unless otherwise provided” provision to Section 4.5, removing the multiple uses portion of Section 4.5, or removing Section 4.5 in full—and asked the commission for input. Fausel said that he was in favor of adding an “otherwise provided” provision to Section 4.5, and revisiting Section 4.5 after all the zoning districts have been reviewed. Venkataraman added that in almost every zoning district there is a sentence that in essence is the “unless otherwise provided” provision the commission is currently discussing, and that both adding an “unless otherwise provided” provision in Section 4.5 or removing the restriction on multiple uses on a lot is of no consequence because of the restrictions already in each the zoning districts on how many uses can be on a lot. Miller asked for more information from Venkataraman regarding multiple uses and multiple principal structures on a lot in nearby municipalities. Venkataraman said that there hasn’t been much issue with new developments, that Brandy Saxton had noted issues with the placement of structures and property lines on older developments, and that Richmond does not have any issues like this. Venkataraman said that zoning does not have any jurisdiction over forms of ownership.

Clarke suggested removing the reference to PUD requirements for multiple uses, adding a “except otherwise provided provision, and removing the sentences referring to the number of uses allowed per lot for every district. Venkataraman said that that would work.

Clarke reviewed the changes to the landscaping and screening requirements for mechanicals and utilities, and the EV charging requirements in the draft multifamily housing standards document. Granda asked if these changes would affect the EV charger requirements for vehicle fueling station uses and for single-family dwellings. Clarke said no to both, and that the rationale relates back to how the stretch code can be adopted. Clarke added that the changes in this draft aims to reconcile the need to incentivize housing while also the need to meet energy goals. Venkataraman said that the draft standards at the moment for EV charging are slightly more stringent than the standards in the Residential Building Energy Standards (RBES). Venkataraman said that there are differing legal views on the possible role of EV charging stations in the zoning regulations, and that the current draft standards are legally safer to implement because they are in line with RBES. Granda asked if the proposed regulations would require fully capable EV chargers to be installed. Venkataraman said yes, and reviewed the proposed definition for EV ready. Granda said that there is already a generally understood definition for EV ready that does not imply that the EV supply equipment would be present on site, and suggested changing “EV ready” to “EV charging station”. Clarke said that that change will be made.

Clarke said that based on the legalities and the status of the districts the commission is working on, adding EV charging requirements for multifamily dwelling uses would be the best way to proceed at the moment. Granda said that the laws and standards are constantly changing, that the costs of adding an EV charger to a multifamily dwelling compared to the total cost of the project is minimal, and that adding

EV charging capacity during construction is significantly less than adding that capacity well after construction.

Reap noted that with the constant and consistent changes to the state building energy standards, the town would not be able to change its zoning to keep up with the changes to the building energy standards.

Clarke said that personally she would like to keep the EV charging requirements in the draft zoning language to communicate to people that the town prioritizes the inclusion of EV charging stations. Cole said that he was not sure about including EV charging requirements that are more stringent than the state's requirements, and that he agrees with Reap that the town will not be able to keep up with the frequency of state's changes to the building energy standards. Reap said that the draft language may be misleading if the EV charging requirements are less stringent than RBES, and suggested referencing the state's requirements. Granda suggested the present draft language and adding "or the current state requirements". Dan Mullen said that that would nullify the need for the local requirement. Venkataraman said that most applicants go through the state permitting process after the local permitting process, that they may not know the state requirements until they receive their local permits, and that cross-referencing state requirements would be very complicated for the town to administer and enforce. Clarke asked Venkataraman if he'd prefer the EV charging requirement be removed. Venkataraman said that he doesn't mind whether there is or isn't an EV charging requirement, but that references to state requirements should not be considered with the existing separation of local and state permitting processes. Miller suggested leaving in the requirement.

Clarke opened the discussion on the changes to the usage of travel trailers. Reap asked what elements needed to be discussed, considering the fact that the people who were considering living in a travel trailer temporarily are going to live in a mini-house. Reap and Cole said that therefore this item does not need to be addressed at this moment. Cole asked if one could have an accessory structure before having a principal structure on a property. Venkataraman said yes, and that that would be the work-around to this issue. Clarke said that this issue can be addressed at a later date.

8. Other Business, Correspondence, and Adjournment

Venkataraman noted correspondence he and Clarke received from DRB Chair David Sunshine regarding the Mobil Gas Station redevelopment and their issue with allowances for fast food service at the Mobil Gas Station. Clarke said that more information is necessary on if the objection is regarding fast food service in general or drive-through fast food service. Venkataraman said that the issue is regarding multinational food corporations, and that he will keep the Planning Commission updated on that decision. Venkataraman said that the Planning Commission should not discuss this with the DRB or provide any advice on how it should make a decision because the public hearing on this item is closed and the DRB is in deliberation on this decision, and that the commission should consider this correspondence at a later time if the DRB does push for regulatory changes.

Motion by Fausel, seconded by Cole, to adjourn the meeting. Voting: unanimous. Motion carried. The meeting adjourned at 9:19 pm.

Respectfully submitted by Ravi Venkataraman, Town Planner