

Richmond Planning Commission

Special Work Session

Tuesday, November 12, 2013

Approved Minutes

Members Present: Mark Fausel (Chair), Ann Cousins, Sean Foley, Marc Hughes, Lauck Parke, Brian Tellstone

Members Absent: Bruce LaBounty (Vice-Chair)

Others Present: Cathleen Gent (Town Planner/Staff to the DRB), Geoffrey Urbanik (Town Manager)

7:03 PM Fausel called the meeting to order.

Public Comments – There were no public comments.

Richmond Zoning Regulations – Section 6.8 – Work Session

The Planning Commission discussed one of the changes decided at the last meeting, namely to exempt all repairs in the FEMA SFHA from needing a permit. Fausel, Tellstone, and Foley said they are concerned that FEMA will not approve that change. Gent said she will try to talk with DEC about this before the next meeting. Gent distributed a memo regarding the draft bylaws schedule for town meeting. Gent said that, based on that schedule, it is not possible to get the item as a ballot item. Urbanik confirmed that is the case because the Selectboard must have a public hearing to vote to approve any Australian ballot item and there is a 30 day warning period for that, therefore, the Selectboard would have to have the proposed bylaw changes no later than the December 2nd Selectboard meeting. The Planning Commission discussed the option of having an article added to the town meeting agenda, which would require that the Planning Commission complete work on the document tonight, to hold its hearing on December 23rd, and to then present the draft bylaws to the Selectboard that same night. This would require that a formal Selectboard meeting also be held that night. Urbanik encouraged the Planning Commission to try to complete its work so as to attempt to get the bylaw changes added as a town meeting article. He added that he does not think the Selectboard would likely adopt the bylaw changes without a public vote. Parke said he thinks the floodplain regulations are of significant interest to a relatively small group and that Selectboard adoption without a public vote is a reasonable approach. He encouraged the Commission to take the needed time to get the document the way they want it.

The Planning Commission discussed Geoff Urbanik's memo regarding comments on Section 6.8, specifically regarding public highway maintenance in the floodplain. Urbanik is overseeing a project for removing road gravel from a stream bed outside of the public right-of-way and the opinion from the zoning office is that the activity was subject to DRB conditional use review because it is "channel management." He requested that the Planning Commission make it clear that the Town is exempt from Section 6.8 for all highway, bridge or culvert maintenance as it pertains to the public right-of-way, including incidental work on private property as needed to the extent that the work has a public benefit. Urbanik said that town attorney Mark Sperry believes that certain state laws would make the town exempt from Section 6.8. He added that he thinks a new road or a redesigned road would not be exempt for that section. The Planning Commission discussed the fact that state permits are required for projects involving streams. Urbanik discussed two other culvert projects – on Wes White Hill Road and on Hinesburg Road – and is concerned that the town would have to get approvals for any project along a stream because it's in the floodplain. Gent showed on the FEMA DFIRM map that the Wes White Hill Road and Hinesburg Road projects are not subject to Section 6.8 because they are not in the floodplain. Urbanik said there should be a limit for the town to work on private property and it should only be done for the public interest. The Planning Commission decided to make the following changes related to Urbanik's request:

- Section 6.8.11.a)ii. – Delete "Improvements to existing roads" and replace with "widening, realigning, or making significant changes to existing roads"

- Section 6.8.11.a)iii. – Move section to exempt section as "existing bridges, culverts, or channel management activities"

Urbanik left after this discussion. The Planning Commission continued its review and made the following changes:

Section 6.8.10.f) – keep "swing sets" in the list

Section 6.8.10.h) – keep "any residential-scale playground structures associated with a single family or two-family dwelling"

1 Section 6.8.10, last paragraph – Delete, “Should any of the above proposed maintenance, repairs,
2 and/or replacement work in b), c), d), or e), or combination thereof, reach the threshold of substantial
3 improvement (including substantial damage) within a three-year period, the DRB must review any
4 further such maintenance, repair, and/or replacement under conditional use review.” Fausel noted for
5 the record that he does not agree with this change.

6 Section 6.8.11.b) – add a new i. – “Includes all items listed in Section 6.8.11.a) above”

7 Section 6.8.11.b)iii- Delete this item as it was unintentionally placed there. – “Maintenance of unpaved,
8 non-motorized recreational walk or bicycling trail”

9 Section 6.8.11.b)iv. – Decided to keep this here, because Public Service Board statute would trump this
10 language as needed for a utility project.

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12 The Planning Commission will start its discussion during the next meeting on Section 6.8.12. Fausel
13 noted that the Planning Commission did not finish with its review of Section 6.8, which means it will be
14 difficult to meet the schedule for getting an article ready for town meeting.

15
16 **Other Business**

17 The Planning Commission briefly discussed the letter sent to the Public Service Board regarding the
18 cell towers. Foley said that he has been told that it is very likely that the legislature will vote to not
19 sunset the provision which bypasses local zoning review of cell tower projects going to the PSB. Also
20 he has conferred with general counsel at the Public Service Department and he is not able to represent
21 the Planning Commission during any public hearing. Gent said that AT&T has sent a letter indicating
22 their willingness to have a public hearing for all three of their proposed towers in Richmond, if the
23 Selectboard and Planning Commission are willing to have a joint hearing. The Commission indicated
24 they are willing to have a joint hearing. The Planning Commission will discuss the cell tower topic again
25 during the next meeting.

26
27 Tellstone announced that he will not attend any special Planning Commission meetings more often than
28 once a quarter. Cousins said she will not be attending the November 20th Planning Commission
29 meeting.

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31 Gent requested that the Planning Commission meet with VNRC regarding the ECOS technical
32 assistance work on December 4th (rather than December 18th) since VNRC might have difficulty
33 completing the project before the end of the year, when the grant ends. Fausel said that can be
34 discussed at the next meeting.

35
36 **Adjournment**

37 Parke made a motion to adjourn, seconded by Foley. So voted. The meeting adjourned at
38 9:30 PM.

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40
41 Respectfully submitted by Cathleen Gent, Town Planner/Staff to the DRB