

Town of Richmond
Planning Commission Meeting
AGENDA

Wednesday, March 17th, 2021, 7:00 PM

Due to restrictions in place for COVID-19, and in accordance to Act 92, **this meeting will be held by login online and conference call only**. You do not need a computer to attend this meeting. You may use the "Join By Phone" number to call from a cell phone or landline. When prompted, enter the meeting ID provided below to join by phone. For additional information and accommodations to improve the accessibility of this meeting, please contact Ravi Venkataraman at 802-434-2430 or at rvenkataraman@richmondvt.gov.

Join Zoom Meeting: <https://us02web.zoom.us/j/83379408426>

Join by phone: (929) 205-6099

Meeting ID: 833 7940 8426

1. Welcome, sign in and troubleshooting
2. Adjustments to the Agenda
3. Public Comment for non-agenda items
4. Approval of Minutes
 - February 17, 2021
 - March 3, 2021
5. Debrief on Community Outreach Work Plan
 - Discussion on process schedule going forward
6. Debrief on Village Residential Neighborhoods Discussion
 - Main takeaways
 - Discussion on Village Residential Neighborhoods north of the Winooski River and south of the river
7. Discussion on possible zoning amendments
8. Other Business, Correspondence, and Adjournment

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Richmond Planning Commission
REGULAR MEETING MINUTES FOR February 17, 2021

Members Present: Chris Cole, Virginia Clarke, Chris Granda, Alison Anand, Brian Tellstone, Mark Fausel, Caitlin Littlefield, Jake Kornfeld, Joy Reap

Members Absent:

Others Present: Ravi Venkataraman (Town Planner/Staff), Bradley Holt, Ashley Farr, Erin Farr, Gary Bressor, Jean Bressor, Catherine McIntyre, Tyler Merritt, Cathleen Gent, Chuck Senick, Katie Mather, Drew Donovan, Fran Huntoon, Fran Thomas, Holly Brelleroose, Jon Kart, Karen Yaggy, Laura Farrell, Todd Farr, Patti Rossi, Victor Rossi, Susan Wells, Ed Wells, Sara Volinsky, Nathanel Merrill, Gerald Feenan, Rose Feenan, Logan Hegg

1. Welcome and troubleshooting

Chris Cole called the meeting to order at 7:01 pm.

2. Adjustments to the Agenda

None

3. Public Comment for non-agenda items

Bradley Holt brought to the Planning Commission's attention the proposed subdivision off Hillview Road, his concerns regarding the proposed subdivision, and concerns about the alignment of the zoning regulations for the Agricultural/Residential district and the current town plan. Cole and Ravi Venkataraman overviewed the Act 250 review process. Mark Fausel said that as an abutting property owner to this proposed subdivision, he will keep the commission informed.

4. Planning Commission Community Outreach: Southern portions of the village (Bridge Street south of the Winooski River, Thompson Road, Farr Road, the intersection of Cochran Road and Huntington Road)

Cole asked for all attendees to introduce themselves. Attendees introduced themselves. Virginia Clarke summarized the map (the proposed Residential/Commercial Districts, the Village Residential Neighborhoods District, and the Round Church Viewshed District), the discussion document, possible uses, and the discussion goals. Katie Mather asked as a neighbor to the possible R/C district the possible uses within the proposed R/C district, and about the potential for subdivision in the proposed R/C district south of Huntington Road. Clarke said that the borders for possible rezoning were based on the location along major corridors, and that generally people do not divide properties to the lowest possible lot size with the allowance. Cole said that housing could be developed through the PUD process currently, and that the proposal would allow for maintaining agricultural uses as the Farris would like it. Mather would like the commission to be aware of water quality impacts of development in open lands within the proposed areas. Clarke said that the intent was to allow for development outside floodplains. Gent said that not all the areas south of Huntington Road is outside the floodplain. Cole said that he was aware that there were parts south of Huntington Road within the floodplain. Venkataraman identified the areas within the floodplain. Gent asked for clarification that the floodplain regulations were not going to be changed. Cole confirmed that the floodplain regulations were not going to be changed. Todd Farr said that as the owner of 82 Huntington Road that he would appreciate flexibility for future development. Ashley Farr also said that he would appreciate opportunities to diversify the farm while keeping the agriculture operations. Fran Huntoon asked about water and sewer service to Ashley Farr's

property and about making the area south of the Winooski River walkable. Susan Wells said that the Thompson Road-Huntington Road intersection crossing is not accessible for pedestrians. Cole said that the Transportation Committee is working on bicycle/pedestrian projects to improve on-road and off-road facilities. Fran Thomas advocated for keeping the area around the Round Church as-is to protect the historical nature of the area. Gary Bressor said that Old Brooklyn Court, the Senick/Mather house, and the property he owns on the corner of Thompson and Cochran Roads should be included in the Round Church Viewshed District, that he recommended placing both sides of Thompson Road within the same Village Residential Neighborhoods District, that the PUD process should be available in all the districts, that he found the PUD process accessible, and that he is concerned about regulatory changes that would make residential units less available for ownership. Bressor added that from his experience, people want to own standalone houses on smaller lots. Karen Yaggy asked about when the latest housing studies were done for Chittenden County considering recent developments in Williston, and Colchester. Clarke said that the Housing Committee are studying this currently. Venkataraman said that the housing needs are based on data collected by Chittenden County Regional Planning Commission, and based on the targets they set in 2018 for 2023, the county is well short of meeting those targets. Tyler Merritt asked about the Creamery development and its rental units. Cole said that the Creamery development has a commercial component and that he is not aware if the developers have returned to the DRB for the next phase of development. Merritt suggested allowing more units within the Creamery development based on existing conditions. Cole said that the project allowances are based on lengthy discussions with the Selectboard and Planning Commission. Merritt asked about protections against chain stores within zoning. Venkataraman said that based on the discussion documents, those types of developments would be subject to the development review criteria and the design standards, and at this stage, cannot say for certain if it could occur with the entire zoning regulations still under review. Cole asked if Venkataraman knew of any towns with regulations limiting chain store development. Venkataraman said he expected limits to be in the form of a square footage limit in order to prevent development per corporate specifications. Mather asked about specifying what rural character means in the zoning regulations. Clarke said that writing specific standards is tricky, and it's possible to put some specific standards. Venkataraman said that it is the Planning Commission's and the town's responsibility to translate the general, broad-stroke language of the Town Plan into specific standards in the zoning regulations, and that the commission and community members' responsibilities to make sure that the specifics in the zoning regulations are representative of the term "rural character" in the Town Plan. Cole said that the commission will need to investigate deeper to make sure that the zoning regulations are not only consistent with the town plan but also consistent with the values of the community. Victor Rossi recommended graywater, brownwater, fire hydrant, and sewage system plans with zoning changes. Jon Kart appreciated the commission's regard for form-based zoning, said he would appreciate a higher residential density within the Farr property to bring residents closer to the village, and said that he would not like to see chain stores regardless of if it fits aesthetic standards. Patti Rossi asked if stewardship of land is taken into consideration into the housing study. Clarke said that that isn't included within the scope of the housing study. Rossi asked if the older buildings in town could be torn down and converted into multiunit buildings. Clarke said that other than the adaptive use allowance, no other protections for older buildings are in place in zoning and that zoning encourages the use of property to its value. Gerald Feenan asked about how the commission decided upon lot sizes. Cole said that the reduction in lot size is driven by creating more affordable housing. Clarke said the reduction in lot size is to transition between the agricultural/residential district and the village downtown district.

5. Approval of Minutes

Motion by Clarke, seconded by Alison Anand, to approve the January 20, 2021 Planning Commission meeting minutes. Voting: unanimous. Motion carried.

Motion by Anand, seconded by Littlefield, to approve the February 3, 2021 Planning Commission meeting minutes. Voting: 7-0 (Reap and Jake Kornfeld abstained). Motion carried.

6. Other Business, Correspondence, and Adjournment

Reap asked if realistically the commission could do anything to address the Hillview subdivision concerns. Venkataraman said that the DRB reviewed a sketch plan application the previous week, that subdivision applications vest upon completion of the Preliminary Subdivision application, that he is unsure of when the applicant will submit a preliminary subdivision application, and that it is unlikely for new regulations to be in place before the applicant submits the application. Fausel suggested briefing the commission about the Hillview subdivision proposal during the commission's next meeting.

Littlefield requested a discussion about forest districts at a future meeting.

Clarke asked Cole for additional information about the water/sewer extension service. Cole said he had nothing to report, noting Venkataraman's report regarding the Richmond Mobil Station's proposal.

Motion by Reap, seconded by Tellstone to adjourn the meeting. Voting: unanimous. Motion carried. The meeting adjourned at 9:13 pm.

Respectfully submitted by Ravi Venkataraman, Town Planner

Richmond Planning Commission
REGULAR MEETING MINUTES FOR March 3, 2021

Members Present: Chris Cole, Virginia Clarke, Chris Granda, Alison Anand, Mark Fausel, Caitlin Littlefield, Jake Kornfeld, Joy Reap

Members Absent: Brian Tellstone,

Others Present: Ravi Venkataraman (Town Planner/Staff), Judy McVickar, Allen Knowles, Matt Thompson, Trish Healy, Christy Witters, Bard Hill, Jenna Antonino DiMare, Marshall Paulsen, John Rankin, Bob Heiser, Paul Hauf, Becky Vigneault, Ann Naumann, Jessie Heiser, Kendra Ramsey, iPhone, Melissa Wolaver

1. Welcome and troubleshooting

Chris Cole called the meeting to order at 7:02 pm.

2. Adjustments to the Agenda

None

3. Public Comment for non-agenda items

None

4. Planning Commission Community Outreach: Village residential neighborhoods, currently zoned as High Density Residential District (Pleasant St, Church St, Esplanade, Tilden Ave, Baker St, Brown's Ct, Burnett Ct, Lemroy Ct, Borden St.)

Cole overviewed the Planning Commission's purpose of the discussion, and their intentions with renaming the district. Members of the public introduced themselves. Virginia Clarke went over the discussion document, the differences in uses in the existing and proposed districts, uses that have protections by statute, dimensional requirements and other requirements. Cole said that the commission's aim is to put forth the least amount of change for the areas under discussion, because of the small lot sizes and the existing fully built conditions. John Rankin said he likes the existing density allowances, and had concerns that residents outside the village are aiming to solve housing issues by placing allowances within the village. Cole said that the Town Plan calls for increasing density within the village, but the goal of these discussions are to make sure that the proposals are reflective of the character of the neighborhoods. Clarke said that the impact of climate change and increasing walkability should be taken into consideration with the proposed regulation ideas. Paul Hauf said rebuilding existing houses are not allowed per the zoning regulations which should be reconsidered, that the commission should consider the impacts of rental units with multifamily dwellings on existing neighborhoods, and that the commission should consider the impacts of domesticated animals on the existing neighborhood. Christy Witters provided a presentation on the character of the existing neighborhood, supported changes to the minimum lot size standard. Specifically, Witters said that allowing multiple uses on a lot, multiple primary structures on a lot, sidewalk requirements, commercial uses, and more than two dwelling units per lot within the district would not be consistent with the character of the district. Cole said speaking from experience, he cannot imagine a triplex or quadplex being viable on a quarter-acre lot. Ann Naumann said that that from her experience the renters in the neighborhood do not tend to be a part of the neighborhood and additional rental properties would not be consistent with the character of the neighborhood. Bard Hill said that Tilden Avenue does not need a sidewalk, unlike Baker street.

Marshall Paulsen said that sidewalks and commercial uses would be difficult to incorporate into Pleasant Street. Paul Hauf questioned the commission's rationale for minimum lot size. Kendra Ramsey voiced concerns about density and the existing character of the neighborhoods. Witters asked the commission about the process for zoning amendments. Cole said the process is to be determined on how many amendments the commission would forward to the Selectboard for approval, but the commission intends to forward one to two amendments at a time to the Selectboard. Witters asked about consideration for outside the village. Cole said that that is to be determined, but that the commission will be carefully considering any possible changes outside the village. Melissa Wolaver said that the commission should consider the performance impacts of multifamily dwellings on the neighboring residences.

5. Other Business, Correspondence, and Adjournment

Chris Granda said that he and Venkataraman are making progress on discussions in April on energy codes.

Cole said that to progress possible changes to the Gateway District, he said that commission members participate on a subcommittee to put together zoning amendment ideas. Cole asked that Joy Reap organize the neighbors and provide ideas for the subcommittee in future public meetings.

Reap asked if Venkataraman has been checking attendance of the public with recent meetings. Venkataraman said that he is still required to list the names of all attendees in the minutes, but sometimes fails to do so because of attendees who arrive late and leave before the meeting ends. Reap asked if there are ways for attendees to sign in. Cole suggested that attendees sign in via the chat and that this will be added to future meetings.

Mark Fausel recommended serving on the Gateway District subcommittee.

Clarke suggested that the next meeting agenda include a debrief of all the neighborhoods discussed.

Caitlin Littlefield suggested that future meetings during the summer months should include discussions on ideas and concepts the forest subcommittee has researched.

Motion by Fausel, seconded by Alison Anand to adjourn the meeting. Voting: unanimous. Motion carried. The meeting adjourned at 8:48 pm.

Respectfully submitted by Ravi Venkataraman, Town Planner

Issues for discussion 3.17.21

Residential Neighborhoods

Village residential north of the river:

1. Are we in agreement about “Village Residential Neighborhoods North” ZD? (VRNN) (see proposed text and map) in terms of uses, lot size, setbacks etc.
2. Does this capture the sense of the public comment?
3. Does it help to meet Town Plan goals for density?
4. Do the homes on W Main St and Jericho Rd belong in this district ? Is the map how we want it?
5. What other information would help us to decide about this district?

Village residential south of the river:

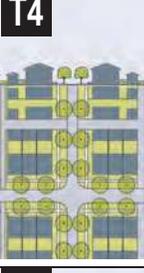
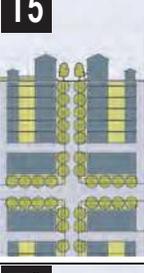
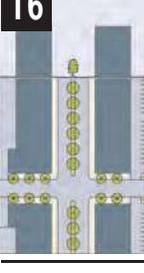
Options:

- A. Combine all residential areas south and north into a single ZD
OR
 - B. Have a “Residential Neighborhoods South” ZD PLUS a “Round Church Viewshed” ZD in addition to a “Residential Neighborhoods North” ZD
OR
 - C. Combine the “Residential Neighborhoods South” with the “Round Church Viewshed” into a single “Round Church Neighborhood” ZD
-
6. Is the residential area (lower Bridge St, Thompson Rd, Cochran Rd) the same or different from VRNN? Does the Round Church area have different requirements?
 - Consider existing lot sizes (bigger in the south vs north)), arterial nature of streets, neighborhoods don’t seem to have the same closeness, larger setbacks to existing front yards
 - Do we need a separate Round Church Viewshed district or could you combine this with the other south-of-the-river residential areas (Thompson Rd, a bit of Cochran Rd) into a “Round Church Residential Neighborhood” district – what about design features? -- pros and cons – Do we want to protect the Round Church; is this a good way to do it?
 7. Is there other information we need?

Checklist – Revising Zoning Districts

1. Is the purpose the same?
 - a. Has the district changed in nature, character, and built environment?
 - b. How does this district align with the Transect (urban-rural continuum)? Therefore, what kind of urban form should we anticipate?
2. What is the district called now? Do we want to keep the same name?
 - a. Does the name match the intent and purpose of the district?
3. Do we want the same allowable and conditional uses?
 - a. What uses detract from the character of the district?
4. Do we want to add any uses, including ones from our “new uses” list?
 - a. What uses would contribute to the purpose of the district?
5. Are current uses compatible with new definitions?
 - a. Do the definitions match statutory requirements, as well as the nature of the use today?
6. Do we want to keep the same residential/commercial density?
 - a. Density measured in number of units per acre, and minimum lot sizes
7. Are the dimensional requirements and limitations still useful?
 - a. Are the standards for setbacks, lot coverage, building coverage (if included), and building footprint limitations still valid?
8. Do we want to keep the same boundaries? Add more area? Divide into 2 or more districts?
 - a. For certain districts, what is the extent of growth we want to promote?
 - b. Are additional requirements for Conditional Use Review and Site Plan Review needed?
9. Do we need design standards in this district?
 - a. This is a larger question of whether to have form-based elements in a district, or a design review district.
10. How can we advance our Town Plan goals in this district for the following?
 - a. More housing of all types, including affordable housing and accessory dwellings
 - b. Less fossil fuel use and more efficient energy usage (Act 174)
 - c. More economic and employment opportunities, including indoor and outdoor recreational businesses
 - d. Protection and expansion of our iconic industries, including farming and forestry through value-added and accessory uses among other methods, and of traditional outdoor recreational activities
 - e. Concentration of growth in the downtown areas
 - f. Exploration of form- and density-based zoning
 - g. Support for historic resources
 - h. Preservation of forest blocks (Act 171)
 - i. Minimization of developmental impacts on land and water
 - j. Support for community building
 - k. Protection of flood hazard area
11. How will PUDs fit into this district?
 - a. Should there be specific PUD and/or PRD standards in order to advance the goals of the Town Plan?
12. Is this district compatible with changes made by JCZD?
13. Have we reviewed the 2012 zoning effort for any new ideas that could be incorporated?
14. Have we considered information we have received through our outreach efforts?
15. Have we consulted Keith and the DRB for any red flags of difficulty for them?

TABLE 1: Transect Zone Descriptions. This table provides descriptions of the character of each T-zone.

 <p>T1</p>	<p>T-1 NATURAL T-1 Natural Zone consists of lands approximating or reverting to a wilderness condition, including lands unsuitable for settlement due to topography, hydrology or vegetation.</p>	<p>General Character: Natural landscape with some agricultural use Building Placement: Not applicable Frontage Types: Not applicable Typical Building Height: Not applicable Type of Civic Space: Parks, Greenways</p>
 <p>T2</p>	<p>T-2 RURAL T-2 Rural Zone consists of sparsely settled lands in open or cultivated states. These include woodland, agricultural land, grassland, and irrigable desert. Typical buildings are farmhouses, agricultural buildings, cabins, and villas.</p>	<p>General Character: Primarily agricultural with woodland & wetland and scattered buildings Building Placement: Variable Setbacks Frontage Types: Not applicable Typical Building Height: 1- to 2-Story Type of Civic Space: Parks, Greenways</p>
 <p>T3</p>	<p>T-3 SUB-URBAN T-3 Sub-Urban Zone consists of low density residential areas, adjacent to higher zones that some mixed use. Home occupations and outbuildings are allowed. Planting is naturalistic and setbacks are relatively deep. Blocks may be large and the roads irregular to accommodate natural conditions.</p>	<p>General Character: Lawns, and landscaped yards surrounding detached single-family houses; pedestrians occasionally Building Placement: Large and variable front and side yard Setbacks Frontage Types: Porches, fences, naturalistic tree planting Typical Building Height: 1- to 2-Story with some 3-Story Type of Civic Space: Parks, Greenways</p>
 <p>T4</p>	<p>T-4 GENERAL URBAN T-4 General Urban Zone consists of a mixed use but primarily residential urban fabric. It may have a wide range of building types: single, sideyard, and rowhouses. Setbacks and landscaping are variable. Streets with curbs and sidewalks define medium-sized blocks.</p>	<p>General Character: Mix of Houses, Townhouses & small Apartment buildings, with scattered Commercial activity; balance between landscape and buildings; presence of pedestrians Building Placement: Shallow to medium front and side yard Setbacks Frontage Types: Porches, fences, Dooryards Typical Building Height: 2- to 3-Story with a few taller Mixed Use buildings Type of Civic Space: Squares, Greens</p>
 <p>T5</p>	<p>T-5 URBAN CENTER T-5 Urban Center Zone consists of higher density mixed use building that accommodate retail, offices, rowhouses and apartments. It has a tight network of streets, with wide sidewalks, steady street tree planting and buildings set close to the sidewalks.</p>	<p>General Character: Shops mixed with Townhouses, larger Apartment houses, Offices, workplace, and Civic buildings; predominantly attached buildings; trees within the public right-of-way; substantial pedestrian activity Building Placement: Shallow Setbacks or none; buildings oriented to street defining a street wall Frontage Types: Stoops, Shopfronts, Galleries Typical Building Height: 3- to 5-Story with some variation Type of Civic Space: Parks, Plazas and Squares, median landscaping</p>
 <p>T6</p>	<p>T-6 URBAN CORE T-6 Urban Core Zone consists of the highest density and height, with the greatest variety of uses, and civic buildings of regional importance. It may have larger blocks; streets have steady street tree planting and buildings are set close to wide sidewalks. Typically only large towns and cities have an Urban Core Zone.</p>	<p>General Character: Medium to high-Density Mixed Use buildings, entertainment, Civic and cultural uses. Attached buildings forming a continuous street wall; trees within the public right-of-way; highest pedestrian and transit activity Building Placement: Shallow Setbacks or none; buildings oriented to street, defining a street wall Frontage Types: Stoops, Dooryards, Forecourts, Shopfronts, Galleries, and Arcades Typical Building Height: 4-plus Story with a few shorter buildings Type of Civic Space: Parks, Plazas and Squares; median landscaping</p>

X.X Village Residential Neighborhoods North District (VRN-N)

X.X.1 Purpose - The purpose of the Village Residential Neighborhoods District is to provide residential neighborhoods of moderate density within walkable proximity to the services and amenities of the center of Richmond village.

Features of this district include:

- housing clusters that function as cohesive units where neighbors know each other and often provide mutual support and assistance,
- traffic is minimal and driving speeds are low in most neighborhoods,
- sidewalks and crosswalks provide pedestrian safety and connectivity, and nearby bike lanes allow for safe cycling routes to schools, parks, town services, nearby trails and public transit options,
- street trees, backyards and green spaces provide natural amenities,
- housing types may be varied, including single family and multifamily dwellings, and accessory dwelling units may provide additional housing.
- the appearance of these neighborhoods will be residential
- All lots within this district shall be served by municipal water and sewer.

X.X.2 Permitted Uses:

1. Accessory dwelling
2. Accessory structure
3. Family childcare home
4. Group home
5. Home occupation
6. Single-family dwelling
7. Two-family dwelling

X.X.3 Conditional Uses:

X.X.4 Lot Dimension Standards:

X.X.4.1. Minimum lot size - 1/4 acre

X.X.4.2. Maximum lot coverage - 40%

X.X.4.3. Minimum lot frontage - 75 feet

X.X.4.4. Each lot must contain a point from which a circle with a radius of 35 feet can be inscribed within the boundary of the lot

X.X.5 Setbacks

X.X.5.1. Minimum front-yard setback for principal structures - 10 feet

X.X.5.2. Maximum front-yard setback for principal structures - 25 feet

X.X.5.3. Minimum front-yard setback for accessory structures - 10 feet behind the front of principal structure

X.X.5.4. Minimum side-yard setback for all structures - 10 feet

X.X.5.5. Minimum rear-yard setback for all structures - 10 feet

X.X.6 Special Provisions

X.X.6.1. With exception to Planned Residential Developments, one principal structure per lot is allowed.

X.X.6.2. All lots within this district shall be served by municipal water and sewer.

X.X.7. Development Review Standards - All proposed land development within the VRN-N District is subject to the Development Review Standards under Section X.

X.X.8. Site Plan Review - Land development within the VRN-N District may be subject to Site Plan Review as specified in Section X.X.

X.X.9. Planned Residential Developments (PRD)- Planned Residential Developments that meet the regulations listed under Section X.X are allowed in the VRN-N District.

Section 7 (Definitions)

Planned Residential Unit Development (PRD)(PUD), Residential- A type of Planned Unit Development containing ~~, to include an area of a minimum contiguous size, as specified by these Zoning Regulations, to be planned, developed, operated, and maintained as a single entity for containing residential uses, and containing one or more residential clusters~~ single-family dwelling, two-family dwelling, multifamily dwelling, and accessory apartment uses. Per Section 5.12, a Master Development Plan for a PRD may deviate from bylaw requirements otherwise applicable for density, parking, required open space, setbacks, and other standards.

TO: Planning Commission

FROM: Ravi Venkataraman, Town Planner

DATE: March 12, 2021

SUBJECT: Discussion on Zoning Amendments

Enclosed are draft zoning regulations regarding the following topics:

- Accessory Dwelling Unit allowances
- Nonconforming Lots
- State Permit References
- Certificates of Occupancy
- Variances
- Wetlands Regulations

I've also included a draft zoning framework as a reference. I intend to present to you a revision of the zoning regulations that align with this framework during the April 7, 2021 Planning Commission meeting. In this revision, none of the language and its intent will be changed, but simply rearranged.

I've put forward these draft regulations to you first because I recommend that the Planning Commission act on these draft regulations sooner rather than later.

Provided below is the rationale for the changes.

Accessory Dwelling Unit Allowances and Nonconforming Lots

State statutes for both accessory dwelling unit allowances and nonconforming lots were changed in October 2020 with Act 179. Act 179 with the pertinent sections highlighted is enclosed. But here's the gist:

- State statute was changed to reduce local regulatory restrictions on accessory dwelling units (including Conditional Use Review controls), and to increase size allowances.
- Statute was also changed to allow the development lots that are smaller than the minimum lot size for the district the lot is located within, if the lot is served by or is able to connect to municipal water and sewer service.

The changes in statute are reflected in the draft zoning regulations.

State Permit References

During CCRPC Senior Planner Taylor Newton's tenure as DRB Coordinator for the town, he brought to my attention that the references in the zoning regulations to require state permits with any local permits (both zoning permits and DRB permits) is problematic. Processes for state permits--including state water/wastewater permits, stormwater permits, wetlands permits, and Act 250 permits--and local permits operate independent from each other, sometimes operating parallel but never consequentially of each other. In most cases, town zoning administrators do not have the ability to require state permits in order to issue local permits.

However, per 24 V.S.A. §4414, towns do have some ability to utilize state water and wastewater permits to regulate development. Specifically:

A municipality may adopt bylaws that:

(i) prohibit the initiation of construction under a zoning permit unless and until a wastewater and potable water supply permit is issued under 10 V.S.A. chapter 64; or

(ii) establish an application process for a zoning or subdivision permit, under which an applicant may submit a permit application for municipal review, and the municipality may condition the issuance of a final permit upon issuance of a wastewater and potable water supply permit under 10 V.S.A. chapter 64.

The current State Wastewater System and Potable Water Supply Rules provides clarification on 24 V.S.A. §4414 (I've underlined the portions relevant to the Planning Commission):

(b) Municipalities may continue to have ordinances or bylaws that do not establish technical standards, for example, ordinances or bylaws that:

(1) are not specifically regulating potable water supplies or wastewater systems but rather regulating development in general (e.g., setbacks);

(2) require submission to the municipality of copies of plans and documents used to obtain a state permit under these Rules;

(3) require a certificate of occupancy that is based on full compliance with a state permit issued under these Rules;

(4) require notice of, and have the option to observe, any soil testing such as the digging of test pits conducted in support of a permit application;

(5) require notice of, and have the option to observe, construction of a permitted wastewater system or potable water supply;

(6) determine where connections can be made to wastewater treatment facilities and public water systems; and

(7) require time of sale inspections.

Based on this information, I agree with Taylor that the zoning regulations references to state permits are unenforceable and needs to be amended.

Adding to this, a Certificate of Occupancy is a local permit (not a zoning permit per se, but still a local permit), and would be considered the final permit in a permitting process. Requiring a state water/wastewater permit with a certificate of occupancy application is not common in the zoning regulations in nearby municipalities.

Certificates of Occupancy

The current zoning regulations regarding Certificates of Occupancy is directly lifted from statute with some exceptions listed. Per 24 V.S.A. §4449, the town has a considerable amount of latitude on what types of land development trigger Certificates of Occupancy requirements (the key aspect here is all the "or"s):

*If the bylaws so adopted so provide, it shall be unlawful to use **or** occupy **or** permit the use **or** occupancy of any land **or** structure, **or** part thereof, created, erected, changed, converted, **or** wholly **or** partly altered **or** enlarged in its use or structure after the effective date of this chapter,*

within the area affected by those bylaws, until a certificate of occupancy is issued therefor by the administrative officer, stating that the proposed use of the structure or land conforms to the requirements of those bylaws.

In my review of zoning regulations in nearby municipalities, municipalities differ on the regulatory triggers for Certificates of Occupancy. Certain municipalities require Certificates of Occupancy only for new construction of primary structures. Certain municipalities place the trigger on the size of the building or structure. Per statute, towns are not required to have Certificates of Occupancy requirements, but I haven't come across a municipality that does not have regulations regarding Certificates of Occupancy.

Certificates of Occupancy are helpful when I need to report to CCRPC and HUD all the new construction of primary structures completed in a particular year. Once in a while, we do find possible violations through the Certificate of Occupancy process, but this is few and far between.

Based on the current language, Certificates of Occupancy requirements are triggered for any additions to primary structures. This includes decks and porches to a house, and finishing basements. In my opinion, I think the time the Zoning Administrator spends to inspect a 200-square-foot deck could be better utilized, and I don't think it's fair to applicants to require them to go through another permitting process for a relatively small addition to their residence.

In the draft amendment, I've adjusted the thresholds for Certificates of Occupancy requirements and made the language more straightforward.

I've also removed language requiring all violations to be corrected prior to the issuance of a Certificate of Occupancy. Legally, we don't have the regulatory ability to hold the issuance of a permit due to a possible violation unrelated to the permit applied for. For example, if an applicant provides a complete application for a Certificate of Occupancy for a single-family dwelling, and during the inspection, I find that the house is built according to the zoning permit but they also built a fence without a permit, I can't hold the issuance of the Certificate of Occupancy until the fence is permitted. In this case, I would have to issue the Certificate of Occupancy for the house, and issue a general warning letter (a.k.a. "seven-day warning notice") per 24 V.S.A. §4451. However, for example, if the same applicant did not build the house according to the zoning permit, I can hold the issuance of the Certificate of Occupancy until the structure is corrected or an as-built zoning permit to rectify the situation is issued.

VariANCES

The draft language for variances is to streamline the permitting process for applicants. Currently, in order for an applicant to request a variance, the applicant would have to file a zoning permit, the Zoning Administrator would have to deny the permit, and the applicant would have to appeal the denial. The proposed draft language would allow the applicant to request a variance directly to the DRB.

Per 24 V.S.A. §4469:

On an appeal under section 4465 or 4471 of this title or on a referral under subsection 4460(e) of this title in which a variance from the provisions of a bylaw or interim bylaw is requested for a structure that is not primarily a renewable energy resource structure, the board of adjustment or the development review board or the Environmental Division created under 4 V.S.A. chapter

27 shall grant variances and render a decision in favor of the appellant, if all the following facts are found...

In addition to this modification to variance permitting pathways is also a clarification on variance allowances for renewable energy resource structures per §4469. This variance allowance is specifically for energy resource structures not connected to the grid, which are therefore not subject to Section 248.

Wetlands

The enclosed draft wetlands regulations is reflective of past discussions and comments CCRPC provided on regulating wetlands.

One aspect that was not included in this draft is regulations for Class III wetlands. Regarding Class III wetlands, CCRPC Senior Planner Taylor Newton noted that:

[Regulating Class III] may make developing in some portions of Richmond near impossible. I advise against regulating Class III wetlands.

Part of my position is based on the fact that the State of VT has found that the function and values of these types of wetlands to be such that they have not decided to regulate them at all. My understanding is this is because of their lack of functions and values, their small size, and their lack of connectivity to other habitat.

The other part of my argument is that Richmond (and everywhere else in VT) has no real sense of how much geographic space this includes. The VSWI layer provides us with a sense of Class II wetlands locations, but not Class III. I do not advise regulating anything that may have unknown consequences due to a lack of quality data.

I advise the PC to revisit this topic to weight the regulatory implications of regulating Class III wetlands versus the benefits of protection.

I have reached out to ANR for guidance on regulating Class III wetlands and am awaiting a response.

Recommendations for Action

For the draft language for Accessory Dwelling Unit allowances, nonconforming lots, state permit references, and Certificates of Occupancy, I recommend that you move to warn a public hearing for April 21, 2021.

If you are satisfied with the language for wetlands and variances, you may also move to warn a public hearing for April 21, 2021.

To facilitate action, I have prepared the following draft motion:

I, _____, move to warn a public hearing for April 21, 2021 on the amendments to the Richmond Zoning Regulations Sections 4.6, 5.2.1, 5.3.5, 5.6.2, 5.6.3, 5.8, 5.9, and 7.

Please don't hesitate to reach out to me if you have any questions on any of these draft regulations.

Amendments to Accessory Apartment Allowances

5.9. Accessory Dwellings. The Administrative Officer shall issue a zoning permit for one accessory dwelling unit within or associated with any single-family dwelling except for single-family dwelling uses located within the Flood Hazard Overlay District that meets all of the following requirements:

- a) Either the single-family dwelling or the accessory dwelling must be occupied by the owner or by the owner's spouse, civil union partner, parents or legal children;
- b) The accessory dwelling shall not exceed 1,000 square feet or 30 percent of the total habitable floor area of the single-family dwelling, whichever is greater;
- c) The property shall have sufficient wastewater capacity;
- d) The accessory dwelling shall meet all applicable dimensional standards and parking requirements for accessory dwellings.

~~**5.9.1 Permitted Use** – In accordance with the Act [§4412(1)(E)], one accessory dwelling within or appurtenant to a single-family dwelling, or within or appurtenant to an existing accessory structure to the single-family dwelling, may be allowed as a permitted use to a single-family dwelling, except within the Flood Hazard Overlay District (new Accessory Dwellings are prohibited within the Flood Hazard Overlay District), subject to the issuance of a Zoning Permit by the Administrative Officer, and all of the following requirements:~~

- ~~a) Either the single-family dwelling or the accessory dwelling must be occupied by the owner or by the owner's spouse, civil union partner, parents or legal children. In the event that the owner or relative is forced to leave the dwelling, or accessory dwelling, or dies, there shall be no change in status of the accessory dwelling for a period not to exceed twelve months at which time the familiar occupancy rule will be enforced.~~
- ~~b) The accessory dwelling must be at all times owned by the same party that owns the single-family dwelling.~~
- ~~c) The accessory dwelling shall be an efficiency, one-bedroom, or two-bedroom apartment that is clearly subordinate to the single-family dwelling and has facilities and provisions for independent living, including sleeping, food preparation and sanitation.~~
- ~~d) The accessory dwelling shall not exceed 75% of the total habitable floor area of the single-family dwelling or up to 1,000 square feet, or whichever is less. In cases where the State Statutory minimum of 30% of the total habitable floor area of the single-family dwelling exceeds the Town maximum, the State minimum shall take precedence over the Town maximum.~~ e) The property shall have sufficient wastewater capacity.
- ~~e) The accessory dwelling shall meet all applicable setback, coverage and parking requirements for the principal dwelling as specified in these Zoning Regulations. If the accessory dwelling is to be located in a nonconforming structure, it shall not increase the degree of nonconformance, except in accordance with Section 4.7~~

~~**5.9.2 Conditional Use** – Conditional use approval by the DRB under Section 5.6 shall be required for an accessory dwelling for which any of the following also apply:~~

- ~~a) the accessory dwelling is to be located within a new single-family dwelling in a district in which conditional use review is required for single-family dwellings.~~

5.9.3 Conditions of Approval—~~In addition to any other conditions of approval, the Zoning Permit issued for an accessory dwelling shall clearly state that the dwelling is allowed only as an accessory to the primary, principal single-family residential use of the property and as such shall be retained in common ownership. An accessory dwelling may be converted and/or subdivided for conveyance or use as a principal dwelling only if it is found to meet all requirements of applicable municipal and state regulations for a two-family dwelling (for an attached unit) or for two single-family dwellings (for a unit in an accessory structure), including all lot, density and dimensional requirements for the zoning district in which it is located. All applicable municipal permits and approvals shall be obtained prior to conversion or conveyance as a principal single-family dwelling.~~

Accessory Dwelling - A distinct residential dwelling unit on the same lot as a single-family dwelling use that is clearly incidental and subordinate to the single-family dwelling, and has facilities and provisions for independent living, including sleeping, food preparation, and sanitation. ~~One accessory dwelling per lot includes efficiency, one-bedroom, or two-bedroom apartment that is located within or appurtenant to, and is clearly subordinate to, a single-family dwelling; is on the same lot as the single-family dwelling; has the facilities and provisions necessary for independent living, including sleeping, food preparation, and sanitation; and that also meets the requirements of these Zoning Regulations (see Section 5.9), in accordance with the Act (§4412).~~

Habitable Floor Area - The sum of the areas within buildings hosting for residential uses and accessory structures for residential uses used for living, sleeping, eating, and cooking. Bathrooms, closets, halls, and any finished areas within primary or accessory structures are considered part of the habitable floor area. Unfinished spaces, including but not limited to garages, basements, and sheds, as well as unfinished utility spaces are not considered part of the habitable floor area.

4.6 Nonconforming Lots

4.6.1 Existing Small Lots - ~~In accordance with the Act [§4412(2)], a~~Any lot that is legally subdivided, is in individual and separate and non-affiliated ownership from surrounding properties; ~~that is legally~~ in existence on April X, 2021 may be developed for the purposes permitted in the district in which it is located, with exception to lots as described in Section 4.6.1.1, even though the small lot no longer conforms to the minimum lot size requirements of the respective district the lot is located ~~on the Effective Date of any Richmond Bylaw may be developed for the purposes permitted in the Zoning District in which the lot is located, even though the lot does not conform to minimum lot area requirements of the Zoning District.~~

4.6.1.1. For existing small lots not served by and able to connect to municipal sewer and water and service, land development may be permitted if said existing small lots have one of the following dimensional requirements

- a) At least one-eighth (1/8) acre in area; or
- b) A width or depth dimension of at least 40 feet.

~~. Notwithstanding this exception to minimum lot area requirements, no Zoning Permit shall be issued for Land Development on an existing small lot unless such Land Development complies with all other provisions of these Zoning Regulations.~~

State permit references

5.2.1 [Application, Fees, Reimbursement for Technical Review]

~~d) State Permits - All required state permits shall be a part of and made a condition of each local permit. Unless otherwise required, state permits may be obtained after local permits. In no case shall a project or use commence without all necessary state water and wastewater and local permits.~~

5.6.2 [Conditional Use Review Specific Standards]

~~d) Applicable state permits for water supply and sewage disposal shall have been obtained, and any other applicable state permits, before the use commences.~~

~~e) d) ...~~

~~f) e) ...~~

~~g) f) ...~~

~~h) g) ...~~

~~i) h) ...~~

~~j) i) ...~~

~~k) j) ...~~

5.6.3 Performance Standards

~~i) All uses shall comply with all Federal and State laws and regulations for the use, storage, hauling and disposal of hazardous materials and wastes.~~

~~j) i)...~~

5.8 Boundary Adjustments

~~5.8.4 State Permits - All state permits must be approved prior to submission of application and state permit numbers must be included on the application.~~

~~5.8.5-5.8.4 New Lot Configuration~~

~~5.8.6-5.8.5 Appeals~~

8.4 Appeals and Variances

8.4.5-8.5 Variances

8.5.1. - ~~In accordance with the Act (4469), on appeal from a decision of the Administrative Officer,~~ Variances for Structures that are not Renewable Energy Resource Structures. An applicant may request in writing a variance from a provision or provisions from these zoning regulations for the development of structure that is not a renewable energy resource structure. In accordance with the Act (4469), the DRB may grant variances and render a decision in favor of the appellant only if all the following facts are found, and the findings are specified in its decision:

- a) ~~That~~ There are unique physical circumstances or conditions, including irregularity, narrowness, or shallowness of Lot size or shape, or exceptional topographical or other physical conditions peculiar to the particular property, and that unnecessary hardship is due to such conditions, and not the circumstances or conditions generally created by the provisions of these Zoning Regulations in the neighborhood or Zoning District in which the property is located.
- b) ~~That b~~ Because of these physical circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of these Zoning Regulations and that the authorization of a variance is therefore necessary to enable the reasonable use of the property.
- c) ~~That the u~~ Unnecessary hardship has not been created by the appellant.
- d) ~~That t~~ The variance, if authorized, shall not alter the essential character of the neighborhood or district in which the property is located, substantially or permanently impair the appropriate use of development of adjacent property, reduce access to renewable energy resources, nor be detrimental to the public welfare.
- e) ~~That t~~ The variance, if authorized, shall represent the minimum variance that shall afford relief and shall represent the least deviation possible from these Zoning Regulations and from the Town Plan.

8.5.1.1. Variances for Structures within the Flood Hazard Overlay District. Variances for Land Development (as defined in Section 6.8.3) within the Flood Hazard Overlay District shall follow the requirements for ~~this section~~. Section 8.5.1.

8.5.2. Variances for Structures that are also Renewable Energy Resource Structures. On an appeal of the Administrative Officer's decision or action, the DRB may grant a variance from a provision or provisions of these Zoning Regulations for a structure that is also a renewable energy resource structure and render a decision in favor of the appellant if all the following facts are found, and the finding is specified in its decision:

- a) It is unusually difficult or unduly expensive for the appellant to build a suitable renewable energy resource structure in conformance with the bylaws.
- b) The hardship was not created by the appellant.
- c) The variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located, substantially or permanently impair the appropriate use

or development of adjacent property, reduce access to renewable energy resources, or be detrimental to the public welfare.

d) The variance, if authorized, will represent the minimum variance that will afford relief and will represent the least deviation possible from the bylaws and from the plan.

8.5.3. In rendering a decision in favor of an appellant under ~~this s~~Section 8.5, the DRB may attach such conditions to the variance as it may consider necessary and appropriate under the circumstances to implement the purposes of these Zoning Regulations, the Richmond Town Plan, and the Act.

8-5-8.6 Recording Requirements ...

8-6-8.7 Fee Schedule ...

8-7 8.8 Availability of Documents ...

8-8 8.9 Amendments of Statutes Referenced Herein ...

Section 7 [Definitions]

Renewable Energy Resource Structure - Structures that are used primarily for producing energy using a technology that relies on a resource that is being consumed at a harvest rate at or below its natural regeneration rate, including, but not limited to, ground-mounted solar panels and wind turbines. Renewable Energy Resource Structures may be considered primary or accessory structures depending on the size and scale of the respective structure. Renewable Energy Resource Structures may not necessarily be connected to the grid.

6.9 Wetlands Protection

6.9.1 Applicability. No land development shall occur within a Class I wetland, and Class II wetland or wetland buffers, except for allowed encroachments under Section 6.9.3.

6.9.2 Wetland Buffers. To protect the integrity of wetlands, all structures, buildings, septic tanks, leachfields, wells, and impervious surfaces, except for allowed encroachments under Section 6.9.3, shall be set back at least:

- 1) 100 feet from a Class I wetland;
- 2) 50 feet from a Class II wetland;

6.9.3 Allowed Encroachments.

6.9.3.1 Permitted Uses.

- 1) Stormwater management and treatment facilities within wetland buffers that meet the accepted state sizing criteria and best management practices set forth in the Vermont Stormwater Management Manuals as most recently amended.
- 2) Public paths, trails, and sidewalks that cross a wetland buffer for the purpose of public access or recreation if there is no feasible alternative to the crossing.
- 3) Public or private roads or driveways that cross a wetland buffer for the purpose of providing safe access to a use if there is no feasible alternative to the crossing.
- 4) Utility lines, including telephone, cable, sewer and water that cross a wetland buffer for the purpose of providing or extending service, only if there is no feasible alternative.

6.9.3.2 Conditional Uses.

- 1) Public paths, trails, and sidewalks that cross a wetland for the purpose of public access or recreation if there is no feasible alternative to the crossing.
- 2) Public or private roads or driveways that cross a wetland for the purpose of providing safe access to a use if there is no feasible alternative to the crossing.
- 3) Utility lines, including telephone, cable, sewer and water that cross a wetland for the purpose of providing or extending service, only if there is no feasible alternative.

6.9.4. Land Development Review Standards.

6.9.4.1. The proposed allowed encroachment must be designed to produce the least possible impact to the wetland or wetland buffer, and any incursions into a wetland shall have no or minimal impact on the functionality of the natural processes of the wetland. The encroachment shall be only to the minimum extent necessary to carry out the purpose.

6.9.4.2. The creation of new lawn areas within wetland buffers is prohibited.

6.9.5 Application Requirements for Land Development. Permit applications for land development on a lot containing a known or suspected wetland--including permit applications for allowed encroachments--shall provide the following in addition to applicable permit requirements listed under Section 8:

- 1) Evidence that no other feasible crossing outside of wetlands and/or wetland buffers is possible
- 2) A wetlands delineation and determination prepared by a professional wetlands ecologist in accordance with the current guidelines
- 3) A Vermont Agency of Natural Resources Project Review Sheet
- 4) An erosion prevention and sediment control plan in accordance to the Vermont Standards and Specifications for Erosion Prevention and Sediment Control in effect

Amendments to Section 7 (Definitions)

Wetland - Means those areas that are inundated by surface or groundwater with a frequency sufficient to support vegetation or aquatic life that depend on saturated or seasonally saturated soil conditions for growth and reproduction. Such areas include but are not limited to marshes, swamps, sloughs, potholes, fens, river and lake overflows, mud flats, bogs and ponds, but excluding such areas as grow food or crops in connection with farming activities. **The location of wetlands on a lot may be indicated on the State Wetlands Inventory Maps, and must be confirmed through site investigation by a wetlands ecologist.**

Wetland Buffer - The area contiguous with a wetland which serves to protect the values and functions of wetlands.