

Notes on Huntington Homes: Chair swore in all involved. Board inquired about deed language and HOA status. Applicant, Jason Webster, stated that the materials have been submitted. Discussion ensued on the mechanism that the remaining lands (Lot 17) would be memorialized, either by a deed restriction or a donation to the Richmond Land Trust (RLT). Webster stated that talks with the RLT have been cut and the deed language submitted to accomplish the conditions of preliminary approval. However, Webster believed the board overstepped in the condition for deed restrictions when permit conditions and denoting restrictive development for Lot 17 on the plat would have sufficed. Regardless, deed restriction language was submitted and is the path that the applicant will take.

Applicant informed the board that the window for building is closing rapidly and in an effort to gain approval and get permits for development, the restrictive deed language was submitted. Schnakenberg stated that deed language would need to be reviewed for any review but did inform anyone watching that future applications will have the deed issues addressed earlier in the process. Applicant informed the board that multiple families are waiting for approvals; duly noted by DRB.

Please note that a quorum of Pedersen, Schnakenberg and Monks will be scheduled for August 18 to continue deliberations.

CU 2021-04 **Nakatomi Plaza/The Big Spruce** **7:39-9:05**

Applicant seeks after the fact approval for an outdoor seating area that was built beyond what was approved by DRB application 2019-126. As per Section 5.3.4 DRB approval required for any changes or modifications to approved permits. Further, property is currently under an Order to Remedy and section 8.2.2(e) of the Richmond Zoning Regulations apply. Village Downtown (VD) Zoning District at 39 Bridge Street, Parcel ID BR0039.

Motion to go into Deliberative Session (Unanimous)

Motion to continue CU 2021-04

Introduced by Matt Dyer, seconded by Roger Pedersen with the following conditions:

- 1. Existing access to TD lands to be remove and all ingress and egress to be eliminated**
- 2. Existing structure to be place solely on applicants property**
- 3. New updated site plan to be submitted denoting proposed location of outdoor seating, details of structure to include height, length and width and permeability calculations.**
- 4. Actual location of property line**

Approved 3-0 (Dyer, Pedersen, Schnakenberg)

Denied: None

Abstained: None

Notes on Nakatomi Plaza: Chair swore in all involved. Applicant, Gabe Firman, introduced the proposal and gave history on the design based on discussions with the previous zoning administrator, Susan Mantegna, specifically the height and style of the structure. Firman spoke to the encroachment on TD Bank and Zachary properties, which was the result of a “drifting” property line when a perpendicular one was assumed; full responsibility for this error bore by the applicant.

Petersen inquired about the height of the enclosure, Firman explained the “step” nature of the structure and that it ultimately attains a height between 8 and 9 feet. Firman and Pedersen discussed in detail the alignment of the structure.

Schnakenberg clarified that the majority of the encroachment was on TD Bank property, which is a ROW for the benefit of Zachary, with the back corner of the enclosure on a portion of the Zachary parcel.

Oborne further clarified that irrespective of the boundary issue, the two issues before the board are what was built was not approved by the DRB in 2019 and the fact that what was built is a structure and not a fence. Schnakenberg comment on the encroachment and it was discussed that the issue is for the applicant to resolve and according to Osborne, no Certificates of Occupancy will be issued if the encroachment is not resolved. Conditions can be imposed however.

Public comment:

Aaron Ancello of TD Bank states that there an easement for water lines to the Zachary property and the there is no ROW, only an easement for access for Zachary. Ancello further states that any gates allowing egress onto TD Bank property is not allowed and was not discussed and the encroachment is also an issue that needs to be resolved. Ancello went on to state that the drainage should be contained on The Big Spruce property and not have any intrusion onto adjoining properties.

Vincentios Zacary, adjoining property owner began a PowerPoint presentation. Items discussed included historical and current pictures of the structure, north, south and east (rear), denoting the removal of trees; Zachary's concern is flooding of his property and the access easement. Concerns raised about trespassing and theft (chain link fence) and the continued use by vendors of the easement. Continued concerns during construction that what was permitted was not being built nor the effective permit date followed. A juxtaposition of the DRB approved outdoor area and permit site plan was presented. Certified mail issue with previous ZAO mentioned. Zachary states he wants the fence removed, impervious fill removed and trees replaced, basically brought back to the condition it was 2 years ago.

Firman responded to Ancello concerning the access doors and the prohibition on vendors to utilize them. States the doors are for emergency use only. General statement of the conscientious approach to the neighbors during this project. Tree warden was consulted prior to removal of trees and the TOR removed one large tree that was on town property. All trees removed were on applicant's property. States Zachary was informed of both tree removal and proposed fence. Pervious material was placed in outdoor seating area and no change to grade was accomplished. TD Bank property has always had a drainage issue. Firman states that it is a fact that he built on the wrong side of the property line and wishes to remedy that situation. Further, Firman states he spoke with a TD Bank property maintenance representative and was informed that it was okay to take down. Firman further states that the Zachary presentation was full of inaccuracies.

Schnakenberg requested clarification of Zachary's objections, specifically the fence height issue. Zachary objects to the height and the fact that the permit states 6 feet or less. Further question to the ZAO on the Town's perspective what the approvals are, Osborne responded by stating the applicant is before the DRB for Conditional Use Review for an After the Fat approval for the existing structure.

Zachary displayed video of a vendor parking in the easement and his concern that there are health issues associated with his property tenants which includes his brother. Further states this is a trespass issue.

Dyer sought clarification on whether the access is a ROW or easement from TD Bank. Ancello stated that TD Bank has granted an easement to the Zachary's for the waterline as well as an easement to ingress and egress their property. Easement is recorded and is exclusive to the Zachary's.

Jim Carroll states he was the GC for TD Bank North and the Zachary's for the new sewer line to Pleasant Street. States there was not pooling on the property and as the back-up snow plow having a 100% surface wall instead of the pervious fence that existed limits his snow storage on the Spruce property. Further states that there is a prescriptive easement not allowing an impervious fence or structure to be built on or near the property line as it impairs the perpetual use afforded to TD Bank and the Zachary's. Comments

moved to the lack of engineering, lack of permeability calculations and no permit for seating nor review of what was built. Requested that the board postpone the hearing, make a site visit and take in all the facts. States the ANR classifies the material used by Firman as impervious. Finally states that Firman's intent was to trespass and vandalize the two adjacent properties for economic purposes.

CU 2021-05 Chicago Yacht Club/Hatchet Tap and Table 9:05-9:14

Applicant seeks after the fact approval for façade changes, specifically the placement of tracked windows to the facade. As per Section 3.10.6(f) DRB approval required for remodeled exteriors under the Compatibility clause in the Village District. Further, property is currently under an Order to Remedy and section 8.2.2(e) of the Richmond Zoning Regulations apply. Village Downtown (VD) Zoning District at 30 Bridge Street, Parcel ID BR0030.

Motion to go into Deliberative Session (Unanimous)

Motion to Approve CU 2021-05 as submitted

Introduced by Matt Dyer, seconded by Roger Pedersen

Approved (Dyer, Pedersen, Schnakenberg, Sunshine)

Denied: None

Abstained: None

Notes on CYC: Applicant spoke of the communications between the ZAO and himself with regards to what was permitted and what was not. Part of this communication was flawed and resulted in the project to commence without permits or review. The ZAO does share some responsibility but ultimately the nature of the finished project was not communicated beforehand and as such an NOI was issued. The board reviewed and approved the CU.

Decisions rendered on the following applications: Dowd Subdivision, Hatchet Tap and Table.

Continuations: The Big Spruce, Huntington Homes

Motion to adjourn

Approved unanimously

Adjourn: 9:34 pm