

8.16.23 meeting memo Act 47 discussion and Rogers Lane

(language in red was added to the memo of 8/2/23)

Agenda item #5 At our 7.19.23 PC meeting we reviewed 16 items that Act 47, formerly called S.100, has mandated for municipalities through amendments to the state planning and zoning statutes. Most of these relate to removing zoning restrictions related to housing in districts served by municipal water and sewer (W&S) infrastructure. The reason for these new mandates is to help alleviate the housing crisis by permitting more dwelling units to be built. The entirety of Act 47, along with a summary, can be found on the “Vermont Laws” website.

We found that for a number of these, our RZR document is already in compliance, and so we will not have to make changes for these items. **At our 8.2.23 meeting we introduced the specific Act 47 points** where changes will be needed to bring our documents into alignment with state law. For the most part, the zoning districts affected will be our W&S districts:

- Village Residential/Commercial (V R/C);
- Jolina Court (JC);
- Village Downtown (VD);
- the part of the High Density Residential (HDR) that is in the village, which we are working to re-name the Village Residential Neighborhood North (VRNN) and
- the part of the A/R district in the village that we are working to re-name the Village Residential Neighborhood South (VRNS).
- The Village Commercial (V/C) district may also need to be amended, as dwellings are allowed by PUD. **For the V/C district, the following issues are on the table: 1) do we plan to allow residential uses in this district? 2) do we want to add the RCCC area to the V/C and take it out of the C ZD (and possibly add residential uses)? And 3) do we need to change the uses list and/or the PUD section to clarify whether residential uses are or are not already allowed by PUD in the V/C district? This set of issues will be taken up later.**

In this meeting we will go into greater detail about how the mandated changes can be incorporated into our RZR for the districts (as above) served by town W&S – as we go through these we may need to look at the exact language in the statute to fully understand the requirement:

1. **“A municipality shall not require more than one parking space per dwelling unit.”**

This will require that we alter our **parking table** (6.1) to reflect a minimum parking requirement of 1 space for all dwelling uses in the W&S areas listed above. There are several different strategies that we might use to accomplish this for residential uses in the W&S districts. JC has its own parking table which will also have to be altered. There may be some exceptions (there is disagreement on this point). **Strategy 1:** remove 4 lines from parking table: accessory dwelling, dwelling, multifamily, dwelling single-family and dwelling, two-family, leaving only commercial uses in the table -- then in each of the 10 districts, add the appropriate parking requirements for residential uses. In the ZD’s served by municipal W&S that allow residential uses, the Act 47 language will apply. In the other districts we could use the current parking table language.

Strategy 2: add 2 extra lines to the current parking table: “dwelling, multifamily served by municipal W&S – minimum parking spaces = 1 per unit” and “dwelling, two-family – minimum parking spaces = 1 per unit” and change 2 lines: “dwelling, multifamily, not served by municipal W&S - required minimum parking spaces = 1.5 per unit” and “dwelling, two-family, not served by municipal W&S – required

parking spaces = 1.5 per unit” -- then remove the current parking requirements specific to the JC (3.9.6[a]) and the VD (3.10.6[a]) ZD’s.

2. **“Multiunit dwellings with four or fewer units shall be a permitted use.”**

a) Our first task will be to confirm that we wish to create the VRNN (separate out the village portion from the rest of the HDR) and the VRNS (separate out the village portion from the remainder of the A/R). This is something we have been planning to do. Even if we do that, there may still be a portion of the HDR and a portion of the A/R (see map) that are not in the VRN’s but are still served by W&S that will require special standards listed within the original districts.

First step: Are we committed to creating the new VRNN and the VRNS ZD’s at the same time as we make the Act 47 changes?

Yes _____ No _____

b) If “yes,” then we will need to add to the list of permitted uses “Dwelling, with up to 4 dwelling units” in the VRN’s, JC, VD districts (the V R/C already has this). Lot area , density and possibly lot coverage, may also have to be adjusted. “Features” language will have to be adjusted. The VC and the portion of the C district in the village, which the PC is planning to combine, will need this if any residential uses are going to be allowed (currently under discussion as we update the V/C district). There is currently some ambiguity in our ordinance about whether the residential use called “residential PUD’s” are allowed in these districts – this needs to be resolved.

If “yes”

Strategy 1: add to the list of permitted uses proposed for VRNN and VRNS ZD’s: “Dwelling, multi-family with up to 4 units” and add “3-4 unit multifamily dwellings to “Features” in these districts. In the JC ZD add as a permitted use “Dwelling, multifamily with up to 4 units” and as a conditional use, “Dwelling, multifamily with 5 or more dwelling units.” In the VD ZD, add as a permitted use “Dwelling, multifamily, with up to 4 units” (+/- for the V/C)

3. **“Bylaws shall establish lot and building dimensional standards that allow five or more dwelling units per acre for each allowed residential use.”**

This will require changes to the VRN’s. The R/C’s, JC and VD are in compliance already. The VC will need this if any residential uses are going to be allowed. Density will obviously need to be changed, but we will also need to make sure that our dimensional standards will “allow” this.

We will also need a discussion of “density” in order to know how to apply it. See attached density discussion...

4. **“Bylaws shall permit any affordable housing development...including mixed-use development, to exceed density limitations...by an additional 40%, which shall include exceeding maximum height limitations by one floor, providing the structure complies with the Vermont Fire and Building Safety Code.”**

This will likely need to be added as a free-standing development standard in all of the W&S districts listed above, as we currently don’t have any regulations that just apply to affordable housing. Section 4.11.5 may need to be changed.

Strategy 1: add the following definition to section 7 (this is from 24 VSA 4303)

“Affordable Housing Development” means a housing development of which at least 20 percent of the units or a minimum of five units, whichever is greater, are affordable housing units.

Affordable units shall be subject to covenants or restrictions that preserve their affordability for a minimum of 15 years or longer as provided in municipal bylaws.”

Then create an “affordable housing” section in the RZR that sets forth parameters such as how long the affordability needs to be maintained and any other requirements specific to affordable housing (maybe create 6.14 “Affordable Housing” ?)

Then add the language quoted above from Act 47 to the height section, 4.11 (4.11.8?). Consider also working on subsection 4.11.5 at the same time, or even reconsidering the whole 35’ requirement.

5. Section 10 of Act 47 is summarized as follows (this is not the exact language of the Act): “...establishes **“by right zoning”** which requires an appropriate municipal panel to provide reasons for adjusting dimensional requirements in permit decisions on housing.” The exact language of the Act will likely have to be referenced or stated somewhere in the DRB procedures section of the RZR. It appears to be saying that the “appropriate panel” cannot alter the standards of a district to be more restrictive for a housing or mixed-use development in order to disallow the development, and if modifications of the standards are needed for certain specified conditions, the “appropriate panel” must issue a written finding providing the reason(s). We may need legal consultation on the precise meaning of this item. **Legal consultation underway at this time.**

6. **“Requires additional detail in the housing element of ... municipal plans.”** We will add this in our Town Plan update that the PC will complete by 2026. The Housing Committee should be involved in this work as well.

Also need to review 24 VSA 4382[10] when we do this at some future date.

Agenda item #6

In Keith’s discussion with the Spences, who own 2 of the Rogers Lane (currently) residential lots, it appears that they are not interested in being re-districted into the HDR, as they may wish to utilize the I/C uses for their property. So we should consider alternative strategies to assist the Beals. These are the ones that I can think of (there may be others):

1. allow residential uses in the I/C ZD
2. place the 5 lots we have been looking at into the C ZD, and allow residential uses in C (instead of I/C) – as a side-effect, this would leave the J Hutchins property and the recycling area as pretty much the only I/C properties in this section of the I/C ZD
3. place the 5 lots we have been looking at into a new, separate R/C district (“Exit 11 R/C”?) that allows both “industrial/commercial” and residential uses – has the same side-effect as #2 above
4. examine the ambiguities of PUD section relative to the I/C to see if this could be made to work for the Donovan’s property
5. we also might want to reconsider the idea of combining the I/C and the C into a single ZD and adding residential uses – as a practical matter, these two districts have virtually no differences