

## 8.16.23 meeting minutes

Members present: Adam Wood, Chris Granda, Joy Reap, Mark Fausel, Alison Anand, Virginia Clarke

Members absent: (vacancy)

Others present: Keith Osborne (Director of Planning and Zoning), Tom Astle (MMCTV), Cathleen Gent, Linda Donovan

### **1. Welcome**

Clarke welcomed members and guests and opened the meeting at 7:02 PM.

### **2. and 3. Review and adjust agenda; public comment on non-agenda items**

Granda added an item to the agenda: update on the invitation for Sue Breese from Jericho to visit the Richmond Planning Commission (PC) to speak about Jericho's experience with affordable housing.

Granda said this had not yet been arranged, but that he would continue to work on inviting her for one of our next few meetings. As there were no other adjustments to the agenda, the meeting continued with the posted agenda. There were no public comments on non-agenda items.

### **4. Minutes of 8.2.23 meeting**

As there were no additions or corrections to the minutes of 8.2.23, they were accepted into the record as written.

### **5. Continued discussion of Act 47 (S. 100)**

Clarke summarized the work that had been done at the last two PC meetings to whittle down the list of changes that Act 47 requires municipalities to incorporate into their zoning, from an initial list of 16 items to 5 specific items that we would be working on. She reminded the PC that the changes that were designed to reduce barriers to building housing were for zoning districts that are served by municipal water and sewer (W&S) and allow year-round housing. For Richmond, these are the village neighborhoods, the Village R/C (V R/C), Jolina Court (JC), Village Downtown (VD), and possibly the Village Commercial (V/C) if residential uses are going to be allowed there. The Village Residential Neighborhood North (VRNN) is currently part of the HDR, and the Village Residential Neighborhood South (VRNS) is part of the A/R, so this will have to be sorted out as we go along.

Osborne screen-shared the 8.16.23 meeting memo document that listed the parts of our zoning document (RZR) that will need changing for each of the Act 47 requirements. Clarke continued with the following discussion points (numbers from memo document):

#1. "...a municipality shall not require more than one parking space per dwelling unit..." This will involve changing our RZR parking table and the requirements for parking listed in the districts. Two strategies are proposed for consideration. In the first, residential parking is taken out of the parking table altogether, leaving it as a table of commercial parking only. At the same time, each of the 10 zoning districts would contain its own residential parking requirement. For the districts served by municipal water and sewer, this requirement would be from Act 47 as above; for the other districts, this requirement could be what we currently have in our parking table. The second strategy might be to expand the parking table to have different lines for each category of dwelling unit in the W&S district, and dwelling units outside of the W&S district. Clarke asked for thoughts.

Osborne stated that, from an administrative and use point of view, strategy one is preferable, as it provides for a simpler commercial parking table, and, for residential parking requirements, "one-stop

shopping” where all the information that an applicant might need is contained within the section of the relevant district. Wood concurred that this seemed to make sense to him. Gent wondered if it would be confusing have this system, and if we actually needed a parking table. Clarke replied that the parking table and section contains a lot of information that you wouldn’t want to have to add to each district, and it could be made clear that just the parking requirement for residences would be in each district. Granda expressed that the term “minimum requirement” was somewhat confusing, in that this was, in fact, a maximum that could be required (but not the maximum that was allowed). Wood concurred that it was confusing, and Granda said he would think about how this could be expressed more clearly.

Clarke then discussed the second part of the parking item in Act 47, which included the phrase “public parking.” The PC agreed that a definition of “public parking” would be useful in our RZR as we add in Act 47. An opinion was obtained from the Richmond town attorney about how this somewhat ambiguous item was to be interpreted, and Osborne said he would write up a proposed definition for section 7 of the RZR. Clarke then suggested that she and Osborne could write up a draft of how this strategy would look when the language was actually inserted into the RZR, with the specifics for each district adjusted as needed. No one had any objections to this plan.

#2. Clarke opened the discussion of the Act 47 item “..multiunit dwellings with four or fewer units shall be a permitted use...” with the remark that first we need to confirm that we are committed to forming the VRNN and the VRNS districts, i.e. those parts of bigger districts that are served by W&S and thus subject to Act 47, simultaneously with the Act 47 amendments themselves. Granda and Fausel agreed that we are confirmed, and there were no “no’s.” Clarke then said, with this strategy confirmed, we will need to add this language to the “permitted” use list in the VRNN and VRNS, JC, VD and possibly V/C districts. The Village R/C already has this language. We will also need to add it to the “features” sections, and to look into the PUD section which seems to be ambiguous about residential uses in some districts. Gent asked whether the “5+ unit dwellings” mentioned in the memo would be added to the village neighborhoods. Clarke answered that “5+ unit dwellings” was listed as a conditional use only in the JC and V R/C districts, and would not be proposed for the neighborhoods. She then suggested that she and Osborne would work on a draft of how this language would look in the applicable districts. Gent asked if there would be an opportunity for the neighbors to weigh in prior to a formal hearing. Clarke said there would be. Osborne added that he was ready to get going on adding to the existing drafts for the village neighborhoods.

#3. The next discussion related to the item “...bylaws shall establish lot and building dimensional standards that allow five or more dwelling units per acre for each allowed residential use...” Clarke said that she and Osborne felt that a general discussion of the meaning and parameters of the term “density” should precede our discussion of this item, as this concept is relatively new to the RZR, having been designed for multiunit buildings which came to our attention with Jolina Court. Osborne screen-shared a draft of a “density” section that proposed to lay out what counted for density. Clarke reviewed the points of this document:

- Density is not a dimensional standard and needs to be removed from the dimensional subsections in each district where it occurs
- If the amount of land required per dwelling unit is greater than 1 A, the density will be expressed as “units per acre.” If its less than 1 A, the density will be expressed as “square feet required per dwelling unit”
- The next point is the most difficult: how is density to be calculated in order to accommodate the conflicting state requirements of this newly required density requirement (“5 U per A”) and the earlier requirements mandating “by right” ADU’s and duplexes. Two strategies are proposed for

resolving this conflict or ambiguity. Both require some kind of “special arrangement.” The first is to just count a single-family dwelling (SFH) plus an ADU, or a duplex, as “one” (dwelling unit). This would allow you to exchange a SFH for a duplex or add an ADU to an existing SFH without affecting your calculated density. The other is to exempt SFH’s, ADU’s and duplexes from any density calculations, and reserve the density concept for multiunit buildings only. Clarke admitted that both of these strategies were somewhat problematic. Fausel asked about other residential buildings besides SFH’s having ADUs. Osborne confirmed that it is only SFH’s that can have ADU’s, and that this construct of one unit of density for duplexes, and SFH + ADU’s, only applies for density calculations. Fausel confirmed that a SFH and its ADU must be in the same ownership per our zoning, and Clarke added that this was why we have now allowed for two residential structures on a lot. Gent felt that any dwelling unit should be counted as a dwelling unit for density purposes, and felt that this was what the state guidance document implied.

Wood suggested that, going forward, we could just set our minimum lot size such that it would be able to accommodate twice as many units as SFH’s, thus allowing for duplexes or ADU’s without exceeding the density number. He thought, however, that this would not solve the issue of all the already existing small lots. Clarke, Fausel, Wood and Osborne continued to discuss various scenarios involving a stated density and the conflict presented by the requirement to allow duplexes and ADU’s. Linda Donovan offered an example of a small lot with a grandfathered SFH she had purchased, that the town said could host a duplex.

Fausel questioned whether “nonconforming” could include not conforming with density restrictions, so that an applicant wouldn’t be able to increase the degree of nonconformity by exceeding the allowed density.

Clarke opined that “nonconformity” only applied to uses or structures, not density. Wood and Osborne agreed that the dimensional requirements would become increasingly important in these cases. After a significant amount of thinking-out-loud discussion, Clarke summarized by saying that more work was definitely going to have to be done on this puzzle of complying both with a specific density number and with the mandate to allow ADU’s and duplexes wherever SFH’s were allowed, and that we were now going to have to move on to our agenda item #6.

## **6. Discuss alternative strategies for Rogers Lane**

Osborne opened this discussion by reporting on his conversation with the Spences, who own two of the residential properties on Rogers Lane. The Spences want to retain the commercial uses allowed to them as residents of the I/C district, and do not want their lots to become part of the HDR. So, we need to develop some alternate strategies for accommodating the Beals. Clarke then listed some possible strategies: #1 Add residential uses to the I/C district

#2 Move the five lots into the C district and allow residential uses in that district, not in I/C

#3 We could put these 5 lots into their own district and call it “Exit 11 R/C” or some such.

This would have some residential and some commercial uses.

Donovan entered the discussion here by saying that this was, in fact, what they already had here (an R/C district), and suggested that this whole strategy should just be “grandfathered” in. She said she was baffled and irritated that her back lot could not host housing even though housing was a goal of the town. Osborne replied that we are all sympathetic to the situation, and are aiming for the same goal, but it just takes time to go through the process of getting there given our current regulations. Clarke continued: #4 is somewhat different, and involves examining the PUD section to see if we could carry out some needed clarifications, and allow it to be used in this case by permitting additional uses just for PUD’s.

Clarke then asked for the commission's thoughts. Donovan then asked again how long this was all going to take. Osborne said he had warned Zack and Michelle Beal that the process might take a year, but he hoped it wouldn't take that long. Donovan then questioned what the process actually is, and who makes the needed decisions. Clarke reviewed the RZR amendment process, starting with the first step of the commission agreeing on a strategy to pursue. Clarke asked the PC for their thoughts, and asked what information would help them decide on a strategy so we could move forward.

Fausel asked if we could just put the Donovan lot by itself into the HDR district. Clarke said she thought that might be "spot zoning" and Osborne said we would have to run that by Dave Rugh (town attorney). Granda suggested that a draft proposal would be helpful to review. Wood said that what he was struggling with was Fausel's earlier point that we wanted to keep land in commercial use while at the same time as allowing the Donovan's – and maybe others – to have increased residential opportunities, so how are we going to do this. He wondered if this could be done by controlling the lot size.

Linda Donovan explained the history of her lot and that their thought may be to create lots for all her 6 children eventually. Wood wondered if making a larger minimum lot size would discourage residential development. Donovan replied that she had been told that they could do 1 A lots, which ended Wood's speculations about this approach. Osborne encouraged the PC to try to make some forward progress on this issue.

At 9:03 PM Granda and Reap left the meeting. As 4 members remained, the meeting and discussion were continued. Anand said she needed more time to study the issue. Wood questioned Osborne about how realistic the PUD strategy is and what the PUD process would entail. Clarke said that we need to resolve the conflicts within the PUD language anyway. Osborne thought it might be possible, but he would have to look at it further. He said the PUD process is a bit more elaborate than the conditional use process, but that overall, given the other options we are looking at, it might not take any longer. Wood suggested we work this idea up.

Anand expressed that it seemed to her that some kind of grandfathering should apply here. She also felt it was wrong of the state to encourage density of 5 U/A in the flood zone. Osborne said that flood areas are exempt from these regulations. He also offered to catch Anand up to speed with discussion and maps as she hadn't been able to attend all the recent meetings. Wood then added that in thinking about it, for him adding residential uses to a combined C and I/C district might be the best outcome, although it might be a heavy lift for some community members. He said it seemed ingenuous to say we want housing but then decline to allow it. He agreed that perhaps protections could be written in for existing businesses in the district.

Clarke reviewed the takeaways. Osborne was to find out about the "spot zoning" question and work on a rewritten PUD section to see what could be accomplished there. Clarke and Osborne would work up some language for adding residential uses and protections to a combined C and I/C district. The commission would take up items #4 and 5 on the memo at the next meeting. We will have some maps. Wood motioned to adjourn and Anand seconded at 9:22 PM. The motion passed unanimously, and Clarke encouraged the commission to get their questions answered by meeting with Osborne or however over the next three weeks, before the next PC meeting, so that we could make some forward progress on these difficult issues. She thanked Donovan for participating.

Minutes submitted by Virginia Clarke