9.6.23 meeting minutes

(meeting remote only, via zoom)

Members present: Adam Wood, Mark Fausel, Alison Anand, Virginia Clarke
Members absent: Chris Granda, Joy Reap, (vacancy)
Others present: Gary Bressor, Cathleen Gent, Christy Witters, John-Paul LaVoie, Michelle Beal, Keith Oborne (Richmond Director of Planning and Zoning), MMCTV

1. Welcome
After a delay in which Anand was assisted in joining the meeting, a quorum was reached. Clarke opened the meeting at 7:27 PM and welcomed members and guests.

2. and 3. Adjustments to agenda and public comment on non-agenda items.
Clarke mentioned that we would be following the "final agenda" as updated from the previously posted "draft agenda." There were no changes to the agenda, and no comments on non-agenda items.

4. Review of minutes of 8.16.23 meeting
There were no corrections or additions to the minutes, so they were accepted into the record as written.

5. Continued Act 47 (S. 100) work session
Clarke opened this portion of the meeting by reminding everyone that Act 47, the HOME Act ("Housing opportunities Made for Everyone") was a pro-housing bill that mostly concerns municipal areas that are served by municipal water and sewer, and which allow year-round residential uses. This law requires that we make some changes to our zoning ordinance, primarily to village districts, including village residential districts, which we had been working on prior to Act 47 and which are the focus of tonight's meeting. She continued:

The first important change is the requirement that 3-4 unit multifamily buildings become a permitted use in these districts. Witters, a resident of the proposed Village Residential Neighborhood North, said she thought the cleanest and simplest thing to do is to just put into our zoning exactly what the statute says, including the exact translation of acreage into square footage. Gent and Bressor, from the proposed Village Residential Neighborhood South, had no additional comments on this.

A discussion then followed on the new requirement that limits "required minimum parking" to 1 space per dwelling in these districts. Witters agreed with Clarke that the language is ambiguous that refers to "…1.5 spaces if greater than 1/4mile from public parking," even though the town attorney, David Rugh, had opined that this language does <u>not</u> apply to areas served by municipal water and sewer, but only to areas that are not served by water and sewer. Oborne felt that the attorney had settled the question, but Clarke said we would have to wait for further guidance in order to completely resolve this ambiguity.

The definition of "public parking" was then discussed. Clarke suggested "…any demarcated parking space, indoor or outdoor, that is available to the public with or without a fee." Witters felt that parking is already a problem for her neighborhood, and that more Town managed and maintained parking areas are needed in order to meet the current and increased demand, whether the required minimum is 1 or 1.5 spaces per dwelling. Gent added that the public parking definition should also Include the concepts of "winter" (year-round) and "overnight" (24 hour) parking. Clarke said that this has not been included

before in our ordinance, and, in fact, the Village Downtown district (upper Bridge St) has properties that have no required parking spaces, but which are supposed to "make arrangements" with some other lot to accommodate their parked cars. Oborne added the parking situation will be even more difficult to administrate when we have greater residential density and a lower minimum parking requirement.

Witters continued that because of the expense of housing, some dwelling units have multiple tenants with multiple cars, and that the available outdoor space is pretty much maxed out already. All agreed that this is a problem which will be difficult to solve without creating new parking areas, and that we will have to wait for further opinions on the 1 space versus 1.5 spaces controversy.

Clarke continued on to the second controversial point of the new law, which is that in these districts the bylaws must allow for a minimal residential density of 5 dwelling units per acre, or 1 dwelling unit for every 8,712 square feet. This means that the minimum lot size would have to be 1/5 acre (8,712 sf). This is different from previous discussions with the village neighbors, in which a minimum lot size of ¼ A or ½ A was proposed. As this is an unexpected change that will allow for greater residential density than had been anticipated, Clarke said that she and Oborne had also discussed making 5 U/A the density maximum as well as the density minimum to provide a level of comfort to existing residents who were concerned about their neighborhoods becoming too crowded. Clarke mentioned that the state Agency of Commerce and Community Development (ACCD) has recommended that no density maximum (or cap) be established as this would allow for more needed housing to be developed, but that having a maximum density seemed like an acceptable compromise. Witters and Gent concurred that if we are to have a 5 U/A minimum density as the new law requires, then a 5 U/A density cap seems like a good fit for Richmond.

Wood commented that we seem to be doing exactly what this law was trying to undo throughout the last few decades that has resulted in this housing crisis, which is to do the absolute minimum that the law requires. He said he understands why the impulse to avoid change exists, but that the impulse to minimize the amount of housing that can be developed is what got us to this point of young people having to move out of state or move back in with their parents. He added that it seems like a disservice to our community to only adopt the most restrictive version of every new standard that comes along, rather than trying to be proactive and go above and beyond the bare minimum. He said he would try to come up with some specific ways to be proactive that might also be acceptable to residents, to allow us to accommodate more newcomers or returnees who wish to live here,

Witters countered that she felt that it was appropriate to adopt the legislature's carefully considered mandates, and that we were actually going above and beyond, as we had started from a point of greater density than that of many similar neighborhoods. She mentioned that we had gone above and beyond in the newly approved R/C districts, where we have a maximum residential density of approximately 8 U/A. Wood responded that could sympathize with these points, and that he would think more .about what is appropriate for Richmond's particular situation.

Anand offered that she had been thinking about the flooding that happened this summer in relation to the mandate to increase residential density, and feels that the state made the wrong choice to go in the direction of increasing density in the villages. She feels it likely that this will be changed in the next session, but meanwhile will comply with the law. Witters thanked Anand for bringing this up, and said that her personal experience with flooding had made it clear that flooding is now more frequent and widespread, and that the thought of adding more impervious surfaces and houses, which might now be in harm's way, is troubling. Both Anand and Witters referenced the recent devastating flooding in

Montpelier. Clarke offered that we may need a different stormwater management system going forward, and that the problems of reducing homelessness and dealing with more flooding due to increased residential density seem difficult to reconcile.

Wood reported on research he had done about the portion of the new law that mandates a 40% density bonus and an additional 1 story height increase that must be allowed for "affordable housing" projects. (Wood is a member of the Richmond Fire Department.) He said that 35 feet, the height of our current building height restriction, comes from the height of our tallest fire-fighting ladder, but that this 35' number may not be as important as previously thought. The ISO rating (for insurance rates) and the NFPA requirements don't really give clear guidelines, so it's not obvious that we even need a maximum height from a fire-fighting point of view. More important are egress requirements, smoke detection and fire suppression systems such as sprinklers, as are found in the many buildings that exist that are taller than the tallest ladder truck's reach. Wood did not feel that the town should or could acquire a ladder truck to deal with this mandate, and mentioned that we already had multiple buildings in Richmond that exceed the 35' maximum.

Clarke asked Wood if he thought this new mandate should be inserted into the "Height" section of the zoning (section 4.11) and also be put into a new "Affordable Housing" section. Wood felt that a determining factor should be access to municipal water, because that would enable a sprinkler system to be installed, and once a building is sprinklered the height is irrelevant from a firefighting point of view. He added that a height requirement might still be desirable, however, from a "character of the neighborhood" point of view, and also that in Vermont non-commercial buildings with more than 3 residential units, or over 3 stories high, are likely to be required by the state fire code to have sprinklers anyway. Clarke said that she and Oborne would work on re-writing the height requirements with these ideas in mind.

Further discussion on height centered on the Jolina Court development, which may have exceeded the height limit. Building #2 has a 4-story and a 3-story side, but a system for rescuing people from the lower side was originally agreed upon. Wood added that the ISO rating system was not designed primarily to maximize safety, but rather to minimize financial risk for businesses. It is the National Fire Protection Agency (NFPA) that writes regulations with safety in mind, and they state "Whenever a dwelling has more than 2 rooms, all living and sleeping areas are required to have a primary and secondary means of escape unless the room has direct access via the door leading to the ground level." Wood continued that if the building is sprinklered, the egress requirements aren't needed, as sprinklering is such an effective fire suppression method. He stated that the Jolina Court building(s) are sprinklered, and that he had participated in the fire department discussions about building height and the department's role in rescuing people from buildings that are on fire. Older members of the fire department had had more experience with older buildings that were not built to modern fire code standards, and so were not as eager to adopt newer standards that matched modern strategies. Clarke offered that the current discussion opened up some ways in which our zoning ordinance might need to be further modernized.

Gent circled back to the non-fire-fighting reasons for having a building height restriction, saying that having no height restriction would fundamentally change the character of our neighborhoods. Wood concurred, saying that a "minimally impactful" change would be appropriate here, with just the language exactly as mandated by Act 47 added to our ordinance, with the addition of words to the effect that such buildings over 35 ft, and possibly even under 35 ft, should have to comply with some additional fire safety regulations.

6. Discuss alternative strategies for Rogers Lane

Keith opened the discussion by talking about the possible strategy of designating just the single Donovan lot as part of the HDR district to allow the desired residential use. He stated that the town attorney had concurred with his (Oborne's) feeling that this would constitute "spot zoning", and so this strategy is essentially off the table, as we do not want to invite possible law suits.

He then discussed the second strategy that had been identified, that of using the PUD mechanism to create a residential use in this district, the I/C, which does not list any allowed residential uses, but that does allow PUD as a use. He relayed that he had discussed this with the Zoning Administrator, Tyler Machia, and that it looked like it might be possible. Clarke questioned whether the language in the ordinance that allows PUD as a conditional use "if no subdivision of land is proposed" would not prohibit this development, as in this case, subdivision of land <u>is</u> proposed. Oborne concurred that this would be a hindrance in utilizing this strategy. They both concluded that this strategy would be possible if the Planning Commission amended the ordinance to remove that clause from the document. Neither could really explain why the clause had been inserted in the first place.

Michelle Beal questioned the requirements of a PUD. Clarke said that Section 5.12 allows for a Residential PUD in the I/C district that could have any number of buildings (including 1), uses or owners, so the PUD section would not have to be changed in this instance. Beal said that she and her husband would prefer to own the property that they would build on, so that subdivision would likely be needed for their project.

Clarke said she felt that if the clause not allowing subdivision were removed from the zoning, there shouldn't be any major impediments to using this strategy; that the process might be more involved, with a master plan and an appearance before the DRB, but that these should be possible. Beal voiced frustration and wondered why this route hadn't been presented to them previously, and also why it has been so difficult to add residential uses to the I/C district when this route for adding residences seems to exist already.

As a follow-up to these comments, Clarke presented the third option for solving the dilemma, which consists of adding residential uses either to the existing I/C district, or to part of the I/C district, or to the combined C and I/C district. Any of these options also involve amending the zoning ordinance. Clarke said she favored the option of adding residential uses to the combined C and I/C districts because it made more sense than the way the ordinance was currently organized as there were minimal differences between the 2 districts, and that adding the residential uses would solve the Beals' problem.. She asked for comments.

Fausel said he felt it would amount to getting rid of all commercial districts, as everything would become residential. He also felt that it was a typographical error that residential PUDs were allowed in the I/C district, and he questioned why the ordinance from May of 2022 did not have residential PUDs listed for the C district, but the document amended in June of 2023 did. Oborne and Clarke said they did not know why that discrepancy existed. Beal expressed that the I/C district was already 50% residential, and the residences were there before the district became commercial. Fausel reiterated that everything would become residential, and then there would be no more commercial if we allowed residential uses. Wood added that it made sense to allow the Donovan's hilly land to become residential, as commercial uses would be difficult there, but that somehow it would be good to keep the flat, easily accessible land commercial. He wasn't sure how that would be done. Anand said she had reached no conclusions on

the issue. Clarke added that she thought having a combined commercial district that allowed residential uses would allow the market to dictate what people wished to do with their property, and that truly industrial uses would be inappropriate here due to the proximity of the large neighborhood of Riverview Common and other residences so close by. She added that there could be screening requirements between residential and commercial uses.

Clarke closed the meeting by summarizing tasks for next meeting: creating drafts for the village neighborhoods and the affordable housing height regulation; getting the parking question resolved and the new definitions finalized, and further fleshing out of the 2 potential solutions for the Rogers Lane residential issue. Keith said he was eager to make forward progress on the zoning document.

7. and 8. Other business and adjourn

As there was no other business, Fausel motioned to adjourn at 9:12 PM. The motion was seconded by Wood and agreed to by all, so the meeting was adjourned. The next meeting will be held on 9.20.23.

Minutes submitted by Virginia Clarke