

10.18.23 meeting minutes

Remote only – conducted via Zoom

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

Members absent: Joy Reap, (*vacancy*)

Others present: Keith Osborne (Richmond Director of Planning and Zoning), Tom Astle (MMCTV), Lisa Miller, David Sunshine

1. Welcome

Clarke welcomed members of the Planning Commission and guests to the meeting at 7:00 PM.

2. Review and Adjustments to the agenda

There were no adjustments to the agenda so the meeting proceeded with the agenda as published.

4. Review and acceptance of minutes of 10.4.23 meeting

(item #3 follows #4)

There were no corrections or additions to the minutes, so they were accepted into the record as written.

3. Public comment on non-agenda items

David Sunshine, the chair of the Richmond DRB, commented on Section 6.13.7, “Privacy.” (*This relates to the new Multi-family Development Standards introduced into the Richmond Zoning Regulations that were adopted June 26, 2023.*) He expressed concern that this section expects the DRB to make aesthetic decisions on issues for which no decision-making criteria have been provided. He urged the Planning Commission not to create further amendments that go down this “dangerous road” of subjective regulations that open up the possibility of appeals of decisions. He mentioned that the DRB had not seen this until Tyler Machia (*Zoning Administrator*) had recently brought it to their attention, and that they hadn’t yet studied the remainder of 6.13.

Clarke responded that the PC will be taking up this issue for a fuller discussion at the 11.1.23 PC meeting, and that Sunshine was welcome to come and participate in the discussion, and also to stay and listen to today’s discussion as well. Fausel thanked Sunshine for bringing this up, and continued that this was another instance of a lack of communication between the various boards and committees that we have in Richmond. He suggested that the PC have a policy of automatically sending any final or semi-final amendment drafts to the DRB for their review prior to SB approval. Sunshine felt that this was an excellent idea.

5. Finalize proposed zoning amendments and bylaw report:

“Residential uses as part of a PUD in the Industrial/Commercial Zoning District”

Clarke opened the discussion by describing the two points that had been brought up at the previous meeting. The first of which was the idea of adding the amendments to the Commercial District (“C”) as well as the I/C district. In looking into this further (*see meeting memo*), she said she felt that we should not expand the scope in this way as we didn’t know how any of the folks in the C district felt about this, and there were some different areas of the C district that might have other issues with the concept. Fausel concurred that, on further reflection, we should not expand the scope beyond the I/C. At this

point, Miller asked if the residential lots in the I/C were legally non-conforming, and Osborne confirmed that this was correct.

Clarke continued that the second point that had been raised concerned a situation in which a PUD subdivided off a legally- created residential section, that was subsequently then proposed for further residences, thus doing an end run around our preservation of commercial lots for commercial uses. Clarke said she added a sentence to address this hypothetical specifically. Osborne then screen shared the clean copy version of the amendment of 5.12.2(b) that showed the added language . Fausel then asked if this added sentence wouldn't also make it difficult for the residential lots, that we were trying to assist to further subdivide for residential use, to do so – something that we would not want to prohibit. After further discussion between Fausel, Wood, Osborne and Clarke it was determined that it would be better not to add the additional statement, and that our purposes would be best served by just sticking with the originally proposed language.

Clarke then added that there was a new issue, a third point to discuss, that had been raised by the comments of the town attorney, Dave Rugh, in his initial review of these amendments. This point concerned section 5.12.4c(viii) about the Master Development Plan (MDP), and Rugh appeared to want to prevent applicants from believing that they had any vested rights in an MDP, and to ensure that a new application for an amendment, leading to a full review, would be filed for any new land development or subdivision. Rugh said this was his initial response to our proposed language, and that he would have more after he had had time to review it more completely. Clarke said his concerns prompted her to wonder if the whole concept of an MDP was necessary in fact, or if it was just as good to make it clear that the applicant would have to come back for an amendment to the initial approval and go through the whole review process again to get a permit for any land development or subdivision that had not been previously approved. Osborne added that this is what they would have to do by law anyway, and that such a statement would just be clarifying or educational. Clarke added that it might be a way to make neighbors feel comfortable that they would be able to weigh in on future PUD phases, knowing there was an amendment procedure.

Osborne stated that as a Zoning Administrator in Richmond he has come across the MDP issue three times, and has found it very difficult and costly for applicants to deal with, and he understands the frustration that Tyler and the DRB have in dealing with this. His opinion is that, from an administrative point of view, the MDP is an unnecessary step in the approval process. Clarke added that it's not possible to make applicants share what may or may not be in their mind about future development, unless they are actually going for approval and a permit, so it may not provide any useful information. Fausel, Anand and Wood agreed that perhaps we should get rid of the MDP requirement. Clarke suggested replacing 5.12.4c(viii) with a clarifying statement that would reassure folks that they would get a chance to weigh in on development proposals that weren't currently on the table. There were no objections to this.

Clarke summarized the changes proposed today: 1) that we keep the original concept of having the I/C be the only district affected by the requirement that residential PUD's will only be allowed on lots currently hosting residences; 2) that we leave 5.12.2(b) as it was in the original version (from 10.4.23) with no language added; and 3) that we change 5.12.4c(viii) to remove the master plan language and clarify that future development would require amending the PUD approval with full review. She then asked the commission if they had any further thoughts on this agenda item, or if anyone would like to make a motion to approve and set up a public hearing for these amendments.

Lisa Miller entered the conversation by saying that some town officials had expressed concerns to her about what these amendments were all about and what the consequences might be for this and other districts. Clarke attempted to give a quick overview of this agenda item, remarking that more educational work will need to be done to fully convey what the PC is trying to do here, and that it will very important to look at the maps as we discuss this. She explained:

It will be important to look at the maps in order to fully understand this situation. About half of the lots in our small I/C district are in residential use, and the district is a close neighbor to the large mobile home Riverview Common neighborhood. There are no current actual “industrial” uses in this district, and because of all the pre-existing residences, true industrial uses would be unsuitable. The commercial uses are similar to those in the neighboring Commercial (C) district. One of the residential lots at the northern border of the district has 10 acres, some of which the owners would like to develop into residential lots for their children. So the dilemma for the PC has been to preserve space for commercial purposes while also encouraging additional housing – a state, regional and townwide goal.

The PC examined several strategies to maximize both of these goals. We determined that just adding residential uses to the I/C, or removing the residential lots and placing them in a residential district such as the HDR were not optimal strategies. When we examined the current I/C district (Section 3..7) we found PUD (without subdivision) listed as a conditional use, and when we looked at the PUD section (5.12) we found that Residential PUD’s were allowed in the I/C, thus in fact, under the current language, it would be possible to put more residences in the I/C (by means of PUD). The compromise that we arrived at is to allow further residential growth only on lots that already contain residences as of the date of approval. The remaining lots may have mixed use PUD’s (commercial and residential) if 50% of the gross floor area is in commercial use. This stipulation is only being proposed for the I/C district. The additional residences on the 10 acre residential lot are nestled in the small neighborhood of the other residential properties, and do not seem likely to come into conflict with the commercial properties in the district. Commercial property is retained for commercial use, but the flexibility of having some residential as part of a mixed use PUD seems to provide some flexibility to commercial owners in an uncertain commercial market.

Clarke said she hoped this explanation helped Miller, but understood that the complexities of the particular dilemma facing the PC would need more educational work so folks could understand the rationale. One additional benefit of these amendments is they clear up some of the ambiguities contained within the current PUD language. Miller said it helped to have a more wholistic understanding of the proposals rather than the piecemeal concerns she had heard.

Fausel then moved that the PC approve the amendments as presented with the language changes summarized from tonight’s meeting. The motion was seconded by Anand. As there was no further discussion, the motion was voted on, with 5 ayes and no nays. Osborne suggested we wait to set the public hearing date until our 11.1.23 meeting or set a December date to allow for all the notifications, legal comments and finalization of the documents. The commissioners and Osborne discussed the possible dates, the amount of work to be done, the desire of the owners of the 10 acre lot to start the application process, and the heavy SB load during budget season. They ended up agreeing to try for the 11.15.23 meeting date for the public hearing, if all the tasks could be in order by that date. Clarke complimented the PC on the progress that had been made on this challenging topic.

6. Other business

(a) Act 47 and residences/neighborhoods in the Flood Hazard Zone

Anand started off the discussion by reporting that she is considering bringing a draft to Montpelier that would encourage revision of Act 47 to take into account all the recent flooding in regards to the new residential density mandates for village centers. Clarke responded that there are two ways that this issue has been dealt with. The first is within Act 47 itself, in Section 4, where 24 VSA 4303 is amended to expand on the definition of the phrase “areas served by municipal water and sewer infrastructure.” In 4303(42)(A)(ii)(I) the amended language allows for “flood hazard or inundation areas” to be excluded from the definition and thus excluded from the new zoning mandates for 5 U/A and multiunit building requirements. The second method is through use of the Richmond Zoning Regulations Flood Hazard Overlay District (FHOD), which takes precedence over the underlying district requirements and prohibits the development of new residential structures, thus cancelling the addition of greater residential density on any properties, in the FEMA-mapped FHOD. Looking at the map, you can see that there are properties on lower Bridge St, Esplanade and Church streets that are in the FHOD.

Further discussion led to questions about whether the maps should be revised to factor in more climate-change flooding. Fausel brought up the point that at the time the FHOD was added to our zoning, a 50’ buffer was proposed around the FHOD which was subsequently removed from the regulation, due to pushback from the public. Osborne added that you really have to go by the lines on the FEMA maps, which will likely be redrawn if there is a significant increase in flooding, but in the meantime there is no opportunity to regulate beyond the FHOD boundary.

(b) Current status of water and sewer extension to the Gateway

Clarke went on: the second update regards water and sewer (W&S) infrastructure out into the Gateway. Joy Reap reported that the Reaps were working on a plan they hoped to bring to the SB in December. There are two current difficulties. One is the status of the easement for the Willis Farm sewer line across Richmond Land Trust land, and whether or not it would allow properties beyond Willis Farm to be served. This is currently under negotiation, with the town needing this extension in order to consider taking over the line at some future time. The second issue is the status of the sewer pipe serving the schools, which would connect the Willis Farm line to the town main on Jericho Rd. The line has failed the pressure test, but no leak has yet been detected. Granda asked what the school district was going to do about the possibly leaky pipe. Clarke answered that this was being discussed – should the test be repeated? Should they just start with a new line? Does the school district need to vote about whether to give this line to the town? Apparently, there is a \$150,000 grant that can only be obtained if the line will be owned by the town, and the town doesn’t want to take over a possibly defective pipe. There seems to be little motivation for some of the parties involved, besides the Reaps, to move very quickly on this.

Clarke and Wood, who had spoken with the Land Trust, agreed that the Land Trust did not want the sewer line to cross to the west side of Rt 2 to the two small upland portions, but that the PC had not taken a position on this issue. Wood added that, in order to preserve the important viewscape, the PC might support the Land Trust position but that we had had no discussion about it. Clarke added that we would, however, fiercely defend and protect the floodplain/farmland from any development. Fausel added that there were still development opportunities permitted in the A/R district for these small upland parcels, and that we might want to prohibit development there regardless of the status of the W&S line extension to protect the “scenic entrance to Richmond” concept stated in the Town Plan. Clarke suggested a full discussion of this issue for a future agenda.

(c) Update on transportation projects

Osborne provided this update based on his work with the Transportation Committee. He explained the process of getting grants, then going through scoping, and engineering and design, before construction

can begin, all of which take time. The upper Bridge St project, which is part of the Bike/Ped study, is in the active design phase and proposes a sidewalk and bike lane on the east side of Bridge St from the RR tracks or Jolina Ct northeast to the Big Spruce. This project is fully ARPA funded so will proceed relatively quickly. The lower Bridge St project, under the auspices of the Town, CCRPC and VHB engineering services for the design phase, has received a grant which will need a match from the ARPA funds, so this project is a bit further away from being finalized.

The so-called "THBC" (Thompson-Huntington-Bridge-Cochran) project is in the scoping phase, with the Transportation Committee reviewing two remaining alternatives. These proposals are either for a four-way stop at the intersection, or for a raised island on Huntington Rd, additional curbing, raised crosswalks and signalized crosswalks, all of which are designed to slow traffic to allow for safer pedestrian crossing. The speed bumps on Cochran Rd are also part of an approach being studied to slow traffic in this area. The fifth project underway is strategies being looked at for a bike/ped route along Rt 2 in the Gateway from the village to the park and ride, or possibly to Riverview Common. As a grant was only recently received for this project, it is only about 5% complete.

Next steps include presentation of the two THBC alternatives to the SB. Fausel commented that he didn't think some of the crosswalks proposed were necessary, and that the improvements may detract from the aesthetics of the Round Church and its green space. Osborne responded that the Transportation Committee has been working on adjusting the details, and he invited Fausel to the November meeting of the committee where all this would be discussed. He also mentioned that the Rt 2 bike/ped path alternatives would be discussed at the next Transportation Committee meeting. He confirmed Fausel's comment that a left-turn signal was planned for the Bridge St/Main St intersection, and that the final details for upper Bridge St were being worked out.

Clarke then briefly discussed future agenda items and asked the commission for their ideas. She mentioned a discussion about Section 6.13.7 and the DRB's concerns with the subjective nature of the "Privacy" requirements, and also the related topic of "two principal residential structures on a lot," along with further work on the village neighborhoods. The second item is a discussion about Jolina Ct and Buttermilk's recently stated, or re-stated, interest in increasing housing density for the Creamery development, which would need zoning changes. Fausel offered, and Granda concurred, that short-term rentals regulations should be on the list as well. Fausel also suggested reviewing the FHOD in relation to Volunteers' Green and other public lands, as he feels this unduly restricts the addition of simple structures such as picnic tables or other equipment to the park.

Clarke said that some other issues might also be considered, such as cannabis regulation, and also resurrecting the "Coordinating Subcommittee" to help facilitate communication among committees and help prepare the PC for the Town Plan revision work, which will need to start in 2025, due in 2026. Clarke summarized that in the immediate future Osborne would be sending out letters to the I/C neighbors and the notifications for the public hearing, as well as copies of the proposals to Dave Rugh and the DRB. As there were no further comments, Granda moved to adjourn. The motion was seconded by Fausel, and as there were no objections the meeting was adjourned at 8:55 PM.

Minutes submitted by Virginia Clarke

