

## 12.6.23 meeting memo from the Chair

Tonight's meeting includes a Public Hearing on the amendments we are proposing to clarify the development of residential properties in the Industrial/Commercial Zoning District (I/C -- section 3.7), and to revise and clarify the Planned Unit Development section (PUD -- 5.12) of the Zoning Ordinance (RZR).

### **Motion to open the hearing:**

**I move to open the Public Hearing for the proposed amendments to the Industrial Commercial Zoning District, section 3.7, and Planned Unit Development, section 5.12, of the Town of Richmond Zoning Regulations.**

Here are some background points to keep in mind:

1) The Planned Unit Development of our current RZR (5.12) allows for building projects that allow for variations in the zoning standards of the underlying district in order to "promote the most appropriate use of land, to facilitate the adequate and economic provision of roads and utilities and to preserve the natural and scenic qualities of the open lands of the Town of Richmond." (5.12 – purpose). PUD's may have multiple buildings and uses, or multiple ownership of a single building, and may involve a single or multiple lots (5.12[a]). PUDs are authorized in state statute under 24 VSA 4417.

2) In the current ordinance, PUD's that contain commercial uses and/or dwelling units are allowed in the I/C district. PUD's that contain **only** dwelling units are called Residential PUD's, and these are also listed as being allowed in the I/C (in section 5.12). However, 5.12[c] has been interpreted to require that the uses allowed in a PUD are only the uses that are allowed in the underlying district, and "dwelling units" are **not** listed as being allowed uses in the I/C district (3.7.1 and 3.7.2). PUDs are an allowed use (3.7.2) but it is unclear if this section would allow for **Residential** PUD's. In addition, 3.7.2 restricts PUDs in this district to those that involve a single lot only, which does not seem support the general provisions of the PUD section (5.12). Our proposed amendments help to address these inconsistencies.

3) The I/C district exists in 3 sections – 2 sections are out near Exit 11, and the third is on Kenyon Rd. The northernmost section is bordered by Rt 117, Riverview Commons, the Jerico Town line and a portion of our Commercial (C) district. There are 8 lots there: 2 lots host businesses (J. Hutchins and Landshapes on one lot, and Patterson Fuel storage on another); then there is the Richmond recycling area; a swamp, and 4 residential lots. The existing residential lots are clustered near the Jericho line, and interest had been expressed by a property owner to add additional residences to this part of the district. This seemed reasonable to us as we are in a housing crisis, but we didn't want to throw the whole district open to residential use thus losing its future commercial potential.

4) This scenario led us to our current proposal: to allow residential development by way of the PUD provision in this district **only** on lots that are **already** residential. The remainder of the lots in the I/C could have commercial or mixed-use PUD's if they wished, but not Residential PUD's. As section 5.12 currently appears to allow Residential PUDs in the I/C (see #2 above) this "change" bordered on being a clarification.

5) A note about the other 2 sections of the I/C district: the eastern section, bordered by Governor Peck Road and I-89, has 4 lots – 2 are owned by GMP (with the solar array); one by Cleary Stone, and one by the Mobil station – and there is also the Park and Ride lot and portions of the highway (owned by the state of Vermont). The western section, located along Kenyon Rd, is a sand and gravel pit that is partly on the Conant Farm property and partly on the Eden Sand and Gravel property. These sections of the I/C district would only be impacted if there was a residential lot in existence there at the time of adoption of these amendments.

6) In looking at the PUD section (5.12) in order to clarify that the Residential PUD's provision could be used to allow these additional residences, we came upon some other PUD issues in addition to the one mentioned in #2 above. Amendments for some of the more minor issues would be considered "technical fixes," putting the "shalls" and the "mays" in the right places, for instance, and grouping all subsections together that relate to the same aspect of the PUD or Residential PUD provision. But there is one change that is more substantive, and something that the planning and zoning staff and the Development Review Board (DRB) have been wrestling with for some time. And that is the matter of the "Master Development Plan" requirement (5.12.4[c][viii]). The decision to eliminate this language was made at the Planning Commission's 10/18/23 meeting when we approved the Public Hearing for this packet of amendments, so the resulting documents, with this language removed wherever it occurs in the RZR, and in the Richmond Subdivision Regulations, are the ones you see today (not the ones listed as meeting materials for our 10/18 meeting). The reasons for removing this requirement, and what we have put in its place, were arrived at in consultation with our planning and zoning staff and our Town attorney, and are as follows:

7) A "Master Development Plan" (5.12.4[c][viii]) requires a "conceptual" plan of undefined accuracy and non-existent standards that purports to show the location of "future roads, future building areas, future open areas, and future uses" on "any portion of the parcel or lot not proposed for Land Development...as of the application date." This is currently required for approval of any PUD or Residential PUD, and allows for a degree of speculation and hypothesizing that is fraught with uncertainty for both the developer and the neighbors, and with difficulty and arbitrariness in its administration.

8) When a developer receives a permit for a PUD, they are allowed to do **only** what has been permitted, and **only** according to the conditions that have been imposed. What may or may not be submitted as a "Master Plan" (there may be a statement that there is no plan, and even if there is a plan you cannot guarantee that a developer will disclose it) may provide either the developer (our Town attorney's concern) or the neighbors with a vested interest in something that may or may not happen. We propose to emphasize that **any future development in the PUD will have to return to the DRB for further permitting**, and that it is adequate to amend the PUD Approval with any desired changes, rather than amending the "Master Plan" and then amending the Approval. By removing the "Master Plan" requirement we are saying: "What is allowed on this property at this time is what is permitted. If there is undeveloped land in private ownership for which permanent preservation has not been required, future development may take place, but this will entail further review, public hearing(s) and permitting by the DRB during which all relevant factors will be considered (once again)."

9) Amending a "Master Plan" is not currently prohibited (5.12.1), so any certainty about what might happen in the future is not guaranteed by the existence of this "conceptual" document. We are, however, proposing some replacement language to offset the removal of the "Master Plan" requirement. This language (see proposed 5.12.7), arrived at in discussion with our attorney, requires that the DRB

label any permit conditions **that are essential to the approval** of the PUD as “**Critical Permit Conditions**” which will be very difficult to amend if future amendments are sought. Examples of such conditions include conditions that would prohibit future development in an area or land conserved through a permanent easement. This will require that the DRB consider carefully what legal restrictions, based on our zoning and subdivision regulations, Town Plan and other adopted policies, they wish placed on the future development of privately owned property, and articulate the rationale for such restrictions. This will give the neighbors at least the certainty of knowing what is unlikely to be changed, and the understanding that beyond those “essential conditions” further development is possible, but they will be able to weigh in on it.

10) After taking public input at tonight’s Public Hearing, the Planning Commission will vote either to CLOSE the hearing or CONTINUE the hearing to another meeting to hear further from the public. When the hearing has been closed, we will consider the information we have received from all sources, including our attorney’s review to determine whether what we are proposing is likely to get us into legal difficulty, and then refine our proposed amendments. They will then be delivered to the Selectboard for their public hearing and adoption process. We will end the meeting with one or the other of these motions:

**Motion to close the hearing:**

**I move to close the Public Hearing for the proposed amendments to the Industrial Commercial Zoning District, section 3.7, and Planned Unit Development, section 5.12, of the Town of Richmond Zoning Regulations.**

**Motion to continue the hearing:**

**I move to continue the Public Hearing for the proposed amendments to the Industrial Commercial Zoning District, section 3.7, and Planned Unit Development, section 5.12, of the Town of Richmond Zoning Regulations.**

Virginia Clarke  
Chair, Richmond Planning Commission