

## 11.20.24 meeting minutes

This meeting was held remotely via Zoom.

Members present: Alison Anand, Ian Bender, Virginia Clarke, Chris Granda

Members absent: Mark Fausel (*two vacancies*)

Others present: Keith Osborne (Director of Planning and Zoning), Erin Wagg (MMCTV), Eric Thomas

### **1. Welcome**

Clarke welcomed members and guests and opened the meeting at 7:15 PM, after a slight delay to reach quorum.

### **2. Review agenda**

As there were no additions or changes to the agenda, the meeting proceeded with the posted agenda.

### **3. Public comment on non-agenda items**

Granda and Bender wondered what the outcome had been of the proposed meeting with Representative Jana Brown to discuss Act 181. Clarke reported that Brown had responded to her (Clarke's) email by contacting her to find out what the issues are prior to meeting with a group. Clarke said she told Brown about the concern with new mandates to allow 3-4 multi-unit buildings on 1/5A lots; possible conflict with Act 47; whether other towns were concerned, etc. and Brown said she would find out more about this from her legislative sources, ACCD, VLCT and others and report back to us in the near future. Clarke said she would let Christy Witters know what the plan is. There were no other comments.

### **4. Review minutes of the 11.6.24 meeting**

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

### **5. Review Flood Hazard Overlay District (FHOD) draft #3 with minor additions of "signs" and "portable toilets" to "Incidental structures"**

Clarke said that the revisions followed the input received from the Three Parks Committee (TPC) at the last PC meeting., and also from an additional item that was received today, so too late to go into the materials for tonight. Two requested changes were to allow for signs and for portable toilets near the baseball fields if the restrooms were moved onto the plateau. These changes seemed reasonable, and unlikely to cause increased flood hazard, so they were added to the "incidental structures" category, with a reminder that signs also have to meet the requirements of Section 5.7 (Signs) for the underlying district, in this case the A/R.

She then reviewed the new definitions of "open air recreational structure" which would allow the bandshell to be rebuilt as a pavilion if that was desired; and also the definition of

“playground structures” to give the Zoning Administrator a category to use for the pieces of equipment to be relocated. She then moved on to the new language in the Nonconformities Section (6.8.15) that is proposed to allow for accessibility to the structures on the plateau, and also for a fence around the reconstructed playground to keep kids safe from the river and the road. These would be new structures but ones that would have essential functions, and they would have to be reviewed by the DRB under Section 6.8.15 e), as well as being required to have the minimum amount of flood-impeding material that would still achieve the purpose. These changes will also have to be approved by Kyle Medash of ANR.

Clarke then reviewed a letter the TPC had received from architect John Linn, who has been assisting the TPC, and was forwarded on to me (received today). Linn made two points: one is that it would be nice if they could move dirt from one place to another in the Floodway to help make better gradients for wheelchair accessibility, and the other is that wheelchairs would need a paved path up onto the plateau, which doesn't seem to be allowed currently. Osborne wondered if he meant a paved path around the park, but Clarke thought it just meant an accessibility path, since the TPC has said they are not planning a paved path around the park. Bender suggested that the amendments should make it clear that the paving is for accessibility purposes only, and Clarke suggested that the language - accessibility to a structure - wouldn't allow a paved recreational path around the park. Osborne and Clarke discussed ways this language could be improved in Section 6.8.15 e). The suggestion of adding the phrase “..including a paved path ...” after “a reasonable degree of accessibility to a structure...” seemed suitable. Anand reviewed that because of the increased flooding, we shouldn't be putting anything in the floodway, and Clarke said this is why we are confining these activities to structures which already exist (i.e. nonconformities) . After further discussion, it was decided to remove the words “or use” from 6.8.15 e) to reduce the chance that someone might want to put a paved path that was not accessing a structure, around the park.

Then the question of “fill,” or moving dirt around within the floodway, was discussed in the context of changing the gradient for accessibility. Osborne favored letting the DRB make the decision as to whether moving fill around constituted a “reasonable” degree of accessibility, and what the balance is between reality and common sense here. Osborne also suggested that we mention the option of removable structures, such as ramps and breakaway fences, that could be removed when flooding was imminent. Clarke mentioned that the ADA has language that allows for partial degrees of compliance, using words like “feasible,” “reasonable,” and “practicable,” so some “common sense” seems to be allowed. Osborne suggested adding “...use of removable structures shall be considered...” for accessibility so that the DRB would be aware of this possibility. Bender and Granda expressed approval of this language.

Clarke then said that one other item had been added to Section 7 (Definitions) since the last meeting. She reviewed the “recreation path” definition that was added for the 11/4/24 meeting, in order to define what was implied by the current Section 2.4.4 which says that a

recreation path is allowed in any district – this would include the FDOD – as the current ordinance does not include such a definition. To follow along with this, Clarke and Osborne are suggesting that adding a related definition for “trails” seems appropriate at this point to explain how “trails” might be related to “recreation paths.” In this formulation a “Natural Trail” is the same as a recreation path or footpath, with no alterations except for the removal of vegetation and a width of 4 feet or less. An ‘On-ground Improvement Trail’ would be any trail that is paved or graveled, is wider than 4 feet, contains structures such as boardwalks or bridges or has any other alterations. These trails are prohibited on slopes of greater than 35 %, and require an erosion and sedimentation plan for slopes between 20 and 35 %, and would require a permit. This definition would make it more clear to the Zoning Administrator whether or not a permit would be required by defining more exactly when a permit is needed, for example in the case of the Andrew’s Community Forest, where this question has arisen. Osborne explained that if the trail is associated with a use – such as the Andrew’s Community Forest (ACF), which is an Outdoor Recreation Facility - it would need to go through the DRB’s Conditional Use Review process. The DRB would also need to review the erosion and sedimentation plan for any 20-35 % slopes. If the on-ground improvement trail were just on someone’s private land, the permit could be issued by the Zoning Administrator. Bender asked if these definitions had been discussed with the ACF Committee, and Clarke said no, but that she would personally inform them that this would be discussed when we have our public hearing for these FHOD amendments, and they could weigh in at that point.

Clarke then asked if the commissioners wished to think further about these issues and continue this discussion at the 12.4.24 meeting, or approve the draft with today’s amendments for PC public hearing at this point. She said she felt it was a good sign that the TPC had felt comfortable at the PC’s last meeting with the flexibility afforded by the changes made thus far. Anand and Granda said they were comfortable with the proposed amendments. Bender then motioned to approve the amendments for Sections 6.8 (Flood Hazard Overlay District), 4.7, 4.8 and 7 (Definitions) for PC Public Hearing on January 15, 2025. This would include the draft language presented and the amendments made from the floor tonight. Osborne felt this date would work. Granda seconded the motion. As there was no further discussion, a vote was taken and the motion was approved 4 to 0, and the hearing was scheduled for the PC’s regular meeting on 1/15/25.

## **6. Review partial work on Density Bonus Program (Section 6.15) and next steps**

Clarke wished to begin the discussion with some thoughts she had had as she contacted various people in an attempt to find a template to structure this document correctly, as it was a completely new kind of regulation for this PC. She said she had not finished writing down her thoughts in time to post them last week in the meeting materials, so she just wanted to share them verbally. She said she had the following concerns: the appearance of “spot zoning;” the change in focus at the state and regional level from affordable housing to just more housing; the lack of enthusiasm by Pete and Josh for the “in perpetuity” public parking option as well as its applicability in other zoning districts; the administrative burden on the Town staff to manage anything “in perpetuity;” whether we should consider also

removing the commercial requirement from all or some of building 1, and if so whether more residential density should be allowed so that all the units didn't become larger and more expensive. Granda objected to this recitation by Clarke, saying that it undermined the consensus that the PC had reached to proceed with the Density Bonus Program as currently outlined, and that no one had had a chance to think about these points. Clarke said she would send out this material and the PC could talk about it at the next meeting, and for now the current draft of the program could be reviewed.

Bender asked about the credentials of Taylor Newton at CCRPC and Jacob Hemmerick at ACCD, who, Clarke had mentioned, are suggesting an emphasis on more housing in general rather than just affordable, and not worrying about maximum density. Osborne explained that they are professional planners hired by their respective agencies to help the municipalities create the regional plan and run relevant state departments, and that they have solid planning credentials. Further discussion ensued about the value and process of gathering opinions that might inform the writing of the document. Granda did not want to continue this particular discussion, but agreed to look at the draft that was in the meeting materials.

The document describes the 3 types of "density bonuses," with the "senior" category changed in name to "accessible/adaptable" to avoid triggering any charges of age-related discrimination. Under this category (6.15.5.4[d]), Granda suggested that "no steps" would be more appropriate than "no or few" steps. Clarke concurred, saying that a ramp could also be considered. She then reviewed the "affordable" and "public parking" bonus types. Clarke suggested that some of the language and concepts should be reviewed for applicability and legal correctness. Granda suggested that if Pete and Josh have concerns about the public parking, they should put those in writing and submit them to the PC prior to a public hearing. Clarke said she would try to get them to do that. She added that she would get the PC the "Administration" section, which was partially written but didn't get into the meeting materials, by the 12/4/24 meeting, and that she hoped there would be more questions and suggestions about the draft by then.

## **7. Updates and other business**

Meeting dates for the December and January meetings were finalized: 12/4/24 and 1/15/25 will be the only meetings for the next two months because of the holidays. The December 4<sup>th</sup> meeting will be entirely about the Density Bonus Program and Jolina Court ZD amendments, and the January 15<sup>th</sup> meeting will be the FHOD Public Hearing. Osborne said he would explain to CCRPC that we would have limited time for their proposed review of our ordinance for the NDA and for our Town Plan update until February. Clarke reminded the commissioners about the Biofinder training on January 9<sup>th</sup>, and said she hoped someone else as well as her would attend (remotely) so that we can use this important mapping tool for our Town Plan efforts.

## **8. Adjourn**

As there were no further updates, Granda moved to adjourn, seconded by Bender. There was no objection, so the meeting was adjourned at 9:05 PM.

Minutes submitted by Virginia Clarke