

1.15.25 additional meeting memo for #6 discussing recent ANR input

6. After this public hearing was scheduled we forwarded a copy of the proposed amendments to Kyle Medash at ANR's Department of Environmental Conservation. On December 27th we received a response, and have since then had several conversations with Kyle and another floodplain manager, Ned Swanberg. In his response Kyle stated that he thought what we were trying to do would generally be permissible, but that he thought FEMA would be confused by the terminology and specificity of the language, and that would make it harder for them to certify that our amendments were NFIP compliant. Keith and I have many questions about ANR's point of view and authority over this document that we are attempting to work through. FEMA has the ultimate role in NFIP compliance, not ANR, and we have no evidence that our language would be problematic if we still comply with the checklist. Compliance with the NFIP checklist is important because it allows Richmond residents to purchase flood insurance.

Keith and I have examined the NFIP checklist. Back in 2023, our current FHOD ordinance was examined by Dan Albrecht of CCRPC and was considered to align with the NFIP checklist, and we have been working with this "approved" document to make the necessary amendments. This week we compared our proposed draft with the checklist, and were only able to identify 2 items, #16 and #17 out of 46 items, that would conceivably be problematic for compliance.

The first is our addition of the definition "**Incidental structures,**" designed to allow for small park accessory items such as trash cans and picnic tables to be allowed without permitting. Kyle Medash also mentioned this as a "red flag" that would invite FEMA scrutiny. There appear to be several changes we might make to this proposal to make it more compliant with the checklist language and ANR's comments. We suggest the following: eliminate this category and fold these structures into the existing "insignificant activities" and "temporary structures" categories, whose definitions we would rewrite somewhat. We would also require that they be permitted by the Zoning Administrator. This is a bit more burdensome for us, but it is a compromise between the language of checklist #16: "Require permits for all proposed construction or other development," #17: "Require permits for all proposed construction and other development within SFHAs" and the model ordinance language recommended by Medash, that would make a DRB review (Conditional Use Review) necessary for these items. FEMA apparently prefers activities to be permitted.

Similar changes would be necessary for "portable toilets" and "tents" which would also be placed in the re-written "temporary structures" category and would require a permit from the Zoning Administrator.

Language for the following items which ANR questioned, but that do not seem to reduce compliance with the checklist, we suggest keeping as is:

- Our definition of “structure” because this is what is used throughout the rest of our zoning ordinance;
- The use of the “Nonconforming Structures and Uses” section to allow us to relocate the restroom and the “playground equipment”, which would need Conditional Use Review by the DRB and have to comply with the development standards of 6.8.16;
- Fencing for the playground seems to be an allowed activity that is exempt from permitting, but we would keep our language saying it needed to be permitted and the minimally flood-resistant that meets the purpose so that we are sure of some oversight into the design.

So it seems that more work will need to be done on this, as well as considering any public comment heard this evening. We will likely have to continue this public hearing after tonight’s meeting to do this work. *(see motion below)*

“I, _____, move that this public hearing be continued to the Planning Commission meeting of February 5, 2025.”