

Richmond Planning Commission
REGULAR MEETING MINUTES FOR July 20, 2022

Members Present:	Virginia Clarke, Dan Mullen, Chris Granda, Lisa Miller, Joy Reap, Alison Anand,
Members Absent:	Chris Cole, Mark Fausel,
Others Present:	Ravi Venkataraman (Town Planner/Staff), MMCTV, Jay Furr, Larry Lackey, Nic Longo, Cara LaBounty, Jake Flood, Angela Cote, Dave Carman

1. Welcome and troubleshooting

Virginia Clarke called the meeting to order at 7:04 pm.

2. Review of the agenda and adjustments to the agenda

Clarke reviewed the meeting agenda.

3. Approval of Minutes

Clarke asked if the commission wanted to take action on the minutes during this meeting. Lisa Miller suggested discussing the minutes at the end of the meeting. Joy Reap said that she did not have the chance to read the minutes and that she will hold off on acting upon them. Chris Granda said that he had not read the minutes. Clarke said that the review of the minutes will be postponed to the next meeting agenda.

4. Public Comment for non-agenda items

None.

5. Public hearing: Establishment of Airport Overlay District

Motion by Granda, seconded by Miller, to open the public hearing on propose amendments to the Richmond Zoning Regulations Section 3.11. Voting: unanimous. Motion carried.

Clarke provided an overview of past discussions on the proposed zoning regulations. Clarke asked Venkataraman to present the map of the proposed overlay district. Clarke said that the intent of these regulations are make sure that any proposed structures do not adversely affect the flight path for planes approaching Burlington International Airport. Larry Lackey added that applicants would file a 7460-1 form, and the Federal Aviation Administration would issue a determination on whether any mitigation would be required. Clarke asked Lackey if Williston had similar regulations. Lackey said that Williston has a similar iteration of the proposed regulations based on prior FAA policy requirements, and that he will have to discuss with Williston about updating their regulations to meet current FAA policy.

Angela Cote asked the commission if they have reviewed the FAA 7460-1 form, noting that based on the form she would not be required to file the form for developing buildings up to 35 feet on the peak on her property. Dan Mullen said that requiring the form for proposed developments that are above 2000 foot above ground level are a presumption, meaning that it is up to the FAA to prove that a proposed development interferes with the flight approach pattern and that if the FAA were to discover that a property owner has developed a building that interferes with the flight approach pattern without filing the 7460-1 form, the property owner is not protected. Cote noted that based on the flight approach sectional charge which sets the floor to be 2200 feet and the ceiling to be 4000 feet, she is unsure where the floor ends up being. Dave Carman said that this regulation is concerned with approaches and the slope of the approach path.

Cote said that the overlay map as prepared is based on property lines, that property lines can change at any time, and that the jurisdiction should be based on flight path designations. Carman said that this map was created to distill down to the properties that would be affected based on the Planning Commission's recommendations. Clarke affirmed this. Cote suggested using topography instead of property boundaries. Lackey said that that can be done, and that the FAA will be reviewing topography and contours. Cote said that to have to undergo the FAA review for developing areas on her property outside the scope of review would be burdensome.

Reap said that the landowners affected should be contacted. Reap said that she has seen planes above her house last night and asked about the location of flight patterns. Nic Longo said that those planes may not be on the approach path, that the approach path is a distinct, gradual path towards the runway, and that the proposed regulations are specific to the approach path. Longo cited BTVSound.com—a radar track feature that one can look at and comment to help one identify and track impacting situations. Longo identified the pink lines on the map as approach areas for one of the runways. Longo said that these areas are federally controlled, and that it is important to keep the parcels identified in the overlay map because basing jurisdiction by contour lines will be difficult to discern on the ground for property owners.

Clarke and Cote noted that the FAA 7460-1 form would be required for telecommunications structures and possible renewable energy structures.

Miller said that the FAA produces approach plates that depict the approach path and the path clearance, and that seeing that glide slope would be helpful in order to see the approaching flight and the height of the structures on a vertical graphic. Miller asked how frequently FAA modifies the approach path. Longo said that through the 7460-1 process, the FAA would be able to analyze the impact of proposed structures on all aspects of a plane's ability to land on the drawn approach path. Longo said that the airport does not have a role in the analysis, and that their role is to educate the public on the tools needed to improve the safety of flights. Miller said that she will distribute the approach plate for the public hearing.

Cara LaBounty said that the map could be subject to change with the addition of approach paths, that the form may need to be filed for trees that exceed 35 feet, that the property owners have not been notified, that the commission needs to be mindful of burden placed on the property that may require financial compensation. Lackey said that the FAA will review the project, approved the project, and may provide mitigation requirements. Lackey said that development in the shadow of areas of higher elevation would not be under review per the 7460-1 form. Mullen noted that the proposed zoning regulation is not a

requirement but a request for property owners to file the 7460-1 form, that the FAA can notify property owners if there are any impacts on the flight approach paths even without this reference to the 7460-1 form, and that the proposed zoning regulations inform landowners of FAA policies. Mullen highlighted that the requirement is a federal requirement, not a town requirement, that it does not create any easements or any other property interest in the landowner's property, and that concerns about takings on this subject has to be taken up with US Congress and Senate representatives as it is a purely federal concern. LaBounty said that adding additional overlay districts encumber properties, and that the language should include the term "optional".

Clarke asked Venkataraman to show the Town Attorney's comments on the proposed regulations, noting that the comments were minor. Clarke said that should the commission approve the proposed regulations, the Selectboard will have to hold a public hearing before taking any action on the proposed regulations. Longo said that the Town Attorney's comments are consistent with their intended, original language.

Clarke overviewed the public hearing procedure. LaBounty suggested that the commission continue the public hearing and contact all the impacted property owners. Granda asked what notification was done prior to the public hearing. Venkataraman said that he did the basic legal requirement for notifications—posting in physical locations, online, in Seven Days, and at the Town Clerk's office at least 15 days prior to the hearing—and that he did not send out any direct notices to property owners. Miller said that there are hundreds of feet below the floor of the approach and the terrain therefore there would be no major burden on the applicant, that clearer communication to property owners affected is needed, and that sending a notice and summary of the regulations is necessary. Granda concurred.

Clarke said that at this point the commission could close the public hearing and send out a notice about the Selectboard process or continue the public hearing and take additional public comments. Jay Furr suggested that the commission continue the hearing. Mullen asked which option would be more cost effective. Venkataraman said that continuing the public hearing to a month from tonight's meeting would be more cost effective.

Motion by Miller, seconded by Mullen, to have the Planning Commission prepare a notice to property owners about the proposed regulations and to continue the public hearing to the August 17, 2022 Planning Commission meeting. Voting: unanimous. Motion carried.

6. Discussion on the Village Residential/Commercial District

Clarke reviewed the changes made to the draft district regulations since the last meeting the document was discussed, including allowances for multiple uses on a property, and removal of outdoor storage accessory uses. Miller asked Venkataraman if the town asks applicants if they are proposing any outdoor storage. Venkataraman said that they ask applicants about outdoor storage as well as accessory uses in general, especially for uses in which outdoor storage is customary to the primary use, to make sure that the accessory use does not supersede the primary use and follows the mitigation requirements for outdoor storage.

Clarke reviewed the dimensional requirements and development standards. Mullen asked if the screening requirements be applied to heat pumps, A/C units and EV chargers. Clarke said that clearing the section up to clarify that screening requirements wouldn't be needed for heat pumps and A/C units may be necessary. Granda said that in his interpretation this regulation would apply to heat pumps and A/C units.

Furr asked about EV-ready parking spaces. Clarke explained that EV-ready parking spaces would include the EV charger and all elements to make the charger functional.

Miller asked if the definition of adequate screening could be handed over to the zoning administrator. Clarke noted the importance of specific standards for the Zoning Administrator's and DRB's sake.

Clarke reviewed the proposed EV charging requirements and Act 250 EV charging requirements. Reap recommended that the regulations align with the base energy code. Granda suggested that the commission be forward-thinking and include infrastructure that would best serve residents. Reap noted that the cost of EV charging and solar readiness will be passed onto the customer or resident, making housing more expensive. Clarke said the commission will need to address negotiating the housing costs and energy improvements to new housing. Mullen asked if developers would install EV chargers if this requirement is not included. Reap said that individuals would but maybe not as many. Mullen asked if the EV charging improvements could be installed on a rolling scale, allowing for developers to get a return on investment before having to install the EV charging infrastructure. Reap said building the improvements up front would be best. Granda highlighted having the infrastructure ready for the anticipated transportation shift. Miller suggested adding the term "charger ready" to remove some costs on the developer. Clarke said the town only has the ability to regulate the charger itself, not the components such as the wiring because the Town does not have a building code. Clarke added that further legal review is going to be needed on this subject. Venkataraman said that EV charging requirements haven't been completely legally tested yet, that some towns have required EV chargers as a specific use standard, and that he has not seen district-wide standards like the commission is currently proposing. Granda overviewed the state and federal targets for transitioning to an EV fleet, and that requiring parking spots to be "EVSE ready" would be ideal presently due to the costs and the constantly changing technology. Reap reiterated that the state requires the installation of EV chargers. Clarke asked if the Commercial Building Energy Standards requires the installation of EV chargers. Reap said that she can provide this information to the commission at its next meeting. Reaps voiced concerns about how the regulations may add to project costs and the fact that there is a need for affordable housing. Clarke said that this part of the discussions will continue to the next meeting as more information is collected.

Clarke reviewed the proposed building design standards and traffic impact standards.

7. Other Business, Correspondence, and Adjournment

Granda said that a community member let him know that they were unable to live on the property in a camper during the construction of their home and that he would like to know if the commission could do anything about this issue. Granda asked for confirmation that a property owner cannot temporarily live in a camper during construction, and for options to allow the property owner to live on the property during construction. Venkataraman confirmed that the property owner cannot temporarily live in a travel trailer during construction citing Section 6.5. Venkataraman said that the workaround could be to allow for a single-family dwelling and an accessory apartment, have the accessory apartment built and closed out, and then use the accessory apartment while the house is being constructed. Clarke asked if a mobile home could be permitted on the lot and used during construction of the house. Venkataraman said he thinks the structure has to be fixed and not on wheels. Clarke said that knowing the wastewater disposal plan is key, and that she is working on changes with the reorganization of the zoning regulations. Granda noted that he knows of some property owners who have done this, and that allowing this helps making housing more affordable. Reap added that the wastewater for this project would be adequately addressed.

Granda asked for interim solutions. Venkataraman said that there is no other way to allow for the camper to be occupied because the zoning administrator makes the call. Venkataraman said that the best course of action would be for the Planning Commission to change the regulations. Venkataraman said that the regulations wouldn't allow to permit two houses—a mobile home and a single-family dwelling—on the same property. Granda asked if the travel trailer could be permitted as an accessory dwelling. Venkataraman said yes, that the accessory dwelling would need a state wastewater and potable water supply permit, and that using this workaround would depend on whether the property owner wants to have a permanent accessory dwelling unit because all the permitting documents would show that the property has a single-family dwelling and a fixed accessory dwelling. Granda recommended that he, Reap, and Venkataraman work on this and come to the next meeting with language ready for approval. Reap said most tiny houses are on wheels and asked how tiny houses play into this. Venkataraman said that he was not sure.

Clarke said that more discussion about the EV ready and solar readiness will occur during the next meeting. Clarke asked for someone to help draft the letter to property owners regarding the airport overlay district. Miller volunteered.

Motion by Granda, seconded by Reap, to adjourn the meeting. Voting: unanimous. Motion carried. The meeting adjourned at 9:13 pm.

Respectfully submitted by Ravi Venkataraman, Town Planner