



RUTLAND CITY PLANNING COMMISSION

City Hall – 52 Washington St. – Rutland, VT 05701
Mailing Address: P. O. Box 969 – Rutland, VT 05702
Phone: 802-773-1800

Meeting Minutes October 27, 2021

The meeting was held in person and by teleconference because of the new COVID-19 protocols.

Present: Patrick Griffin (PG), Alvin Figiel (AF), Rebecca Mattis (RM), *Dave O'Brien (DO) and Sarah Roy (SR).

Also Present: Andrew Strniste Planning & Zoning Administrator, John Ruggiero and Barbara Spaulding recording secretary.

RM, Chair, called the meeting to order at 5:30 pm.

- I. ADDITIONS/DELETIONS – None.**
- II. PUBLIC COMMENT – None.**
- III. APPROVAL OF MINUTES – September 22, 2021.**

AF moved to approve the minutes of September 22, 2021. PG seconded. Motion passed unanimously.

IV. OLD BUSINESS – Municipal Planning Grant closeout update.

Barbara reported that the MPG used to pay for the consulting services of Brandy Saxton to assist the Commission and ZBAG in working through the issues of density and design in the proposed zoning bylaws has been closed out and the final requisition submitted. The closeout included a final report for which she and Andrew provided the necessary information. She added that expenses for the project totaled \$24,207. This amount was less than the original budget due to the omission of the public input workshops and hearings that were included in the scope of work. The draft Title 31 Unified Land Use & Development Ordinance, as well as the Design Standards, were submitted as the final work product. Once the closeout documents and final requisition are reviewed by the Agency of Commerce and Community Development, a letter of completion is anticipated and will be shared with the Commission.

Draft Zoning Bylaws Update process.

RM said she and Andrew met to discuss how to proceed with the draft zoning update. They decided that having a better understanding of the zoning permitting process and using the proposed draft through examples of hypothetical projects would be the best course going forward. The goal is to get an understanding of how zoning works.

Andrew explained that there are two types of review, Administrative and Development Review Board (DRB). An administrative review is more or less a checklist in the regulations to determine if a project complies, as well as, conforms to statutory requirements. A DRB review is more complicated and there are five types: Subdivision, Site Plan, Conditional Use, Variance and Appeals. Anything Andrew reviews can be appealed to the DRB and after that to the Environmental Court.

*Dave O'Brien arrived.

Andrew continued that there is not a lot of subjectivity with site plan review where conditional use review has some subjective factors such as character of an area. The criteria for each one is in the proposed regulations on page 136 Figure 4-01.

Andrew discussed variances which are a request to deviate from the regulations. There are two types: use variances and dimensional variances. Use variances are not permitted by the state. Dimensional variances are a deviation from the setback requirements or other dimensional requirements in the regulations. RM asked how Rutland City has historically used variances. Andrew said based on the history there have been a lot of use variances. He referred to the list of variance criteria on pages 140-141 saying that it is tied to the physical aspect of the lot preventing someone from developing the lot. The hardship can't be created by the applicant. PG added that variance criteria are dictated by state statute and 99% of projects do not qualify for a variance. He suggested that anything the Commission thinks should be an allowed use needs to be clear so that a variance is not needed and a waiver should be the alternative. RM asked why have variances. PG said because there is that 1% of projects that have unique circumstances and meet the criteria. DO said he thought variances were common. Andrew said that was the philosophy in the 90s but then the state converted to dimensional waivers taking the place of variances. Dimensional waivers allow an applicant to get closer to the setback requirements without adhering to the strict criteria of a variance. Discussion continued on considerations of the dimensional standards in the residential districts as proposed on page 33 of the regulations.

Andrew went on to explain the fees and timing of a DRB review saying that state statute dictates a 15-day posting of the DRB hearing and a 30-day appeal period. At the very least the applicant is looking at 3 months from start to finish and it could take up to 6 months. Chapter 4 of the proposed zoning covers the filing requirements. Andrew said the uses in the mixed use and business districts listed on pages 37-39 will most likely go before the DRB as major site plan review and the applicant will have the longer process. He suggested that the Commission consider what uses will require a DRB review as opposed to a less intensive Administrative review and he gave an example of a DRB review of site plan in the Gateway Mixed Use district. He discussed the review for major renovations which are done by the DRB pursuant to page 128, 4.23E (1)(c). Discussion continued regarding the gray territory between major and minor renovation projects. DO asked why review renovation if it is not encroaching on the setbacks. Andrew said that is a policy question and if the Commission is not concerned with renovations other than when there is a change of use, it should be discussed. PG asked if under Administrative review Andrew could kick it back to the applicant or to the DRB. Andrew discussed the

tipping points. AF said a DRB review is triggered when significant impacts are involved as opposed to minor impacts. Andrew asked if it makes more sense for the City to assign which uses get which review to eliminate the tipping points. DO said he would want to avoid subjectivity and have a material trigger for DRB review. AF suggested asking the DRB members if they have reviewed site plans that could have been done administratively. Andrew discussed eliminating the preliminary subdivision review.

Andrew discussed examples with a single-unit house in the R-10 District and a change of use development at 34 North Main Street in the Gateway District. The Commission went through the permitting process for both examples using the proposed zoning. During the conversation the following concerns for changes were noted:

- Add language to clarify which features will be excluded from the calculation of building lot area for the purposes of figuring minimum lot area per dwelling unit.
- Policy discussion to determine a way to review development of a major property in Rutland by the DRB.
- Define a zoning district or overlay district specific to the area of Routes 4 and 7 that requires a major change to go before the DRB.

RM suggested using the next two meetings, Nov. 10 and December 8, to work through more examples to learn the regulations and the Commission agreed. RM said she would track whether the examples are major or minor for further discussion.

V. CORRESPONDENCE – 10/12/21, SameSun of Vermont, Inc., Notice of CPG Application Filing, 150 kW (AC) net-metered solar carport at 34 North Main St. Rutland.

RM said the letter provides notice that pursuant to the Public Utility Commission (PUC) the full Certificate of Public Good (CPG) application #PUC Case No. 21-3666-NMP was filed. DO asked what could the Planning Commission do to prevent construction of the solar carport at 34 North Main Street. RM explained that the PC consensus at its September 22 meeting was to submit a letter to the PUC and others stating that although the Commission can live with solar panels for the next 20 years because it is better than what currently exists, it is not the best and highest use and is not the best project that furthers the goals in the master plan. DO said that was a mistake and we shouldn't settle or lower our standards. RM said DO could propose a motion to revisit the discussion. RM asked Barbara to email a copy of the letter to the Commissioners. PG moved to receive and file the correspondence. AF seconded. Motion carried 4-1 with DO voting no.

VI. ADJOURN – PG moved to adjourn. DO seconded. Motion passed unanimously. The meeting ended at 7:06 pm. The next regular meeting will be held November 9, 2021.

For the Commission: Barbara Spaulding, Recording Secretary