

*** Unapproved ***

DERBY PLANNING COMMISSION *MINUTES*** February 13, 2023**

MEMBERS PRESENT: Bob DeRoehn, Hazen Converse, Carol Brown, Joe Profera, Bruce Penfield.

MEMBERS ABSENT: None.

OTHERS PRESENT: Bob Kelley.

MEETING CALLED TO ORDER: 6:30 P.M.

APPROVE MINUTES:

Hazen Converse moved to approve the January 30, 2023 minutes as written, seconded by Carol Brown. Unanimous.

PUBLIC COMMENT: None.

PUBLIC HEARING – BYLAW AMENDMENTS:

Joe Profera moved to recess the meeting to go into a Public Hearing for public comments on proposed bylaw amendments, seconded by Hazen Converse. Unanimous.

The proposed amendments are to:

- Article 6: Flood Hazard & River Corridor Regulations
- §702 Planned Unit Development (PUD)
- §703 Mobile Home Parks
- §1102 Term Definitions

Alison Low, NVDA Planner, submitted the following comments:

I am assuming that you have reached out to Sacha Pealer for a detailed checklist to determine conformance with FEMA's standards for the National Flood Insurance Program. I am asking because that is a level of technical review that must be completed by the DEC. There are a couple of things that raise questions for me:

1. The table suggests that storage is approved conditionally in the flood fringe, but §605.4D suggests that storage is prohibited. Which one is it?
2. Substantial improvement -- although this is determined by the value of investments over time (in the definitions), I think that FEMA is insisting on an administrative process to track this. How are you going to track this?
3. Perhaps I'm missing it, but the language that involves the DEC in the development review process seems to be "may". I believe that it is mandatory to solicit comment from the DEC.
4. Dispute flood hazard boundary. Sacha may correct me if I am wrong, but I think that a LOMA is the ultimate authority on location of the flood hazard area, not the AO.
5. Variances -- there is very specific language about how a property's flood insurance will be affected by the issuance of a variance. Have you amended your provisions for variances?

PUD provisions:

Please note the statutory definition for owner-occupied Affordable Housing was revised some years back in order to encompass "workforce housing" The definition from 24 VSA Sec. 4302 is:

"Affordable housing" means either of the following:

(A) Owner-occupied housing for which the total annual cost of ownership, including principal, interest, taxes, insurance, and condominium association fees, does not exceed 30 percent of the gross annual income of a household at 120 percent of the highest of the following:

- (i) the county median income, as defined by the U.S. Department of Housing and Urban Development;
- (ii) the standard metropolitan statistical area median income if the municipality is located in such an area, as defined by the U.S. Department of Housing and Urban Development; or
- (iii) the statewide median income, as defined by the U.S. Department of Housing and Urban Development.

(B) Rental housing for which the total annual cost of renting, including rent, utilities, and condominium association fees, does not exceed 30 percent of the gross annual income of a household at 80 percent of the highest of the following:

- (i) the county median income, as defined by the U.S. Department of Housing and Urban Development;
- (ii) the standard metropolitan statistical area median income if the municipality is located in such an area, as defined by the U.S. Department of Housing and Urban Development; or
- (iii) the statewide median income, as defined by the U.S. Department of Housing and Urban Development.

Additionally, must all PUDs require subdivision review? There may be some situations where a subdivision is not needed. You could look to the Burke Zoning regulations how it can be dealt with in this instance:

<http://www.nvda.net/files/Zoning%20Bylaws%20Revised%20April%2010%202018.pdf>

There were no further comments from the public. Carol Brown moved to close the Public Hearing and return to their regular meeting, seconded by Joe Profera. Unanimous.

NEW/OLD BUSINESS:

To consider the Proposed Bylaw Amendments discussed at the Public Hearing – Alison Low's comments were discussed. 1) The conflict regarding Storage in a Flood Hazard Area is from the State's model regulations, Bob Kelley will contact the State Floodplain Manager for clarification. 2) Substantial Improvements are tracked by the permitting process. 3) The “may” language is for river corridors, not flood hazard areas. 4) Uncertainties in flood hazard boundaries are determined by the AO. If there is a LOMA there is not an uncertainty and the LOMA rules. 5) The Planning Commission is currently working on amending the Variances section of the bylaw. The Commission agreed that the definition of Affordable Housing should be changed as Alison suggested. Bob Kelley will discuss all of Alison's concerns with her and report back to the Commission. It was thought that some parts from the Administration section of the State's model flood hazard regulation be added now rather than waiting on review of the Administration section Derby's Bylaw. The Commission further discuss these issues at their next meeting. Carol Brown moved to change the definition of Affordable Housing in the proposed amendments to mirror what is in State statute, seconded by Bruce Penfield. Unanimous.

Continue Review - Article 8: Limitations and Variances – The Commission made a few changes to bring it in compliance with State Statutes. Variances requirements in Flood Hazard Areas needs to be looked into.

Mail – The Commission reviewed their mail.

ADJOURNMENT:

The next regular meeting is scheduled for 6:30 PM on February 27, 2023. Joe Profera moved to adjourn at 7:15 PM, seconded by Hazen Converse. Unanimous.

The minutes were taken by Bob Kelley.