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MEMORANDUM

TO: Britt See-Bennes
City of Virginia
327 1st Street South
Virginia MN 55792

FROM: Bob Kost
Sr. Planner

DATE: February, 17, 20202

RE: REVIEW OF CHAPTER 11, LAND USE REGULATIONS (Zoning) and
CHAPTER 12, SUBDIVISION REGULATIONS (Platting)

SEH No. 153495

Notes:

Recommendations within this draft review appear as underlined text.

The ordinance reviewed in this memo was obtained through the world wide web as presented by:

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2019 S-1 Supplement contains:

Local legislation current through Ord. passed 7-9-2019

Overall

Both chapters are outdated, poorly organized, and do not adequately reflect many of the goals and policies established in the 2017 Comprehensive Plan. The zoning ordinance includes multiple tables to help consolidate information, but these could be better organized and their content should be improved/updated. The ordinances also don't include illustrations, diagrams and other user-friendly features typical of modern, state-of-the-art ordinances. The ordinances should be rewritten to more directly support the comprehensive plan and provide concise and user-friendly regulations.

Chapter 11: Land Use Regulations (Zoning)

11.01 Application

For the most part this section appears logical and workable. Provision (E) “Uses not provided for within zoning districts” should be revised as it relies upon all specific uses being identified and listed (permitted and conditional) which is an outdated and unrealistic means of regulating land and building uses within zoning districts, see recommendations under 11.13 Permitted and Conditional Uses.

11.02 Definitions

The ordinance includes an extensive set of definitions many of which present issues including:

- not explicitly pertaining to the ordinance such as terms like restaurant or dog kennel
- are redundant such as the terms basement and cellar
- include extensive parameters serving as regulation by definition such as Dwelling, Manufactured and Home Occupations

Avoid using definitions to regulate uses and activities.

Definitions provided should be limited to those words whose meanings are specific to the ordinance and a reference standard such as the Oxford English Dictionary cited for any words not defined in the ordinance.

11.03 General Provisions

The majority of the General provisions appears to be logical and necessary. Several areas could be improved:

Non-conforming buildings, structures and uses item (A) (1), states “Furthermore, it is the intent of this section that all non-conforming uses shall be **eventually** brought into conformity.” A time frame or limit of years such as “within X years” should be provided otherwise compliance of this provision is open ended and enforcement is vague and contestable.

(B) *Non-conforming lots of record. Provisions* provide that non-conforming recorded lots within a residence district may be utilized for “single-family detached dwelling purposes or two-family, duplex purposes provided, the measurements of such area or width are within 75% of the requirements of this chapter.” This seems unworkable in the R-2 Single-family detached and R-3 Single-family attached districts where the required minimum lot width is 25 feet as 75% of 25 feet is only 18.75 feet. These provisions should be reconsidered, fit-tested for applicability and revised.

(4) *Mobile homes and manufactured housing.* Given how out of character these types of buildings are when compared to Virginia’s more traditional, existing homes, an additional provision should be

considered for regulating where to allow manufactured homes when they **are** built under the Uniform Building Code.

11.10 Establishment of Districts

- As currently defined, the five residential districts employed are somewhat duplicative and confusing. For example, townhomes are typically permitted and regulated within multi-family districts such as the R-3, 5-12 Multi-Family Residential District and not given their own zoning district. Given the limited amount of land available for new residential development and the large number of existing homes and lots that could or should be redeveloped, the number, type and parameters of the residential districts should be reconsidered and revised to something closer to the following: R-1 low-density up to 6 dwellings per acre; R-2 moderate density up to 10 dwellings per acre; R-3 medium density up to 20 dwellings per acre and R-4 high density up to 50 dwellings per acre. A range and variety of building types should also be permitted in all the residential districts in accordance with goals and policies of the comprehensive plan.
- Many of the purpose statements, especially for the residential districts, do not describe the district or expand upon its intention but merely cite the district name in a declarative sentence. The residential purpose statements should be revised in the manor of the Business and Industrial districts.

The two business districts: B-1, Central Business District and B-2, Community Business District appear inadequate for serving the entire city. For example, the recent commercial development along 4th St N or existing businesses along 6th Ave W and 9th St N don't exhibit the urban form and character of the downtown B-1 Central Business District, nor is this development of a regional scale or as auto- oriented as the B-2 Community Business District. It would be beneficial to create a third commercial district that is neighborhood and local corridor oriented. This new district would support the walkable, moderate scale, neighborhood serving commercial development pattern exhibited in these areas and give greater importance to B-1's traditional CBD. Consolidating and remapping the B-1 CBD district to correspond to the traditional, historic downtown and rezoning other B-1 CBD areas as B-3 Neighborhood Corridor Business District (or similar title) is recommended.

11.11 Zoning Map

The official zoning map does not employ industry standards in representing zoning districts and instead relies on colored cross hatch line patterns that are difficult to interpret. The zoning map should be revised using common zoning colors and the new map should include any remapping resulting from updating the ordinance.

11.12 District Boundary Lines

No changes are suggested for this section.

11.13 District Regulations

Tables

Presenting the district regulations in table form provides a comprehensive and effective method for communicating zoning parameters however, there are a number of opportunities for improving the organization and content of this information:

- The overlap between use Tables A, B, C for residential, business and industrial districts and “Minimum general requirements” tables under section (B) for the same districts is confusing and some of the information presented is inconsistent. The placement of tables within the ordinance and the listing of data within the tables could be better coordinated and organized.
- All tables should be labeled consecutively A, B, C, D, with each table of permitted and conditional uses being directly followed by a table of minimum general requirements for that broader land use category (residential, commercial, industrial, etc.).

Permitted and Conditional Uses

The current ordinance relies on numerous lists of specific uses to achieve control over permitted and conditional uses in residential, commercial and industrial districts. Only the specific uses listed are permitted or conditional and by their absence, uses not listed are not permitted. For example, the specific uses listed in Table B: Business District Uses include: barbershops, beauty parlors, camera and photographic supplies but not computers or electronics. Since “computers” and “electronics” are not listed, they would not be allowed. The use “Small appliances, sales and repair” is allowed, so perhaps the sale of computers and electronics could be allowed by that use. There are similar omissions within Tables A and C as well. This approach of relying on specific use lists is imprecise and outdated.

Current state-of-the-art in zoning regulation relies “generic uses” to control permitted and \special uses. Generic uses represent categories of uses rather than specific individual uses. Generic uses are carefully defined in the definitions chapter and any uses that meets that definition would be allowed. Examples of generic uses include: a) retail goods establishment (any retail use or store selling merchandise directly to the public); b) retail service establishment (any use that provides a service to the public in a retail setting); and c) eating and drinking establishments (any use that sells prepared food and beverages for consumption on the premises). Development of Mini-storage facilities shouldn't

be an option even as a conditional use in the B1, CBD. Neither should Boat and marine sales and Commercial greenhouse.

Generic uses automatically exclude other uses that are defined in the definitions chapter, so that an “adult use” would be distinguished from a “retail goods establishment.” Ideally, development control within the City’s zoning districts would benefit by adopting the generic use approach in place of the current “laundry list” approach.

Off-street parking is a permitted (principle) use in Virginia’s Business Districts (CBD). While off-street parking is occasionally needed as a supplement to on-street parking in traditional CBD it is more commonly permitted in association with another use such as a retail store, public building, etc., or if serving the entire CBD and permitted as a conditional use. Extensive use of B-1 Central Business District lands for surface parking detracts from the CBD’s traditional Main Street character, erodes the urban fabric and undermines land values. Similarly, off-street parking in the B-2 General Business District should only be permitted in association and support of retail goods, services and or eating and drinking establishments. It is recommended that off-street parking be prohibited as a primary use in any district, additionally, parking garages (or ramps) should be permitted as a conditional use in the B-1 and B-2 districts with pertinent design standards for parking lots and garages (or ramps) established in section 11.40 Performance Standards of the ordinance.

Table A: Residential Districts Uses identifies Conversion of single-family dwelling to no more than 4 units, Single-Family detached dwellings and Two-family dwelling as being a permitted use in the most intensive, highest density districts (R-4 and R-5). This is type of low-density development is contrary to the intent of these two districts and shouldn’t be listed as either a permitted or conditional use in the R-4 or R-5 district.

Table C: Industrial Districts Uses identifies “Junk yard (open storage), similar uses” as conditional in both industrial districts, however there are no specific conditions pertaining to junk yards identified in subsequent sections of the ordinance.

All junk yards should be screened and specific screening parameters should be clearly described in 11.40 Performance Standards.

“Incineration or reduction of waste material”, etc. isn’t listed as a conditional use in the I-2 Heavy Industrial, only in the I-1 Light Industrial. This is inconsistent and should be corrected to provide for this as a conditional use in the I-2 district.

The same comment from above applies to the long laundry list of uses shown for I-1, I-2.

Specific Zoning District Comments

Residential Districts

The difference between the R-3 and R-4 zoning districts is odd. A townhouse building type doesn't require its own unique district. Townhouse densities can range between 10 and 16 units per acre which isn't too far above the R-3 density of 5-12. Also much of the existing R-2 district was developed at densities above 5 units per acre. As the highest density district, the R-5-Multi-Family (over 12 units) district sets a low minimum density threshold. Most stacked, multi-story apartment buildings provide densities above 20 dwellings per acre. The parameters of the R-3, R-4, R-5 should be more thoroughly compared, studied and updated.

Business Districts

It is unclear what is specifically meant by the term "Greater" that is underneath the Maximum Height provision. Are heights shown actually minimums? 33 stories (approximately 350 ft.) seems excessive for building height in the CDB where the tallest existing buildings (Coates Plaza Hotel and power plant) appear to be 5 and 8 stories respectively. The same holds for the 23 story height in the B-2 and 33 story height for Multiple-family in the B-2. Perhaps these are misprints?

The parameters shown in the table labeled "Density and Intensity Regulations Business Districts" need more careful study including fit-testing to ensure they provide realistic regulations for redeveloping sites in the B-1 and B-2.

B-1 Central Business District and Downtown Revitalization

In its current form, the ordinance doesn't provide the types of useful regulatory tools to adequately support revitalization and redevelopment of the CBD. More supportive tools would include such things as building design standards that address elements such as ground floor transparency, building materials, cornice lines, signs, etc. Additional regulations should be developed to address design of new buildings, building alterations and a time frame for temporary building repairs within the B-1 district.

Industrial

The zoning map identifies three industrial districts: I-1, I-2, I-3 while the ordinance only addresses I-1 and I-2. The I-3 Business Park district needs to be fully described in the ordinance if it is to remain on the official zoning map. A maximum building should be stipulated within each district.

(C) Mobile home park (Independent or dependent)

An extensive set of regulations are provided for mobile home parks and a small area is identified on the official zoning map where this use occurs. There are no additional, new lands identified for this use on the land use map.

The predominant, current term for this housing type is Manufactured Home.

This section of the ordinance should be reviewed and updated with the assistance of the City Attorney to ensure it is in compliance with current law and incorporates best practices.

11.3 Special Regulations

(A) Accessory buildings, uses and structures.

(1) *Accessory buildings, uses and structures in residential districts.*

(2) *Accessory buildings, uses and structures in commercial and industrial districts.*

All of the provisions and parameters in these subsections of the ordinance should be reviewed through detailed discussions with the zoning administrator, fit-testing for basic outcomes and revised to better accommodate existing conditions and support community needs.

(I) *Student Housing.* The language describing student housing appears ambiguous and should be reviewed by the City Attorney to ensure it is in compliance with current law and incorporates best practices.

(L) *General Fencing, screening and landscaping.*

Fence parameters including heights and set-backs appear to be out of date and incompatible with available modern fence products. Fence standards should be revised to better accommodate modern material standards and best practices.

11.40 Performance Standards

Several provisions should be closely reviewed for past performance outcomes and revised accordingly including:

(A) *Required fencing, screening and landscaping.*

(1) Green belt parameters omit the use of shrubbery which are a more effective screen than ground cover. Limiting the use of earth berms to three feet seems arbitrary as does the phrase “effective screen”. This provision should be revised to identify greater detail as to types of plantings, maximum slopes for earthen berms and the required amount of screening as a percentage of opacity.

(2) (a) 1., 2., 3., (b), (c) screening provisions and parameters (for residential, commercial and industrial uses) should be reviewed for actual effectiveness and revised to better accommodate modern material standards and best practices.

(L), (M) *Signs and Marquees*

Overall, the regulations governing signs is a mix of dated and modern provisions and parameters. For example, provisions for residential districts do not address the common practice of using decorative entry monument style signs to signify a particular neighborhood or subdivision but the parameters regulating electronic signs are extensive, explicit and appear to consider modern sign products. During my confidential interviews, several people raised concerns about the interest or need for modest sized projecting or hanging signs within the B-1 Central Business District. Currently this sign type isn't addressed in the ordinance.

Sign regulations would benefit from a thorough review and update including inclusion of illustrations of sign types and their respective parameters as well as a table describing sign types and their location, size, set back, etc. as permitted or conditional by zoning district.

(N) *Off-street parking space requirements.*

Similar to the sign regulations, regulations for off-street parking present an extensive number of provisions and parameters, some applicable, some out dated and unnecessary. It should be noted that current off-street parking best practices regulate the maximum number of spaces instead of minimum, as was the case in the previous century. Additionally, many communities now regulate aspects of bike parking such as required number of bike racks, their location, etc. as a means of promoting the benefit of active transportation while also reducing the amount of land devoted parking/storing motor vehicles.

Off-street parking regulations (for vehicles and bikes) would benefit from a thorough review and update including inclusion of illustrations of parking space dimensions and layouts, as well as a table describing requirements (number of spaces, location on site, etc.) as permitted or conditional by zoning district.

11.41 Blighting Factors Prohibited

While these provisions and parameters appear adequate, they should be reviewed for ease of applicability and success of enforcement and revised accordingly.

11.50 Administration and Enforcement

It is more typical to present these provisions at the front of the ordinance rather towards the back where they are more difficult to find.

(A) Administrative officer.

While it is good that the ordinance identifies the person responsible for administering and enforcing the zoning ordinance, with the ordinance's origins in land use and community planning, it may be worth reconsidering having the building inspector also serve as the zoning administrator. It is true that the zoning code regulates the use and development of land and buildings in the interest of the public's health, safety and welfare as does the building code. However, where the building code is cut and dry with little desired room for interpretation, there is some degree of discretion available in the interpretation and application of the zoning ordinance through the rezoning and variance procedures. Lastly, the zoning ordinance is one of the primary tools for implementing the goals and policies established in the Comprehensive Plan and it is essential that whomever administers the ordinance is knowledgeable in the Comprehensive Plan.

Every community member interviewed during the preparation of this initial review of the zoning ordinance described a less-than friendly, un-helpful circumstance or process in dealing with the ordinance either when seeking information, clarification of a provision, or applying and seeking a variance or a rezoning. A question that arose several times was whether the building inspector was the best person to administer the zoning ordinance?

(I) Administrative fees.

Every community periodically updates their fees. Including fee amounts in the ordinance requires the ordinance be amended whenever a fee amount is changed. Fees should be described and a fee table or list should be referenced but amounts should not be in the ordinance.

It is recommended that the entire administration and enforcement of the zoning ordinance be reconsidered with the goal of providing an easy to navigate, citizen-friendly ordinance document and a more customer-friendly administrative process.

11.51 Establishment of Dedicated Park Area

The language in the ordinance is specific to Southside Park and seems out of place with the rest of the ordinance. Is this type of language better suited for Chapter 12, Subdivision Ordinance?

11.6 Planned Unit Development

This section appears to be in good order with the exception of provision (B), (3) the minimum area required. One acre is very small for a PUD, most communities use between 5 (Mountain Iron) and 20 acres as their minimum of required land for a PUD while others (Duluth, Grand Rapids) have eliminated the Planned Unit Development entirely from their zoning. PUD's can be time intensive to process, and administer/ monitor as they develop over time.

It would be worth discussing the if there is a continued need for retaining the PUD in Virginia and if so, is one acre the proper minimum land area requirement.

11.99 Violation Misdemeanor

There are no comments regarding this section.

Chapter 12: Subdivision Regulations (Platting)

The subdivision regulations are outdated and poorly organized. They would benefit from reorganizing the table of contents as well as the inclusion of a number of provisions. The following is a recommendation for reorganizing the table of contents:

12-01: General Provisions

- Short Title
- Purpose
- Jurisdiction
- Applicability
- Criteria for Subdivisions in Underdeveloped Areas
- Relationship to Other Laws, Titles and Plans
- Waiver or Modification of Requirements
- Fees (not to include actual dollar values)
- Selling Before Approval; Penalties
- Amendments
- Violation a Misdemeanor
- Validity; Severability

12-02 Definitions

- Include full complement of subdivision and platting-specific terms

12-03 Procedures

- In General
- Boundary Line Adjustments Review and Permitting
- Lot Split Review and Permitting
- Pre-Application Conference
- Concept Plan Review (optional)
- Applicability of Preliminary and Final Plat Requirements
- Public Land
- Preliminary Plat Requirements
- Preliminary Plat Review Procedure
- Duration and Effect of Approval
- Final Plat Requirements
- Final Plat Review Procedures
- Installation of Improvements
- Improvement Guarantee

12-04 Design Standards and Required Improvements

- In General
- Engineering Standards and Specifications
- Blocks
- Lots
- Streets and Circulation

12.01 General Provisions

As outlined above, this section is missing a number of important provisions.

The General Provisions section of the ordinance should be expanded as outlined in the recommended table of contents.

12.02 Definitions

Unlike Chapter 11: Land Use Regulations (Zoning), the subdivision Regulations are missing a number of useful definitions such as:

- Administrative Officer
- Alley
- Block
- Base Flood Elevation

- Building Permit
- Certificate Occupancy,
- Improvements,
- Minor Subdivision (3 or fewer lots)
- Major Subdivision (4 or more lots), etc.

Additional, regulation-specific terms should be included to better support the regulations contained in the ordinance.

The definitions of current terms should be updated / revised to more accurately support the regulations contained in the ordinance.

12.03 Determination of Streets

This section should be relocated to the Procedures section of a revised ordinance as outlined in the recommended table of contents.

Additionally, it is recommended that the determination (classification) of street types should include a recommendation from the City Engineer based on projected traffic loads as well as factors of safety, continuity, connectivity, etc. and then reviewed and commented on by the Planning Commission and approved by the City Council.

Concept Plan

Many communities include an optional early subdivision phase known as the Concept Plan. The concept plan is intended to reflect the general intentions of the applicant with regard to layout of lots, streets and utilities, and to provide a basis for discussion and revision before substantial engineering costs are incurred. Its review process provides comments to the applicant in preparing the preliminary plat but do not constitute an official decision on the application. Including a concept pan option for major subdivisions should be considered during the preparation of a rewritten subdivision ordinance.

12.10 Preliminary Plan

This section describes procedures and requirements for preparing a preliminary subdivision plan, more correctly defined as a preliminary plat. This section should be titled Preliminary Plat, not “Preliminary Plan”, the language should be modified accordingly and the section should be relocated as outlined in the recommended table of contents.

Provision (1) suggests the subdivider meet with the Planning Commission and City Engineer prior to preparing a preliminary plan. Having subdividers confer with City representatives who are knowledgeable about the city plans, growth policies, engineering standards, etc. helps ensure

subdividers' proposals are acceptable and in accordance with community growth and enhancement goals and policies described in the Comprehensive Plan. It is also a good way to prevent misunderstandings between applicants and the City.

For multi-lot subdivisions requiring new streets and utilities (Major Subdivisions), this wording should be changed from "suggest" to "require" and the meeting should be conducted with the Zoning Administrator, City Engineer and Planning Commission Chair person or their designated alternate rather than the entire Planning Commission. This would provide greater flexibility for scheduling the meeting while making the process more applicant-friendly.

Provision (b) language includes actual fee amounts, this should be removed and a fee table should be referenced instead.

All of the (A) Procedures and (B) Data requirements for preliminary plats should be reviewed for completeness, current best practices and revised accordingly.

12.20 Final Plat

This section should be relocated as outlined in the recommended table of contents.

All of the (A) Procedures and (B) Data requirements for final plats should be reviewed for completeness and current best practices and revised accordingly.

12. 30 Design Standards

Several provisions within the design standards are redundant, missing and or out of character with the city's existing urban form. For example, (A) Streets, (2) Width, indicates Cul-de-sacs, Marginal access street and Minor streets right-of-way as 66 feet but information regarding street pavement widths, tree lawns / boulevards, sidewalk widths etc. is not provided.

Provision (8) Alleys, states they "are not permitted in residential areas and where they are provided they shall be not less than 30 feet in width." Alleys can be found in many of the city's existing residential areas (approximately 16 feet wide) and they have become popular with certain types of newer residential development such as townhomes neo-traditional neighborhoods which feature rear loading and or detached garages.

Provision (14) Street interval, sets a "not-to-exceed interval of one-half mile for through streets". This is a very long interval, especially in light of the city's expansive, existing gridded street network.

Provision (C), (1) Blocks, Length. “Block lengths shall not exceed 1,500 feet, if possible, should not be less than 400 feet in length.” While most existing residential blocks run approximately 400 feet in length, 1,500 is excessively long for a maximum block length.

The Comprehensive Plan includes several goals and policies regarding preserving Virginia’s identity and sense of place through the use of traditional block patterns, ensuing roadway widths are adequate for the type of development served, but not wider than necessary, etc. Based on these goals and policies, the design standards should be reviewed in detail and revised to incorporate current best practices in modern, complete street design while also reflecting the City’s operations and maintenance practices.

12.40 Public Land

Section 12.40 establishes requirements for the dedication of park and or school lands. The language in this section includes the phrase “the Council may require”. This wording is vague and implies the subdivider may not be required to provide for future park and or school lands. The section doesn’t provide an option for cash in lieu of land which provides funding for park facilities. This is a critical provision as parks typically serve a larger area than a single subdivision (plat). As one subdivision may provide the land area for a park, the surrounding subdivisions can then provide monies needed to construct the actual park facilities.

It is recommended that the language be revised to require either land or cash for parks, playgrounds, schools or other public purposes as determined by the Planning Commission and approved by the City Council.

This section of the ordinance should be relocated as a provision under section 12.03 per the recommended table of contents.

12.41 Required Improvements

Information within this section should be reviewed for completeness and modern best practices with the City engineer and relocated under section 12.03 per the recommended table of contents.

12.51 Engineering Standards and Specifications

Information within this section should be reviewed for completeness and modern best practices with the City engineer and relocated under section 12-04 Design Standards and Required Improvements as outlined in the recommended table of contents.

12.52 Amendments

This section and its provisions should be relocated into section 12.01 as outlined in the recommended table of contents.

12.99 Violation a Misdemeanors

This section and its provisions should be relocated into section 12.01 General Provisions as outlined in the recommended table of contents.

Attachment: Zoning Ordinance Interviews