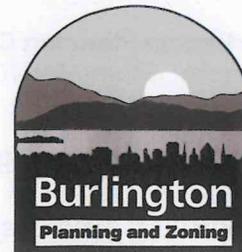


Burlington Planning Commission

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Yves Bradley, Chair
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Burlington Planning Commission

REGULAR MEETING

Tuesday, September 10, 2013 - 6:30 P.M.

Conference Room #12, Ground Floor, City Hall, 149 Church Street

AGENDA

Note: times given are approximate unless otherwise noted.

I. Agenda

II. Public Forum - Time Certain: 6:35 pm

The Public Forum is an opportunity for any member of the public to address the Commission on any relevant issue.

III. Report of the Chair (5 min) – Yves Bradley, Chair

IV. Report of the Director (5 min) – David E. White, Director

V. Public Hearings: ZA-14-01 to ZA-14-04 – Time Certain 7:00pm

The Commission will hold two public hearings on the following amendments to the Comprehensive Development Ordinance:

- **ZA-14-01** - allows for a pre-existing encroachment into a side or rear yard residential district setback to be expanded vertically (up) provided it does not increase the horizontal encroachment.
- **ZA-14-02** - provide more flexibility for management and activities of urbanized greenspaces including City Parks by exempting certain activities from requiring zoning permits and allowing for greater lot coverage to recognize actual and future improvements.
- **ZA-14-03** - enable a greater variety of non-residential uses that support small and emerging entrepreneurs, artisans, mobile food carts and trucks, and value-added urban agriculture within mixed use districts.
- **ZA-14-04** – expand the Downtown Transition district boundary along the west side of South Champlain Street to straighten boundary lines while providing more development flexibility on effected parcels.

VI. Municipal Planning Grant

The Commission will discuss the Municipal Planning Grant application that is being considered by the Department and provide approval for the filling of an application.

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VII. Committee Reports (5 min)

VIII. Commissioner Items (5 min)

IX. Minutes/Communications

The Commission will review minutes from the August 13, 2013 meeting.

X. Adjourn (8:00 p .m.)

Burlington Comprehensive Development Ordinance

PROPOSED: ZA-14-01 Residential side/Rear Yard Setback Encroachments

As warned by the Planning Commission for public hearing on September 10, 2013

Changes shown (underline to be added, ~~strike-out~~ to be deleted) are proposed changes to the *Burlington Comprehensive Development Ordinance*.

Purpose: This proposed amendment to the Comprehensive Development Ordinance allows for a pre-existing encroachment into a side or rear yard residential district setback to be expanded vertically (up) provided it does not increase the horizontal encroachment.

Sec. 5.3.5 Nonconforming Structures

(a) Changes and Modifications:

Nothing in this Part shall be deemed to prevent normal maintenance and repair or structural repair, or moving of a non-complying structure pursuant to any applicable provisions of this Ordinance.

Any change or modification to a nonconforming structure, other than to full conformity under this Ordinance, shall only be allowed subject to the following:

1. Such a change or modification may reduce the degree of nonconformity and shall not increase the nonconformity except as provided below.

Within the residential districts, and subject to Development Review Board approval, existing nonconforming ~~single family homes and community centers (existing enclosed spaces only)~~ structures that project into side and/or rear yard setbacks may be vertically expanded so long as the expansion does not encroach further into the setback than the existing structure. Such expansion shall be of the existing nonconformity (i.e. setback) and shall:

- i) Be subject to conformance with all other dimensional requirements (i.e. height, lot coverage, density and intensity of development);
- ii) Not have an undue adverse impact on adjoining properties or any public interest that would be protected by maintaining the existing setbacks; and,
- iii) Be compatible with the character and scale of surrounding structures.

Existing accessory buildings of 15 feet in height or less shall not exceed 15 feet tall as expanded.

Balance of 5.3.5 as written.

* Material ~~stricken-out~~ to be deleted.

* Material underlined added.

Burlington Comprehensive Development Ordinance

PROPOSED ZA-14-02 – RCO-Recreation/Greenspace

As warned by the Planning Commission for public hearing on September 10, 2013

Changes shown (underline to be added, ~~strike-out~~ to be deleted) are proposed changes to the Burlington Comprehensive Development Ordinance.

Purpose: This proposed amendment to the Comprehensive Development Ordinance is to provide more flexibility for management and activities of urbanized greenspaces including City Parks by exempting certain activities from requiring zoning permits and allowing for greater lot coverage to recognize actual and future improvements.

Sec. 4.4.6 Recreation, Conservation and Open Space Districts

(a) Purpose – unchanged

(b) Dimensional Standards and Density

The density and intensity of development, dimensions of building lots, the heights of buildings and their setbacks from property boundary lines, and the limits on lot coverage shall be governed by the following standards:

Table 4.4.6 -1 Dimensional Standards and Density

District	Lot Coverage ¹	Setbacks ¹			Height ¹
		Front	Side ²	Rear ²	
RCO-A	5%	15'	10%	25%	35'
RCO-RG	<u>25%</u> ³	15'	10%	25%	35'
RCO-C	5%	15'	10%	25%	25'

1. See also exceptions to lot coverage, setbacks and maximum height in **Article 5**.

2. Percentages figure refers to either a percentage of lot width, 10% in the case of side yard setbacks, or lot depth of 25% in the case of rear yard setbacks.

~~2-3.~~ Maximum lot coverage for City Hall Park, Battery Park and Perkins Pier shall be 35%.

(c) Permitted and Conditional Uses – unchanged

(d) District Specific Regulations

The following regulations are district-specific exemptions, bonuses, and standards unique to the RCO districts. They are in addition to, or may modify, city-wide standards as provided in **Article 5** of this ordinance and district standards as provided above in **Tables 4.4.6-1**.

1. Lot Coverage Exemption for Agricultural Structures.

The maximum allowable coverage may be increased to ten percent (10%) in the RCO-Agricultural District for agricultural structures subject to approval by the DRB.

2. Exemptions for Tree removal and Turf Maintenance in City Parks.

- i. Regular tree maintenance and removal not otherwise associated with land clearing for new development or site improvements, and regular turf maintenance including re-grading and reseeding shall be exempt from the requirement to obtain a zoning permit.**

Burlington Comprehensive Development Ordinance

PROPOSED ZA-14-03 – Conditional Uses in Mixed Use Districts

As warned by the Planning Commission for a public hearing on September 10, 2013

Changes shown (underline to be added, ~~strike-out~~ to be deleted) are proposed changes to the *Burlington Comprehensive Development Ordinance*.

Purpose: This proposed amendment to the Comprehensive Development Ordinance is to enable a greater variety of non-residential uses that support small and emerging entrepreneurs, artisans, mobile food carts and trucks, and value-added urban agriculture within mixed use districts.

Appendix A-Use Table – All Zoning Districts

USES	Downtown Mixed Use					Neighborhood Mixed Use		
	D	DW	DW-PT ¹⁶	DT	BST	NMU	NAC	NAC-RC
NON-RESIDENTIAL USES	D	DW	DW-PT¹⁶	DT	BST	NMU	NAC	NAC-RC
Automobile/Vehicle Repair ^{10, 11}	N	N	N	N	N	NCU ^{9, 12} _{.14}	CUY ^{9, 14} _{Z, 14}	CUY ¹⁴
Food Processing	N	N	N	NCU	CUN	CUN	CUN	CU
Machine/Woodworking Shop	N	N	N	CUN	CUN	CUN	CUN	CUY

9. Automobile sales not permitted as an accessory use.
10. Exterior storage and display not permitted.
11. All repairs must be contained within an enclosed structure.
12. No fuel pumps shall be allowed as an accessory use.
14. Such uses not to exceed ten thousand (10,000) square feet per establishment.

Burlington Comprehensive Development Ordinance

PROPOSED ZA-14-04 –Downtown Transition District Expansion

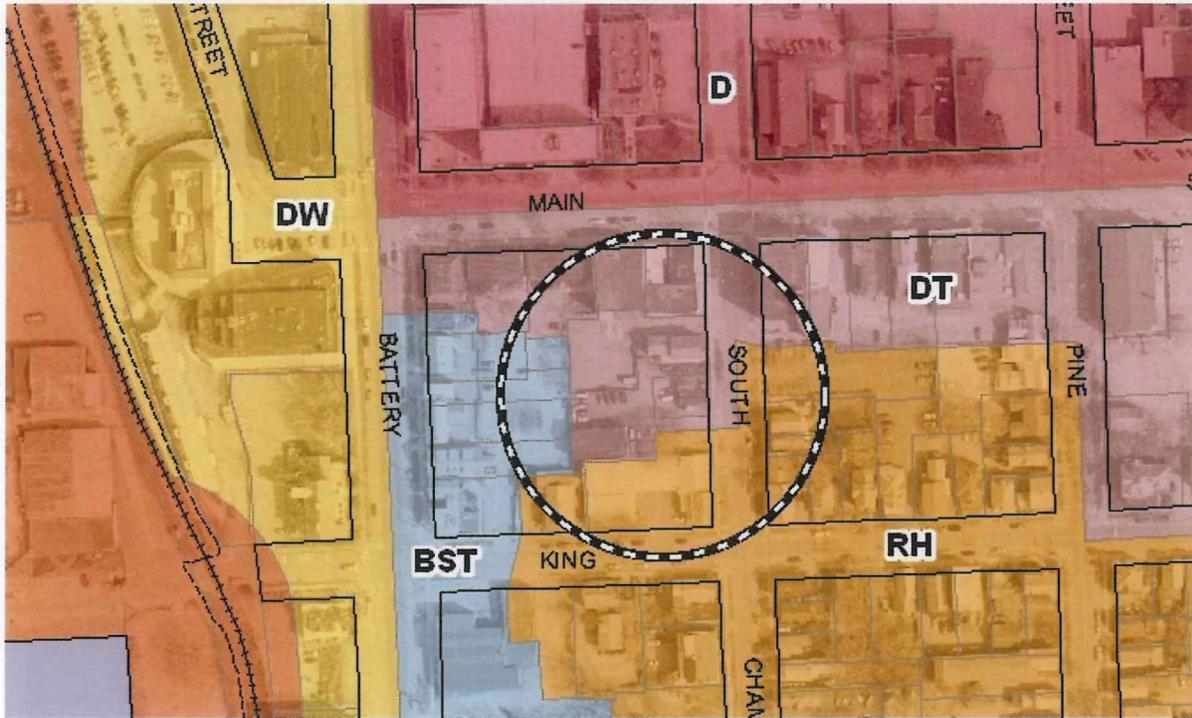
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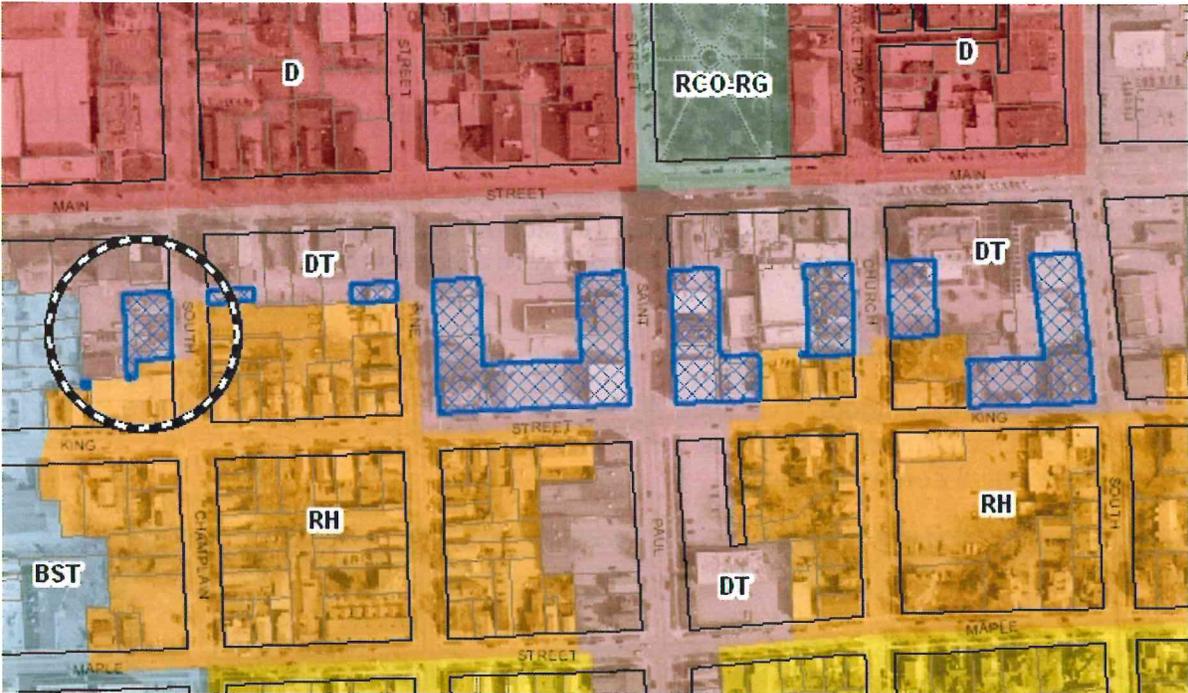
Purpose: This proposed amendment to the Comprehensive Development Ordinance is to expand the Downtown Transition district boundary along the west side of South Champlain Street to straighten boundary lines while providing more development flexibility on affected parcels.

Maps to be amended

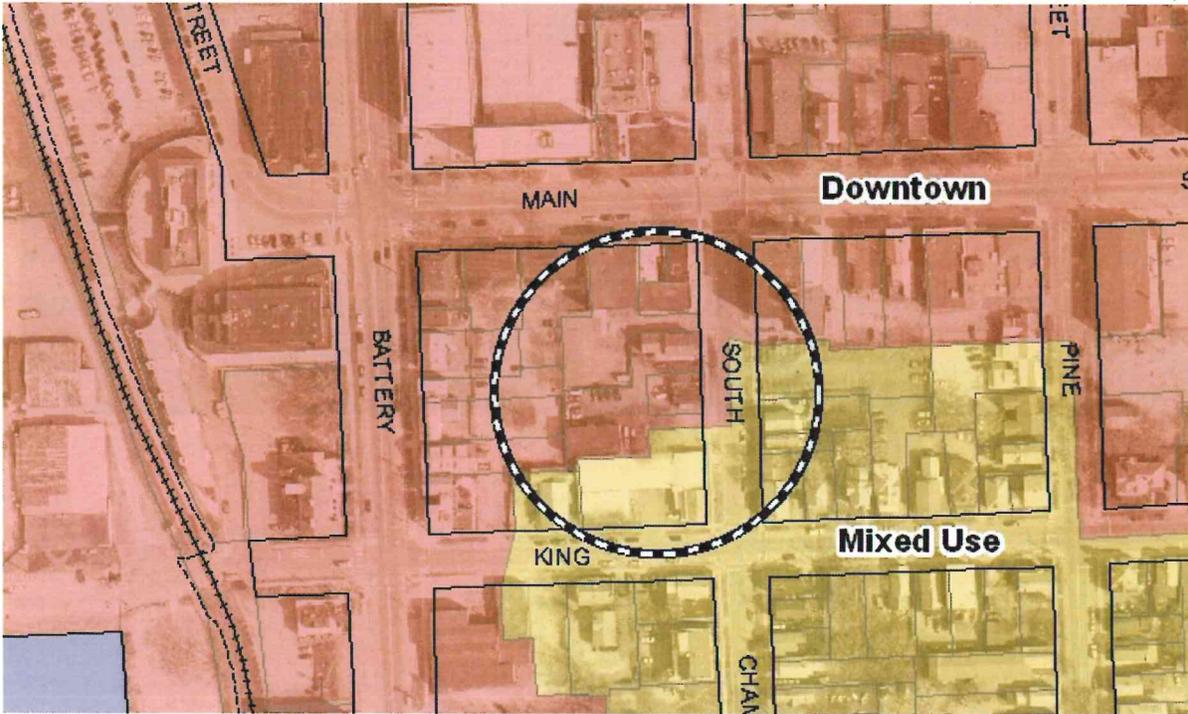
- 4.3.1-1 Base Zoning Districts
- 4.4.1-1 Mixed Use Downtown Districts
- 4.4.5-1 Residential Zoning Districts



4.4.1-3 Side Street Building Height Setback



8.1.3-1 Parking Districts



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AUTHORIZATION FOR EXECUTION OF APPLICATION FOR 2013 MUNICIPAL PLANNING GRANT PROGRAM FROM THE VERMONT DEPARTMENT OF ECONOMIC, HOUSING AND COMMUNITY DEVELOPMENT

CITY OF BURLINGTON

In the year Two Thousand Thirteen

Resolved by the Planning Commission of the City of Burlington, as follows:

That WHEREAS, the City of Burlington is applying, through its Department of Planning and Zoning, for funding as provided for in the State of Vermont's FY 2014 Budget Act and may receive an award of funds under said provisions; and

WHEREAS, the Vermont Department of Economic, Housing and Community Development (DEHCD) may offer a Grant Agreement to the City of Burlington of said funding for an amount up to \$20,000; and

WHEREAS, the City of Burlington is maintaining its efforts to provide local funds for municipal and regional planning purposes; and

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission, at its September 10, 2013 meeting, hereby approved the filing of an application with the Vermont Department of Economic, Housing and Community Development for a local planning grant to promote community revitalization and development activities that maintain Vermont's land use goal of compact settlement separated by rural lands.

Yves Bradley, Planning Commission Chair

Date

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Yves Bradley, Chair
Bruce Baker, Vice-Chair
Andrew Saba
Lee Buffinton
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Jennifer Wallace-Brodeur
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Burlington Planning Commission Minutes

Tuesday, August 13, 2013 - 6:30 pm

PC Present: B. Baker, H. Roen, J. Wallace-Brodeur, E. Lee

Absent: Y. Bradley, D. White, L. Buffinton

Staff: D. White, E. Tillotson

I. Agenda

No changes.

II. Public Forum

B. Baker – Opened the public forum at 6:31 pm.

M. Lang, 138 Colchester Ave: Read a letter she sent to the School Department Attorney, and read to the City Council the previous evening regarding the purchase of property on Murray Street by the School Department which proposes to use the building for offices, not a permitted use in the residential zone.

Gabriella & Daniel Farnham: Are selling their house on Prospect Parkway and encountering permitting problems. Their basement is partially finished with a bathroom, and has been since the building was constructed or shortly after (50 – 60 years). The basement was previously occupied. The assessor listings contain conflicting information about the location of the finished area. In 2003 the owners enlarged basement windows without a permit, 2004 neighbor complained to Code Enforcement and an Inspector appeared to investigate who left his card. The owners called the phone number on the card and received no answer and were unable to leave a message since the message box was full, numerous times. They then went to see John Rasys, the building inspector, and asked other questions and also explained that he had built his own windows. J Rasys sent him to Planning & Zoning where he was told that the window replacement was ok with no permit needed. They recently put their property on the market and at that time their lawyer found there was an open investigation. Their lawyer explained to Code Enforcement that the living space had existed for a long time and the windows appeared to not be a permitting problem. They have since been told by the current building inspector that the rental space does not meet ceiling clearance height. They need help, lawyer fees are mounting, time is passing, and they need to move.

B. Baker: A fifteen year old permit supposed to be past the statute of limitations, depending on whether it is a zoning or building permit. Code Enforcement can't tell the difference, don't acknowledge the fifteen year statute, lots of information is not available in the records.

J. Wallace-Brodeur: Whatever we can do will not help immediately.

E. Lee: Does the space need to not look like a basement?

D. Farnham: There was full bathroom installed as original construction.

H. Roen: If the Director were here he might offer solution.

B. Baker: He will bring up at Executive Committee meeting, the policy is rudderless for Code Enforcement, clarification of the 15 year statute which Code Enforcement doesn't recognize, would be a large help.

D. Farnham Their closing has had to be postponed.

As approved by the Burlington Planning Commission on.

B. Baker: What are the guidelines, how should we be enforcing by laws?

J. Wallace-Brodeur: The Planning Commission would like the Director's help to resolve the problem.

B. Baker: Asks that they wait for that to come up under the discussion of the proposed zoning amendments issue to be pertinent.

M. Tracy: Speaks in support of changes to mixed use districts. He feels that it is a positive step and an opportunity for business owners to improve their properties. He hopes this will be passed.

B. Baker – Closed the public forum at 6:47 pm.

III. Report of the Chair

B. Baker: The standing chair doesn't have report.

S. Thibault: Signature of the report to the Regional Commission, reviewed by the Planning Commissioners should be signed tonight.

IV. Report of the Director

The Director is on vacation.

V. Proposed Zoning Amendments

Downtown Transition Zoning District Expansion – Expand the Downtown Transition district to include two properties on South Champlain Street between Main and King Streets.

S. Thibault: This concerns two properties; one is 151 South Champlain Street. The request for rezoning map shows the two properties affected are already surrounded by Downtown Transition zone.

M. Lang: Is that spot zoning? The concern is that the Murray Street property is right on the borderline for residential and mixed use. She expects the school board will request rezoning for this property and is opposed to this.

Steve Schenker, architect representing the South Champlain property. He is clarifying that the buildable area doesn't change but parking requirements reduce from 2 to 1 per unit.

J. Wallace-Brodeur: This would be affected by new downtown changes proposed, right? Yes.

S. Schenker: He has spoken to S. Gustin about a zoning change; this is another way to accomplish that.

A. Montroll: Are we just changing the map? Is this sufficient?

S. Thibault: If the Commission wishes to warn for public hearing the map will be provided.

A. Montroll: Perhaps we should explore with City Attorney's office the possibility that this is spot zoning?

E. Lee: It seems as if 151 South Champlain Street is spot zoning.

On a motion by A. Montroll, seconded by E. Lee, the Commission unanimously warned ZA-14-04 for a public hearing on September 10, 2013 and requests an opinion from the City Attorney's Office as to whether this is spot zoning.

Mixed-Use Districts permitted uses change – allow for community kitchens, automotive repair and markers space to happen as conditional uses in mixed-use districts.

S. Thibault: There is a memo included in the packet with the Director's explanation. Some uses are not approved in all three mixed use districts. However, staff is comfortable changing this to all three zones
As approved by the Burlington Planning Commission on.

with conditional use still a requirement. Downtown Transitional and Battery Street Transitional should also be included. This will provide for local neighborhood services close by.

Michael Masse and Denise Shekerjian representing maker space are here to speak. They are involved with UVM, the City CEDO office, IBM, and other community entities in an effort to establish a community incubator space. Memorial Auditorium could be the first step to Moran plant. They want to establish this enterprise downtown where people can walk to the location as opposed to driving. The Movie theatre on North Avenue is a beautiful space to adapt for incubator purposes.

A. Montroll: Staff is suggesting that this is similar to a woodworking space or silk screening for t-shirts, 3 D printer productions, and Burlington College might use this kind of space also.

D. Hauke: The retail commercial market is difficult right now, more uses would be helpful. Especially the location being on North Avenue.

B. Baker: Are we missing other uses? Send me an email if there are other thoughts.

D. Colangelo: She submitted a letter from CEDO and Parks departments, stating their observation that there is a large demand for this type of space which is not sufficient to meet demand at present. Community kitchen space is a request that is made frequently, people want to be in the center of the action, so the more centralized the location, the better. Memorial Auditorium and the North Avenue Cinema are both desirable locations. Box store ideas are sort of dying, it seems to be a great way to activate an area. Memorial Auditorium with its downtown location is desirable, and since it is expensive to maintain, a maker use(s) could help support the building. It will bring vibrancy to the area.

M. Masse: Memorial Auditorium already contains a clay turning space and studio. Burlington Telecom wants to promote this space which could be appropriate for software developers and its availability with fiber optic networks make it one of the top seven internet connections in the country.

D. Shekerjian: The Memorial Auditorium is equipped with the same fiber optic network, a site that Champlain College and Burlington College could both find advantageous. Maker spaces with proximity to campuses create an economically advantageous situation.

Howard and Shawn Dolans have been in business for over 30 years and in later years have specialized in servicing handicap accessible vehicles. Given their clientele, they want to include a handicapped accessible ramp on the premises but zoning at this time doesn't permit that. They wish to have that changed and would love to improve their property. They have a good clientele for whom it is very difficult to access the office at present.

E. Lee: I have visited their shop and examined the layout. They provide services for specialized vans where there is no place for drivers/clients to wait, and is especially ludicrous in the winter. This needs addressing.

Howard and Shawn Dolan: They wish to stay located in the city.

B. Baker: Keeping good business in the city is a challenge.

J. Wallace-Brodeur: I am excited about these changes, they seem terrific, and would like to move forward.

On a motion by J. Wallace-Brodeur, seconded by H. Roen, the Commission unanimously warned ZA-14-03 for a public hearing on September 10, 2013.

VI. Zoning Amendments ZA 13-10 Review

ZA-13-10 – Accessory Dwelling Units – Encourages the creation of accessory dwelling units by reducing the required on-site parking, clarifying accessory treatment with respect to density calculations, and incorporating a deed restriction to facilitate compliance. Section 5.4.5 (a), (b) (c) & (d).

As approved by the Burlington Planning Commission on.

S. Thibault: This has been approved and sent to the City Council, where the Ordinance Committee discussed and made a few changes. The City Council will address this the first meeting in September, does the Commission have any comments?

2 used to read unit does not consist of..... change to building , this clarification does not change the effect.

5 used to be the time requirement for a deed which was within 30 days. Construction could take up to two years, so the wording is changed to prior to the Certificate of Occupancy.

B. Baker: Remove # 3. The City Council put this back for parking requirements. It is a precaution against extra parking being created.

On a motion by H. Roen, seconded by A. Montroll, the Commission unanimously approved notifying the City Council that there were no further Commissioner comments.

E. Lee: Accessory apartments in the RH zone, in single family homes are permitted. Perhaps homes built before a certain date could be declared conforming, therefore, allowing accessory units.

A. Montroll: This is worth looking at in an on-going manner. It is encouraging to support single family existing homes, as opposed to discouraging their utilization with accessory units.

E. Lee: This could be very positive if supported.

VII. Municipal Development Plan Update

S. Thibault: The Commissioners all know about most items that are being reviewed, the most important being the:

- Open space protection plan
- Land use (?) Plan

These will be adopted and she has updated certain chapters, four chapters are included here. The Energy chapter is already updated and needs no present changes. All of the changes have been sent to the Regional Planning Commission, which reviews the changes for concurrence with state requirements. Introductory chapters have been updated. Land use, chapter 7 contains the environmental policy. Update of data and information have been updated and streamlined, she has edited duplication of information. The Long Range Planning Committee has reviewed all four chapters.

A. Montroll: Offered minor corrections.

S. Thibault: A new website is being created to bring all city planning together and it will encompass planning by other entities. The second Planning Commission meeting in September will review the climate action plan, open space protection plan, ?????? four chapter, and energy policy.

VIII. Committee Reports

The Ordinance Committee

Long Range Planning Committee: Have not met.

Executive Committee: Will be meeting soon.

IX. Commissioner Items

None.

As approved by the Burlington Planning Commission on.

X. Minutes and Communications

On a motion by A. Montroll, seconded by E. Lee, the Commission unanimously accepted the communications and approved the minutes of July 23, 2013.

XI. Adjourn

On a motion by H. Roen, seconded by A. Montroll, the Commission unanimously adjourned the meeting at 7:55 pm.

Bruce Baker, Vice Chair

Date

E. Tillotson, recording secretary

As approved by the Burlington Planning Commission on.

Submitted
at PCDC
9/5/13

Subj: **Re: Residential Parking**
Date: 8/30/2013 2:06:16 P.M. Eastern Daylight Time
From: Marthalang@aol.com
To: Mark_Porter@alumni.iu.edu

Martha Lang, Ph. D.
138 Colchester Avenue
Burlington, VT 05401
(802) 862-1094

August 30, 2013

Department of Public Works
645 Pine Street
Burlington, VT 05401

Re: Street Parking

To Whom It May Concern:

Is it true that starting in February, 2014 the only occupants that will be given permits to park on the street are those people living at address 220 - 430 Colchester Avenue? Where are the occupants of 132, 140 and 146 Colchester Avenue supposed to park their cars? Why wasn't I told this when I spoke at the DPW commission in May? What can be done to change this regulation?

Thank you.

Sincerely,

Mark:

Thank you for taking my phone call. I am attaching the letter I read at DPW Commission in the spring. The letter blow was sent to Joel Fleming, Norm Baldwin, and Chapin Spencer. Please see attached letter.

Martha Lang.

Wednesday, September 04, 2013 AOL: Marthalang

MARTHA R. LANG, PH.D.
138 COLCHESTER AVENUE
BURLINGTON, VERMONT 05401
802-862-1094

Residential Parking
Sharing the Burden

There is no street parking in front of the houses on Colchester Avenue across from the Medical Center. They were eliminated about 1963, which meant physicians weren't interested in renting these buildings. Until June of this year the occupants of these houses were permitted to park on Fletcher Place, 25 yards away. Now they are required to park only on Colchester Avenue with parking up to half a mile away.

From the data I collected it seems that Colchester Avenue, not Fletcher Place and other nearby side streets, is the street with the parking overload.

Street	Parking Spaces	Passes Issued (May, '13)	Passes /Spaces
Colchester Avenue	40	138	3.4
Fletcher Place	15	46	2.5
Thibault Parkway	18	58	3.2
Latham Court	18	54	3
Nash Place	8	38	4.7

Has anyone on the commission actually gone out and counted spaces and compared that information with the number of passes issued for each residential street? If not why not? We need to work with facts not speculation. Is a city code enforceable when there is no data to support it?

How are the owners of the houses on East Avenue going to like it when the street parking in front of their homes is eliminated for the much needed third lane for cars?