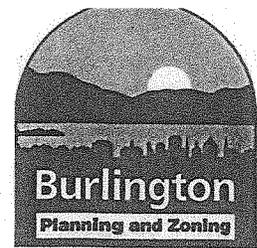


## Burlington Planning Commission

149 Church Street  
Burlington, VT 05401  
Telephone: (802) 865-7188  
(802) 865-7195 (FAX)  
(802) 865-7144 (TTY)  
www.burlingtonvt.gov/planning

Yves Bradley, Chair  
Bruce Baker, Vice-Chair  
Lee Buffinton  
Emily Lee  
Andy Montroll  
Harris Roen  
Jennifer Wallace-Brodeur  
Vacant, Youth Member



## Burlington Planning Commission

### REGULAR MEETING

Tuesday, October 8, 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 planning staff (5 min) – Sandrine Thibault, Comprehensive Planner

### V. Continued Public Hearing: ZA-14-02 – Time Certain 7:00pm

The Commission will continue the public hearing on the following amendment to the Comprehensive Development Ordinance:

- **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.

### VI. Municipal Development Plan Amendments

The Commission will review and discuss the following documents for update and incorporation into the Municipal Development Plan:

- 2013 Climate Action Plan
- 2013 Open Space Protection Plan
- Municipal Development Chapters
  - Introduction
  - Land Use
  - Energy
  - Natural Environment
  - Relation to Other Plans

*This agenda is available in alternative media forms for people with disabilities. Individuals with disabilities who require assistance or special arrangements to participate in programs and activities of the Dept. of Planning & Zoning are encouraged to contact the Dept. at least 72 hours in advance so that proper accommodations can be arranged. For information, call 865-7188 (865-7144 TTY). Written comments may be directed to the Planning Commission at 149 Church Street, Burlington, VT 05401.*

VII. Committee Reports (5 min)

VIII. Commissioner Items (5 min)

IX. Minutes/Communications

The Commission will review minutes from the September 10 & 24, 2013 meetings.

X. Executive Session – Director's Evaluation

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



---

## MEMO

**Date:** October 1, 2013  
**To:** Planning Commission, Conservation Board, Parks Commission  
**From:** Jesse Bridges, Director Parks and Recreation  
**Re:** Proposed Amendment to Zoning Ordinance ZA 14-2 CO

### History

In 2008 a new zoning district was established called RCO – R/G (Recreation Greenspace), this included all the City Parks. Previously parks were simply treated as another use within the respective zoning where they were found and regulated based on those development standards. City Hall Park and Waterfront Park had an allowable coverage of 100% while Leddy Park and Oakledge would have been at 35%.

The old standard for lot coverage (5%) in the RCO (C and A) was simply carried forward to this new district and applied in the same way. So while Ethan Allen Park (RCO –C, conservation) and the Intervale (RCO-A, agriculture) make sense at 5% the existing conditions on the ground were such that most of the parks were immediately thrust into non-conforming status.

### Purpose

This proposed amendment to the Comprehensive Development Ordinance is to align our ordinance with current and future use. Additionally this revision calls out the existing management practices and important stormwater integration of the Parks (both conservation and recreation space) in the City Wide system. It will allow for the Parks Department to continue to improve and maintain long time existing infrastructure while developing the future assets determined by the community. Parks impervious includes all courts, playgrounds, paths and other park amenities including limited parking and structures. Currently there is no allocation for use of pervious or Low Impact Design stormwater technique and Parks pays a significant stormwater bill for this entire impervious infrastructure annually. The intention of this adoption is not to wholesale increase the impervious surfaces in the parks but to align the ordinance with existing conditions (see Attachment A).

### Process

Parks and Recreation along with Planning and Zoning initiated the conversation this spring at their respective commissions in order to alert them of the issue. Parks Commission approved the draft ordinance for the Planning Commission to discuss further. Planning Commission discussed the issue and warned a public hearing on the issue September 10 that continued September 24 and October 8. Upon receiving feedback from the multiple public forums as well as discussions across the City including a NNE meeting, Ward 2/3 NPA and various email/phone dialogue the draft was revised to reflect individual park lot coverage. The City's Stormwater Administrator gave consent to a revised draft after the September 24<sup>th</sup> public hearing. That revision is being distributed to the Conservation Board, Parks Commission and Planning Commission for a final review before Planning moves the issue to the Council.

### Action

The Department of Parks and Recreation is asking for approval of the draft revised ordinance (Attachment B) to be carried forward for further public input and dialogue through the City Council and the Ordinance Committee.

# Attachment A

## Existing Lot Coverage and Proposed Zoning Table

Table 4.4.6.2 – City Park Lot Coverage Maximum Standards

Parks	Existing Lot Coverage	Proposed Maximum Lot Coverage
Appletree	24%	20%
Baird	16%	15%
Battery Park and Extension	16%	15%
Calahan	13%	15%
Champlain Street	5%	15%
City Hall Park	24%	30%
Lakeside	14%	20%
Leddy	14%	15%
North Beach and Campground	15%	15%
Perkins Pier <sup>1</sup>	66%	70%
Pomeroy	38%	30%
Oakledge	10%	15%
Roosevelt	27%	30%
Schmanska	16%	15%
Smalley	8%	15%
Starr Farm	4%	15%
Waterfront	19%	25%
<sup>1</sup> Perkins Pier is a Marina Facility		

# Attachment B

## Burlington Comprehensive Development Ordinance

### PROPOSED ZA-13-XX – RCO-Recreation/Greenspace

As proposed by staff

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

### Sec. 4.4.6 Recreation, Conservation and Open Space Districts

#### 1. 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 <sup>1</sup>	Setbacks <sup>1</sup>			Height <sup>1</sup>
		Front	Side <sup>2</sup>	Rear <sup>2</sup>	
RCO-A	5%	15'	10%	25%	35'
RCO-RG	<u>%<sup>3</sup></u>	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.  
 3. City Parks have specific lot coverage maximums based on use and location. See chart of coverage's below.

Table 4.4.6.2 – City Park Lot Coverage Maximum Standards

Park	Lot Coverage
Appletree	20%
Baird	15%

Battery Park and Extension	15%
Calahan	15%
Champlain Street	15%
City Hall Park	30%
Lakeside	20%
Leddy	15%
North Beach and Campground	15%
Perkins Pier <sup>1</sup>	70%
Pomeroy	30%
Oakledge	15%
Roosevelt	30%
Schmanska	15%
Smalley	15%
Starr Farm	15%
Waterfront	25%
<sup>1</sup> Perkins Pier is a Marina Facility	

**(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.**

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 reseedling shall be exempt from the requirement to obtain a zoning permit.

**3. Exemptions for low impact design (LID) stormwater management techniques**

Due to the unique nature and critical importance of City Parks in the City's overall green infrastructure LID stormwater management techniques (such as pervious pavement and asphalt, green roofs and rain gardens etc...) are credited against lot coverage upon approval of the City's Stormwater Administrator.

## Sandrine Thibault

---

**From:** David E. White  
**Sent:** Friday, September 27, 2013 5:08 PM  
**To:** Megan Moir; Jesse Bridges; Scott Gustin  
**Cc:** Sandrine Thibault  
**Subject:** RE: RCO- RG support

Thanks Megan – we will make sure the Conservation Board and Planning Commission gets your comments.

**David E. White, AICP**  
**Director of Planning & Zoning**  
**City of Burlington, VT**

*\*\* Please note that any response or reply to this electronic message may be subject to disclosure as a public record under the Vermont Public Records Act*

---

**From:** Megan Moir  
**Sent:** Friday, September 27, 2013 5:02 PM  
**To:** Jesse Bridges; David E. White; Scott Gustin  
**Subject:** RCO- RG support

Hi all,  
I had the chance to meet with Jesse Bridges and go over the current concept for the RCO-RG zoning regulations changes involving setting coverage limits based on existing coverage conditions.

I think it makes sense to bring the zoning regulations in line with the existing conditions.

As with all other projects, any increase in impervious would be reviewed by the stormwater program and runoff from that impervious (plus any redeveloped impervious) would need to be mitigated.

Because of the role of parks facilities and properties in maintaining pervious, forested, and buffer space – I am also comfortable with his proposed LID Coverage Bonuses where these parcels would be eligible to receive a coverage credit (not a 100% more likely up to a 50% credit) for surfaces for which runoff is managed through green infrastructure practices (pervious pavement systems, green roofs, pavement that drains to rain gardens) in accordance with Chapter 26 project review criteria.

example: parks impervious that may drain to combined sewer system would need to manage the runoff volume for the 2.1" 1 year storm; if draining directly to the lake, would need to treat the 1" storm; if draining to one of the stormwater streams, would need to both provide water quality and quantity management.

Moreover, Jesse and I are looking into re-investing some portion of the funds that Parks contributes as part of their stormwater fee back into stormwater management of the parks facilities.

I'd like to see a final draft of the proposed changes, but generally I am supportive of the concept.

Megan Moir, CPESC, CPSWQ  
Stormwater Plangineer  
Burlington Public Works Department  
C (802) 734.4595

P (802) 540.1748  
F (802) 864-8233  
Email: [mmoir@burlingtonvt.gov](mailto:mmoir@burlingtonvt.gov)

Office Address:

234 Penny Lane  
Burlington, VT 05401  
(in the Water Treatment building near the Moran Plant)

Mailing:

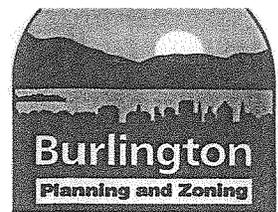
PO Box 878  
Burlington, VT 05402

~ Unless someone like you cares a whole awful lot, nothing is going to get better. It's not ~  
*-The Lorax (Dr. Seuss)-*

# Burlington Planning Commission

149 Church Street  
Burlington, VT 05401  
Telephone: (802) 865-7188  
(802) 865-7195 (FAX)  
(802) 865-7144 (TTY)  
www.burlingtonvt.gov/planning

Yves Bradley, Chair  
Bruce Baker, Vice-Chair  
Andrew Saba  
Lee Buffinton  
Harris Roen  
Andy Montroll  
Jennifer Wallace-Brodeur  
Vacant, Youth Member



## Burlington Planning Commission Minutes

Tuesday, September 10, 2013 - 6:30 pm

**Present:** Y. Bradley, L. Buffinton, A. Montroll, E. Lee, H. Roen, J. Wallace-Brodeur

**Absent:** B Baker

**Staff:** S. Thibault, D. White, E. Tillotson

### I. Agenda

No changes.

### II. Public Forum

Y. Bradley – Opened the public forum at 6:35 pm.

Mike Forrester: His parents' house, which is up for sale, has a complication with windows that were replaced without a permit. The home on Shelburne Street was purchased in 1961, and his parents left in 2008. His dad has passed and his mom is in a condominium, so he and his sister will now sell the house. The realtor instructed him to check the permit history of which there was very little on record. He is attempting to close permits now. Windows have been replaced over time, it appears without permits, and he recently replaced two windows in the front of the house. Zoning staff has told him that these windows need to be wooden windows which are expensive. Some windows have been replaced with wood, some with vinyl, some are totally different style windows. His question: Is there a variance available so that all of the present windows wouldn't have to be replaced? His mom has no clue when the windows were replaced. The pictures of house show aluminum storms so it is difficult to tell when replacements happened. He is hoping to get a variance.

Y. Bradley: The Planning Commission writes the rule book, but is not the right entity for variance. Interesting point as it affects an after the fact permit, doesn't know when it was done.

M. Forrester: Was told that there were vinyl windows previously.

L. Buffinton: The recent windows weren't permitted?

M. Forrester: No.

D. White: The Department tries to work with property owner to untangle the web, the city assessor often has pictures which establish history. Colleagues in code enforcement are often enlisted as well.

Y. Bradley: The goal is not to penalize, but to be sure that permit is executed correctly. It sounds as if the owner is probably stuck with some window replacement.

L. Buffinton: Is it possible that the City could establish that the front of house has priority in appearance?

D. White: The Department has worked with owners in the past, and it can be an opportunity to be creative.

Y. Bradley: Could Mr Forrester come back in a month and let us know how things went?

M. Forrester: The roof also is an issue, it has a building permit, and the property in general has 0 zoning permits and some building permits.

*As approved by the Burlington Planning Commission on August 13, 2013.*

D. White: Let's have a talk to see what we can do to help.

M. Forrester: We do have an offer on the house.

D. White: We will help you to figure out how to move forward.

Y. Bradley: He closed the public forum at 6:46pm.

K. Paul, ward 6 City Council: Wants to express to the Planning Commission her endorsement of the clean hands policy. This would hold developers responsible for things done in the past. It is presently with the City Attorney's office, it will come to the Planning Commission. She hopes the City Council will move forward with an audit of permitting systems.

H. Roen: Is very supportive of doing an audit.

K. Paul: Actions and work that are done by the Planning Commission are heard by the City Council.

### III. Report of the Chair

The Chair presented the following report:

- He has been sitting in once a week with a group from South Burlington which is looking at form based code. It is very interesting, a very different city. There will be more information coming. The South Burlington group originally wanted to roll out FBC (form based code) all at once, but have realized that may not be best approach.
- He has received an email from Bob Duncan looking for the Planning Commission and the Mayor to weigh in personally or can weigh in via email in reference to the proposed ADA standards.

H. Roen: B. Duncan is referring to a state law being smaller amount of handicapped footage requirement. The ADA rules are being modified to access upper floors and he feels the proposed requirement for elevators will be unworkable. It would seem to be a barrier to development and he will appeal to legislators. He would encourage others to weigh in.

### IV. Report of the Director

The Director presented the following report:

- Last night the City Council passed two amendments. Kudos to planBTV.
- He has mentioned to the Executive Committee that the state wants Burlington to be a guinea pig for the new Neighborhood Development Area Designation in which the areas just beyond the downtown zone would be involved.
- Staff, along with members of CEDO, DPW, and other departments have been working on a scope of work for a planBTV South End project, which would be very similar to the downtown planning process. This would involve development over time and infrastructure development.
- The City Council, last night, approved the sale of the Brown's Court parking lot off King Street, to Champlain College which is looking to redevelop the property.
- Next Monday evening, there is to be an ice cream social for planBTV. This will be an opportunity for members of the public to get their own copy of the plan and talk with staff about implementation that is already under way.
- Next week consultant team from TPUDC are in town to work with staff on form-based code. There are two tracks of conversation, one for design professionals and city officials, as well as a separate presentation for city staff.
- S. Thibault has been named Professional planner of the year by the Northern New England Chapter of the American Planning Association and planBTV was named plan of the year.

*As approved by the Burlington Planning Commission on 2013.*

V. **Public Hearing ZA 14-01 to ZA 14-04**

**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.**

D. White: Everyone is familiar with this amendment, it is returning to the Planning Commission with the changes that the City Council was asked to incorporate.

E. Lee: Has difficulty with this related to her own neighborhood, you need rules to maintain quality and one of the rules that maintain quality is the setback requirements. This change could put a lot of noise next to bedrooms and could also affect the architectural integrity of buildings, creating a boxed appearance. It can be an unhappy result.

L. Buffinton: There needs to be a mechanism for sound abatement.

Y. Bradley: As part of the amendment, within ten feet of an existing building, no windows are allowed and the construction would have to meet the fire rating.

**On a motion by J. Wallace-Brodeur, seconded by H. Roen, the Commission recommended approval and sent to City Council for adoption. E. Lee opposed**

**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.**

D. White: The history of this amendment is that the most recent zoning rewrite included the city's parks in the RCO zone, changing the zone to reflect the actual recreational use. Three separate RCO districts were established, and the zone affecting parks was included in the RCO green space zone which did not make any accommodations for lot coverage. Parks previously were allowed 100 % lot coverage which was changed to 5 %. For some of larger parks, this is probably not an issue, but for smaller parks or fairly highly developed parks, it can be a problem, they may be at maximum coverage or over. Planning & Zoning is working with the Parks Department for a solution. The proposal is to increase lot coverage to a maximum of 35% which will affect City Hall Park, Perkins Pier, and Waterfront Park. When the Parks Department is trying to plant new grass or level a soccer field, they should not have to have permit.

J. Bridges, Director of Parks and Recreation: Presents samples of existing conditions, nothing has changed at this point. City Hall Park is now at 24+% coverage and the proposed Imagine City Hall Park design would be at 35% lot coverage.

A good example of immediate need for this adjustment is the bike path rehabilitation project where the path is supposed to be widened and repaired. The bike path goes through Waterfront Park and other parks, and it is necessary to expand the bike path width. There is no intention to dynamically change anything. The Parks projects are typically high priority for the community. Lot coverages for most parks are calculated, especially ones that need immediate attention. The Safe Routes to school program is also involved and calls for two paths in the south end to the Champlain School, which involves Callahan Park. The proposed amendment is not just about parking lots and buildings, the Parks Department are doing parks master planning right now. Parks wants green space and pervious materials.

J. Hallway: Is very concerned about how this is coming about. He believes that certain activities are being exempted with zoning permits. Only thing that he has found is a sub footnote about percentages recommended. There appears to be no information for people who want to look at what is going on at Parks planning and it is almost at the end of master planning process. How do we know this is the right number? There should be coverage calculations for all of the parks. There should be data to inform the planning process. 25% and 35% are large alarming jumps. He wants this to be intelligent planning, the process should slow down, more information should be dispersed to the public and be readily available.

*As approved by the Burlington Planning Commission on 2013.*

G. Souza: He seconds what J. Hallway just said. The City doesn't need any more impervious sidewalks and surfaces, no asphalt, and no concrete. The City needs to consider global warming, parks shouldn't have a no zoning requirement for tree cutting, there needs to be more planning, pervious locations don't need asphalt everywhere.

L. Buffinton: This is a huge issue; there are many parks and many green spaces, large differences between them. Runoff is a concern. More pervious surfaces, the City's Mission statement declares that it will protect natural areas and maintain natural systems. The City is growing, perhaps it is not good to lump all parks together. There are some redundant parking areas, more asphalt near waterfront. Parks haven't been maintained to the public's interest. Need to sit back and assess what needs to be accomplished. Parks need to be examined individually. Not to vote now.

H. Roen: The second part of the change is fine. The first section, he agrees with L. Buffinton, also with L. Terhune's comments via email. If the amendment is going to be specific, it seems to need more fine tuning. The Imagine City Hall park project presentation on proposed changes created a lot of resistance from the public to some of the proposed changes. The Planning Commission didn't want those sorts of development and did not take action.

A. Montroll: We are dealing with city property. The final decision is up to the City Council and the Mayor. The Commission has talked a lot about parks which need funding which is the decision of the City Council and Mayor. The Parks Commission is only given authority by the City Council and the Mayor. A critical question for the City Council is not what is the overall percentage of coverage, but more critical is what kind of projects are proposed. He wants to give city more flexibility and unlike most development, the Parks planning is a political process, the City Council is going to decide. There will be lots more opportunities to weigh in during the planning process which will be big public process. Ultimately the City Council and the Mayor will decide. Frisbee golf is an example of something that the public didn't want to happen. He does support this amendment as proposed.

D. White: The plan is to exempt sidewalks, right now they are still considered lot coverage. Things could be done to create incentives for pervious surfaces.

L. Buffinton: Then shouldn't we do that first, address the pervious surfaces? We need to think big picture.

D. White: We know these are things that are on going since Planning & Zoning staff work with Megan at stormwater management and Jessie at Parks, so this is actually happening. Sometimes voters are in favor of bonds for projects.

J. Wallace-Brodeur: The bike path widening, the master plan for Parks and City Hall park, how is the timing for all of this coming together?

J. Bridges: This is the public process. The Parks master plan should be wrapped up this coming spring, possibly not the individual plans. This will be the first ever parks master plan. 75% of the City voters approved the bond for the bike path. The goal is to be in construction a year from next December, City Hall park is anticipated to be a 2015 project, nowhere near the final plan at this point. There is a need for more extensive coverage in downtown parks. The Safe routes for Schools program needs funding. They haven't started the process yet, there aren't that many parking lots in Parks properties. There has been a lot of feedback from the Leddy Park area. Parks Department has started the process to see what is under the parking lot which will likely present a lot of complexity. He has heard frequent invoking of the disc golf incident and thinks we are past that point. Penny for parks plan is moving forward in the right way.

J. Wallace-Brodeur: She is supportive of projects and has sensitivity to the Leddy project. The concern is that 25% coverage seems high to the public, people feel the process breaks down and the public feel left out. Is there a lower number that would work since it is creating anxiety by using larger number?

J. Bridges: The property will still be non-conforming.

Y. Bradley: He tends to agree with A. Montroll and has a sense that the Commission isn't in agreement at this point.

*As approved by the Burlington Planning Commission on 2013.*

L. Buffinton: Two points, first, consider a two tiered system, and the bike path designed with pervious surface, seems an obvious fix.

E. Lee: Wishes to give Parks the tools it needs to fix the bike path as soon as possible.

A. Montroll: Is concerned that the Planning Commission may be a cog in this wheel that could slow the process down. He would like to see this go to City Council, doesn't want to see the Planning Commission delay action.

H. Roen: Has the ordinance committee seen this? No. He would refer it to our Ordinance Committee. He understands A Montroll's point, it is not good policy to have an upper limit to apply to all parks.

J. Wallace-Brodeur: Suggests that it be put on the agenda for next meeting, and continue the public hearing to next meeting.

**On a motion by J. Wallace-Brodeur, seconded by E. Lee, the Commission unanimously voted to continue the public hearing for ZA-14-02 until the next meeting on September 24.**

**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.**

D. White: At the August 1<sup>st</sup> meeting of the Planning Commission, three different additional types of non-residential uses were proposed.

- Kitchen commercial (food processing) would be treated the same and conditional use is recommended.
- Maker spaces. Not dissimilar to commercial grade manufacturing, treat the same as machine or woodworking shop. Again, conditional use in mixed use districts.
- Auto repair, North Winooski Avenue is allowed in neighbor hood mixed use districts as a conditional use.

D. Colangelo, from the CEDO office, cited that there is a huge demand for these kinds of spaces. Pine Street right now is just exploding. Integrate to downtown or mixed use areas.

J. Bridges: Echoes that sentiment, especially in relation to the use of Memorial Auditorium. He is blown away by the opportunity that maker spaces create.

K. Howland, Champlain College: He sees maker space as essential to the economy, opportunities are needed.

R. Bailey, Parks and Recreation: Is excited to involve Memorial Auditorium, can envision all sorts of educational opportunities with the maker spaces. With their open door policy, this would solve the puzzle of what to do with Memorial Annex spaces.

Y. Bradley: The level of interest in small to large scale manufacturing continues to rise. All businesses and clientele that are creative appeal to people who want to live and stay here.

L Buffinton: This is a very positive development. Auto repairs are required to have air pollution controls, noise mitigation, which is a situation that could be disruptive to a neighborhood. It could be expensive to make it work.

D. White: The DRB has discretion related to working conditions, hours of operation. They have demonstrated concern around pollutants, and would entertain all conditions.

J. Wallace-Brodeur: She is very supportive, it is very good for the local economy.

E. Lee: Supports this change especially for automotive, other uses are grandfathered, it correctly matches what is on the ground.

*As approved by the Burlington Planning Commission on 2013.*

On a motion by J. Wallace-Brodeur, seconded by A. Montroll, the Commission unanimously recommended approval of ZA-14-03 and sent to City Council for adoption.

**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.**

D. White: This has to do with a property on South Champlain Street. It is zoned RH and is surrounded by DT, which makes it contained by another zoning district. Downtown Transitional has historically been properties with frontage on Main Street. This zoning change will allow for comprehensive redevelopment of 151 & 157 South Champlain.

H. Roen: Can we have a zoning map at the meetings? Yes.

K. Sturtevant, City Attorney's office says that this is not spot zoning, she reads the legal definition. It is consistent with adjacent uses about the zoning district line.

E. Lee: It appears to be currently spot zoning.

L. Buffinton: Sounds very reasonable.

On a motion by L. Buffinton, seconded by H. Roen, the Commission unanimously approved ZA-14-04 and sent to City Council for adoption.

## **VI. Municipal Planning Grant**

On a motion by L. Buffinton, seconded by A. Montroll, the Commission unanimously voted to authorize the planning department to submit a grant application for the state Municipal Planning Grant program.

## **VII. Committee Reports**

Executive Committee – Has meet

Long Range Planning Committee – will meet Friday.

Ordinance Committee – Barely had a quorum, B. Baker absent, missed A. Montroll, discussed parking and density in the RM zone and Waterfront, and are asking for a sampling for more information.

## **VIII. Commissioner Items**

J. Wallace-Brodeur: Our contact information is not available on the web site. Do other Commissioners feel comfortable sharing email addresses, phone numbers, etc?

Y. Bradley: Public comments should come to all Commission members.

J. Wallace-Brodeur: S. Thibault and D. White should receive comments and then be relayed to all Commissioners.

E. Lee: Is puzzled by the way meetings and agendas are notified, currently they are posted on a bulletin board. Two of the three methods are antiquated.

D. White: The City is negotiating with Front Porch Forum for notifications in future.

*As approved by the Burlington Planning Commission on 2013.*

**IX. Minutes/Communications**

On a motion by H. Roen, seconded by A. Montroll, the Commission unanimously approved the minutes of August 13, 2013, with corrections.

On a motion by J. Wallace-Brodeur, seconded by E. Lee, the Commission unanimously accepted the communications and placed them on file.

**X Adjourn**

On a motion by H. Roen, seconded by L. Buffinton, the Commission unanimously adjourned the meeting at 8:37pm.

---

Yves Bradley, Chair

---

Date

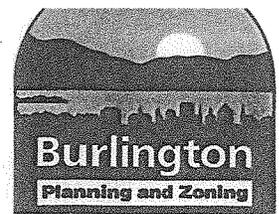
---

Elsie Tillotson, recording secretary

# Burlington Planning Commission

149 Church Street  
Burlington, VT 05401  
Telephone: (802) 865-7188  
(802) 865-7195 (FAX)  
(802) 865-7144 (TTY)  
www.burlingtonvt.gov/planning

Yves Bradley, Chair  
Bruce Baker, Vice-Chair  
Andrew Saba  
Lee Buffinton  
Harris Roen  
Andy Montroll  
Jennifer Wallace-Brodeur  
Vacant, Youth Member



## Burlington Planning Commission Minutes

Tuesday, September 24, 2013 - 6:30 pm

**PC Present:** B. Baker, L. Buffinton, A. Montroll, E. Lee  
**Absent:** H. Roen, J. Wallace-Brodeur, Y. Bradley  
**Staff:** D. White, S. Thibault, E. Tillotson

### I. Agenda

E. Lee, does letter from Anne Brena belong on agenda?  
S. Thibault: Has placed it at the end of the agenda.

### II. Public Forum

B. Baker: – Opened the public forum at 6:32 pm.

K. Worden, City Councilor: A common theme in the City is that there is a desire to continue to carve out room in the City center for residents to remain. He would urge consideration of the petition on a proposed zoning change for the Fletcher Place area. There are proposals for development by private investors, is that what the institutional zone is for? The result is that there is loss of long-term residents around these areas and the City will lose participation in boards, etc., and the public process.

B. Baker: – Closed the public forum at 6:36 pm.

### III. Report of the Chair

B. Baker: Being that the chair is not present, there is none.

### IV. Report of the Director

The director presented the following report:

- Last week was very busy, the consultants from TPUDC were present and workshops about form-based codes were held for the newly created Think Tank and a staff group meeting as well. Staff has been working with the consultants to prepare a draft of the form-based code (FBC) to bring to the Planning Commission.
- The Director and Comprehensive Planner attended the Northeast Planning Association meeting in Meredith, NH where planBTV was awarded Plan of the year, and S. Thibault was awarded the Professional planner of year.
- The City Council met last night and has forwarded two amendments to the Ordinance Committee, ZA-14-03 and ZA-14-04.
- The Director will be absent from October 3 to 18.<sup>th</sup>

S. Thibault: planBTV held an ice cream social last week Monday night at which other departments were present to speak about the implementation of the plan. It was a good turnout for a Monday night, lots of social exchange, Parks were present to speak about the master plan as well as other City staff.

*As approved by the Burlington Planning Commission on, 2013.*

**V. Committee on Accessibility**

R. Montefusco: Is the co-chair, along with Patrick Standon, of the newly recreated Committee on Accessibility which is an advisory committee. One such committee existed in the past as the result of a lawsuit involving the Department of Justice. It is a committee similar to Montpelier's. He expects there are a lot of regulations on the books which are not being recognized during development. He has attended many meetings as a way to publicize accessibility, and notes that in the downtown area, Church Street is the focus for tourists. A group, Accessible Adventures, rates restaurants, public buildings, etc on availability and ease of access. AARP has made this available to the City of Burlington through a grant.

R. Montefusco reports hearing from the accessibility challenged public that to go out is a struggle. He is asking for awareness from the Commission as they work on bylaws, etc. that the regulations be incorporated that presently exist. The Parks Department recently built a ramp at North Beach with a rubber ramp across the sand and into water making the lake accessible for the first time to wheelchair bound persons. He may come back with recommendations from public input. His goal is that the City be aware of existing requirements. The Planning Commission, in 1990, produced a pamphlet addressing accessibility, some of which is still pertinent. He is available to be contacted.

D. White: Last weeks' NEECAPA primary speaker was a person who was blind. She has two PhDs in cognitive science and urban planning, and was really great.

R. Montefusco: Age brings these issues to the forefront.

D. White: As a city appointed group, can they do a presentation around the built environment for the Planning Commission?

R. Montefusco: The Center for Independent Living does partner with his group and does presentations which include a checklist for accessibility of public events. That data would be good for the Commission to know about.

S. Bushor: The former committee came up with recommendations for the City Council, Department heads and other officials. The 1990 guidelines, stem from Alan Gear, a city councilor who used a wheelchair and made all aware of limitations of individuals. A. Gear never came to any after council meetings gatherings because he could not get into the public buildings. She is glad the committee is revitalized.

R. Montefusco: He will enable communication from citizens to City officials. Did we know that the Scuffer had just revised their entry to a ramp?

L. Buffinton: It will be interesting to see what we actually have on the City books now, not just the zoning ordinance.

R. Montefusco: Ned Holt, the City building inspector, is on the committee; he and Norm Baldwin are speaking at the next meeting. As a temporary experiment the Daily Planet put deck out back and then discovered that it was not accessible. Ned missed it in his permitting process but addressed this by removal.

E. Lee: Wonders if the Dolan's auto body access could be assisted by a conversation with Ralph for exploration of existing regulations that might allow that to go through?

**VI. Continued Public Hearing: ZA 14-02 Review**

D. White: This is a continuation of the previous hearing proposing to revise lot coverage allowances in the RCO-G zone, specifically including parks and greenspaces.

The 2008 zoning instituted a blanket 5% coverage with no actual consideration of needs. The proposed limits are more reflective of what actually exists and what is necessary to function. City Hall, Battery Park and Perkins Pier would change to 35% coverage, the remainder to 25%. The packet has additional information from the Parks Department with a supplemental table re: coverage.

*As approved by the Burlington Planning Commission on October , 2013.*

S. Bushor: Has not been following this closely and depends on the Planning Commission to vet these things. The email chatter contains one especially directed to D. White. She is protective of open space in Burlington and the more open space that exists, the happier she is. What is the rationale, what could be lost by the increase in coverage? She will be watching this amendment with the help of the minutes to follow the discussion. The premise is that open space which is unmanaged has no cost, but managed spaces have some cost. She does not want to give away open space and will continue listening to this discussion.

A. Lockwood: Has the Commission received the Champlain International letter? Yes. Her concern as a resident: She missed the first hearing but wrote a letter stating her concerns about the overall blanket increase in coverage and the need to consider the individual needs of each park. She is mindful of what people are going to want in future. As an example, New York City is now suffering because they didn't plan ahead for green space with grass. Coupling this planning with the planBTV planning it seems that Parks/Planning is suggesting large buildings on each end of Waterfront park and kiosks which appear to be permanent. Waterfront Park is now in violation of existing zoning, and the Parks Master plan is not done yet. The next parcel up from the waterfront is a 150 car parking lot, a cement skate part, not now zoned as park space, will be rezoned. The last thing that a city loses is its reputation, which is now known as "green."

L. Buffinton: Everything she has received or heard since the last meeting is in opposition to the proposed plan. She requested stormwater information and it has not been provided. The Conservation Board has not been informed or invited to participate. The Parks master plan is in progress, driven by the expansion of the bike path. How much more coverage is needed for bike path? One size doesn't fit all. The City is growing, green space is even more important because of that. During the planBTV process, the public spoke clearly about their enjoyment of Waterfront Park. The three parks that need 35% possible coverage, Battery Park is included. Why is this being allowed? Roosevelt Park is more appropriately included. Parks are actively used, the City is trying to be greener, emissions are up, we need to think big picture. More information about the regeneration of the bike path, a possible city policy turning over public spaces to private concessions is the cart driving the horse. This needs more assessment. The Planning Commission is here to discuss and advise; we need to remember that the public space is sacred. She would suggest a tiered approach, exempting the bike path needs to be looked at during this project.

A. Montroll: He has a different approach, which has multiple pieces. A map of Ethan Allen Park, not one the parks particularly under construction. 5% coverage now doesn't allow for parking lots and trails. Most Burlington parks have amenities, tennis courts, ball parks, etc. This is a growing city, increases in coverage are needed for these things. He doesn't want to see our parks limited, wants to see them able to meet their needs.

It is a public process during which needs will be defined. Theoretically, people can only weigh in during the regulatory process. It is important that we be as tight and as theoretical before projects are approved. Parks are different; ultimately they are under the control of the Parks Commission, the Mayor and the City Council. The regulatory portion is way at the end of process. There are many opportunities for the public to weigh in during the process that considers changes to our parks. There needs to be the flexibility to look at projects one by one, to examine the merits of any projects. He would rather give all public entities flexibility. The City Council establishes coverage on recommendations from the Planning Commission and the public. Significant funding for projects may require bonding which is a very public process. This should be examined park by park and plan by plan. He is not worried because there will be individual review. He thinks that the Commission should be passing this amendment and passing it on to the City Council, but not if the Planning Commission and Parks Department are in conflict. If so, the City Council will decide.

E. Lee: Agrees with parts of both arguments. She doesn't want to see progress on the bike path held up. This could be a political issue that may be decided at the City Council. Perhaps the Commission should send it to the City Council. She thinks they would vote against it at this point. More information would be helpful.

*As approved by the Burlington Planning Commission on October , 2013.*

L. Buffinton: Agrees. And would urge that the scale of what is proposed be changed. Oakledge Park is presently 10% coverage, Leddy Park, 14%. It would behoove us to have a lot more information, especially including the tree removal piece. Some coverage numbers are at low percentage coverage now.

J. Bridges: The way the current zoning ordinance is structured is why all parks are treated with one coverage number. He has no problem approaching each park individually, that is a great recommendation. Some things that happened in the past to the City parks makes him fully appreciate that he is working to restore the publics' trust in the Parks Department. Disc golf and Leddy Park he has heard about many times! It is now time to have real conversation advancing the public process with dialogue. The Department is on a time line with bike path at Waterfront Park. It is not the intention of the department to pave over the parks and never really has been as best he can see. The public poses very real questions. Amenities vs open space is a consideration. Close to 50% of the City is open space. Parks has just received approval to purchase Archibald property where they will establish a community garden and park. This property previously had 100% coverage. This is a logistical hurdle, adding three feet to the width of the bike path, expanding the playground. He loves the idea of individual coverage and has talked about this with the Parks Commission. The Department has hired someone to do a history on the Leddy parking lot.

D. White: There is not a dispute between the two departments. He recognizes that this was done to the Parks Department. Previously coverage ranged from 35% to 100% and it is now appropriate to define what development is appropriate. Stormwater is a big issue, it is important to recognize that city parks have to manage stormwater like everyone else, and overall, they play a large part in stormwater management. This is an option to undertake individual coverage for each park, but it seems like overkill.

L. Buffinton: It still may not be necessary to do each individually but tiered system might work. It is necessary to target specific needs. If Waterfront Park coverage is a key issue with proposed coverage going up to 25% now, with a commitment to examine the big picture, coverage could be tweaked to meet Parks' needs, and not be so broad. The public wants us to take care of what we have, that's what a penny for parks is all about.

A. Montroll: He has heard a few times, the desire for Parks to commit to reduce coverage. He is more comfortable that Parks examine the uses of coverage, he doesn't want to establish artificial requirements. Moving on, it would make sense to have the full Commission weigh in but he doesn't want to put it off too long, Parks has a timeline need and it may be a long process.

L. Buffinton: She has a request to hear from Megan Moir, stormwater administrator and the Conservation Board.

B. Baker: There appears to be consensus to move this discussion to the next meeting.

**On a motion by E. Lee, seconded by L. Buffinton, the Commission unanimously approved continuing this discussion to the next meeting.**

## **VII. Requested Amendments**

**Fletcher Place rezoning to RL: A request to rezone Fletcher Place from Institutional to Residential Low-Density.**

Brenda Orr, a resident at 43 Fletcher Place since 1972. From that time the area has been a neighborhood, largely single family homes. Location is close to work and Ira Allen School. Woods exist in the rear which is a perfect combination. It is now zoned institutional. There is a history of having a diverse, tight knit community. There has been a neighborhood association for many years, which has included students and they have worked together to solve problems, traffic, parking, sewage, and have had social community picnics for new families. Please consider not what it has been zoned, but compare it to other little streets along Colchester Avenue.

*As approved by the Burlington Planning Commission on October , 2013.*

Robert Butani: Thanks the Planning Commission for its time. The residents have signed a petition to change the zoning to residential low (RL) density. There are many other streets similar to Fletcher Place which are zoned residential low density and the zoning map illustrates this. Henderson Terrace, Robinson Parkway, Case Street, Bilodeau Parkway, Thibault Street, Nash Court, some are half institutional/ half low residential. Fletcher Place residents should enjoy the same zoning as others in similar situations. 1899 and 1910 eight residences of eleven existed. The block we call home, or haven is at a tipping point in relation to students and traffic. Students increase every weekend and it has become an adversarial situation. City resources (police and code enforcement) are expended to maintain control. He has talked with the students and the situation has only become worse. Overcrowding and housing degradation are occurring.

Frank von Turkovich: He owns property on Fletcher Place and knows the people who live there. As a landowner of Fletcher Place property, he has spoken with residents about developing the property someday. He is struck by the recitation of problems in Fletcher Place. Burlington is a large college town which has its benefits and drawbacks. These issues won't be solved by a zoning change. The City has to step up police enforcement and livability enforcement. He now has just under two and a half acres of land, mostly undeveloped, he didn't know that this petition was signed in 2012 during which time he has been actively discussing potential development with the neighbors and has made himself accessible as a landowner. He would talk further with the neighbors on Fletcher Place before undertaking any development process. He has been actively engaged for five years with planning in the City and strives to maintain compliance with zoning requirements. It is important that the City not do ad hoc zoning. Changing the zoning when development is anticipated is not planning and is a policy mistake. This could be damaging to his investment, the value of properties would drop dramatically by two thirds and the tax base would drop commensurately. There would be financial impact to the City which will not change the reality of life in this district. Most residences have little appeal as single family homes and it is unlikely that conversion to single family would occur. Spot zoning dynamic would raise this issue and he would like to talk to the Planning Commission about this. He hasn't yet developed a plan and doesn't think this action is appropriate.

M. Lang, property owner and resident: Is opposed to the proposed change. There are offices, labs, the school property is currently being used as warehouse that is not residential and they would all become non-conforming. The proposed zoning change would include six parcels she owns. There is no parking on Fletcher Place. Rezoning stops at 146 Colchester Avenue and it needs to go to Nash Place to not be spot zoning. Restrictions of the number of occupants would accomplish the same result.

Anna White, Fletcher Place resident: Bought her home four years ago and she didn't realize about the zoning. She agrees with the statements that Mr. Butani and Mrs. Orr have made about the circumstances.

S. Bushor: Addresses the origin of this proposal which dates to the zoning rewrite, during which process areas of City were identified to protect. The rewrite was a long process during which one item identified to be addressed were vulnerable neighborhoods. Most little streets around the campus are RL zone and Fletcher Place stuck out. Many people were involved in the rewrite and there was a lot of controversy. The list of things to be addressed was set aside. Once the zoning ordinance was adopted, it did not remain stagnant as there have been ongoing zoning changes. Zoning is a tool to allow a community to develop the way it wishes to. The neighborhood has been revitalized and there is now a desire to rezone. Boundaries may need to have adjustment. FAHC slowly and wisely with intent bought up one house at a time on the west side of East Avenue. FAHC then started to buy properties on the opposite side of street, which were then residences. FAHC then turned these properties into offices. At that point there was an agreement made between FAHC and the City that they would no longer pursue this course of action. So this is the rationale for the request which reflects many delays in the process. She would like zoning to reflect how things are actually used and sees Fletcher Place as RL zone.

Shirley Fortier, UVM: Apologizes to residents of Fletcher Place for the situation with students in their neighborhood. UVM's perspective would be that they would like to preserve any institutional uses now allowed. UVM could help with resources to improve the neighborhood. Down zoning would make it difficult to do business for the University.

*As approved by the Burlington Planning Commission on October , 2013.*

R. Butani: Thanks F. Von Turkovich for his comments. The petition was not initiated to head off any development that might have been anticipated.

L. Buffinton: As a group, have you looked at just the zoning at Fletcher Place for residential consistency and not the properties facing on Colchester Avenue?

Susan Butani: Selfishly our focus is immediate and is mostly affected by the students. Their street is their neighborhood.

A. Montroll: Has the Department looked at this?

E. Lee: What is the trapezoidal green?

D. White: That is institutional use. Within that group, down to Mansfield Avenue, are 27 properties, 15 would be nonconforming properties if the zoning were changed. On Fletcher Place, 6 properties would be non-conforming.

A. Montroll: What is the impact?

D. White: There would be no further expansion of student rentals. Those existing uses would continue to be allowed. This raises the question how does this proposed change relate to lot coverage, size, frontage for the RL zone?

S. Bushor: On Fletcher Place, at end of the street there is a blue/purple a single family home that UVM bought. It is troubling that this is now an institutional use since it was as a big anchor at the end of the street.

D. White: The assessor is the key as to how it is taxed. This is exempt.

E. Lee: A lot of time of Fletcher Place clearly residential. She doesn't consider this to be downzoning. And doesn't think the desired development use is other than residential. The City has reached out to UVM concerning overuse of the City housing stock. The tight density in Burlington makes it difficult for middle class families looking for houses just like the ones on Fletcher Place. Many families are choosing to live outside of Burlington although there are instances where families have bought rental properties and returned them to single family use.

D. White: Housing density is no more than four unrelated person applies is only in residential zones. This area has been zoned institutional or university campus for a long time.

M. Lang: It was seventeen years ago.

S. Fortier: Perhaps at the time it was zoned with Trinity College?

M. Lang: Believes before then, not sure.

B. Baker: So our next steps?

A. Montroll: Would like a recommendation from, guidance from the Planning & Zoning Staff, it is not clear yet.

L. Buffinton: A baseline is needed, it needs to be examined in terms of Residential Low density and Institutional, what would the impact be? It probably should go to the Ordinance Committee, no spot zoning, or over reaching.

B. Baker: For those who are interested in further action on this proposal, the Ordinance Committee meets every month, please check web site for the schedule.

**On a motion by E. Lee, seconded by L. Buffinton, the Commission unanimously sent the requested amendment to the Ordinance Committee for more discussion.**

**A request to expand the Neighborhood Mixed-Use boundary to include 47 Bright Street.**

D. White: A Champlain Housing Trust memo and map outlines are included. The property is currently zoned RM (residential medium density) and is proposed to change to NMU (neighborhood mixed use),

*As approved by the Burlington Planning Commission on October , 2013.*

as part of redevelopment. Staff recommends that they consider seeking zoning change. It seems appropriate.

A. Montroll: Is open to change, would like to look at the draft form.

**The Commission requested that staff prepare a formal amendment to be considered at a future meeting.**

E. Lee: There was a presentation made at the Neighborhood Planning Assembly and there was not much concern about the change.

### **VIII. Neighborhood Development Area Designation**

D. White: For many years, Burlington's downtown has been designated under the state program, which affords certain projects with certain benefits, including access to certain tax credits, regulatory relief, the potential to incentivize development downtown. This past legislature created the program.

The City was approached by the Department of Housing and Community Development to be a guinea pig for a new Neighborhood Development Area Designation. In this project, the residential zoning/properties surrounding the downtown would be included in the designation and would then benefits from similar incentives than for the downtown program. The map that came through doesn't do the plan justice, a half mile buffer around the downtown would constitute the area involved.

A. Montroll: Downtown was addressed during planBTV, his own personal location on South Union Street seems like downtown, seems logical to be included, it feels right.

B. Baker: Are neighborhood commercial applications still happening?

D. White: Yes, some applications.

E. Lee: She likes that the scope of the area is large and is very interested to see more.

D. White: Page 2 outlines benefits at the federal level plus there are state level economic considerations.

A. Montroll: The areas work together.

D. White: This proposed plan pulls commercial and residential together as unit.

E. Lee: Income producing properties could dovetail with commercial / residential development.

D. White: It will help to preserve historic resources.

### **IX. Committee Reports**

No reports.

### **X. Commissioner Items**

E. Lee: Anne Brena's letter extends some comments relevant to the conversation with K. Worden. Single family homes are nonconforming in the RH district now. The neighborhood is on National Register of historic places, current zoning prevents restoration from happening. She hopes to emphasize that families had long term residency. Five people are living in her house, which is an appropriate change.

B. Baker: The Executive Committee will decide how to proceed.

*As approved by the Burlington Planning Commission on October , 2013.*

**XI. Minutes/Communications**

On a motion by A. Montroll, seconded by L. Buffinton, the Commission unanimously accepted the communications and placed them on file.

**XII. Adjourn**

On a motion by L. Buffinton, seconded by A. Montroll, the Commission unanimously adjourned at 8:58pm

---

Bruce Baker, Vice Chair

---

Date

---

E. Tillotson, recording secretary

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

September 25, 2013

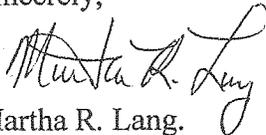
Planning and Zoning Commission  
City Hall  
149 Church Street  
Burlington, VT 05401

Dear Planning Commissioners:

Would it be possible to include 148-150 Colchester Avenue in this zoning change? That addition would make the rezoning less likely to be considered spot zoning.

Thank you.

Sincerely,

  
Martha R. Lang.

RECEIVED  
SEP 26 2013

DEPARTMENT OF  
PLANNING & ZONING