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

Burlington Planning Commission

REGULAR MEETING

Tuesday, February 11, 2014 - 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. Proposed Amendments (45 min)

The Commission will discuss proposed changes to the Comprehensive Development Ordinance concerning:

- Major Impact Thresholds
- Conditional Use Review Criteria
- Planned Unit Development
- Subdivisions
- Lot Coverage Exemptions in residential districts
- Required frontage or access on small lots

VI. Neighborhood Development Area Designation

VII. Committee Reports (5 min)

VIII. Commissioner Items (5 min)

IX. Minutes/Communications (2 min)

The Commission will review minutes from the January 28, 2014 meeting.

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

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Mary O'Neil, AICP, Senior Planner
Nic Anderson, Planning & Zoning Clerk
Elsie Tillotson, Administrative Assistant

MEMORANDUM

TO: Planning Commission

FROM: David E. White, AICP, Director of Planning & Zoning

DATE: Thursday, February 06, 2014

RE: Proposed Zoning Amendments regarding Conditional Use and Major Impact Review, PUD and Subdivision Review

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For your consideration you will please find attached a series of proposed amendments to the *Burlington Comprehensive Development Ordinance*. This collection of amendments seek to simplify and clarify the otherwise cumbersome, lenthy and complex nature of development review in Burlington. Many of the issues we are seeking to address were raised and contemplated during the planBTV planning process as measures we could take to support more infill development across the city. We feel the changes being offered will simplify the process without negatively effecting the quality of the review or the public's ability to participate.

Taken together they eliminate redundant and unnecessary steps, costs and complexity by:

- Disconnect Conditional Use Review from the types of development that bear no relationship to the actual review criteria being considered.
- Revise the Conditional Use Review criteria to focus on elements of development that may actually be effected by a proposed conditional use.
- Clarify the scope of conditions that may be imposed under Conditional Use Review.
- Revise the Major Impact Review triggers to reflect the likely scale a proposed development would have to take to effect the review criteria, and differentiate between projects of varying scales proposed across zoning districts so that "major impact" is considered relative to the context of the neighborhood where it is being proposed.
- Disconnect PUD from Subdivision review in cases where no actual subdivision of land is taking place.
- Clarify the range and type of flexibility afforded by the PUD Review process.

Historically Burlington's ordinance has used "Conditional Use Review" as a catch-all requirement for any development that may not otherwise appear straightforward – when in doubt, make it subject to conditional use. This approach dates back to before the creation of Design Review where the only opportunity to look closely at the scale and design of a project was to put it through a public hearing and attach specific conditions of approval. Today however Burlington has a number of sophisticated tools in its ordinance that enble either staff or the DAB and DRB to review and make modifications to the design of a proposed development making conditional use review unnecessary and redundant in cases that do not include a true "conditional" use. Therefore we are proposing to disconnect conditional use review from PUD's, subdivisions, inclusionary housing projects and parking management plans unless they actually involved a listed conditional use. In addition we are proposing to revise the conditional use

criteria themselves to reflect more objective standards relative to impacts on transportation, community facilities and nuisances, and remove criteria that reflect more subjective design issues that are already considered under the Design Review process.

In a similar vein, Major Impact Review also has been generously applied - in today's case where development would create more than 5 units of housing anywhere in the city. In Vermont's largest city, most urbanized place and with a complete array of public infrastructure, 5 units of housing hardly constitutes "major impact" in places like the downtown. Instead we are proposing scaling the triggers for what constitutes a Major Impact project based on the neighborhood context.

Finally, while PUD's may often be associated with the creation of new lots, it isn't always the case. Making a PUD follow the subdivision review process when it doesn't actually involved a change to property boundaries adds a significant time and cost burden on the applicant and staff, and is a significant waste of effort for everyone.

We look forward to discussing these proposals further with you at your next meeting. Thank you.

PART 5. CONDITIONAL USE AND MAJOR IMPACT REVIEW

Sec. 3.5.1 Purpose

These conditional use regulations are enacted to provide for a more detailed consideration of development proposals which may present a greater impact on the community

Additionally, it is the intent of these regulations through the creation of a major impact review:

(a) To ensure that projects of major significance or impact receive a comprehensive review under established criteria; and,

(b) To ensure that the city's natural, physical and fiscal resources and city services and infrastructure are adequate to accommodate the impact of such developments, both individually and cumulatively.

Sec. 3.5.2 Applicability

(a) Conditional Use Review:

Conditional Use Review shall be required for the approval of all development subject to the following provisions of this ordinance:

1. any use identified under Article 4 and Appendix A – Use Table as a "Conditional Use" or "CU;"
2. any Special Use specifically identified as being subject to conditional use review under Article 5, Part 3;
3. ~~any application subject to Article 9 – Inclusionary and Replacement Housing;~~
4. ~~all applications for an Institutional Parking Management Plan pursuant to the provision of Article 8, Part 3;~~
5. ~~all applications subject to Article 10 – Subdivision; and,~~
6. ~~all applications subject to Article 11 - Planned Development.~~

(b) Major Impact Review:

In addition, Major Impact Review shall be required for the approval of all development involving:

	Zoning Districts			
	Downtown Mixed Use, Core Campus	Neighborhood Mixed Use, Institutional, Enterprise, Residential –	Residential- Medium Density, Residential- Low Density, RCO-RG	RCO-A, RCO-C

		High Density		
Dwelling Units	Creation of fifty (50) or more dwelling units	Creation of twenty-five (25) or more dwelling units	Creation of ~~five~~ ten (10~~5~~) or more dwelling units~~—or the creation through adaptive reuse, substantial rehabilitation or conversion of ten (10) or more dwelling units;~~	NA
Land Subdivision	NA	NA	Creation of ~~five~~ ten (10~~5~~) or more lots;	NA
Non-residential Development	A development footprint[1] of fifty thousand (50,000) s.f. or more, or the creation of one-hundred thousand (100,000) s.f. or more of gross floor area.	A development footprint of twenty thousand (20,000) s.f. or more, or the creation of forty thousand (40,000) s.f. or more of gross floor area.	A development footprint of eight thousand (8,000) s.f. or more, or the c~~e~~onstruction ~~or substantial rehabilitation of~~ reation of fifteen thousand (15,000) s.f. or more of gross floor area~~of non-residential developmen~~.	Creation of five thousand (5,000) s.f. or more of gross floor area[2]

[1] Development Footprint: total area of impervious coverage – buildings and parking.

[2] Farm structures are exempt per 10 VSA 6001.

~~**Land disturbance**~~			~~one acre or more;~~	
~~**Site improvements involving**~~			~~fifty (50) or more parking spaces;~~	
~~**Natural Areas**~~	~~Site improvements and land development on parcels that contain designated wetlands as regulated pursuant to Article 4, or natural areas of state or local significance as identified in the municipal development plan;~~			

~~Brownfields~~	~~Site improvements and land development on parcels seeking a waiver under Article 5, Part 4, Sec. 5.4.9 – Brownfields; or~~		
~~Cumulative Impact:~~			~~Multiple projects by the same applicant or responsible party within any consecutive twelve (12) month period on the same property or on a property within 1000 feet of the subject property that in the aggregate equal or exceed the above criteria.~~

Sec. 3.5.3 Exemptions

Conditional Use and Major Impact Review shall not apply to applications involving one or more of the following:

~~(a) Single-family dwellings;~~

~~(b)~~(a) Temporary structures;

~~(c)~~(b) Substantial rehabilitation that does not expand the floor area of an existing building or the structural capacity of existing development;

~~(d)~~(c) ~~Projects that do not result in a change of use or increased parking demand as determined by the administrative officer~~; ~~and~~or,

~~(e)~~(d) Subsurface site improvements including but not limited to underground utility lines and subsurface drainage ways.

Sec. 3.5.4 Submission Requirements

In addition to the applicable application and submission requirements under in Section 3.2.2, all applications for a zoning permit subject to Conditional Use and/or Major Impact Review under this Part shall provide any additional information necessary for the adequate review of the proposal under the applicable review criteria of Section 3.5.6 pursuant to Section 3.2.3.

Any development subject to Major Impact Review under this Part shall also include an affidavit or certification documenting that the Pre-Application Public Neighborhood Meeting requirement pursuant to Sec. 3.2.1(d) has been satisfied in accordance with the procedures and requirements set forth by the department of planning and zoning.

Pursuant to Sec. 3.2.8(D), the DRB may require the applicant to pay the reasonable costs and fees incident to an independent technical review of the application.

Sec. 3.5.5 Public Hearing Required

Applications involving Conditional Use and Major Impact Review shall require a public hearing pursuant to the provisions of Article 2 to provide an opportunity for public input and comment to the DRB on the proposed use and it's conformity with the review criteria listed below.

Sec. 3.5.6 Review Criteria

The application and supporting documentation submitted for proposed development involving Conditional Use and/or Major Impact Review, including the plans contained therein, shall indicate how the proposed use and associated development will comply with the review criteria specified below:

(a) Conditional Use Review Standards:

Approval shall be granted only if the DRB, after public notice and public hearing, determines that the proposed conditional use and associated development shall not result in an undue adverse effect on each of the following general standards:

1. Based on the scale and characteristics of the proposed use and its development, the proposal is consistent with the purpose and intent of the zoning district and specifically stated policies and standards of the municipal development plan;
2. The proposed use will not have nuisance impacts from noise, odor, dust, heat, and vibrations greater than typically generated by other permitted uses ~~allowed by right~~ in the same zoning district;
3. The transportation system is capable of supporting the proposed use in addition to the existing uses in the area. Evaluation factors include street designations and capacity; level of service and other performance measures; access to arterial roadways; connectivity; transit availability; parking and access; impacts on pedestrian, bicycle and transit circulation; safety for all modes; and adequate transportation demand management strategies; and,

~~1.~~4. ~~The capacity of~~ Existing or planned public ~~community~~ utilities, facilities or services are capable of supporting the proposed use in addition to the existing uses in the area.~~;~~

~~2. The character of the area affected as defined by the purpose or purposes of the zoning district(s) within which the project is located, and specifically stated policies and standards of the municipal development plan;~~

~~3. Traffic on roads and highways in the vicinity evaluated in terms of increased demand for parking, travel during peak commuter hours, safety, contributing to congestion, as opposed to complementing the flow of traffic and/or parking needs; if not in a commercial district, the impact of customer traffic and deliveries must be evaluated;~~

~~4. Any standards or factors set forth in existing City bylaws and city and state ordinances;~~

5. ~~The utilization of renewable energy resources; and,~~

In addition to imposing conditions of approval necessary to satisfy the General Standards specified above, the DRB may also impose additional conditions of approval relative to any of the following;

~~5. shall consider the cumulative impact of the proposed use. For purposes of residential construction, if an area is zoned for housing and a lot can accommodate the density, the cumulative impact of housing shall be considered negligible;~~

~~6. in considering a request relating to a greater number of unrelated individuals residing in a dwelling unit within the RL, RL-W, RM and RM-W districts than is allowed as a permitted use, in addition to the criteria set forth in Subsection (a) hereof, no conditional use permit may be granted unless all facilities within the dwelling unit, including bathroom and kitchen facilities are accessible to the occupants without passing through any bedroom. Additionally, each room proposed to be occupied as a bedroom must contain at least one hundred twenty (120) square feet. There must also be a parking area located on the premises at a location other than the front yard containing a minimum of one hundred eighty (180) square feet for each proposed adult of the dwelling unit in excess of the number of occupants allowed as a permitted use. All other green space standards must be observed.~~

~~7. may control the location and number of vehicular access points to the property, including the erection of parking barriers.~~

~~8. may limit the number, location and size of signs.~~

~~9.~~1. ~~may require~~ suitable mitigation measures, including but not limited to landscaping, where necessary to reduce noise and glare and to maintain the property in a character in keeping with the surrounding area.

~~10.~~2. ~~may specify a~~ time limits for construction~~, alteration or enlargement of a structure to house a conditional use~~.

~~11.~~3. ~~may specify~~ hours of operation and/or construction to reduce the impact on surrounding properties.

~~12.~~4. ~~may require~~ that any future enlargement or alteration of the use return for review to the DRB to permit the specifying of new conditions.

~~13. may consider performance standards, should the proposed use merit such review.~~

~~14.~~5. ~~may attach~~ such additional reasonable performance standards, conditions and safeguards, as it may deem necessary to implement the purposes of this chapter and the zoning regulations.

(b) Major Impact Review Standards:

Before a major impact development may receive approval, the DRB must be satisfied, based on documentation provided by appropriate city agencies, experts, interested parties and/or the applicant that the proposed development, ~~in addition to meeting the review standards for conditional use review above~~, shall:

1. Not result in undue water, air or noise pollution;

2. Have sufficient water available for its needs;
3. Not unreasonably burden the city's present or future water supply or distribution system;
4. Not cause unreasonable soil erosion or reduction in the capacity of the land to hold water so that a dangerous or unhealthy condition may result;
5. Not cause unreasonable congestion or unsafe conditions on highways, streets, waterways, railways, bikeways, pedestrian pathways or other means of transportation, existing or proposed;
6. Not cause an unreasonable burden on the city's ability to provide educational services;
7. Not place an unreasonable burden on the city's ability to provide municipal services;
8. Not have an undue adverse effect on rare, irreplaceable or significant natural areas, historic or archaeological sites, nor on the scenic or natural beauty of the area or any part of the city;
9. Not have an undue adverse effect on the city's present or future growth patterns nor on the city's fiscal ability to accommodate such growth, nor on the city's investment in public services and facilities;
10. Be in substantial conformance with the city's municipal development plan and all incorporated plans;
11. Not have an undue adverse impact on the present or projected housing needs of the city in terms of amount, type, affordability and location; and/or
12. Not have an undue adverse impact on the present or projected park and recreation needs of the city.

Sec. 9.1.7 Certificate of Inclusionary Housing Compliance

As written

Sec. 9.1.8 ~~Conditional Use Approval~~

~~A covered project, except subdivisions approved by the DRB pursuant to the provisions of the Article 10, must first receive approval of such board under conditional use criteria pursuant to the requirements of Article 3, Part 5.~~ RESERVED

Sec. 9.1.9 Inclusionary Units, Rental and Sales

As written

Sec. 4.4.5 Residential Districts

(d) District Specific Regulations:

5. Residential Density

C. Residential Occupancy Limits.

In all residential districts, the occupancy of any dwelling unit is limited to members of a family as defined in Article 13. Notwithstanding the following, the minimum square footage requirements shall be reduced by ten (10%) percent in situations where the residential premises are owner occupied.

Subject to Conditional Use approval by the DRB, a dwelling unit may be occupied by more than four (4) unrelated adults if it contains at least twenty-five hundred (2,500) square feet excluding its attic and basement pursuant to the following:

(i) If in a RL district, the dwelling unit also contains at least an additional two hundred fifty (250) square feet and one (1) additional parking space per adult occupant in excess of four (4); or,

(ii) If in a RM district, the dwelling unit also contains at least an additional two hundred (200) square feet and one (1) additional parking space per adult occupant in excess of four (4).

(iii) If in a RH district, the dwelling unit also contains at least an additional 150 square feet and 1 additional parking space per adult occupant in excess of four (4).

In considering a request relating to permitting a greater number of unrelated individuals residing in a dwelling unit within a residential zoning district, no conditional use permit may be granted unless all facilities within the dwelling unit, including bathroom and kitchen facilities are accessible to the occupants without passing through any bedroom. Each room proposed to be occupied as a bedroom must contain at least one hundred twenty (120) square feet. [DEW1]

ARTICLE 11. PLANNED DEVELOPMENT

PART 1. – PLANNED UNIT DEVELOPMENT

Sec. 11.1.1 Intent.

The intent of this Article is to:

(a) Promote the most appropriate use of land through flexibility of design and development of land;

(b) Facilitate the adequate and economical provision of streets and utilities;

(c) Preserve the natural and scenic qualities of open space;

(d) Provide for a variety of housing types;

(e) Provide a method of development for existing parcels which because of physical, topographical, or geological conditions could not otherwise be developed; and

(f) Achieve a high level of design quality and amenities.

Sec. 11.1.2 Authority.

These regulations are enacted under the provisions of 24 V.S.A. Section 4417.

Sec. 11.1.3 Major and Minor Planned Unit Development

A minor Planned Unit Development shall include any development not otherwise seeking or requiring the flexibility enabled under this Article and consisting of:

(a) ~~5 or more units in a single structure~~ residential development~~,~~ ~~prompting~~ triggering the requirements of Part 1: Inclusionary Zoning of Article 9~~. Inclusionary and Replacement Housing~~.

(b) redevelopment of ~~existing~~ carriage houses and other accessory ~~out~~-buildings existing as of January 1, 2007 for a residential use ~~meeting density of the underlying zoning district~~;

(c) development of an accessory dwelling unit~~s~~ in a detached structure subject to the requirements of Sec. 5.4.5.

Minor PUD's shall be exempt from the requirements and standards of this article, but shall be subject to the development standards as otherwise required by this ordinance.

All other development consisting of ~~one or more~~multiple lots, tracts or parcels of land to be developed as a single entity or seeking to place multiple structures and/or uses on a single lot ~~subject to the provisions of Sec. 11.1.4 below~~ where not otherwise permitted shall be considered a major PUD subject to the provisions of Sec. 11.1.4

below and shall be subject to the review processes and requirements as defined under this Article.

Sec. 11.1.4 General Requirements and Applicability.

A planned unit development may be permitted subject to the provisions of this Article in the following districts:

Districts	Minimum ~~Lot~~ Project Size[DEW1]
RH, RM, RM-W, Downtown and Neighborhood Mixed Use, Institutional[1]	No minimum ~~lot~~ project size.
RL, RL-W[2], RCO-R/G[1]	2 acres or more

1. Subject to Conditional Use Review pursuant to Art 3, Part 5.
2. ~~The two acre minimum may be waived by the DRB for the conversion of an accessory structure existing as of January 1, 2007 to a residential use~~[DEW2].

~~Planned unit developments are not authorized for non-residential uses except as provided for under Sec. 11.1.7.~~ [DEW3]~~A planned unit development must receive a certificate of appropriateness under the design review provisions of Article 3, Part 4, the development review standards of Article 6, and final subdivision plat approval in accordance with Article 10.~~ [DEW4]

Sec.11.1.5 Modification of Regulations.

With the approval of the DRB after a public hearing, ~~and subject to the limitations of Sec. 11.1.6,~~ the following modifications of the requirements of the underlying zoning may be altered within a planned unit development:

- density, frontage, lot coverage, and ~~and~~ setback ~~regulations~~requirements ~~may be altered for a planned unit development~~ may be met as calculated across the entire project rather than on an individual lot-by-lot basis~~.~~;
- required setbacks may apply only to the periphery of the project rather than on an individual lot-by-lot basis;
- ~~More~~ more than one principal use and more than one principal structure may be permitted on a single lot;~~.~~ ~~At the discretion of the DRB the~~ and,
- ~~dwelling~~ buildings ~~units~~ may be of varied types including single detached, attached, duplex or apartment construction.

~~-~~Any proposed modifications of regulations shall be listed in a statement accompanying the ~~plat~~ application submission and such modifications shall be subject to the provisions of Sec. 11.1.6 and Sec. 11.1.7.

Sec. 11.1.6 Approval Requirements.

The following requirements shall be met for the DRB to approve a planned unit development:

~~(a) Lot coverage requirements of the district shall be met;~~

~~(b) The minimum setbacks required for the district shall apply to the periphery of the project;~~

~~(c)~~(a) The minimum ~~parcel~~ project size requirements of Sec 11.1.4 shall be met ~~if the project is located in a RL or RL-W districts;~~[DEW5]

~~(d)~~(b) The project shall be subject to design review and site plan review of Article 3, Part 4 and the standards of Art. 6;

~~(e)~~(c) The project shall meet the requirements of Article 10 for subdivision review where applicable;

~~(f)~~(d) The minimum setbacks required for the district ~~shall apply to~~have been met at the periphery of the project;

(e) density, frontage, and lot coverage requirements of the underlying zoning district have been met as calculated across the entire project;

(f) All other ~~dimensional, density, and use~~ requirements of the underlying zoning district ~~shall~~ have been~~be~~ met as calculated across the entire project;

(g) Any proposed accessory uses and facilities shall meet the requirements of Sec. 11.1.7 below;

(h) Open space or common land shall be assured and maintained in accordance with the conditions as prescribed by the DRB;

(i) The development plan shall specify reasonable periods within which development of each phase of the planned unit development may be started and shall be completed. Deviation from the required amount of usable open space per dwelling unit may be allowed provided such deviation shall be provided for in other sections of the planned unit development;

(j) The intent as defined in Sec. 11.1.1 is met in a way not detrimental to the city's interests; and,

(k) The proposed development shall be consistent with the municipal development plan.

Sec. 11.1.7 Accessory Facilities.

(a) A planned unit development may contain a building or buildings intended for non-residential uses such as but not limited to ~~as~~ a community center, recreation facility, child care center and/or business office if the DRB determines that such use or uses are compatible with the intended principle residential use and will not contribute to parking problems on site or in the surrounding area.

(b) A planned unit development may contain a building or buildings intended for use as a community convenience store if approved by the DRB under the following standards:

1. A determination shall be made by the DRB that the community convenience store will not contribute to parking problems on site or in the surrounding area.
2. The maximum size of the store is 1000 square feet.
3. Only one sign is permitted limited to the following:
   A. The maximum size is 4 square feet.
   B. The sign shall be a parallel sign.
   C. The sign shall not be illuminated.
   D. No window signs, temporary or permanent shall be allowed.
   E. No freestanding signs on the site or within the street ROW are allowed.
4. No outside storage or displays or vending machines, except for a telephone and a screened dumpster, is allowed.
5. There shall be no exterior service windows or exterior ATM's allowed.
6. There shall be no gas pumps allowed.
7. The building(s), sign and site for any such store shall be subject to the development review criteria under Article 6.
8. Parking shall be in back or at the side of the community convenience store building with the building oriented for pedestrian access.

Sec. 4.4.5 Residential Districts

(d) District Specific Regulations:

The following regulations are district-specific exceptions, bonuses, and standards unique to the residential 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.

3. Lot Coverage

A. Exceptions for Accessory Residential Features.

In the RL, RL-W, RM and RM-W districts, an additional ten (10) per cent of lot coverage above the otherwise applicable limit may be permitted for the following amenity features accessory to residential uses provided that such features shall at no time be enclosed or be used for parking:

(i) Decks;

(ii) Patios;

(iii) Porches;

(iv) Terraces;

(v) Tennis or other outdoor game courts; ~~and/or,~~

(vi) Swimming pools and swimming pool aprons.

(vii) Walkways; and/or,

~~(vi)~~(viii) Window wells.

With the exception of the additional lot coverage allowances provided for under Inclusionary Zoning, requirements such additional lot coverage shall not be permitted for any development where bonus provisions of this ordinance are applicable.

ARTICLE 13: DEFINITIONS

Sec. 13.1.2 Definitions.

For the purpose of this ordinance certain terms and words are herein defined as follows:

Unless defined to the contrary in Section 4303 of the Vermont Planning and Development Act as amended, or defined otherwise in this section, definitions contained in the building code of the City of Burlington, Sections 8-2 and 13-1 of the Code of Ordinances, as amended, incorporating the currently adopted edition of the American Insurance Association's "National Building Code" and the National Fire Protection Association's "National Fire Code" shall prevail.

Window Well: The clear space created by a soil-retaining structure located immediately below a window whose sill height is lower than the adjacent ground level. The **window well** provides drainage around the window and in some cases, an emergency egress route from the structure.

PART 2: DIMENSIONAL REQUIREMENTS

Sec. 5.2.1 Existing Small Lots

Any small lot of record existing as of April 26, 1973 may be developed for the purposes permitted in the district in which it is located even though not conforming to minimum lot size requirements if such lot is not less than four thousand (4,000) square feet in area with a minimum width and depth dimension of forty (40) feet.

A permit for any such development shall require a certificate of appropriateness pursuant to the design review provisions of Article 3 and the development standards of Article 6.

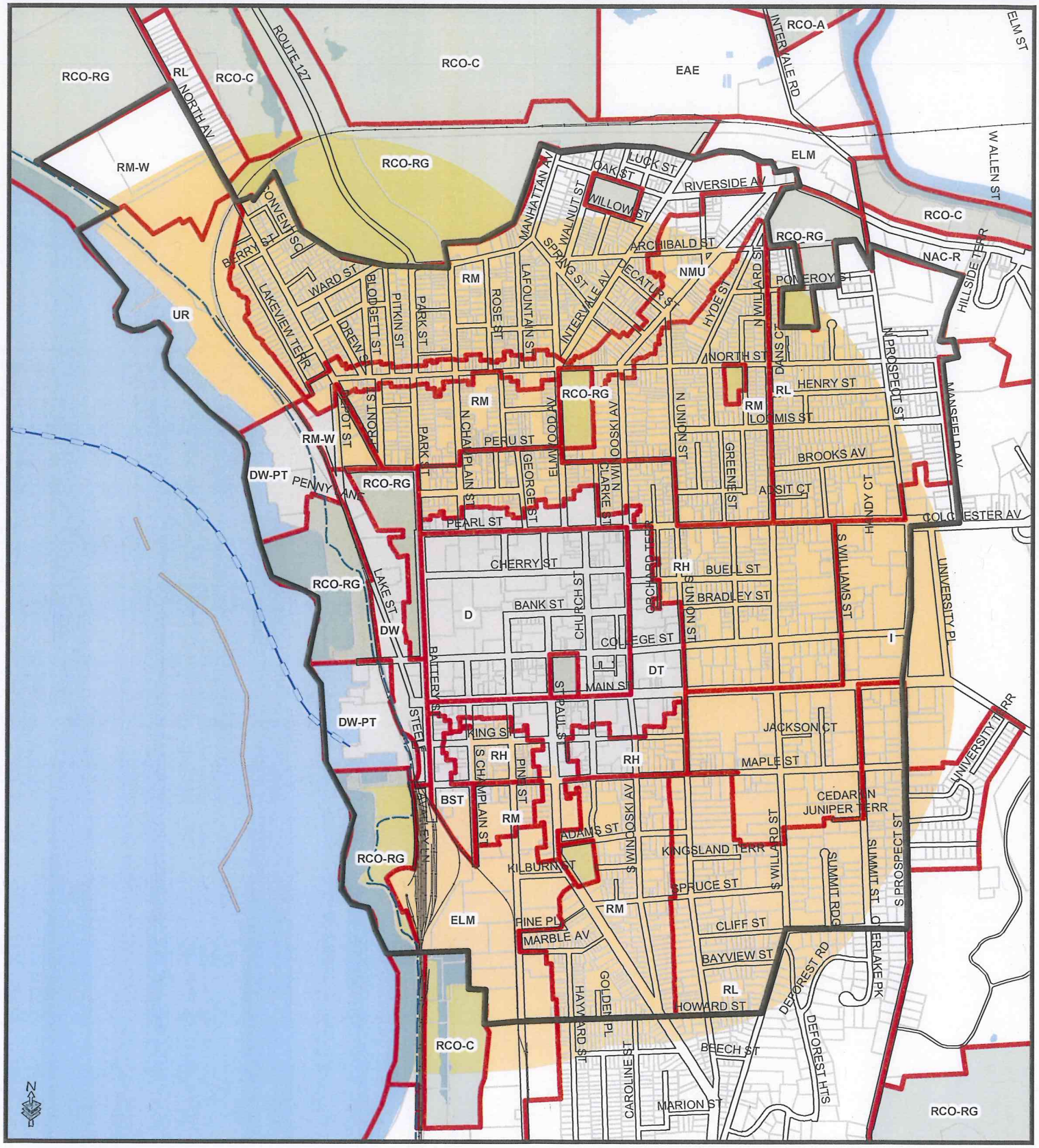
Sec. 5.2.2 Required Frontage or Access

No ~~land development~~subdivision of land may be permitted on lots that do not have frontage on a public road or public waters.

For lots that have access on both a public road and public waters, only the access on a public road shall be considered for the frontage required under this ordinance.

For lots of record existing as of ~~January 1, 2007~~April 26, 1973, ~~development~~ subdivision may be permitted with approval of the DRB, if access to such road or public waters exists by a permanent easement or right-of-way of at least twenty-five (25) feet in width.

City of Burlington
Proposed Designated Neighborhood Development Area



Map prepared by the
Burlington Dept. of Planning & Zoning
January 2014

0 500 1,000 2,000 3,000 4,000
Feet

Legend

- Designated Downtown Development District
- 0.5 Mile from Downtown
- Zoning District Boundary

Burlington Planning Commission

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Burlington Planning Commission Minutes

Tuesday, January 28, 2014 - 6:30 pm

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

I. Agenda

No change to order of agenda.

D. White has provided extra memorandums of minor adjustments to the FY 14 budget.

II. Public Forum

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

K. Brooks, resident at the Strathmore Development which is adjacent to the parcel leased by Frank Von Turkovich. She is concerned about the proposed solar farm development on this parcel. The owner has been unable to acquire permits for proposed projects in the past and is now proposing 2.5 solar megawatt farm. Section 248 of the VT State Statutes governs this process and includes the option that the local Planning Commission and the Regional Planning Commission can comment and take a position on this type of development which would create interested party status. Stormwater management is one of the biggest concerns in this area as there has been deterioration in the runoff management. She and other persons accompanying her represent the development, and neighboring streets where there is much concern about escalating deterioration of the stormwater situation due to proposed removal of trees on 25 acres of this parcel. The group has a strong interest in conserving all or a portion of the land but has been unable to make progress in an agreement with the owner.

T. Papp, resident of Strathmore for 15 plus years and current president of the Homeowner's Association: The Open Space Protection Plan was passed to protect parcels like this. The tree retention portion of this plan is a needed valid process for protection of the tree mass. He believes it is important to compare the size and the scale of the proposed solar farm project to others existing in the county.

P. Ireland, resident of property adjacent to parcel in question: Urges the Planning Commission to hold a public hearing. Stormwater runoff is a growing danger; the residents are concerned with trying to avoid contamination of Lake Champlain.

H. Roen: How does the hearing process get triggered?

D. White: Not sure, have not seen details yet.

T. Papp: Asks both the local and the regional Planning Commission to be involved in input on this project where there is only <u>one</u> opportunity to speak.

S. Gustin: Once the petition is filed with the Public Service Board there is a comment period of 45 days, anyone can weigh in, the City Council required the Conservation Board to comment on the proposed development. Whether or not the City takes a position is ultimately up to the administration.

L. Buffinton: Did the Conservation Board discuss this project?

S. Gustin: Yes, but since there is no actual application, the Conservation Board hasn't yet submitted their comments.

K. Brooks: The statutes say that the Planning Commission must be notified 45 days previous to the PSB application. At a meeting the owner came with no plans available, the public turned out en masse, procedure is /process is not too clear. The group has consistently asked for information, but no real information has been shared.

T. Papp: The plans which we have seen show half of the property as clear cut, the solar collectors' installation closely adjacent to the residential properties. More details are needed; a storm water management plan is needed. They are waiting for info, PSB process, needs to be prefilled documents. Engineering complicates with no info, B1 & F1

J. Temer: Member of the Strathmore Board, has attended two meetings as well as NPA meetings. The owner listens but needs this to be 2.5 megawatt in order to support investors. 25 acres will be filled with fixed solar panels and it will be necessary to cut a considerable amount of trees to accomplish this. Strathmore is a co permittee with the City of the stormwater management system permit when it was established. The last several years in this area, flooding in has occurred in neighborhoods where this had never happened before, there were complaints from homeowners with basements flooded, a new occurrence. The owner has the advantage of being positioned as alternative energy project. The discharge from this property goes directly into lake. At meetings most people are speaking against the project. He feels that this proposed project is out of proportion as well as ignoring setbacks to residential properties. BED has approved this plan. It has no role in any of the permitting process but has indicated that it would purchase power from this development when available.

H. Roen: There are new siting regulations proposed, a brand new bill presented in the senate.

D. White: Staff can follow up and find out what the status of the bill is.

Y. Bradley: This owner has had this property for a long time. Has the homeowner's association approached the owner about an alternative purchase?

T. Papp: The price is in the tens of millions. It would have to cover all the past costs (applications, taxes, etc.).

J. Temer: He understands that the cost to develop the parcel is substantial. It will be a huge burden on stormwater system and this is a way to recoup some of the costs without a big investment. The drawings show that the owner doesn't want to provide setbacks.

Y. Bradley: The Commission cannot comment at this point but staff will research the issue.

A. Montroll: The Regional Planning Commission does typically weigh in on this kind of applications.

B. Baker: Does the group have procedural guidelines from their lawyer?

K. Brooks: The PSB very rarely does not approve applications.

T. Papp: Some local city governments were ignored in the process since their options weren't articulated in their ordinances, a good example of lack of local control.

Y. Bradley – Closed the public forum at 6:55 pm.

II. Report of the Chair

The Chair presented the following report:

- Not really any report, but as a point of interest, his term and that of J. Wallace-Brodeur are up this year and suggests that they discuss that subject together.

III. Report of the Director

The director presented the following report:

- Since the last meeting he has been to Montpelier to testify about H 526, the lake shoreline bill.
- He and S. Thibault have been working steadily on the Form Based Code (FBC).
- He has spent a fair amount of time in development review, the Champlain College/Browns Court project being one of the examples. There are currently a lot of these kinds of projects.
- He anticipates that there will be time spent with the new owners of Burlington Town Center discussing the improvements that they will be proposing, including improving the streetscape among other things.

IV. Proposed Amendments – Urban Agriculture

S. Gustin: These are the previously proposed and discussed amendments to the Comprehensive Development Ordinance (CDO). Alison and Anthony were present to represent the Task Force Committee and support the report which was approved by the City Council in 2012. The emphasis is on local food production and local agriculture. Only the amendments are being addressed tonight, they offer clarification, provide incentives, expansion of some exemptions.

D. White: This Commission doesn't need to deal with the livestock issue which is all addressed under the state agricultural statutes. These amendments are to deal with specific activities, and structures and the definition of each.

S. Gustin: This addresses chicken coops which are usually small. Presently the doghouse exemption of 16 feet will be changed to 24 square foot. Anything larger would be considered an accessory structure. Food production with sales is not to exceed $1000 per year, more than that would fit the state definition of agriculture. Residential development bonuses can occur when there is at least one kitchen garden plot for a single family home, with different requirements for more development. A single-family home will not be required to provide the bonus garden but in a development with a density of 20 or more units per acre, there could be a bonus. This is consistent with the Task Force Report.

L. Buffinton: Is there a way to reassure that it is an actual functioning garden?

S. Gustin: I tried to address this in the descriptions.

L. Buffinton: What animals are allowed in the city?

A. Nihart: Right now there are no restrictions of livestock or animals. Generally it will be smaller livestock because of the housing requirements. Cows and pigs are not allowed in small residential areas.

Anthony: The Task Force attempted to incorporate the Humane Society standards in the document relative to space requirements for different kind of animals. Space and shelter requirements will exist. A lot of care has been put into addressing these issues.

A. Nihart: The Planning Commission and Board of Health process came out of the Task Force process, so she would like to send them both to the City Council at the same time.

B. Baker: Are play structures a conflict of size? Is a cold frame lot coverage, what about a height limit?

Y. Bradley: Bonuses are becoming an aspect of intelligent development; developers have to be more creative.

A. Nihart: The city's garden program always has waiting lists, an illustration of the tension between housing demands and land use. This is a way to address that issue.

L. Buffinton: Great! Is there a city policy on green belts? Hoop houses could be a nuisance.

J. Wallace-Brodeur: There is a stipulation that the hoop house covering can only be up for a nine months period during a year.

L. Buffinton: Enforcement could be issue.

A. Nihart: There is a new and different stormwater perspective and that is to drop greenbelts below depth of sidewalks, a new practice.

S. Gustin: There is a technical item which needs to address a flood zone correction which he will correct.

Anthony: The City's staff has been great to work with as well as the Planning Commission.

A. Nihart: Incorporation of the Task Force's recommendations into City Zoning ordinance has been great.

On a motion by H Roen, seconded by L Buffinton, the Commission unanimously warned a public hearing for ZA-14-08 for March 11, 2014, as amended.

V. ZA-13-06 – Downtown Parking Requirements

D. White: This amendment is back from City Council Ordinance Committee, with two additions from the original. First, the parking requirements from all zoning permits prior to the amendment are eliminated and rescinded basically undoing what was required in the past. Second, the addition of requirements for TDM (Traffic Demand Management) plans menu of items to be utilized. The City Council Ordinance Committee is supportive of the downtown parking initiative. Timing is important and the City Council Ordinance Committee meets this Thursday evening to take action. The proposal will die on March 4th if there is no action.

Y. Bradley: He feels strongly that the downtown parking requirement was well examined and executed by the Planning Commission. He would suggest that members of the City Council Ordinance Committee feel that the City is relinquishing something and feels the need to get something in return. The suggested TDM seems like a penalty. The retroactive modification to parking is good, the TDM is a reach. This would exclude non profits, which doesn't feel right. The goal is to try to incentivize people to do what is actually needed and the market should have the freedom to play with this. He doesn't think the TDM is the right action now but is certainly worthy of study.

J. Wallace-Brodeur: Is concerned that push back may interfere with the amendment passage. She agrees that the TDM is counter active to the amendment focus, but would it be better to endorse it to get the proposal through?

S. Thibault: The City Council Ordinance Committee is not all in same place. One member was ready without the TDM, but it is hard to tell where the remainder of the council falls.

Y. Bradley: Would like to hear Andy Montroll's perspective since he is the representative to the Regional Planning Commission. The City Council Ordinance Committee needs to understand that the Planning Commission works thoroughly and carefully and that there are some aspects of the TDM that are not well thought out. Perhaps the sense of the ultimate goal is lacking.

A. Montroll: The question is at first he thought the Ordinance Committee was talking about a downtown management plan, not a plan to address individual projects, and the private sector. He doesn't believe this is well thought out. The goal of eliminating parking requirements for downtown could take care of itself. Frankly a developer would probably rather have the parking requirement stated. The TDM is contradictory to looking at the downtown are holistically. He doesn't like the present TDM concept. He would recommend that the downtown parking requirement and the proposed amendment are two different things and could be worked on separately and doesn't see an urgency to have the TDM tied to the parking requirement. In two or three years, the Commission might be ready with a plan. He would prefer to pass the no parking requirement and set up the process for the TDM for all downtown, not for individual projects.

J. Wallace-Brodeur: And what's going to happen in two years that would cause any problems?

A. Montroll: In two years the City will have had some experience with the new approach.

B. Baker: It does create uncertainty for development, some risk. Philosophically we are trying to get to a holistic parking approach.

L. Buffinton: This is an interesting and eloquent discussion. She suggests that the Commission sum up their fairly unanimous feeling which could be constructive for the City Council Ordinance Committee.

A. Montroll: A staff report to council and circulate quickly for Thursday's meeting.

Y. Bradley: There are good things about the TDM and trying to put the two things together, but a better approach is to decouple the two elements. He doesn't support linking the two together, the process needs to be done the right way.

A. Montroll: It is important to do the downtown plan first before a parking management process is in the works. Let's see what that result is and then incorporate the TDM good points.

L. Buffinton: There are flaws in the TDM plan.

D. White: This tears me in apart. Staff doesn't feel this is the right approach, it's too complicated. CEDO, DPW, and P&Z believe the ultimate plan should be done by March 2015. Eliminating the on site parking requirement and unbundling the previous parking requirements are the priorities.

H. Roen: Can we discuss this effectively via email?

D. White: Yes, through the Chair. Commissioners can comment.

H. Roen: The Commission could reject the changes, but it is better to proceed positively.

A. Montroll: Could we have the Chair represent the commission comments?

Y. Bradley: We need a narrative of why we are all at the same place at the same time.

J. Wallace-Brodeur: We need to directly address some of the issues, including the perception that the City should get something in return. Are there other points?

A. Montroll: Along those lines we should very simply state that waiting on the TDM is a better approach for development to the City Council.

Y. Bradley: We should incorporate J. Wallace-Brodeur's comment that the Planning Commission believes strongly in what they have put forward.

J. Wallace-Brodeur: The document should speak to major concerns and emphasis returning to the goal. There has been no controversy until the City Council recommendation.

A. Montroll: We should explain the reasoning for parking elimination at the beginning of the communication.

L. Buffinton: And emphasize that the Planning Commission is on a parallel with the DPW approach.

S. Thibault: Something to include is bringing the planning back to the conclusions of planBTV, which are articulated in the plan which was approved by the City Council.

On a motion by A. Montroll, seconded by J. Wallace-Brodeur, the Commission unanimously approved a motion to provide the City Council Ordinance Committee with a report on the proposed changes drafted by staff and reviewed by the Chair to be sent to City Council for adoption.

VI. FY15 Department Budget & FY14 Budget Amendments

D. White: At the Commission's last meeting the action taken was premature, but it is now appropriate to warn the public hearing for the Commission. The FY15 budget is in the packet. The City will have a general fund tax increase but department budgets are level funded, any exceptions are underfunded.

As approved by the Burlington Planning Commission on February , 2014.

Planning & Zoning asked for an extra $4000 in operating funds which would be used to provide educational materials to the public. A bigger piece was a request for $30000 to use for consulting projects. The continuation of PlanBTV south end funding and an impact fee study both need to happen. The funding is not enough, but it is a start.

The colored page is an amendment for FY 14 which acknowledges the acceptance of two grants, one of which will provide plan south end work. The other is funding for a study of the architectural work needed to restore the Congregation Church steeple in a fire resistant manner. It will include the architectural steeple work, and an educational program on fire prevention for historic buildings. He has also shifted funds from one account to another as needed but the results are budget neutral.

The City CAO will make the decisions on funding requests. A request of more than $50000 goes to the Board of Finance.

On a motion by H. Roen, seconded by B. Baker, the Commission unanimously approved the proposed FY15 budget and FY14 amendments.

VII. Committee Reports

Executive Committee: Met last week; they have been working on PUDs, the city wide Parks plan, the CATMA plan. On March 25 they will meet with Ted Wimpy to discuss housing practices. The historic buildings amendment is going to the City Council Ordinance Committee in February. The Planning and Zoning Director's review is under construction.

VIII. Commissioners Items

B. Baker: Are we going to have a new CDO?

A. Montroll: On the next version at the bottom of each page, can it say what section you are in?

D. White: I don't know if it is possible. Staff will see what can be done.

IX. Minutes/Communications

On a motion by L. Buffinton, seconded by H. Roen, the Commission unanimously approved the minutes for January 14, 2014 and accepted the communications and placed them on file.

X. Adjourn

On a motion by H. Roen, seconded by J. Wallace-Brodeur, the Commission unanimously adjourned at 8:22 pm.

_____ _____

Y. Bradley, Chair Date

_____

E. Tillotson, recording secretary

As approved by the Burlington Planning Commission on February , 2014.

February 5, 2014

David E. White
Burlington Planning Commission
149 Church Street, City Hall
Burlington, VT 05401

RE: Ethan Allen Shopping Center Zoning Change Request

Dear David:

This letter is to ask for your consideration for a zoning change in the Ethan Allen Shopping Center. Currently the Center is zoned as a Neighborhood Activity Center. Over the past few years, commercial retail activity has been slow and we would like additional options to fill vacancies. We would like to offer some of the uses that the E-LM district offers. This would allow a little more flexibility with potential tenants and help us maintain a vibrant Center.

Diana Colangelo from the CEDO office has introduced us to a potential tenant who has expressed interest in the former Ethan Allen Cinema building. This building was on a land lease and has been vacant the past seven years. We have recently taken control of the building and would like to renovate it for a new use.

The tenant we are speaking with is Play Dog Play. They would provide a professionally maintained and staffed, doggie daycare. This would include capabilities to board dogs overnight as well as daily drop off. For the past five years Play Dog Play has operated a successful business on Pine Street. The Pine Street location is currently at maximum capacity, and many of their clients are from the north end. The Ethan Allen Shopping Center is a desirable location for expansion.

I believe animal boarding would require a conditional use under the E-LM zoning district. Play Dog Play would make a great addition to the Center as well as an asset to the community. Thank you for your consideration on this matter.

Sincerely,

David G Hauke

RECEIVED
JAN 31 2014
DEPARTMENT OF
PLANNING & ZONING

NORTHWOODS
ECOLOGICAL CONSULTING

Memorandum

To: Adjoining landowners, Burlington Planning Commission, Burlington Conservation Commission, and the Chittenden County Regional Planning Commission

From: April Moulaert, PWS, North Woods Ecological Consulting

Subject: Keystone Development Corporation – Vermont Wetland Permit Application

Date: January 29, 2014

This notice is to inform you that Keystone Development Corporation c/o Frank von Turkovich (300 Swift Street, South Burlington, VT 05403) has submitted an application to the State of Vermont, Agency of Natural Resources, Watershed Management Division for wetland and wetland buffer impacts associated with the installation of a 2.5 MW solar array on a 40 acre undeveloped parcel located at 0 Sunset Cliff Road in Burlington, Vermont. Impacts consist of vegetation clearing (approximately 0.5 acres of wetland will be cleared of vegetation and approximately 0.9 acres of wetland buffer) and approximately 84 square feet of direct wetland impact and 6 square feet of buffer impact as a result of the driven solar array supports. Impacts have been avoided and minimized to the greatest extent practicable. The attached map shows the location of the project.

Complete copies of the application are available for review at the City of Burlington City Clerks office, the Chittenden County Regional Planning Commission, and the office of North Woods Ecological Consulting. You may also contact me at (802) 864-2989 if you have further questions about the project.

The Vermont Wetland Rules require that the adjoining landowners and the City of Burlington be notified of this application.

36 Westminster Drive, Burlington, Vermont 05408 Tel : 802-999-4823 Email : april@northwoodsecological.com

RECEIVED
JAN 31 2014
DEPARTMENT OF PLANNING & ZONING

TRUDELL CONSULTING ENGINEERS
802.470.6331 www.tcevt.com

Project Location

Legend

- Project Area Boundary
- Stream

Notes

Sources: Bing aerial photography (2012); VT E911 Roads (2011); Streams by ANR (2012); Project Area Boundary by TCE (2013).

Disclaimer: The accuracy of information presented is determined by its sources.TCE is not responsible for any errors or omissions that may exist. Questions of on-the-ground location can be resolved by site inspections and/or surveys by a registered surveyor. This map is not a replacement for surveyed information or engineering studies.

South Forty Solar, LLC
Sunset Cliff Road
Burlingtron, VT

Locus Map

Project: 2013113
Prepared By: LMJ
11/25/13
1 Inch = 500 Feet