

Burlington Planning Commission

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Yves Bradley, Chair
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Andrew Saba
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Harris Roen
Andy Montroll
Jennifer Wallace-Brodeur
Vacant, Youth Member



Burlington Planning Commission Minutes

Tuesday, May 13, 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, E. Tillotson, K. Sturtevant

I. Agenda

No changes.

II. Public Forum

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

J. Rippa, owner of a property on East Avenue, was invited by B. Baker to speak about a zoning issue. He currently owns a building being used as a triplex, but only approved as a duplex; he has additionally submitted a letter.

B. Baker: There are contradictory directives from the state statutes and the City ordinance.

K. Sturtevant: For the record, the current status of law, zoning violations have a 15 year limitation, but there are many exemptions. The City zoning records don't reflect the current use of three units. Generally the policy addresses fairness back to 1973.

D. White: The city could choose to define a policy as long as it doesn't conflict with state law. The confusion is about additional living space, not an additional unit.

K. Sturtevant: There have been discussions of alternative ways to solve the issue.

J. Rippa: K. Lerner, zoning administrator, didn't have any problem with the whole thing. The original contact was John Rasys who instructed him as to the building approach, incorporating John's ideas.

B. Baker: Do we have discretion to set policy? It all adds up to the fact that we need a policy to address issues like this and the Planning Commission has the discretion to set policy.

D. White: A common thread is that property may have been assessed for actual use and never permitted by zoning. Now records are shared between departments.

B. Baker: The Bianchi ruling was put in place because records weren't being kept.

Y. Bradley: What does the average citizen expect? We need to encourage ways to not blindsides the average person.

B. Baker: Burlington is the only municipality that has distinguished between use and structure relative to Bianchi.

A. Montroll: At times there is a need to cure.

L. Buffinton: The recommendation seems a waste of energy and cost.

Y. Bradley: Can we have a straw poll about how much time is appropriate, 15 years?

J. Wallace-Brodeur: Would like to see a proposal.

As approved by the Burlington Planning Commission on June 10, 2014.

Y. Bradley: Could D. White and K. Sturtevant work to find some language to propose?

D. White: A lot of situations have adjoining issues which may not be addressed.

Y. Bradley: The average person assumes that contractors will close out permits and this is often not so.

D. White: Would encourage the Planning Commission to have consistency, to reflect whatever time limitation is in statutes.

A. Montroll: If a situation has been disclosed to the city, it should not be the obligation of the owner. The City departments should share information.

J. Ripa: Nothing has changed since 1973; there have been multiple building permits and housing inspections.

Y. Bradley – Closed the public forum at 7:06 pm.

III. Report of the Chair

The Chair presented the following report:

- He has met with the Director and the Comprehensive Planner to discuss the historic buildings material and discussed the likelihood that the City Council Ordinance Committee will/will not approve the existing proposed amendments and the common opinion is that it has less than a 10% chance of passing. After looking at what was proposed, it's not perfect. He believes the Commission was tired of it and wanted to be done with it. He would rather the Commission get to the point that we wish to be at and then present the material to the City Council Ordinance Committee. It's important that the Mayor have the same position as the Planning Commission. As of now, it's not everything we want it to be. The Commission needs to get back to basics. We could consider looking at the notion of eligibility again. He would suggest that the Commission take one meeting, ask certain stakeholders to attend the meeting, and try to formulate the policy. The feedback from the Mayor's office and the State of Vermont indicates pushback and the City Councilors haven't been paying attention to the proposal. The process would be better with engagement of the City Council members. He would suggest that the ordinance proposal be referred back to the Commission.

D. White: The timeline is too short for the Council to have time to understand and do something productive with the amendment.

Y. Bradley: Politically we have spent a lot of time on policy.

J. Wallace-Brodeur: There has not been good dialogue with all of the different parties. It would be better to have advocates in a more productive role. The product is not clearly articulated, not enough information; it seems like lot of talking in circles. A work session is a good idea.

L. Buffinton: It would be good to ask the City Council members to participate in the process.

Y. Bradley: It has been too long and there is not time enough to present it now. He would like to have it referred back.

H. Roen: Agrees, but the Commission has to be prepared that there may not be consensus on the subject.

D. White: The process began with what are some problems, it is better to begin with a partnership to solve problems.

On a motion by L. Buffinton, seconded by J. Wallace-Brodeur, the Commission unanimously requested that the Council Ordinance Committee refer ZA-13-12-Historic Materials back to the Planning Commission.

As approved by the Burlington Planning Commission on June 10, 2014.

IV. Report of the Director

The director presented the following report:

- Two weeks ago, the film *The Human Scale* was presented at the Main Street Landing theatre to a sellout audience which was wonderful.
- There has been a lot of work done on FBC.

S. Thibault: Noted that Burlington is the first city in the state to get the Neighborhood Development Area Designation. And she hopes all of the Commission saw the email, planBTV South End was launched last Friday!

V. Clean Hands Policy

K. Sturtevant: She wishes to clarify further what the Commission is looking to accomplish. Is the policy to be based on zoning violations, other municipal issues, or zoning applications? There needs to be a nexus to acquire answers, does the type of permit matter? Should there be a grandfathering of the statute of limitations effect on clean hands policy? Apply only to one specific property or to other properties of owner?

Y. Bradley: To use the analogy of bar owners, some are cooperative, others obstructionist, etc. The clean hands policy is a tool to have in case of code enforcements or minimum housing violations. It's an opportunity to illustrate the necessity to comply with the rules and exhibit responsibility.

B. Baker: Agrees, the policy needs to be designed to get properties into compliance.

J. Wallace-Brodeur: And not just with the primary property. A pattern of violations is more an indicator than is one violation.

K. Sturtevant: It has to be something that has to be fixed.

L. Buffinton: It might be a situation where the tenants are the problem. There could be a range of problems: property violations, code enforcement, codes, police calls, taxes, land use violations, the possibilities are too broad.

Y. Bradley: That will be our challenge to decide the parameters.

J. Wallace-Brodeur: It would seem reasonable to weigh violations vs the number of units, to establish a ratio as a tool.

D. White: Should the policy include other properties under the same ownership?

K. Sturtevant: The Planning Commission does have authority to seek remedies. The city of Milwaukee has such an ordinance. The applicant has to fill out an affidavit stating whether or not the property owner is in good standing. It can be an opportunity for a whole review process including a hearing on violations previous to permitting.

D. White: It would address known violations, but it would not be chasing unknown violations.

B. Baker: What is the trigger and what is the path to remedy?

A. Montroll leaves to attend a meeting about 7:20 and returns about 7:40.

D. White: There has been much other interest voiced on this topic. City Councilors will be weighing in on these issues.

K. Sturtevant: So I will work on drafting some possible language?

VI. Downtown Form-Based Code

This presentation will not occur tonight due to time conflicts.

As approved by the Burlington Planning Commission on June 10, 2014.

VII. Application for Certificate of Public Good

D. White: It seems everybody is applying for a Certificate of Public Good (CPG) for alternative power. The legislature has just changed the law. In the old north end on North Winooski Avenue, the new building that Redstone has under construction is specific to the concern. The panels out near the edges of the building are a spot where typically some screening would be expected. This one has some red flags; the City should look into participating in the hearing process.

Y. Bradley: Our understanding that it is Verizon installation, driven by Verizon, and we might suggest to the developer that it is unacceptable as is and will not be approved as presented.

L. Buffinton: I would encourage participating in this hearing and requesting a projected elevation.

A. Montroll: I represent folks who are negotiating with Verizon but it is a different entity and I don't think it is a conflict of interest.

D. White: It is the opportunity for the city to participate.

A. Montroll: Cell phone coverage is poor in this area. Their request is consistent with regional plan for cell coverage. There are ways for it to be screened.

D. White: Let's encourage this in a positive way.

B. Baker: The Commission doesn't have engineering expertise; our goals are the public good.

D. White: We don't have to solve the problem; the Public Service Board will address the problem.

L. Buffinton: In this neighborhood, the reception is good all of time, screening solutions for the panels is possible. She would like better photos of this project.

On a motion by J. Wallace-Brodeur, seconded by L. Buffinton, the Commission unanimously directed staff to participate in the act 248 process for this property.

VIII. Committee Reports

Ordinance Committee – Has been working on conditional uses. There are proposed amendments about conditional uses in several sections, inclusionary PUDs require a conditional use permit. Committee likes recommendations. The next conversation will be about major impact.

B. Baker: At an earlier meeting with the Mayor, he raised the issue that this revision to the inclusionary portion of the ordinance was coming. The Mayor needs to know if this is conjunctive with Form Based Code, both are independent with predictability and a rational process and are separate conversations, but do go hand in hand.

IX. Commissioners Items

L. Buffinton: Did everyone see the article on accessory units from the NY Times sent by E. Lee? In Burlington the obstacles are parking and lot coverage. They create a missed opportunity to encourage family togetherness. It would be great if we could look at the zoning ordinance in a manner that would be friendlier to accessory units. There is a conflict between coverage and density, especially in the RM zone.

X. Minutes/Communications

On a motion by A. Montroll, seconded by H. Roen, the Commission unanimously accepted the minutes of March 25, April 8, April 22, with corrections, and placed them on file.

As approved by the Burlington Planning Commission on June 10, 2014.

XI. Executive Session – Director’s Evaluation

On a motion by H. Roen, seconded by A. Montroll, the Commission unanimously agreed to go into executive session.

On a motion by H. Roen, seconded by A. Montroll, the Commission unanimously agreed to close the executive session at 8:30 pm.

XII. Adjourn

On a motion by B. Baker, seconded by J. Wallace-Brodeur, the Commission unanimously adjourned at 8:35 pm.



Y Bradley, Chair

July 1, 2014

Date



E. Tillotson, recording secretary