

Burlington Planning Commission

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Burlington Planning Commission

REGULAR MEETING

Tuesday, December 08, 2015 - 6:30 P.M.

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

MINUTES

Present: B. Baker, A. Montroll, H. Roen, L. Buffinton, J. Wallace-Brodeur

Absent: Y. Bradley, E Lee

Staff: D White, M Tuttle, E Tillotson

I. Report of the Chair

B. Baker opened the meeting at 6:30 pm. A little bit too early to start public forum, so move to reports. The Chair is absent and the Vice Chair has no report.

II. Report of the Director

D White outlined many ongoing projects of the Planning & Zoning department.

M Tuttle is organizing event on January 5th for the Burlington Mall which will include updated design and associated information. The meeting will be held at 5:30 in the Mall.

Form Based Code (FBC) work continues, several more meetings are anticipated before the public process begins. A Montroll reports that they are making progress on the public process portion.

The Burlington College agreement was approved by the City Council at their last meeting.

I Avilix: Is there a meeting regarding the mall next week?

D White: A meeting of the DAPAC is scheduled for Dec 22. It will be announced on the City's event calendar.

M Tuttle: There is a meeting about the Railyard Enterprise Project on Wednesday at 6:30pm at ArtsRiot.

D White: Also of note, on Tuesday, Dec 15th, there is a joint meeting of the Boards involved with the planning and zoning process to update on projects.

III. Public Forum

B Baker opened the Public Forum at 6:36 pm.

S Bushor, City Councilor, Ward I: Ms. Burshor addressed the Commission regarding email chatter about proposed changes in the process for development projects and the consensus that the changes are being driven by the Planning and Zoning Director. She has been asked to speak at the Ward 1 NPA and doesn't wish to add to confusion, but it appears that people are concerned about being shut out from the process. She has also been on the other side before that and experienced not being heard at public meeting which was a motivator for her to run for the City Council. She recognizes the struggles that staff and the community go through to make projects better. There is great concern from the public about the process. The City Council

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has asked for streamlined permitting process but she would like more clarity from the Director since this is a really important topic. It appears that some specific proposal has sparked this dialogue.

D White: At the last Planning Commission meeting, a proposed amendment to the Major Impact process was reviewed and it seems this kicked off the chatter. He shared an email with Councilor Coburn, explaining that the changes are an attempt to eliminate duplication and redundancy in the process. It doesn't affect the public's ability to participate, but rather changes thresholds for when a project must go through the Major Impact review process.

S Bushor: It is important that the City Council understand that. The NPAs city-wide will be discussing this and the changes need to be clarified. A chart showing the changes, the process and opportunities for public participation would be a great help.

Maggie Standley, Ward 3: Ms. Standley presented information to the Commission members regarding zoning ordinance definitions for day care facilities. She discussed that she has been trying to resolve an issue with her neighbor's home occupation for the last year and a half. She requested that the Commission revise requirements of day care centers operated out of homes, by having all daycares as a conditional use, and requiring a schedule that is agreed upon with their neighbors. She suggests that the Commission revise the code to include some way to verify conditions and provide protections for homeowners.

I Avilix: This conversation and the email chatter also have a relationship to Form Based Code; it's a part of the same concern. The more clarity before the City Council vote, the better.

L Buffinton: It seems that these are good points from M Standley, perhaps this is a subject for the Ordinance Committee. Thought that Police Department had a decibel reader; if it is part of the ordinance, it would seem necessary.

B Baker: Presently, there is a City-wide ordinance that governs noise, not the zoning ordinance.

L Buffinton: That works during the day when there is someone to enforce them, but what about when the Code Enforcement staff is not working.

D White: The Noise Ordinance is enforced by the Police Department, not Code Enforcement. The zoning ordinance currently doesn't apply standards for noise, but could look at tying some type of performance standards to this use if desired.

IV. Agenda

No changes.

V. Committee Reports

Ordinance Committee – A Montroll: Met last week and discussed two items. Shared parking, which has come to the Commission previously, is almost done, but waiting for B Baker to attend to have a discussion about the leasing aspect. Also continued discussion Low Impact Design ordinance, reworked it to focus on RL and RM only. Will come back to the Commission in January.

Long Range Planning Commission – H Roen: This committee hasn't met since the last meeting. M Tuttle is trying to find a schedule for the group to meet based on the Commission's discussion of the economic development element of planBTV South End.

The Joint FBC Committee – Provided by D White's report.

VI. Commissioner Items

None.

VII. Minutes/Communications

On a motion by A. Montroll, seconded by J Wallace-Brodeur, the Commission unanimously accepted the minutes of November 24, 2015.

VIII. Proposed ZA-16-03: Grocery Stores in ELM Public Hearing

B Baker opened the public hearing at 7:00 pm.

D White: This proposed ordinance change makes specific changes to the ELM district at the request of City Market as part of their proposal to establish a second store on Flynn Avenue. It allows for a large grocery, more than 10,000 sq.ft. as a conditional use in the ELM zone only between Home Avenue and Flynn Avenue provided that it does not to exceed 30,000 sq.ft. There is a new footnote #26 to reflect this.

I Avilix: There is a lot of power to be had in changing ordinances. Ward 5 NPA meeting was very supportive of City Market, as is Mr. Avilix. However he also loves Dave's Antiques and the Missing Piece. There is a lot of room on the site and the grocery could be shifted back to maintain the existing buildings. It would be good to give the public, as well as the Commission, a choice through the zoning ordinance to maintain existing uses as well as adding new. Mr. Avilix would like to see a feasible way for the existing businesses to coexist with the proposed grocery store. The buildings represent the South End character, and the having both would provide the multi-use aspect that's discussed. They are allowed uses now, and permitting grocery stores will drive them out. Mr. Avilix hopes the Commission will ask to see an alternative which would examine how the proposed plan and existing businesses can coexist.

C Bates, Ward 3: Ms. Bates is a long-standing City Market member, but completely agrees with Mr. Avilix that she would like to have the existing buildings maintained. She would also like City Market to have a pharmacy and appreciates all the time the Commission has spent on this issue.

LBuffinton: The proposal doesn't limit mixed use, and other uses can continue as far as the Commission is concerned. It is a private decision to relocate those businesses. However, question why the proposal allows grocery stores only 10,000 sq. ft. and larger, but not less than 10,000 sq.ft.? Small markets could be welcome, too.

A Montroll: It doesn't make sense not to include both.

M Standley: Her business is in Ward 5 and she has been active in planBTV South End project as well as being an advocate for the Old North End. She would like clarify that the proposal does include all existing businesses.

M Tuttle: The change does not affect existing uses. Without this ordinance change, a grocery store would not be permitted and City Market may not be submitting a proposal for it. However, another permitted use might make a proposal that would impact the business instead. What businesses the property owner wants on the property is a private decision.

I Avilix: The change would permit the grocery store use, and City Market's plans show the elimination of two small businesses.

C Bates: Can't zoning just allow grocery stores on one part of the property to maintain the existing businesses?

D White: We can't rezone just one small area.

I Avilix: There could be some language for supporting the coexistence of businesses. This is the beginning of changing the way the district is used. How do we value architectural history and mixed use?

A Weinhagan, City Market: Could D White describe the process following this zoning piece? Seems more appropriate for a discussion of the Market's proposal and what mix of uses to occur during the plan review process rather than this zoning amendment.

D White: Creating areas with a mix of uses is the responsibility of the broader context of zoning. The purpose of this hearing is not to address specific design for the proposal, but whether or not this use should be permitted. Design is best explored with the property owner. It is good to raise concerns early in order to engage the property owner and the developer.

B Baker: Somehow need to reach out to the parties involved since we can't zone based on individual lots.

H Roen: I support this change because Ward 5 showed support for the project at the meeting.

B Baker closed the public hearing.

On a motion by L Buffinton, seconded by A Montroll, the Commission unanimously voted to forward the proposed amendment to Council with the addition small grocery stores added as a conditional use in the ELM district between Home and Flynn Avenues.

IX. Proposed CDO Amendment: UVM Medical Center

D White: This is not a public hearing, but a discussion on a number of proposed ordinance changes requested by UVM Medical Center. The Executive Committee directed staff to take on three of the four requests from the hospital. These include:

- Fletcher Allen (FAHC) is now UVM Medical Center (UVMC), so all references to FAHC need to be updated.
- A mistake was discovered in the sign table that conflicts the text, so the correction is recommended to be made to move institutional zones into the mixed use category for sign provisions rather than the residential category.
- A property line was moved that impacts the boundary between UVMC and UVM Core Campus, as well as a piece of land changed hands between the two institutions. It is recommended to change the boundaries of the two overlays to reflect the current ownership.

L Buffinton: So there are two different boundary changes?

D White: One proposed change extends the UVMC overlay boundary and the other extends the UVM Core Campus overlay boundary.

A Montroll: Can you remind us of the differences between the two overlays?

D White: An overlay district modifies the underlying zoning district. Height, the mechanism for measuring height, use, setbacks and lot coverage are the differences. The core campus overlay allows greater lot coverage, restrictions on parking, and building height.

M Lang, Ward 1: Ms. Lang attempted to initiate a dialogue with UVMC in February to point out that a hospital cannot be built on this piece of land. After attempting to settle with FAHC, she appealed to environmental court because FAHC did not ask for a change of use, whether it was a misstatement or oversight. Permits given under false pretenses are not retroactive. Ms. Lang asked the Commission delay this change or require UVMC to reapply and be truthful on their application. The Green Mountain Care Board can take away their CON since the hospital stated that all permits were in place when they applied; the environmental court could adversely affect this.

L Buffinton: If there is a legal case pending, do we compound this if we take action?

D White: Changing the ordinance now doesn't affect the past. The Institutional zone allows hospitals—there is a difference of opinion between the parties. Despite being in two overlays, the hospital was permitted because the height did not exceed the lower of the two overlay provisions. We had not made the overlay boundary change because we had been waiting to see where the hospital expansion would be located.

I Avilix: How is this different from spot zoning?

D White: A hospital use is allowed in either overlay zone. The boundary change does not meet the many tests that apply to spot zoning. There are large swaths of land to which these provisions apply.

M Tuttle: These properties are already contiguous to the overlay that is proposed in each of the changes. Not a small "spot" of zoning that is vastly different from what is surrounding.

I Avilix: Where would there be a definition of spot zoning?

B Baker: It is based on case law, but some basic information could be found online.

H Roen: Would it make sense for the City Attorney to give an opinion on whether this is a change of use?

D White: M Lang's issue is whether the permit constitutes a change of use, not the ordinance change.

On a motion by J Wallace-Brodeur, seconded by H Roen the Commission unanimously agreed to warn a public hearing on the proposed changes.

X. planBTV: South End Master Plan Draft Update/Revisions

M Tuttle: At our last meeting economic development was discussed. At the conclusion of the meeting there was some good direction on a discussion of the Shelburne corridor as a business area as well as a transportation corridor, and some consensus to look at a strategy regarding the policies for land use throughout the Enterprise Zone. Other strategies recommended by staff are to help the plan more explicitly state other goals, such as prioritizing redevelopment and infill sites.

J Wallace-Brodeur: During the process, we heard comments from the public about a conflict between a brewery and a neighborhood. Is there any way to speak to how to mitigate those issues in the plan?

M Tuttle: One element in the reworked housing element is to consider the zoning on the periphery of the ELM district and determine what is most appropriate for a transitional area to create a buffer.

J Wallace-Brodeur: That works for new or redeveloped neighborhoods, but what about existing neighborhoods that aren't likely to change.

D White: There may be a need for a transitional area with some performance standards within the ELM. The City Council is responsible for granting alcohol and special event permits, though.

S Bushor: Remembers when Riverside Avenue became commercial. There were lots of lessons learned at that time which might fit nicely with the South End corridor. Presently we are reacting to a situation; perhaps we can try to integrate activities within neighborhoods in advance of any issues.

L Buffinton: It is really important to incentivize results that we do want and not make the definition of sub-areas too restrictive. Are schools allowed in ELM? Having skills-based schools could help with workforce development.

D White: Vocational and professional schools are allowed, like Champlain's Emergent Media Center.

L Buffinton: Noted a grammatical error on page 11 of the agenda.

J Wallace-Brodeur: Page 40 of the plan talks about setting up for success, but we want technical assistance for more than just artists.

M Tuttle: This is a summary of the arts and affordability tool kit, but it could be better defined within the context of the Plan. Ultimately, the Arts & Affordability toolkit will likely be an appendix to the plan.

D White: There is a need for technical assistance in the arts and for the development to create affordable spaces. The tool kit will bring them together, create new approaches and alliances.

M Standley: At the last LRPC meeting the arts tool kit seemed to be presented as more of an implementation plan. A more diverse group of people involved would improve its function.

M Tuttle: As we discussed, it recommends a number of strategies that will help with the transition to implementation. The toolkit starts with a recommendation to form a collaborative working group.

M Standley: Would like input on the working group members.

M Tuttle: LRPC is working through the draft right now and strengthening the strategies in the plan. This is somewhat different than the working group for implementation.

I Avilix: So then in the future, does the public have to ask to have an item on the Long Range Planning Committee agenda?

M Tuttle: The LRPC will not become the implementation working group. The public can form a working group. The important part is activating the partners that have been involved in this planning process to lead that forward. This can and should have involvement and support from the City in some way, but will not necessarily be led by it.

S Bushor: Did CEDO play a role in other plans that have been developed? Perhaps they should be involved in the next step after this.

C Bates: Has the Blodgett oven property been sold?

D White: It is unclear.

C Bates: Would like to get the steering committee going now.

M Standley: Would second that.

H Roen: Yes, it is good to have an implementation committee.

D White: Would suggest the arts community and SEABA join together to get this to happen, but this is independent of the LRPC.

M Tuttle: LRPC revised the draft housing piece and circulated it to a lot of stakeholders. We envision doing the same thing when we have a revised version of the economic development section. Purpose is to get feedback as we are rewriting the draft.

H Roen: Having the City Council involved as well would be recommended.

L Buffinton: The process needs to be as inclusive as possible.

M Standley: Would suggest asking major businesses to send delegates to meetings of this steering committee.

M Tuttle: Suggests that the Commission continue to work through this element of the draft plan so the LRPC can work on an update.

A Montroll: It the steering committee proposed to be a strategy included in the plan?

D White: Yes.

I Avilix: There should be a detailed list of who should be on this committee and there should be funding available to help these individuals with the transition to implementation.

H Roen: Agrees that the more it can be fleshed out the better.

B Baker: Purpose of the plan is to describe the program at a broader level, not to include all of that detail. If one of the organizations changes, then the plan is out of date.

J Wallace-Brodeur: This is a very comprehensive plan that needs multiple stakeholders stepping up, all sectors need to be involved so that it is a collaborative effort to get things done. There is a difference between articulating strategies in the plan and setting up a steering committee for implementation, which is more related to our outreach strategy.

D White: The parking studies going on now is a good example. The downtown and waterfront plan talked about the need for a parking study, but was not specific to what those parking needs were.

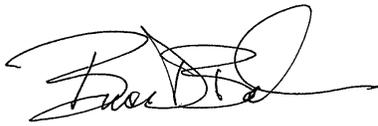
M Standley: Thanks for the comments from J Wallace-Brodeur. M Standley feels that all parties are ready to come together, and as has been happening for over a year now. She hopes there is some funding left to help support the work and input of these smaller entities.

M Tuttle: Is the Commission ready to refer these elements to the LRPC to rework?

Nods of general agreement by the Commission members.

XI. Adjourn

On a motion by L Buffinton, seconded by A Montroll, the Commission unanimously adjourned at 8:34 pm.



Bruce Baker, Vice Chair

Signed: January 27, 2016



Elsie Tillotson, Recording Secretary