

Burlington Planning Commission

149 Church Street
Burlington, VT 05401
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www.burlingtonvt.gov/pz

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, February 9, 2016 — 6:30-8:30 P.M.

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

AGENDA

Note: times given are approximate unless otherwise noted.

I. 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.

II. Report of the Chair (5 min)

III. Report of the Director (5 min)

IV. Agenda

V. Proposed ZA-16-02: Mobile Home Parks (5 min)

The Planning Commission will review the changes made to the proposed amendment following the City Council's Ordinance Committee discussion. A revised report to the City Council regarding proposed ZA-16-02 has been provided on page 3 of the agenda packet.

VI. planBTV South End Draft Plan (25 min)

The Planning Commission has discussed the major elements of planBTV South End, including housing, economic development and arts and affordability. The Planning Commission's discussion of how to revise these plan elements has directed the work of the Long Range Committee and staff over the past several months. In order for the Long Range Committee and staff to complete their work editing the draft planBTV South End over the coming months, the Planning Commission is asked to identify any additional outstanding changes that should be made to the remaining elements of the plan: mobility, parks, stormwater and brownfields. A summary of public comments on draft planBTV South End elements has been provided on pages 4 – 8 of the agenda packet.

VII. Proposed CDO Amendment: 15 Year Statute of Limitations (45 min)

The Commission will continue its discussion of a proposed amendment to Part 3: Non-Conformities, of the Comprehensive Development Ordinance, to introduce additional provisions regarding zoning violations on uses, structures and lots which are deemed to be controlled by the statute of limitations within 24 V.S.A. §4454 (so-called *Bianchi* controlled uses, structures and lots). The Commission may convene to an Executive Session for confidential attorney/client communications.

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.

VIII. Committee Reports (5 min)

IX. Commissioner Items (5 min)

X. Minutes/Communications (5 min)

The Commission will review the attached communications on pages 9 -17 of the agenda packet, and approve minutes from the January 26, 2016 meeting.

XI. Adjourn (8:30 p.m.)

Burlington Planning Commission Report Municipal Bylaw Amendment

ZA-16-02 – Mobile Home Parks

This report is submitted in accordance with the provisions of 24 V.S.A. §4441(c).

Explanation of the proposed bylaw, amendment, or repeal and statement of purpose:

The purpose of this proposed amendment is to set forth development and review standards for pre-existing and newly proposed mobile home parks in accordance with state statute (24 V.S.A. Sections 4412 (1)(B) & (7)(B)).

The proposed amendment establishes a series of criteria and standards that will govern mobile home parks throughout the city - both existing and any that might be proposed. As such, mobile home parks will be treated as a Conditional Use (subject to review and approval by the DRB) in any Residential – Low Density and Residential – Medium Density district. The language from the amendment was taken largely from a model ordinance provided by the State of Vermont, and modified to fit the actual dimensions and densities found in the current Farrington’s Park in order to reduce non-conformities where possible. Additionally, the amendment specifically addresses the extent to which Article 9, Part 2 Replacement Housing is applicable when an individual mobile home is moved off-site.

Conformity with and furtherance of the goals and policies contained in the municipal development plan, including the availability of safe and affordable housing:

This proposed amendment to the Comprehensive Development Ordinance (CDO) directly supports and helps to implement portions of the City’s Municipal Development Plan by supporting the availability of safe and affordable housing throughout the city, and in this case those units provided within a Mobile Home Park. It ensures the continuation of existing parks, and sets for standards for the creation of any new parks.

Compatibility with the proposed future land uses and densities of the municipal development plan:

This proposed amendment further addresses the scale and nature of residential development within residential areas of the city, and is consistent with future land uses and densities of the Municipal Development Plan.

Implementation of specific proposals for planned community facilities:

This proposed amendment does not implement a plan for community facilities.

Department of Planning and Zoning

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Elsie Tillotson, Department Secretary
Anita Wade, Zoning Clerk



Summary of Public Comments on Draft Plan

The **Draft planBTV South End** document was released at two events on June 16 and 17, 2015. The Draft Plan was available for public comment online and around the community until October 1, 2015. The comments received on the Draft Plan during this period have been posted in their entirety on the planBTV South End website at: <https://www.burlingtonvt.gov/planBTV/planBTV-South-End-Draft-Public-Comment#overlay-context>. This document provides a summary of these comments for the Planning Commission's use in its upcoming discussions of the Draft Plan. The comments are organized topically, according to the sections of the Plan.

Over the next several meetings, the Planning Commission will review sections of the draft Plan, public comments on these sections, and receive staff recommendations, if any, on modifications to these sections. The Planning Commission, following discussion, will instruct staff on items that they feel should be updated in a final draft of the Plan. Staff proposes the following schedule for reviewing the Plan's topical sections:

- October 27, 2015: Housing
- November 10, 2015: Economic Development & Arts and Affordability
- November 24, 2015: Mobility
- December 8, 2015: Open Space, Stormwater & Brownfields/Superfund Site

The second part of the Plan applies these topics to specific locations within the focus area. During each topical discussion above, the geographic location in which the recommendations apply will be noted.

General Comments on the Plan

- The draft Plan is titled "planBTV South End;" however, the Plan seems to focus its physical and policy recommendations on the focus area defined by the Enterprise Zone. Questions were raised on whether the Plan should either 1) expand the focus to be more explicit about recommendations for the entire South End area, or 2) be renamed to reflect that the Plan is primarily for the Enterprise Zone.
- The Plan is too "glitzy," with colors, fonts and layouts that make the Plan's recommendations difficult to read and interpret. Additionally, it was felt that the draft Plan lacks a strong Executive Summary and Conclusion.
- There was some desire to slow down the adoption process and establish a multi-disciplinary working group including stakeholders from the South End to make revisions to the draft Plan and bring it to completion.
- Concerns were expressed that the Plan is not a reflection of public input, but rather a statement of the City's agenda. In particular, the public process demonstrated that the opinions of the community vary widely on important elements, such as housing and the Champlain Parkway, but the policy recommendations in the

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draft Plan do not necessarily reflect the degree to which these opinions vary. Others, however, note that the Plan has done a good job of balancing the polarized opinions regarding the future of the South End.

- Some felt that the Plan needs bigger goals and smaller first steps. In particular, concerns were shared that the Plan does not seem visionary enough when considering climate resiliency, green infrastructure, alternative transportation, and community health in the 21st Century. Suggestions were shared that a model like Energy 2030 Districts or Eco-Districts should be the focus of the future, rather than New Urbanist principles.
- Concerns were expressed regarding the intent and scientific validity of the artists' survey from Phase I, and comments were shared that statistics in the draft Plan do not accurately represent artists' demand/desire for housing and workspace in the South End.
- There were general comments about missing references throughout the Plan to items such as artists' role in the industry sectors, public health, and Burlington Electric Department as an employer in the South End.

Economic Development

- Many comments were shared that the key to economic development in the South End is through the preservation of space exclusively for industry and the current zoning which protects this area.
- The draft Plan does not place enough recognition on the continued presence and significance of manufacturing/industry in the South End. In addition to resources to support the growth of the arts and maker industries, there should also be resources and tools available to support existing manufacturing jobs and ensure the South End's sustainability as a location for this industry. Additional research is needed on what "messy/noisy" jobs could be brought to the South End to replace businesses as they leave.
- Money should be allocated to assist with arts and entrepreneurship as a business growth opportunity, as well as to use as an incentive to attract/support industry.
- Some felt that a better job could be done with marketing and signage to promote the South End to tourists much like the activities downtown and on the waterfront.
- General support for the location of City Market in the South End, but a caution about any zoning changes that emphasize retail so that 1) the character of the district for industry is not jeopardized and 2) the area does not become an "entertainment district" with such unintended consequences on the surrounding residential areas as noise and parking.

Preservation of Arts & Affordability

- Concerns were expressed that the area is already becoming unaffordable and difficult to find space for arts and industry to grow, and that the market pressure introduced by allowing housing in the Enterprise Zone will drive out the presence of these uses. In fact, some felt that the recommendations to introduce housing in the Enterprise Zone directly contradicted the state goals/policies in this section of the Plan.
- Some shared the idea that perhaps the Enterprise Zone's regulations could be stricter.
- Some supported the Plan's recommendations for preserving affordability, such as the incentives to property owners to improve spaces without raising rents; others offered ideas for alternative ownership models, such as a Champlain Housing Trust model for arts space.
- A general comment was made that it needs to be recognized that needs for art space includes all forms of art- including performance spaces.

Mobility

- In general, there were mixed reactions to the Plan’s recommendations for vehicular and alternative transportation improvements, new street and bike path connections, and new parking resources in the South End.
- Opponents of the Champlain Parkway feel that the connection will increase traffic congestion on Pine Street and other streets throughout the South End. Many comments referred to the Parkway as “20th Century” transportation planning, and expressed frustration that the design of the Parkway was not open to discussion in the South End planning process. Furthermore, the comment was made that any references to the Parkway should indicate “proposed” rather than “future.”
- Supporters of the Champlain Parkway feel that the connection, while it might impose some challenges in the short term, could be a long-term solution to traffic congestion on Pine Street, and that if planned properly, bike, pedestrian and vehicular safety elements could become a critical benefit of the connection.
- Still others felt that the Champlain Parkway may not provide significant enough a benefit to justify the expense, but provided input on its design should it continue to move forward. These comments were primarily regarding bike and pedestrian facilities and neighborhood street connections.
- There was generally support for recommendations that will make the Pine Street corridor more like the “complete street” proposed for North Avenue and that will promote traffic calming throughout the South End. Some comments suggested that the Plan should do more to emphasize transportation improvements not related to single occupant vehicles (SOV) and advocated for improved bicycle facilities along the length of Pine Street.
- Opponents of new parking facilities in the South End cited these facilities as encouraging SOV use and not being forward thinking for the future of transportation. Additionally, some felt that the Plan should give more consideration to shared parking lots rather than new parking structures and that parking structures shouldn’t be built on valuable lots in the South End. Supporters felt that this could help attract businesses in the South End, and that the garages could utilize solar power to provide electric car charging stations.
- Many comments were shared about improving the access to and frequency of transit in the South End. Several ideas were shared about a South End shuttle to connect the furthest extents of the South End to downtown and the waterfront. This was also tied to suggestions about a Park & Ride station either on a lot in the South End or on the improved area that is intended to become the Champlain Parkway.
- Some felt that elements of mobility were missing or underrepresented in the Plan, such as ADA improvements and access to transit for the elderly and disabled, and the future of the railyard and the potential to reestablish rail service to Montreal.

Public Open Spaces & Connections

- In general, comments supported the Plan’s recommendations for preservation of existing open spaces and locations of new ones, such as a new open space on the Barge Canal site and on part of the Blogett Factory site.
- Many users submitted comments about a community center, like the Miller Center, for the South End. This was especially desired by residents living in units operated by the Housing Authority, who felt that the community spaces and programs in their residential communities weren’t sufficient. Some comments mentioned that kids want a pool in a park in the South End.

- There were several comments submitted that the Plan should put more emphasis on sustainable/green infrastructure and demonstration projects in the South End.

Brownfields & a Superfund Site

- There were mixed reactions to the consideration of the Barge Canal site for anything other than an urban wild area. Opposition stated that the superfund site should not be disturbed for anything more intensive than a potential bike/pedestrian connection to the lake. Supporters felt that the site could be a key location for infill to achieve some of the Plan’s goals without taking industrial properties for redevelopment.
- One comment indicated that resources like the CSWD Drop-Off Center and Resource should be preserved somewhere in the South End, while things like the Flynn Ave mini-storage and the tank farm could be removed.

Managing Stormwater

- A comment was shared that the recent stormwater/streetscape elements in St. Albans could be used as a model for the South End.
- Comments reiterated concerns about the health of Lake Champlain due to stormwater runoff and incidents of flooding near the Pine Street/Lakeside Ave intersection.

Housing

- In general, reactions to housing in the South End and the Enterprise Zone were mixed. While there was recognition that the City needs more housing, reactions to the recommendations to selectively introduce some of this housing into the South End were wide-ranging. Regardless of whether or not comments supported or opposed housing in the Enterprise Zone, comments all referenced the need for affordable/workforce housing and housing for families and professionals in the “middle”—making too much to receive housing assistance, but not enough to afford market rate.
- Opponents agreed that there is a need for housing, but are specifically opposed to housing in the Enterprise Zone. These comments cite statistics about the small percent of the city’s land area to which this zoning applies, and expressed the concern that the introduction of housing will drive up the costs of land and space, pushing out industrial and arts uses. Furthermore, many comments questioned the actual demand for housing in the Enterprise Zone, stating that the results of the artists’ survey were misrepresented to make a case for housing, and that some employers stated housing was not a concern in their ability to recruit employees.
- Proponents note that a mix of uses is vital to a healthy neighborhood, that nearly all employers cite a lack of quality, affordable housing as an obstacle to attracting qualified employees and that housing where jobs are located can help support other Plan goals for economic development, alternative transportation and sustainable development. Some shared comments that instead of saying “no” to housing in the Enterprise Zone, there should be a careful, strategic discussion about sites that make sense for housing—such as near bus stops and bike routes.
- Other shared comments in the middle, that housing in the South End was a good thing outside of the Enterprise Zone, and supported recommendations for multi-family housing behind Champlain Elementary

and other infill sites outside the district. Some comments even suggested potential housing on underutilized sites along Shelburne Road and in South Burlington.

- Some comments were shared that it seems the City is focusing too much on “big development” and that an analysis of sites currently zoned for residential use with the capacity to be redeveloped should be completed, prior to entertaining any changes to the Enterprise Zone.

Reinforced Arts Hub: Maple Street to Locust Street

- Several comments regarding the use of the Barge Canal were shared—primarily regarding leaving the site untouched.
- A comment cautioned against infill development just for the sake of development without first knowing what uses will be accommodated.
- A comment was shared that some of the new street connections didn’t seem to be a good resource, and stated that part of the appeal of the South End is exploring it on foot and by bike.

Maker’hood Center: Locust Street to Sears Lane

- Comments acknowledged that many of the uses allowed in the Enterprise Zone today aren’t allowed elsewhere in the City, so the preservation of that area is important. Instead of encouraging higher end uses, the focus should be on helping the traditional industries in the area thrive/regenerate.
- There was some support for the use of parking lots as locations for new buildings or parks, but there was concern that it would be too expensive to be feasible.
- Some supported recommendations for sidewalks on Sears Lane and the proposed emergency connection into the Lakeside neighborhood. Others shared support for City Market opening a new location in this area.

Eclectic Ecosystem: Sears Lane to Home Avenue

- If the Parkway gets built, need to make sure that a connection to the lake is maintained.
- Should add a crosswalk at the intersection of Home Ave & Wells St.

R&D- Room to Grow: Home Ave to Queen City Park Road

- Concerns were shared that if the Parkway is going to be designed as more of a neighborhood street, with lower design speeds, then a cul-de-sac at the end of Pine Street doesn’t make sense. It was suggested that a traffic light could be included, potentially as a traffic calming strategy.
- There was some opposition to locating a parking structure on the last unused plot of land on Industrial Parkway.
- A comment was made that there should be a reference to Red Rocks Park, even though it is located in South Burlington.



OFFICE OF THE CLERK/TREASURER

City of Burlington

City Hall, Room 20, 149 Church Street, Burlington, VT 05401

Voice (802) 865-7000

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MEMORANDUM

TO: CEDO Director Owens, Planning Commission and Public Works Commission Members

FROM: Lori Olberg, Licensing, Voting and Records Coordinator

DATE: January 26, 2016

SUBJECT: 01/04/16 CITY COUNCIL COMMUNICATION

Enclosed please find a copy of the communication that was sent to you/your Commission.

Please keep this as part of your records.

Thank you.

1/4/14
4.07

PF Handout 2.01 12/21/15
Diane Gayer

NOTES from RR yards Scoping Presentation by RSG, CCRPC, and DPW
Wed. Dec. 9, 2015

NOTES from Monday 3pm meeting with Ibnar, Genese, Terry, Carolyn, and Diane

ALTERNATIVE ROUTES PRESENTED

- 1A: 60"ROW Complete Street with roundabout access to Battery Ext (RR yards), truck route
- 1B: Roundabout
- 2: Roundabout aligned with Kilburn, Complete Street access to Battery Ext, affects the Curtis Lumber property, grid street infill as a Slow Street network
- 3: Roundabout at Curtis Lumber + grid of Slow Streets; total shift of alignments; "new thoroughfare"
- 4: Full grid with extension of Battery and closure of RR yards; 2 roundabouts at Pine street; RR tracks and yards to move to unknown location
- 5A: No RR yard changes/impact; new grid of slow streets avoid Curtis but take off building corners at S. Champlain, etc.
- 5B: no RR impacts; Battery Ext as a major street, Complete Street + Slow Streets

NB:

- Criteria: Cost, Transit impact, Rail Access, Environmental Resources impacts (incl. HP impacts), Local & Regional planning issues, etc.
- Alternative 1B scored the highest by the stakeholders followed by 2 and 5B
- RAIL: the "horn track" is protected in #5 options; Rail lease exists to year 2054
- Roundhouse is an important historic resource...
- Design is recreated to solve Champlain Connector problem as it hits Maple and King
- Cost of project weighed highest

PUBLIC COMMENTS AND CONCERNS

1. No discussion of coal and other pollutants likely in existing soils
2. Ravine delta, layers of fill, and missing section of Barge Canal not discussed as critical to costs and environmental impacts
3. No discussion of impact of "complete" street v. slow street v. smart street...
4. Livability was only presented as Quality of Life for those living at the intersections of impacted streets (King, Maple) not as impact on full-scale of neighborhood incl. existing businesses.

At their meeting of 1/4/16
the Burlington City Council voted to
waive the reading, accept this communication
and place it on file.
Attest: *[Signature]*
Planning Commission Agenda
December 2015
and send copies to
Diane Gayer Owens
Members of
Commission +
WORKS

5. Although presented as out-of-the-box thinking nothing was presented that represented “out-of-the-box” ... all were iterations of the same option. A much stronger look at other ways of solving the “stated” problem need to be presented.

6. Costs and alternative methods of transportation and livability were not weighted the same; no presumption of solving a “different” problem or scenario to create better livability.

OTHER POSSIBLE SOLUTIONS

I. Criteria:

- Do NOT negatively impact the RR yards. Plan for the coming commuter rail. We need this active and alive if we want to survive as a thriving municipality linked to others.
- Do not affect Curtis Lumber, this is a critical industry for the region as a whole and for the maker and neighborhood viability in the specific.
- Consult with other business and industry per planning for the “roadway changes”— do not assume they know this is coming. They are your current, and thus important, civic investors and tax payers.
- Make use of the existing roadway at “Street Dept.” just south of Curtis Lumber.
- Recognize the geologic history of the Ravine that is part of Burlington and its associated wetland and delta. There is a reason why this land was fallow, filled with debris, and not built on.
- No Housing to be built on filled or brownfield lands.
- Connect to South Champlain street.
- NO grid of streets through this “new” zone. Let an informal network grow from uses. Let the new pathways be lighter on the land than Slow Streets.
- We used to imagine light rail in Burlington, connecting it regionally. Let’s pull those plans back out of the CCRPC files.
- Assume all existing buildings stay. Plan on the historic nature of the brick structures at the “Street Dept.”
- Think more innovatively as to what types of businesses might occur on the land between the existing structures; create an RPF for proposals; learn from the Intervale—both in terms of what’s possible and what’s not.
- We must begin to plan for heavier storms, flood mitigation and rising sea levels. The 2013 flooding (3 months of 104’ water level was real; Irene was real) was a huge wake-up call for many of us. Let’s look at the role of waterfront open space, wetlands, streams, and our build-out with that in mind. The ferry was out of business for 2 months, the bike path was underwater and pavement undermined, the rise in sea level was lapping at the edge of the wastewater treatment center—this is not an imagined problem, but the reality we are moving into. The potential for this site to absorb some of this impact is important. A look at the history of water table levels and the soils (fill) data are important.

- There is a way to use the “open land” for more inspired and long-term needs than business as usual—from food hub for the neighborhood (using greenhouses) to lake access with a put-in at the barge canal.

II. ALTERNATE PROPOSAL

Whereas the current plans and alternates proposed by the City and CCPRC are based on implementation of the Champlain Parkway and acknowledge that the plans do not adequately manage the traffic impact at Maple and King;

And whereas we continue to propose and fight for a park’n’ride and multi-model center at the intersection of 189 and the so-called Southern Connector and believe a that commuter rail and transit system would be a much stronger solution;

We put forward the following:

Looking north from Pine Street: A roundabout at the location of the current street dept. roadway, across from the USPS parking lot (alignment to be just south of the Curtis Lumber).

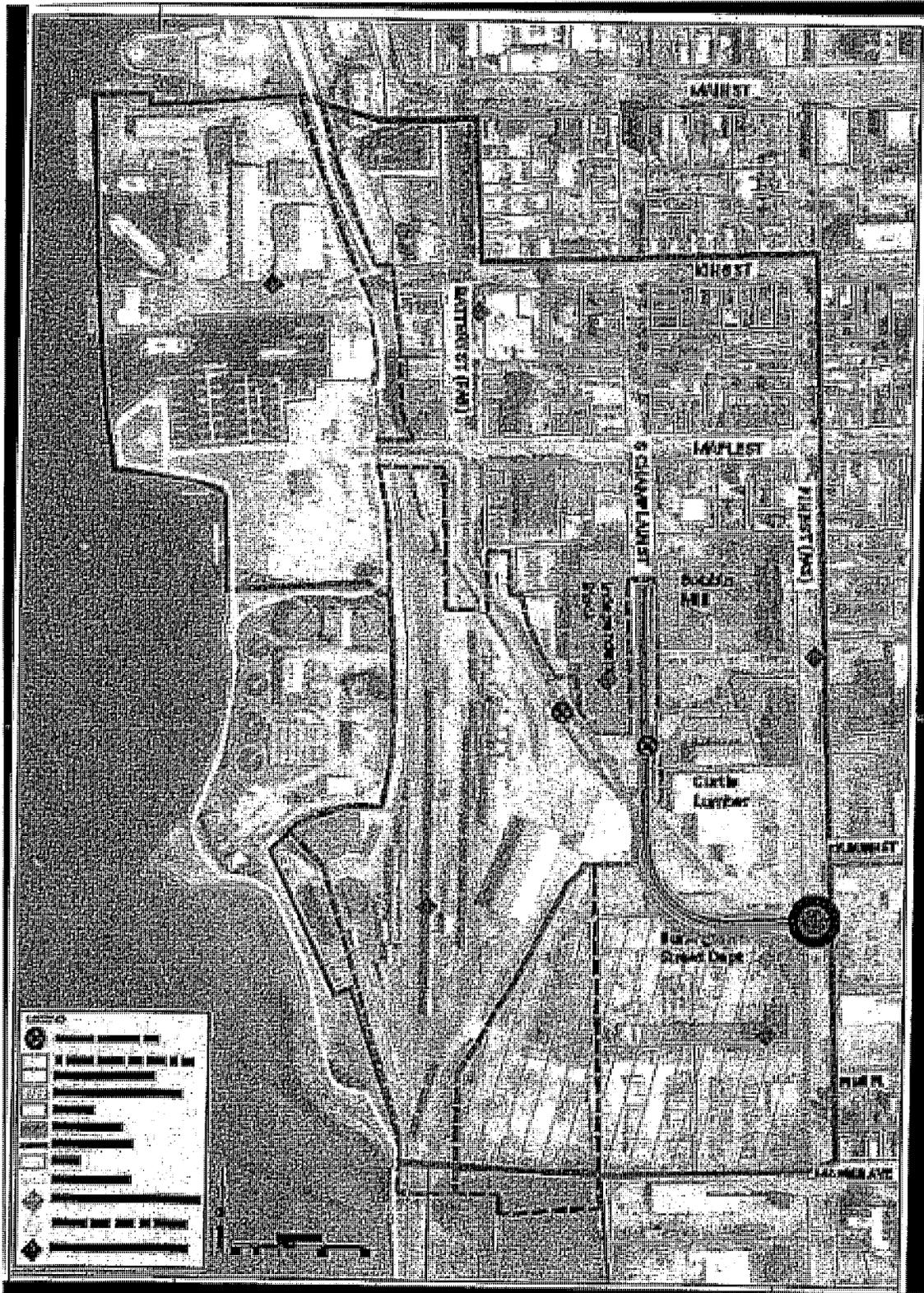
We acknowledge that this is not at Kilburn. Roundabout designs in Europe are much more facile than here—we do not have to have a “balanced” organization of streets to make this work. The goal here is to work with what we’ve got and not destroy existing businesses for an engineering concept.

Following the route:

From the roundabout north the road becomes a one-way loop. See photos from Montreal. Pine Street loops at Maple and turns down South Champlain, then onto the new extension, and around through the Street Dept road back to the roundabout. The one-way system is short and acts as a circulator. It cuts the traffic in half at Maple and King, but facilitates trucks to the Rail yards.

Bike/Ped/Bus Facilities:

The bike/ped pathway would follow the streets as well as spring off and follow the building edges between Pine and Battery Ext. A pervious pavement infill along the rail tracks would open this up for bike/ped access. A tree-lined avenue would help protect buildings from storms and trains. This would not be about parking or private vehicles. It would offer a neighborhood greenway connector however to the waterfront.



Burlington Planning Commission

RECEIVED
FEB 02 2016

Attn: Yves Bradley

DEPARTMENT OF
PLANNING & ZONING

1/28/16

Yves, I'm writing today because I have a zoning issue I would like to discuss with your Commission.

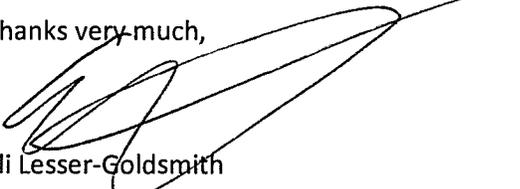
I will outline it in context to the properties I own and the change I would propose:

- I own both 131 and 135 Lakeview Terrace. See attached sheet. These properties are next to each other.
- Both houses are 'side lot' houses.
- Both houses have driveways down the side, and are separated by a small strip of grass
- I am proposing a covered car port to cover one of both of the driveways. (see blue lines on sheet)
- Current zoning does not allow for this due to setbacks.
- If I were to go with one carport on the 135 Property, the edge of the carport not be within 5 feet of the other building.
- I can work with the Building Dept on materials to make sure nothing flammable is used

I would appreciate if the Planning Commission would consider this change. It's a practical matter as parking under cover makes a lot of sense in VT and other snowy/icy climates.

I will be attending your next public meeting as well. I can take questions there, or over the phone/email.

Thanks very much,



Eli Lesser-Goldsmith

135 Lakeview Terrace

Burlington, VT 05401

Powereli@gmail.com / 802-233-9998

Cc: David White / Department of Planning and Zoning.

Google Maps 135 Lakeview Terrace



Imagery ©2016 Google, Map data ©2016 Google 10 ft

Susan and Robert Butani
31 FLETCHER PLACE
BURLINGTON, VT 05401

susan.butani@gmail.com
robert.butani@gmail.com

February 2, 2016

Yves Bradley, Chair

Planning Commission
149 Church Street
Burlington, Vermont 05401

Dear Mr. Bradley and members of the Planning Commission,

We see that our **Fletcher Place Rezoning** matter appears on the February 3, 2016, Executive meeting agenda as one of the "Upcoming Commission Agenda Items."

As signers of the petition requesting rezoning, we request that the Fletcher Place matter be calendared for no earlier than your March 22nd meeting. We are unable to attend until that date due to scheduled medical procedures and associated appointments that necessitate our being in New York City.

In addition, our neighbors Edwin and Brenda Owre, also, wish to be present when the Commission hears this matter. Unfortunately, they will be in Florida into late May. They, therefore, request that consideration of the rezoning matter be postponed until their return.

We appreciate your consideration.

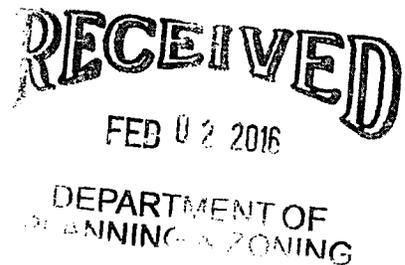
Thank you.

Sincerely,



Susan and Robert Butani

cc Brenda and Edwin Owre



Burlington Planning Commission

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Burlington Planning Commission Minutes

Regular Meeting

Tuesday, January 26, 2016 - 6:30-8:00 P.M.

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

Present: J Wallace-Brodeur, L Buffinton, H Roen, A Montroll, B Baker, Y Bradley, E Lee
Staff: D White, M Tuttle, E Tillotson, S Gustin, K Sturtevant

I. Agenda

No changes

II. Report of the Chair

Y Bradley shared that he was in touch with a member of the public that was interested in discussing an item regarding small daycares and an item that may have been overlooked in the zoning ordinance.

Y Bradley hopes that Commissioners have been able to attend the Burlington Town Center presentations that have been making the rounds. L Buffinton noted that she spoke only as a Burlington resident.

M Tuttle: With a smaller group at the January 21 event, they were able to have more focused discussions and a lot more time for on one-on-one discussion. The public was supportive of the proposals.

III. Public Forum

Y. Bradley opened the public forum at 6:35 pm.

Barbara Collins, Ferguson Avenue resident: B Collins shared that in April 2015 she received notification of a small day care permit application in her neighborhood, and understood it to be the same as a home day care with a maximum of six children. However, she has since discovered that five employees, and up to 26 children are allowed under zoning ordinance section 5.4.1. B Collins advises the PC to consider an amendment that permits child cares of that size only in the enterprise and mixed-use zones, and limits a small day care in residential zones to 6 or 8 children.

L Buffinton: All day care sizes are allowed in all residential zones?

K Sturtevant: Yes, and up to 6 children are allowed by state law.

B Baker: A key factor to consider is whether day care is now available.

E Lee: There is a day care crisis, most day cares have a year-long waiting list.

On a motion by A Montroll, seconded by B Baker, the Commission unanimously agreed to refer this issue to the Planning & Zoning Ordinance Committee for consideration.

S Gustin: On Thursday, February 5, the Ordinance Committee will take up the small day care issue regarding another request and invited B Collins to attend the discussion.

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Eric Morrow, Ward 2 resident and architect: Concerned about the height of the proposed mall. He has sent an email to Commission members and would be happy to help with massing models and height considerations.

A Montroll: E. Morrow has the best attendance of anyone including committee members at the FBC meetings. Thank you for coming and introducing yourself to the full Commission.

Y Bradley: Thank you very much, impressive effort.

Joel Rippa, resident: Has anything happened with Item 8 on the agenda by the Commission?

Y Bradley: It is getting close. It is still being polished with a few items to be resolved and is on tonight's agenda for discussion. Planning sometimes takes a long time.

J Rippa: His situation goes back to early 80s when he bought an apartment house for his parents and unbeknownst to him it contained a non-conforming third unit. He needs resolution to this status.

Jill Diemer, landlord in Burlington: Wishes to address the 15 year statute of limitations on a property that she and her husband own on Hickock Place. The property is an 1894 structure that has historically operated as an apartment house. In order to sell the property, they wished to have a grandfather the occupancy of the building. Since they've owned the property beginning in 2003, the Code Enforcement has done housing inspections, and she has signatures from departments that there were no zoning violations at the time of purchase. She was referred by Bill Ward, Director of Code Enforcement to Scott Gustin, in Planning & Zoning to get a determination for occupancy; she has provided leases and other pertinent records but the City continues to ask for additional records dating further back to 1970 and 1946. The previous owner passed away, but she does have a detailed affidavit as evidence. Despite communications with Code Enforcement and Planning & Zoning, the city attorney reviewed this and she was asked to provide information dating back to 1946. J Diemer expressed her disbelief at the situation and shared that this will represent a sales loss of \$100,000 if she is not able to obtain grandfathered status. City departments need to communicate better, records need to be better, the 15 year statute of limitations will help a lot. She hopes this matter is on the forefront of the Commission discussions. She shared paperwork regarding her property with the Commission members.

Y Bradley: Thank you for coming. We hear you loud and clear, and you are welcome to stay for discussion.

B Baker: Do we have zoning ordinances back to 1946?

D White: Yes.

Y Bradley: Suggested a change to the agenda since the time certain for the public hearings was missed. Skip to hearing on ZA-16-05 regarding UVM and then to the hearing on ZA-16-04 regarding the Zoning Administrative Officer.

IV. Proposed ZA-16-05 UVM Medical Center Public Hearing

Y Bradley opened the hearing at 7:07 pm.

D White: Provided a brief summary of the amendments to the Institutional Core Campus Overlay. This amendment was previously discussed and warned. Agenda includes a memo from G Henderson-King, of White & Burke, delineating a few corrections to the original map provided to the Commission.

There were no members of the public present to speak on the proposed amendment.

On a motion by J Wallace-Brodeur, seconded by L Buffinton, the Commission unanimously approved the closing of the public hearing, and forwarding the amendment as drafted with corrections, and the required report, to City Council for public hearing.

V. Proposed ZA-16-04 Zoning Administrative Officer Public Hearing

Y Bradley opened the hearing at 7:15 pm.

D White: Reiterated that the amendment was intended to reflect recent changes in the department. We now have two principal planners and an assistant planner for development and permit review, and there are others in Code Enforcement who cover some of these duties.

On a motion by A Montroll, seconded by H Roen, the Commission unanimously approved the closing of the public hearing, and forwarding the amendment and required report to City Council for public hearing.

VI. Report of the Director

D White: A few weeks ago, we hosted Lee Einsweiller to discuss the Form Based Code. In addition to meetings with the FBC Committee and Planning Commission, his visit included meetings with area planners and with the Burlington design professional community. It was a very valuable opportunity to discuss the Code.

Department has filled its last vacancy with the addition of Ryan Morrison, formerly employed by the Town of Waterbury as the Zoning Administrator; he has additional experience in Washington State.

The permit review/reform process is beginning, and is being led by Chief Innovation Officer Beth Anderson. There have been three responses to an RFP, and narrowing of the applicants quickly in order to hire a firm to begin the process. He expects a contract to be signed within the next three weeks.

Last week there was an encore meeting regarding plans for the Burlington Town Center. There was a more engaged conversation with the public. Department continues conversations about what the zoning amendment could look like to accommodate the redevelopment. The developer has started the process by attending a technical review meeting, and representatives will begin meeting with the Neighborhood Planning Assemblies.

Another upcoming zoning amendment involves Burlington College. The Department is currently working on this with hopes to have something in place this spring. Both the Burlington College and Burlington Town Center amendments will be important and time sensitive.

A Montroll: For the Town Center amendment, what aspects of zoning other than height will be addressed?

D White: FAR (floor area ratio) and setbacks. Additionally, working to incorporate urban design standards similar to what will be required with FBC.

A Montroll: The FBC process continues, the committee is still working and need to have a few more meetings. At this point they are talking about the public process with the awareness that people will get involved when it goes to City Council. It makes sense to bring it to the NPAs. He believes it will be ready for the Commission in a month or two, possibly March or April as they are getting close to conclusion. After that it will then move to the City Council.

H Roen: This is the time to get people involved.

VII. Proposed CDO Amendment: Animal Boarding/Kennel/Shelters

S Gustin: This is pretty straight forward based on a request by Megan (Masha) Sterns to permit a downtown doggie daycare. The Ordinance Committee has discussed this proposal for the daycares as conditional use, with the assumption that it be fully enclosed.

L Buffinton: Will this be subject to licensure, perhaps from a different department, and will there be any limit on the number of dogs?

A Montroll: Is there an animal limit under the kennel description? The City Council would need to create a licensure process.

Y Bradley: Council should include an agreed upon maximum capacity.

H Roen: There should be a maximum number, there should be a definition.

D White: To be considered a a kennel, definition states that there are more than four dogs. There is likely to be a reference to AKC standards. If there is no licensure system in place, then an amendment that refers to one means nothing until that is established. It still needs to be warned for public hearing so it will come back to the Commission again.

Y Bradley: We should send a memo to City Council to consider a limit on capacity as well as a process for licensing and inspection.

L Buffinton: Have other cities done this?

On a motion by A Montroll, seconded by J Wallace-Brodeur, the Commission, with recommendation to provide Council a memo with additional details, unanimously approved a motion to warn this amendment for a public hearing.

J Ripa: Will traffic to accompany this activity be a concern?

S Gustin: That should be addressed as part of the conditional use process.

VIII. Proposed CDO Amendment: 15 Year Statute of Limitations

L Buffinton: Has two concerns, and thinks the Commission needs to work on this. Need to continue to discuss what constitutes the City having knowledge based on 15 years of records and the provision about discontinuance or reconstruction or after 50% or more is burned. Is it not possible to rebuild in the same footprint if it is non-conforming?

D White: The difference is between a legally non-conforming use which becomes grandfathered, and a use that was not legal at the time it was created. The key is how does that change over time? With 15 year limitations we're saying that either it wasn't legal at the time, or we can't determine if it was legal, and we are precluded against taking action against them—it's an unenforceable violation.

L Buffinton: We need better explanations.

K Sturtevant: There is a lot more to this whole section.

B Baker: I don't think it is clear enough. When you drill down, you come out with more questions; it forces staff to make decisions which require extreme depth of information. The Town of Colchester issues a certificate to say that they will not enforce a violation. Burlington's situation is fundamentally unfair; people have made good faith efforts so there needs to be a standard of proof and the ability for the department to make a determination based on clear standards.

D White: We are not talking about situations in which something is okay. These are still violations but won't be enforced against. A separate issue is that perhaps we need to anything that occurred previous to a certain time we put a CO in place without a fee. It's important to understand whether something is grandfathered, meaning it had approval, or if it is a violation.

A Montroll: What is the practical difference?

D White: I don't know that there is for Burlington, a determination documents that research has been done.

A Montroll: Is one of the practical differences that a grandfathered property can be changed but an unenforceable violation cannot be?

D White: Yes, the violation can't be altered in any way except to bring it into full compliance.

B Baker: All of these situations should be spelled out precisely. There's no definition of unenforceable violation.

D White: That's what we're trying to do with this ordinance amendment.

Y Bradley: I understood that there was a common consensus for the Commission that distinguishing between departments is not fair to the average person. People see the City as the City and then get blindsided based on an understanding of the City representing something different from a previous opinion. Perhaps these should just be grandfathered. Seems to be resistance on the part of the department to do what the Commission is asking you to do. Our Commission's job is to get a solution for the public.

D White: We all want a solution. But non-conforming uses are defined by statute and case law.

A Montroll: Can we have another category of non-conformity?

J Wallace-Brodeur: We don't want to create a situation where we can't address an egregious violation. We want to be sure; (d) might be the critical section, but we need to be careful about unintended consequences for things that were illegal in the first place.

H Roen: J Wallace-Brodeur has a good point.

E Lee: One thing that keeps coming back is that there should be public notice and process. There is no public input.

K Sturtevant: The difference is between RH and the other residential zones.

B Baker: J. Diemer's issue is a different issue.

E Lee: I agree we need a different avenue. But, community pushback created the maximum of four unrelated persons amendment. But if doing this overturns this ordinance, and all you have to do is get a letter from staff that you can keep doing it, there will be a lot of people upset.

B Baker: Staff didn't raise the issue that we would have to go back to 1947 when we considered the unrelated persons ordinance.

K Sturtevant: The reason 1946 definition was raised was because of a question by a Development Review Board member. The family definition came in 1970, in the form of a court order, and stayed that way until 2000.

J Diemer: This situation creates a huge black mark and she wouldn't have bought her property if she had realized the situation.

E Lee: We want to help, but need to understand the consequences and think about if there is a middle ground.

A Montroll: Fine with the concepts described in (d). What is our experience with these types of violation/compliance? What kinds of situations have occurred beyond correcting windows, where we have discovered a 20 to 30 year old violation and imposed a violation for an owner to bring into compliance?

K Sturtevant: There have been situations with additional units, and the occupancy questions is becoming more predominant.

A Montroll: Which ones have caused major concerns? Yes, they're violations, but where have the caused major issues in the neighborhood or health and safety issues.

K Sturtevant: There have been situations about safety of units in basements or attics.

A Montroll: What we are discussing doesn't excuse this kind of situation, right?

D White: It should not.

K Sturtevant: The other is occupancy which has become more of an issue. There was a period of time where people were trying to come into compliance after the 2000 ordinance change. But now, City departments have received more and more complaints about this.

B Baker: But it's impossible to come into compliance on these things without writing a \$100,000 check.

A Montroll: It is important to understand what kind of violations we need to bring into compliance. It seems that there are two levels of complexity in this question. Some are easy and less controversial—things that are not technically correct but don't have an impact on neighborhoods. And then there are ones that have a major impact on neighborhoods and safety.

Y Bradley: Do we refer this to ordinance committee?

Commission disagreed.

H Roen: Based on concerns voiced by E Lee and J Wallace-Brodeur about grandfathering everything, should we thread that needle by basing decisions on whether the City knew and tried to do anything?

E Lee: A solution could be where someone could go to the DRB, resulting with conditions put on property. Any process needs to be transparent so that the neighbors know what is going on. Mitigation is a reasonable approach.

Y Bradley: Why should someone have to go to the DRB have to give permission when you purchased a property that the City said was ok. When the four unrelated occupant regulation was passed, it was meant to send a message and stop speculation that people could increase density in buildings. It was meant to be a different thing than it has turned out to be.

E Lee: Disagree. The people who worked on it meant it to do just what it does.

Y Bradley: There was a general understanding that properties that already existed that way would be grandfathered as long as they were legal under the previous ordinance.

L Buffinton: If there is a written determination then things should be ok. There must be a way to make it cleaner, more secure.

D White: The Colchester letter is not saying that the property is in compliance; it's recognizing an unenforceable violation. This is not a hard thing to do—our records for 15 years are pretty good.

A Montroll: How would a letter like this impact neighbors' rights to issue a complaint?

Y Bradley: This discussion needs to continue at the next meeting.

K Sturtevant: Suggests that she work on revising the ordinance based on some items the Commission seems to be in consensus on.

IX. Proposed CDO Amendment: Low Impact Design

This item was postponed to a future meeting.

X. Committee Reports

Long Range Committee: H Roen reports a very good meeting at SEABA concerning planBTV South End. People were talking about four sub zones within the South End area and he anticipates most of the discussion at the meeting this Thursday afternoon will involve this subject.

Ordinance Committee: B Baker reports that the Ordinance Committee talked about dog kennels.

XI. Commissioner Items

E Lee: The Residential Parking Plan was accepted by the DPW Commission last week. Process went really well and a lot of changes have been made to original proposal.

M Tuttle: Addresses the traffic studies conducted by the Department of Public Works. The DPW Commission has accepted the study despite the consideration that parking permit numbers are too high. The Commission will implement the recommendations with the understanding that they can be changed in the future.

E Lee: It seems that the number of parking permits is higher than they should be, but overall the study produced quite good results.

XII. Minutes/Communications

On a motion by L Buffinton, seconded by H Roen, the Commission unanimously approved the minutes of December 8, 2015.

On a motion by A Montroll, seconded by B Baker, the Commission unanimously approved the minutes of January 12, 2016.

XIII. Adjourn

On a motion by L Buffinton, seconded by E Lee, the Commission unanimously voted to adjourn at 8:31 pm.

Y Bradley, Chair

Date

E Tillotson, Recording Secretary