

Burlington Planning Commission

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Burlington Planning Commission

Regular Meeting

Tuesday, June 14, 2016 – 6:30-9:00 P.M.

****Burlington Police Dept. Community Room, One North Avenue****

AGENDA

Note: times given are approximate unless otherwise noted.

I. Agenda

II. Report of the Chair

III. Report of the Director

IV. Proposed CDO Amendment- DT/RH Zone Transition Line at George Street (20 min)

The Planning Commission will discuss a request to relocate the zone transition line between the Downtown Transition zone and the Residential- High Density zone at George Street. The proposed amendment was recommended by the Ordinance Committee. Materials related to this request are included in the agenda packet on pages 3-6.

V. Proposed CDO Amendment- Article 10: Administrative Authority & Public Standards (15 min)

The Planning Commission will discuss a proposed amendment to Article 10: Subdivision Review. The proposed amendment was recommended by the Ordinance Committee. Materials related to this proposed amendment are included in the agenda packet on pages 7-14.

VI. Public Forum - Time Certain: 7:15 P.M.

The Public Forum is an opportunity for any member of the public to address the Commission on any relevant issue.

VII. Proposed CDO Amendment- Downtown Mixed Use Core Overlay

The Commission will continue its discussion of the proposed CDO Amendment to establish a Downtown Mixed-Use Core overlay. Materials related to this proposed amendment are included in the agenda packet on pages 15-30.

VIII. Committee Reports

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.

IX. Commissioner Items

X. Minutes/Communications

The Commission will review approve minutes from the April 26, 2016, May 10, 2016, and May 24, 2016 meetings which are provided on pages 31-48 of the agenda packet, and communications on pages 49-51.

XI. Adjourn

MEMORANDUM

TO: City of Burlington – Planning Commission

CC: David White, Scott Gustin

FROM: John Alden, AIA, agent for Richard Bove

SUBJECT: Request to relocate the DT-RH Zone Transition Line at George Street

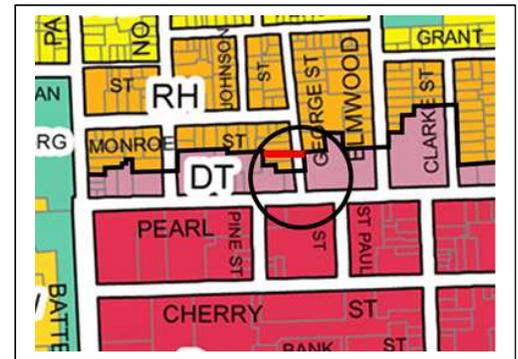
DATE: 12-21-2015

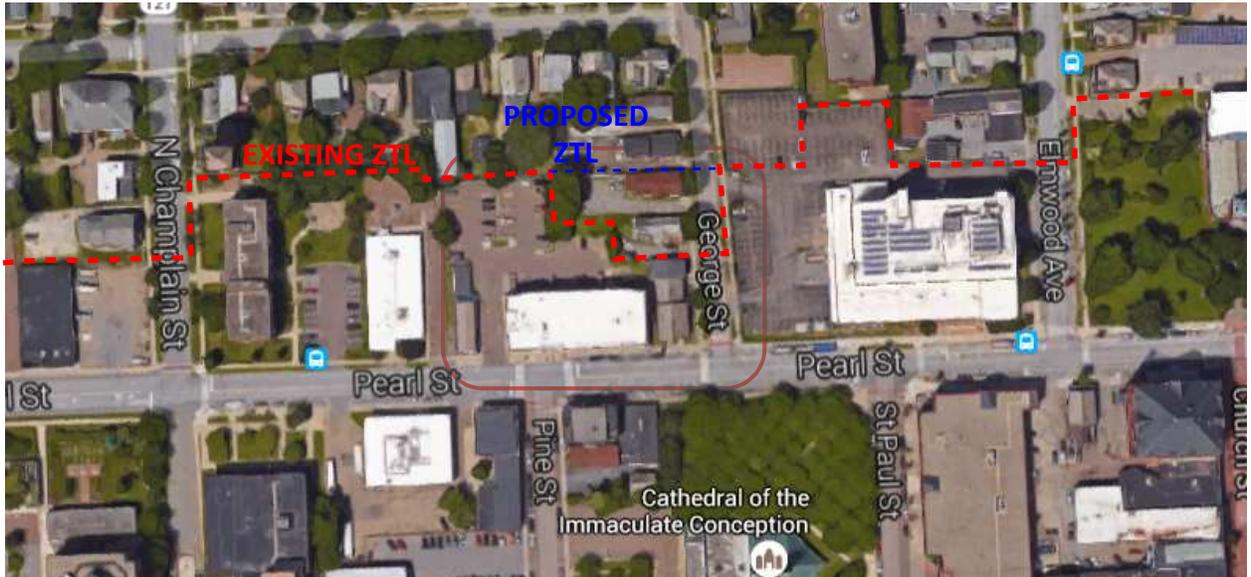
Dear Planning Commission-

We hereby request that the Planning Commission consider and act on this proposal to straighten out the Zone Transition Line delineating the DT – RH zones by George Street and Pearl Street. We ask that the Zone line on the west side of George Street be moved north by two parcels as shown in the attached material.

We offer the following reasons in support of our request.

1. Pearl Street is a significant corridor at the north edge of the recognized city core. The north side of Pearl street is zoned DT, but the northern edge of that district varies. At the west side of George Street, it is very close to Pearl. With only the Stannard House on the Pearl-George corner zoned DT, the narrowness prevents any real DT development and weakens the Pearl Street corridor/DT concept at this point.
2. Other buildings on the north edge of Pearl in this vicinity are large, multi-story structures in keeping with the intensity and density/FAR objectives of the Pearl Street corridor and the DT zone (e.g. the Post Office, Victoria Place).
3. Note that despite an FAR maximum of 4.6 (with bonuses), under the current Zone arrangement we were not able to achieve a FAR much over 2.
4. The DT zone varies in width. Its narrowest point occurs at George Street. This proposal will “straighten-out” the Zone line and allow the city vision to be more fully realized. The Pearl Street corridor will be strengthened and the opportunity for meaningful transition development may be realized.
5. With a Zone line adjustment, we are proposing to develop a combined parcel under the DT zoning that will aim at achieving the stated goals for the DT zone, increase density and intensity and add significant senior housing to this prime area of downtown Burlington. This project would fit in very well with the surrounding pedestrian amenities in the nearby City Core/DT zone and the existing residential neighborhood to the north.





ZONE TRANSITION LINE: PROPOSED RELOCATION AT GEORGE STREET

Supporting information. Figure-Ground diagram and Satellite view.

RH ZONING

DT ZONING

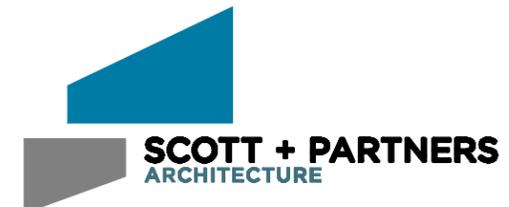
PROPOSED TRANSITION LINE

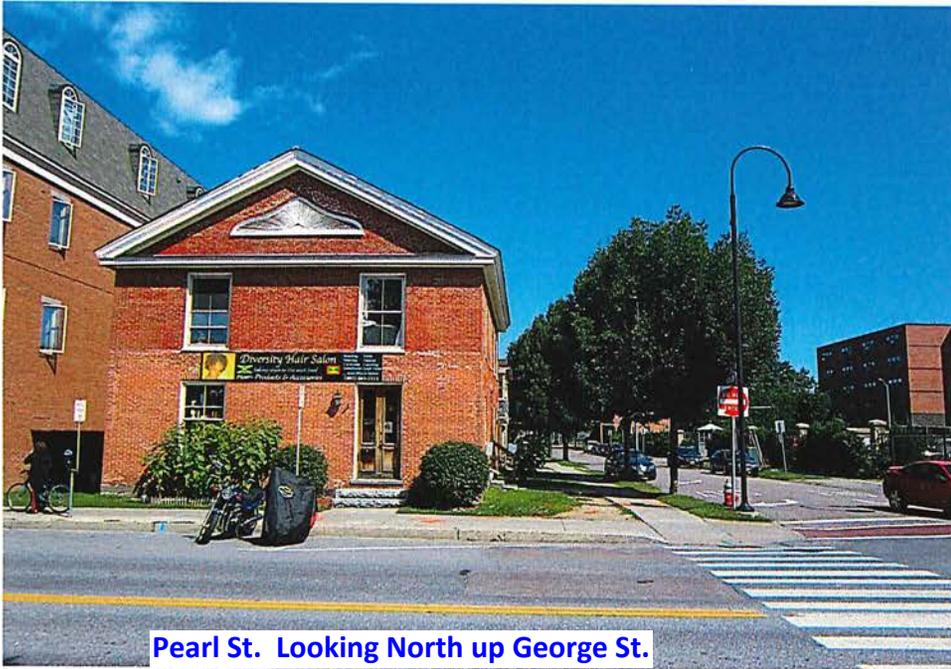
EXISTING TRANSITION LINE

GEORGE STREET

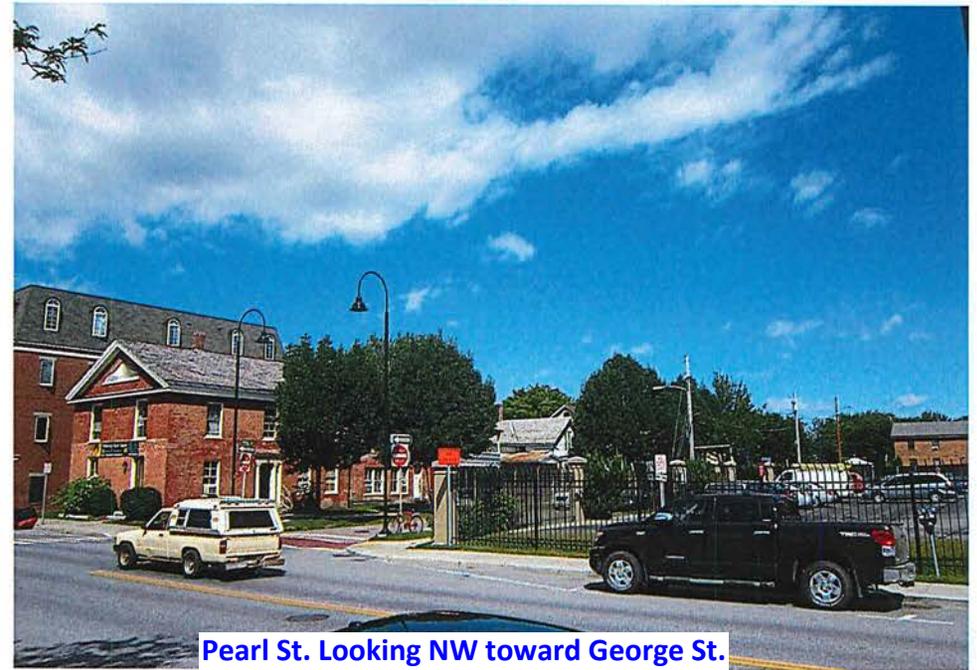
ZONE TRANSITION LINE

01/07/16

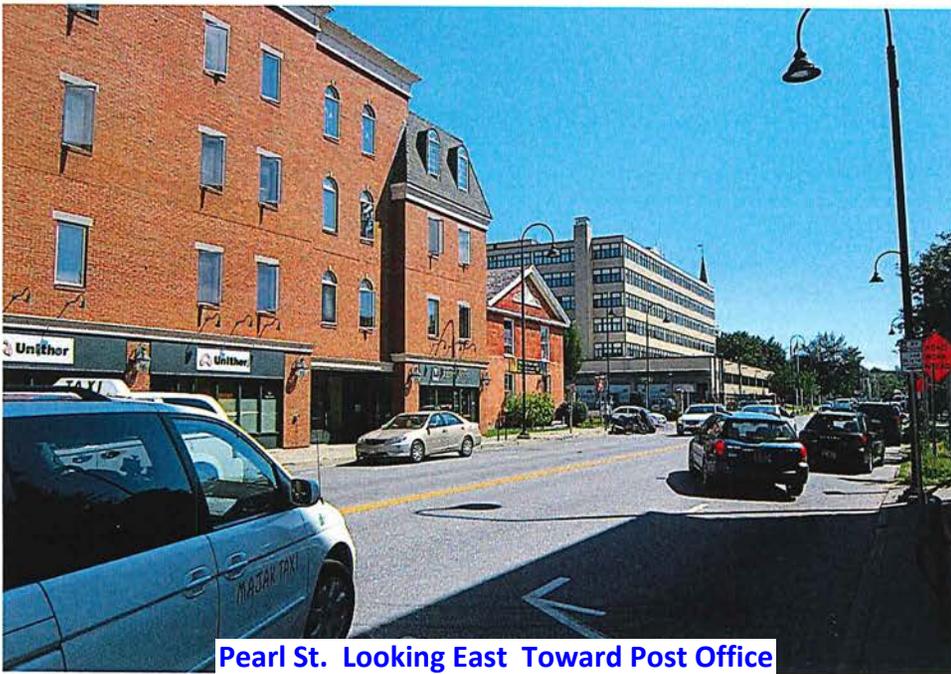




Pearl St. Looking North up George St.



Pearl St. Looking NW toward George St.



Pearl St. Looking East Toward Post Office



Parking lot behind Victoria Place Looking East toward George St.

Planning Commission Agenda

June 14, 2016

Page 6 of 52

TO: Planning Commission
FROM: Scott Gustin
DATE: May 17, 2016
RE: Article 10: Subdivision amendments

At its's May 17, 2016 meeting, the Ordinance Committee voted to move this proposed amendment along to the full Planning Commission for its consideration.

The purpose of this proposed amendment is three-fold:

- Establish administrative authority for minor subdivisions (i.e. those eligible for combined preliminary and final plat review) not otherwise subject to DRB review.
- Incorporate reference to the standards of the City Engineer for public infrastructure improvements.
- Clean up omissions and mistakes from the original transfer of subdivision language from the 1973 Subdivision Ordinance into the 2008 Comprehensive Development Ordinance.

Proposed CDO Language:

Sec. 10.1.3 Platting Jurisdiction

(a) Platting Authority:

The Administrative Officer and the DRB shall be the official city platting authorities responsible for the review and acceptance of all land subdivision plats. The Administrative Officer shall be the platting authority for all subdivisions that will create fewer than five (5) lots and are not otherwise subject to consideration under Major Impact Review pursuant to the provisions of Article 3, Part 5 or Planned Unit Development pursuant to the provisions of Article 11. The DRB shall be the platting authority for all other subdivisions. No plat of a land subdivision shall be entitled to be recorded in the city land records without the approval of the Administrative Officer or the DRB or its designee inscribed thereon.

(b) Use of plat:

The transfer of, sale of, agreement to sell, or negotiation to sell land by reference to or exhibition of, or other use of a plat of a subdivision that does not have final approval by the Administrative Officer or the DRB or its designee inscribed thereon and is not recorded in the city land records shall be prohibited.

(c) Erection of buildings:

No zoning or building permit shall be issued and no building shall be erected on any lot within a proposed subdivision unless and until the final subdivision plat has been approved by the Administrative Officer or the DRB and properly recorded in the city's land records.

Sec. 10.1.4 – Sec. 10.1.6

As written.

Sec. 10.1.7 Combined Preliminary and Final Plat – Administrative Review

~~The administrative officer shall have the authority to approve or deny an application for subdivisions that will create fewer than five (5) lots or dwelling units, and are not otherwise subject to consideration under Major Impact Review pursuant to the provisions of Article 3, Part 5 or Planned Unit Development pursuant to the provisions of Article 11, the applicant may request, and the DRB may authorize the hearings on preliminary and final subdivision plats to be combined into a single public hearing.~~

In such cases, the submission requirements for final subdivision plats pursuant to Sec. 10.1.9 shall be met at the time of application, and decisions by the ~~DRB~~ Administrative Officer shall be based on the project's conformance with the review criteria for both preliminary (Sec. 10.1.8(d)) and final plats (Sec. 10.1.9(d)).

Sec. 10.1.8

As written.

Sec. 10.1.9 Final Plat Approval Process

During such time that an approved preliminary plat remains effective, the applicant may submit an application for approval of a final plat.

(a) Final Plat and Construction Detail Submission Requirements

The applicant may seek approval of a final plat by filing the following items with the administrative officer. All plat maps, including street and utility construction plans, shall also be provided in a digital computer format compatible with the city mapping and CAD systems as determined by the administrative officer.

1. A letter requesting review and approval of the final plat and, for subdivisions to be reviewed by the DRB, giving the name and addresses of person(s) to whom notice of the hearing by the DRB thereon shall be sent.
2. A narrative describing the proposed project's conformance with each of the applicable review criteria in (d) below, and a timetable or phasing plan for the construction of all site improvements.
3. Ten (10) copies of the final plat, as specified in subsection (6) below.
4. Ten (10) copies of the final site plan, as specified in subsection (7) below.
5. Ten (10) copies of construction detail drawings of the sewer, water and drainage systems, other underground utilities, surface improvements, street profiles and street cross-sections as specified in subsection (8) below.
6. Final plat specifications: The final plat shall be prepared by a Vermont licensed land surveyor. The plan shall be at a scale of one inch equals forty feet (1"=40'). In addition such other scale as the board may require to showing details clearly and adequately shall be included. Sheet sizes shall be twenty-four (24) inches by thirty-six (36) inches with one-inch margins on three (3) sides and two (2) inch margin on the side to be bound. If multiple sheets are used, they shall be accompanied by an index sheet referencing the entire final plat. The final plat shall contain all information

required for the preliminary plat pursuant to Sec. 10.1.8 (a)4 above, updated and accurate, together with the following information:

- A. Existing and proposed lines of streets, ways, lots with areas of each, dimensions and areas of easements, parks and other property within the subdivision to be dedicated for public use.
 - B. Location, width, name, and final grade of proposed streets.
 - C. Sufficient data including the length, radii, and central angles of all curves to readily determine the location, bearing, and length of every street and right-of-way, lot line and boundary line and to reproduce same on ground; all bearings to be referred to magnetic meridian. Wherever a boundary line of the subdivision is within five hundred (500) feet of a Vermont Coordinate Survey monument, the survey of the subdivision shall be tied to said monument(s). The error of closure must not exceed one to fifteen thousand (15,000); traverse streets or a copy thereof showing error of closure of the field surveys and the calculations for final adjustment must be submitted to the office of the city engineer for approval.
 - D. Location of all permanent monuments properly identified as to whether existing or proposed. The distance and bearing to the nearest municipal, county or state monument on an accepted way and monuments at all points of curvature and changes in direction of street right-of-way lines or where designated by the city engineer.
 - E. Location, names and present widths of streets bounding, approaching or within reasonable proximity of the subdivision and street lines of the access street leading from the subdivision to the nearest accepted public street.
 - F. Lot numbers, proposed house numbers and areas of other adjoining land of applicant not included in subdivision.
7. Final Site Plan detail drawings: All submitted applications for final plat approval must likewise include a final site plan consisting of the following as applicable:
- A. All information required for the preliminary site plan pursuant to Sec. 10.1.8 (a)5 above, updated and accurate;
 - B. Minimum front, side, and rear setback lines shall be shown and dimensioned in accordance with the applicable zoning ordinance requirements of Article 4; and,
 - C. Subsurface conditions of the tract, location, and results of tests made to ascertain subsurface soil rock and ground water conditions and depth to ground water, as may be reasonably required to carry out the purposes and intent of these regulations.
8. Construction detail drawings: Standards for public streets and related public infrastructure shall be as established by the City Engineer. All submitted applications for final plat approval must ~~likewise~~ have construction detail drawings consisting of the following as applicable:
- A. Plans and profiles showing existing and proposed elevations along centerlines of all streets within the subdivision.

- B. Plans and profiles showing location of street pavements, curbs, gutters, sidewalks, manholes, catch basins, culverts and existing intersecting walks and driveways.
- C. Typical cross-sections of improved streets indicating the material used for construction of the roadbed and surface sidewalk, curbing and tree belt, tree pit showing centerline right-of-way width, width of pavement and travel lanes, height of crown, curb reveal, and any other pertinent information.
- D. Plans and profiles of the storm drainage system showing the location, pipe size and invert elevations of existing and proposed storm drains together with invert and rim elevations of all catch basins and manholes. Surface elevations and approximate depth of water shall be shown at each point where drainage pipe ends at a waterway. Drainage calculations prepared by the applicant's engineer, including design criteria used, drainage area and other information shall be sufficient for the city engineer to determine the size of any proposed drain, culvert, or bridge.
- E. Plans and profiles of the sanitary sewer system showing the location, pipe size and invert elevations of existing and proposed sewage system together with invert and rim elevations of all manholes. All lots within the proposed subdivision shall be serviced by the municipal sewerage system. Where a gravity flow of sewage cannot be attained, the applicant shall install a pumping or lift station of a make and type specified by the sewage disposal superintendent to provide for the proper disposal of all waste into the existing sanitary systems. The applicant shall covenant that one year after the pumping station has been installed and found to function to the satisfaction of the city engineer said pumping station shall be deeded to the city and thereafter shall be maintained and operated by the waste water division of the public works department.
- F. Plans and profiles of the water supply system showing the location, pipe size and invert elevations of the subdivision water system. All lots within the proposed subdivision shall be supplied by the municipal water system.
- G. All profiles shall be drawn with:
 - i. A horizontal scale of one inch to forty (40) feet and a vertical scale of one inch to four (4) feet.
 - ii. Existing centerline in fine black line with elevation shown every fifty-(50) feet.
 - iii. Proposed centerline grades in heavier black line with elevations shown every fifty (50) foot station except that in vertical curves elevations shall be shown at twenty-five (25) foot station. All changes in street grade shall be shown by a tangent to the vertical curve with the grade of the tangent indicated at the point of tangency.
 - iv. Cross-sections at every fifty (50) foot station or any unusual section, as is common practice in the design of roadways by the Vermont Agency of Transportation.

- v. Existing right-of-way line in fine black dash line.
- vi. Proposed right-of-way line in fine black dash line.
- vii. All elevations based on the U.S. Coast and Geodetic Survey benchmarks.
- viii. Requirements (i), (ii), (iii) and (iv) of such construction detail drawings must be approved by the city engineer prior to approval of the final plat ~~by the DRB.~~

9. Monuments: Provision shall be made for permanent monuments to be set at all corners and angle points of the subdivision boundaries and at all street intersections and points of curve. Monuments shall be stone or concrete with a one-inch diameter metal pipe at least two (2) feet long set in the center, located in the ground at final grade level, and indicated on the final plat. Metal stakes shall be set at all corners and angle points of individual lot lines within the subdivision located in the ground at or above final grade level.

(b) Completeness of Submission, Administrator’s Action

As written.

(c) Public hearing on final plat:

As written.

(d) Review Criteria:

As written.

(e) DRB approval of final plat:

As written.

Sec. 10.1.10 Performance Bond and Guarantee of Completion

As written.

Sec. 10.1.11 Recording of Final Plats

(a) Certifications and Endorsement:

Every approved final plat seeking recording in the city land records shall carry the following executed certifications:

1. ~~City-Project~~ Engineer’s certification as follows:

“It is hereby certified that this plat fully complies with all engineering requirements set forth in the subdivision regulations of the City of Burlington and all other engineering requirements of Burlington, Vermont.”

By: _____

Registered _____

Seal

2. Surveyor’s certification as follows:

“It is hereby certified that this plat is true and correct and was prepared from an actual survey of the property by me or under my supervision; that all monuments shown hereon actually exist or are marked as “future” and their location, size, type and materials are correctly shown.

By: _____

Registered _____

Seal

3. Applicant’s certification as follows:

State of Vermont, County of Chittenden, City of Burlington

“The owner of the land shown on this plat and whose name is subscribed hereto, in person or through a duly authorized agent, certifies that this plat was made from an actual survey.”

Agent/Owner: _____

Date: _____

4. Certificate of dedication: A certification by the applicant setting forth the description of the areas and improvements being dedicated to the public and the extent of the title which is being dedicated.

5. Text of protective covenants whereby the applicant proposes to regulate land use in the subdivision and otherwise protect the proposed development.

6. Certificate of the City Engineer, as follows:

“I, _____, city engineer, do hereby certify that the subject plat has been examined by me and found to comply with the engineering requirements set forth in the regulations governing plats of subdivided land adopted by the city council, with the following exceptions:”

=

City Engineer

7. Certificate of the Superintendent of City Parks as follows:

“I, _____, superintendent of parks do hereby certify that the subject plat has been examined by me and found to comply with the street planting requirements and park area requirements set forth in the regulations governing plats of subdivided land adopted by the city council with the following exceptions:”

City Superintendent of Parks

8. Certificate of the City Fire Marshal as follows:

“I, _____, fire marshal do hereby certify that the subject plat has been examined by me and found to comply

with the fire prevention requirements set forth in this chapter governing plats of subdivided land adopted by the city council with the following exceptions:"

City Fire Marshall

- 9. Any other certificate as may be reasonably required by the Administrative Officer or DRB to carry out the purpose and intent of these regulations.

Every approved final plat seeking recording in the city land records shall carry the endorsement of the Administrative Officer or the DRB.

Final plats approved by the Administrative Officer shall carry the following endorsement stating that the plat has been approved by the Administrative Officer, and specifying the date of such approval and any conditions of approval, and signed and dated by the Administrative Officer.

"Approved by the Administrative Officer in, Burlington Vermont, on this _____ day of _____ 20__ Subject to All Requirements and Conditions of The Comprehensive Development Ordinance of the City of Burlington, Vermont."

Signed This _____ day of _____, 20__

By _____

Witness _____ Administrative Officer

Zoning Permit/Certificate of Appropriateness # _____

Final plats approved by the DRB shall carry the following endorsement stating that the plat has been approved by resolution of the development review board, and specifying the date of such approval, including the Findings of Fact and any conditions of approval, and signed and dated by the chair of the development review board.

"Approved by Resolution of the City of Burlington Development Review Board, Burlington Vermont, on this _____ day of _____ 20__ Subject to All Requirements and Conditions of The Comprehensive Development Ordinance of the City of Burlington, Vermont."

Signed This _____ day of _____, 20__

By _____

Witness _____ DRB Chair

Zoning Permit/Certificate of Appropriateness # _____

Endorsement shall not take place until all required plats, construction drawings, and supporting documents have been submitted to the administrative officer and determined to be complete and accurate. Prior to the endorsement of the final plat, the city engineer and the administrative officer shall check all documents to be filed to ascertain that they are as approved.

Where necessary, a certification by the city clerk of the Administrative Officer's failure to act within thirty (30) days of filing a complete subdivision application, or the development review board's failure to act within forty-five (45) days of the close of the final public hearing held under these regulations shall serve as the required endorsement.

(b) Recording within 180-days

As written.

(c) Plat Void if Revised After Approval:

As written.

Sec. 10.1.12 – 10.1.14

As written.

Burlington Comprehensive Development Ordinance

PROPOSED: ZA-16-?? – Downtown Mixed Use Core Overlay

As revised by the Planning staff – June 3 2016.

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

Purpose: This amendment is to facilitate the redevelopment of a portion of the former Urban Renewal District with higher density mixed use development in the core of the downtown, and in so doing substantially and significantly help the City to implement many of the central goals and objectives found in the *planBTV: Downtown and Waterfront Master Plan* unanimously adopted in June 2013 to guide the future development and economic vitality of the downtown and waterfront area. It creates an overlay district to encompass a 1-2 block area in the core of the downtown area to enable taller Building Height without the necessity of a “bonus” from the DRB. It also establishes a number of building form requirements to ensure street-level activation and façade variation.

Article 4: Zoning Maps and Districts, Part 2: Official Map

Sec. 4.2.1 Authority and Purpose

A map entitled “The Official Map of the City of Burlington” and as depicted on Map 2.2.1-1 below is hereby established pursuant to 24 VSA 4421 that identifies future municipal utility and facility improvements, such as road or recreational path rights-of-way, parkland, utility rights-of-way, and other public improvements. The intent is to provide the opportunity for the city to acquire land identified for public improvements prior to development for other use, and to identify the locations of required public facilities for new subdivisions and other development under review by the city.

Map 4.2.1-1 Official Map of the City of Burlington (unchanged)

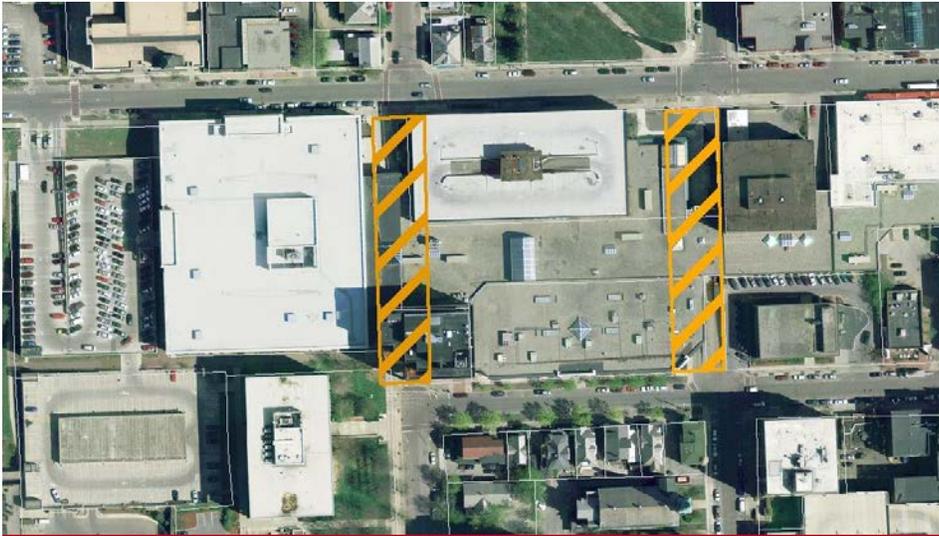
Sec. 4.2.2 Downtown and Waterfront Core Official Map Established

A map entitled “The Official Map of the Downtown and Waterfront Core” and as depicted on Map 2.2.2-1 below is established as part of the Official Map established above, ~~is to be dated as of the effective date hereof, is to be located in the department of zoning and planning and is incorporated herein by reference.~~ The proposed streets, public ways, public parks and other public lands and visual corridors contained therein are more particularly described as follows:

- (a) A pedestrian easement thirty (30) feet in width along the center line of Main Street extended to Lake Champlain west of the Union Station building;

- (b) A waterfront pedestrian easement fifty (50) feet in width abutting the ordinary high water mark of Lake Champlain from Maple Street extended to College Street;
- (c) A waterfront pedestrian easement one hundred (100) feet in width abutting the ordinary high water mark of Lake Champlain from College Street extended to the north property line of the city-owned lands designated as “urban reserve” and formerly owned by the Central Vermont Railway;
- (d) Visual corridors and/or pedestrian ways sixty (60) feet in width along the center lines of Bank, Cherry, Pearl and Sherman streets extended west to Lake Champlain and visual corridors above the fourth floor along Main Street and College Street;
- (e) The following existing streets remain: Maple and King Streets and as extended to Lake Champlain; Main street; College Street and as extended to Lake Champlain; Lake Street from Main Street to College Street; Depot Street; and Battery Street;
- (f) An easement for pedestrians and bicycles twenty (20) feet in width, located adjacent to and west of the old Rutland railway right-of-way and owned by the State of Vermont running between the King Street Dock and College Street; ~~and~~;
- (g) Lake Street (north) modified: The portion of Lake Street is a street seventy (70) feet in width, the center line of which commences on the north line of College Street thence running northerly following the center line of existing Lake to a point intersecting the northerly property line of the Moran Generating Station extended east.
- (h) The re-establishment of St Paul Street between Cherry and Bank streets as a public street with a right-of-way sixty (60) feet in width to accommodate pedestrians, bicycles and vehicles; and
- (i) The re-establishment of Pine Street between Cherry and Bank streets as a public street with a right-of-way sixty (60) feet in width to accommodate pedestrians, bicycles and vehicles.

Commented [DEW1]: This will ensure that the proposed north-south connectivity on Pine and St. Paul streets envisioned in planBTV is accomplished. The City will have 120-days to initiate proceedings to acquire any land within this area that may be proposed for new development. As proposed, the BTC will comply.



Commented [DEW2]: These proposed new ROW's are consistent with the BTC project as proposed

(temporary illustration of the proposed addition)

Map 4.2.2-1 *Official Map of the Downtown and Waterfront Core* ~~Waterfront Core Official Map~~

Article 4: Zoning Maps and Districts, Part 3: Zoning Districts Established

Sec. 4.3.2 Overlay Districts Established:

Overlay districts are overlaid upon the base districts established above, and modify certain specified development requirements and standards of the underlying base district. the land so encumbered Properties within an Overlay District may be used and altered-developed in a manner permitted in the underlying district only if and to the extent such use or alteration is permitted in-as may be modified by the applicable overlay district. The following districts are established as overlay districts as further described in **Part 5** below:

- (a) A **Design Review Overlay (DR)** district;
- (b) A series of five (5) **Institutional Core Campus Overlay (ICC)** districts, as follows:
 - UVM Medical Center Campus (ICC-UVMCMC);
 - UVM Central Campus (ICC-UVM);
 - UVM Trinity Campus (ICC-UVMT)
 - UVM South of Main Street Campus (ICC-UVMS); and,
 - Champlain College (ICC-CC);
- (c) An **RH Density Bonus Overlay (RHDB)** district;

(d) A series of four (4) **Natural Resource Protection Overlay (NR)** districts, as follows:

- Riparian and Littoral Conservation Zone;
- Wetland Protection Zone;
- Natural Areas Zone; and,
- Special Flood Hazard Area;

(e) A **RL Larger Lot Overlay (RLLL)** district;

(f) A **Mouth of the River Overlay (MOR)** district; ~~and;~~

(g) A **Centennial Woods Overlay (CWO)** district; ~~and;~~

(h) A **Downtown Mixed Use Core (DMUC)** district.

Sec. 4.4.1 Downtown Mixed Use Districts

(d) District Specific Regulations, 4. Building Height Setbacks

A. - unchanged

B. **Church Street Buildings:**

For the purposes protecting the historic character and scale of buildings along the Church Street Marketplace, the maximum height of any building fronting on Church Street shall be limited to ~~38-feet~~ **4-stories not to exceed 45-feet**. Any portion of a building ~~within 100-feet from the centerline of Church Street exceeding 45-feet~~ shall be set-back a minimum of ~~16~~ **10**-feet for every 10-feet of additional building height above ~~38~~ **45**-feet.

Commented [DEW3]: While outside of the proposed new overlay, this change is already envisioned as part of the currently proposed form-based code to provide better compatibility of building heights on Church Street. The BTC project as proposed will need its upper floors to be set back farther in order to comply

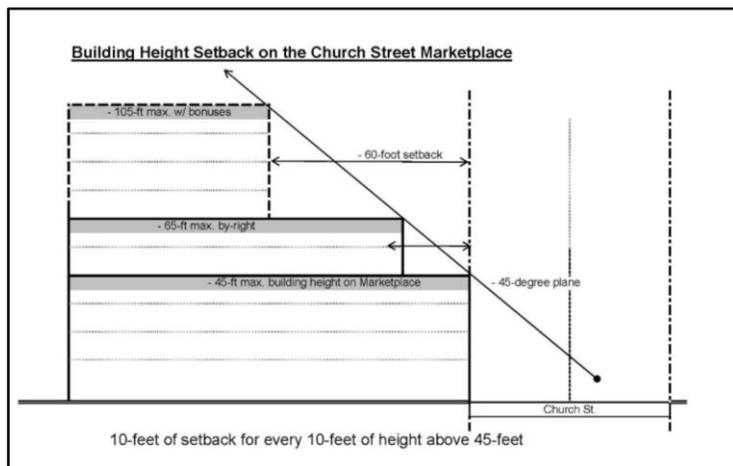


Figure 4.4.1-2 Measuring Height Limits for Church Street Buildings

C. - unchanged

Sec. 4.5.8 Downtown Mixed Use Core Overlay (DMUC) District

(a) Purpose:

The Downtown Mixed Use Core Overlay (DMUC) district is intended to facilitate the redevelopment of a portion of the former Urban Renewal Area in order to provide for a more walkable, connected, dense, compact, mixed use and diverse urban center. The area should support a diversity of residential, commercial, recreational, educational, civic, hospitality, and entertainment activities, and create opportunities to better connect the street grid for enhanced mobility for automobiles, pedestrians, and bicyclists in order to sustain and advance the economic vitality Burlington's downtown urban core.

This overlay allows larger scale development than is typically found in the underlying district, and development with larger and taller buildings. Development should be designed to support the diverse mixed-uses, activate and enrich the street and sidewalk for pedestrian activity, and encourage mobility throughout the district and adjacent districts for pedestrians and bicyclists with reduced reliance on automobiles.

(b) Areas Covered:

The Downtown Mixed Use Core Overlay (DMUC) district includes those portions of the Mixed Use Downtown (D) District as delineated on [Map 4.5.8-1](#).



Map 4.5.8-1: Downtown Mixed Use Core Overlay (DMUC) district

Commented [DEW4]: Boundary of this area needs to consider existing and potential development in this area which has generally been supported in planBTV and by the Joint FBC Committee as the part of the downtown where greater height could be appropriate.

(c) District Specific Regulations: Downtown Mixed Use Core Overlay (DMUC) district:

1. Dimensional Standards:

The maximum Building height and mass shall be as prescribed in Table 4.5.8-1 below. Building height and mass in excess of 65-feet and 5.5 FAR shall be allowed by-right and without the necessity of the DRB granting of Development Bonuses/Additional Allowances pursuant to Sec 4.4.1 (d)7.

The Dimensional Standards within the DMUC Overlay District shall be as follows:

Table 4.5.8-1 Downtown Mixed Use Core Overlay (DMUC) District Dimensional Standards	
Building Height	3 stories min. 14 stories not to exceed 160-ft max
FAR	9.5 FAR total max per lot
Floorplate:	
Floors 1-5	100% of lot max.
Floors 6-7	75% of lot max.
Floors 8-11	55% of lot max.
Floors 12+	15,000 sf max per individual floorplate
Pervious Area¹	10% min
Setbacks:	
- Front	0-ft min, 10-ft max.
- Side/Rear	0-ft min, 12-ft max.
Occupied Build-to Zone²	100%
Ground Floor Height (floor to floor)	14-ft min
Arcades³	10-ft clear depth min 14-ft clear height min

¹ Pervious Area is the area of a lot covered by surfaces or materials that allow for the movement or passage of water into soils below. Pervious areas include, but are not limited to, areas of a lot covered by soil/mulch, vegetative matter, permeable pavers/pavement, bio-retention areas, or other materials that allow for the infiltration of at least the first inch (1") of rainfall. For these purposes, green roofs that capture and attenuate at least the first inch (1") of rainfall are also considered pervious area.

² Occupied Build-to Zone is the proportion of the linear distance between the maximum and minimum front setback along a front property line that must be occupied by a Building façade. In lieu of a Building façade, a streetscreen between 3.5 and 8 feet in height or active public use or activity (such as outdoor cafes) occupying no more than the lesser of 20 feet or 20% of the Build-to Zone may be included.

Commented [DEW5]: This is important to comply with the Pre-DA

Commented [DEW6]: This is important to compliance with the Pre-DA

Commented [DEW7]: This is important to compliance with the Pre-DA

Commented [DEW8]: These comes out of the proposed form based code. The gradual reduction on upper floors is done to ensure that taller buildings are tapered as they go taller. May also want to include a minimum separation between individual towers – 60'?

Commented [DEW9]: These come directly out of the proposed form based code. See footnote regarding Pervious Area as a preferred alternative to lot coverage limitations. BTC project is proposing ~36% (39,405 sf) of upper floor greenspace by comparison

Commented [DEW10]: These come directly out of the proposed form based code in order to define a building wall along the street and create enclosure within a dense urban environment

Commented [DEW11]: These come directly out of the proposed form based code to ensure a spacious opening for pedestrians and outdoor activity

³ An Arcade is where only the ground floor level of the Building facade is set back from the front property line. The Building facade for the upper floors is at or near the front property line within the Build-to Zone, and is supported by a colonnade with habitable space above.

2. Urban Design Standards:

The following urban design standards shall apply to all Buildings in the DMUC Overlay, and the DRB shall make a final determination regarding strict compliance with these standards except as provided for in E below. These standards and requirements shall take precedence without limitation over any duplicative or conflicting provisions of Article 6, and compliance with Article 6 shall be presumed where a Building is in compliance with these design standards as determined by the DRB.

A. Overall Design: Proposed Buildings shall present an architecturally significant design as follows:

- i. Step backs, horizontal and vertical variation, selection of materials and other architectural design techniques are used to reinforce the street wall, create transitions from adjacent buildings of a smaller mass and height, and reduce the perceived height and mass of the upper stories from the street level;
- ii. Proposed Buildings provide visual interest and human scale at the pedestrian level through the use of a variety of scales, materials, fenestration, massing or other architectural design techniques;
- iii. Upper story proportions of Buildings emphasize vertically-oriented proportions to assure a rich visually interesting experience as viewed within the context of the downtown skyline, reinforce opportunities for establishing points of reference for visual orientation, and retain opportunities for a view of the sky between individual Building elements.

B. Façade Articulation: All primary and secondary street-facing Building facades shall be articulated as follows:

- i. Building facades shall incorporate surface relief through the use of elements such as bay windows, cladding materials, columns, corner boards, cornices, door surrounds, moldings, piers, pilasters, sills, belt courses, sign bands, windows, balconies and/or other equivalent architectural features at least three (3) of which must either recess or project from the average plane of the facade by at least four (4) inches.
- ii. Buildings with facades between seventy-five (75) feet and one hundred and fifty (150) feet in width shall include vertical changes through the horizontal plane of the Façade by dividing the facade into a series of architectural and/or structural bays between six (6) feet and sixty-five (65) feet in width involving up to a minimum of 50% of the height of the façade.
- iii. Buildings with facades greater than one hundred and fifty (150) feet in width must include a more substantial change in the horizontal plane of the façade where for every one hundred and fifty (150) feet in facade width, one (1) or more architectural bay as required above must either recess or project by at least four (4) feet involving the full height of the façade from the average plane of the street

Commented [DEW12]: These come directly out of the proposed form based code. The process to incorporate role of DRB in making a final determination is a hybrid of current process and FBC

Commented [DEW13]: Pretty subjective and best place for DRB discretionary review to focus. Ultimately following standards provide some objective measure of satisfying these

Commented [DEW14]: Current BTC design doesn't meet this

wall portion of the facade. Such bays shall occur no closer than fifty (50) feet from the Building's corner.

Commented [DEW15]: Current BTC design doesn't meet this

iv. Required Building Height Setbacks pursuant to Sec 4.4.1 (d) 4 shall not be applicable. Instead, upper stories of any primary and secondary street-facing Building facades exceeding six (6) stories in height shall be setback as follows:

a. An upper story setback at least ten (10) feet from the primary plane of the facade below shall occur within the first 60-ft of Building height at either the 3rd, 4th, or 5th story in order to provide a change in the vertical plane of the facade. Such a change shall involve the full width of the Building facade, but does not have to occur in the same story. Additional upper story setbacks may occur in order to provide additional terraces, taper and visual interest to taller Buildings.

Commented [DEW16]: Current BTC design doesn't meet this on St. Paul and Pine,

b. For Building facades exceeding ten (10) stories in height a second upper story setback at least ten (10) feet from the primary plane of the facade below shall occur at either the 10th, 11th, or 12th story in order to provide another change in the vertical plane of the facade. Such a change shall involve the full width of the Building facade, but does not have to occur in the same story. Additional upper story setbacks may occur in order to provide additional terraces, taper and visual interest to taller Buildings.

c. Setbacks must be visually set off from the stories below by a balustrade, parapet, cornice and/or similar architectural feature, and are encouraged to be activated as an outdoor amenity space for Building occupants.

Commented [DEW17]: Current BTC design doesn't meet this on St. Paul and Pine,

d. The upper stories beyond a setback may be visually differentiated from the stories below by a change in color, materials and/or pattern of fenestration in order to reduce the actual or perceived massing of the Building overall.

v. Where visible, the raised foundation or basement of a Building must be visually differentiated from the stories above by a horizontal expression line and change in color, material, and/or pattern of fenestration;

vi. The lower one to five stories of a Building must be visually differentiated from the stories above by a horizontal expression line, belt courses, banding, sign band, cornice and/or equivalent architectural feature, and include a change in color, material, and/or pattern of fenestration across a majority of the facade; and,

vii. The top one to five stories of a Building must be visually differentiated from the stories below by a horizontal expression line, belt courses, banding, sign band, cornice and/or equivalent architectural feature, and include a change in color, material, and/or pattern of fenestration across a majority of the facade

viii. The top of a Building must have a cornice, parapet, pitched or shaped roof form and/or other equivalent architectural feature involving a projection from the average plane of the facade by at least six (6) inches to serve as an expression of the Buildings top.

C. Street Activation: All Buildings shall activate the street as follows:

- i. Buildings shall have one or more principal entrances for pedestrians at street level that are clearly identified as such along the primary street frontage or at a corner where a corner lot.
- ii. The linear distance along the primary street frontage between ground floor entries shall not exceed 60-feet, and such doors must be open and operable by residential occupants at all times and non-residential occupants and customers during business hours.
- iii. Building entrances shall be defined and articulated by architectural elements such as lintels, pediments, pilasters, columns, canopies, awnings, transoms, sidelights and/or other design elements appropriate to the architectural style and details of the Building as a whole. Bays including a principal entrance should be expressed vertically, and may have little or no horizontal expression required below any required upper story setback.
- iv. Requirements regarding voids and the transparency of glazing in a primary and secondary street-facing Building facade shall be as follows:

Commented [DEW18]: define

	Ground Floor	Upper Floors
Voids (rough openings for windows and doors per floor)	70% min, 80% of which shall be concentrated between 3-10 feet above the adjacent sidewalk	20% min
- Horizontal and vertical distance between voids	20' max.	
Transparency: - applicable to 80% of the glazing on each floor.		
- VLT - Visible Light Transmittance ¹	60% min	40% min
- VLR - Visible Light Reflectance	15% max	15% max

¹May be reduced to 50 and 30% respectively to meet the requirements of a High Performance Building Energy Code or equivalent program as determined by the DRB.

- v. Street-facing, street-level windows must allow views into a ground story non-residential use for a depth of at least 3 feet for the first 4 feet above the level of the finished sidewalk in order to provide for a window display, and for a depth of at least 8 feet for the next 4 feet above the level of the finished sidewalk in order to provide a view into the interior of the space. Windows cannot be made opaque by window treatments (except operable sunscreen devices within the conditioned space). External security shutters are not permitted.

D. Materials:

The following requirements regarding the selection and use of Building materials is intended to improve the physical quality and durability of buildings, enhance the pedestrian experience, and protect the character of the downtown area.

- i. Primary Materials: Not less than 80 percent of each street-facing Facade shall be constructed of primary materials comprised of high quality, durable, and natural materials. For Facades over 100 square feet, more than one primary material shall be used. Changes between primary materials must occur only at inside corners. The following are considered acceptable primary materials:
 - a. Brick and tile masonry;
 - b. Native stone;
 - c. Wood – panels, clapboard or shingles;
 - d. Glass curtain wall; and
 - e. Cementitious siding;
 - ii. Accent Materials: The following accent materials may make up no more than 20% of the surface area on each Façade. Accent materials are limited to:
 - a. Pre-cast masonry (for trim and cornice elements only);
 - b. External Insulation Finishing System - EIFS (for upper story trim and cornice elements only);
 - c. Gypsum Reinforced Fiber Concrete (GFRC—for trim elements only);
 - d. Metal (for beams, lintels, trim elements and ornamentation, and exterior architectural metal panels and cladding only);
 - e. Split-faced block (for piers, foundation walls and chimneys only); and
 - f. Glass block.
 - iii. Alternate Materials: Alternate materials, including high quality synthetic materials, may be approved by the Planning Director after seeking input from the Design Advisory Board. New materials must be considered equivalent or better than the materials listed above and must demonstrate successful, high quality local installations. Regionally-available materials are preferred.
 - iv. Other:
 - a. The use of recycled and/or regionally-sourced materials is strongly encouraged.
 - b. With the exception of natural wood siding or shingles such as cedar or redwood intended to gradually weather with time, all exposed wood and wood-like products (e.g. fiber-cement) shall be painted or stained. Exterior trim shall be indistinguishable from wood when painted.
 - c. Any synthetic siding and finish products shall be smooth-faced with no artificial grain texturing.
- E. **Alternative Compliance:** Relief from any non-numerical standard above, and any numerical standard with the exception of building height and FAR by no more than 20% of such requirement, may be granted by the Development Review Board. In granting such relief, the DRB shall find that:

- i. the relief sought is necessary in order to accommodate unique site and/or Building circumstances or opportunities;
- ii. the relief if granted is the minimum necessary to achieve the desired result;
- iii. the property will otherwise be developed consistent the purpose of this ordinance, the intent of the underlying Zoning District and this Overlay District, the intent and purpose of the section that the relief is being sought, and all other applicable standards;
- iv. the relief if granted will not impose an undue adverse burden on existing or future development of adjacent properties; and,
- v. the relief if granted will yield a result equal to or better than strict compliance with the standard being relieved.

Commented [DEW19]: add specific references? e.g. Sec 4.4.1 (a)

2. Use

Schools - Post-Secondary & Community College shall be allowed as a Permitted Use, and any project requiring Major Impact Review pursuant to Sec. 3.5.2 (b) shall not also be subject to Conditional Use Review unless a use specifically identified in Appendix A – Use Table as a “Conditional Use” or identified as “CU” is also proposed.

Commented [DEW20]: what about Pre-K Pre-school (same as lg daycare?), pet store with vet services (pet store and vet is currently CU, boarding is proposed as CU under another amendment before the Council.

3. Parking

- i. All onsite parking shall be provided either underground, setback a minimum of 20-ft behind the façade of building at the ground level, or above the ground floor, and shall participate in any Downtown Parking and Transportation Management District.
- ii. Entrances to parking areas and structures shall be located along a secondary street frontage where available.
- iii. The paved portion of vehicular entrances to parking areas and structures shall not exceed 24-ft clear width, and entrances to parking structures shall not exceed 16-ft clear height at the street frontage.
- iv. At least one pedestrian route from all parking areas and structures shall lead directly to a street Frontage (i.e., not directly into a Building).
- v. Any surface parking not within a parking structure shall be setback a minimum of 5-feet from any side or rear property line.
- vi. All structured parking with frontage on any portion of a public street shall be screened as follows:
 - a. The required setback between the parking and the public street at the ground level must be occupied by an active use (such as, but not limited to, residential, retail, office, recreational or services). This requirement shall not apply to parking along a secondary street frontage or located either entirely below-grade or above the ground floor where parking may come right up to the building’s perimeter.

- b. Where upper stories of structured parking are located at the perimeter of a building, they must be screened so that cars are not visible from ground level view from adjacent property or adjacent public street right-of-way.
- c. All floors of a parking structure fronting a public street must be level (not inclined), and any sloped ramps between parking levels must be setback a minimum of 20-ft from the street-facing building façade and shall not be discernible along the perimeter of the parking structure.
- d. Architectural and vegetative screening shall be used to articulate any street-facing building façade, and to hide parked vehicles and shield overhead lighting and vehicle headlights from the street and adjacent properties. Ground floor facade treatment (building materials, windows, and architectural detailing) must be continued on upper stories.

5. Signs

A master sign plan pursuant to Article 7 Part 3 is required for all sites occupied by more than three tenants where all signs must meet the requirements of the master sign plan. The master sign plan must establish standards of consistency as applicable of all signs to be provided on the subject property with regard to:

- Colors;
- Letter/graphics style;
- Location and Sign Type;
- Materials;
- Methods of illumination; and/or
- Maximum dimensions and proportion.

In addition to the flexibility from the requirements of Article 7 provided under Sec. 7.3.4, the following shall also be permitted when incorporated as part of a master sign plan in the DMUC Overlay:

- i. Projecting Signs: One projecting sign may be permitted for each ground floor use provided such sign:
 - a. does not exceed 8 square feet in area;
 - b. does not project more than 4 feet from the building façade on which it is attached;
 - c. has its lowest edge at least eight (8) feet above any pedestrian way;
 - d. has its highest edge no more than eighteen (18) feet above any pedestrian way; and
 - e. Any encroachment into the public right-of-way must also be approved by the City Council.
- ii. Marquee Signs: One marquee sign per primary street frontage may be permitted provided such sign:
 - a. is located above the principal Building entrance;

Commented [DEW21]: Consistent with Church Street Marketplace and proposed FBC. Currently limited to only 4 sf.

- b. projects a minimum of 6 feet from the building façade on which it is attached but in no event more than 10 feet and 3 feet from the curb;
- c. has its lowest edge at least 9'6" above any pedestrian way;
- d. has its highest edge no more the lesser of the floor level of the third story or 35 feet above any pedestrian way;
- e. is no more than 40 feet in width;
- f. may contain an area for manual changeable copy that does not exceed 30 percent of the area of the sign face on which it is located or 32 square feet, whichever is less; and,
- g. Any encroachment into the public right-of-way must also be approved by the City Council.

iii. Canopies and Awnings:

Commented [DEW22]: This remains incomplete...

6. Green Buildings

New development in the DMUC Overlay shall be built to the standard of LEED Gold Certification as evidenced by the submission of a completed LEED checklist by a LEED AP at the time of application and again prior to the release of any Certificate of Occupancy, and shall use all reasonable efforts to obtain such final certification upon project completion.

Commented [DEW23]: This remains incomplete

Sec. 5.2.6 Building Height Limits

(a) *unchanged*

(b) Exceptions to Height Limits

1. Additions and new construction on parcels created prior to January 1, 2008 that contain a ~~non-conforming existing structure~~ Principal Building exceeding ~~thirty-five (35) feet~~ the maximum permitted Building in height ~~as of January 1, 2008~~ may exceed the maximum permitted Building height of the zoning district ~~thirty five (35) feet~~ subject to the design review provisions of Art. 3 and 6, but in no event shall exceed the height of the existing non-conforming Principal Building ~~structure.~~
2. In no case shall the height of any structure exceed the limit permitted by federal and state regulations regarding flight paths of airplanes.
- ~~3. Greenhouses, rooftop gardens, terraces, and similar features are exempt from specific height limitations but shall be subject to the design review provisions of Art. 3 and 6.~~
3. Ornamental and symbolic architectural features of buildings and structures, including towers, spires, cupolas, belfries and domes; ~~greenhouses, garden sheds, gazebos, rooftop gardens, terraces, and similar features;~~ and fully enclosed stair towers, elevator towers and mechanical rooms, where such features are not used for human occupancy or commercial identification, are ~~also~~ exempt from specific height limitations and shall be subject to the design review provisions of Art. 3 and 6. Such features and structures shall be designed and clad in a manner consistent and complimentary with the overall architecture of the Building.

4. Exposed mechanical equipment shall be allowed to encroach beyond the maximum building height by no more than 15-feet provided that portion exceeding the height limit does not exceed 20% of the roof area.

Exposed mechanical equipment shall be fully screened on all sides to the full height of the equipment, and positioned on the roof to be unseen from view at the street level. Screening may consist of parapets, screens, latticework, louvered panels, and/or other similar methods.

Where mechanical equipment is incorporated into and hidden within the roof structure, or a mechanical penthouse setback a minimum of 10-ft from the roof edge, no such area limit shall apply and the structure shall be considered pursuant with 4 above.

- ~~5. The footprint of such architectural features shall not exceed ten percent (10%) of the total roof area.~~

5. All forms of communications equipment including satellite dish antennae shall not be exempt from height limitations except as provided in Sec 5.4.7 of this Article.

6. The administrative officer may allow for up to a 10% variation in the maximum building height to account for grade changes across the site. In no event however, shall such additional height enable the creation of an additional story beyond the maximum permitted.

Commented [DEW24]: Not specific to the DMUC however, important changes to screening requirements for rooftop equipment and flexibility in amount and numerical building height limits.

DMUC Overlay – PC Action Items

<u>Key Elements:</u>	<u>Staff notes & comments:</u>
<p>Create a new Overlay District, known as the Downtown Mixed Use Core (DMUC) Overlay District (the “DMUC District”)</p>	<p>Exact boundaries still TBD. Comes from the current draft of the FBC. PC may want to fine-tune.</p>
<p>Expand the Official Map to include 60-ft. wide extensions of St. Paul Street and Pine Street between Cherry and Bank Streets.</p>	<p>Comes directly from the recommendations of <i>planBTV: Downtown and Waterfront Master Plan</i></p> <p>Staff notes that the City Council has agreed in the PDA that this is acceptable and strongly recommends that the street boundaries shown on the Official Map coincide with those shown on plans proposed for redevelopment of the mall, and recommends this <u>as proposed</u>.</p>
<p>New development in the DMUC District will be exempt from seeking building height bonuses from the DRB pursuant to BCDO Sec. 4.4.1 (d) 7; instead, the DMUC District will establish the following new, by-right height and massing limits and requirements:</p>	<p>This is implied by the changes below...</p>
<ul style="list-style-type: none"> • 3 stories min., 14 stories max. not to exceed 160 ft. max. 	<p>Staff notes that the City Council has agreed in the PDA that this is acceptable and strongly recommends this <u>as proposed</u></p>
<ul style="list-style-type: none"> • Overall height allowed variation of 5% of the total allowable height (but no additional floor area) to account for grade changes across the site. 	<p>Comes from the proposed standards found in the current draft of the FBC. Applicable beyond proposed overlay but a very important element of flexibility for all development. PC may want to fine-tune.</p> <p>Staff recommends this concept as proposed.</p>

<u>Key Elements:</u>	<u>Staff notes & comments:</u>
<ul style="list-style-type: none"> • 4 stories not to exceed 45-ft max on Church Street, with a 10-foot upper story setback required for every 10-feet of height above 45-feet 	<p>Comes from the proposed standards found in the current draft of the FBC.</p> <p>Staff notes that the City Council has agreed in the PDA that this is acceptable and strongly recommends this <u>as proposed</u>.</p>
<ul style="list-style-type: none"> • Maximum FAR of 9.5 	<p>Staff notes that the City Council has agreed in the PDA that this is acceptable and strongly recommends this <u>as proposed</u></p>
<p>New developments in the DMUC District will be exempt from the existing upper story setback requirement pursuant to BCDO Sec. 4.4.1 (d) 4 A; instead, new prescriptive design standards will be used to ensure good urban design, façade articulation and especially street activation including but not limited to:</p>	<p>This is implied by the changes below...</p> <p>PC may want to fine-tune, but all come from the proposed standards found in the current draft of the FBC, and Staff recommends this largely as proposed</p>
<ul style="list-style-type: none"> • Façade Articulation: 	
<ul style="list-style-type: none"> ○ Finer-grained surface relief within the façade plane (use of material changes, balconies, belt courses, columns, lintels, etc) 	
<ul style="list-style-type: none"> ○ Creation of architectural bays to provide regular and strong vertical changes in the horizontal plane of a façade particularly within the lower 3-5 stories. 	
<ul style="list-style-type: none"> ○ Horizontal changes in the vertical plane of a façade (articulated base, stepbacks of upper stores, and clearly defined top) 	
<ul style="list-style-type: none"> • Street Activation at the ground floor: 	
<ul style="list-style-type: none"> ○ Location, frequency and operability of primary entrances 	
<ul style="list-style-type: none"> ○ Proportion of and distance between voids (doors and windows) 	
<ul style="list-style-type: none"> ○ Transparency of glazing 	
<ul style="list-style-type: none"> ○ Visual access within spaces 	

<u>Key Elements:</u>	<u>Staff notes & comments:</u>
<ul style="list-style-type: none"> • Acceptable primary and accent façade materials 	
<p>Projects within the DMUC District will be required to participate in the emerging downtown parking initiatives being developed under the newly adopted <i>Downtown Transportation and Parking Plan</i>, provided that private owners of parking lots or parking structures shall not be required to participate in any parking initiatives to the extent that such initiatives impose or result in any material obligation or cost to the such owners.</p>	
<p>Mixed use projects within the DMUC District will be required to develop a Master Sign Plan which provides for flexibility from some individual sign requirements/limits subject to DRB approval.</p>	<p>Comes from the proposed Sign Type standards found in the current draft of the FBC, but PC may want to fine-tune.</p> <p>Staff recommends this largely as proposed</p>

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Lee Buffinton
Emily Lee
Andy Montroll
Harris Roen
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vacant, Youth Member*



Burlington Planning Commission DRAFT Minutes

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

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

Present: B Baker, Y Bradley, E Lee, A Montroll, H Roen, J Wallace-Brodeur

Absent: L Buffinton

Staff: D White, M Tuttle, E Tillotson, S Gustin, K Sturtevant, W Ward

I. Public Forum

Y Bradley opened the public hearing at 6:35 p.m.

Barbara Headrick, resident of South Prospect St: Speaks about bakeries along major roads per a request for amendment to the CDO. Asked for the amendment to be withdrawn or modified so that residential areas, particularly on S. Prospect where retail is not desired, are not impacted. Advised the Commission to be thoughtful of residential areas surrounding the university where institutional zoning does not exist on both sides of the street. UVM should not lease out land if it is not serving the University's educational purposes. The CDO says that historical use of properties should be considered.

M Tuttle: Noted that not all communications at table were transmitted via email prior to the meeting.

II. Report of the Chair

Y Bradley: Thanked the Long Range Committee for time and effort it has given working on planBTV South End. Has a prepared statement from Sharon Bushor, City Councilor, which he read in the event she is not able to make the meeting.

III. Report of the Director

D White: April 25, 2016 Council meeting was for public comment on the Burlington Town Center Predevelopment Agreement, which City Council may act on at May 2 meeting. The Planning Commission will dive into proposed zoning amendment when the agreement has been approved. Another major zoning amendment will be for the St Josephs' Orphanage property on North Avenue; intent is to create a NAC zone. Permits are on track with this time last year. FBC Committee discussing public engagement for June to collect feedback on the draft code.

IV. Agenda

D White: F von Turkovich, who submitted the proposed amendment to permit bakeries in the Institutional Zone, has requested to withdraw the request.

Y Bradley: Take it off this agenda and Commission to-do list. Opened Fletcher Place rezoning discussion until the 7pm public hearing.

V. ZA-16-10: Waivers from Parking Requirements/Parking Management Plan Public Hearing

Y Bradley: Opened the public hearing at 7:00, and recused himself as the agent for the YMCA. B Baker chaired.

E Lee: Recused herself as a neighbor of the YMCA.

S Gustin: Two parking amendments on this agenda—only amendment regarding waivers is considered in public hearing. Initiated by the YMCA, amendment was originally a request to establish a new land use category, with its own parking requirements and provisions for waivers. Instead, this amendment applies City-wide and opens the door somewhat for non-residential uses to apply to the DRB for parking waivers.

Barbara Headrick: Six months ago Mayor proposed eliminating requirements for downtown parking. This proposal conflicts with City Council's decision to forego parking amendments until studies were done.

E Lee: As a citizen, very supportive of YMCA project and support the waiver proposal. Concerned that this proposal might go to the City Council and not be accepted, which could delay the YMCA.

S Gustin: Current proposal was made in a meeting a month ago and if it passes during this public meeting, it will advance to the City Council. If the Council is not receptive, the YMCA's original proposal is still an option to consider.

B Headrick: This erodes the public trust, by proposing something that has already been rejected.

H Roen: Under proposed amendment, wouldn't the request for a waiver go through the DRB process?

S Gustin: Yes. It makes sense to utilize this method, and tweak the waivers based on rationale, since the DRB process and standards are already in place.

A Montroll: Supports this based on using existing process for waivers and parking management plans, but has same concerns as E Lee.

S Gustin: Plan C is to bring back the proposal from the YMCA for the Commission to consider again.

B Headrick: This is too broad. Developers should not be able to use on-street parking in neighborhoods to meet parking demand.

A Montroll: The blanket approach to removing all parking requirements was rejected. This is different because it maintains parking requirements, and focuses on individual property/use needs when granting waivers. It's consistent with concerns about parking requirements, but rather than one-size-fits-all, it's flexible.

M Tuttle: Clarified that amendment does not change waivers for residential uses. While applies city-wide, not all districts permit non-residential uses, so limited in its ability to be taken advantage of.

B Headrick: Larger entities will propose projects where overflow parking spills into residential areas.

D White: Institutions operate under campus-wide parking management plans.

B Headrick: UVM is proposing that parking is moved to periphery of campus, onto residential streets.

L Ravin, UVM Planning Office: University is trying to reduce demand, increase mass transport, etc. Parking on periphery means on edge of campus, on UVM property, not in neighborhoods.

E Lee: YMCA scenario seems similar to the King Street Center.

S Gustin: There is a different parking standard for the YMCA that is somewhere between community center and fitness center. King Street Center was able to retain a parking non-conformity but also had to provide off-site parking, which is not being used.

D White: Parking management plans are not permitted to count on-street parking spaces to satisfy their parking need.

J van Driesche, Catherine Street resident and Deputy Director of Local Motion: Local Motion urges the Commission to support this change. Streets as overflow parking is a good use, compared to using large pieces of land for parking, which could be parks, schools or some other use. Parking does not build vibrant, people-

oriented projects. Proposal gives flexibility and removes handcuffs. Going forward, emphasis needs to be on walking and biking which in-turn will facilitate more flexible parking.

S Bushor, City Councilor, Ward I: Concerned about whether or not new developments are accurately projecting parking demand for growth/expansion of uses. Actually support a waiver of up to 100%, but concerned about administrative officer approval and whether input from the public will be excluded.

Michael Long, resident of Ward 1: Philosophically support proposal, but instances today where the demand outstrips supply. Need to change behaviors; a waiver program will not accomplish this goal. Neighborhoods are being choked by automobiles.

D White: Describes existing provision for administrative officer approval of a waiver. The Commission will soon see another amendment to change parking requirements to be based on number of bedrooms, rather than number of units.

E Lee: There is no follow-up on parking management plans. Needs to be dealt with more holistically, but do support removing parking requirements.

S Gustin: Recently surveyed properties with approved parking management plans, found that most were adhering. Waivers are sparsely given, now have a requirement for an annual report from owner, and department is making concerned efforts to collect data. Only change proposed is for non-residential uses to be eligible for a 90% waiver, raised from 50%. Text about residential waivers is not new.

B Baker: Parking management plans could be more specific, especially in relation to timing of demand.

S Gustin: A three year review to assess need is under way as a method to evaluate how uses evolve.

D White: A time line with evaluation is a good idea; however, if a use expands, a new permit would be needed based on the evaluation of parking needs.

J Wallace-Brodeur: Many places in the city that don't have parking. Need to have some flexibility in the process for trying to address circumstances where things don't fit in a box, which is why it is important to have the waiver process. Because it has to go to the DRB, there is a public process and established requirements. This should move forward.

A motion by A Montroll, seconded by J Wallace-Brodeur, to forward this amendment to City Council for consideration was approved by B Baker, A Montroll, H Roen, and J Wallace Brodeur with Y Bradley and E Lee abstaining.

VI. Proposed CDO Amendment: 15 Year Statute of Limitations

This item was deferred to a future meeting.

VII. Proposed CDO Amendment: Off Site Parking

This item was deferred to a future meeting.

VIII. Proposed CDO Amendment: Fletcher Place Rezoning

S Gustin: Map in packet reflects Planning Commission desire from last meeting for properties on Fletcher Place to be rezoned RM, except the UVM Trinity Campus property mid-block. Agenda included excerpt of use and dimensional tables for comparison between Institutional and RM.

Y Bradley: Read a communication from Sharon Bushor, regarding owner-occupancy in boarding houses, addressing uses on dead end streets, and buffer zones or a residential transition district.

F von Turkovich: Distributed a memo and map regarding the proposed map change. Reiterated a conversation with staff concerning property owned by Ms. Reid at 49 Fletcher Place, who intends to sell her nearly one acre of her property. Questioned why the Commission is considering this amendment, and expressed support for an amendment to protect the livability of area, not one that is part of a plan to suppress

his project. This change will impact ability to use his property, and will have implications for Ms. Reid's investment as well. Considers this to be spot zoning and feels it is important that the Commission not put land in a zone which will destroy the viability of a current project.

E Lee: The dimensional requirements are essentially the same, rezoning would be a loss of 30 units.

F von Turkovich: Memo suggests three uses that are permitted in the Institutional Zone that are not permitted in RM that he suggests the Commission add if they approve the rezoning.

B Hickok, 26 Fletcher Place: Political risk is part of an investment and rezoning is a political risk. Contends the owners' financial risks are not a consideration of this meeting.

L Ravin: Reiterated UVM's opposition to rezoning of the land at 50 Fletcher Place. Parcel is contiguous with other UVM land, and prefers that zoning is consistent for all university property.

N Reid, 49 Fletcher Place: Purchased 1.5 acres of land with full awareness that she may be able to sell some for development. The land is valuable, and while RM would help maintain neighborhood, would like to see the present Institutional zoning retained.

R Butani, 31 Fletcher Place: Support the rezoning as recommended by staff and the Commission.

S Bushor: Acknowledged work that Scott and staff have done on the proposal. Supports the map presented in the packet, and feels the change from institutional to RM offers many appropriate protections. Fletcher Place was developed as RL. There are other small streets in area that are zoned RL, so the change is in keeping with the existing uses and still retains a fair amount of value to the property owners.

B Hickok: It is not a concern of this board to consider anyone's financial investment. 50 Fletcher Place has been residential ever since he has lived there. Rents are extremely high due to being rented by bedroom. UVM has added 3,000 students without planning for residences. UVM has not addressed housing and off-campus behavior but he has to live with it. Opposed to any special consideration for UVM.

C Long: Why are residential lots zoned institutional? Support this rezoning.

E Lee: Why can unbuildable land be used for density calculations? Should only consider buildable land.

D White: Require buildable land to be considered in calculating density of residential areas, but not in mixed use and institutional districts; in these areas there is an expectation that there will be denser development so the land can be used for the calculation of density.

Y Bradley: This is a separate subject for another time.

S Gustin: Seems to be agreement among parties about applying RM on Fletcher Place, but not on the location of the zoning district boundary.

F von Turkovich: Proposed map submitted would protect the frontage of Fletcher Place, but is otherwise arbitrary.

R Butani: It appears that F von Turkovich's proposal is spot zoning.

S Butani: It is not appropriate for institutions to be able to take advantage of a residential area.

F von Turkovich: In the Institutional zoning district, most properties are not owned by institutions. Appear to be hung up on the term "institutional."

S Bushor: Not supportive of Mr. von Turkovic's proposed map.

Y Bradley: Considering all the comments, it appears that the Commission is not ready to act on this issue. In the interest of time, it should come back to the full Commission at the next meeting.

A motion by A Montroll, seconded by B Baker, to continue this item at the next meeting was unanimously approved.

A motion by B Baker, seconded by H Roen, to move the remaining agenda items to the next meeting was unanimously approved.

IX. Proposed CDO Amendment: Bakeries in the Institutional Zone

Removed from agenda.

X. Committee Reports

Long Range Planning Committee: Goal for planBTV South End Plan is to wrap up and get it out for another public review by the end of the Fiscal Year.

Ordinance Committee: B Baker reports the committee will meet the following day.

Executive Committee: D White reports the committee will meet the following day.

FBC Committee: A Montroll reports the Commission is scheduling a joint City Council and Planning Commission meeting, and on NPA schedules. Opening their work up to the larger public process.

XI. Commissioner Items

H Roen: Would be helpful to have presentation on spot zoning.

D White: Will send materials previously shared by K Sturtevant.

B Baker: Bring a copy of the full zoning ordinance to future meetings for reference.

E Lee: April 27, 2016 will be the first meeting regarding The Neighborhood Project, which is one of 22 proposals from the Housing Action Plan, focused on neighborhood stabilization.

Y Bradley: Preservation Burlington has suggested to him that a model of the proposed Burlington Town Center might be valuable. Should discuss at the next meeting.

XII. Minutes/Communications

On a motion by A Montroll, seconded by B Baker, the Commission unanimously approved the minutes of April 12, 2016 and accepted the communications and placed them on file.

XIII. Adjourn

On a motion by A Montroll, seconded by B Baker, the Commission unanimously voted to adjourn at 8:22 pm.



Y Bradley, Chair

Signed: _____, 2016



E Tillotson, Recording Secretary

Burlington Planning Commission

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



Burlington Planning Commission **Tuesday, May 10, 2016 - 6:30 P.M.** **Conference Room #12, City Hall, 149 Church Street**

MINUTES

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

Absent: Y. Bradley

Staff: D. White, M. Tuttle, K. Sturtevant, S. Gustin, E. Tillotson

Agenda

B. Baker opened the meeting at 6:32pm.

L. Buffinton: What would the audience like to address?

B. Baker: All comments will take place during public forum, and will be limited to two minutes per speaker.

A. Montroll: Move item VII to end of agenda time permitting.

I. Public Forum

B. Baker opened the public forum at 6:35pm.

G. Epler-Wood, S. Union St: City Council and Commission should request the developer provide fact-based cost analysis of putting the parking garage underground. Perhaps the citizens would be willing to invest in the difference. Sun studies throughout the year are needed.

C. Long, Henry St: Fletcher Place is as residential as they come. Do not increase downtown height limit, based on planBTV, and don't support student housing in the project because it is the school's responsibility. Vote no to stabilization plan for neighborhoods; does not endorse forgiveness for work done without permits. Doesn't understand why the city doesn't want to preserve neighborhoods.

S. Bushor, Ward 1 City Councilor: Does the 15 year statute of limitations allow emails to Planning & Zoning to constitute burden of proof, or when Code Enforcement is informed of violations that might not be acted upon? Pleased to see enforcement regarding occupancy violations and parking violations. Regarding the time requirement of more than 90 days when properties would then have to be brought into compliance, not clear. Commission should support the original staff recommendation to rezone Fletcher Place RM following property boundaries. We lose a neighborhood a house at a time, but also gain a neighborhood a house at a time.

G. Seidler, Lakeview Terr: Moved from NYC for quality of life which has been taken away each year. Neighbors are leaving, behemoth at one end of street was supposed to be affordable condos, now very large building at other end with COTS, noise too high, nature gone, house vandalized four times. Citizens have no clout; Commission is supposed to serve the community. Out of control growth is a cancer killing Burlington. She left a lot behind to have quality of life here, now will have to leave BTV, too.

C Bates, Caroline St: No one has made a model, so prepared photographic exhibit of Bank and Pine Streets. There is nothing on Don Sinex's website but Church Street. Used Trip Advisor site to gather comments about Burlington which support the need for small unique stores. The project needs to mimic Church Street.

N Kirby, Champlain Leather: Family was one that was displaced from downtown before the mall was built. Residents in the neighborhood were poor, proud, displaced. Building up equals warehousing human beings, and height will take sunlight away. City can do better than a fourteen story mall, not crazy about students being downtown because greedy slumlords have contributed to the housing situation. Lived on Fletcher Place and never considered that it was institutional. Think long and hard about what you are doing to downtown Burlington. Small businesses are the clay and mortar of this town. Be the citizens for us.

G Grill: Beseeches the Commission to be concerned about process and outcome, should proceed according to planBTV. A lot of people say this is spot zoning and will set a dangerous precedent. Unique and historic buildings will come down if this is approved. Hope you will demand to see an architectural model. Process is backwards. Demand that Commission address this proposal in a democratic planning process.

R Herendeen; Bike ride to meeting was an inspirational experience with views of Lake Champlain. Environmental background and member of the BED Commission. Do not believe we should raise the height limit one inch. Burlington is in competition with Boulder Colorado to be most sustainable City, but seem to want to compromise away our natural assets. Boulder has had a height limit of 55 feet; purpose is to preserve the scenic views and distinctive character. We can grow green, please hold on height.

B Headrick, S Prospect St: Mall is too tall, planBTV new mall only four or five stories higher which would be within 105 feet. That is what the public wanted and City Council approved. The City Council has put the Planning Commission in a difficult position, so consider requiring developer to provide everything that the city provides and that all studies should conclude with a 30 day public comment period. In off-site parking ordinance, parking waivers granted by administrative officer, advise it be stricken. It is important to include consequences for permitting.

Resident, S Prospect St: Reiterate others previous comments and encourage implementation of planBTV support. Drastic changes should be done by referendum.

S Overby: Process has been a problem, second the suggestion of underground parking reassessment and what others have said about planBTV. 160 foot height limit is not in planBTV, which states three to ten stories. In Washington, DC., this height is only allowed along Pennsylvania Ave. Uncomfortable with the process, difficult decision, want to see something good.

L Ravin, Campus Planning, UVM: UVM opposes rezoning 50 Fletcher Place. University has no intent to change the use of the property, but want to unite campus property. Zoning that splits the parcel into two zones doesn't allow planning as needed, UVM considers spot zoning.

A Radcliffe: Seems to be a trend where the city is eager to please developers; need to shift so it is other way around. plan BTV should be incorporated, the city should be strong about their regulations. Mall does not provide much affordable housing, shouldn't be supporting student housing. Washington DC built housing with a gym and beautiful amenities to house their homeless—not cost effective, but what we should focus on.

E Morrow: The City Council could have asked for model earlier. FBC Committee had opportunity to comment on height but did not. Boards are for decentralizing, people want to see process. The Commission has authority to control process.

C Simpson: There should be an explanation of public/ private partnership. In the PDA, public cannot hold developer to any standards, which is a reversal of normal planning process. Two streets will ameliorate the developer's project, but it is being sold as a concession to city. As if we have no power over public property.

L Martin: Providence, RI did what Burlington wants to do which resulted in a downtown not accessible, traffic awful. We are told that we can't let this pass us by, but big money drives out local businesses. We need more foot traffic or a city we know and care for will disappear forever. Please don't let this happen.

R Butani, 31 Fletcher Place: Supports rezoning to RM zone, following the property boundaries as presented by staff. 19 and 37 Fletcher Place have been transformed from party houses to appropriate rentals. RM will reflect historic use as residential street. Encourage the Commission to support P & Z recommendation.

B McGrew, Downtown: Particularly exercised that this project does not have to go through Act 250. The Mayor's office can bring undue pressure on city staff to see things a certain way. 274 units is a constructive way to avoid the law. There are umpteen plots that start with an attractive stranger with a lot of money.

Resident: Thank you for the fifteen year statute. Suggest more 90 days for a former use to be eliminated to honor people who have applied for a variance or change of use. Regarding burden of proof, need more examples of what proof is.

Resident: Initially the city wanted to hear what the citizens wanted. Where is the public voice in this now?

D Greenberg, local attorney: In support of 15 year statute of limitations. During the last few years he has learned more than ever about the process in Burlington, which is not always clear. Open permits go on forever, court says it is unfair to grant use of something when you insert it secretly, properties are inspected by one city department but assessed by another. City staff is helpful, but it took a month and a half to solve. Need to get this problem behind us.

C Messing, Pine & College: Doesn't understand opening up Pine Street when there is a building in the way; difficulties with St Paul St as well. The building is too large, doesn't belong here. This gift horse has bad teeth. Building it is a great source of money, but the saying that if you build it they will come, is not necessarily true. Jane Jacobs said, "We expect too much of new buildings and too little of ourselves."

M Fordham: Late to the process and very concerned like many others who are uninformed in our town. Concerned about height and domino effect of other developers suing to allow the same height. Advertisements for Burlington will not be enhanced with the height of building. Burlington is people sized and that is its attraction. This is not a responsible way for governance to proceed. What does that say about democracy, that back room deals can guide future developments? Fourteen stories is wrong.

B Hickok, 26 Fletcher Place: Recommends that rezoning be change to RM zone according to staff's original proposal.

II. Report of the Chair

Chair absent, no report.

III. Report of the Director

Given interest of time, no report.

IV. 15 Year Statute of Limitations

H Roen: Addressing public questions, what constitutes proof?

D White: Information within the Assessor, Planning & Zoning or minimum housing records. If there happens to be a file on hand in excess of the normal records, it would be considered pertinent.

B Baker: The purpose of this amendment was to set a bright line.

L Buffinton: What about other methods, like See Click Fix, or only one of the records David listed? What if there had been regular communication about a situation?

D White: The process has to be treated on a case-by-case basis. Assessor and Minimum Housing records are the best records.

J Wallace-Brodeur: An email with a complaint is not solid evidence, complaints aren't adequate unless verified.

E Lee: Language is an issue, we need a definition for "known," we need to define which city records apply.

A Montroll: The process should not be complaint driven, but acknowledgement by a City Department is acceptable. Can K Sturtevant propose language at this point?

B Baker: We were going to attempt to address the parking section, specifically parking in yards.

D White: Parking spaces are associated with the property use.

E Lee: Parking is a lightning rod issue.

B Baker: What about cases where an illegal unit never had parking? Way this is written, that will never be grandfathered.

A Montroll: Parking is a hot button issue. Start with less and add later.

K Sturtevant: Additional language regarding burden of proof, "submissions not verified by the City shall not be considered known to the City. Will continue to flesh it out.

The Commission approved a motion by L Buffinton, seconded by J Wallace-Brodeur, to warn the proposed 15 year statute of limitations amendment, to include K Sturtevant's changes regarding complains not constituting "known" unless verified by City, with E Lee opposed.

A Montroll: The public hearing is a month away. We should bring back the language before the hearing in case it should be changed.

M Tuttle: It can be submitted to the PC as a communication.

V. Fletcher Place Rezoning

D White: This is an attempt to protect the original development pattern.

J Wallace-Brodeur: Is there a development proposal associated with this?

S Gustin: Overview of the properties involved in sketch plan and comments on buildable area.

H Roen: Uncomfortable not following the property lines.

S Gustin: Need to remind everyone that zoning amendments are not a fast process.

J Wallace-Brodeur: The Commission should weigh the UVM parcel.

D White: Owners of the two northernmost properties under discussion do not support any zoning change.

E Lee: UVM's ownership is not appropriate in a residential area.

A Montroll: Change needs to happen, this was historically residential.

E Lee: Zoning should reflect what is on the ground. Let's let the neighborhood win.

B Baker: The von Turkovich proposal does present a reasonable compromise and lets the street flourish.

E Lee: It comes down to the slope, and density of development. The slope rule should apply across all zones. The Commission unanimously approved a motion by A Montroll, seconded by L Buffinton, to warn a public hearing on the rezoning of Fletcher Place to RM following the parcel boundaries.

VI. Off Site Parking

No action taken.

VII. Downtown Mixed Use Core Overlay

L Buffinton: Planning Commission is purely advisory to the City Council and not the ultimate decision makers.

H Roen: The Commission does have statutory authority.

D White: Summary included in the packet describing mass and height of project established by the predevelopment agreement. This is looking at the amendment based on land use policy for the city, implementing the master plan. The proper location for larger infill development is downtown. The amendment establishes an overlay area which includes greater height and massing. It will amend the official map to establish the street connections, which is central to planBTV. Draft form based code massing is articulated in the overlay. Please share specific areas of concern so we can provide information needed for next meeting.

J Wallace-Brodeur: Need to be able to review public input and an overview of the process for the next meeting.

L Buffinton: The city website cut off top floor in the illustration of the proposed mall. An architectural model, shadow study, parking garage information are all concerns, but the largest concern is what the reopened streets are going to look like. Right now the proposed building seems incoherent and top heavy, height is a huge issue.

D White: The project is not yet fully baked. It is important not to put a lot of stock in present illustrations/information.

A Montroll: It would be helpful show what is permitted now vs the proposed 160 feet and what the differential would be.

E Lee: This is the moment when we need a model, don't want to weigh in on height and massing without it. It is important to show what is permitted now and proposed.

D White: For the purpose of zoning, we need to focus on buildable envelope.

E Lee: It is important to see that.

L Buffinton: A simple model, current and proposed build out at this proposed height are needed.

Brian Dunkiel: We need to see the official map also.

A Montroll: It feels as if we are being asked to increase height in this area in exchange for having the streets back.

E Lee: This is really important, it could be so great for Burlington, but needs to be done right.

L Buffinton: Does the Commission have any role in the consideration of housing college students? Any proposed changes in use?

B Dunkiel: Mall team will request to add secondary school use.

E Morrow: A model is crucial and having the Commission to take action tonight to move it forward will give people a lot of comfort.

D White: It is the agreement with Devonwood that they will provide money for production of modeling—it will get built. First, need to discuss its purpose.

VIII. Committee Reports

No reports.

IX. Commissioner Items

None.

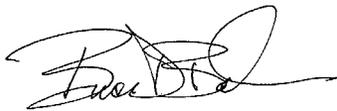
X. Minutes/Communications

H Roen: Do we need to respond to the Sun Common communication?

D White: Only if you would like to provide comments.

XI. Adjourn

On a motion by A Montroll, seconded by H Roen, the Commission unanimously adjourned at 9:07 pm.



B Baker, Vice Chair

Signed:



E. Tillotson, Recording Secretary

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vacant, Youth Member*



Burlington Planning Commission Minutes

Regular Meeting

Tuesday, May 24, 2016 - 6:30 P.M.

Public Works Conference Room, 645 Pine Street

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

Absent: Y Bradley

Staff: D White, M Tuttle, E Tillotson

I. Agenda

No changes to the Agenda.

II. Report of the Chair

B Baker chaired meeting; no report.

III. Report of the Director

D White: Mayor is an ex officio member of the Commission and will be joining the meeting. At opening of Public Forum, will frame the Planning Commission role and focus.

IV. Proposed CDO Amendment: NAC-Riverside Boundary

M Tuttle: This proposed amendment in response to a request received which would affect the north side of Riverside Avenue; maps illustrating this are in the agenda. Initial staff recommendation to move boundary was an attempt to balance request with preservation of river bank. Commission requested a solution more sensitive to the steep slopes. Revised staff recommendation maintains concept of moving NAC-R 25 feet to the north, and incorporate buildable area definition on north side of Riverside Avenue. This means slope of 30% or more cannot be developed or counted in the lot coverage/density, and 15-30% slope can be considered for 50% of lot coverage/density by DRB Conditional Use approval.

L Smith: Suggested the buildable area consideration. The property is now a non-conforming piece of land. Boundary should follow the topography, make sewage treatment plant conforming, incorporate the plateau. Surprised that there was no site visit.

M Tuttle: The chair appreciated the request for the visit, but asked staff to provide a further recommendation.

M Furnari: Understand the reluctance to compromise the properties, but ask that the Commission consider one more time and include a site visit.

J Wallace-Brodeur: Can we get some concrete numbers on what the slopes are?

M Tuttle: In the area of the properties requesting the change, range from 12% to in excess of 30% along property lines. Can make information available.

L Smith: There is a lovely flat plateau way above flood plain.

H Roen: Should do a site visit.

M Tuttle: Will coordinate outside of this meeting.

L Smith: Suggest putting it off a little when there is not so much going on.

The Commission unanimously approved a motion by A Montroll, seconded by J Wallace-Brodeur, to table discussion of the proposed amendment until the fall.

V. Public Forum

D White: planBTV established the policy framework, regulatory, capital and other improvements for downtown. The mall has long been identified as underutilized. Question has been how to encourage and facilitate redevelopment. This area of downtown does not have an existing historic context, so there are many possibilities for this area. With a change of ownership of the mall, started a public engagement process almost two years ago. Have had a lot of public input during that time and City Council has anticipated a zoning change to incorporate proposals. Question now is how new development will interface with people on the street. Zoning limits height to 105 feet today. Proposed amendment expands that to 160 feet, and includes adjacent parcels as well. FBC Committee recommends this area as one for greater height.

H Roen: Read all of the emails that have been sent.

B Baker: Opened the public forum at 6:57 pm.

J Fayette: Support the project; ideally timed, thoughtful, environmentally sound, appropriate.

T Redington: No quarrel with a project at the zoning height maximum of 105 feet. planBTV establishes a basis for what the community wants to see, nothing over eight stories. Developer wants other rules, is exploiting the situation, especially with no environmental review.

A Taylor: Among colleagues and contemporaries, sit in the middle. This developer has made a lot of adjustments that were asked for; it is a green building, urban infill. Business is business. Using TIF will not burden taxpayers. Back to earth ethic needs to support this.

C Bates: Support some redevelopment. Propose that the Burlington Business Association buy the mall from Sinex and do development our way; have a team that could have local focus, lots of housing.

A Radcliffe: Building height is not human scale. planBTV does not support this proposal. FBC is not currently approved, should not be used as a justification. The plan does not measure up, will not impact housing affordability, zoning should not be changed in a random manner. Think about precedent this will set.

J Canning: Supports the town center redevelopment; however, the overlay should not apply to the City's parking garage behind Hotel Vermont.

M Fordham: Trying to spread the word about this project, not against smart development; however, first rule in business is when something works, you don't ruin it. This should not go forward.

G Grill: While the height is atrocious, the process is of utmost important and the request is an assault on the city. Planners and City Council are under pressure from the Mayor. The people have had enough, and if this is approved, Mayor will not be reelected.

R Herendeen: Process is happening too abruptly. Burlingtonians are actively engaged, it feels great nature is close. Mass, scale and height should honor the City, make the street level the focus. Need to respect the previous planning efforts, do not raise building heights at all.

C Messing: Project subverts zoning. Virtual tour shows Cherry Street empty of traffic, not realistic. If there was a scale model, the project would sink like a stone. Spoke to a construction worker, out of work, who said the local community will not gain employment in this venture.

J Brophy: Supports a livable city, should support infill, Williston's big box stores are not what we want.

K Andrews: Inclusionary housing ordinance in Burlington is excellent. This project is an unconscionable, luxury housing development. Separate affordable units is not what was meant to be. Most problems in our nation can be brought back to segregation.

A Petrarca: Vermont values are expressed here. In Pittsburgh, the citizenry organized and defeated a proposed downtown mall. The proposed height does not make any sense

C Dinklage: This has been a long process, dynamic process. We should consider why many young people are not choosing to move to Burlington right now. Smart growth is needed.

M Wallace: Have seen new Armenian development destroy character and not appeal to residents. Similarly, Burlington will lose its character. There are no trade-offs worth the cost, do not see this as being good for Burlington.

M Holmes: Have traveled the world, and there is not anything better than Burlington. In own neighborhood, have seen redevelopment that blocks view of the sky. Didn't speak out then, so doing so now. Have to be careful with this project.

J Nick: All of the Church Street Marketplace merchants support the vibrancy of this project, believe it will improve the situation on Church Street. The turn of the century building at 1 Church Street is 125 feet high; with change in elevation to the mall property, 160 feet will not be much taller than existing historic buildings.

J Vos: Climate change is the elephant in the room. Bill McKibben, Naomi Kline warn that the world will be a different place.

J van Driesche: Perspective on a livable community is one with lots of traffic on foot and on bike, a higher concentration of residents, lessening taxes, growing the grand list, fewer cars. We need more people living in close proximity to where they work. See a trend to kill projects that are not perfect. This project is not yet perfect, but there is time to get it right. Encourage retaining leverage for this project through the bonuses.

R Dean: Public should look at what is actually proposed. Higher building elements are set back toward the center of the block away from streets. Citizens live on the streets, bring economic vitality. Most important project component is how it engages the street. Posters in room are a misrepresentation. Hold back, get the facts, let project move forward so that the public can evaluate.

G Eppler-Wood: In favor of the mall, but is asking the Commission, Mayor, City Councilors, to do more research to reduce height. Not lip service, actual change of height. Underground parking should be explored.

S Burton: Opposes to fourteen stories. Not a slightly larger building, it is going against the City's own recommendations. Keep in mind the unique character and scale of city, show foresight and backbone.

L Tucker: Have been teetering on this subject but attended several meetings. Feel confident in the process and staff who care about the community. Downtown can be bigger and better. Density in our city is a good thing.

A Simon: We are experiencing a global crisis like we have never seen before. Expanding tax base is not the answer and fourteen stories reflects a lack of understanding of the problem. Which planet do you live on?

I Avilix: planBTV illustration shows scale and density which doesn't seem to agree with the proposed project. Let's stick with planBTV.

M Tracey: Will not vote for the ordinance as proposed. Student housing is a negative, the developer needs to do a lot more at a moral level. FBC transect is from less dense to more dense and more height. The

conversation tonight is a strong indication that there is need for more conversation. Need 3 D model. This feels like a choice-less choice.

S Overby: Supportive of redevelopment of mall, but really disturbed by process. Very sketchy plan with no model. Commission is in difficult position, doesn't have enough time. Participated in plan BTV which does support what is proposed.

C Simpson: Building our way out of financial problems is not likely, the purpose of the height bonus is for public good. The proposed amendment is throwing this out and overlay is wider than footprint of mall.

H Manske: Personally would like to see the mall redeveloped. It is a process and he appreciates everyone's comments. On the Ward 5 steering committee, we always hear about housing and parking, which are two things this project will address.

L Politi: Feels as if Burlington has already spoken on this subject. Has conferred with an architect friend who commented that this proposal is unrealistic, a misrepresentation.

D Purcell: Has heard a lot of good comments. Supports the project even if it is imperfect.

B Castle: Supports the project, feels the program is basically good for Burlington. Burlington is one of success stories, have to work with developer to do it right.

M Long: Nothing in our regulations is presently preventing the development of the mall. The process is backwards, the developer doesn't establish the schedule. Work within the existing zoning parameters.

N Kirby: Likes old buildings, likes Burlington. She is not against repair and renovation, but is against the height.

Resident: Honored to share comments. In acupuncture, taught that there is harmony and balance. This project can find balance if we give it more time and consideration. Continue dialogue, revitalization, growth, restoration. We all have a stake in this.

I Ahmed: Concerned about process and claiming once in a lifetime opportunity Need to make sure it's the right opportunity, need a more intense design and environmental study.

J Caulo: Support the project. While the process seems somewhat irregular, it is important that the process is being conducted in an open manner and that it not become tainted. Boards will have city's best interest at heart. Urban design something that we will be proud of. Have to keep process moving try to find a solution.

T Brassard: Is in support of the project. Housing is the crux of the project. State and city are challenged, stagnant population, need to have opportunity for younger generation. Burlington is the economic hub of the state, consideration needs to be given to growing the population. Adding housing is the issue.

G Seidler: Cannot park on own street anymore. Mayor proposed condos on block which are now rentals. Has spoken to 311 people who do not know what is going on. Moved away from NYC, now will leave Burlington. Get the model, people have no idea.

J Kilacky: Conceptually is in favor of mall with inclusionary housing, walkable downtown, Pine Street open. Permanent jobs are needed to reinvigorate our city. The public is being asked to move the process forward in concept.

P Binelli: Horribly insufficient wastewater treatment system. No one sees problem with adding new housing units with sewage issues, failing wastewater system.

L McKenzie: It is imperative to vitalize our downtown. Affordable housing is an issue, tax burden is so substantial that many cannot afford to live in town. This is just the beginning of the process.

C Long: Burlington's population has grown. California has banned using TIF money because it was supposed to be for public good. The proposal seems impractical, what is the city going to get out of it? We need housing and to restore neighborhoods save the lake.

Resident: Supports the project. As a father of five kids, see real challenges ahead. Need to embrace development and smart growth.

H Easter: Sad about this inverted, weird process for the zoning ordinance. Developer should have to convince you why the zoning change is a good idea. Missing a view of what this looks like from Pine Street. Listen to this process.

Resident: This is a really important process. Take a step back and listen to public even ones who are just coming to the meetings.

Resident: No feasibility study, no model, real problem with process. Concerned about no parking. Conceptually, this doesn't work.

S Goodkind: Squandering a great opportunity, mall needs to be redeveloped. We shouldn't have to oppose this. Developer needs to conform to the zoning and work with us. Hold the line.

B Headrick: Against the height and dorms downtown. Read all the City Council minutes back to 2008. When increased height was proposed, five people were opposed for every person in favor. 160 feet is not consistent; let's not ruin our city.

C Rameka: All for intelligent development downtown, but don't do it like Hartford, CT. They have dead streets, a dead city.

Resident: Very concerned about consistency with planBTV, TIF. Would not have voted for it if it looks like this. People who work in mall do not live downtown. Other projects proposed affordable housing, but did not happen. UVM students are UVM responsibility. People come here because it's small and green.

Resident: Buildings look like 1960. Suggest we take current mall, give it a facelift, fill it with small Vermont businesses.

P Simon: Question is height and mass. Curious to see a model of a project with the same square foot and program within a 10 story height comparison to what is proposed, see if people like it better. Charge is to maintain character of Burlington.

Mayor Weinberger: Not typically at Planning Commission, but wanted to hear concerns directly. Lots of concerns, but sensing there is a need for more information. For example, the wastewater treatment capacity is quite adequate except during major storm events when the City has such a high volume of stormwater in the system. Improvements have been and continue to be made. Today FAQs posted on website. There was a zoning effort in 2000s to reform zoning with a resulting lack of consensus over some issues. What came out of that process was the City receiving a \$300,000 federal grant for planBTV, marshalled by Karen Paul. It is worth noting that Don Sinex was excited about planBTV. We're still listening to ideas. But what we do now will define how successful planBTV was. A lot at stake for the future of Burlington.

E Lee: Read letter submitted to Planning Commission by Councilor Shannon.

VI. Proposed CDO Amendment – Downtown Mixed Use Core Overlay

D White: Commission has a nearly complete proposed ordinance amendment, including a map for where additional height would be worthy of consideration. Commission's role is to judge the community's attitude about building height. Have set up a number of meetings in June to get something back to City Council by

early July. City Council has said they are conceptually supportive of this proposal. Upcoming meetings include a work session June 9, a meeting June 14 and another meeting to make a recommendation to Council on July 6.

A Montroll: To confirm, if the public hearing is on July 6, by June 14th a draft would have be ready to warn.

D White: The Commission is free to make changes to the proposal after the hearing.

A Taylor: Don Sinex will be going to NPAs for more information for the public.

D White: Distributed handout regarding model. Important element is to consider what the utility of the model will be. 3D models are done for a variety of reasons. Model would look very different if it were to show a proposed building within its existing context, versus current zoning versus proposed zoning. What is most relevant to the Commission is a model of zoning buildout. Public is asking for a model of the proposed project. We are looking for someone who can get a model developed, but not sure can get that done during the Commission's review. Commission can help advise on what extent for a model.

H Roen: What about the digital model that was built to show possible buildout.

D White: As a staff, we will provide a variety of information for the Commission to use, including digital. Probably not a physical model, though.

E Lee: We will be doing ourselves a great disservice if we don't have a physical model. Really uncomfortable that it cannot be accomplished.

D White: We will build a model, the question is timeframe for Commission discussion.

M Tuttle: Goes back to what we can understand from the model. The Commission is being tasked with considering the proposed zoning compared to buildout potential under current zoning. Model will likely contain proposed project, which is not the purview of the Commission.

L Buffinton: Urge that we get every possible model. And the parking garage might need to be reexamined.

D White: The Mall team FAQ has information about garage cost.

J Wallace-Brodeur: The city has a technical team that looks at a variety of issues. Do we have access to them?

D White: The next meeting we will provide information from the tech team, a person to answer questions.

The Commission unanimously approved a motion by A Montroll, seconded by J Wallace-Brodeur, to defer the remainder of the items to the next meeting and adjourn at 9:34 pm.

VII. Committee Reports

Deferred to next meeting.

VIII. Commissioner Items

No Commissioner Items.

IX. Minutes/Communications

Deferred to next meeting.



B Baker, Vice Chair

Signed: 2016



E Tillotson, Recording Secretary

DRAFT

Section 2.7.11 Enforcement Period of Limitations

Pursuant to 24 V.S.A. §4454 and the terms of this section, the Administrative Officer shall not institute a zoning enforcement action under Section 2.7.7 where the alleged violation first occurred more than 15 years ago, has continued, and the violation was known to the City. This period of limitations pertains to all zoning violations, including but not limited to “use” violations (except those violations identified in subsection (b)(7) and (b)(8) below) so long as the violation has been continuous for 15 years or more, the City has known of the violation for at least 15 years and not taken action to correct it, and the violation is not a matter of health or safety. A zoning violation that meets the requirements of this section will be considered “stabilized.” The use, dimension, structure, function, or other condition that causes the property to be in violation of current zoning regulations will be referred to throughout this section as “the violation.”

(a) Burden of Proof

- (1) The burden is on the property owner to demonstrate the first two elements: that the violation has occurred continuously for 15 years or more and that the violation was known to the City for at least 15 years without corrective action.
- (2) To prove that a violation was known to the City, the property owner must be able to point to written eCity records within the City’s Department of Planning and Zoning, Code Enforcement Office, Inspection Services Division of the Department of Public Works or Assessor’s Office that show that the referenced City departments knew that the condition underlying the violation existed at least 15 years ago and the City has taken no action to correct the violation. If City records in the referenced departments conflict, the Administrative Officer shall determine whether the City knew of the condition based upon the preponderance of the evidence. **To be a “City record” for the purposes of this section, the document must have been produced and/or verified by the City. The term “City record” under this section does not include submissions, including but not limited to emails, complaints or other communications, that have not been independently verified by the City. For a document to be “verified” by the City, the City must have reviewed the facts/assertions in the document and made a written finding that the facts/assertions were accurate.**
- (3) If the City identifies a health or safety concern with the violation, the burden is on the property owner to demonstrate that the violation does not violate any City health or safety standards.

(b) Determination and Effect

- (1) Property owners may seek a written determination from the Administrative Officer that a property is in a stabilized status if the property owner can meet the above burden. This determination, while not a permit, shall be processed the same as a request for

administrative approval, including but not limited to notice, appeal rights and notice in the land records.

- (2) A stabilized status for a violation, whether use, dimensional or otherwise, is not a pre-existing legal non-conformity (also known as “grandfathered”).
- (3) No change, alteration, or enlargement that would otherwise require a zoning permit shall be permitted for stabilized violations.
- (4) If the violation is discontinued for more than ninety (90) days, it has ended. The violation is no longer considered “stabilized,” and the violation may not be reactivated or re-occur. An extension to this time limit may be granted by the Administrative Officer if sufficient documented evidence is presented to show that there was a continuous good faith effort to maintain the condition underlying the violation, such as repair and maintenance being done to the property that caused a temporary discontinuance of use. If an occurrence or event destroys at least 50% of a stabilized structure, in the judgment of the city’s building inspector, no reconstruction of the stabilized structure shall be permitted, except to become a conforming use, structure, or lot. If the structure is a pre-existing legal non-conformity, the provisions of Article 5, Part 3 apply.
- (5) No violation that has been determined to be stabilized may be used to count towards the requirements for a new zoning permit.
- (6) Nothing in this section shall prevent any action, injunction, or other enforcement proceeding by the city under any other authority it may have, including, but not limited to its authority under 24 V.S.A. §4470(b) pertaining to DRB and court decisions and/or Title 18 of the Vermont Statutes Annotated (abatement or removal of public health risks or hazards). If a property does not comply with any related health and safety requirement, it may not claim any stabilized status and shall be required to come into full conformance.
- (7) Enforcement of an occupancy violation for occupying a dwelling unit in a residential district inconsistent with the “family” definition under Section 4.4.5(d)(5)(C) is exempt from this period of limitations and, therefore, may not be stabilized. Unless the inconsistent occupancy is deemed to be a pre-existing legal nonconformity, such a violation may be enforced at any time.
- (8) Except as limited by 24 V.S.A. §4454, as interpreted by the courts, enforcement of a parking violation is exempt from this period of limitations and may not be stabilized. Unless the parking is deemed to be a pre-existing legal nonconformity, such a violation may be enforced at any time.

Section 2.7.1+2 Administrative Appeal

As written.

PART 3: NON-CONFORMITIES

Sec. 5.3.1 Purpose

These regulations are enacted for the purpose of governing all aspects of nonconformity, regardless of whether it is a use, a structure or a lot. As defined under Article 13, nonconformity means a use, structure or lot that was legal at the time it was constructed or laid out, but would not be lawful under the requirements of this ordinance as currently in effect. ~~This Part will also address “Bianchi controlled Situations”, in which a zoning violation may not subject to enforcement under the standards set forth by the Vermont Supreme Court in the case entitled *Bianchi v. Lorentz* and later codified in 24 VSA Sec. 4454.~~

~~In combination,~~ †These standards are intended to establish the property rights of individuals and organizations in a manner consistent with the overall goals of zoning and to promote the City's general health, safety, and welfare.

~~Sec. 5.3.2 “Bianchi” controlled uses, structures, and lots.~~

~~Although not subject to enforcement action pursuant to Article 2, uses, structures, and lots which are deemed to be controlled by the *Bianchi* decision, and the subsequent enactment of 24 VSA Sec. 4454, shall be considered violations that are not considered legal to any extent and shall in no event be granted the consideration or allowances of nonconforming structures, uses, and lots. Thus, no change, alteration, enlargement, and reestablishment after discontinuance for more than sixty (60) days or reconstruction after an occurrence or event which destroys at least 50% of the structure in the judgment of the city’s building inspector shall be permitted, except to a conforming use, structure, or lot.~~