

## Burlington Planning Commission

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



# Burlington Planning Commission Annual Organizational Meeting Tuesday, August 9, 2016, 6:30-8:30 P.M. Conference Room 12, City Hall, 149 Church Street

## AGENDA

*Note: times given are approximate unless otherwise noted.*

### **I. Agenda**

### **II. Public Forum- Time Certain 6:35 p.m.**

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

### **III. Annual Organizational Meeting (15 min)**

The Planning Commission will elect officers and appoint members to its committees to serve for the 2017 Fiscal Year:

- Election of Officers: Chair & Vice-Chair
- Election of Executive Committee At-Large Member
- Appointment of Commission Clerk
- Appointment of Committees
  - Long Range Planning Committee:
    - One member of the Executive Committee, Two At-Large Members
    - One member of DRB (DRB appointed A.J. LaRosa)
    - One member of Conservation Board (currently Damon Lane)
  - Ordinance Committee:
    - One member of the Executive Committee, Two At-Large Members
    - Two additional members, from the DRB, DAB or CB (DRB appointed Wayne Senville)

### **IV. Report of the Chair (5 min)**

### **V. Report of the Director (5 min)**

### **VI. Appointment of Assistant Administrative Officer (5 min)**

The Planning Commission is requested to consider recommending to City Council the appointment of Ted Miles as an Assistant Administrative Officer. A memo from the Planning Director is attached on page 3.

*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.*

**VII. Municipal Bylaw Amendment Reports: ZA-16-11 and ZA-16-12**

In order to warn a new public hearing date for *ZA-16-11 Enforcement Period of Limitations* and *ZA-16-12 Rezone Fletcher Place to Residential Medium*, the Commission is asked to review and approve the Municipal Bylaw Amendment reports, prepared in accordance with the provisions of 24 V.S.A. §4441(c). These reports are included in the agenda packet on pages 4-5.

**VIII. Municipal Bylaw Amendment Report: ZA-16-06 (5 min)**

City Council's Ordinance Committee modified the proposed amendment *ZA-16-06* and has returned it to the Planning Commission to update the Municipal Bylaw Amendment Report prior to City Council's public hearing. A modified amendment and report are included in the agenda packet on pages 6-7.

**IX. Proposed CDO Amendment: Off-Site Parking (20 min)**

The Commission will discuss a proposed amendment to the Comprehensive Development Ordinance regarding off-site parking provisions. The purpose of the amendment is to clarify existing provisions for off-site parking, and to address the shared use of parking facilities after-hours and during weekends. Information related to the proposed amendment is included in the agenda packet on pages 8-12.

**X. Proposed CDO Amendment: Family Daycare Exemptions & Preschools in Appendix A (15 min)**

The Commission will discuss a proposed amendment to the Comprehensive Development Ordinance regarding Daycares & Preschools. The proposed amendment 1) defines a Family Day Care Home, and outlines exemptions from zoning permit requirements, and 2) corrects an omission of "Preschools" from Appendix A: Use Table. Information related to the proposed amendment is included in the agenda packet on pages 13-17.

**XI. Proposed CDO Amendment: Café's accessory to Micro-Brewery/Winery (Time Permitting)**

The Commission has received a request for an amendment to the Comprehensive Development Ordinance to 1) permit café's as an accessory to the Micro-Brewery/Winery use, and 2) to create a new "Craft Beverage Production Operation" use. The Commission should discuss whether to discuss the request as a full Commission or refer to the Ordinance Committee. A Communication regarding this request is included in the agenda packet on page 18.

**XII. Proposed CDO Amendment: Withhold Permit (Time Permitting)**

The Commission will discuss a proposed amendment to the Comprehensive Development Ordinance regarding withholding new zoning permits in order to incent property owners to correct outstanding zoning violations and close out expired permits. Information related to the proposed amendment is included in the agenda packet on page 19.

**XIII. Minutes & Communications**

The Planning Commission will review and approve minutes and communications. The agenda packet contains the following documents for approval and acceptance:

- Planning Commission Minutes (and notes) from April 26 through July 19, 2016 (pages 20-78)
- Communication from NOFA VT (pages 79-87)

**XIV. Adjourn (8:30 pm)**

## MEMORANDUM

**TO:** Planning Commission  
**FROM:** David E. White, AICP, Director of Planning & Zoning  
**DATE:** July 20, 2016  
**RE:** Assistant Administrative Officer Appointment Recommendation – Ted Miles

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The purpose of this memo is to recommend to you the appointment of Ted Miles as an Assistant Administrative Officer, and request that this appointment recommendation be advanced to the City Council.

In my role as the Director of Planning & Zoning I serve ex officio as the City's Zoning Administrative Officer, and am responsible for making recommendations to the Planning Commission regarding the appointment of a Chief Assistant and any Assistant Administrative Officers pursuant to state statute and Sec. 2.3.2 of the *Burlington Comprehensive Development Ordinance* (BCDO). The role of the Planning Commission in this process is to make a final recommendation to the City Council regarding such appointments.

Ted Miles is a long-time Zoning Inspector in the Code Enforcement Office working under the direction of Code Director Bill Ward. As a Zoning Inspector, Ted conducts zoning research and performs site inspections with regard to requests for a Final Certificate of Occupancy.

Once such appointments are made, it is also my responsibility to delegate specific duties and authority. In addition to the other appointees in the Planning and Code Enforcement offices, Ted will be assuming responsibilities regarding:

- **Compliance:** issuance of Certificates of Occupancy upon successful completion of work conducted pursuant to a zoning permit pursuant to Sec. 2.3.6 and Sec 3.2.11 of the BCDO. This work is done in collaboration with, and with administrative and investigative support from, the City's Code Enforcement Office.

I welcome any questions that you may have.

Thank you.

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Anita Wade, Planning & Zoning Clerk  
Elsie Tillotson, Department Secretary



# Burlington Planning Commission Report Municipal Bylaw Amendment

## ZA-16-11 – Enforcement Period of Limitations

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

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

The purpose of this amendment is to establish “Section 2.7.11 Enforcement Period of Limitations” pursuant to 24 V.S.A. §4454. This section pertains to zoning violations, which have been known to the City of Burlington for more than 15 years and where the City has not taken corrective action to address the violation. This ordinance establishes burden of proof, and a process through which properties with use, dimension, structure, function or other violations can seek to be “stabilized.” Stabilized status will not be granted to properties with health or safety violations, violations of the City’s “family” definition under Section 4.4.5(d)(5)(C), or parking violations except as limited by 24 V.S.A. §4454. Furthermore, this amendment renumbers “Section 2.7.12 Administrative Appeal,” modifies “Section 5.3.1: Purpose;” and strikes “Section 5.3.2. ‘Bianchi controlled uses, structures and lots.’”

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

The purpose of this amendment is for the City of Burlington to establish procedures for zoning violations which are not subject to enforcement under the standards of the Vermont Supreme Court in the case entitled *Bianchi v Lorentz*, and later codified in 24 V.S.A. Sec 4454. While the primary purpose of the proposed amendment is conformity with Vermont State Statute, it applies to a range of zoning violations and could have an impact on the availability of housing City-wide. “Stabilization” permits housing units, which are considered illegal through the zoning ordinance but which have been known to the City through the records of other City Departments, to continue to operate until or unless they are discontinued or are in violation of City health or safety standards. It is anticipated that a significant number of housing units within the City could be impacted by this amendment; without a process for stabilization. Therefore, a secondary purpose of this proposed ordinance is to preserve the availability of existing housing units within the City.

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

The purpose of this amendment is conformity with Vermont State Statute. This amendment does not address proposed future land uses and densities per the municipal development plan.

### ***Implementation of specific proposals for planned community facilities:***

This amendment does not implement any specific proposals for community facilities.

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# Burlington Planning Commission Report Municipal Bylaw Amendment

## ZA-16-12 – Rezone Fletcher Place to Residential Medium

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

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

The purpose of this proposed amendment to “Map 4.3.1-1 Base Zoning Districts” is to rezone properties along Fletcher Place from Institutional to Residential - Medium Density. This change is intended to promote residential density and uses which are consistent with the existing built environment and neighborhood character on Fletcher Place.

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

The proposed rezoning of Fletcher Place conforms with the Housing Plan in the City’s Municipal Development Plan, specifically to ensure that housing needs are being met through rehabilitation, conservation and infill development in a way that blends with the City’s built and natural surroundings. The development standards contained within the Residential - Medium Density zoning district will continue to allow housing density that is consistent with densities currently permitted in the Institutional Zone; however, other uses permitted within this district are more consistent with the existing built environment of a residential area.

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

The proposed rezoning of Fletcher Place furthers the Municipal Development Plan’s Land Use policy to “conserve and strengthen residential neighborhoods” by applying a zoning designation that is consistent with the existing built environment of the street.

### ***Implementation of specific proposals for planned community facilities:***

This amendment does not implement any specific proposals for community facilities.

	Urban Reserve	Recreation, Conservation & Open Space			Institutional	Residential			Downtown Mixed Use					Neighborhood Mixed Use			Enterprise	
USES	UR	RCO - A	RCO - RG	RCO - C	I	RL/W	RM/W	RH	D	DW	DW-PT <sup>16</sup>	DT	BST	NMU	NAC	NAC-RC	E-AE	E-LM
RESIDENTIAL USES	UR	RCO - A <sup>1</sup>	RCO - RG	RCO - C	I	RL/W	RM/W	RH	D	DW	DW-PT <sup>16</sup>	DT	BST	NMU	NAC	NAC-RC	E-AE	E-LM
							*****											
NON-RESIDENTIAL USES	UR <sup>21</sup>	RCO-A	RCO-RG	RCO-C	I	RL/W	RM/W	RH	D	DW	DW-PT <sup>16</sup>	DT	BST	NMU	NAC	NAC-RC	E-AE	E-LM
							*****											
Animal Boarding/Kennel/Shelter	N	CU	N	N	N	N	N	N	<u>NCU<sup>29</sup></u>	<u>NCU<sup>29</sup></u>	N	<u>N</u> <u>CU<sup>29</sup></u>	<u>N</u> <u>CU<sup>29</sup></u>	N	CU	CU	CU	CU
							*****											

1. - 28. As Written.

29. Must be fully enclosed within a building.

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Anita Wade, Planning & Zoning Clerk  
Elsie Tillotson, Department Secretary



# Burlington Planning Commission Report Municipal Bylaw Amendment

## ZA-16-06 – Animal Boarding/Kennel/Shelter in Downtown Zones

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

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

The proposed amendment amends the Comprehensive Development Ordinance Appendix A- Use Table to permit animal boarding, kennel and/or shelter uses in the downtown mixed use zones by conditional use, with criteria aimed at lessening the potential for off-site impacts by requiring the use to be fully enclosed ~~and subject to City Council licensure.~~

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

This proposed amendment to the Comprehensive Development Ordinance (CDO) expands a use that is currently permitted by conditional use within the City to additional zoning districts within the downtown mixed use zones, and conforms with the goals and policies contained in the City's Municipal Development Plan. The proposed amendment does not limit the ability to provide safe and affordable housing within the community.

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

This proposed amendment is consistent with the proposed future land uses and densities of the Municipal Development Plan by considering land use policies that will limit sprawl and by enabling further mixed-use development in the downtown in a way that ensures needs of the city's residents and visitors are served.

### ***Implementation of specific proposals for planned community facilities:***

This proposed amendment supports the City's plans for an expanded and active waterfront area, particularly for visitors to City who utilize hotels, the Burlington Boathouse Marina, North Beach Campground, city parks, and who are attending waterfront events where dogs can be a nuisance or liability.

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*Anita Wade, Zoning Clerk*  
*Elsie Tillotson, Department Secretary*



**TO:** Planning Commission  
**FROM:** Scott Gustin  
**DATE:** April 8, 2016  
**RE:** Off-Site Parking Amendment to CDO

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The purpose of this amendment is to clarify the existing zoning provisions for off-site parking and to provide for efficient and effective use of parking facilities generally. The amendment establishes additional parameters for what constitutes acceptable off-site parking facilities and also strengthens provision for off-site parking used for required parking. Reference to the design review standards of Article 6 is also inserted.

Following an initial approval by the Planning Commission Ordinance Committee, the amendment was further revised to include provision that directly addresses shared use of parking facilities after-hours and during weekends. City policy encourages shared use of existing parking areas, including those on private property (i.e. such as office use during the day, but public parking during nights and weekends). Present zoning standards arguably preclude doing so. This amendment has been expanded to include additional provision for parking management plans to enable after-hours shared use of parking facilities.

On April 7, 2016, the Ordinance Committee voted to send this amendment along to the full Planning Commission for consideration. Their suggested revisions are included in the language below.

Proposed CDO language is below. New language is underlined red, and deleted language is ~~crossed out~~.

### **Sec. 8.1.12 Limitations, Location, Use of Facilities**

#### **(a) Off-Site parking facilities:**

Except for single and two-family dwellings, required parking facilities may be located on another parcel of land. The off-site parking area shall be within the same zone as the use it serves or is in a zone that allows parking lots or parking garages as primary uses. Parking that serves any use located outside a residential zone shall not be located within a residential zone. Off-site parking spaces shall be subject to the site plan design standards of Article 6: Part 2. The maximum parking limitations of Section 8.1.9 apply. Off-site parking facilities shall be as follows:

1. Neighborhood Parking District: No more than 50% of the total required parking shall be provided at a distance greater than 600 feet from the use it is intended to serve. For residential uses, a minimum of 1 space per unit shall be provided on-site.
2. Downtown and Shared use Parking Districts: Any off-site parking shall be provided within 1,000 feet of the use it is intended to serve unless such parking is provided as part of a Parking Management Plan pursuant to Sec. 8.1.15 approved by the DRB.

3. The distance from the off-site parking to the associated use shall be measured in walking distance along a sidewalk or other pedestrian path separated from street traffic from the nearest parking space to the principle pedestrian entrance to the building housing the use. Such off-site parking shall not reduce the required parking for any other use utilizing the property on which it is located unless such shared use is approved by the development review board. The right to use the off-site parking to meet the minimum parking requirements of Sec. 8.1.8 must be guaranteed for the duration of the use as evidenced by a deed or ~~lease, easement, or similar written instrument~~ as may be approved by the City Attorney and recorded in the Burlington land records. Use of off-site parking for parking spaces in excess of the minimum parking requirements of Sec. 8.1.8 may be secured by lease or similar written instrument.

**(b) Downtown Street Level Setback:**

As written.

**(c) Front Yard Parking Restricted:**

As written.

**(d) Shared Parking in Neighborhood Parking Districts:**

As written.

**(e) Single Story Structures in Shared Use Districts:**

As written.

**(f) Joint Use of Facilities:**

As written.

**(g) Availability of Facilities:**

As written.

**(h) Compact Car Parking:**

As written.

**Sec. 8.1.15 Waivers from Parking Requirements/ Parking Management Plans**

**(a) Parking Waivers**

The total number of parking spaces required pursuant to this Article may be reduced to the extent that the applicant can demonstrate that the proposed development can be adequately served by a more efficient approach that more effectively satisfies the intent of this Article and the goals of the municipal development plan to reduce dependence on the single-passenger automobile.

Any waiver granted shall not exceed fifty percent (50%) of the required number of parking spaces except for the adaptive reuse of a historic building pursuant to Sec. 5.4.8 and ground floor retail uses in any Mixed Use district which may be waived by as much as one hundred percent (100%). Waivers shall only be granted by the DRB, or by the administrative officer pursuant to the provisions of Sec. 3.2.7 (a)7.

In order to be considered for a waiver, the applicant shall submit a Parking Management Plan that specifies why the parking requirements of Sec. 8.1.8 are not applicable or appropriate for the proposed development, and proposes an alternative that more effectively meets the intent of this Article. A Parking Management Plan shall include, but not be limited to:

- (a) A calculation of the parking spaces required pursuant to Table 8.1.8-1.
- (b) A narrative that outlines how the proposed parking management plan addresses the specific needs of the proposed development, and more effectively satisfies the intent of this Article and the goals of the Municipal Development Plan.
- (c) An analysis of the anticipated parking demand for the proposed development. Such an analysis shall include, but is not limited to:
  - 1. Information specifying the proposed number of employees, customers, visitors, clients, shifts, and deliveries;
  - 2. Anticipated parking demand by time of day and/or demand by use;
  - 3. Anticipated parking utilizing shared spaces or dual use based on a shared parking analysis utilizing current industry publications;
  - 4. Availability and frequency of public transit service within a distance of 800-feet.
  - 5. A reduction in vehicle ownership in connection with housing occupancy, ownership, or type; and,
  - 6. Any other information established by the administrative officer as may be necessary to understand the current and project parking demand.
- (d) Such a plan shall identify strategies that the applicant will use to reduce or manage the demand for parking into the future which may include but are not limited to:
  - 1. A telecommuting program;
  - 2. Participation in a Transportation Management Association including methods to increase the use of mass transit, car pool, van pool, or non-auto modes of travel;
  - 3. Implementation of a car-share program;
  - 4. Development or use of a system using offsite parking and/or shuttles; and,
  - 5. Implementation of public transit subscriptions for employees.

Comment [SG1]: Change (a) to 1, etc.

Prior to any approval by the DRB pursuant to this section, the means by which the parking management plan will be guaranteed and enforceable over the long term, such as a contract, easement, or other means, and whether the city should be a party to the management contract or easement, shall be made acceptable to the city attorney.

**(b) Shared Parking for Off-Site Use**

Onsite parking spaces may be made available for use by off-site users subject to review and approval of a Parking Management Plan by the DRB.

The Parking Management Plan must include the following:

- 1. A calculation of the parking spaces required pursuant to Table 8.1.8-1 and a calculation of those parking spaces to be shared for off-site parking use.

2. Information specifying the actual onsite demand for required parking by day, time of day, and by use and also information specifying when and how much parking would be made available to off-site users.
3. A narrative that outlines how the proposed parking management plan will allow for shared use of required parking spaces with off-site users; how it will enable continued availability of required parking spaces pursuant to Table 8.1.8-1 while also affording off-site parking use of those spaces.

The Parking Management Plan must demonstrate to the satisfaction of the DRB that making spaces available to off-site users does not negatively affect their availability for onsite users to park due to either:

1. There being an excess of onsite spaces beyond that necessary to satisfy the requirements of Sec 8.1.8; and/or,
2. The spaces are to be made available during off-peak hours of the onsite and/or required users.

Parking spaces being made available to off-site users may be made available:

- Either with or without a fee;
- For transient use by the general public; and/or,
- By lease, provided the term of any lease does not exceed one (1) year.

Prior to any approval by the DRB pursuant to this section, the means by which the parking management plan will be guaranteed and enforceable over the long term, such as a contract, easement, or other means, and whether the city should be a party to the management contract or easement, shall be made acceptable to the city attorney.

## **Sec. 13.1.2 Definitions.**

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

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

A-O, As written.

**Park:** Any area designated by the City as a park pursuant to Section 22-1 of the Code of Ordinances of the City of Burlington, Vermont.

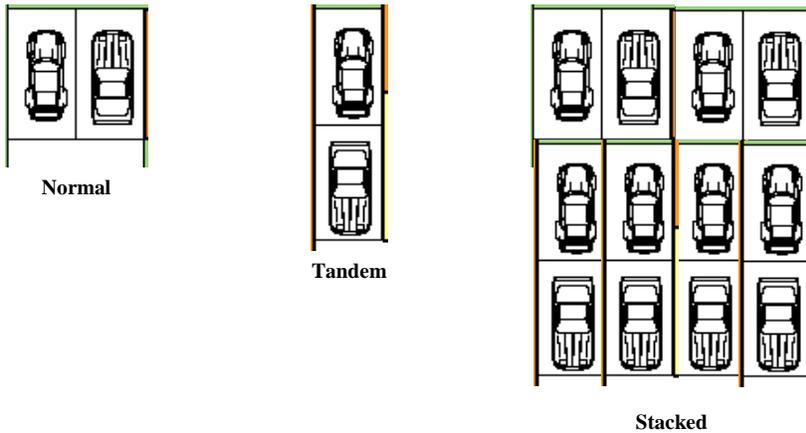
**Parking Garage/Structure:** A structure containing parking facilities, below or above grade.

**Parking, Off-site:** One or more parking spaces on one parcel of land providing parking spaces for a use on another parcel of land.

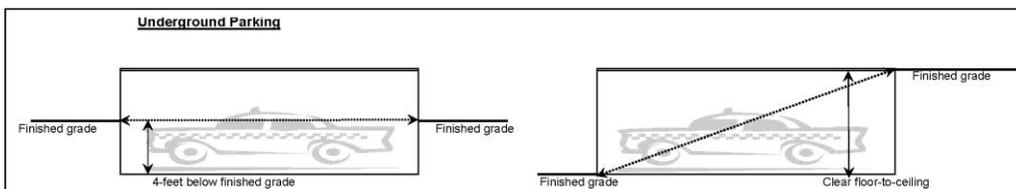
**Parking, Surface/Lot:** Parking facilities that are at grade and uncovered or not within a structure.

**Parking, Stacked:** The parking of more than two (2) cars in a parallel line, one behind the other.

**Parking, Tandem:** The parking of up to two (2) cars, one behind the other.



**Parking, Underground:** Parking spaces within a covered structure where either: fifty percent of the volume of the parking space is below the finished surface of the ground adjacent to the exterior walls of the building; or, the floor of the parking space is four (4) feet below the finished surface of the ground adjacent to the exterior walls of the building, whichever is greater.



Continued as written.

**TO:** Planning Commission  
**FROM:** Mary O'Neil  
**DATE:** August 3, 2016  
**RE:** Daycare amendments, adding preschool use in Appendix A

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This memorandum will introduce two amendments: The addition of “preschool” to Appendix A (Use Table), and align the definition of Daycare to be consistent with state regulatory review, authorize exemption from zoning requirements as noted, and to affirmatively distinguish daycare use from home occupations.

## Daycares

On April 7, 2016, the Planning Commission Ordinance Committee voted to move the Daycare amendment to the full Planning Commission for consideration. Revisions as recommended by the Ordinance Committee are included in the language below.

The recommended text is as follows. New language is underlined red and deleted language is ~~crossed-out~~.

### Article 3: Applications, Permits and Project Reviews

#### Section 3.1.2 Zoning Permit Requires

**(a) – (b) as written**

**(c) Exemptions:**

The following shall be exempt from the requirements of this Ordinance and shall not be required to obtain a zoning permit:

1-9 as written

10. Family daycare home, serving up to six (6) pre-school plus four (4) school-aged children in a single detached dwelling; or a Family daycare center providing care for children of not more than two families other than that of the person providing the care.

### Article 13: Definitions

**Day Care Center:** (See Article 5 for specific provisions.)

**(a) Family Day Care Home:**

- i. A ~~state-registered or licensed~~ daycare facility serving up to six (6) pre-school plus four (4) school-aged children. OR
- ii. A daycare facility providing care for children of not more than two families other than that of the person providing the care.

A family day care shall be considered by right to constitute a permitted accessory use to single detached dwellings, and shall therefore be exempt from zoning permit requirements. See Section 3.1.2 (c). Family Day Care Centers shall not be considered a home occupation.

(b) and (c) as written.

## Preschools

Article 13 has a definition of “preschool”, but the distinct use is not included within **Appendix A, Use Table**. Therefore, two categories are proposed to be added under Schools: *Preschool Small* and *Preschool Large*. Table information is duplicative of daycare use for comparable size.

For consistency, Footnote 8 has been modified to include preschools.

From **Article 13, Definitions**:

**School:** The academic space and accessory uses for the teaching of children or adults.

- (a) **Primary:** elementary school, inclusive of grades K-8.
- (b) **Secondary:** a high school and/or vocational center for attendance after elementary/primary school, granting a high school diploma for levels of education inclusive of grades 9-12.
- (c) **Post-Secondary:** after high school, including colleges, community colleges, universities, or continuing education.
- (d) **Trade or Professional:** a school that offers instruction in skilled trades.
- (e) **Preschool:** a school providing educational services for children from 3 years of age until their admission to first grade and that may include kindergarten.

See attached Appendix A with suggested additions in red underlined.

The reference in Appendix A to **Section 5.4.1 (Small Day Care Center)** requires revision to incorporate Small Preschools as well.

### **Sec. 5.4.1 Small Day Care Center and Small Preschools**

In addition to the provisions of **Art 3, Part 5** for conditional uses, and applicable site and design review standards in **Art 6**, the following additional regulations shall be applicable to an application involving a small day care center or small preschool:

- (a) No playground equipment shall be located within the front yard;
- (b) No more than twenty (20) full-time children are to be served;
- (c) The site plan review shall insure adequate and safe drop-off and pickup space is provided and that traffic problems are not created;
- (d) Any additions, signage, or site improvements shall be residential in character;
- (e) The facility shall be licensed or registered by the State of Vermont if required;

(f) No more than one residential unit may be converted for the creation of a single small day care center or small preschool. Such a conversion shall be exempt from the requirements of Article 9, Part 2- Housing Replacement; and,

(g) The neighborhood is not overburdened with other day care centers or small preschools.

## Appendix A-Use Table – All Zoning Districts

USES	Urban Reserve	Recreation, Conservation & Open Space			Institutional	Residential			Downtown Mixed Use					Neighborhood Mixed Use			Enterprise	
	UR	RCO - A	RCO - RG	RCO - C	I	RL/W	RM/W	RH	D	DW	DW-PT <sup>16</sup>	DT	BST	NMU	NAC	NAC-RC	E-AE	E-LM
Recycling Center – Large <sup>10</sup> (above 2,000 sf)	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	CU	CU
Recycling Center - Small <sup>10</sup> (2,000 sf or less)	N	N	N	N	CU	N	N	N	N	N	N	N	N	CU	CU	CU	CU	Y
Research Lab	N	CU	N	N	CU	N	N	N	CU	CU	(See Sec.4.4.1(d) 2)	CU	CU	N	CU	CU	CU	Y
Restaurant	N	N	N	N	N	N <sup>22</sup>	N <sup>22</sup>	CU <sup>8, 13</sup>	Y	Y	(See Sec.4.4.1(d) 2)	Y	Y	Y <sup>13</sup>	Y	Y	N	N
Restaurant – Take Out	N	N	N	N	CU <sup>13</sup>	N <sup>22</sup>	N <sup>22</sup>	N	Y	Y	(See Sec.4.4.1(d) 2)	Y	Y	Y <sup>13</sup>	Y	Y	N	Y <sup>13</sup>
Salon/Spa	N	N	N	N	CU	N <sup>22</sup>	N <sup>22</sup>	N	Y	Y	N	Y	Y	Y	Y	Y	N	N
School - Post-Secondary & Community College	N	N	Y	N	CU	N	CU	CU	CU	N	N	CU	CU	CU	CU	CU	N	N
<u>School - Preschool Large (over 20 children)</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>CU</u>	<u>CU<sup>13</sup></u>	<u>CU<sup>13</sup></u>	<u>CU<sup>13</sup></u>	<u>Y</u>	<u>Y</u>	<u>N</u>	<u>CU</u>	<u>CU</u>	<u>Y</u>	<u>Y</u>	<u>Y</u>	<u>N</u>	<u>CU<sup>17</sup></u>
<u>School - Preschool Small (7- 20 children) (See Section 5.4.1)</u>	<u>N</u>	<u>CU<sup>8</sup></u>	<u>CU<sup>8</sup></u>	<u>CU<sup>8</sup></u>	<u>CU</u>	<u>CU<sup>13</sup></u>	<u>CU<sup>13</sup></u>	<u>CU<sup>13</sup></u>	<u>Y</u>	<u>Y</u>	<u>N</u>	<u>CU</u>	<u>CU</u>	<u>Y</u>	<u>Y</u>	<u>Y</u>	<u>CU</u>	<u>CU<sup>17</sup></u>
School - Primary	N	N	N	N	CU	CU	CU	CU	CU	N	N	CU	N	CU	CU	CU	N	N
School - Secondary	N	N	N	N	CU	CU	CU	CU	CU	N	N	CU	N	CU	CU	CU	N	N
School, -Trade, or Professional	N	N	N	N	CU	N	N	N	Y	N	N	CU	CU	CU	N	N	N	CU
Solid Waste Facility - Incinerator, Landfill, Transfer Station	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	CU	CU
Tailor Shop	N	N	N	N	N	N <sup>22</sup>	N <sup>22</sup>	CU <sup>8</sup>	Y	Y	N	Y	Y	Y	Y	Y	N	N
Warehouse	N	CU	N	N	CU	N	N	N	N	N	(See Sec.4.4.1(d) 2)	N	N	N	N	Y <sup>15</sup>	Y	Y
Warehouse, Retail <sup>9</sup>	N	N	N	N	N	N	N	N	N	N	N	N	N	N	CU <sup>15</sup>	CU <sup>15</sup>	CU	CU
Warehouse, Self-Storage <sup>9</sup>	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	Y <sup>15</sup>	N	CU
Wholesale Sales <sup>9</sup>	N	CU	N	N	N	N	N	N	N	N	N	N	N	N	N	Y <sup>15</sup>	Y	Y
Worship, Place of	N	N	N	N	CU	CU	CU	Y	Y	N	N	Y	Y	Y	CU	CU	N	N

1. Residential uses are not permitted except only as an accessory use to an agricultural use.

## Appendix A-Use Table – All Zoning Districts

2. Duplexes may be constructed, or a single unit may be converted into a duplex, on lots existing as of January 1, 2007 and which meet the minimum lot size of 10,000 square feet.
3. Duplexes shall only be allowed as a result of a conversion of an existing single family home. New duplexes are prohibited.
4. No more than 5 rooms permitted to be let in any district where bed and breakfast is a conditional use. No more than 3 rooms permitted to be let in the RL district.
5. An existing fraternity, sorority, or other institutional use may be converted to dormitory use subject to conditional use approval by the DRB.
6. Must be owner-occupied.
7. Must be located on a major street.
8. Small daycares and preschools in the RCO zones shall be conditional use and shall only be allowed as part of small museums and shall constitute less than 50% of the gross floor area of the museum.
9. Automobile sales not permitted other than as a separate principal use subject to obtaining a separate zoning permit.
10. Exterior storage and display not permitted.
11. All repairs must be contained within an enclosed structure.
12. No fuel pumps shall be allowed other than as a separate principal use subject to obtaining a separate zoning permit.
13. Permitted hours of operation 5:30 a.m. to 11:00 p.m.
14. Such uses not to exceed ten thousand (10,000) square feet per establishment.
15. Excludes storage of uncured hides, explosives, and oil and gas products.
16. See Sec.4.4.1(d) 2 for more explicit language regarding permitted and conditional uses in the Downtown Waterfront – Public Trust District.
17. Allowed only as an accessory use.
18. A permitted use in the Shelburne Rd Plaza and Ethan Allen Shopping Center.
19. Cafes not permitted as an accessory use. Retail sales and tasting are permitted as an accessory use.
20. Accepted agricultural and silvicultural practices, including the construction of farm structures, as those practices are defined by the secretary of agriculture, food and markets or the commissioner of forests, parks and recreation, respectively, under 10 VSA §1021(f) and 1259(f) and 6 VSA §4810 are exempt from regulation under local zoning.
21. See Sec. 4.4.7 (c) for specific allowances and restrictions regarding uses in the Urban Reserve District.
22. See Sec. 4.4.5 (d) 6 for specific allowances and restrictions regarding Neighborhood Commercial Uses in Residential districts.
23. Allowed only on properties with frontage on Pine Street.
24. Such uses shall not exceed 4,000 square feet in size.
25. Dormitories are only allowed on properties contiguous to a school existing as of January 1, 2010.
26. The mixed uses shall be limited to those that are either permitted, conditional, or pre-existing nonconforming in the zoning district.
27. Performing arts centers in the ELM zone shall be limited to a total of 5,000 square feet in size and to properties with frontage on Pine Street. Performing arts centers may contain accessory space for preparation and serving food and beverages, including alcohol, provided this accessory space comprises less than 50% of the entire establishment.
28. Grocery Stores up to but not to exceed 30,000 square feet may be permitted subject to conditional use approval by the DRB in that portion of the Enterprise-Light Manufacturing District between Flynn and Home Avenue.

<b>Legend:</b>	
<b>Y</b>	Permitted Use in this district
<b>CU</b>	Conditional Use in this district
<b>N</b>	Use not permitted in this district
<b>Abbreviation</b>	<b>Zoning District</b>
<b>RCO – A</b>	RCO - Agriculture
<b>RCO – RG</b>	RCO – Recreation/Greenspace
<b>RCO – C</b>	RCO - Conservation
<b>I</b>	Institutional
<b>RL/W</b>	Residential Low Density, Waterfront Residential Low Density
<b>RM/W</b>	Residential Medium Density, Waterfront Residential Medium Density
<b>RH</b>	Residential High Density
<b>D</b>	Downtown
<b>DW</b>	Downtown Waterfront
<b>DT</b>	Downtown Transition
<b>BST</b>	Battery Street Transition
<b>NMU</b>	Neighborhood Mixed Use
<b>NAC</b>	Neighborhood Activity Center
<b>NAC-RC</b>	NAC – Riverside Corridor
<b>E-AE</b>	Enterprise – Agricultural Processing and Energy
<b>E-LM</b>	Enterprise – Light Manufacturing

Burlington Planning Commission  
149 Church Street  
Burlington, VT 05401

Dear Members of the Planning Commission:

Please accept this letter as a request for a proposed change to Burlington's Comprehensive Development Ordinance (CDO) to include the following changes:

1. Allow "cafes" as an accessory use for the current "Micro-Brewery/Winery" category. Citizen Cider is not in the restaurant/bar business, however we are in the business of both manufacturing and offering visitors a high quality cider experience, which does and should involve food service, both as a complement to the cider experience and as a measure of prudence to balance alcohol consumption as required by city and state laws and regulations.
2. Creation of a new zoning category titled "Craft Beverage Production Operation" to include cideries, breweries, wineries, distilleries and non-alcoholic craft beverage producers. With this new, inclusive category, the other categories listed above can be removed, which would simplify the ordinance and recognize all craft beverage operations equally. In the current ordinance, there is no acknowledgment of cider as a distinct and unique category, such a modification will both address the above concern and position Burlington as one of the most progressive cities in the country in naming the category of Cider in the regulations.

The Great State of Vermont is known nationally for its high quality beverage industry, and Pine Street's Enterprise Zone can be an absolute destination for this type of innovative "manufacturing tourism" in the State, both for Vermonters and those making the journey to connect with this vibrant industry. It's incumbent upon the beverage businesses in the Enterprise Zone to work with the City of Burlington to ensure that our zoning regulations allow us to innovate, keep us competitive, keep us relevant, and keep us viable. *The future of light manufacturing is consumer facing*, and the accessory uses allowed in conjunction with craft beverage operations should reflect this new reality. The above is consistent with U.S. trends in light manufacturing, and more specifically in the entrepreneurial vision outlined in the current draft of PlanBTV. People want to know how things are made, and where they come from. Let's work together and create a zoning change that makes Pine Street's Enterprise Zone the best spot in the state to make high quality beverages today and tomorrow.

I look forward to working the Planning Commission and the City of Burlington on this issue.

Sincerely,

Justin Heilenbach  
President and Co-Founder  
Citizen Cider

**TO:** Planning Commission  
**FROM:** Scott Gustin  
**DATE:** August 9, 2016  
**RE:** Article 2: Part 7; new Sec. 2.7.8, *Withhold Permit*

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At its's June 2, 2016 meeting, the Ordinance Committee voted to move this proposed language along to the full Planning Commission for its consideration. The purpose of this proposed amendment is to create additional incentive to correct outstanding zoning violations and to prompt action to close out expired zoning permits in need of certificates of occupancy. The mechanics are simple: Properties with outstanding zoning violations or open and expired zoning permits may not receive new zoning permits until those items are addressed.

This proposal originated in 2014. Some initial amendment language was put together in June 2014 following an initial discussion with the Planning Commission. No further discussion is evident in the record. The Ordinance Committee revisited this proposal in May 2016 wherein the extent of the amendment was agreed upon. At their June 2016 meeting, there was some hesitancy within the Committee as to the need for this measure but, as noted above, voted to move it along for discussion among the full Commission.

Proposed CDO Language:

## **PART 7. ENFORCEMENT**

### **Sec.'s 2.7.1 – 2.7.7**

As written.

### **Sec. 2.7.8 Withhold Permit**

The administrative officer is authorized to deny all zoning permits or certificates of occupancy for any property with an uncorrected zoning violation (i.e. notice of zoning violation and/or municipal complaint ticket has been issued and is not under appeal). The administrative officer is also authorized to deny all zoning permits for any property with an expired zoning permit without a final certificate of occupancy.

Instead of withholding or denying a zoning permit, the administrative officer may grant such permit subject to the condition that the uncorrected zoning violation is corrected or the expired zoning permit is closed out with a final certificate of occupancy. Such action(s) shall take place before the issuance of a final certificate of occupancy on the new permit.

### **Sec.'s 2.7.9 – 2.7.12**

As written, but renumbered to adjust for new Sec. 2.7.8 above.

## Burlington Planning Commission

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*Yves Bradley, Chair  
Bruce Baker, Vice-Chair  
Lee Buffinton  
Emily Lee  
Andy Montroll  
Harris Roen  
Jennifer Wallace-Brodeur  
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 him 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

149 Church Street  
Burlington, VT 05401  
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*Yves Bradley, Chair  
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.

*As approved by the Planning Commission on .*

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.

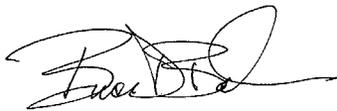
**X. Minutes/Communications**

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

## Burlington Planning Commission

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*Yves Bradley, Chair  
Bruce Baker, Vice-Chair  
Lee Buffinton  
Emily Lee  
Andy Montroll  
Harris Roen  
Jennifer Wallace-Brodeur  
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, Burling 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 14<sup>th</sup> 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.



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B Baker, Vice Chair

Signed: 2016



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E Tillotson, Recording Secretary

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Jennifer Wallace-Brodeur  
vacant, Youth Member*



### **Burlington Planning Commission Minutes- Special Meeting Thursday, June 9, 2016 - 6:00 P.M.**

Present: Y Bradley, L Buffinton, E Lee, A Montroll, H Roen, J Wallace-Brodeur, M Weinberger  
Absent: B Baker  
Staff: D White, M Tuttle

#### **I. Agenda**

No changes to the Agenda.

#### **II. Public Forum**

K Walkerman- Completes energy modeling professionally. Design and architecture of the building is respectful of open space, of neighbors and to minimize visual impact of height.

B Dunkiel & J Beck- Represent the developer, available if there are questions related to Predevelopment Agreement (PDA) or the project as currently conceived.

W Nelson- Mechanical engineer with experience with tall buildings. The sustainability of project is high because design limits amount of materials needed, a lot less exterior surfaces which reduces energy footprint. Prefer a tall building setback off ROW to one not as tall, close to the street, and with few façade undulations.

C Simpson- So much to criticize, but focus on praise of existing zoning with discretionary bonuses. Proposal gets rid of DRB discretionary process, public input and tilts the process to benefit of the developers. Urge PC to reject proposal and retain current zoning.

#### **III. Proposed CDO Amendment- Downtown Mixed Use Core Overlay**

D White: Staff presentation on model, boundaries of the district, changes to the official map, height and mass, urban design and other standards in the proposed amendment. Julie Campoli, member of the City's Technical Team, present to help discuss height and mass.

J Wallace-Brodeur: Move the model discussion after substantive issues.

D White: Proposed amendment came via Council, with an overview of what ought to be contained in the amendment outlined in PDA. Details for boundary, urban design standards came from the Form Based Code (FBC) committee. Purpose to facilitate implementation of planBTV by building opportunities for vertical expansion; adding much needed housing, retail and office space; definition of streets as civic spaces; reestablish north-south connectivity; and activate a pedestrian experience along Bank and Cherry Streets.

##### Boundaries

D White: Similar to what FBC Committee agreed is appropriate location for increased height.

A Montroll: Huge mistake to rely on current zoning given opportunity we have for this area. Current zoning has some useful tools, but only looks at impact of development on site itself rather than on streetscape and pedestrian experience. Current zoning leaves it up to developers and DRB to get design right—could have something wonderful, or a horrible, solid wall of 105 ft buildings. FBC and proposed overlay focus on impact on streetscape, provides clear standards for how to break up mass, height, entrances, windows, etc.

H Roen: Might even include the People's Bank site in the boundary.

J Wallace-Brodeur: What is context for what is included in the boundary?

D White: Does not include buildings fronting Church Street, or the VT National Bank due to its historic value. Does include BTC property, Burlington Square, Macy's and city parking garages. Included because sites are identified in planBTV for redevelopment, there is little historic context and they're internal to the block.

L Buffinton: Is there a legal agreement preventing additional height behind Hotel Vermont?

D White: Can look into it. It is City's property, so have control over what happens. Zoning does not mean it will be developed.

A Montroll: FBC Committee focused on this area as one for greater development because no historic pattern of development, Cherry Street view corridor retained, and Bank Street view already blocked. Committee did not include People's Bank because it didn't seem to fit the pattern of tapered height. Committee didn't specify height because Committee was isolated from the public, didn't want to take that step without input, and because major deviations from zoning should occur within the PC realm.

M Weinberger: FBC perspective on area for taller heights validates the proposed overlay boundaries.

J Wallace-Brodeur: Area is most underdeveloped and appropriate for additional height. Can't come up with a rationale for taking anything out.

Y Bradley: Seems like People's building should be included.

L Buffinton: Could be 105 feet if redeveloped; current zoning seems to be more respectful of Bank St.

D White: Need to consider the terminal vista on Bank St that draws people in.

E Lee: What will height look like from Church Street?

J Campoli: Church Street is not wide enough to get far enough away from building to see the height.

L Buffinton: Will there be step backs from St. Paul and Pine Streets?

D White: Yes.

#### Official Map

D White: Purpose to establish two 60 ft. ROW. Proposed developments which impact features on Official Map, provide city an opportunity to acquire property at fair market value to implement city plans. If current proposed project goes away, this change is the mechanism to guarantee street connections will happen.

A Montroll: This is very important. FBC Committee did not discuss, but it is clear from planBTV.

Y Bradley: Is purpose of jog in the roads to accommodate existing buildings?

E Lee: Official map should show what we want, regardless of project. Should create a more aligned intersection, or be wider near intersections to provide flexibility in alignment.

D White: The proposed ROW allows for connectivity, but the jog can also help with traffic calming.

Y Bradley: Adding width comes at a cost.

J Wallace-Brodeur: What did the Technical Team say about the alignment?

D White: Much more comfortable with a road that is all at grade. Don't recall if there issue with alignment.

#### Height & Mass

D White: Outlined height and FAR in proposed overlay, particularly how the maximum floor area decreases as the height increases.

J Campoli: Study walkable cities around the country. Emphasis on streets; never paid attention to heights because it didn't matter as much. Looked at Google Earth for places previously visited to see how tall projects like proposal actually are. It is about massing, street activation, options to for how setbacks occur to create less uniformity. Setbacks aren't necessary, but good insurance policy against bad design. Width of street, doors and activation also important.

L Buffinton: What about shadows? If setback, get more sunlight.

D White: What are key places to preserve from shadow? All buildings will make a shadow at some point. Typically cities regulate shadows on civic spaces.

M Tuttle: Showed a model of maximum buildable envelope in downtown under existing zoning versus proposed zoning.

L Buffinton: How was 160 feet determined?

D White: Driven by public process and Council's discussions. planBTV recommended effort to reconsider zoning for downtown. This project and FBC give us something to test the ideas.

M Weinberger: Process began in 2014 with an opportunity to look at this area and share goals in planBTV. Don't want a specific project to drive policy decisions, but helpful to have a project to aid the discussion. Comfortable with this tension; last 18 months City's tech team has helped evaluate, make decisions informed by professionals. Has been an iterative process.

M Tuttle: Commission regularly receives requests from individuals who can't meet zoning. Proposal has a different value to the community, but is not outside of the PC purview to receive, consider a request like this.

H Roen: Not sure would be having conversations about height if it weren't for this project. Don't have a problem with the height specifically for this project, but for a zoning change, might think a bit differently.

L Buffinton: Support redevelopment, density, opening streets. Change 160 feet by-right is concerning because city won't get additional public good, like affordable housing in exchange.

D White: New developments inherently provide new, additional public good. Have had bonus provisions for 30 years, they're infrequently employed because they're seen as a burden. If development doesn't occur, then don't get community benefits associated with bonuses.

L Buffinton: Tax base will not increase if TIF is being used to build streets.

D White: City desires to build streets regardless of this project. If not built as a part of this project, using TIF, would be built using general taxpayer dollars. Doesn't burden taxes because this project generates the revenue to build the improvements.

J Beck: The design team held a public charrette – program has always been about mixed use, question was what uses and how tall. As an applicant, arrived at height based on ideas from the charrette.

L Buffinton: Parking is not the driver of the height?

J Beck: Not at all.

A Montroll: Issues are what is height and how to get there. FBC Committee agreed that if there are things we want, be direct about it. FBC does away with bonuses, but incorporates various levels of review. Could use this model for conditions on height based on opening of streets, or proving it's infeasible to place parking below ground.

Y Bradley: Need to remove biases towards developers, thinking about getting something in return. Think about what these projects mean overall for the community. More housing units by virtue means more affordable units.

L Buffinton: Parking numbers don't add up, Goody Clancy said it needs better design. Think parking is driving height.

M Weinberger: Images of proposed project are consistent with massing and height, but not design guidelines. Tech team is comfortable with height and massing, but not design. Design is important and PC's purview to get the design criteria right to help move project towards positive images in the packet. Concerned about above ground parking, but largely persuaded by Goody Clancy's images of successfully integrated parking. Instead of discretionary and uncertain review, be more explicit about the design of a parking garage.

H Roen: Expand the requirement for active uses in the first 20 ft to upper floors.

J Beck: Airport parking on a flat site, no soil issues cost \$12,000/space. UVM Medial Center underground parking, no soil issues cost \$46,000/space. Wrapping garage with buildings requires mechanical ventilation which adds cost, and people don't feel as safe. For natural ventilation, at least 40% of garage needs to be open.

J Campoli- How does exterior treatment impact cost?

J Beck: A wrap will drive up cost, but not as much as mechanical ventilation or underground structures.

E Lee: Don't want a garage that looks like proposed; it won't fit with FBC.

D White: Design standards in proposed overlay require parking on ground level to be setback 20 feet and behind active uses, upper floors must be level, screen cars and lighting, and façade must be integrated with overall design.

J Wallace-Brodeur: With public input and for what the project will achieve, there is a consensus that more height is appropriate, just need to determine what height is. If this project doesn't happen in downtown Burlington, where does it happen in Vermont? Could debate a few stories, but project's program is achieving our goals at this height so comfortable with it. Street level engagement is important; if we get design right this is a project the community will be happy with. Disappointed that the parking came above ground, but costs are high and not sure putting it underground is worth taxpayer money. Focus on making the design of above ground parking successful.

M Weinberger: How should we be confident that we'll get a garage design like [the positive parking example in image from Goody Clancy]?

D White: Reiterated design standards for parking.

H Roen: Amendment exempts parking from the design standards.

M Tuttle: Exemption only refers to providing active uses in the first 20 ft of building above the ground floor.

J Campoli: Should be careful about recessing buildings at street level. Want a canopy or temporary awning.

#### Urban Design

D White: Design standards require fine-grain variation in facades; vertical bays up to 65 feet wide for 150 of building length; projection of all or some of the façade; step backs that are an appropriate depth to be used for something meaningful, and flexible in their vertical location to provide variety; primary entrances defined and required every 60 feet; 70% of façade as voids.

E Lee: Voids are not a term FBC used, not consistent with screening requirements.

J Campoli: Maybe different standards are needed for parking. Also, language needs to direct design so designers aren't putting retailers at risk, functioning doors actually used.

J Wallace-Brodeur: What happens to a side street when two buildings back up to one another and have their primary entrances on the streets they front on?

D White: Any street needs doors that are operable during business hours, must be at least one direct connection between a parking facility and the street.

E Lee: planBTV says pedestrian is king. Should not prioritize a convenient experience for people that drive.

M Weinberger: Some level of confidence that the façade elements from FBC are informed by best practices to get us the design on the left. Could use some refinement to ensure parking design is right. Staff could look into this in more detail.

E Lee: Talking about development by right; language has to be tight.

M Weinberger: By right only applies to height and mass. Design will still be discretionary at DRB.

Y Bradley: Void language seems to be problematic.

A Montroll: Point is that parking doesn't look like parking.

D White: Purpose of urban design is to get the form right. Opportunities for discretionary relief through DRB, except for height and FAR.

#### Other Elements

D White: Overlay requires that buildings meet LEED Gold design, but not required to be certified.

L Buffinton: Need to demand green buildings, but not specify LEED.

E Lee: Asking for a checklist does not guarantee implementation. Need something with teeth.

J Beck: LEED is not best standard, but most understood, definitive, measurable. Good place to start, and can be exceeded.

J Wallace-Brodeur: Ask BED or other expert for input.

C Bates: LEED Gold is not a healthy building; health is most important and should be required.

M Weinberger: Downside of a real project is that there is a timeline for zoning amendment process. Need to strike a balance between policy discussions and schedule. Suggest focusing input on most outstanding elements regarding design so that it can move forward.

L Buffinton: Should prioritize issues; little details can be amended later.

Y Bradley: Need to get out of the weeds and focus on parking, height and mass.

A Montroll: Urban design standards are important, too.

#### **IV. Adjourn**

The Commission unanimously approved a motion by H Roen, seconded L Buffinton, to adjourn the meeting at 9:00pm.



\_\_\_\_\_  
Y Bradley, Chair

Signed: 2016



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E Tillotson, Recording Secretary

**Burlington Planning Commission Minutes**  
Regular Meeting  
**Tuesday, June 14, 2016 - 6:30-9:00 P.M.**  
Burlington Police Dept, Community Room, One North Avenue

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.

**II. Report of the Chair**

B Baker acting Chair.

**III. Report of the Director**

Deferred in the interest of time.

**IV. Proposed CDO Amendment – DT/RH Zone Transition Line at George Street**

John Alden: Presents a proposal to modify the zoning boundary line between Downtown Transition and Residential High Density at corner of Peal and George Streets. Showed a massing and buildout study (3 versions) of existing buildings, merged lots under existing residential zoning, and the proposed rezoning.

L Buffinton: There are two historic structures adjacent, could they be demolished?

J Alden: The district may be historic but perhaps the specific buildings are not.

D White: Explains possible reasons for demolition and that the decision is up to the DRB.

E Lee: Would the DRB consider demolition by neglect?

D White: The zoning question is if the buildings were to be removed, which scenario would be best for the site. Under proposal, move boundary, examples show fairly large buffers between nearby uses.

J Alden: The proposed development is not out of scale with the Pearl Street corridor. With bus station development across the street, seems appropriate. Opportunity to do some great housing, improved with flexibility of coverage and height. There is a plea from housing authorities to create more units.

E Lee: How would FBC affect this property?

D White: Assuming FBC is adopted, properties would be subject to that review; however, some of these properties are currently in RH zone so unless the boundary changes, it would not apply to those.

E Lee: It doesn't seem that green space is actually required. What is the proposed lot coverage?

J Alden: This is proposed with parking underground and would retain two areas of green space.

D White: Presently there is a required 15 foot buffer between zones. This is not necessarily an actual proposal.

L Buffinton: Is not seeing consideration of neighbors to north affected by shading. Four and five stories is too big, it dominates everything around it. Suggests a hybrid approach.

J Alden: He is not saying the buildout will be this large, this is just an illustration of possible massing.

J Wallace-Brodeur: It seems as if it would be better to retain scale of the RH district.

E Lee: Doesn't support this.

The Commission approved a motion by E Lee, seconded by L Buffinton, not to entertain the proposed change, and to retain the present zoning for these sites. Commissioners Buffinton, Lee, Montroll, Roen and Wallace-Brodeur voted in favor, Commissioner Baker opposed.

## **V. Proposed CDO Amendment – Article 10: Administrative Authority & Public Standards**

D White: The purpose of this amendment is to establish administrative authority which affects subdivided land, often not actual development. Five lots or less are considered a minor subdivision. Also includes a reference to the standards of the city engineer for new infrastructure.

B Baker: Vestigial alleys in the city are a good example.

D White: If a property line is moved now, the permit application has to go to the DRB.

A Montroll: Could staff approve a subdivision of a property into four lots?

D White: If it is just a creation of lots with no development proposed.

E Lee: Couldn't this type of application just be on the DRB's consent agenda?

D White: It's about timing and complexity; for something so minor, it takes a long time.

L Buffinton: Perhaps we could scale back slightly to three or more lots, it seems as if we are raising the bar for staff approval.

D White: We can already do a lot line adjustment, but this proposal addresses when a new lot is created.

A Montroll: Not sure if comfortable with subdivision of lots being administrative. Subdivisions seem more significant, process should be more intensive.

J Wallace-Brodeur: Uncomfortable with staff approval if this would be creating developable lots. Would be helpful to have examples.

H Roen: We might want to consider monumentation, we might want to have some flexibility with this issue.

D White: Suggests advancing the portions of the amendment tied to subdivision and infrastructure standards and monumentation. Admin approval for subdivisions can be reconsidered.

The Commission unanimously approved a motion by J Wallace-Brodeur, seconded by L Buffinton, to warn an amendment for public hearing to include the changes to subdivision and infrastructure standards and monumentation.

## **VI. Public Forum: 7:15 pm**

L Martin: Want more explanation on how the city benefits from the use of TIF for public streets and streetscape enhancements. Seems that it benefits the development.

K Devine: Appreciative of the Commission for their efforts. BTC Mall site needs new life. There will be several steps when the project returns to City Council, but it can't move forward without the PC sending it on. Please move this ahead.

E Morrow: Request the PC to make a formal motion and recommendation to Council that the zoning amendment not be adopted until a physical model is in place.

J Carton: Represents the owners of Hotel VT. 100% behind development on mall site, but not of the rezoning of the Lakeview garage, which creates an economic concern for the hotel.

K Backus: Against height of building. This zoning change would lead to more upward pressure on downtown development. Where will they put all of the traffic? There is not a good mix of people in the building, maintenance would be a problem. Eventually the less wealthy will be pushed out of the city's center.

A Hannaford: Supports redevelopment of mall, does not support a change to building height.

A Lavin: Fourteen stories is beyond anything this City has done. It will not happen.

L Terhune: Understands there is a push, developers want certainty, but residents deserve loyalty by upholding zoning. In the past DRB backed our community and was able to say no to an inappropriate plan. Don't change zoning so dramatically, the community has spent years forming the CDO. Just vote against this proposal.

Resident: Against the proposed height.

C Baker: Supports density downtown. Analysis points to the most important thing to sustain, is to increase density in the central city. There is a need for housing, it is a regional issue and this is the place to do it.

Resident: Supports good planning, but the proposed is a ridiculously high building. She is acquainted with several architects, all of whom have said the project is not well-designed. There is a need for something visual, doesn't understand why a model cannot be built in time.

B Headrick: In conversation with architects, set back at higher levels is important. If three towers are erected in three areas, it will create a solid cement presence. Residences on the hill will be looking into cement towers. The City Council looked at higher height limits in 2009 and refused to approve it.

M Manghis: The mall needs help, but it is important to speak to the town's personality. She has had a similar experience in a different state. The developers ran out of money and now there is an ocean front building going to ruin. The municipality is now admitting that the project is too big. We are jeopardizing the next generation who will be stuck with the bill.

M Bushey: Strongly supports the downtown overlay district and reconnecting the street grid. There is an opportunity to do that now. As the Chair of DAB, look at scale and mass, bring projects into compliance. There is sketch plan review today and there will be two more reviews. The DAB will work with the applicant to improve articulation of the façade. Frustrated by misleading information being distributed. Feeding on negative connotations, giving false impressions to public. Asks PC to approve and let project move forward.

G Grill: Asks PC if they believe they are charged with representing the view of the citizens. The overlay is not just raising height, it's what is received in exchange for height. The Commission Chair is a developer and has suggested that we stop asking things of developers. The Mayor is trying to do away with affordable housing. Very uncomfortable that a physical model is not available.

M Long: During sketch plan, the Boards work with an applicant to comply with the ordinance. This project works to bring the ordinance in compliance with developer's wishes. The Zoning ordinance is supposed to shape the development. It is necessary to have a broad discussion. He agrees with many things in planBTV.

M Wallace: Urges the Commission to listen to the community. It is always a temptation to think that we know what the community needs. We need to slow down the process and listen to the community. Growth, rapid and uncontrolled is cancer. We do not want this process to be a betrayal of a contract with the community.

J Dagget: Zoning regulations exist for a reason and should be maintained.

A Petraca: Now is not the time for this establishment politics or economics. This process is rigged to benefit the 1%.

C Messing: Don't ask a barber if you need a haircut. Skyscrapers in NYC which were supposed to provide housing have had no effect on housing. If the Commission is sincere about public input, microphones and sound system should be provided at these meetings.

A Radcliffe: It is lip service to call this project a housing solution. Don't fall into the too big to fail mindset; consider a smaller scale and don't give up on a model.

C Bates: planBTV says eight story buildings. One Burlington Square is 100 feet tall and about 100 feet wide. Consider if that were repeated three times in each direction and add 60 feet on top.

## **VII. Proposed CDO Amendment – Downtown Mixed Use Core Overlay**

D White: Model is in process. A physical model, covering about 46 acres, five by three blocks, with terrain, existing buildings and the proposed project. Will take about another month, but expected in time for Council to consider it.

E Lee: What is the time frame for the zoning amendment? Is it possible that it could come back to us after the model arrives?

D White: 120 days for zoning amendment is about September 12, if the Commission forwards the amendment to the City Council for the July 11 meeting. If City Council makes a substantive change, it must come back to the Planning Commission. This is opportunity for feedback. The Commission can participate and provide input to the City Council at their ordinance committee meetings.

L Buffinton: To understand true impact, we would need to see the maximum build out in a model. Should slow the process and get all of the visuals.

D White: The digital model M Tuttle created shows maximum build out.

J Wallace-Brodeur: We need to compare apples to apples in a model. Building to building, zoning to zoning. Are there any changes in the text of the amendment that was in this packet?

D White: Yes, to section regarding screening proposed parking and green buildings.

A Montroll: We are asked to take action to warn tonight for July 6<sup>th</sup>. Can the Commission provide a series of comments? Not ready to say yes or no.

D White: Yes.

E Lee: Physical model needs to show existing buildings with the maximum massing of this area because there are many buildings that may not build to the max. Don't want to live in a Burlington of the maximum build out. If Commission recommended not to pass the amendment, can the Council still move forward?

D White: Yes.

E Lee: There is inadequate time.

J Wallace-Brodeur: Most important issues are street level engagement, parking screening, building articulation. It would be helpful to identify in the draft where that language is. The Commission needs to weigh in on these to make it better.

D White: When the proposal is warned, you can continue to discuss the proposal.

L Buffinton: There are way bigger issues, height, spot zoning, concern for precedent, height increase without benefits to the public. The proposed is a huge change to city policy, we need to look at the big picture. 160 feet is the single biggest hurdle.

D White: There is a multi-step test that the State Supreme Court has established to determine spot zoning. This proposal does not meet these requirements. It fits the kind of development in planBTV; it's not out of context.

B Baker: It is important to look at the tradeoffs and what we gain as a City.

D White: The current ordinance related to bonuses has not been effective. Since 2008, we have not seen many developments take advantage of them and provide buildings over 65 feet or housing. Zoning reconfigures what height looks like, what it does, and distributes it in a different way.

L Buffinton: Current zoning would require more setbacks.

M Tuttle: Setbacks are replaced by much more prescriptive standards for where the massing of a building could be.

A Montroll: It would be helpful to see something between the two examples. Height seems to be major concern. The Mall needs good redevelopment, but mindful that Burlington is not ready for buildings that high. We need a height more compatible with more peoples' visions.

J Wallace-Brodeur: As much as there is concern about the height, massing is a bigger concern, issues that are critical for us to weigh in on. Setbacks, engaging with the street, assurance that massing is appropriate.

H Roen: Comparisons under current and proposed zoning would be helpful.

L Buffinton: Should be thinking bigger picture. This could be a launching point to get into finer points of zoning. Look at alternatives. It will result in a better and stronger project.

J Wallace Brodeur: We have done a lot of thinking about how buildings interact with the street through FBC. Height is important, but design issues, massing, parking, street interaction are bigger.

A Montroll: FBC work on street level, interaction between building and street, worried we will lose a lot of that by pushing up so high.

E Lee: Our job is to make a recommendation about height. If we don't make a decision who will? The Commission should make a non-political decision about what is right for Burlington.

J Wallace-Brodeur: Height is not a separate issue—the massing and design points are related.

H Roen: Agree with redeveloping site with more density, but a little uncomfortable with the limited time we have to do this.

D White: After looking at regulations through FBC for last several years, not uncomfortable about height, don't think it is grossly out of scale. Comfortable with design standards in the proposed ordinance. Regulations will require more vertical articulation and attention to relationship to streetscape.

B Baker: Maybe we should focus on massing and design questions, and then decide of height is right.

J Wallace-Brodeur: We need to identify sections that are the most important to focus on. We should pass on signs, and spend time on urban design standards for street articulation, parking, building design. These should lead to a conclusion about height.

D White: Design standards require articulation, vertical orientation. Require a first floor of 14 feet. Parking garage designed in unity with the rest of the building.

E Lee: We have spent a lot of time talking about improved parking requirements.

D White: What are specific things that the Commission wants to talk about?

L Buffinton: Next meeting we should go through the actual ordinance.

A Montroll: We have a whole series of issues with this, not sure with time allowed that we can come to resolution with this.

J Wallace-Brodeur: Maybe Commission should develop a memo identifying areas where language doesn't succeed, and list priorities and issues.

A Montroll: Dedicate the next meeting to identification of issues for City Council.

The Commission unanimously approved a motion by E Lee, seconded by A Montroll, to warn the proposed amendment for a public hearing.

B Dunkiel: For the Commission's next discussion, it seems that Sections 2, 3, & 4 represent 95% of what the project is about and seem to be the items of concern to the Commission.

L Buffinton: The proposal for the mall is at DAB for sketch plan review.

### **VIII. Adjourn**

The Commission unanimously approved a motion by L Buffinton, seconded by J Wallace-Brodeur, to adjourn at 9:14 pm.

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B Baker, Vice Chair

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Date

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E Tillotson, Recording Secretary

**Burlington Planning Commission Minutes**  
**Special Meeting**  
**Tuesday, June 21, 2016 - 6:00-9:00 P.M.**  
Burlington Police Dept. Community Room, One North Avenue

Present: B Baker, L Buffinton, E Lee, A Montroll, H Roen

Absent: Y Bradley, J Wallace-Brodeur

Staff: D White, M Tuttle, E Tillotson

**I. Agenda**

No changes.

**II. Appointment of Assistant Zoning Administrator**

M Tuttle: Ryan Morrison, Associate Planner, was hired in January. Ryan was formerly ZA in Waterbury and previously worked in western US. Successfully completed the probationary period of employment and Planning Director requests his appointment as an Assistant Zoning Administrator.

The Commission unanimously approved a motion by A Montroll, seconded by H Roen, to recommend the appointment of Ryan Morrison as Assistant Zoning Administrator to City Council.

**III. Proposed CDO Amendment- Downtown Mixed Use Core Overlay**

M Tuttle: D White will have a presentation, not formal, to help answer questions about various elements of the proposed ordinance. At the last meeting the Commissioners were asked to submit suggestions to help guide our discussion at this meeting. Received a few questions from L Buffinton.

L Buffinton: It would be helpful to go through the amendment as written. A slide show with graphics is helpful.

M Tuttle: The first change addresses new street ROWs in the official map, and renames to the downtown and waterfront map. This provides language around ownership and use, gives the City option to establish public streets.

E Lee: There is concern from the public about whether these will truly be public streets. There is a rumor that entrances to public parking will change and uncertainty about what Pine Street is going to look like.

A Montroll: Suggests that provision of streets be a condition of development to maximum height.

E Lee: How do people feel about widening the ROW?

H Roen: This is just a ROW, it gives the city the right to acquire the street.

L Buffinton: Let's go through the document point-by-point.

A Montroll: We need to define the goal for this discussion.

B Baker: Preparing a list of comments to send to City Council will be helpful for the public to react to.

E Lee: Not comfortable endorsing the ordinance since there is no model. Suggest sending the document to City Council, anticipates they will send back to the Commission. The ball will be in their court.

A Montroll: We need to compose a list of comments for the Council.

E Lee: Welcome public dialogue during this work session, but not interruptions. Suggest increasing the ROW beyond 60 feet and discuss use within it. If we were considering this amendment outside of this project, we would want streets to have alignment. Doesn't necessarily mean a road has to be in the ROW, but maybe include some additional public area.

B Baker: For instance, no loading docks.

D White: The question is what is public purpose that we are acquiring these lands for?

H Roen: Strongly in favor of what is included in the ordinance.

L Buffinton: The elephant in the room is building height, need to deal with it. The ordinance says buildings needs to be in compatibility with neighborhoods. Start with a Church Street height discussion.

D White: Rationale for this is that almost every block of Church Street has at least one building taller than 38 feet. Changes setback measurement to be from the property line rather than the center of the street. Intended to promote sense of enclosure and scale and strong definition to create more continuity. To create enclosure, general rule of thumb is height of buildings along street as tall as streets are wide, which typically is 66 feet; only proposing 45 feet along Church.

L Buffinton: Necessary to pull buildings back so that light penetrates to the street.

D White: This is the purpose of the 45 degree angle created by the required setbacks.

A Montroll: One of the biggest concerns is height. The illustration show squashing the building mass so it projects upward—looks like a wedding cake. Interested in looking at how to increase the FAR of each floor to potentially reduce the overall height.

D White: Each time increase FAR of a floor, it creates more bulk.

A Montroll: Is not sure bulk matters that much from a distance. Setbacks/stepbacks, down on street looking up is where they make a difference. Don't know that squeezing gains anything. Expansion at lower levels might allow the height to come down.

L Buffinton: Scaled across the width, thinking about in the street, looking at small houses, this will block older, smaller houses from light and sun. Want to look at view slides 12,13 and 21 of the proposed project.

A Montroll: The graph on the left looks like an urban design, the one on the right does not.

D White: Part of this reduction is to help with sky view and ability to see through a block rather than a solid mass.

L Buffinton: Going from 65 feet to 160 foot height is a significant change. It's too bad this discussion is before FBC is approved.

A Montroll: We could recommend exploring each floor plate be a little wider than what is included, and lower the overall height.

E Lee: Feels the opposite—that taller buildings are better, increased stepping back enhances the building.

H Roen: Maybe 160 feet is too high, but think the more tiered approach is better.

A Montroll: Doesn't now that it has to be so pushed together.

E Lee: It would be helpful to see how two different massings would compare.

B Baker: Street design, street connectivity, widening street are all tradeoffs that take away from building square foot. Would be interesting to have setbacks that achieve same GFA but within, say, 12 stories.

E Lee: Would rather see truly aligned streets and allow a building up to 14 stories.

L Buffinton: Like B Baker's idea but it's not enough, setbacks are really important.

A Montroll: Proposed tiers is limiting on design and creativity. Don't want DRB to have to be the ones to worry about how to avoid wedding-cake buildings.

E Lee: Setback on street level on level four or five, setbacks higher up might not be so important. Would be unfortunate to have a poor quality building because people were afraid of height.

A Montroll: We need to have a way to make this work with less controversy. Trying to be more descriptive of what is wanted.

E Lee: Could see this building from my house. If it's a choice of totally blocked or views between two towers, would rather have two towers, still see water and mountains.

L Buffinton: We don't want to be too prescriptive. Allowing architectural flexibility, overall height.

B Baker: We are looking at this as if it is one building, illustrations show differentiation between buildings.

D White: One Burlington Square is an example. The intent is to break up the mass with spacing requirements between towers. It is critical that the façade get broken into blocks, breaking horizontal plane into different bays with setbacks. The building is taller but the façade articulation includes the setback requirements.

E Lee: Want to get something done. Would rather talk about low income housing, parking and other issues to reach a consensus.

H Roen: Doesn't believe there is consensus on height issue yet.

L Buffinton: Want to look at views. More setbacks are needed to reduce the sheer walls and massive bulk of these buildings. By right question is big, and it is a tremendous loss not to address those issues through the ordinance. The public is essentially paying for streets with TIF, we need to look at bonuses, there are hundreds and hundreds of seniors waiting for housing every month. Seems as if we could restructure bonuses, we could do better.

D White: This requires 20% affordable units. The extra 15% bonus has not worked. We do not need the parking bonus, because we don't need additional public parking.

Mayor Weinberger: It appears very few units have actually been built under present policy which is being reviewed through a separate process; doesn't recommend changes to IZ until that process has provided recommendations. Going higher than 20% makes the development nearly impossible. The City Council considered this issue also, and in the end, the vote did not include more than 20% inclusionary. The Commission is having detailed conversations and written comments to the City Council would be helpful.

L Buffinton: Are you and the City Council exploring more ways to encourage housing?

Mayor Weinberger: The City Council has been grappling with this issue over last couple of years. There were 22 recommendations that came out of the Housing Action Plan. They support new and existing projects, will recommit as a city to permanent affordable housing, housing trust fund has doubled, taking proactive role in issues like Farrington's Mobile Home Park. Lack of housing at other levels has an effect on affordable housing, it is a contributing factor to pressure on overall affordability.

L Buffinton: Workforce housing and senior housing needed.

Mayor Weinberger: There are no subsidies for workforce housing, but no doubt that this project if built will serve many households in this area.

D White: There is a coalition in Chittenden County advocating for more housing.

E Lee: Do we have consensus?

M Tuttle: The goal with this proposed amendment is to be more inclusive across the board, of space for housing and jobs. Some of the previous bonuses contradicted each other in terms of our priorities for downtown.

A Montroll: Concern is that Official Map gives City the option for streets. If development doesn't work, we still need to make sure that the streets open up. Find a way to require no development in these areas. The other issue of concern is above-ground parking. If this is permitted, there needs to be a way to require demonstration that underground doesn't work.

B Baker: Hasn't heard anyone opposed to opening streets.

A Montroll: Need to change zoning so that if the project doesn't happen, someone else comes in and the City is not in a position to buy the streets back, we need to ensure that those streets are not built over and we lose the opportunity.

D White: Understand the concept, but need to have city Attorney's office review.

Mayor Weinberger: That is worth reviewing, but raises some constitutional questions and not sure we can do better than the mechanism in the agreement.

A Montroll: We see a proposal for parking on second and/or third floor and right against the street. Would like to see some conditions saying underground is better. Or, consider putting another deck on an existing structure. If there is a better way to accomplish the parking, would like to see a condition for that as part of the process.

L Buffinton: Need to make sure we're not being overly prescriptive on amount of required parking.

E Lee: Position should be that parking recommended to be underground, and if above ground it must be indecipherable from rest of building.

B Baker: Sounds like consensus that parking should not look like parking, and that developer demonstrate that has exhausted options for parking management plans, shared and off-site parking.

A Montroll: And that underground parking is not feasible. At least Council should consider the idea.

D White: The ordinance already requires some of those. The key issue is where it is located and how manifested in design.

E Lee: Not married to LEED standards for the energy efficiency section, but need a standard that can be met and measured. Need a hard line that is met, such as that the project must be registered with LEED. To be in harmony with planBTV, the City needs the reputation that it is cutting edge, buildings should be constructed at highest standards. This building must set an example.

D White: BED suggests that the building envelop and systems be commissioned by a third party for maximum efficiency.

Mayor Weinberger: Appreciate the comments. The language in the original development agreement was not strong enough, and now says that the building shall be built to LEED Gold standards.

E Lee: The language needs to be tightened up, accountability is the key. The current ordinance requires it. The City requires a high standard. Not comfortable with idea of withholding CO if not met, but maybe something like bonding.

L Buffinton: And we need to emphasize healthy buildings.

D White: There used to be a bonus for LEED, but it has expired. We need a high and measurable standard, and ability to demonstrate compliance. Commissioning process affirms this.

E Lee: We have been talking a lot about massing, what is the model going to be of?

D White: It will model existing buildings and proposed building.

E Lee: Does that mean that the maximum building envelope will not be shown?

L Buffinton: We need to see what this looks like. Current proposal doesn't show full buildout.

H Roen: Liked M Tuttle's zoning buildout, but not helpful. Other examples would be helpful.

B Baker: This goes to an earlier point, about massing vs height. Different roof heights create visual interest. We need to incentivize creativity rather than "max" building height.

D White: The model will be of existing buildings with a removable piece representing the proposed BTC redevelopment. Predevelopment agreement ultimately outlined what would be modeled.

#### **IV. Public Forum**

J Robbins: When we talk about green buildings, height and density are sustainability. There are 7.8 billion people on planet, must build up. Character of community will change here either by building up or by sprawl. Comparison to Boulder, Colorado's limit on building heights overlooks that they are building in sensitive areas, replacing wildlife habitat, and that there is only 1 property currently listed for less than half million dollars. PlanBTV indicated that we would need to change ordinances to codify the vision. Ok with stepbacks as presented. Agree with inclusionary housing points- the requirement is tough to get built, there are technical issues with the ordinance due to HUD rules. Project in general is good for the city, fundamentally height and density are more sustainable.

R Montgomery: The objective side of the conversation is about zoning. The subjective side is about benefits from this project. There are intentions to facilitate housing for graduates, families, businesses who want to stay here in VT. This is a step in the right direction and shows willingness to adapt and move forward. Inaction is the biggest threat.

Sharon Bushor: Clarify some statements in a memo in the packet that did not keep Commission and Council autonomy. Staff recommendations, not City Council recommendations.

B Dunkiel: Suggest that the Commission comments to Council address the three charges required by statute—how it fits within planBTV, how it addresses goals for housing and density, and what effect on public facilities.

R Herendeen: Author of the Boulder letter, he salutes the Commission. Need to control height because the vision of this place is physically special.

C Bates: Highly recommends different roof heights. PlanBTV says open space, buildings with different height, roof gardens, food gardens, street gardens, green space, parking underground. Is the mall site a brownfield? PlanBTV supports all sorts of alternatives for parking. Think about park and rides and alternative uses for Champlain Parkway that will bring people up and down Pine Street without need for parking downtown.

Lea Terhune: Feels that the Commission has heard us. Suggestion to limit comments to the City Council, but feel the ordinance encourages the Commission to make broad comments. Livable City Coalition has lots of incredible ideas for ways to get housing. Tiny houses, and incentivize accessory apartments. Renters spending 44% of incomes on housing is incorrect, the Art Wolf article corrects this.

A Radcliffe: Need to be careful about confusing the Sinex project with the zoning. Where did 160 ft and no bonuses come from?

Laurie Stafford: Has worked on large projects. The Commission lacks tools for analysis. Not meaningful illustrations. We live in a special place. It is good to have limitations, it doesn't limit creativity.

**V. Adjourn**

The Commission unanimously approved a motion by A Montroll, seconded by L Buffinton, to adjourn the meeting at 9:10 pm.



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Bruce Baker, Vice Chair

Signed: 2016



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E Tillotson, Recording Secretary

## Burlington Planning Commission

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Lee Buffinton  
Emily Lee  
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Harris Roen  
Jennifer Wallace-Brodeur  
vacant, Youth Member*



## Burlington Planning Commission Minutes Special Meeting Wednesday, June 29, 2016 - 6:00 P.M.

Present: Y Bradley, L Buffinton, E Lee, A Montröll

Absent: H Roen, J Wallace-Brodeur

Staff: D White, M Tuttle, E Tillotson

### **I. Agenda**

No changes.

### **II. Annual Report**

M Tuttle: Draft in the agenda; has a similar format to previous years with some additional information. Planning Commission members attended 81 meetings over the year. The report addresses the work of different committees, the Commission's work with the City Council, and enumerates the 10 ordinances sent to City Council this year. There is a scheduled presentation to the City Council on July 11.

D White: It is still possible to provide any additional information to staff to be included.

Y Bradley: Suggests that the Commission address this at the next meeting.

### **III. Proposed CDO Amendment- Downtown Mixed Use Core Overlay**

D White: The agenda packet is an outline of the amendment with the Commission's comments from the last meeting added. Hope to solidify the Commission recommendations and comments to the City Council.

M Tuttle: The materials identify staff recommendations on how to address Commissioner's comments. For some, there seemed to be consensus, particularly around items like the urban design standards. These could go into a list of changes to make to the ordinance after the hearing. Other issues, such as height and massing, for which there is not consensus, can be in a letter to go to the City Council. The first item in the chart is the boundaries of the overlay and the question about whether or not to include the People's Bank and College Street garage sites.

L Buffinton: Hotel VT is concerned about the city parking garage, we should look at height there.

E Lee: Presented a communication from herself, Joan Shannon and Richard Deane, members of the Form Based Code (FBC) Committee, regarding ways to bring the proposed amendment in line with FBC recommendations. Doesn't feel that the FBC's recommendations are represented in the current proposal. However, the amendment should not specifically consider any one property's views.

Y Bradley: Communication is only from three FBC Committee members; would like other members to review.

E Lee: The authors of the letter were careful to ensure that there was no quorum; comments do not represent the FBC Committee.

M Tuttle: Perhaps E Lee can share the comments on each issue as it comes up in tonight's discussion.

J Shannon: Communication reflects the original decisions of the FBC committee. This area had been reserved for taller buildings, but it only included those buildings between Cherry and Bank- not site behind People's Bank. Burlington is not that comfortable with tall buildings.

E Lee: FBC committee is not finished with their work.

Y Bradley: This is a new district; it seems that these buildings should be part of the overlay. From an urban planning perspective, why limit to such a tight geographic area.

D White: There is no historical pattern of development being disrupted; sites are internal to several blocks. Area where higher and bigger buildings could go. Caution about how it affects the view down Bank Street.

L Buffinton: People's building is important to the view at the end of the street. Suggest boundary doesn't include People's or College Street Garage.

Y Bradley: Need to consider future planning. Not everything will be redeveloped, some buildings might be repurposed.

B Baker: On the fence; could include these sites, but condition them not to permit 14 stories.

E Lee: Stand by the FBC Committee decision. Was a lot of give and take.

Y Bradley: Compromise and change comes with a range of opinions.

B Baker: A Montroll and H Roen may help us come to consensus.

M Tuttle: Next item is by-right height and FAR. Chart captures comments submitted by A Montroll that the amendment should be explicit about requirements; however, notes A Montroll's suggestions about ROW and underground parking discussed in other meetings. Received a communication from the BTC team about these two issues.

L Buffinton: Don't agree with by-right height and massing. Read communication sent to Commission regarding conforming to planBTV; elimination of bonuses, particularly for inclusionary, senior housing; secondary schools as a permitted use; and surface parking lots built to the perimeter of buildings. Requests that inclusionary housing and the use change be included the chart of discussion items.

D White: Bonuses have been around for three or more decades, and haven't produced much other than some parking. The ordinance needs to be really clear with goals stated. FBC doesn't retain any bonuses for housing. Inclusionary Zoning Ordinance is presently subject to a study. One question is whether to include workforce housing, because we know including that level is more challenging.

M Tuttle: Commission discussed that standards need to be clear and measurable.

B Baker: How effective is the requirement? The Commission should not weigh in on this matter at this time.

L Buffinton: The market will dictate fancy condos; the Commission needs to be more prescriptive.

Y Bradley: Inclusionary zoning is seen as a penalty, which impacts market realities. It's extremely hard to provide family housing, and we need to find a way to provide all housing types.

D White: This is a complicated issue; don't know that we will be able to answer it as part of this amendment.

E Lee: Not comfortable saying 160 feet is right height or wrong height without tools to see it, like model.

M Tuttle: This item is not about the height, but whether height is permitted by-right or through bonuses.

L Buffinton: Strike "the Commission supports by-right" because we did not vote.

E Lee: Had a discussion about legal ways to open streets tied to height. FBC included administrative discretion for 10% height variation for changes in elevation of site. Height should be a hard line; 160 feet means height is 146 feet with 10% variation up to 160 feet.

M Tuttle: Commission agreed not ready to make recommendation on overall height, but will provide all comments to Council. These are summarized in chart.

L Buffinton: Recommend current height limits, project within current ordinance because of planBTV. Don't feel this is legally justified until we have public process. Should be cautious and not let this leapfrog to other sites.

E Lee: Don't agree. Think this area is appropriate to have higher height, just don't have tools yet to make a decision on what height is.

B Baker: Recommending height is our charge. We have to follow planBTV and Municipal Development Plan, and making changes to zoning bylaws are implementing items of the plan. Good to get City Attorney's input, though.

D White: planBTV speaks to infill, but ambiguous on whether height should change to facilitate infill. Can facilitate by going taller or not going taller. Statute defines what conformance is, and difficult to argue this is no in conformance. Without the plan specifying what the height should be, have to consider the plan as one concept.

The Commission unanimously approved a motion by B Baker, seconded by E Lee, to include all opinions of the Commissioners including those submitted at the meeting by E Lee and L Buffinton, regardless of agreement by the Commissioners, regarding the proposed height of the ordinance in a letter to Council.

[A Montroll arrived 7:06 pm.]

A Montroll: While FBC recommends 10% variation in height, this district is already much higher. Suggest no administrative relief.

E Lee: 160 feet should be hard line.

A Montroll: Need to define the way the top of a building is measured.

M Tuttle: Sounds like recommendation to strike. At the last discussion, height and setbacks along Church Street were acceptable and chart reflects this.

E Lee: There needs to be a larger discussion about Church Street.

L Buffinton: It seems as if this works, but there is no pressing need to do it now.

D White: This language came from the FBC committee.

A Montroll: Should consider it as part of the FBC review.

The Commission unanimously approved a motion by E Lee, seconded by L Buffinton, to recommend that Council not include the proposed change to the Church Street height and setbacks as part of the DMUC Overlay.

L Buffinton: FAR is very confusing, what is being recommended?

D White: Existing zoning allows max 8.5 FAR. Proposed is 9.5 FAR, with limits on how it can be arranged to create spaces that are more functional for upper levels of a building, typically windows in upper story housing units.

M Tuttle: Items 8, 9, & 10 include comments from J Wallace-Brodeur. She raised the point that a secondary entrance is not defined, but that none of the streets in the overlay should be considered secondary. Staff discussed removing references to secondary, making all requirements for all facades.

A Montroll: Statement about parking design in #12 is more correct.

L Buffinton: To be consistent with planBTV, parking should be underground or completely wrapped.

M Tuttle: Suggestion was made not to permit surface parking.

Y Bradley: Green roofs, underground parking all costs money. Some surface parking is good planning. Layering everything involves expense; someone has to pay for it. Need to be realistic.

L Buffinton: This seems like a false argument; stormwater problems and surface lots are polluting the lake.

A Montroll: On ground level, is it possible to have parking behind frontages? The core overlay area is not where we want open surface parking.

L Buffinton: Disagree about allowing it to come to the edge of the building.

D White: The mall team has provided some information as to cost. Question is, at what point does burying parking become cost prohibitive and how do we include that as a measure of evaluation in zoning?

L Buffinton: It's important to think outside of the box.

Y Bradley: Don't know if it is always feasible for it to be wrapped. Some areas where it is not realistic; there may be areas where office space is not wanted, such as where dumpsters and utilities have to happen.

A Montroll: Permitting needs to be dealt with at the DRB level. As planners we need to put in what we want to have happen.

M Tuttle: Chart summarizes location and how screened. Demonstration that underground placement is economically not feasible is difficult, but can be included in the comments. Demonstration of economic feasibility is difficult to demonstrate and it is tricky to incorporate in language.

A Montroll: Is there a way to build it into the ordinance instead of as a condition of a permit?

D White: How do we determine the appropriate economic standard? Would need to have some really clear standards for DRB. Have to be really specific, and don't know of any good examples.

B Baker: Could require a parking plan that demonstrates all other options have been explored.

E Lee: Are the master sign plans consistent with ordinance work on LED signs that the Commission did?

D White: We do allow changeable message signs, and defines sizes and placement of other signs.

E Lee: Is there a reason requirements now need to be changed?

D White: Comes from work on FBC.

L Buffinton: It is important to hold this site to highest standards for stormwater performance.

D White: Per the City Stormwater team, the current standard is capturing 50% of a 1-year storm for new development. Ordinance proposes 100%.

E Lee: Regarding green buildings, not married to LEED but it is measurable. Would change to require bonding until confirm that it is certified.

B Baker: Skeptical of tying standards to a particular program.

M Tuttle: Need to determine what are the measurable standards we will use for compliance.

E Lee: LEED ensures accountability and is a recognized standard by the community.

L Buffinton: Needs to say something about healthy buildings.

B Baker: Sometimes Act 250 contains an engineer's statement stating measurability.

Y Bradley: Support tying to a standard. Tying into a standard we don't understand doesn't seem wise. Maybe staff can provide language.

E Lee: Could be any standard, but at least needs to be LEED or higher, measurable, and accountability.

B Baker: Some of these items are in the VT Energy Code. I don't know anything about this program, not comfortable with recommending it.

A Montroll: Want a high standard, but don't know what the standards are.

E Lee: Can't be a made up standard that staff writes. Needs to be an outside standard.

D White: Communities typically tie to something like LEED or create their own standards. LEED is best thing that's objective and measurable. Challenging because certification comes down the road, which is why there was a suggestion for bonding.

C Bates: San Francisco uses three standards in their ordinances for green and healthy buildings.

Y Bradley: Refer to staff to research and give some options.

L Buffinton: Commission needs to provide comments in this chart on the issue of schools as a permitted use. No one has mentioned, where did it come from?

D White: If you have housing associated with a school use, does it make sense to provide some space for educational uses—classroom, lab, etc. Only way current ordinance allows for it is as a school.

L Buffinton: Is there a financial reason why this is proposed? For example, if there is an educational use associated, then the housing units are considered dorms and they don't have to pay taxes?

D White: Taxes are based on who owns the building, not tenants. Dorms are defined as units owned and or operated by a school for an academic term. The relationship to academic term is what differentiates dorms and apartments.

L Buffinton: Developer says building student housing, isn't that a dorm?

D White: That's just who they intend to lease to. When building housing, it needs to be functional to someone beyond that current lease.

L Buffinton: Could condo a chunk of the building, sell to a school who could build a downtown campus with its own housing. There is something about this that we're not hearing. If it was a good idea, it can stay under conditional use and it'll get approved. Why is this slipping through? Whole mall could be a college campus, which is not consistent with planBTV. Propose leave as a conditional use.

D White: Have these kinds of activities on Lakeside Ave in satellite locations.

A Montroll: Leave it as a conditional use.

Y Bradley: As a conditional use, gives flexibility. CCV was downtown and it was great.

D White: If it's a matter of scale, could we consider it as an accessory? Accessory is 25% or less of space.

L Buffinton: If it is to scale, the DRB will approve. Doesn't seem necessary to change.

A Montroll: What would a classroom be accessory to? The housing is just housing students live in. The mall has opened up some of the vacant space for some classes and meetings. Those are good uses, but don't see them as accessory—it's just a shopfront that's being rented for a temporary classroom, but not a full school.

B Baker: Sounds like the Commission agrees on conditional use.

B Dunkiel: No ill intent. Ambiguity in current ordinance and two different definitions for labs, want to be able to permit in a holistic process rather than have part of the project go through conditional use.

L Buffinton: Maybe we just more clearly define lab.

Y Bradley: Staff prepare thoughts for next meeting.

M Tuttle: Staff will work on refining the table. Next meeting is public hearing. Will present a list of items there is consensus on that might be able to change in the ordinance, and a list of comments to send to Council with the ordinance.

#### **IV. Public Forum**

Resident: Request that more thought be given to arrangement of the room to accommodate hearing disability. Don't want to interrupt the Commission's discussion.

Lea Terhune: Commission should focus on public presence and make meetings welcoming. Sign on food table is disgusting. NPA's always feed people. Welcoming the public, setting room up differently are great suggestions. Meetings are very educational and we leave here and educate more people. Are there rules about members being present in order to participate in discussion? A person who can't attend meetings should not participate and should not be voting.

Albert Petrarcha: This is the third meeting, and there are more issues with no resolution. This is about the morality of a project and it's losing in the court of public opinion. All in Weinberger's back pocket. This deal is rigged, momentum for it has been stopped in its tracks. Should think about how not to inflame city. Each week the chasm is getting wider between people and project.

Genese Grill: Don't have time. This ordinance is in contradiction to planBTV. Please say no until this can be approved responsibly. We have a petition asking people if they want this zoning change, or if they want planBTV. Gathered lots of signatures online and outside City Market.

J.J. Vanat: First time at one of these meetings. Huge fan of bikeable, smart development. However, fourteen stories not in planBTV. This has been super rushed and it doesn't sit good with me. Rethinking downtown haven't heard about parking and traffic. Been here four years, and feel that community and culture, sunsets and light are key to identity.

Michael Long: Working on a zoning amendment that shouldn't even be considered. It's ethically questionable—amendments are not for a specific proposal. FBC has not yet been adopted. Conflict of interest may exist with Mr. Bradley.

Caryn Long: No one uses computer labs. Would like to know about this paid committee of planning commissioners and councilors. Have only confirmed that it included Jane Knodell and Karen Paul. This is being rushed. Reads letter from friend lives on N. Prospect. Do not make decision in summer, not enough public participation. Whole project is ill-conceived. Seems like staff working for Devonwood.

Amey Radcliffe: FBC not adopted. Y Bradley has conflict of interest and missed a lot of meetings. Need clarification on what comments are going to Council. Broader question addresses L Buffinton's comments—are we going to pay attention to what people asked for at planBTV?

Carolyn Bates: What is going on is past imagination. Absolutely furious that summer is being ruined. Started in 2013 to communicate with Sinex about a project. Now it's massive and rushed. Mayor has not given enough time and proper tools to vet. There is no feasibility plan. What do you know about Sinex? Stop this until you have proper tools. Read planBTV and be enlightened on what it says. Have spent hours researching this.

Eric Morrow: We are all members of same community with different roles in this process. Impressed with high level of conversation, discussion about details and substance. Should not be personal.

Barbara McGrew: Need to look at the plans. It is now up to 15 stories and 180 feet.

**V. Adjourn**

The Commission unanimously approved a motion by E Lee, seconded by L Buffinton, to adjourn the meeting at 9:09 pm.



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Y Bradley, Chair

Signed: DATE, 2016



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E Tillotson, Recording Secretary

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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 Minutes Special Meeting Wednesday, July 6, 2016 - 6:30 P.M.

Present: Y Bradley, B Baker, L Buffinton, E Lee, J Wallace-Brodeur, M Weinberger

Absent: A Montroll, H Roen

Staff: D White, M Tuttle

### **I. Public Forum**

Resident: Allegations were made about Y Bradley conflict of interest. Recusal is responsible and legal act. Government officials must be impartial, keep town's best interest foremost. Conflicts touch the core of people. Commission is public body subject to open meeting law. Insist on y Bradley recusal.

Y Bradley: Will not recuse.

B Baker: There seems to be an effort to silence voices. Commission tries to listen to all. There is no conflict with Y Bradley.

Sarah Muyskens: Support bringing housing downtown, including affordable. Smart growth in the right location. Building Housing Together campaign asking partners to bring development downtown where density benefits communities in multiple ways.

M Long: Conflict determined by "reasonable perception of bias or conflict". Read a number of VT Statutes and City Charter regarding staff participation in writing Commission decisions.

J Spiedel: Support the BTC project. UVM is supportive of housing for students and other workers, retirees, etc.; interested in safe, affordable, well-managed housing. Personally, support jobs, new economic activity. Take care, but support.

C Simpson: "If it ain't broke, don't fix it." Need infill that doesn't reinforce car centric lifestyle and that blocks out the sky. Devonwood project raises question of spot zoning. 1,000 cars will overwhelm pedestrian ambiance, students and potential educational facilities takes away from others and risks tax exemption. Project can exist within current zoning.

J Robinson: Don't look a gift horse in the mouth.

A Taylor: Need to create an awareness of littering, like a wellness lifestyle. Let's do something about it.

Paul Snobble: Not against development, but way too many things going on for people to keep up with. Unintended consequence is not enough time to figure out solutions and incorporate brilliant minds.

### **II. Chair Report**

Y Bradley- Will use the sign in sheet for public forum. Keep comments to 2 minutes and please do not repeat. Last week's meeting was challenging—please no personal comments. Commission is listening and taking this seriously. Remember weighing on the zoning, not the project.

### **III. Director's Report**

Deferred in interest of time.

### **IV. Agenda**

No action was taken to amend the agenda. However, due to time certain for public hearings, items were discussed out of order.

### **V. Public Hearing: Proposed ZA-16-13 Subdivision Infrastructure Standards**

The chair opened the hearing at 7:02 pm.

D White: Purpose of amendment clarifies engineer's standards for subdivision, where they're found, and who has authority over them.

No members of the public were present to speak on this item.

The chair closed the hearing at 7:04 pm.

The Commission unanimously approved a motion by B Baker, seconded by L Buffinton, to forward the amendment and the associated report to City Council.

### **VI. Public Hearing: Proposed ZA-16-14 Downtown Mixed Use Core Overlay**

D White: Purpose of amendment is to create an overlay within the downtown to facilitate redevelopment according to goals of city master plan and planBTV. Briefly discussed: proposed area of overlay; amendment to city's official map; height and massing limits; changes to Church Street; urban design standards from Form Based Code (FBC) work including street activation, standards for parking design, and others; requirement for LEED certification; uses for post-secondary schools; and overview of the process for approval.

E Lee: Read letter submitted to Commission regarding following VT law for holding the public hearing.

E Blackwood: Difference between report and letter. Report is required by statute is written by staff to distribute 15 days before public hearings. Commission then holds the hearing, decides whether to make changes to report and proposed amendment, and sends to City Council. VT law was followed in the same procedures that staff has used in the past.

E lee: And the letter?

E Blackwood: Commission has the right to put its comments in the letter, but this is not required by statute. Letter is not related to the public hearing and does not need to be warned.

L Buffinton: Based on employer's position on this issue, will be recused from this discussion.

Alex Liven: Desperate for jobs and growth, not part of a coalition for "don't build anything." A livable city entails a rigorous democratic process. But here, people have missed bases and trying to steal home. Where is the model? Zoning and project are the same thing. Businesses gave their support to a general idea of redeveloping the mall, not the zoning amendment. Reads list of businesses signed in opposition; they have exposed business to retribution. Anyone can buy zoning now. Let the city vote on it.

Genese Grill: Sad to see Buffinton's recusal. Many improprieties, illegalities based on the hasty PDA. Commission has not come to conclusion and raised concerns about legality and conformity; should make its own decision without the zoning administrator. It is illegal to approve an amendment not in compliance with planBTV. The Director wrote the Commission's report because there isn't enough time; the Commission is being asked to commit a transgression against VT law.

Suki Masni: Support amendment because cost of living too high. Friends are productive members of society and want to live here, but can't.

Barbara McGrew: Fact that testifying doesn't mean believe that this hearing was properly warned. How did CHT endorsement come about? Biggest change ever, not in final form, not congruent with planBTV—vote no. Many elements not agreed to, graphics have been misleading. PDA requires rushed process. Tell Council not just "get it done," but to "get it right."

Michael Long: Pro-development, genuine smart growth. This is not smart growth, it's hasty. If there was any wisdom in process that led to current zoning, how can it be anything but shameful to sell out to 160 feet without public benefits now? Developer asks and expects to receive and city scrambles to deliver. Current zoning is enormous measure of height and density waiting to be realized. Aborts good faith public process; redevelop with our zoning, for our community.

Carolyn Bates: Never in my life been rolled over by a design thrown at the community by a Mayor and developer. Read communication of items to address to conform with planBTV.

Megan Eplerwood: Shared with colleagues and looked at it from a number of perspectives. Stakeholder engagement looks bad. Hasn't had enough comments. Based on research, high urban densities can be achieved without tall buildings. Tall buildings disrupt pedestrian scale, vertical gated communities, problematic for families, seniors and vulnerable populations. Reconsider and rewrite materials.

Greg Eplerwood: Cost estimates for underground parking not making it into zoning. Chart says demonstrate that alternatives have been tested, which hasn't been done. Distributed document of individual research on parking construction costs, and map of above ground parking downtown. More than 20% of land in the area that can't be used because of parking. Draw the line and demand parking underground to reduce the height.

Meg Wallace: This doesn't fit character. If listening to the citizens, don't know how can approve this.

Reba Porter: Recognize need for development downtown, but process feels bad and rushed. Know that people want what is best for City, just hope that things can be slowed down. Need to work to gain the public trust.

Tony Reddington: AARP has carefully withdrawn their endorsement. People say that there is a housing need in the city, but 1,400 units built, under construction or planned and vacancy rate is going up. Increased the density of the city by 14%. Need housing assistance support, not housing units.

Charles Simpson: What? Meeting to discuss an overlay district with an uncertain footprint. Why? Because there is a desperate attempt to avoid spot zoning. Devonwood will buy Macy's even though it's not currently in the overlay. How much? Commission should investigate how much of the roughly \$10M for reconstruction of streets is just to purchase the land. Suspect it's more than its actual value.

Jay Fayette: Urge Commission to approve the district. City needs new development; this is prime spot for greater density development with housing, office and more relevant retail. Reutilizing streets is tremendous benefit. Need for housing won't be met without the overlay. Masonic Temple is 125 feet; we're talking about 35 more feet, need to keep things in perspective. What makes a city livable is jobs paying livable wages, economic vitality, follow on development, housing choices, space to house 400 new employees downtown. Project is vital for Burlington and the Church Street Marketplace.

Andrew Simon: Commission should flat out deny changes, and explain to Council that object to amendment due to: by right height and density, above ground parking, student center, and failure to address stormwater. Opponents don't oppose all development. Urban renewal was overwhelmingly opposed, and this is same mistake on steroids. Welcome change in city hall administration and personnel.

Phil Hammerslough: Parking keeps coming up; should get rid of parking, put it in satellite lots outside of town and bus people in. Walkability is antithetical to putting parking in downtown.

Robert Herendeen: Zoning change result of plain vanilla planning. In a memo, Mayor linked to article on Boulder's growth problems. Boulder has set a height limit to see the mountains; keep our height limit to see the lake and mountains.

Jason VanDriesch: Chittenden County growing; can happen in Burlington where great for walking and biking rather than surrounding municipalities. Impressed by article on Boulder, particularly about issue of equity. Zoning often used to preserve good things without recognizing the good things that are being kept out. This is opportunity to open city for wider range of people. Encourage to move forward with changes to allow more housing, jobs, growth in Burlington.

Phil Wagner: Would like to see change based on aesthetics, economics, sprawl and a livable city. City has grown very little despite county growing, and now surrounded by sprawl. Only way to prevent is to have a denser city. One reason cities fail is because they don't have tax support, and increasing height increases housing. Single family homes are most unsustainable human creation.

Karen Freudenberg: Participated in planning process at least once a month from planBTV to mall discussion. Could have only hoped for what opportunity to redevelop downtown that we have today. Despite what some say, a lot of things are broken, not working well. Downtown businesses are fragile half of the year, can't get people to live in Burlington, especially younger population. We all have dreams, but our tax base is too low and relies on too few residents and business to realize them. With more tax base, we could do more of our dreams. 14 stories comes out of the process that we've all been a part of, and responds to what we've said about a town where we want to live, not about a developer who says what he wants.

Daine Gayer: planBTV is about the future; overlay defined by 1980's planning and Sinex's project, not the future. This needs to be about people, need a model and sun study, a real stormwater component, inclusion of a 2030 energy district, car-free zone within the city. Parking is critical.

Ibnar Avilix: Is this spot zoning? Like the idea of developing the site, glad we have designs. Feel like this is rushed. Was under the impression it was within the rules of zoning, but that changed when parking became too expensive to bury. Could it be feasible at 80% of the size proposed? This is an issue of the future.

Chuck DeLorean: Support project and overlay zone. Commission has inclusive process, lots of good comments. Project not without complexities. VT has high taxes, decreasing population, lack of affordable housing, decreasing wages. Growth is essential; this has potential to transform and reenergize downtown. Overlay district changes are fundamentally sound. Working with city to address own concerns at Lakeview Garage. Local professionals on the team have best interest of the city.

Jeff Nick: Notion that current zoning is working is incorrect. All new growth is in suburbs. People want to move downtown, but it is full. Mall is empty, desperately needs help. This is not spot zoning, this is smart zoning. 160 feet is appropriate in downtown core. Masonic Temple is actually 130 feet tall, built 119 years ago. Elevation change between Bank and Church is 20 feet, meaning project would only sit 10 feet higher than Masonic Temple.

Brian Dunkiel: It is an accurate assessment that opposition has been louder, but have also resorted to attacks and questions of legality. As an attorney, confident the process and ordinance would be upheld. No one debates this supports housing, debating how much. No one debates more intensive growth needs to happen here according to planBTV, debating how much. No one debates the overlay should occur in this location, debating to what extent. Encourage move ahead in a way that is consistent with PDA. Have litigated spot zoning in VT, no factors exist in this case.

Kelly Devine: Nearly 10 acres of downtown is not serving us well; already have a hole in the middle of downtown. Overlay helps us get there, a unique opportunity for future of Burlington. Not dramatic enough difference in height to outweigh benefits it brings. BBA working to bring vibrancy off Church Street, this helps

do that. Parts of overlay about street activation are important, signage standards good for consistency of the district. Urge to move to City Council.

Ross Montgomery: A challenge Burlington and generation faces is the retention of college grads. Ability to run businesses and have families in Vermont is trending wrong way. This is the first step to changing in a meaningful way. 160 feet, growth and mass don't scare me, inaction and delays in a well-vetted process scare me. Move forward expeditiously and see it through.

Charles Winkleman: Couldn't afford to live in BTC even with inclusionary zoning. If this is a project worth doing, why rush it? Why not build a model? *Triumph of the City* says urban growth will be more palatable when a city defeats demons of development; haven't done that yet. Have an underfunded school budget.

Charlie Messing: Tergiferous, look it up. Affordable housing is size of 2 parking spaces with one window, would be a housing "project." If we want streets to connect, need to demolish the streets. No matter what we say, you will pass it and we will contest it.

Richard Hillyard: People want the same thing, but this has become adversarial. So many good things that have been said on both sides. Due diligence should be done. Lots of disingenuous numbers.

Jason Robinson: Since 2002, have trained 5 UVM graduates and lost them all to DC, Boston, Hanover, and NYC. Would like to keep employees—they need a place to live that can afford on a decent wage. Support any way to get this done.

Melinda White Bronson: Support other's comments. Looks like spot zoning, process feels disingenuous. Wish Commission the best in sorting out.

Jack Daggitt- Change to zoning to meet developer demands defeats purpose of zoning. If zoning needs to be revised should be a separate process. Urge moratorium on project.

Ron Redmond: Represent the businesses that Marketplace works with every day. They believe in this process; they're concerned and hopeful about attracting and retaining people and jobs. If they were angry they would be here. Encourage to go forward.

Anne Taylor: Thank you to every person in this room. City is a great place because people have decency to stand up when things aren't right. People forget Bernie started with proposal for a hotel on the waterfront where boardwalk is today. There are many issues at stake. Coalition feels that they haven't had time, but Sinex has asked for our input for three years. Not about developer's demands. Emphasis on urban infill for housing, jobs and play in one place; this place is perfect for it. Coalition has quoted Boulder, but NY Times actually talked about too much regulation dampening economic opportunity. The anti-growth sentiment stifles economic opportunity.

Erica Spiegel: Major improvements are needed. planBTV talks about higher density but all depictions don't look like the proposed project. Could see a little bit taller, but proposed ordinance almost doubles the height from standard. Project will forever change skyline—Burlington's trump tower. Don't make a hasty decision. Don't like the process being framed as long-term residents vs. newcomers and millennials.

Amanda Hannaford: Almost everyone believes that redevelopment is a great thing and agree with objectives for what it is supposed to accomplish. Only half of people like current designs. Don't think this has been a transparent process even though that is what has been stated. If this goes forward as currently planned, a lot of people will be upset.

Barb Headrick: Lots of tall buildings look like Pittsburgh smokestacks. Hideous design that can do better, but need time. Consider what's in planBTV. Density can be accomplished without increasing height. Last discussion about height increases was limited to 10 stories.. Don't approve, rewrite. Think about other ways to accomplish density if build to current zoning. All of us have talked about better ways to do this.

Caryn Long: In planBTV, Mayor says, "planBTV doesn't sit on a shelf. It's a vision." PlanBTV says taller buildings not the answer, can more fully utilize current zoning.

Albert Petrarcha: Can millennials really afford housing in BTC? People have questions the Commission has not thought out. Opinion on philosophy of issue: in VT presidential primary, Mayor's candidate got only 15% of vote because they don't support Clinton's neoliberalism that is same as Mayor's. People opposed to this are residents; people who support own businesses and are bottom feeders looking to make money.

Steve Goodkind: People want the same things. The obstacle is why it can't be done in existing zoning. Need evidence, not just desire.

Laurie Tucker: Support going forward. There are a lot of changes that will happen, but support because we need to have growth for many reasons. Believe strongly in density in Burlington.

Frank Coffee: Support the project, believe it can be a catalyst for redevelopment. Planning staff works to be innovative and works hard.

Resident: Buffinton recused due to employer's support. Ernie Pomerleau supported before. Should be within the bounds of a reasonable expectation for recusal of Bradley.

The chair closed the public forum at 9:23 pm.

M Weinberger: Per city charter, mayor is a non-voting member of Commission. Thanks David White and Commission for work. Commission is doing what asked of them. Mid-2000's effort to increase height downtown defeated, so Karen Paul championed planBTV as a way to better resolve these issues. Mall redevelopment, reconnection of streets clearly articulated in this plan. At time, all thought it was farfetched. planBTV and Form Based Code have both said this area is different from the rest, an area where we would contemplate different height and mass. Mall owner saw the plan and shared his vision with the City. Late 2014 Council approved an MOU to begin working with Devonwood to explore how it could be built. City had its own planners, designers to advise us; took 18 months, involved the DAPAC then Council took up the PDA. This overlay and the timeline is part of the process that was laid out in the PDA. Administration supports this project because City where average renter pays 44% of income on rent, need jobs, space for employers that want to be part of Burlington. It will improve walking/biking infrastructure, step forward with respect to sustainability issues, be an opportunity to create significant new revenue for City. Current designs need modifications; if it achieves what is contemplated by zoning amendment, it will be dramatically different. Organizations representing affordable housing, business, New Americans, transportation issues, arts, and interfaith community have come to support. Model will be built before City Council acts on this. Commission not foreclosed from commenting on this, and there have been tools available. Significant step forward for the environment through stormwater improvements, connectivity, people in multi-story buildings with modern performance standards consuming smaller footprint. If community is serious about climate change, need this kind of development. We stand for inclusivity, affordability but ability to be that is under threat because of current policies and lack of supply. People aren't being forced out in healthy, dynamic communities. Four documents in packet. Two in statutory process—proposed ordinance and the required report. Other two are Commission's letter to Council and the matrix of key elements. Statutory docs are consistent with the PDA, and hope that the Commission will vote to send to Council. Other documents to capture Commission's opinions need some work. Suggest discussing those tonight or at a future meeting to refine and transmit to Council to consider.

E Lee: Didn't have enough time to thoroughly evaluate the ordinance and Commission never made changes, so ok with sending to Council. Commission letter needs work to accurately capture the Commission's feedback. Ok with sending the ordinance and report and continuing work on letter.

J Wallace-Brodeur: Commission did come to consensus on how to adequately weigh in within the time given. Going through the ordinance line-by-line was not timely, so weighing in on things important to us through letter was agreed upon. Different than normal process, but it is the best we can do.

B Baker: Voting now to send with statutory report allows Council to review in a deliberative way. Commission is technical ones that chop apart the ordinance to make it work. Support the construct.

Y Bradley: Support idea. Doing what Council asked and providing well-thought out feedback. Haven't had the opportunity to discuss the feedback.

The Council unanimously approved a motion by B Baker, seconded by J Wallace-Brodeur, to send the proposed ordinance and required report as written to Council.

E Lee: Make this item only one on next agenda to provide time for reflection.

D White: Letter is a draft; please mark up and send in advance so staff can incorporate comments.

Resident: If Buffinton recused, so must Bradley.

J Wallace-Brodeur: Buffinton chose to recuse because of conditions of her employment.

Genese Grill: Did the Commission approve the amendment?

J Wallace-Brodeur: Took action to send to Council.

D White: The Commission doesn't approve zoning amendments, they make recommendations to Council. Action was to send to Council.

Y Bradley: Letter includes Commission's thoughts and public comments. The ordinance is what Council asked the Commission for.

Genese Grill: The Commission is saying it's in compliance with planBTV?

E Lee: Approved the report, which talks about broad policies in our plans. Commission also sending a letter with specific suggestions/comments. Have time to work on the letter.

## **VII. Annual Report**

The Commission unanimously approved a motion by E Lee, seconded by B Baker, to sign and transmit the annual report to Council.

## **VIII. Adjourn**

The Commission unanimously approved a motion by J Wallace-Brodeur, seconded by E Lee, to adjourn the meeting at 10:05 pm.



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Y Bradley, Chair

Signed: DATE, 2016



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E Tillotson, Recording Secretary

## Burlington Planning Commission

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



## Burlington Planning Commission Meeting Notes Tuesday, July 12, 2016 - 6:30-8:30 P.M. Conference Room 12, City Hall

Present: Y Bradley, B Baker, E Lee  
Absent: A Montroll, H Roen, J Wallace-Brodeur  
Staff: D White, M Tuttle, E Tillotson, E Blackwood

### **I. Agenda**

There was no quorum of the Planning Commission. Therefore, the Commission held a public forum rather than a discussion of items on the agenda.

### **II. Public Forum**

Frank von Turkovich: Regarding next week's public hearing on the rezoning of Fletcher Place, Commission should know he and neighboring property owner, N Reid applied to city change lot lines. Distributed map showing change to lot lines requested, which should resolve issues the Commission had in discussing this map change.

Sharon Bushor, City Councilor: Will there be a notification to adjacent owners regarding this new information?

D White: The public hearing for the zoning amendment is warned for next meeting. F von Turkovich's application has been submitted; other than posting of the "Z" Card, no notification to adjacent owners.

Suki Rubin: Trying to follow [DMUC] process, but concerned as a full time resident. Has done own due diligence since 2014, but with major proposals over the summer, and the lack of quorum, it makes it difficult for everyone. The project is happening in my back yard and have supported it, but it seems as if railroading is going on and now don't trust the process.

Y Bradley: Commissioners have jobs and vacations; sometimes conflicts come up. Commissioners who came were expecting a quorum.

B Baker: Struggling with one resignation and two preplanned vacations.

Eric Morrow: Excited about the model being built; is it on track to be delivered next week? Will it be displayed in a public space?

D White: Not a hard date for delivery, but on track and will be here in time for the City Council hearings.

Ibnar Avilix: Public comments need to be tied to decisions as they were in planBTV, tallies of comments to specific subjects. The amendment seems to be pushed for economic reasons. Project needs more work before asking for the maximum. If parking not underground, need to see numbers. We're being asked to trust that project works without numbers, and the general public seems to outnumber persons who are for the project.

Y Bradley: In a normal zoning amendment process there are hearings, input, and an amendment is delivered to City Council. In this case, City Council moved a request for an amendment forward to the PC; asked for

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language so that the Council could move the process to next step. As a result, the PC will provide comments individually, not as a Commission recommendation. This was a very unusual request from City Council. The Commission does not always agree on decisions, but comes to compromise and understanding; these are issues the Commission will need to repair in its working process going forward.

B Baker: Every time the City Council has asked the Commission for something, we provide it. Commission is advisory to the City Council, and takes it very seriously. The City Council has the tough job.

S Rubin: What is the difference between zoning language from the Commissioners for City Council, and the language of the public discussion?

Y Bradley: Some Commissioners will provide their own opinions to the City Council. There is perceived conflict around my position, so will not opine. The Commission was not asked to provide their opinion, but rather, the amendment text. .

Caryn Long: Thought the PC worked together in recent meetings and would present recommendations as a Commission for zoning changes. Wouldn't Commission normally do that together? Concerned about the original proposal, letter from staff. Thought tonight the PC would put together the last details. Why is this different from the usual process?

Y Bradley: Because it comes from the City Council.

E Lee: Council gave the PC parameters and said this is the timeline.

B Baker: At beginning of process there was funding that supported independent advisors and a Committee with two City Councilors and two Planning Commissioners were tasked to evaluate this determining what are the trade-offs. Looked at whether the things the City gets are worth the detriments? That's the debate.

Steve Goodkind: State statute discusses where an amendment can originate. If voters endorse and it gets passed on, it moves forward as if an individual presented it.

D White: City Council has the same authority to ask the PC to consider amendments. When amendments are sent by Council, they can limit PC role to making corrections to incorporate state statutes, local ordinances.

Robert Heredeen: PC doesn't appear to have much power and ok with it, but freaking me out.

E Lee: Some Commissioners have had a lot of criticism; there has been a lot of debate, and sending City Council comments. The PC has a powerful voice in process.

B Baker: Technically, the Commission could stop now; they have fulfilled their charge by sending the ordinance. But want to send comments.

E Lee: PC could have used our positions to kill project. Have been asked to present language to the City Council; PC could have chosen not to send language forward.

D White: According to statute, PC has to have a public hearing and that is it.

Richard Hilliard: From the start, has been interested in due diligence, he hasn't seen it from the City Council president. Did research and found information that D Sinex was CEO of a tech company in Holland, which filed for bankruptcy in 2015. Ought to be some sort of forensic investigation as to economic stewardship. Don't think the public knows this, but the Mayor must know about this since he has done due diligence.

B Baker: The Commission's role is not economic analysis. That is a critical piece that has to be evaluated at some point, not a Planning Commission charge.

D White: Only the zoning portion is for the Commission.

R Hilliard; There is a lot going on, seems appropriate to ask the City Councilors and the City Attorney.

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S Bushor: Key question when considering the PDA was, whether the vote was going to bind the hand of the Planning Commission. Concerned about autonomy in the zoning amendment process. Don't see this as spot zoning even if public does. As a community we want to allow some growth and change in downtown. As a Councilor, value PC's expertise; bring forward what seems to be right for city. Commission is immersed in planBTV, the City Council and the public are not as much. Council needs the comments to give the public as much information as possible, and understand all positions on this issue.

E Lee: Three of us have drafted comments which are in the minutes.

D White: Next week we should have the draft that was started which incorporated some Commissioners comments; edits will contain comments of other Commissioners.

M Tuttle: Public hearings for the statute of limitations and Fletcher Place are on the agenda for next week.

Y Bradley: Suggest sending comments by email.

E Blackwood: Comments can be sent to David, but no back and forth communication is permissible on email.

D White: Will provide to the City Council the full range of comments from the Commission.

B Baker: Council would like to see vote from the Commission including positives and negatives with comments.

Y Bradley: Must keep in mind that it is not the project, but the proposed overlay, which is the subject. Conversation will continue into the next meeting.

E Morrow: At the public meeting preceding the PDA, remembers that the height was not decided and there would be a process involving community to determine height.

Y Bradley: PDA evolved until the time of signing.

B Baker: The City Council makes their own decision, but takes our input, we should be weighing in.

D White: Question becomes how much time the Commission spends trying to come to consensus when Council has already provided input on what should be in it.

E Lee: Can we postpone the public hearings coming up?

Y Bradley: Perhaps keep them, but let people know they will be limited and continued at another meeting.

E Blackwood: Can cancel, or keep it and continue.

D White: It appears it might be best to cancel the public hearing and reschedule it.

Karen Paul, City Councilor: Early on in process, received a legal opinion that this was not spot zoning. Council sending PC ordinances is not unusual; perhaps more controversial, but not unusual. Upsetting at the City Council meeting last night, and at several Planning Commission meetings, that upset community members have singled people out and criticized them. People are doing this as volunteers, devoted their life's work to planning City's future. Wouldn't have planBTV without D White. This is not the way we should treat each other—we don't treat people that way, it is not right to treat us that way. David does a great job, lucky to have him. City Council appointed you because we want your comments, insight, talent, expertise, experience. The City Council could have chosen to keep with the ordinance committee until absolute last minute under PDA. Chose to bring it back to City Council for discussion, because this is the most open way we can do it. Glad that motion passed last night, glad public is involved, and hope it will be respectful.

R Hilliard: Naïve if we didn't think that there was a project driving this initiative. Take S Bushor's point that the public is the Trojan horse for all battlements to follow, sets precedent. Very difficult for public to separate the zoning and the project.

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B Baker: Typically get amendments and don't have a good idea what we're looking at. Since there is a project, more tangible, easier to debate.

B Dunkiel; Has spent a lot of time with all versions of materials for public comments, thinking about what would be most valuable for Council. The real weight of PC thoughts is through consensus, but sometimes can't do that. Five issues for consensus: height, exact boundaries, official map alignment of streets, FBC design standards including by-right concept, green buildings. Amount of inclusionary housing not a PC issue.

R Herendeen; still reacting to issue of PC autonomy. Does the Commission believe it is within their purview to just say no to a zoning amendment?

E Lee: The Commission could have responded saying it does not conform to planBTV.

S Bushor: Doesn't believe the Commission could just say "no." Council asked for an ordinance.

E Blackwood: The PC job is not to approve an amendment, PC is to review and submit comments. They could say that they don't endorse.

B Herendeen: In environmental situations, sometimes it is possible to say "no action."

Y Bradley: All agree that something needs to be done.

D White: The Commission could have voted unanimously to send it back to the City Council with the recommendation not to endorse it.

C Long: City going to be challenged by a developer with spot zoning claim. Are we opening up a can of worms? Did the PC write the letter that warned the meeting? E Blackwood works for Miro, D White works for Miro. Council has a signed agreement that created huge pressure. Would like to know if there is hired expert staff? Saw a report from staff that it's not possible to connect Pine Street. Is it worth doing this when street, sidewalks, schools are in disrepair?

B Baker: The Planning Commission appoints its own director. D White does not work for Mayor.

E Lee: Got the letter Friday before the meeting, at first was a little outraged thought opinions were being misrepresented. E Blackwood explained process that every other zoning amendment has been done that way. Could have delayed until we rewrote the letter, but did not have a problem with the way it was written, and delaying a hearing and rewriting the letter wouldn't have given new information or changed opinion. Should let the letter issue die.

M Tuttle: There was a draft letter in the packet of comments that Commission decided to send as a supplement to the amendment. This is not required by statute. What is required by statute, is a PC report regarding a bylaw change. It is a long-standing practice that staff prepares this report and sends it to all adjacent communities when a hearing is warned, and PC reviews it after their hearing. This has been the same process for every amendment the PC moves forward.

Y Bradley: The cost of constructing streets is not what the PC does.

D White: The report C Long mentions was regarding a proposed design that is more than a year old, when a road underground was proposed. The proposal for connecting Pine Street has changed. However, it is not the PC responsibility for those kinds of details.

B Baker: One of the things PC can do is say "if you want this" then do "this." Traffic experts will debate those issues. The Design Advisory Board, Design Review Board, Conservation Board takes our rules and interprets them and decides if they've been met.

Y Bradley: DPW will weigh in, too.

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S Rubin: If this isn't the forum to ask questions, do we have to go to all of the different boards? Developer at Westlake didn't do affordable housing because couldn't do it because of cost. How does that happen? If we're barking up the wrong tree, then who do we go to?

B Baker: The ordinance describes when there is relief from requirements; ordinances are different now. PC job is to see there aren't unintended consequences.

I Avilix: Confused about going by-right to 165 feet.

Y Bradley: It is 160 feet.

I Avilix: So are we dropping the bonuses? If so, then a change to inclusionary units is part of the discussion.

D White: Inclusionary housing applies to the whole city. Bonuses say that for every 5% more units than required, get additional height. Only recommending eliminating bonus, no change to the requirements.

I Avilix: So we're losing units we could get through the bonuses.

D White: Saying losing assumes that it is practical and economical to build more than required. If we don't get housing development, we don't get inclusionary units.

S Goodkind: But the bonuses will still apply in the rest of the City.

M Tuttle: It is required city-wide, but is only a bonus downtown.

I Avilix: It is good to have more clarity around that.

**III. Report of the Chair**

No report.

**IV. Report of the Director**

No report.

**V. Proposed CDO Amendment – Downtown Mixed Use Core Overlay**

**VI. Committee Reports**

No reports.

**VII. Commissioner Items**

No Commissioner Items

**VIII. Minutes and Communications**

No action was taken to approve minutes and communications.

**IX. Adjourn**

The chair called the meeting at 8:21 pm.

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vacant  
Emily Lee  
Andy Montroll  
Harris Roen  
Jennifer Wallace-Brodeur  
vacant, Youth Member*



## Burlington Planning Commission Meeting Minutes

**Tuesday, July 19, 2016 - 6:30-8:30 P.M.**

Public Works Conference Room, 645 Pine Street, Burlington

Present: Y Bradley, B Baker, E Lee, Andy Montroll

Absent: H Roen, J Wallace-Brodeur

Staff: D White, M Tuttle, E Tillotson, E Blackwood

### **I. Agenda**

No changes.

### **II. Report of the Chair**

No report.

### **III. Report of the Director**

D White: Will be out of the office for a couple of weeks.

### **IV. Proposed CDO Amendment – Downtown Mixed Use Core Overlay**

A Montroll: Confirming what was sent to Council with the ordinance was just the statutory report?

M Tuttle: Yes. Tonight, working on the letter summarizing the PC comments.

A Montroll: Should reflect where the PC reached consensus and where they did not.

Y Bradley: Suggests that the Commission strike the second sentence in paragraph 2, redundant.

B Baker: Feels as if the last sentence could have less strong language.

E Lee: Commission hasn't had a full group despite adding a lot of meetings to meet the Council timeline. Don't want the City Council to misunderstand what is being sent.

B Baker: This is the introduction; as we proceed, can come back to refine. Feels comfortable supporting the major points in the proposed amendment in the timeline given.

A Montroll: Amendment sent to City Council was not a finished draft; the message is that there has not been enough time to provide a final draft.

M Tuttle: Add language to effect of "despite the PC efforts, it does not feel that there was adequate time..."

E Lee: Add the lack of a model.

Y Bradley: Not sure Commission agrees on specificity of these comments. Reality is Commission did not have the time normally would have, and meetings have been devoted to listening to the public. Lack of normal dialogue has polarized the Commission.

E Lee: Members haven't been in attendance, we need to convey lack of time. Hope City Council sends it back to the Commission, because timeline rushed our work.

*Tuesday, July 19, 2016*

M Tuttle: The second paragraph discusses most of those points; revised line to say ordinance sent meets City Council timeline, not requirements.

D White: Next section highlights what the PDA requested be included in the ordinance. Following section reiterates the Ch 117 report sent with the amendment.

A Montroll: This seems redundant; should we focus on Commission's additional comments?

Y Bradley: This information puts the comments into perspective, suggest retaining them.

A Montroll: If anything in the memo has already been sent to Council, need to be clear on what is reiterated versus what is new information.

D White: Next section includes PC Comments on various elements of the ordinance. Begins with boundaries.

B Baker: Important to indicate where whole Commission agreed versus individual Commissioner comments.

D White: Includes pros and cons about two sites discussed; incorporated language regarding "whole commission" or "some commissioners" to make this distinction. Next section regarding Official Map, indicates the PC as a whole supports amendment of the map and recommends better alignment of the streets.

D White: Next section discusses Height & Massing. Includes all four comments shared by commissioners.

A Montroll: What we are trying to do is to incorporate the work done by Commission. Even if there are comments that all Commissioners don't agree with, should include them all.

Y Bradley: Do we want to discuss the bullet points, or include them as written?

E Lee: Is not comfortable taking action on each item without everyone here.

A Montroll: Personally, support the second bullet, regarding lowering height.

M Tuttle: One other comment regarding height is about the change to Church Street height.

B Baker: Did we agree on the official map should make the streets align?

Y Bradley: Recall a discussion that it is not possible.

D White: More difficult to make them align, but as close as possible.

A Montroll: Redevelopment has to be in conformity, but existing can stay the way it is. Wouldn't the line then be the closest fit?

D White: If the street spans multiple properties, can't compel properties not part of the redevelopment to come down, and can't compel the property being redeveloped to provide the whole street unless it is illustrated that way on the Official Map.

A Montroll: The official map is one thing, one way or another want to require that the streets be open.

D White: We can't require it to be open without the public acquisition.

Y Bradley: Add "as close as possible" to the official map comment.

M Tuttle: In the comments on by-right height, included various Commission comments, including that some elements be discretionary.

Y Bradley: Do we support moving away from discretionary requirements?

B Baker: Supports first paragraph.

Y Bradley: Agree with next paragraph about reconnecting St Paul and Pine Streets as a major goal in this area.

A Montroll: Very strongly in favor of this comment.

*Tuesday, July 19, 2016*

D White: Even if we find a tool to exclude buildings in those ROW, cannot require that they be improved as connections.

A Montroll: Goal is that the City takes over the ROW. If there is not a building there, City can do it later.

Y Bradley: This is tied to the height. Opening these streets is a condition of a higher height.

D White: Seems that Commission is not talking about by-right height, rather community benefits.

A Montroll: Not sure what the tool is, and don't have time to flesh it out, but this is an important concept to include. Not tied to the height, tied to redevelopment within the district as a whole.

B Baker: We want to reestablishment the streets, but that takes developable space so need to consider the tradeoff.

Y Bradley: The language should indicate that we are trying to facilitate development, be upfront that for any redevelopment to take place new streets must be provided. Allow higher height to allow for this to occur.

D White: Revised language to say that creating a zoning district that does these things, and in addition, want these things.

A Montroll: It is not just the building height. Allowing more dense development, consider what we are getting. Opening the streets, better design, and other benefits. Making it easier in some ways, putting more requirements in, too.

M Tuttle: Need to be clear this is not about "conditions;" the Commission is saying that opening streets are not tied to height at all, but are required of this district.

D White: Truly only applicable to substantial redevelopment. Substantial is defined in our ordinances.

A Montroll: PC in agreement on this.

M Tuttle: Next section reflects the overall the feeling of the PC is that parking should be underground. Some felt that if it is not, clearly demonstrate why that doesn't work. Comments about design/screening later on.

Y Bradley: Issues is how to define infeasible?

A Montroll: It is vague, but accurately reflects some Commissioners' opinion. Didn't have time to figure out how to do it. Maybe it doesn't work, but for now, include as a comment.

M Tuttle: In opening of this section, include statement about some of the suggestions being challenging to address, because it applies to all of these.

Y Bradley: And may require further analysis and definition.

A Montroll: Recognize these are challenging, but important to continue to discuss.

D White: Last point is about housing diversity. This is a comment from some Commissioners.

B Baker: Requirement prevents some development as it is. 20% of bigger development is substantial. Add comment to this that some Commissioners believe the required inclusionary is sufficient.

M Tuttle: The first paragraph about urban design standards is a higher level policy statement about importance of this element regardless of height and massing.

A Montroll: Add "or behind a liner building" to the statement about underground parking not being feasible.

D White: Next item is green buildings, took language from an expired bonus.

M Tuttle: To reflect the conversation, added "or equivalent rating system" in comments on the draft language.

E Lee: Is pleased to see changes in language.

*Tuesday, July 19, 2016*

D White: Reflected Commission feeling that post-secondary school should be conditional, not permitted.

A Montroll: In conclusion, need to discuss the purpose of this is to facilitate redevelopment in a way that planBTV discusses, particularly how buildings activate and energize streets.

B Baker: Regarding green buildings, bond requirement might be tied to something tangible and realistic. Five times the building permit fee seems unrealistic.

D White: If a builder doesn't achieve the prescribed certification level, will lose the bond.

Y Bradley: The City Council should explore this more to ensure it's a reasonable way to tie the energy standards to performance.

The Commission unanimously approved a motion by A Montroll, seconded by B Baker, to send the revised memo to the City Council.

M Tuttle: Clarify staff suggestion is to send memo and markups on the draft ordinance language. Have incorporated all comments from the chart into one of these documents.

A Montroll: Where the memo contains staff comments, they should be explicitly noted.

## **V. Proposed CDO Amendment – Neighborhood Activity Center-Cambrian Rise**

The Commission unanimously approved a motion by Y Bradley, seconded by E Lee, to postpone this item and move to the public forum.

## **VI. Public Forum**

Eric Morrow: Congratulate the diversity of the board, acting with deference and respect. However, a four person quorum, slanted towards real estate interests, undermines that diversity.

Barbara Weinroff: What is intent of discussing connections at St. Paul and Pine Streets? If want them built as full roads, need to say it; if it can't function as a road, then what?

Ann Taylor: The Commission has done a lot of work. Has been asking lots of people for their opinions about the BTC project. We all know we need housing, need more office space, smart growth, work/play, business/retail. Like the overlay district, question is how do we cause development in the rest of the City. Had some things to direct to the Coalition, but tonight must not be the place to do it. Also wants the City to think about tiny houses. Someone said this would allow 160 ft buildings in the South End. What to say about that?

Y Bradley: Overlays are created to establish specific purposes in a part of town. This is specific to implementing more dense development in a part of downtown per planBTV.

M Tuttle: This is why discussion of relevance to planBTV is so important. When Commission considers amendments, have to consider if it's relevant to plans. Would be hard to find justification for 14 story buildings in the South End in our plans.

B Weinroff: Has the Commission seen recent housing studies? We will have a glut of housing with the proposed projects. People are using a scare tactic that we need more housing.

Resident: This has been a learning process; tonight felt like democracy. Thank you.

*Tuesday, July 19, 2016*

**VII. Adjourn**

On a motion by A Montroll, seconded by B Baker, the Commission voted unanimously to adjourn at 8:59pm.

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Y Bradley, Chair

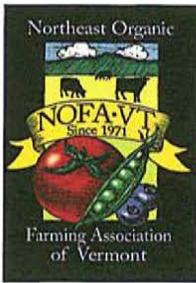
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Date

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E Tillotson, Recording Secretary

DRAFT



# Northeast Organic Farming Association of Vermont



*Growing local farms, healthy food, and strong communities  
in Vermont since 1971*

RECEIVED  
JUL 15 2016

DEPARTMENT OF  
PLANNING & ZONING

July 12, 2016

Dear Planning Commission Members,

How can communities support farm-based activities, but still manage impacts like noise or traffic? Where are the lines between state and local regulation? How can rural enterprises be compatible with other community goals?

If these questions have come up in your community, you're not alone! Increasingly, more is happening on farms than just farming. These activities, often called "rural enterprises" are activities that support farms, but aren't necessarily considered agriculture – from tastings to classes and even large community or private events. These enterprises can be very important to the farm business' profitability and can bring benefits to your community through supporting local economic development at a scale that fits the landscape – but you may still have questions about how these enterprises impact your community, and what you can do to manage those impacts.

The Northeast Organic Farming Association of Vermont recently collaborated with the Vermont Agency of Agriculture, Food and Markets, The Vermont Natural Resources Council, Shelburne Farms, and the Farm-Based Education Network to develop a set of resources for communities and farms about rural enterprises. The enclosed guide, 'Supporting and Managing Rural Enterprises in Your Community' provides general information about how municipalities can support rural enterprises and entrepreneurs while also managing the related impacts. It also provides links to many resources that provide more in-depth information.

We hope that this guide will be useful for your community and welcome comments and feedback. If you have questions, please feel free to contact me at the information below.

Sincerely,

Erin Buckwalter  
NOFA-VT Market Development Director  
[erin@nofavt.org](mailto:erin@nofavt.org)  
802-434-4122

P.S. We also have a similar guide for farm business owners as well as two farm case studies available on our website: <http://nofavt.org/resources/rural-enterprises-information>. Check them out!

# Supporting and Managing Rural Enterprises in Your Community

RECEIVED  
JUL 15 2016

DEPARTMENT OF  
PLANNING & ZONING



## Introduction

Commonly, there is more happening on farms than just farming. Many farm entrepreneurs are augmenting the agriculture focus of their businesses by also pursuing a variety of “rural enterprises” — activities on the farm that support the farm operation, but aren’t considered agriculture. These can include activities like product tastings, classes, or even large community events, which help farms expand their customer base.

## Farm enterprises can have many benefits.

Farm enterprises can have many benefits. They can provide an income stream that helps a farm business stay viable throughout the year and improve farm profits with the addition of

value-added production. Many communities support this type of business — after all, rural enterprises can support local economic development at a scale that fits the landscape, while also keeping intact the land base on which farming depends.

*Even if your municipality supports rural enterprises, you may still have questions about the impacts they could have on your community.*

- Will noise be generated at the event?
- Will there be traffic associated with a production facility?
- Where’s the line between “farming,” as regulated by the state, and what municipalities can regulate?
- What are the best ways to balance impacts on the community while also supporting on-farm businesses?

Rural enterprises are businesses that are suited to a rural area because they are supportive of agriculture or forestry activities, provide employment opportunities, and many of these businesses can be found on farms (see page 5 for more on rural enterprises). It’s their relationship to farming that often places them in a regulatory grey area where both farmers and the towns are unsure about regulation.

This guidance provides general information on how municipalities can support rural enterprises and entrepreneurs while also managing the related impacts. It also provides links to many resources that provide more in depth information.

## Rural enterprises are commercial businesses that take place on farms.

## DEFINITION OF A FARM

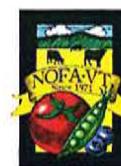
A farm constitutes lands which are used for “farming” that are owned or leased by a person engaged in farming, if the lessee controls the leased lands to the extent that they would be considered to be the lessee’s own farm. See rule, 10 VSA 6001(22)<sup>1</sup> for further detail.

<sup>1</sup>10 VSA 6001(22)  
<http://legislature.vermont.gov/statutes/section/10/151/06001>

A resource developed by NOFA-VT  
in collaboration with:



Shelburne Farms



# Steps Municipalities Can Take to Support and Manage Rural Enterprises

There are many ways to support and manage rural enterprises in our communities, starting with taking steps to keep land available. The following are steps your municipality can take that will support rural enterprises in your community.

## ASSESS

*Assess your town plan's goals and policies.* Does your plan have goals and policy statements in support of agriculture and forest business land uses? Policies that support keeping land available and accessible for these activities? If your plan has goals and policy statements supporting agriculture and forest businesses, take a moment to think: Do local actions generally advance these goals and policies? If not, what might be the reasons? In the “Sustaining Agriculture” tool, listed to the right, Module 1, p. 12 includes some questions you can ask to assess your plan.

*Assess how your current zoning does or does not support rural enterprises.* Rural areas are often designated by municipalities as “rural residential” zoning districts. According to one study, the primary purpose stated for these districts is to accommodate housing in rural areas, but the purpose statements also often include language about supporting working lands.<sup>2</sup> This approach is often successful at maintaining a rural “feel,” but smaller lot sizes may undermine the rural “function.” This mix of goals can also create conflicts between areas that historically had agricultural land uses and newer residential uses. In fact, the study, which looked at subdivision trends, found that in the 14 case study towns, 79% of all subdivisions — which represented 84% of the land being subdivided — were located fully or partially in a rural residential district. What does this mean? Some of the areas most suitable for agriculture and forestry are in fact also the areas that are most popular for residential development too, which can create a built in conflict when it comes to keeping land intact and supporting rural enterprises.<sup>3</sup>

## ASSESS | RESOURCES

**Sustaining Agriculture** provides a big picture look at what it means to plan for a working landscape — including steps that municipalities can take.

[http://vtfarmtoplate.com/stories/sustaining-agriculture-land-use-planning-modules#.VpP9GRGhk\\_Q](http://vtfarmtoplate.com/stories/sustaining-agriculture-land-use-planning-modules#.VpP9GRGhk_Q)

The Resilient Communities Scorecard includes a checklist with six questions you can ask to assess what your community is doing to support farming and forestry, plus ideas on steps your community can take to strengthen support.

<http://vnrc.org/wp-content/uploads/2013/06/VI.pdf>



<sup>2</sup>Vermont Natural Resources Council. *Informing Land Use Planning and Forestland Conservation through Parcelization and Subdivision Trend Information*. May 2014, p. 21.  
<http://vnrc.org/wp-content/uploads/2014/05/Phase-II-Subdivisions-Report-NEW-Reduced2.pdf>

<sup>3</sup>Vermont Natural Resources Council. *Informing Land Use Planning and Forestland Conservation through Parcelization and Subdivision Trend Information*. May 2014, p. 22.  
<http://vnrc.org/wp-content/uploads/2014/05/Phase-II-Subdivisions-Report-NEW-Reduced2.pdf>

To assess the zoning districts where the stated purpose is to support working lands and rural character, ask questions such as:

- In the rural residential districts, how much of the existing development is “rural” and how much is “residential?”
- Is the placement of buildings on individual parcels leaving adequate land available for farming?
- If the land is available, is it also accessible?
- Do large setbacks in the district lead to agricultural land being fragmented?
- Do the minimum lot sizes in the zoning result in parcels that are too small to farm or are the average size of the lots being created greater than the minimum lot size, and if so, by how much?

## PLAN

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*Use the local planning process to keep land available for farming and forestry.* Most land use decisions in Vermont are made at the municipal level, which means that there is a huge opportunity for towns to implement policies and programs that help rural enterprises at the most basic level by ensuring that land is available for farming and forestry.

*Engage in conservation and open space planning.*

Conservation and open space planning is targeted planning that identifies important resources, using inventory data and input about public values; sets priorities for resource protection; and identifies strategies for getting there. This kind of planning can support agricultural businesses along with other rural businesses, while maintaining the rural feel that people care about, along with other benefits like wildlife conservation interests.

## IMPLEMENT

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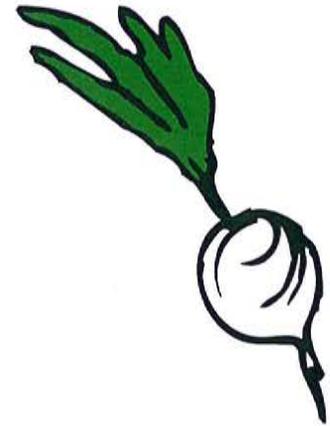
*Update regulations to better support agricultural enterprises.*

You can find a great overview of this topic — including information on some of the basics of zoning and subdivision regulations — in “Sustaining Agriculture’s” Module 4: *The Local Regulatory Context*.

*Adopt siting standards.*

In rural areas where both residential and working lands uses are allowed, make sure that all uses are sited on the property in a way that allows farming to continue with minimum conflicts.

*Adopt subdivision regulations in order to create a settlement pattern that leaves land available.*



## PLAN | RESOURCES

Land Use Education and Training Collaborative, Module 18

<http://vpic.info/Publications/Reports/Implementation/OpenSpacePrograms.pdf>

Community Planning Toolbox — Conservation and Open Space Plans

<http://vnrc.org/resources/community-planning-toolbox/tools/conservation-and-open-space-plans/>

Community Strategies for Vermont’s Forests and Wildlife — Conservation Planning

<http://vnrc.org/wp-content/uploads/2013/08/4.-Conservation-Planning.pdf>

See Resources, page 2.

While zoning defines the land uses allowed in different areas throughout town, subdivision regulations guide the pattern of development for the community (i.e. the division of a parcel of land for sale, development, or long-term lease). Traditionally, subdivision regulations have been used to ensure the efficient development of a community's built environment, focusing on the configuration of building lots to be served by municipal or private roads and infrastructure. However, because of the focus on how land is divided, subdivision regulations are also an important tool for reducing forest and habitat fragmentation, and reducing impacts on other natural resources.

*Define different types of rural enterprises within your zoning bylaw, and list them as permitted or conditional uses. Add standards to manage the impacts of these uses as appropriate. You can find a summary of these and other approaches in "Sustaining Agriculture," Module 4, starting on p. 19.*

*Reach out to local landowners to provide information on permits and the development review process.*

- Work with farm business owners to help them understand they may need to get local zoning permit approvals when their diversified on-farm business "grows up." Provide information on the process and timelines they will need to follow.
- Talk to agricultural business owners about their expansion needs. What types of changes would they like to make? Be sure to guarantee the confidentiality of these discussions so that these businesses can remain competitive. This can be a way to inform what zoning changes may be needed in the future, providing more predictability for business expansion.
- Including farmers in these conversations is a great first step toward making sure that regulations address challenges facing farmers, and empowering farms to participate in the land use planning process in their community — something that, in the long term, should benefit their businesses and the community at large.

## IMPLEMENT | RESOURCES

Community Strategies For Vermont's Forests and Wildlife, Ch. 15

<http://vnrc.org/wp-content/uploads/2013/08/15.-Subdivision-Regulations.pdf>

Land Use Planning and Implementation Manual, Module 26

<http://vpic.info/Publications/Reports/Implementation/Subdivision.pdf>

*See Resources, page 2.*

## TRAINING AND SUPPORT RESOURCES FOR LOCAL OFFICIALS INVOLVED IN DEVELOPMENT REVIEW

Vermont League of Cities and Towns — Municipal Assistance Center

<http://www.vlct.org/municipal-assistance-center/overview/>

Vermont Planning Information Center — Development Review Modules

<http://vpic.info/DevelopmentReviewTrainingModules.html>



## Frequently Asked Questions

### WHAT IS A "RURAL ENTERPRISE?"

Rural enterprises are businesses that are suited to a rural area because they are supportive of agriculture or forestry activities, provide employment opportunities, and many of these businesses can be found on farms.

*Specifically rural enterprises on the farm:*

- Support a farm operation in terms of revenue and marketing, and may provide community building and agricultural literacy opportunities.
- Are not always covered under the **required/accepted agricultural practices (R/AAPs)**<sup>4</sup> regulated by the Vermont Agency of Agriculture, Food & Markets (see page 7 for more on R/AAPs).

*Common examples of rural enterprises include:* Weddings/events on the farm, agricultural product tastings, equipment or infrastructure leasing, value added agricultural product processing/manufacturing, expanded retail sales of local agricultural products not produced on the farm, lodging and restaurants on the farm, and even classes and workshops.

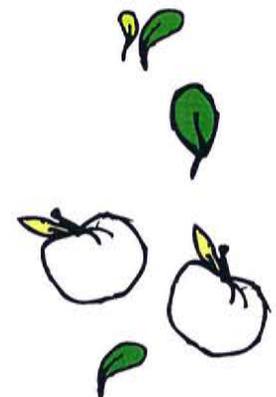
*Rural enterprises can vary greatly in terms of scale and activities, for example:*

- Events on farms can be small (a technical workshop staffed by the farmer), or large (a community concert with parking attendants, parking fields, caterers, and more).
- Many farms have space in vacant barns where people can gather for events; others may need to rent tents to provide shelter from inclement weather during an event.
- Some events may not impact traffic volume or create congestion, if they are small or they have open-ended start and end times. Others may cause traffic concerns if a large number of guests arrive and leave all at once.
- Some rural enterprises may benefit the farm business only, while others have a ripple effect that multiplies to support other businesses in the community. For example, a farm stand that is thriving could become a reliable market channel for craft and food products made nearby.

### WHAT IS A RURAL ENTERPRISE?

Rural enterprises are businesses that are suited to a rural area because they are supportive of agriculture or forestry activities, provide employment opportunities, and many of these businesses can be found on farms.

<sup>4</sup>Required/Accepted Agricultural Practice Regulations (R/AAPs)  
<http://agriculture.vermont.gov/sites/ag/files/ACCEPTED%20AGRICULTURAL%20PRACTICE%20REGULATIONS.pdf>



## WHAT KINDS OF DIVERSIFICATION ARE FARMERS INTERESTED IN?

Understanding farm businesses can help you anticipate the impacts of rural enterprises, inform how regulations are crafted, and build relationships that help ensure permits are acquired in a timely manner.

*To learn more about what it might mean to have rural enterprises in your community:*

- Talk with the current or future rural enterprises and farmers in your community. Conduct a survey, host a meeting, or have informal conversations to build relationships with farmers.
- Talk with other communities that have worked with agricultural businesses that have rural enterprises. For example, Shelburne has added a use category to its zoning bylaws called “Integrated Agriculture<sup>5</sup>,” that provides regulations for certain activities related to farming.

*Review the 2014 Agricultural Enterprises Report<sup>6</sup>, which compiles results of a Vermont Agency of Agriculture, Food and Markets survey that included 110 farmers who shared they were interested in diversification in the following ways:*

- *Direct sales to consumers* (on-farm farmers markets, community supported agriculture, pick your own operations, and farm stands) was the most popular type of diversification, listed as appealing to 65.6% of the farmers who responded.
- *Agritourism* (bed and breakfasts, product tastings, classes) was second (35.9%)
- *On-farm value added dairy processing* came in third (31.3%).
- Other forms of diversification desired were *restaurant/café* (3.1%), *on-farm meat, dairy, and grain processing* (6.3%), and *community kitchen/garden* (7.8%).

## ISN'T AGRICULTURE EXEMPT FROM MUNICIPAL REGULATION?

Vermont state law prohibits municipalities from regulating required/accepted agricultural practices. (R/AAPs, explained in more detail on the next page, are a set of practices that help protect water quality.) Sometimes, this limitation on municipal regulation of R/AAPs can cause confusion. In particular, it's sometimes interpreted — by towns and farmers alike — as meaning that towns cannot regulate any farm activities at all. However, activities that are not defined as Required/Accepted Agricultural Practices may be regulated by the municipality.

For more information:

VLCT News April 2015

[http://www.vlct.org/assets/News/Newsletter/2015/vlctnews\\_2015-04.pdf](http://www.vlct.org/assets/News/Newsletter/2015/vlctnews_2015-04.pdf)



<http://vnrc.org/resources/community-planning-toolbox/case-studies/shelburne/>

[http://agriculture.vermont.gov/sites/ag/files/pdf/land\\_use/Agricultural\\_Enterprises%20\\_9\\_3.pdf](http://agriculture.vermont.gov/sites/ag/files/pdf/land_use/Agricultural_Enterprises%20_9_3.pdf)



## DO "RURAL ENTERPRISES" FALL UNDER THE R/AAPS? DOESN'T THE AGENCY OF AGRICULTURE, FOOD AND MARKETS REGULATE THEM?

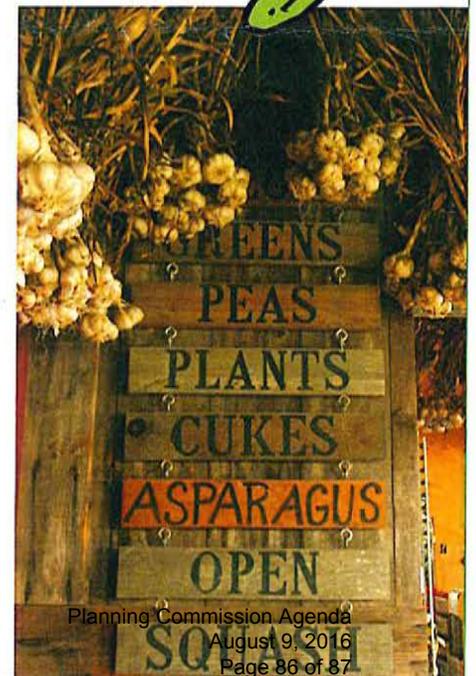
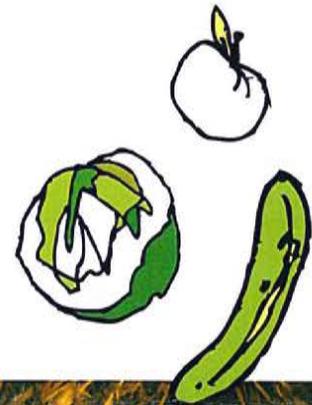
The R/AAPs protect and preserve natural resources and maintain the productivity of Vermont's agricultural soils. When a farmer uses these techniques to manage non-point source pollution, the Vermont Agency of Agriculture, Food and Markets regulates that activity and its impacts to water quality. This includes managing impacts associated with produce wash water and nutrient inputs from processing activities on the farm, in addition to agricultural waste associated with crop production. It may be the case that the activities related to a rural enterprise on the farm are not addressed by the R/AAPs.

## WE ARE EXCITED TO HAVE DIVERSIFIED FARMS IN OUR COMMUNITY AND DON'T WANT TO DISCOURAGE THEM. HOW DO WE SUPPORT THE CREATION OF RURAL ENTERPRISES THAT KEEP FARMLAND OPEN AND AVAILABLE FOR FARMING?

Being proactive by providing a clear path is the best way to encourage business growth while also managing impacts related to that growth. If your community wants to encourage rural enterprises, now is the time to evaluate your community's goals, determine what land uses are appropriate in your rural areas and provide the necessary regulatory framework that will help your community realize those goals. This may include standards in zoning regulations to appropriately manage impacts inherent with some rural enterprises. It could also include changing the purpose of zoning districts to help preserve the working landscape and give regulatory preference to rural enterprises over residential uses. Why? There are many reasons:

*Regulatory clarity helps all landowners make investments and business decisions.* When landowners — whether farmers, neighbors, or other businesses — make decisions about where to buy land and what they'll build there, they often consider what's likely to happen on surrounding parcels. Having some level of assurance about this is a way to protect those investments and people's enjoyment of their property. The costs can be significant if someone starts a business or buys a piece of land with a particular business plan thinking a permit is not necessary, but then encounters a complaint that prevents them from carrying out their vision. Similarly, if a town has not worked proactively on regulations for rural enterprises and then finds that the impacts of the enterprises negatively affect neighbors, the town can be in the awkward position of trying to regulate something after the fact.

R/AAPs (required/accepted agricultural practices) protect and preserve natural resources and maintain the productivity of Vermont's agricultural soils.



*Regulations are a tool that can help provide guidance and clarity.* Done well, regulations communicate to all landowners that a land use — on their property or somebody else’s — is or is not allowed. Local land use approvals, which may include conditions about how an activity must take place, give permission to engage in a particular activity and provide some level of assurance that a property owner can proceed with their investment in their home or business. This is true for farmers, other business owners, and neighbors alike. As you provide clarity in your regulations that helps encourage rural enterprises, it’s worth pointing out that this may lead to uses in rural areas that have not been allowed in your community before. Done carefully though, these regulations can both help a farm diversify and support farm revenue, while managing any impacts of these businesses on the neighbors and community.

*Fortunately, some of the most common concerns are well-suited to municipal solutions.* The 2014 Agricultural Enterprises Report<sup>7</sup> (mentioned on page 6) found that the most common kind of complaint that municipal officials receive about farms are related to “nuisance” — noise, odor, and traffic. Some of these are natural parts of farming, are protected under Vermont’s Right to Farm law, and regulated by the Agency of Agriculture; but for rural enterprises regulated by a municipality, Vermont law provides the authority to set standards to manage those impacts.

### WHAT ON-FARM LAND USES CAN BE REGULATED BY A MUNICIPALITY THROUGH A ZONING PERMIT?

Land use commonly found on a diversified farm that may be regulated by a municipality can include but are not limited to:

- Value-added processing facility for products NOT “principally produced<sup>8</sup>” on the farm;
- Lease of a production/processing facility to another farm operation or individual;
- Events on a farm property;
- On-farm restaurants or agricultural product tastings;
- Farm stay or lodging on the farm;
- Signage identifying your farm operation;
- Classes on the farm; and
- Other forms of agritourism where the public is invited on the property.

For more information about what may be regulated by the town go to: <https://www.uvm.edu/vtagritourism/files/agritourism-guide/bestpractices-land-use-regulation.pdf>

Video: <http://www.uvm.edu/vtagritourism/?Page=land-use-video.html>

[http://agriculture.vermont.gov/sites/ag/files/pdf/land\\_use/Agricultural\\_Enterprises%20\\_9\\_3.pdf](http://agriculture.vermont.gov/sites/ag/files/pdf/land_use/Agricultural_Enterprises%20_9_3.pdf)

“Principally produced” means that more than 50% by weight or volume of the agricultural products, which result from “farming,” and which are stored, prepared or sold at the farm, are grown or produced on the farm.

*Farming and Local Zoning*  
[http://agriculture.vermont.gov/sites/ag/files/pdf/land\\_use/Farming%20and%20Local%20Zoning%201\\_16\\_15.pdf](http://agriculture.vermont.gov/sites/ag/files/pdf/land_use/Farming%20and%20Local%20Zoning%201_16_15.pdf)



This publication was supported by the U.S. Department of Agriculture’s (USDA) Agricultural Marketing Service through grant 14-FMPPX-VT-0169. Its contents are solely the responsibility of the authors and do not necessarily represent the official views of the USDA.  
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