

Burlington Planning Commission

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Andy Montroll, Chair
Bruce Baker, Vice-Chair
Yves Bradley
Alexander Friend
Michael Gaughan
Emily Lee
Julia Randall

Burlington Planning Commission Tuesday, January 10, 2023, 6:30 P.M. Hybrid Meeting via Zoom and in the Bushor Conference Room Draft Minutes

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| Members Present | A. Montroll, J. Randall, B. Baker, M. Gaughan, A. Friend, Y. Bradley |
| Staff Present | M. Tuttle, C. Dillard, S. Morgan |
| Public Attendance | S. Bushor |

I. Agenda

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| Call to Order | Time: 6:30pm |
| Agenda | No changes. |

II. Public Forum

| Name(s) | Comment |
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| S. Bushor | S. Bushor provided some background to the Inclusionary Zoning item. Wants to know more about rolling out Missing Middle. After the housing summit, there were meetings for constituents at various locations to educate the public in a productive way. She is hoping that Planning staff will do something similar for the Missing Middle engagement—to help take the “mystery” out of Missing Middle. |

III. Chair’s Report

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| A. Montroll | No report. |
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IV. Director’s Report

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| M. Tuttle | <ul style="list-style-type: none"> • M. Tuttle welcomed Mayor Weinberger to the meeting. He has joined us to speak to the next item on the agenda. As Planning staff start off 2023, a big focus from the department has been re-visiting our work plan, particularly missing middle. • Update on zoning amendments: City council took action to adopt Maximum parking limits and TDM. Council ultimately made some tweaks to TDM standards to offer flexibility, and ultimately moved forward. M. Tuttle anticipates it going into effect in a couple of weeks. • TDM study: C. Dillard has helped set up interviews with three well known consultants, to be approved in the next month by board of finance. <ul style="list-style-type: none"> ○ VHB (National firm, local office) ○ Fisher Associates (Buffalo) ○ Nelson Nygard (Boston) • Other Amendments: <ul style="list-style-type: none"> ○ Creating standards for public art: This ordinance was adopted last night by City Council ○ Trinity: We're waiting for that to be referred to City Council • Next week the Planning Commission has two special meetings <ul style="list-style-type: none"> ○ Board meeting to share updates on what each Commissioner has been working on and hear feedback from others about implementation of the ordinance (remote or in person, food will be offered to those in person) ○ Council ordinance committee to talk about inclusionary zoning |
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V. Proposed ZA-23-02 Inclusionary Zoning

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| Action: Commission Discussion | | |
| Motion by: n/a | Second by: n/a | Vote: n/a |
| Type: Discussion | | Presented by: Mayor Weinberger |

Introduction:

- Mayor Weinberger wanted to come tonight because he will not be there next week to discuss inclusionary zoning. He wanted to convey why this is important as a shared major initiative.
- M. Weinberger expressed enthusiasm for the CityPlace project and the new construction activity happening there. Unfortunately, there are some unresolved aspects of the project related to Inclusionary Zoning.
- Champlain Housing Trust is very supportive of the proposed change. The 80-unit building will be the biggest affordable housing structures to be built in Burlington. It is one of the three buildings permitted for the site.
- The challenge is that the developers would like to build different market rate unit and bedroom indexes than what is currently allowed/what CHT is planning on.
- M. Weinberger stated that the developers are going to exceed the IZ requirements and will build more than 20% units that are permanently affordable. Based on ordinance rules, the developers cannot meet the comparability test, which requires that the affordable units be comparable to the market rate units. This is interpreted as the same bedroom mix between market rate and inclusionary units. M. Weinberger hopes that there is an alternate test (square footage) to meet comparability test instead of the bedroom mix.
- Because there is a mismatch between different projects, the CityPlace developers cannot move forward with their preferred investors if this regulatory challenge is not addressed. Encourages that the city be a good partner and quickly address the uncertainty/obstacle that is a barrier for them to lock in financial commitments.
- M. Weinberger expressed urgency in this proposal as there is some volatility in the capital market and it is in the City's interest to finalize the CityPlace project.

Commissioner Discussion

- M. Gaughan asked if the IZ is for all three buildings or if each building stands independently. M. Weinberger responded that they permitted the project all at once. There are a total 400 units, 15% of those for IZ requirement, but their total number of IZ units will actually be 20%. M. Tuttle added that this model is becoming more successful for larger scale projects in the city. The current model for IZ is successful for buildings with a few dozen units. However, for large buildings that are built in phases, a different model may be more successful.
- B. Baker alerted Commission Chair that he represents a CityPlace developer who will be affected by this proposal.
- J. Randall asked what specific changes are being proposed. M. Tuttle responded that Planning staff will present the proposed changes officially next week, but so far it may affect the comparability of bedroom mix and ratio of sizes between market and IZ units.
- A. Friend asked what the specific bedroom mix needs are. M. Weinberger shared that CHT is interested in building more 1 and 2 bedroom units, based on the low-income and very low-income households they will be serving. The current IZ ordinance language treats market rate and IZ units the same without necessarily looking at the populations. He acknowledged that the original committees that worked on IZ recognized that reforms would be needed along the way. M. Tuttle also offered that the issue of parity was discussed all the way up to the last minute of the original ordinance.

VI. Proposed ZA-23-01 South End Innovation District

Action: Motion to empower staff to make changes to the use table allowing flexibility among the primary and secondary use categories as well as the overall construction of where and what lots those can occur in, create a memo describing to council for a future recommendation the considerations of the commissions as to whether the use table is needed or not, as well as incorporate the other changes that staff has recommended into the proposal.

Motion by: M. Gaughan

Second by: A. Friend

Vote: Unanimous

Type: Action

Presented by: C. Dillard

Continuation of the discussion following the public hearing that carried over from two different dates.

- Staff to present on both the public comments as well as a set of revisions to the draft amendment that PC had and was considered in the hearing. Those revisions have been in the document for a couple of months but due to time constraints, staff has not been able to discuss with PC.
- 11/15 Public Hearing Comment Review included addressing Building Height & Lake View Impacts, Building Floor Plate Standards, Land Use Table and Primary/Secondary Distinction, SEID, E-LM, and Light Manufacturing, SEID and Lake Water Quality, *PlanBTV: South End* beyond the SEID, and a flexible development framework.
- Proposed Revisions include an increased maximum setback, Parking Structure One-Time Floor Plate Standard exemption, Street Hierarchies and Frontage Designations, Parking Structure Ingress/Egress Decoupling, Land Use Table Language Consistency, Permit PUDs in the SEID, Define Floor Plate.

Commission Discussion:

- During conversation surrounding Building Height, A. Montroll pointed out that building height was one of the biggest points of conversations during the public hearing. C. Dillard showcases through images and diagrams that trees already obstruct views of the lake and Adirondacks, The red area north of Lakeside Avenue could possibly impact views if we considered the trees and existing structures don't already impact the views.
 - M. Gaughan points out that the public view from Calahan Park is the most important view corridor, and you can see directly over the existing Innovation Center, but the leaves hide the views in the summer time. The public can see the view during the winter time, when the park is lightly used, but not as much during the summer when the park is heavily used. States that the city has to make tough choices about where they can increase density, and this is a fair compromise.
 - J. Randall echoes what M. Gaughan stated re: tough choices, and that the proposed height standards will not allow for the development of a wall of 8 story buildings because of standards. Notes that the view of the lake is outweighed by the need for housing and increasing the number of units in Burlington.
- During conversation related to Land Use, M. Gaughan asks how the lots are memorialized, and that lot ownership may change. M. Tuttle responds stating that if some of the large parcels are subdivided, the standards would apply to sub-lots. In the case of Planned Unit Developments (PUDs), if a conceptual level plan was approved and then subdivided, there could be room for more flexibility.
- M. Gaughan states that he's concerned that (for example) print shops are encouraged, but not dental offices. Points out that offices are good, but they are not neighborhood facing, but a café is. If you were to develop a multi-family development and limited non-residential space, it would be weird to have a lot of multi-family development without a café. It would be odd to have such a high volume of multi-family without a café. Seems like we are setting ourselves up in a complex geometry math problem and weird conversations down the line. Addresses that

there are objectives trying to be met here, but encourages us to find a way to generalize or allow for more flexibility.

- M. Tuttle states that some of the “neighborhood serving” uses are not allowed in the district today, and staff is trying to modestly open the door for enabling other uses. In order for this to be consistent with PlanBTV, while we feel it’s important to see large numbers of new homes, it is not necessarily the intent of PlanBTV to see a primarily residential district with just restaurants and cafes serving the district. The intent is to facilitate some mixed use that does achieve both purposes. This is a more explicit route for encouraging incentives as well.
- B. Baker comments that the history of Burlington prescribing specific uses has been a failure, and that we are at a tender point in the market as far as construction goes. Construction costs have gone up, so we’re seeing lots of paused projects. If we try to prescribe certain things, some projects might never get built and we would never even know it never happened. Strongly suggests not to micromanage the market and that the government imposition will result in unintended consequences.
- A. Montrell follows up stating that when we did the Form Based Code, we put the uses as a secondary issue and were more concerned about how the project interacted with the street and provided a wide range of flexibility with what happened on the inside, and that it might carry over into this discussion. Encourages allowing for flexibility for what happens inside – allow changes over time. Someone may build for one use inside, and that might go away with another use coming in. Wants to make sure things are designed and used in a way that things can change over time.
 - M. Tuttle states that this approach was discussed internally and this decision to be more prescriptive with land use is due to the sensitivity of the area. In order to successfully implement zoning that reflects the community priorities described in *Plan BTV*, it necessitates a focus on land use in a way that a downtown form code does not.
- A. Montrell suggests that an approach on this is to go slow, and do it where it is more prescribed on the Uses and keep an eye on them to see if its overly restrictive or not. It’s easier to open up things than shut them down. Be flexible if we need to start opening that up.
- Y. Bradley tags on to what Bruce said. Is squeamish about prescribing uses, but it has been a resounding failure, and we have to give the market and community the ability to put what they want in spaces.
- M. Gaughan states that this is okay to have this method so we have site plan flexibility if these requirements stay at the lot level. If we’re going to stick to it, it needs to be in such a way that there is maximum flexibility at a site plan level.
 - M. Tuttle wants to encourage the use of the Planned Unit Development standards, which would allow these standards to apply across multiple lots.
 - J. Randall asks if we could apply this framework to the entire district and is curious if this would encourage greater flexibility across lots. With only a single equation to balance, it might be simpler than to apply this lot-by-lot
 - M. Tuttle responds that by looking at this at a district level would require legal review. In previous policy conversations we have strongly resisted the urge to make what you can do on your lot contingent on what your neighbor does on their lot.
- M. Gaughan asks where the list of the uses comes from – is stuck on the medical uses ie: dentists.
 - C. Dillard states that the use table is in the Code and is very specific, which may be part of this problem. The staff work plan for this year includes a consolidation of many of the uses. For this amendment, staff went through entire use table and categorized by looking what is already permitted and compared that to the intent of *Plan BTV*, and made judgement calls based on the purpose statement of the district.

- B. Baker says that just looking at parking lots take up a lot more size than an office use, should parking lots be on this use table?
 - C. Dillard is behind removing parking garages, but parking lots are proposed to be regulated separately in parking standards.
- M. Gaughan also wants staff to consider recreation. This area has already had a lot of success with recreation, and we distinguish between health clubs and recreational facilities. These would be complementary uses to what is going on there with the innovation economy. There is a climbing gym (recreational facility), but there is an appetite for expansion.
- M. Tuttle notes that if there are specific stand out uses, staff could make changes based on high level feedback.
 - A. Montroll asks M. Tuttle if staff is at a place where they could go through the use issues and return to Commission with solutions to bring forward at the next meeting.
 - C. Dillard confirms that staff can do this. Also brings up a conversation a few months ago about the “pandemic of vacant ground floor space in new development” is true in BTV as well, and in the event that a development does come to fruition and has ground floor space, can we expect that all those spaces will be fully leased? Is not sure. Allen, Brooks, and Minor research shows that there hasn’t been much new retail space in the last year. Keep in mind that Pine Street and neighborhoods surrounding innovation district have successful non-residential space that will be a half a block away from these possible developments. Also keep in mind that the allowance for parks and community gardens in that primary use table are a potential way to unlock significant amounts of that secondary table. With the FAR, it is inevitable there will be open space on these lots, and developments can thus include secondary uses.
 - M. Tuttle recognizes that there are conflicting opinions within the PC that night, and A. Montroll acknowledges that the PC is split regarding the land use regulation approach.
- M. Gaughan reiterates that staff has spent a lot of time considering these options. B. Baker asks if we can refer the amendment up to City Council with a note that this is an issue.

VII. 2023 Meeting Schedule

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| Action: Approve the correction typo in the 2023 Meeting Schedule. | | |
| Motion by: A. Friend | Second by: J. Randall | Vote: Unanimous |
| Type: Action | Presented by: C. Dillard | |
| The second meeting in August, originally scheduled for August 28 th , was corrected to August 22 nd . | | |

VIII. Commissioner Items

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| Action: n/a | | |
| Motion by: n/a | Second by: n/a | Vote: n/a |
| Type: n/a | Presented by: n/a | |
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IX. Minutes and Communications

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| Action: Approve the minutes and accept the communications | | |
| Motion by: A. Friend | Second by: J. Randall | Approved: Unanimously |

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| Minutes Approved: December 20. Communications Accepted: in the agenda packet and posted at https://www.burlingtonvt.gov/CityPlan/PC/Agendas |
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X. Adjourn

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| Adjournment | Time: 8:45 pm | |
| Motion: Y. Bradley | Second: A. Friend | Vote: Approved Unanimously |

DRAFT