

Burlington Planning Commission

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Andy Montroll, Chair

Bruce Baker, Vice-Chair

Yves Bradley

Alexander Friend

Emily Lee

Harris Roen

Jennifer Wallace-Brodeur

Eamon Dunn, Youth Member



Burlington Planning Commission **Wednesday, December 13, 2017, 6:30 P.M.** **Conference Room 12, City Hall, 149 Church Street** **Minutes**

Commission Members Present: A Montroll, H Roen, E Lee, A Friend, J Wallace-Brodeur

Commission Members Absent: Y Bradley, B Baker, E Dunn

Staff Members Present: D White, M Tuttle, J St James, A Wade

Note: times given are
approximate unless
otherwise noted.

I. Agenda

A Montroll: meeting called to order at 6:34pm. No changes to the agenda.

II. Public Forum

No speakers.

III. Report of the Chair

D White: City Council adopted some zoning changes, one of which is the retaining wall.

M Tuttle: other changes to zoning amendments being reviewed are green roofs, technical amendment for pre-schools, replacement mobile homes, and Article 4 amendments.

IV. Report of the Director

D White: the redevelopment of the YMCA, is currently going through sketch plan review, the Design Advisory Board this week, Technical Review Committee tomorrow, and Development Review Board next week. The redevelopment of Bove's parking lot is proceeding with the applicant wanting shovels in the ground in the spring. The Bove project and City Hall Park will be the first large development projects to go through Form Based Code.

Meagan and others hosted conference for the Neighborhood Project.

M Tuttle: there's a lot of confusion about the permit process as identified by the consultants. We went over the permitting process in a presentation at the meeting. Opportunities for resident's feedback are still available through the Community and Economic Development Office's website.

A Friend: the consultant mentioned predictability for all permits for residential properties. Is this part of the permit reform?

D White: these issues can be addressed in the new form based code.

M Tuttle: the intention is to provide more clarity, so there is less confusion for residents about the ordinance, policies, and procedures resulting in better communication.

V. Proposed CDO Amendment: Article 7 Sign Regulations

D White: staff is beginning the conversation about signs. At the next meeting in January we will speak to the details. Justin St James is with the City Attorney's office. He will give information on sign regulation and the potential impact on free speech and 1st Amendment issues.

J St James: there is new information on sign regulations and the major change regulations underwent in 2015 with the U.S. Supreme Court decision, Reed vs Town of Gilbert Town. A church congregation had to move their services to a new location each week since they did not own a church to conduct their services. The Town of Gilbert fined the church twice under their sign regulations for putting up signage to direct the congregation to the new locations. The church sued. The case went before the Supreme Court, which ruled, if you can read the sign, it is content based. This was considered a noncommercial speech sign. Sign regulations are being reviewed nationally due to this new ruling. This was a significant case with a lot of first amendment issues. The main points are that the government can regulate its own property as it pertains to signs, but commercial regulation and lighting will not change. The main argument supports the consideration for time, manner, and place constraints, rather than content based which would be unconstitutional.

A Friend: has questions on regulation of content base of sign.

E Lee: is there differentiation between commercial and residential signs?

J St James: commercial signage is not affected by the Reed decision. The change is about non-commercial signage seen in residential areas.

E Lee: questions rent banners.

J St James: still seen as temporary space rather than commercial permanent space.

H Roen: asks what is in Burlington's ordinance that is content base?

D White: the ordinance has provisions around temporary signs that differentiate between for sale/for rent vs political signs. We will see how we treat them similarly and whether one is disadvantaged over another. We will be looking at what the court did not speak to and look at the new focus of time, place and manner of sign placement for the new ordinance. The guidance is varied but it is an important opportunity to make it more clear.

A Montroll: what other non-commercial signs do we deal with?

J St James: community events, political, religious meeting signs, temporary signs.

D White: yard sale, and whether some signs are over longer frequency of time and use.

J Wallace-Brodeur: can we regulate within certain time frame for political signs and elections?

J St James: this has not been clearly addressed and other municipalities may focus instead on temporary sign. Constraints are placed on signage in different ways to address this. There is no definitive right or wrong way it's more about consistency and whether it pertains to time, place and manner.

A Montroll: if there is distinction between residential and commercial signage and nothing should be done about residential for the time being. The suggestion is to wait to see what problems may arise. We might not need to have any regulations for non-commercial signs.

D White: there are not many examples where there are complaints and enforcement issues around signs.

E Lee: I agree, if it is not broken don't fix it.

A Montroll: if it does become a problem, it is easier to address later on and this way may make it easier to avoid court review. Would the city still have full control over its property, including the green belts?

J St. James: yes.

D White: in the realm of government signs, traffic signs and others, there would be strict control over the public right of way. It was my intention to ask Justin to come and give you these unique considerations. The Planning and Zoning department will work with the City Attorney's office on this. What we are working toward are objectives that are content neutral as possible. Not radically changing the amount of signs. Article 7 speaks to exemptions pertaining to traffic control that meets federal guidelines. Flags are a concern and we are trying to place limits on size and number. Property address signs provide a public safety interest, which need to meet both minimum and maximum size. Signage inside buildings have exemptions if it cannot be not seen from the street. Other examples of signs such as flashing signs, temporary signs, wraps and lighting were mentioned in regard to the code.

J St James: there is a recent case of a church wanting illuminated changing signs. The municipality didn't want this in the neighborhood. The Court ruled for the town. There seems to be a balancing act between commercial and noncommercial business.

D White commercial or non-commercial and to be careful with regulation and religious infringement and national regulation need to regulation be careful and not prohibitive.

H Roen: question on projection sign.

D White: if it is projected into the public right of way, the city controls this. This may be prohibitive on private properties. Only allows for civic use, not commercial. The method of illumination is what every gas station has and the question is to what extent can you regulate the context and types of signs for these uses.

E Lee: the bank sign was the first illumination in Vermont and thought of as Times Square in Burlington. My concern is more about brightness and the quality of light that matters.

D White: this is an overview of what is being worked on for signage. It is the relationship between the message, background, letters, brightness, and illumination. The definition of what constitutes a sign is very important as well as the decision on when it is a sign or a display of art. The distinction is difficult to make in because the ordinance is abstract. In the second part of the code it breaks down a host of signs, such as parallel, projecting and freestanding signs. Planning and Zoning has options and variety of signs in districts where these signs are allowed. What we want to achieve through the ordinance to streamline the permitting process. We will look at the master sign plan to see if all signage works together.

A Friend: asks about wrap sign advances?

D White: spoke of buildings in Burlington that have sign wraps. We will look at whether this is a mural or public art and how to regulate it under the form based code.

VI. Committee Reports

A Friend: reported on the Ordinance committee and about the formula to calculate RM and RH density with number of units. Staff proposes rounding it but will bring this to the PC commission for discussion for one more unit.

A Montroll: the Executive Committee decided to meet quarterly and not monthly.

H Roen: Nothing for Long Range Committee.

VII. Commissioner Items - *Next meeting is Tuesday, January 9, 2018 @ 6:30 pm in Conference Room 12.*

VIII. Minutes & Communications

The Commission unanimously approved a motion to by J. Wallace-Brodeur, and seconded by A Friend to accept the minutes from November 14, 2017.

A Friend: has questions about De Minimus Applications?

D White: this letter is for your information and let's see if there's a need for follow up or if the Commission wants to discuss and comment on this.

IX. Adjourn

The Commission unanimously approved a motion by H Roen, seconded by A Friend, to adjourn the meeting at 7:40pm.



Andy Montroll, Chair

Signed: January 9, 2018



Anita Wade, Planning Commission Clerk