

## **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**

### **Joint Meeting with DAB, DRB, & Conservation Board**

**Tuesday, January 30, 2018, 5:00 P.M.**

**Contois Auditorium, City Hall, 149 Church Street**

## **Minutes**

Planning Commission Members Present: A Montroll, B Baker, E Lee, H Roen, A Friend  
Development Review Board Members Present: A Hart, B Rabinowitz, G Hand, S Tiltson,  
A Zipparo, J Drummond  
Design Advisory Board Members Present: L Sprinzen, R Wanamaker, S Offenhartz, Tom Cullins  
Conservation Board Members Present: S Mapes, J Severson, M Moore  
Staff Present: D White, M Tuttle, S Gustin, M O'Neil, R Morrison, A Wade

### **I. Agenda**

The Chair called the meeting to order at 5:14pm with introductions by members. There were no changes to the agenda.

### **II. Public Forum**

There were no members of the public who wished to speak.

### **III. Welcome from the Director**

D White: Purpose of this annual meeting is for Commission and Boards to discuss common issues and challenges. The Planning Commission is responsible for development of policy forwarded to City Council and the DAB, DRB, and Conservation Boards are responsible for the implementation of those policies.

### **IV. Permit Reform Study**

D White: Last 10-15 years P&Z, Public Works, Code Enforcement working together to improve the work flow process and information collection and management process for development permits. In 2014, City Council enacted a permit reform initiative, which was first time funds budgeted and a work plan prepared to do the plan to look at how P&Z, DPW, Code Enforcement, Burlington Electric play a role in the development review process. A separate piece looked at historic preservation regulations and made recommendations. In October, 2017, the Mayor appointed an advisory committee to direct ongoing permit reform initiatives.

A Zipparo: What engagement process did the consultant use?

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D White: Important part of process was that it was conducted by outside third party to interview staff, review forms, and processes, conduct online surveys, and engage the public to get unbiased input.

A Zipparo: Do you do regular customer surveys through calls or emails?

D White: A recommendation of the study was to do so on an annual basis. Report highlighted what we do well, and areas for improvement compared to best practices in other communities. The report presented fifty recommendations in 6 themes: organizational structure, process, customer service, technology, fees, and solar permitting. One of the key recommendations was to look at one stop permit center, and potentially consider a future consolidation into a single department. P&Z now holding office hours at DPW to help improve process, and hired a planning technician who helps more with administrative review. Amendments to DRB bylaws are also allowing more projects to be reviewed administratively. Inspection services is offering scheduling online for trade inspections, and certain permits can be offered over the counter same day. Technological improvements difficult due to current system, but making all forms PDF's, putting zoning interpretations online, and inspectors now have tablets to input information in the field. Through "Clean Hands" policy, closing old permits. Looking into codes and ordinances that have kept up with state requirements. Training and education are needed for staff and applicants, possibly need additional staff. Looking into annual customer survey.

A Hart: How do you regulate historic properties?

D White: We administer state building and life safety codes and have expanded this to include the standard residential codes. Need a comprehensive preservation plan under the municipal development plan.

## **V. The Neighborhood Project**

R Wanamaker: Committee member for the project. Was born out of negotiations around the Eagle's Landing development. Partners include the City, Champlain College, and UVM, and Preservation Burlington to develop a neighborhood stabilization plan.

M Tuttle: In 2015, Council passed the Housing Action Plan with 22 strategies regarding availability and affordability of housing. Project reviewed quality of life issues and other conditions in near campus neighborhoods, recently adopted ordinances and other initiatives including those of institutions, and market conditions to address these issues. Developed three broad strategies. First is to explore whether there are any ordinances that need to be clarified or improved regarding quality of life. Second is a goal to slow the conversion of single family homes into rental units near campus. The focus is on targeted areas closer to campus, where a single family could convert into student housing. Third is to increase opportunities to recapture single family homes and make them more available by creating assistance with the cost of ownership such as rehabilitation, loan resources and employer assistance programs. There is support for quality of life initiatives, but feedback suggests needing to think bigger perhaps looking at an acquisition program.

A Friend: Have been involved, encourage to everyone to look at the website and provide comments

S Tiltson: Any discussion about the future of homeownership for young families with student debt, day care and other expenses? I live in Ward 1 and our street has had conversion happening, but not everyone can afford to buy.

M Tuttle: Have had the conversation through this project about what does it mean to have a balanced neighborhood, and that may mean many things to many people. Within the strategies, we are looking at some that could apply to rentals, too, such as some models of employer assisted housing programs. As the strategies develop, may find that we are more concerned about the condition and livability of a property than whether its owner or renter occupied.

E Lee: In my experience as a finance professional, the number one way to build wealth is in a home; an entire generation is not buying or putting it off until later which is concerning.

S Tilton: This is a bigger issue; looking at improving neighborhoods is good start, but need strategies to align with reality.

B Rabinowitz: One of the biggest channels to affordable homeownership is through CHT. This is not about building wealth for the owner, but a pathway to meeting a housing need.

A Zipparo: How are you considering the needs of seniors?

M Tuttle: This project is one of 22 strategies in the Housing Action Plan. Committee has been focused specifically on the task of how to create neighborhood balance near campus. Obviously want to ensure relationship to the other plan themes, but trying to stay focused. There is an entire strategy about affordable housing, aging in place, etc.

J Drummond: What are other quality of life issues?

M Tuttle: In addition to noise, calls for service, maintenance and upkeep of properties. The availability of housing and parking issues.

E Lee: Specific to the police reports, the correlation of calls for service in these neighborhoods is an obvious and expensive problem for everyone that we need to address.

J Speidel: We are tracking this and not sure this is true; found that only a third are students. With quality of life, we look at noise and safety, track data. Code Enforcement, UVM and DPW, agree that we need more housing. Both UVM and Champlain College have created more housing. How do we provide affordable housing and where are the resources? Are there places where we create more housing?

M Tuttle: Created heat maps that show some of these data points. There is definitely an increase in density of calls for service, but there are other locations, too, like downtown and at the hospital where issues are first reported.

A Zipparo: Has student population increased over that time?

J Speidel: We have built more beds than we have admitted students.

A Montroll: We know this is a problem that has been going on for many years and why we continue to work on it. Thank you for all those efforts.

## **VI. Non-Conformities & 15 Year Statute of Limitations**

K Sturtevant: Providing information about the differences between a legal non-conformity ("grandfathered") and illegal situations that are subject of the statute of limitations. Nonconformity pertains to a use, structure or parcel that was legal at one time, but does not conform with present bylaw. There are special considerations within Article 5 of the CDO that pertain to these. Overall, goal is eventual elimination of

nonconformities. 1997 case now known as Bianchi law, concerned violations which could affect the marketability of the title. Legislation was passed putting a limitation the period of time for enforcing and causing the correction of violations. There are exceptions to the statute of limitations allowing enforcement of public health risks, life safety issues, and use violations. In Burlington, a nonconformity expires if it is discontinued for a year, with the burden of proof on the owner to prove the condition was legal and continuous, and has provisions for enlargement of the use. Under the statute of limitations, it must be proved that the condition has been continuous for at 15 years after the violation was known to the City, since the use was never established as legal, expires if discontinued for 60 days, and has no provisions for enlargement.

S Offenhartz: How do you define "known to the City"?

K Sturtevant: Typically look at zoning permits, and at other departments' records.

B Rabinowitz: DRB generally doesn't pay attention to what other departments have. Would be great to have guidance on this—currently look at the materials the applicant presents which isn't always clear.

B Baker: Title attorneys were concerned because they knew municipalities were not keeping permanent records and that it became difficult to find permits. Experience with incomplete records at the building department. I want to encourage the City to work on this and would like to see more consistency. Some people have violations but they don't know how to prove their existence.

M O'Neil: Due to case law, the city is learning, too, what we needed to keep. Some records were lost in a fire.

L Murphy: The intent of the Bianchi law, which was to try to bring old zoning violations into a nonconforming status, has not been carried out. The fundamental problem is burden of proof, because permits are not secure and scattered everywhere. There needs to be a path to resolve the problem, otherwise left in limbo with no enforcement action. Benefits the City as a whole to allow for a process that affords 20+ year violations legal nonconforming status. Pick a time period, and move forward.

B Demas: Concern is that the enforcement of the zoning regulations makes it difficult to keep housing affordable in Burlington. There needs to be reconciliation for small owners of affordable units and for landlords to hold onto their properties. It is frustrating to find permits and land records.

K Sturtevant: Indexing land records and permits into the system has been occurring. They are searchable showing when they were listed and uploaded.

B Rabinowitz: Proving continuity is a particularly difficult issue.

D White: We recognize the challenge is to find a path forward for certainty and over course of next few months we are going to revise these things and bring back to City Council to further this discussion.

A Montroll: The Planning Commission spent time a fair amount of time on this last year, but it's important and we need to keep working on it.

## **VII. Board Discussion**

A Zipparo: Asks everyone to work together to recruit women, people of color, physical disabilities, LGBTQ for positions on the Board. Burden is on City Council to appoint, but Boards can help make more diverse representation.

E Lee: Encourage everyone, even subcommittees, to look at who you can invite to make sure there is a spectrum of people at the table.

S Offenhartz: Any updates to appropriate replacement materials?

A Montroll: Planning Commission did recommend materials and sent to City Council but they did not take it up.

J Drummond: Not sure about having ironclad rules about acceptable materials. Technology changing, and the rules the Board applied a few years ago may not be in line with construction industry tomorrow.

S Offenhartz: Boards and residents need clarity to know what they can do and to make decisions.

D White: Will ultimately follow a comprehensive historic preservation plan in the next several years.

**Adjournment**

The Chair adjourned the meeting at 7:00pm.



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Andy Montroll, Chair

Signed: February 13, 2018



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Anita Wade, Planning Commission Clerk