



Regular City Council Meeting - Monday, September 12, 2016 - 7:00 pm, Contois Auditorium, City Hall 9/12/2016

MINUTES SUBJECT TO CORRECTION BY BURLINGTON CITY COUNCIL. CHANGES, IF ANY, WILL BE RECORDED IN THE MINUTES OF THE NEXT MEETING OF THE CITY COUNCIL.

BURLINGTON CITY COUNCIL

CONTOIS AUDITORIUM, CITY HALL

BURLINGTON, VERMONT

MINUTES OF MEETING

September 12, 2016

MEMBERS PRESENT: Jane Knodell, (Council President) – Central District

David Hartnett – North District

Joan Shannon – South District

Selene Colburn, East District

Sharon Foley Bushor – Ward 1

Max Tracy – Ward 2

Sara Giannoni, Ward 3

Kurt Wright – Ward 4

Karen Paul – Ward 6

Tom Ayres, Ward 7

Adam Roof – Ward 8

MEMBERS ABSENT: William “Chip” Mason – Ward 5

ADMINISTRATION: Miro Weinberger, Mayor

Eileen Blackwood, City Attorney

Richard Haesler, Assistant City Attorney

Rich Goodwin, DFO

Jennifer Kaulius, Mayor’s Office

Brian Lowe, Mayor’s Office



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Katie Vane, Mayor's Office

Amy Bovee, C/T Office

Lori Olberg, C/T Office

David White, Planning & Zoning

Brandon del Pozo, Burlington Police Chief

Jesse Bridges, Parks & Rec

Gene Richards, Airport

OTHERS PRESENT:

Sarah Kenney

Ibnar Avilix

Brian Boardman

Lisa and Tom Beilstein

Amey Radcliffe

Mike Boardman

Cordial DiRuggier

Jason Van Driesche

Eric Morrow

Caryn Long

Michael Long

Janet Corscadden

Eli Lesser-Goldsmith

Zandy Wheeler

Paco Defrenciz

Richard Hillyard

Patrick Johnson

James Schlasser

Meagan Sterns

Margaret Murry



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Melinda Gale

[Note: Minutes reflect the order of the published agenda.]

1.0 CALL TO ORDER and AGENDA

City Council President Jane Knodell called the meeting to order at 7 PM.

1.01 Agenda

MOTION by Councilor Bushor, SECOND by Councilor Roof, to approve the agenda with the following amendments:

- **Note signed copy for Item 2.02 (Retirement Board Report)**
- **Note additional materials for Item 2.03 (public hearings on CDO ZA#10-06 & ZA#16-10)**
- **Remove from Consent Agenda Item 4.37 (Capital Projects General Obligation Bonds) and Item 4.38 (Water System Improvements Revenue Bonds) and place on 9/19/16 Deliberative Agenda**
- **Add Item 5.01 (motion on ZA#16-14 on DMUC Overlay as amended for public hearing on 9/29/16).**

VOTING: unanimous; motion carried.

Council President Knodell led the assemblage in the Pledge of Allegiance.

2.0 ANNUAL REPORTS TO CITY COUNCIL

2.01 Police Commission Report

Sarah Kenney, Police Commission, and Police Chief del Pozo highlighted the following in the Police Commission report:

- There is a transparency portal to make as much information as possible publicly available.
- Online civilian complaint portal is operational.
- Naloxone in all police cruisers has already saved lives.
- Domestic Violence Prevention Officer is making a difference in the lives of survivors.
- Increased foot patrols by officers are building bridges between the community and the Police Department.
- Two more people have been added to the Police Commission which has been very productive.
- Input was gathered from experts, the community, and survivors on the mental health crisis in the city. Resources are on the street that are mental health resources and not just police resources. A report is forthcoming.
- Work continues on de-escalation of situations.
- Work continues on fair and impartial policing.



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Chief del Pozo spoke of the positive impact of the Police Commission. There was discussion about sworn and non-sworn staffing. Burlington Police Department is authorized for 100 officers and is currently at 99 officers soon to be 98 officers. To face the challenges of mental health intervention, enhancing community policing, delivering routine service with courtesy and minimal amount of force, and dealing with opiates requires a commitment to adequate staffing. The department is delivering good police service, but Burlingtonians have called for increased level of service to meet the crises and this requires sworn and non-sworn personnel. There have been funding cuts in street outreach. People are the most expensive part of policing, but also the most important. Distribution of sworn and non-sworn people in their specialties is a matter of public debate and public oversight that takes place during budgeting and with the Mayor. A grant has been submitted for five more officers and thought is being given on how to increase the force to serve the Burlington community better.

Sarah Kenney noted the Police Commission's shares the concern with City Council that there be non-sworn personnel to respond to the mental health crisis in the community.

Chief del Pozo announced Burlington Police Department is one of five police agencies in the nation to pilot the Police Executive Research Forum's Reformulated Guidelines for Use of Force by Police Agencies emphasizing de-escalation and minimum amount of force to obtain a positive outcome.

Sarah Kenney said the Police Commission looks forward to working with City Council and the Charter Change Committee to follow up on the resolution relative to civilian oversight. Councilor Tracy asked if other police commissions have responded to a desire for increased civilian oversight of police. Ms. Kenney said most have expanded membership and paid staffing. Burlington's Police Commission is made up of all volunteers and does not have any staffing resources. The best model for Burlington needs to be discussed.

Councilor Colburn asked how often Naloxone is being deployed. Chief del Pozo said the data are available and can be posted on the transparency portal. Naloxone is given out to opiate dependents and their families, the fire department, hospitals, and police. Burlington Police have administered the antidote at least a dozen times in the last year. Councilor Colburn asked if a significant number of incidents are happening in vehicles or public spaces. Chief del Pozo said incidents are happening in a wide range of locations.

Mayor Weinberger stated in the last 18 months the police have been dealing with the opiate crisis, mental health crisis, new approach to how the work is done fundamentally. Tremendous progress has been made based on crime report numbers and talking to people. The Domestic Violence Prevention Specialist is making progress. Chief del Pozo has made an enormous impact on the city and the Police Commission with the vision and hard work in moving the city in the right direction.

2.02 Retirement Board Report

The report was postponed.





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2.03 Public Hearing: ZA#16-06 – Animal Boarding/Kennel/Shelter in Downtown Zone; ZA#16-10 – Parking Waivers/Parking Management Plans

The public hearing on changes to the Comprehensive Development Ordinance (ZA#16-06 & ZA#16-10) was opened at 8:21 PM.

COMMENTS

Meagan Sterns explained her business proposal to offer visitors to the city hourly dog care. Local hotels accept dogs and dogs are at waterfront events. Having hourly dog care would be beneficial to visitors and businesses alike and make Burlington a more welcoming place. The dogs will be in an enclosed space with best business practices to control noise. A packet of letters from area businesses and Parks & Rec in support of the business has been provided.

Margaret Murry, property owner in Burlington that she says is polluted, stated City Council continues to pass ordinances without enough information, such as the meaning of a waiver, and asking the public to support the ordinance without a percentage or limitation. When the Mayor built the apartments turned into condos on North Street a 50% waiver was granted for parking and on the footprint. Waivers need to be clear and applied equally to everyone.

Melinda Gale, resident, recognized the dog care idea is entrepreneurial, but dogs are noisy so the city should be careful with the location (away from residential areas).

There were no further comments. The public hearing was closed at 8:30 PM.

3.0 PUBLIC FORUM

Public Forum commenced at 7:19 PM.

PUBLIC COMMENTS

- Ibmar Avilix, homeless, read a poem relative to the overlay district and spoke of money being available for a street worker for the opiate crisis.
- Brian Boardman, real estate agent and Burlington resident, spoke of an executive trying to relocate from NYC for a job at Seventh Generation and not being able to find housing in the downtown area. Burlington is a green city, energy efficient, bike friendly, but has no housing downtown for professionals without cars which makes no sense.
- Lisa and Tom Bielstein, resident, spoke of moving to Burlington to be part of a big small city. Burlington is vibrant, safe, offers wonderful things to do, has a great sense of community, but is on the edge of decay of the downtown. The Bielsteins spoke in support of the proposed redevelopment because without investment in the downtown there will be consequences. There is always skepticism with change, but Burlington has an investor willing to make significant investment in the future. There is no "Plan B". The investor will profit from the development and the community will profit as well. City Council has heard voices urging taking steps progressing toward the future and it is hoped City Council does not get lost in the minutia of the minor arguments. Communities have studied projects



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into paralysis where nothing gets done or the project goes so far from the original intent it is pointless. It is time for the leadership of City Council to lead the community in these decisions.

- Amey Radcliffe spoke of the zoning change for the overlay and building height and mass relative to the Sinex project, stressing full buildout of the overlay is not clear. Ms. Radcliffe disagreed that the city will be in trouble if the Sinex project or the zoning change is not done because something better will come along with a more human scale, green space, state of the art transportation infrastructure, vitality, and progress in all the right ways.
- Mike Boardman, resident, spoke in support of the town center redevelopment, noting affordable housing and getting employees in the local area have been universal concerns with nonprofits. Don Sinex is taking considerable risk and the city does not have a "Plan B". The city would be remiss for not taking the opportunity. The redevelopment is so important to the city.
- James Schlasser had a statement read by a woman in the audience that requested relocation of the UHC methadone clinic to the mall, establishing a safe heroin injection site at the mall, having large, well-lighted and maintained 24 hour public restrooms at the mall, and installing multiple drinking fountains at the mall both inside and outside. Mr. Schlasser said he is represented by the Ward 5 caucus BTV progress.
- Cordial DiRuggier, Colchester, thanked City Council for the hard work and spoke in support of the redevelopment project. Mr. DiRuggier mentioned his friends who work in Burlington, but cannot find housing, and that it would be a sin to not grant Don Sinex the opportunity to provide the proposal to the populace of the city.
- Jason Van Driesche, Local Motion, read a statement in support of redeveloping the mall with the goal of creating more value for the community in this key property. The proposal has far more good than bad in it and should be granted the opportunity to move forward. Key benefits include reactivating the streetscape with store fronts and walk/bike friendly infrastructure, reopening the public right-of-way of Pine Street and St. Paul Street, adding a substantial amount of housing and office space. Change to the design or initiatives that are suggested include an unbreakable commitment to establish Pine Street and St. Paul Street as fully functioning rights-of-way, commitment to expedited construction of bicycle infrastructure to and through the project area, locating all parking in the building interiors to further activate the outside envelope of the building, designing the structured parking to be easily repurposed over time as needs change. With these changes Burlington will be a significantly more vibrant, thriving, equitable, and livable city.
- Eric Morrow, Ward 2 resident and architect, spoke of the language regarding LEED certification having an alternate or nationally recognized equivalent as determined by the Administrative Officer and the people concerned with sustainability wanting something more affirmative and predictable. LEED language by the City of San Francisco has alternate language. Mr. Morrow submitted a document to City Council and urged strengthening the LEED language and following through with the intent the community has been voicing.
- Caryn Long read a statement on zoning regs being the promise to the community which has not been true in Burlington. When zoning works properly and the promise is not broken people can lead lives without worry that something terrible will happen to the city if they look away for a moment. The height limit is being changed from 65' by right to 160' and maybe to 190' by right when the building can be done within the zoning. The idea of student housing and no senior housing or family housing is not good. The same pattern of special deals with certain landlords is evident. Ms. Long said the law says a single family house with an accessory apartment is not a duplex yet the Zoning Office and the City Attorney magically converted a property in the neighborhood to a duplex and there are now 17 undergraduate students living in two properties side-by-side on Weston Street. The case was taken to the Vermont Supreme Court and the neighborhood won. City Council is asked for support in Environmental Court for the zoning to be enforced and for the house not to be eligible to be a duplex. The conversion did not go through the zoning process the first time.
- Michael Long referred to an article in "The Economists" titled "Art of the Lie" and said it is disheartening to see Burlington on the cutting edge of an unfortunate trend. The impropriety of the zoning change to accommodate a specific development proposal should have been enough to stop the Sinex proposal or PlanBTV should have shepherded the proposal into the permitted development envelope, but instead the Mayor and city officials against the preponderance of evidence, against the facts, have insisted the zoning amendment is consistent with PlanBTV



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which it is not. PlanBTV mentions taller buildings in the downtown, but also notes even taller buildings are not necessarily the answer. PlanBTV endorses current scale and human scale with visuals of six to eight stories. When PlanBTV favors what the city or a favored developer chooses to do then the document is waved, but when PlanBTV contradicts or disallows what the city wants or a favored developer wants to do the city buries or misrepresents the document. The Sinex plan is an example. The municipal plan has features of encouraging return to single family houses that have been split into multi-family student complexes, but instead on Weston Street the city facilitated the conversion of a single family house to a student duplex, a direct contradiction of the municipal plan.

- Janet Corscadden, resident and small business owner, spoke in support of redevelopment of the area, but not in support of changing the zoning to make an exception for this developer which sets a precedent. There is concern for small businesses that will be affected. Small businesses come in playing by the rules and do not have deep pockets to make the changes they want so they try to make do within the requirements of zoning. Now there will be a neighbor who will go up multiple stories above what is allowed and that will affect their business. Small business around the area need to be protected to make sure they do not go out of business. The development is set to support bigger chain stores in the first two levels and will create problems for small businesses to be able to compete and stay in business. Burlington may lose what makes the city unique with small, community, family owned businesses.
- Ely Lesser-Goldsmith, resident and former CSM Commissioner, read a statement about the zoning changes and being hypocritical to fight the development then bemoan the state of Burlington's finances, schools, lack of economic development, high taxes, and such, all of which are 100% connected and mutually beneficial. "NIMBY" is real and it is costly. Mr. Lesser-Goldsmith quoted an article on NIMBY (not-in-my-back-yard) slowing down progress and innovation and a better Burlington. Projects that were fought and since been completed include Church Street Marketplace, Waterfront Park, Burlington Community Boathouse, Packard Lofts, Old Battery Street Jeans Building. The opposition to the redevelopment project has no alternative plan. Just saying "no" is not respectful or practical for the process or the developer going through the process crossing every "t" and dotting every "i". There is a place to hear opposition and then move forward. Change is the only constant. Burlington needs to be a community that embraces and welcomes change.
- Zandy Wheeler expressed pride and excitement to be a part of a city that just hosted the Art Hop, Pride Parade, Open Streets Celebration all in a single weekend which is testament of the vitality of Burlington, a truly special place. So why mess with it and risk doing something that would interfere with the beauty of the community because the finest celebrations or successes are not time for complacency or relaxation. The redevelopment project reminds people of the heated and contracted debates on some of the city's finest achievements - bike path, CSM, Waterfront Park to name a few where people struggled, dreamed, and created a way for Burlington to move forward. The current proposal is just as bold, controversial, and promising as many that have preceded it. Burlington should not shy away from opportunity. Four strong points with the development:
 - Private sector working with the city to repurpose dated and unsuccessful sprawling structure in the center of the city.
 - Project will right a wrong and reconnect streets to enable people to move freely by foot, bike, or car.
 - Project is multi-use housing, office, retail, public space, and will preserve and expand employment while bringing new people to the downtown day and night.
 - Mixed uses will provide flexibility and resiliency for the future. There is no guarantee of success for the project or Burlington, but there is certainty if the city rests on its laurels it will not survive given the determined competition from the neighboring communities nor will the city meet its pressing needs.
- Paco Defranciz, Ward 3, spoke in support of the downtown redevelopment of the mall and the DMUC Overlay, but there are issues with the overlay with regard to height and massing (peer cities have much taller buildings than 160' and there is a huge artificial constraint on housing supply due to excessive zoning in the city that is driving out development) and extra inclusionary zoning that is always referred to a low income or rent controlled, but there are recent college graduates in market rate housing with a lot of student loans who are subsidizing inclusionary zoning in complexes, not the single family house owners. The middle class and young people in the city are getting squeezed out. City Council is urged to contemplate people in this situation.



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- Richard Hillyard, Ward 1, spoke strongly in favor of redeveloping BTC within current zoning. Nothing further is necessary. There are dozens of apartments on Grove Street being rented. Some are being used for college dorms. Regarding due diligence and Mr. Sinex taking a huge risk with the investment, the city is taking a huge risk, too, and there is material on the internet that challenge all with the veracity of the information and the claim of doing due diligence on Sinex and the project.
- Patrick Johnson, Green Street, expressed concern about offering \$21 million in TIF for a building purchased for \$25 million (the building could have been purchased for a high school which is desperately needed. There is no guarantee from the developer that the project will not turn into 100% student housing (developers can pay a small fee compared to the price of the building and turn all the housing into student housing further corrupting the housing stock in the city), and there are members who wear two hats, one as city councilor, Mayor and the other as a real estate type or developer so which hat will be worn when the project is being developed and is the approach as a developer or real estate individual in the city's best interest.

There were no further comments. Public forum was closed at 8:20 PM.

4.0 CONSENT AGENDA

4.01 PROCEDURAL: Amend/Adopt Consent Agenda and Take Action(s) as Indicated

4.02 COMMUNICATION: Accountability List

4.03 COMMUNICATION: City Council Minutes April 11, 2016

4.04 COMMUNICATION: Local Control Minutes April 11, 2016

4.05 COMMUNICATION: City Council Mayor Presiding Minutes April 25, 2016

4.06 COMMUNICATION: City Council Minutes April 25, 2016

4.07 COMMUNICATION: Local Control Minutes April 25, 2016

4.08 COMMUNICATION: Special City Council Minutes April 27, 2016

4.09 COMMUNICATION: Special City Council Minutes May 2, 2016

4.10 COMMUNICATION: City Council Minutes May 2, 2016

4.11 COMMUNICATION: City Council Mayor Presiding Minutes May 16, 2016

4.12 COMMUNICATION: Local Control Minutes May 16, 2016

4.13 COMMUNICATION: City Council Minutes May 16, 2016

4.14 COMMUNICATION: Local Control Minutes June 6, 2016

4.15 COMMUNICATION: City Council Mayor Presiding Minutes June 6, 2016

4.16 COMMUNICATION: City Council Minutes June 6, 2016

4.17 COMMUNICATION: City Council Mayor Presiding Minutes June 13, 2016



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- 4.18 COMMUNICATION: City Council Minutes June 13, 2016
- 4.19 COMMUNICATION: City Council Minutes June 27, 2016
- 4.20 COMMUNICATION: Local Control Minutes June 27, 2016
- 4.21 COMMUNICATION: City Council Minutes July 11, 2016
- 4.22 COMMUNICATION: Board of Civil Authority Minutes July 11, 2016
- 4.23 COMMUNICATION: Local Control Minutes July 11, 2016
- 4.24 COMMUNICATION: Resignation: Parks & Rec, Jeetan Khadka
- 4.25 COMMUNICATION: Voting Delegates VLCT Annual Business Meeting
- 4.26 COMMUNICATION: Amey Radcliffe PF Statement 8/15/16
- 4.27 COMMUNICATION: Ron Ruloff PF Handout 8/15/16
- 4.28 COMMUNICATION: Declaration of Elected Candidates Special City Meeting
- 4.29 COMMUNICATION: Caryn Long re: Mall Redevelopment
- 4.30 COMMUNICATION: VLCT 2016 Candidate Forum Toolkit
- 4.31 COMMUNICATION: 2017 Draft Municipal Policy
- 4.32 COMMUNICATION: PF Statement on BTC Development
- 4.33 COMMUNICATION: Fire Commission Capital Bond Support
- 4.34 PERMIT (one day): Arts Riot 9/9/16
- 4.35 COMMUNICATION: FIO Documents
- 4.36 ORDINANCE: Idling Clause
- 4.37 RESOLUTION: General Obligation Bonds Capital Projects (removed and placed on 9/19/16 Deliberative Agenda)
- 4.38 RESOLUTION: Revenue Bonds Water System Improvements (removed and placed on 9/19/16 Deliberative Agenda)
- 4.39 RESOLUTION: Amend Bylaws Citizen Advisory Committee Community Justice Center
- 4.40 RESOLUTION: East Avenue/Queen City Substation Reactor Project
- 4.41 RESOLUTION: Amend Agreement between BED and Sugarbush
- 4.42 RESOLUTION: BT Network Operations Supervisor
- 4.43 RESOLUTION: Contract for Workers Compensation FY2017 Travelers Insurance
- 4.44 RESOLUTION: Airport Hangar Lease Shelburne Limestone Corp.



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- 4.45 RESOLUTION: FAA Building Lease at Airport
- 4.46 RESOLUTION: Contract for Property/Boiler and Machinery Insurance 2016
- 4.47 RESOLUTION: Reclassify/Retitle Police Emergency Communications Supervisor
- 4.48 RESOLUTION: Mortgage Deed – 311 North Avenue
- 4.49 RESOLUTION: Accept Grant and Purchase Properties near Airport
- 4.50 RESOLUTION: Accept Grant for Airport Noise Compatibility Study

MOTION by Councilor Colburn, SECOND by Councilor Roof, to adopt the Consent Agenda as amended (remove Item 4.37 General Obligation Bonds Capital Projects and Item 4.38 Revenue Bonds Water System Improvements and place both on the 9/19/16 Deliberative Agenda) and take the action indicated. VOTING: unanimous; motion carried.

5.0 DELIBERATIVE AGENDA

5.01 ZA#16-14 DMUC Overlay and Proposed Technical Corrections

MOTION by Councilor Shannon, SECOND by Councilor Paul, to set the proposed amendment, ZA#16-14 DMUC Overlay (Downtown Mixed Use Core Overlay District), as amended on 9/12/16 by City Council for public hearing on 9/29/16 at 7 PM in Contois Auditorium, and to note the version to be amended includes the noncontroversial technical changes offered by the Planning Commission and the City Council Ordinance Committee as highlighted in green in the complete draft of the amendment.

DISCUSSION: The following comments were made:

- Mayor Weinberger stated the point was raised as to why the changes rather than just letting the redevelopment go forward under current zoning. Current zoning is dated, old, with many elements written a long time ago before PlanBTV, and does not respond to current trends facing the city, such as the housing crisis, middle class being forced out of the city, jobs being forced out and into the suburbs because employers cannot find space in the city, continued decay of the blocks in the overlay. There have been four decades of lack of connectivity in the downtown and the city continues to struggle in meeting climate action goals. The lake is coming under increased pollution pressure. Buildings have been built that do not meet design standards of a great city. In contrast, the proposed zoning has been informed by PlanBTV and addresses these challenges. The new zoning will make the city more affordable, more vibrant with a better streetscape, will improve the active transportation structure in the city, make the city “greener”, and have better designed buildings. This is the opportunity to move the city forward with respect to these goals and to be the city Burlington wants to be.

AMENDMENT 1.1 by Councilor Bushor, SECOND by Councilor Tracy, to amend the map to remove the Lakeside and College Street garages.

DISCUSSION ON AMENDMENT 1.1: The following comments were made:

- Councilor Bushor said the amendment is reflective of listening to the comments from people and looking at the model of the development. Removing the two garages leaves a number of parcels still intact that would allow for additional height. The garages would fall under the existing PlanBTV. There have been opinions



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expressed on what is best for the city, but these have not had the test of time.

- Councilor Tracy spoke in support of scaling back the district itself. The amendment supports work being done with form based code with the idea the central area is likely to be the highest and that will create a sense visually coming up from the lake.
- Councilor Colburn agreed with resizing the district as a way to get at the issue of scale and height, but attempts to minimize the district is more like zoning for one site and one project.

There were no further comments.

VOTING (on Amendment 1.1): two ayes (Councilor Bushor, Councilor Tracy), nine nays (Councilor Giannoni, Councilor Colburn, Councilor Roof, Councilor Wright, Council President Knodell, Councilor Hartnett, Councilor Shannon, Councilor Paul, Councilor Ayres); motion did not carry. Amendment 1.1 fails.

AMENDMENT 1.2 by Councilor Bushor, **SECOND** by Councilor Tracy, to amend the map to remove the Lakeside and College Street garages and the Macy's parcel which is separate from the town center parcel.

DISCUSSION ON AMENDMENT 1.2: The following comments were made:

- Councilor Bushor explained the intent is to decrease the size and scale of the overlay zone and help give relief to the visual corridors when looking at Burlington from the lake, from Edmunds School, from houses around the boundaries of the district. The amendment is more in keeping with how the community and the downtown should grow. The ordinance addresses more than the Sinex project and allows stepping down from the existing zoning and additional height if existing bonuses are utilized.
- Councilor Wright pointed out the legal opinion that was received said the amendment is not spot zoning. The question is whether removal of any parcels from the overlay district strengthens or weakens the argument of spot zoning. Attorney Blackwood advised removing properties and making the district smaller strengthens the argument for spot zoning. There were no further comments.

VOTING (on Amendment 1.2): two ayes (Councilor Bushor, Councilor Tracy), nine nays (Councilor Giannoni, Councilor Colburn, Councilor Roof, Councilor Wright, Council President Knodell, Councilor Hartnett, Councilor Shannon, Councilor Paul, Councilor Ayres); motion did not carry. Amendment 1.2 fails.

AMENDMENT 1.3 by Councilor Hartnett to add the People's United Bank parcel to the map. Amendment 1.3 was not brought forward at this time.

AMENDMENT 1.4 by Councilor Shannon, **SECOND** by Councilor Paul, to amend the map to remove the College Street garage.

DISCUSSION ON AMENDMENT 1.4: The following comments were made:

- Councilor Shannon recalled the legal opinion on spot zoning advised the court will look at the number of property owners in the district. Removing the College Street garage does not decrease the number of property owners in the district. Having the view down Bank Street of a very tall building is not a good idea. Bank Street is part of the grid that was obstructed during urban renewal and part of the grid that will be restored with the Sinex project. The district works much better when all the properties are in alignment on the block down towards the waterfront. The city controls the property and City Council controls any development there though development is not expected in the near or mid-term future. With respect to the legal opinion on spot zoning and reducing the number of properties in the district the amendment will be withdrawn. Amendment 1.4 was withdrawn.

AMENDMENT 2.1 by Councilor Shannon, **SECOND** by Councilor Paul, to add language to Line 121 to read: "Any



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application requiring Major Impact Review pursuant to Section 3.5.2(b) shall not also be subject to Conditional Use Review unless a use specifically identified in Appendix A - Use Table as a conditional use or as "CU" is also proposed."

DISCUSSION ON AMENDMENT 2.1: The following comments were made:

- Councilor Shannon noted the language was inadvertently removed from the ordinance so the addition is a technical correction.
- David White, Planning & Zoning Director, added the correction to the existing ordinance is part of a larger amendment with regard to Major Impact Review.
- Councilor Bushor opined the added language is confusing.

There were no further comments.

VOTING (on Amendment 2.1): 10 ayes, one nay (Councilor Tracy); motion carried. Amendment 2.1 is passed.

AMENDMENT 3.1 by Councilor Bushor, **SECOND** by Councilor Colburn, to

amend Table 4.5.8-1 to amend maximum building height to 135'.

DISCUSSION ON AMENDMENT 3.1: The following comments were made:

- Councilor Bushor stated with the amendment the number of stories changes from 14 to 12 and the FAR decreases from 9.5 to 8.5. The first five floors of the building remain the same so there is 100% buildout. The next two sets of three stories have one story removed so 80% has two floors, 55% has two floors and the remaining stories have the same square footage so the building retains its shape. The overlay zone with 160' is out of scale with what Burlington wants to become. The 135' height removes stories and is a compromise position.
- Councilor Shannon said she favors a lower building height, but the amendment does not achieve the goals for the district and no one is offering to redevelop the site at 135' so nothing has been accomplished if there are not the benefits the project on the table is willing to give.
- Councilor Colburn stated the amendment is in line with feedback heard from residents. Everyone wants to see change and growth in the downtown core, but there is concern with the scale of the proposed zoning changes and proposed project. Public comment was heard on going to the height of the tallest structure in the downtown core, but nothing has been heard about what can be done with this scale. Zoning should reflect the values of the community.
- Councilor Tracy stated 135' is still too high, but at least is less than 160'. The project at 160' does not reflect any compromise on what members of the public have said.
- Councilor Hartnett recalled City Council signed the predevelopment agreement and the developer indicated willingness to compromise on a number of items except the 160' height and that is why Don Sinex has not said anything about other building heights. Councilor Tracey did vote against the predevelopment agreement.
- Councilor Bushor clarified she voted in support of the predevelopment agreement, but one issue was the 160' building height and Don Sinex agreed to work on this. Councilor Bushor stressed the minutes need to clearly state she does not support 160' building height.
- Mayor Weinberger mentioned going to great lengths to forge consensus and compromise. The impact of the policy change would be to eliminate dozens of housing units, keep dozens of households that would like to live in Burlington out of Burlington, have impact over the years of revenue generated in the city and the state by millions of dollars, all on the hope that compromise was achieved. It is not clear that meaningful compromise would be achieved with people who have been the loudest in opposition. There would be only a



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modest decrease in shadowing, modest decrease in aesthetic impacts of the building from a great distance with the amendment.

- Councilor Bushor stated the housing loss due to the decrease in square footage is up to the developer. There could be other ways to keep the housing. It is paramount to maintain support for housing.
- Council President Knodell opined the amendment is a material change in the predevelopment agreement. The predevelopment agreement is a good decision. Councilor Knodell said she would like to see this project come to fruition and will not make any votes to jeopardize that.

There were no further comments.

VOTING (on Amendment 3.1): 4 ayes (Councilor Bushor, Councilor Tracy, Councilor Giannoni, Councilor Colburn), 7 nays (Councilor Wright, Councilor Paul, Councilor Ayres, Councilor Roof, Councilor Hartnett, Councilor Knodell, Councilor Shannon); motion does not carry. Amendment 3.1 fails.

AMENDMENT 3.2 by Councilor Shannon, **SECOND** by Councilor Paul, to amend Table 4.5.8-1 to require a 15' setback from the curb.

DISCUSSION ON AMENDMENT 3.2: The following comments were made:

- Mayor Weinberger spoke in support of the goal to ensure in the area with substantial buildings that there are 15' wide sidewalks and if the zoning change is passed and the TIF vote approved this will be possible when the streets are rebuilt in the area. To force this through the zoning could have unintended consequences on private property rights between now and when the 15' sidewalk is built.
- Councilor Shannon said a 15' wide sidewalk in a downtown is a bare minimum. The developer is in favor of 15' wide sidewalks. Councilor Shannon said she is willing to withdraw the amendment reserving the right to bring up the zoning amendment in the future.
- Amendment 3.1 is withdrawn.

AMENDMENT 3.3 by Councilor Tracy, **SECOND** by Councilor Colburn, to amend line 123, Table 4.5.8-1 as stated to have the absolute maximum building height be inclusive of mechanicals et al.

DISCUSSION ON AMENDMENT 3.3: The following comments were made:

- Councilor Tracy stated maximum height of 160' is actually not the ultimate highest height of the building structure. There is 15' allowed for mechanicals so the building can be 175' with mechanicals and that height could be perceived from multiple points in the city.
- David White explained with the amendment the leasable floor area part of the building would be decreased to provide for mechanicals on the rooftop or the mechanicals have to be relocated on the project so there could be loss of green space or storm water management area for example. HVAC, stair towers, elevator towers are typically on the rooftop of every building. The goal is to minimize the size and screen from view (including at street level) or design the mechanicals to fit in the overall architecture.
- Councilor Shannon spoke of housing units being displaced or eliminated if the mechanicals must be inside the building (and therefore the number of affordable units decreased). The amendment limits the height of architectural features as well which is unfortunate because it was hoped there would be some dramatic and impressive architectural to add to the skyline.

There were no further comments.

VOTING (on Amendment 3.3): 4 ayes (Councilor Giannoni, Councilor Tracy, Councilor Colburn, Councilor Bushor), 7 nays (Councilor Roof, Councilor Wright, Councilor Knodell, Councilor Hartnett, Councilor Shannon, Councilor Paul,



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Councilor Ayres); motion did not carry. Amendment 3.3 fails.

AMENDMENT 3.4 by Councilor Shannon, **SECOND** by Councilor Wright, to amend Table 4.5.8-1 to exclude the DMUC Overlay from additional FAR and height for inclusionary zoning and add a footnote to Table 4.5.8-1 standard re: building height to read: "Additional development allowances for inclusionary housing projects as provided in Section 9.1.12 shall not be applicable in the Downtown Mixed Use Core Overlay District."

DISCUSSION ON AMENDMENT 3.4: The following comments were made:

- Councilor Shannon stated the additional zoning would add an additional 10' in height when the 20% inclusionary zoning is provided. It was not the intention with the 165' height limit to give an added 10' for inclusionary zoning so this notes that in the overlay district the bonus will not apply.
- David White explained the developer still must meet the inclusionary requirement for the project, but would not get the additional FAR and height.

There were no further comments.

VOTING (on Amendment 3.4): unanimous (11-0); motion carried. Amendment 3.4 is passed.

AMENDMENT 4.1 by Councilor Shannon, **SECOND** by Councilor Paul, to amend Section 5.2.6(b)(4) to read: "Exposed mechanical equipment shall be fully screened on all sides to the full height of the equipment and positioned on the roof to be unseen from view at the street level. Screening may consist of parapet, screens, latticework, louvered panels, and/or other similar methods. Such features and structures shall be designed and clad in a manner consistent and complementary to the overall architectural style of the building."

DISCUSSION ON AMENDMENT 4.1: The following comments were made:

- Councilor Shannon said the intention of the amendment is to hold the bar higher on how screening mechanicals is done because the top of the building will be visible in the skyline. All the requirements need to pass DRB standards.

There were no further comments.

VOTING (on Amendment 4.1): unanimous (11-0); motion carried. Amendment 4.1 is passed.

AMENDMENT 4.4 by Councilor Tracy, **SECOND** by Councilor Colburn, to amend lines 473 through 476 to remove "administrative height relief".

DISCUSSION ON AMENDMENT 4.4: The following comments were made:

- Councilor Tracy said the public has knowledge of this as a building at 160' in height. Allowing a 10% variance as determined by the Planning & Zoning Director is not in keeping with the publicly known height limit. Councilor Tracy said he is not comfortable with someone who is not elected making the decision on behalf of the community to raise the building height.
- Councilor Bushor said she spoke with Planning staff to better understand the section in the ordinance that relates to sloping or grade of a project. Flexibility is needed to make a building level. An additional story to the maximum permitted is not created.

There were no further comments.

VOTING (on Amendment 4.4): 2 ayes (Councilor Tracy, Councilor Colburn), 9 nays (Councilor Giannoni, Councilor Roof, Councilor Wright, Councilor Knodell, Councilor Bushor, Councilor Hartnett, Councilor Shannon, Councilor



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Paul, Councilor Ayres); motion did not carry. Amendment 4.4 fails.

AMENDMENT 4.5 by Councilor Bushor, **SECOND** by Councilor Colburn, to amend lines 473-476 to amend the administrative height relief to allow for up to a maximum of 6' variation.

DISCUSSION ON AMENDMENT 4.5: The following comments were made:

- Councilor Bushor said 6' is within the range to accomplish the job and still give predictability to residents with regard to additional height that will be seen.
- Councilor Shannon pointed out the amendment applies city-wide and gives more height in districts with lower maximum heights.
- Councilor Colburn noted the language is conditioned on grade changes so it is not a way to see 6' of height on a site.

There were no further comments.

VOTING (on Amendment 4.5): 2 ayes (Councilor Bushor, Councilor Colburn), 9 nays (Councilor Giannoni, Councilor Tracy, Councilor Roof, Councilor Wright, Councilor Knodell, Councilor Hartnett, Councilor Shannon, Councilor Paul, Councilor Ayres); motion did not carry. Amendment 4.5 fails.

AMENDMENT 4.3 by Councilor Shannon, **SECOND** by Councilor Paul, to amend the administrative height relief to allow for up to 5% variation in maximum building height to account for grade changes across the site, but in no event will there be an extra story allowed.

DISCUSSION ON AMENDMENT 4.3: The following comments were made:

- Councilor Shannon said this was a provision in the predevelopment agreement and allows up to an 8' variation in the district based on grade. In districts with a 35' height limit even though there is a steep grade the variation is 5%.
- David White said the variation depends on the maximum height. Most of the residential districts are 35' height and 5% of that is a small number. Smaller buildings are being constructed so the variation is not usually an issue. In the mixed use district with larger mixed use buildings on larger sloping sites the 5% is enough to make a difference and in others a challenge.

There were no further comments.

VOTING (on Amendment 4.3): 9 ayes, 2 nays (Councilor Bushor, Councilor Tracy); motion carried. Amendment 4.3 is passed.

AMENDMENT 5.1 by Councilor Shannon, **SECOND** by Councilor Paul, to amend the language to read: "Building entrances shall be defined and articulated by architectural elements such as lintels, pediments, pilasters, columns, canopies, awning, transoms, sidelights, and/or other design elements appropriate to the architectural style and details of the buildings as a whole. Bays including a principal entrance may be expressed vertically and continue onto the upper stories. Such Bays are not required to include additional horizontal expression beyond what is required for any upper story setbacks."

DISCUSSION ON AMENDMENT 5.1: The following comments were made:

- Mayor Weinberger said the overlay district is dramatically expanding the city's regulation and prescription of high quality design standards, and this is a further refinement of one. There are many other design standards being added as a result of the overlay. There is a high degree of confidence that any building built in the



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district as a result will have a greater chance of meeting the city's hopes and ambitions for new buildings than the current zoning allows.

There were no further comments.

VOTING (on Amendment 5.1): unanimous; motion carried. Amendment 5.1 is passed.

AMENDMENT 6.1 by Councilor Shannon, SECOND by Councilor Ayres, to amend line 241 to add language requiring ground floor uses limited to retail, entertainment, and restaurants with no general office, and to add "vi. In addition to the restriction regarding ground floor residential uses pursuant to Section 4.4.1(d)1.A, office uses shall also not be permitted on the ground floor of any building in the DMUC Overlay."

DISCUSSION ON AMENDMENT 6.1: The following comments were made:

- Councilor Shannon said it is important to the downtown overall to keep the ground floor uses pedestrian friendly and engaging to the people on the sidewalk. Retail connectivity will be lost if the spaces are allowed to be consumed by office uses. "General office" was used because there is a definition in the existing ordinance.
- David White added the ordinance distinguishes between 'medical office' and 'general office'. The amendment is specific to general office and would allow for medical offices, such as a health care clinic, on the ground floor.
- Councilor Bushor asked if staff or the Planning Commission is recommending no general office uses on the ground floor. David White said the Planning Commission has not discussed this in particular. Councilor Knodell said the Planning Commission will have opportunity to discuss the action taken by City Council.

There were no further comments.

VOTING (on Amendment 6.1): 10 ayes, one nay (Councilor Bushor); motion carried. Amendment 6.1 is passed.

AMENDMENT 6.2 by Councilor Shannon, SECOND by Councilor Paul, to amend the language requiring any building over 105' to include a mix of uses no less than 25% of leasable, salable square footage as commercial and 25% residential, more specifically no less than 25% of the area be dedicated for non-residential uses and 25% or more dedicated to residential uses.

DISCUSSION ON AMENDMENT 6.2: The following comments were made:

- Councilor Shannon said criticism was heard that height was being added without bonuses so it is important to state what is wanted and when to give bonuses in the ordinance. Residential units, affordable units, jobs, and retail is the mix that has been important. If the height will be greater than 105' then it is important to require a mix of uses, some residential and some commercial.
- Councilor Bushor asked why 25% of gross leasable floor area as dedicated to non-residential uses. Councilor Shannon explained non-residential uses are important to keep jobs downtown along with housing.
- Councilor Wright recalled having 50/50 residential/commercial did not work in the past and was rescinded. David White said the effect of the amendment would depend on the site. As the site gets smaller it will be harder to have a large mix of uses. There may be a building that is entirely residential or have ground floor retail and the rest residential so the 25% non-residential piece may not fit if the site is small.

There were no further comments.

VOTING (on Amendment 6.2): 6 ayes (Councilor Ayres, Councilor Paul, Councilor Shannon, Councilor Hartnett, Councilor Bushor, Councilor Roof), 5 nays (Councilor Knodell, Councilor Wright, Councilor Colburn, Councilor Tracy,



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Councilor Giannoni); motion carried. Amendment 6.2 is passed.

AMENDMENT 6.3 by Councilor Tracy, SECOND by Councilor Colburn, to amend line 35 to add a 20% minimum threshold for inclusionary zoning to a 20% minimum for buildings up to 105' and a 25% minimum of inclusionary units for buildings over that height within the DMUC.

DISCUSSION ON AMENDMENT 6.3: The following comments were made:

- **Councilor Tracy stated the proposed mall project as well as any future development on the site should have to trade something in order to gain height. The focus of the amendment is to expand affordable housing within this particular development so height is seen in service of increased affordable housing. Councilor Tracy said he would like more than 25% of affordable housing in this particular mall project because it is not enough to be meeting the bare minimum of inclusionary zoning while the city is making all these substantial changes to the ordinance to accommodate the needs of this project.**
- **Councilor Colburn said the amendment is in keeping with the intent of the inclusionary zoning ordinance and retains the element of the bonuses being traded out for the overlay. Councilor Colburn spoke in support of having affordable housing in the downtown core.**
- **Mayor Weinberger pointed out the amendment is a material change to the predevelopment agreement. This agreement term was highly vetted with the mall owner and is a mistake and self-defeating to make a change to this term many months later. The change will make the city less affordable if the change is imposed by additional mandate through zoning. All are aware there are concerns with the existing inclusionary ordinance. The goals of the ordinance are supported, but there is concern of unintended consequences. The ordinance requires a high percent of units to meet the inclusionary standard and has a low affordability level to reach. To expand on this requirement in this zone would have high risk of ensuring no residential development in the zone which is not a goal of the city. There have been discussions with Don Sinex and discussion will continue leading up to the final development agreement on the possibility for a higher percent of affordable units if there are shifts in the project.**
- **Councilor Bushor urged separating the mall project from the zoning amendment. There are tradeoffs to go higher and hopefully the mall can meet that.**

There were no further comments.

VOTING (on Amendment 6.3): 4 ayes (Councilor Giannoni, Councilor Tracy, Councilor Colburn, Councilor Bushor), 7 nays (Councilor Roof, Councilor Wright, Councilor Knodell, Councilor Hartnett, Councilor Shannon, Councilor Paul, Councilor Ayres); motion does not carry. Amendment 6.3 fails.

AMENDMENT 7.1 by Councilor Shannon, SECOND by Councilor Paul, to amend lines 307-311 to require a minimum 40' depth rather than 20' depth for a liner building and street setback in a mixed use building.

DISCUSSION ON AMENDMENT 7.1: The following comments were made:

- **Councilor Bushor observed the ordinance says a minimum of 20' and the proposal is for a minimum of 40', but the developer who creates commercial space around the liner building could go to 40'. Councilor Bushor said it should be up to who occupies the 20' to go farther if wanted. As the liner building goes deeper more parking spaces are lost and the building bumps up another layer.**
- **Councilor Shannon said the reason for the 40' liner is because street use is critically important to the success of the building. Twenty feet is too shallow and does not give enough space for use of the area.**

There were no further comments.



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VOTING ON AMENDMENT 7.1: 9 ayes, 2 nays (Councilor Bushor, Councilor Tracy); motion carried. Amendment 7.1 is passed.

AMENDMENT 7.2 by Councilor Bushor, **SECOND** by Councilor Colburn, to amend line 321 to add an incentive for underground parking with language saying: "Each parking space provided in an underground parking structure may be counted as 1.75 of the parking spaces as required in Article 8."

DISCUSSION ON AMENDMENT 7.2: The following comments were made:

- Councilor Bushor said with the project and the 1.75 ratio there is opportunity to eliminate one level of parking so there is incentive for underground parking. The ratio could also decrease the height and allow the square footage the developer wants.
- Councilor Tracey added the amendment offers an incentive to developers to develop less parking. The Downtown Parking Plan says parking needs to be better managed, not necessarily that more parking is needed. Adding a parking garage double the one on the mall site now does not feel appropriate in light of information in the parking plan that was approved.

There were no further comments.

VOTING (on Amendment 7.2): unanimous; motion carried.

AMENDMENT 7.3 by Councilor Tracy to amend line 305 and 320 requiring underground parking by deleting "strongly preferred" in (a) and deleting (b) & (c) and (iv) & (v). The motion did not have a second and fail. Amendment 7.2 fails.

AMENDMENT 8.1 by Councilor Shannon, **SECOND** by Councilor Paul, to remove language saying awnings and canopies that span across an entire building façade shall be fixed no higher than the top of the first story.

DISCUSSION ON AMENDMENT 8.1: The following comments were made:

- Councilor Shannon commented the language seems to be an overly restrictive design criteria.
- Councilor Bushor pointed out if an awning is higher than the top of the first story then the amount of light into the building is impacted.
- Councilor Tracy said awnings are traditionally on the first story and the language should be reflective of existing form in the district.
- Councilor Roof noted DRB review would still be needed.

There were no further comments.

VOTING (on Amendment 8.1): 8 ayes, 3 nays (Councilor Tracy, Councilor Colburn, Councilor Bushor); motion carries. Amendment 8.1 is passed.

AMENDMENT 9.1 by Councilor Colburn, **SECOND** by Councilor Shannon, to approve the amendment as presented in 9.1 LEED Gold Certification.

DISCUSSION ON AMENDMENT 9.1: The following comments were made:

- Councilor Colburn explained the intent was to provide stronger requirements and clarity around steps toward obtaining LEED certification or a comparable standard. The language saying "shall use all reasonable efforts to obtain final certification" is being replaced with language that requires clearer articulation of what constitutes the LEED checklist, documentation of registration with the certification program, written





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requirement to apply at the earliest possible milestone for pre-certification, and the Certificate of Occupancy contingent upon compliance with these efforts and standards. Language that the nationally recognized equivalent of LEED certification could be approved by the Administrative Officer presents a loophole that is not wanted, but the opportunity for adoption of other, stronger standards that may evolve in the field is wanted.

There were no further comments.

VOTING (on Amendment 9.1): unanimous; motion carried. Amendment 9.1 is passed.

AMENDMENT 9.2 by Councilor Bushor, **SECOND** by Councilor Colburn, to amend line 432 and add language on the efforts to minimize effects on the micro-climate by reducing heat islands.

DISCUSSION ON AMENDMENT 9.2: The following comments were made:

- Councilor Bushor stated other communities are taking action to address climate change with trees, green roofs, and such to absorb heat. The language is consistent with that.
- David White pointed out there is opportunity to include this in the LEED Gold certification so the amendment is redundant. There is question whether rooftop solar would be prevented due to the amendment.
- Mayor Weinberger said with the amendment that was just adopted on stronger requirements to LEED certification the overlay will have a far higher environmental performance standard for any new building built in the zone than anything under the current code. The existing zoning passed long before PlanBTV does not respond to the goals laid out, such as the environmental goals in PlanBTV. The additional provision on Amendment 9.2 though well intended is redundant and somewhat problematic. LEED requirements include ensuring high quality conservation measures are installed, promoting use of onsite renewable energy, high quality indoor air standards, storm water provisions, and more. It may not be wise now to pick and choose which environmental goals to prejudice and possibly come into conflict with each other. LEED Gold standard allows for sensible tradeoff to be made by people designing and planning for the future with the building. To impose through additional regulation could potentially have regrettable outcomes down the road.
- Councilor Roof stated the amendment ambiguously prioritizes a certain aspect of LEED. It is over bearing and inappropriate for City Council to take action.
- Councilor Colburn said to prescribe this might preclude something else, but the intent is good. It is hoped the negotiations with the developer will prioritize this aspect of LEED and encourage them to investigate and implement.

There were no further comments.

VOTING (on Amendment 9.2): 2 ayes (Councilor Bushor, Councilor Tracy), 9 nays (Councilor Giannoni, Councilor Colburn, Councilor Roof, Councilor Wright, Councilor Knodell, Councilor Hartnett, Councilor Shannon, Councilor Paul, Councilor Ayres); motion does not carry. Amendment 9.2 fails.

AMENDMENT 9.3 by Councilor Shannon, **SECOND** by Councilor Colburn, to support the recommendation of DPW regarding storm water management as presented.

DISCUSSION ON AMENDMENT 9.3: The following comments were made:

- Councilor Shannon explained the effort is to strengthen storm water requirements in the district.
- Mayor Weinberger added this is a key provision where the zoning overlay will dramatically improve the underlying status quo with respect to current zoning. Current zoning has no special storm water provisions. This is called out in PlanBTV to channel a great deal of resources into storm water goals. The legislature has



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acted to raise the importance of this goal. There is now a 50% standard with the storm water regulations and this increases that to 100% standard in terms of what is addressed. Combined with what is hoped to be done with public infrastructure investments if the TIF is approved real progress in the downtown on storm water issues can occur.

There were no further comments.

VOTING (on Amendment 9.3): unanimous; motion carried.

AMENDMENT 10.1 by Councilor Shannon, SECOND by Councilor Paul, to remove all proposed changes to Section 4.4.1.B (Church Street Buildings) and restore the current language in the existing ordinance.

DISCUSSION ON AMENDMENT 10.1: The following comments were made:

- Councilor Shannon said the modest height increase on Church Street was discussed and approved by the Form Based Code Committee. Further discussion is needed before making a change to all of Church Street. The overlay district can be redeveloped without this change which will be further reviewed as part of form based code.
- Councilor Bushor said she thought the change was done because the Ordinance Committee and City Council discussed the matter at the work session.

There were no further comments.

VOTING (on Amendment 10.1): unanimous; motion carried.

CONTINUED DISCUSSION ON WARNING PUBLIC HEARING ON 9/29/16 ON ZA#16-14 DMUC AS AMENDED: The following comments were made:

- Councilor Wright thanked Council President Knodell for the smooth, efficient process, Mayor Weinberger, David White and staff for the leadership, and Don Sinex and his team for being willing to work with the city on the predevelopment agreement and work toward compromise. The overlay district has been identified as the proper site for taller buildings in Burlington. The city does not have land to grow out so must grow up. Other overlays have been created in the city so this is not setting a precedent and per a legal ruling this is not spot zoning. There is other development in the city, but the proposal in the overlay will potentially be transformational to the City of Burlington which is a beautiful, vibrant city and the economic hub of Chittenden County and the state. Business owners are saying the city is fragile and relies on great weather for business. The mall is dying and once gone will have a great impact on the downtown. To continue to be a great, vibrant city and economic hub of Chittenden County and the entire state the city needs to do this potentially transformational proposal which will bring 274 units of housing that is needed and help over time to reduce the cost of housing, jobs from the Medical Center which will help strengthen the downtown region, and a mix of retail that is equally important. The proposal will also right a wrong from decades ago by opening up St. Paul Street and Pine Street provided the voters pass the TIF vote in November. The proposal will grow the tax base. There is concern across the state about the level of taxation and the difficulty people are having. People have said they do not want their taxes to go up and do not want services cut and want the neighborhood to remain largely intact, but something has to give. The tax base needs to grow. The proposal will bring in \$46 million in city taxes over 30 years (\$1.5 million extra per year) and more money in state taxes. So, along with housing and jobs, the critical mix of new retail, opening of the streets, the proposal is also going to grow the tax base so the senior citizens living in Burlington who struggle to make property tax payments and want to continue living in the city they love will be able to do that in part because of this transformational proposal. Councilor Wright said he is in favor of the proposal, but respects



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the opposing viewpoints because everyone wants to make Burlington the best city it can be, however for the city to remain the same is going backwards and the city needs to go forward.

- Councilor Colburn also thanked Council President Knodell for the process and the way the meeting was structured, and the Administration and city staff for the time and effort. Councilor Colburn said she cannot support the overlay as amended due to the height and scale. Constituents are saying both are too big and a more modest project is needed. That is what will be supported in the zoning. A successful project in the district is wanted, but at slightly different scale. Councilor Colburn said she is not convinced a project at a slightly more modest scale would not succeed on the site and will engage in a positive way to get more public good for Burlington.

MOTION by Councilor Wright, SECOND by Councilor Hartnett, to suspend the rules at 10:30 PM to complete Item 5.0 only on the agenda. VOTING: unanimous; motion carried.

DISCUSSION (resumed):

- Councilor Tracy said he was concerned the ordinance process would not be a process, but a charade that was meant to include the approval of already considered and approved elements of zoning, meaning any zoning would not be approved that potentially might be respectful of some of the criticism heard and find some common ground. There were no substantial changes to the height including the ability to add a maximum or established height or bring the overall height down or any increase in affordable housing or meaningful changes to the parking requirements. There were some changes around the edges, but nothing substantial that was responsive of the broad range of public comment. The supporters got everything they wanted and the opponents got nothing which is not fair or democratic. It is hoped City Council will be looking for ways to improve this. Regarding scheduling of the public hearing on 9/29/16, Councilor Tracy said he is not available (out of the country on business) and hopes the meeting will be recessed to allow for his vote.
- Councilor Shannon thanked all for the effort with the ordinance and the numerous meetings. The process was not condensed meeting-wise. If the community vision as laid out in PlanBTV could happen under the existing zoning then the amendment would not be supported. Shorter, more human scale buildings are preferred, but there is disagreement with many of the accusations thrown at the proposal in an effort to get shorter buildings. There has been a lot of public process on this over the course of two years. Regarding an environmentally unfriendly decision, people who live in taller buildings have a smaller carbon footprint than those who live in the south end or the suburbs. Regarding the quality of life aspect, students will be moved out of neighborhoods and live in the 80 units of student housing in the proposal. The developer is willing to do a mixed use building and provide housing and jobs in the downtown, something other developers said they cannot do. A great obstruction and a failing mall that is a weight dragging down the city is being removed. The city has the opportunity to restore the street grid and reconnect the north end and the south end of the city. These are the community's values. The height is being balanced out by the many benefits the city is receiving. Supporting the proposal is in the interest of the city and the residents of Burlington.
- Councilor Roof said there is much misunderstanding with the \$21.8 million TIF allocation and misunderstanding the city and tax base is subsidizing the BTC project and misunderstanding that money is being spent on items not advancing the public good. The \$21.8 TIF allocation will be used to reimburse the developer for costs in building the public good (i.e. streets and sidewalks) to the city's specification and if the developer fails to do this he will not receive the money. Going forward there will be discussion around the particulars of the TIF allocation.
- Councilor Bushor said she cannot support the proposed overlay zoning amendment because of the fatal flaw of intertwining the zoning amendment and the mall development which are linked, but separate. The zoning overlay is for the downtown which is far greater than the mall development. There is much agreement on what is in the ordinance, but the height and massing are incompatible with what Burlington should become.
- Council President Knodell said she will support warning the ordinance as amended because the zoning is



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right for this part of downtown, and it happens to be zoning that works for this particular project. If the zoning was wrong for downtown and for Burlington the amendment would not be supported.

There were no further comments.

VOTING (on ZA#16-14 DMUC as amended): 7 ayes, 4 nays (Councilor Bushor, Councilor Tracy, Councilor Giannoni, Councilor Colburn); motion carried. ZA#16-14 DMUC as amended is passed.

City Council will hold a public hearing on 9/29/16 and take a final vote on ZA#16-14 DMUC as amended.

6.0 COMMITTEE REPORT

None.

7.0 CITY COUNCIL – General Affairs

None.

8.0 CITY COUNCIL PRESIDENT - Council Updates

None.

9.0 MAYOR – General Affairs

None.

10.0 ADJOURNMENT

MOTION by Councilor Wright, SECOND by Councilor Hartnett, to adjourn the meeting. VOTING: unanimous; motion carried.

The meeting was adjourned at 10:45 PM.

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