Burlington Planning Commission
Ordinance Committee
149 Church Street
Burlington, VT 05401
Telephone: (802) 865-7188
Fax: (802) 865-7195
www.burlingtonvt.gov/pz

Alexander Friend
Bruce Baker
Andy Montrol
Leo Sprinzen
vacant

Burlington Planning Commission

Ordinance Committee

Thursday, August 2, 2018 @ 5:15 PM

Planning & Zoning Conference Room, Ground Floor, City Hall

AGENDA

1. Proposed zoning amendments to clarify standards for tree cutting and junkyards. Also correction of cross references.

2. Adjournment (6:15)

Next Meeting – September 6, 2018

This agenda is available in alternative media forms for people with disabilities. Individuals with disabilities who require assistance or special arrangements to participate in programs and activities of the Dept. of Planning and Zoning are encouraged to contact the Department at least 72 hours in advance so that proper accommodations can be arranged.

Department of Planning and Zoning
149 Church Street
Burlington, VT 05401
Telephone:(802) 865-7188
(802) 865-7195 (FAX)
(802) 865-7142 (TTY)

David White, FAICP, Director
Meagan Tuttle, AICP, Comprehensive Planner
Jay Appleton, GIS Manager
Scott Gustin, AICP, CFM, Principal Planner
Mary O'Neil, AICP, Principal Planner
Ryan Morrison, Associate Planner
Layne Darfler, Planning Technician
Shaleigh Draper, Zoning Clerk

TO: Planning Commission Ordinance Committee
FROM: Scott Gustin
DATE: August 9, 2018
RE: Trees, Junkyards, and Cross Reference Correction

The adoption of Article 14, *Downtown Code*, affected the tree cutting provisions within the CDO. Sec. 3.1.2, *Zoning Permit Required*, (a) *Exterior Work* stipulates that tree removal of a certain degree requires the advance review and approval of the Development Review Board per the criteria in Article 6, *Part 2: Site Plan Design Standards*. Article 14 expressly supersedes Article 6 in the downtown form districts. As a result, reference to Article 6 is moot when considering tree cutting in the downtown form districts. Additionally, the actual standards for review of tree removal proposals are contained within the performance standards of Article 5, specifically Sec. 5.5.4, *Tree Removal*. Staff recommends deletion of reference to Article 6 in the tree cutting provision of Sec. 3.1.2. The performance standards of Article 5: Part 5 expressly continue to apply within the downtown form districts. As reference to DRB review is made, staff proposes relocating that language to a more appropriate location in Sec. 5.5.4, *Tree Removal*.

One additional item related to tree cutting standards is the exemption under Sec. 4.4.6, *Recreation, Conservation, and Open Space Districts* (d) *District Specific Regulations*. Item 2 under this section exempts regular tree maintenance and removal in city parks from the requirement for a zoning permit. This exemption is more appropriately located with all other zoning permit exemptions under Sec. 3.1.2, *Zoning Permit Required* (c) *Exemptions*. Staff recommends deleting the exemption from Sec. 4.4.6 and relocating it under Sec. 3.1.2.

Deleted language is ~~crossed out~~, and new language is underlined in red.

Sec. 3.1.2, Zoning Permit Required
(a) Exterior Work:
1-8 as written.

9. Tree removal involving six (6) or more trees, each of ten (10) inches or greater in caliper or the removal of ten (10) or more trees, each of which is three (3) inches or greater in caliper during any consecutive twelve (12) month period. ~~Such land development shall require the advance approval of the DRB under the criteria set forth in Article 6, Part 2 hereof before a zoning permit may be issued.~~

11 – 20 as written.

(b) Interior Work:
As written.

(c) Exemptions
1-2 as written.
3. Within any city park within an RCO zone, regular tree maintenance and removal not otherwise associated with land clearing for new development or site improvements, and regular turf maintenance including re-grading and reseeding.
4-15 as written, except renumbered to accommodate new number 3.

Sec. 4.4.6, Recreation, Conservation and Open Space Districts
(a) – (c) as written.

(d) District Specific Regulations
The following regulations are district-specific exemptions, bonuses, and standards unique to the RCO districts. They are in addition to, or may modify, city-wide standards as provided in Article 5 of this ordinance and district standards as provided above in Tables 4.4.6-1 and 4.4.6-2.

1. Lot Coverage for Agricultural Structures.
The maximum allowable coverage may be increased to ten percent (10%) in the RCO-Agricultural District for agricultural structures not otherwise exempted from zoning review under V.S.A. 24 § 4413 (d), subject to approval by the DRB.

~~**2. Exemptions for Tree removal and Turf Maintenance in City Parks.**~~
~~Regular tree maintenance and removal not otherwise associated with land clearing for new development or site improvements, and regular turf maintenance including re-grading and reseeding shall be exempt from the requirement to obtain a zoning permit.~~

3. Exemptions for low impact design (LID) stormwater management techniques
Due to the unique nature and critical importance of City Parks in the City's overall green infrastructure, LID stormwater management techniques (such as pervious pavement and asphalt, green roofs and rain gardens etc…) shall be credited against lot coverage as determined by the City's Stormwater Administrator pursuant to the requirements of Burlington Code of Ordinances Chapter 26.

4. Pervious surface materials not included in impervious lot coverage calculations
Pervious surface materials, such as woodchips and clay or dirt playfields in City Parks shall not be included in impervious lot coverage calculations.

Sec. 5.5.4, Tree Removal
Zoning permit requests for tree removal are subject to DRB review per the following criteria.

(a) – (b) as written.

The CDO presently contains definitions for "automobile salvage/junkyard" and "vehicle salvage yard." Both address essentially the same thing but are not identical. Staff recommends deleting the less specific "automobile salvage/junkyard." Vehicle salvage yard is expressly targeted at junk vehicles. The more general "junkyard" was defined in the 1994 Zoning Ordinance but is not defined in the CDO. Outdoor storage of trash is

addressed in Article III, Division 1 of the city code of ordinances. There are several ongoing situations with properties filled with junk not necessarily including junk vehicles. Defining junkyard with a cross reference to the applicable section within the city code of ordinances would be helpful in enforcing against such properties. Staff recommends adding such definition to the CDO.

Also consider that none of the defined terms below are included in *Appendix A – Use Table – All Zoning Districts*. In the 1994 Zoning Ordinance, "auto/junk/salvage yard" was included in the use table and was allowed only in the Enterprise Zone. The Committee may wish to consider incorporation of these items into the Use Table, whether permissible or not.

Deleted language is ~~crossed out~~, and new language is underlined in red.

~~**Automobile Salvage/Junkyard:** Land or buildings used for the collection, wrecking, dismantling, storage, salvaging, and sale of automobile parts from automobiles that are not in running condition.~~

Junkyard: Any place of outdoor storage or deposit that is maintained, operated, or used for storing, keeping, processing, buying, or selling garbage, trash, appliances, and/or furniture as articulated under Article III, Division 1, Sec. 18-111 of the City Code of Ordinances. Junkyard does not include a solid waste facility or a vehicle salvage yard as defined in this ordinance.

Vehicle Salvage Yard: Land or buildings used for the collection, wrecking, dismantling, storage, salvaging, and sale of machinery parts or vehicles not in running condition. Three or more unregistered vehicles are considered a salvage yard.

Article III, Division 1, Sec. 18-111 for reference only:

18-111 Accumulation of garbage, trash, abandoned vehicles, appliances and furniture on any property within the city prohibited.

(a) It shall be unlawful for any landowner, and person leasing, occupying, or having charge or possession of any property in the city to keep, maintain, or deposit on such property any materials or items enumerated below, unless they are in compliance with this section or otherwise allowed by law. "Property" shall include the abutting area known as the "greenbelt" held to be that area of a public street located between the roadway edge and the sidewalk, or, if no sidewalk exists, between the roadway edge and the adjacent property line. (Charter §§ 48(6), 48(8), 48(23) and 211.)

(b) The following materials or items shall not be stored, kept, maintained or deposited on the property: concrete, asphalt, construction debris, brick foundations and flat work, unless being used for a building project which is in compliance with all city ordinances.

(c) The following materials or items shall not be stored, kept, maintained, deposited or allowed to remain outdoors and in plain view in the front yard of any property: (1) appliances such as refrigerators, stoves and microwave ovens; (2) sinks, toilets, cabinets, or other fixtures or equipment; (3) abandoned, discarded, or broken furniture; (4) furniture not constructed for outdoor use; and (5) lumber and other construction material. Lumber and other construction material is exempted from this provision if it is covered and stored neatly and is being used in conjunction with a building project in compliance with all city ordinances. Rubbish, junk, refuse, garbage, scrap metal, tin cans and recyclables shall only be allowed to remain outdoors and in plain view in the front yard of any property for the purpose of recycling and solid waste pickup for disposal and only if they are neatly kept, stored, maintained, or deposited in accordance with all minimum housing, health and solid waste ordinances and regulations.

(1) Owners of rental units with ten (10) or more units on a property shall be required to have covered wheeled recycling containers with a minimum capacity of sixty-five (65) gallons (hereinafter "toters") for curbside recycling pick up or an approved equivalency on or before October 1, 2013. At least one (1) such a container shall be provided for every three (3) units or portion thereof.

(2) Owners of rental units with eight (8) or nine (9) units on a property shall be required to have toters for curbside recycling pick up or an approved equivalency on or before September 1, 2017. At least one (1) such container shall be provided for every three (3) units or portion thereof.

(3) Owners of rental units with six (6) or seven (7) units on a property shall be required to have toters for curbside recycling pick up or an approved equivalency on or before March 1, 2018. At least one (1) such container shall be provided for every three (3) units or portion thereof.

(4) Owners of rental units with two (2) to five (5) units on a property shall be required to have toters for curbside recycling pick up or an approved equivalency on or before September 1, 2018. At least one (1) such a container shall be provided for every three (3) units or portion thereof.

(d) Subject to the limitations in this subsection, materials or items referred to in subsection (c) of this section may be kept on other portions of the property if they are stored, kept outdoors in plain view, maintained or deposited neatly, are covered, do not obstruct fire escapes, means of egress, fire lanes, or emergency services access, and do not pose a danger to invitees, including utility, delivery and postal service employees and police officers, firefighters, city and state officials, and public health and safety officials who may need to be present on the property in emergency situations, routine inspections or other lawful reasons. Materials or items referred to in subsection (c) of this section should not be stored, deposited, kept or maintained in violation of zoning setback regulations or cover a footprint of in excess of fifty (50) square feet, with a height limitation of six (6) feet (11.11 cubic yards). Two (2) such storages shall be allowed on the property. Rubbish, junk, refuse and garbage, scrap metal, tin cans, and recyclables shall be neatly kept, stored, maintained or deposited on property other than the front yard in accordance with all minimum housing, health, zoning and solid waste ordinance regulations.

(e) It shall be unlawful to keep, maintain, store or deposit any inoperative, abandoned or dismantled motor vehicles on any property in violation of Chapter 20, Article VI.

(f) Trailers and boats shall be neatly stored in accordance with zoning ordinances and regulations and in a manner which does not obstruct fire escapes, means of egress, fire lanes, or emergency services access and which does not pose a danger to invitees, including utility, delivery and postal service employees and police officers, firefighters and other public health and safety officials who may need to be present on the property in emergency situations, routine inspections or other lawful reasons.

(g) A copy of all orders issued pursuant to this section shall be posted by the enforcement officer or his/her delegate or inspector in a conspicuous place in a common area of the dwelling or building in which the dwelling unit is located. Such notice shall be in addition to the notice required under Section 18-26.

(h) Notwithstanding Section 18-31(a)(1), a second or subsequent violation of this section during a twelve (12) month period shall be deemed to be a civil offense and shall be punishable by a fine of two hundred dollars ($200.00) and a waiver fine of one hundred fifty dollars ($150.00).

(Ord. of 3-22-99; Ord. of 9-10-12(2); Ord. of 12-1-14(1); Ord. of 6-5-17; Ord. of 8-7-17(1))

The following item is simply a correction to a cross reference within the CDO.

Deleted language is ~~crossed out~~, and new language is underlined in red.

Sec. 6.2.2, Review Standards

(a) – (o) as written.

(p) Integrate infrastructure into the design:

Exterior storage areas, machinery and equipment installations, service and loading areas, utility meters and structures, mailboxes, and similar accessory structures shall utilize setbacks, plantings, enclosures and other mitigation or screening methods to minimize their auditory and visual impact on the public street and neighboring properties to the extent practicable.

Utility and service enclosures and screening shall be coordinated with the design of the principal building, and should be grouped in a service court away from public view. On-site utilities shall be place underground whenever practicable. Trash and recycling bins and dumpsters shall be located, within preferably, or behind buildings, enclosed on all four (4) sides to prevent blowing trash, and screened from public view.

Any development involving the installation of machinery or equipment which emits heat, vapor, fumes, vibration, or noise shall minimize, insofar as practicable, any adverse impact on neighboring properties and the environment pursuant to the requirements of Article 5, Part **4** 5 Performance Standards.

Burlington Planning Commission
Ordinance Committee
149 Church Street
Burlington, VT 05401
Telephone: (802) 865-7188
Fax: (802) 865-7195
www.burlingtonvt.gov/pz

Alexander Friend
Bruce Baker
Andy Montrol
Leo Sprinzen
vacant

Burlington Planning Commission

Ordinance Committee Meeting Minutes

Thursday, August 2, 2018 @ 5:15 PM

Planning & Zoning Conference Room, Ground Floor, City Hall

Attendance

- **Committee Members:** Alexander Friend (AF)
- **Absent:** Andy Montroll (AM), Leo Sprinzen (LS), Bruce Baker (BB)
- **Public:** none
- **Staff:** Scott Gustin, Mary O'Neil (Planning & Zoning)

No quorum was present, so the meeting was cancelled.