

Burlington Planning Commission

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www.burlingtonvt.gov/pz

*Yves Bradley, Chair
Bruce Baker, Vice-Chair
Lee Buffinton
Emily Lee
Andy Montroll
Harris Roen
Jennifer Wallace-Brodeur
vacant, Youth Member*



Burlington Planning Commission **Tuesday, July 12, 2016, 6:30-8:30 P.M.** **Conference Room 12, Ground Floor City Hall, 149 Church Street**

AGENDA

*Note: times given are
approximate unless
otherwise noted.*

I. Agenda

II. Public Forum – Time Certain: 6:35 pm

The Public Forum is an opportunity for any member of the public to address the Commission on any relevant issue.

III. Report of the Chair (5 min)

IV. Report of the Director (5 min)

V. Proposed CDO Amendment: Downtown Mixed Use Core Overlay

The Planning Commission will continue to discuss a draft communication to the City Council regarding the proposed CDO Amendment to establish a Downtown Mixed Use Core Overlay. The language of the proposed amendment and the report required by statute, have been transmitted to City Council. Included in this agenda packet are:

- DRAFT Memo to City Council RE: Proposed DMUC Amendment (p. 3)
- DRAFT Chart of Planning Commission Comments on this Amendment (p. 8)
- Proposed DMUC Amendment language for reference, with notes that reflect PC Comments (p. 13)
- Communication RE: Memo & Chart (p. 29)

VI. Committee Reports (5 min)

VII. Commissioner Items (5 min)

VIII. Minutes and Communications (5 min)

The Commission will review and approve minutes from its April 26, May 10, May 24, June 9, June 14, and June 21, 2016 meetings. These minutes are attached on pages 32-66 of the agenda packet.

IX. Adjourn (8:30 pm)

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 & Zoning are encouraged to contact the Dept. at least 72 hours in advance so that proper accommodations can be arranged. For information, call 865-7188 (865-7144 TTY). Written comments may be directed to the Planning Commission at 149 Church Street, Burlington, VT 05401.

Upcoming Meetings

- **July 19, 2016, 6:30pm:** Public Works Conference Room, 645 Pine Street- Special Meeting to include Public Hearings on ZA-16-11 Enforcement Period of Limitations and ZA-16-12 Rezone Fletcher Place to Residential Medium (*Public Hearings begin at 7:00pm*)
- **August 9, 2016, 6:30pm:** City Hall Conference Room 12, Regular Meeting
- **August 23, 2016, 6:30pm:** City Hall Conference Room 12, Regular Meeting

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TO: JANE KNODELL, COUNCIL PRESIDENT
BURLINGTON CITY COUNCILORS
FROM: BURLINGTON PLANNING COMMISSION
DATE: date
RE: PLANNING COMMISSION TRANSMITTAL OF *ZA-16-14 DOWNTOWN MIXED USE CORE OVERLAY*

The Planning Commission strongly supports the adoption of an amendment to create a Downtown Mixed Use Core Overlay District to facilitate the redevelopment of underutilized sites within the downtown core, including the Burlington Town Center. The area included in the proposed DMUC District is one of the most underdeveloped, and is an appropriate location for additional height and greater density within the City. The Commission believes that the current zoning for these sites is inadequate to facilitate the redevelopment of these sites in a way that significantly advances the vision of *planBTV: Downtown and Waterfront*, ensures a high level of design enhancing the pedestrian experience, and meets the City's aspirations for sustainable buildings.

The Planning Commission ~~is hereby transmitting~~ has transmitted *ZA-16-14 Downtown Mixed Use Core Overlay*, a proposed amendment to the *Burlington Comprehensive Development Ordinance*, which the Commission believes to be consistent with the summary approved by Council in the Predevelopment Agreement.

Consistency with the *Predevelopment Agreement- Exhibit D*

Through the approval of the Predevelopment Agreement (PDA) for the redevelopment of the Burlington Town Center Mall, the Planning Commission was asked to advance the proposed Downtown Mixed Use Core Overlay (DMUC) zoning amendment. The PDA articulates the City's and BTC Mall Owner's acknowledgements and agreements regarding Municipal Zoning in Section 3 of the approved document. Additionally, a summary of the key elements of a proposed zoning amendment, entitled "Exhibit D: Burlington Comprehensive Development Ordinance, PROPOSED Downtown Mixed Use Core Overlay," was approved as part of the PDA. Per this summary, the Planning Commission was tasked with providing a proposed amendment to the City Council which includes the following elements, all of which have been incorporated in *ZA-16-14 Downtown Mixed Use Core Overlay*.

- Creation of a new Overlay District, known as the Downtown Mixed Use Core Overlay District (DMUC District);
- Boundaries for this DMUC District;
- By-right height and mass limits of: 3 stories minimum; 14 stories, not to exceed 160 ft. maximum (5% allowed variation in height to account for grade changes); and maximum 9.5 Floor Area Ratio (FAR);
- Projects within the DMUC District which include frontage on Church Street may include structures not to exceed 4 stories or 45 ft in height, and may be built to the maximum height permitted within the zoning district so long as there is a 10 ft upper-story setback for every 10 ft in height above 45 ft.;
- Exemption from existing upper story setback requirements; instead, new prescriptive design standards to ensure good urban design, façade articulation, and street activation;

- Requirement to participate in emerging downtown parking initiatives being developed under the newly adopted *Downtown Transportation and Parking Plan*;
- Requirement to develop a Master Sign Plan to be approved by the DRB;
- and, amendments to the City's Official Map to include 60 ft wide extensions of St. Paul and Pine Street between Cherry and Bank Streets as public streets to accommodate pedestrians, bicycles and vehicles in accordance with the depiction of these streets in Exhibit B of the approved PDA.

In order to advance the amendment to Council in a timely manner, this memorandum and attached chart contains additional comments from the Planning Commission that the Council may wish to consider during its own deliberations. ~~The Commission has made modifications to certain elements of the proposed amendment text for which it felt it had clear discretion. For those elements that were clearly articulated in the summary approved as part of the PDA, or for those elements which the Planning Commission could not reach consensus, comments are included herein.~~

Conformity with *Municipal Development Plan* and *planBTV: Downtown & Waterfront*

As the ~~attached~~ report accompanying the proposed amendment, submitted in accordance with the provisions of 24 V.S.A. §4441(c), indicate~~s~~, the Planning Commission found ~~inde~~s the proposed amendment to conform with the goals and policies contained within the City's Municipal Development Plan regarding the availability of safe and affordable housing, future land uses and densities, and proposed community facilities. In particular, the proposed DMUC Overlay advances the following Municipal Development Plan policies:

- Encourage a healthier regional balance of affordable housing in each community, proximate to jobs and affording mobility and choice to low income residents.
- Support the development of additional housing opportunities within the city, with concentrations of higher-density housing within neighborhood activity centers, the downtown and institutional core campuses.
- Encourage mixed-use development patterns, at a variety of urban densities, which limit the demand for parking and unnecessary automobile trips, and support public transportation.
- Strengthen the City Center District (CCD) with higher density, mixed-use development as part of the regional core while ensuring that it serves the needs of city residents, particularly those in adjacent neighborhoods.
- Target new and higher density development in the Downtown, Downtown Waterfront, Enterprise District, Institutional Core and the Neighborhood Activity Centers.

Furthermore, the Planning Commission finds the proposed DMUC Overlay to further many of the goals identified in *planBTV: Downtown & Waterfront*. Specifically, this amendment:

- targets an area of the downtown core, including the site of the BTC Mall which was identified as an opportunity for intensive, mixed use redevelopment;
- encourages infill, redevelopment, and adaptive reuse to provide additional housing;
- incorporates urban design standards to ensure projects within the DMUC district adhere to *planBTV's* core principles of walkability, connectivity, scale, density, diversity and mixed-use;
- and, amends the Official Map to include rights of way for future public streets, a community facility that the City has long aspired to reintroduce.

Planning Commission Recommendations

While the Commission finds this proposed amendment to be in conformance with the City's Municipal Development Plan, the Commission offers the following comments to the City Council to consider in its deliberations. These comments refer to elements that were clearly articulated in the summary approved as part of the PDA for which the Commission would like to offer alternatives, or for those elements which the Planning Commission could not reach consensus.

Boundaries

The Commission supports this area of the downtown core as one that is appropriate for redevelopment that incorporates greater height and density. However, the Commission has not reached a consensus opinion regarding the boundaries in this proposed amendment. Some Commissioners feel that the boundaries are appropriate, while others offer opinions to amend these boundaries:

- People's Bank Site (not currently included in the boundary): Including this site could better reflect future potential for redevelopment within this area. Excluding this site is more consistent with the Form Based Code Committee's recommendation, and provides for a better transition in potential future building height, particularly when considering the terminal view looking west along Bank Street.
- College Street Garage (currently included in the boundary): Including this site is appropriate as a site for redevelopment, and its location within the center of a block allows for height to be further stepped back from the pedestrian view. Excluding this site is more consistent with the Form Based Code Committee's recommendation and reduces impact on neighboring properties' view sheds.

Official Map

The Commission enthusiastically supports the amendment to the Official Map to include new street ROW at St. Paul and Pine Streets. The Commission recommends that the location of these ROW on the Official Map be modified slightly to better align with existing intersections in order to facilitate safe connectivity of the street grid, and allow ample width for both active and passive public space.

Height and Massing

Without further study of potential scenarios for the redevelopment of the DMUC District according to the proposed height and massing in the amendment, the Commission has not reached a clear consensus on these issues. Accordingly, it offers these opinions:

- The proposed maximum height of 14 stories, not to exceed 160 ft, may be appropriate when considered in conjunction with the limits on massing of upper stories and the urban design requirements.
 - In particular, the proposed amendment reduces the maximum FAR of floors as a building gets taller, which helps preserve light and air both to the building and to the streets, and encourages a building's mass to be more vertically oriented where it is less visible from a pedestrian's view at the street level.
- The maximum height of the proposed DMUC District may be able to be lowered, without significantly impacting the proposed maximum FAR, by reconsidering the tiers for allowable FAR per floor. While the model of reducing the allowable FAR of floors as a building gets taller is appropriate, it could be less dramatic.
 - This could be adapted to permit larger floor plates in each of the tiers of height than currently proposed. Of course, these changes must be carefully considered in conjunction with stepback requirements in order to minimize impacts of shadows and visibility from a pedestrian's perspective.

- The absolute maximum height of the DMUC District should be 160 feet, inclusive of variation for grade changes on sites and mechanical equipment.
 - This could include a maximum occupied building height of 146 feet, with the additional 14 feet permitted for these variations.
- Retain the current maximum height limit of 105 feet.

Additionally, the Commission does not believe that it is necessary to include the proposed changes to the height and setback requirements for Church Street within this ordinance. Because these changes are outside of the proposed DMUC district, they should be considered as part of the eventual review of the draft Form-Based Code.

"By-right" Maximum Height

The Commission understands that the City's current bonus system was not often utilized and, therefore, was not effective at encouraging development which provided additional public benefits. In general, the Commission supports the rationale for moving away from discretionary requirements, toward an ordinance that is explicit about the provisions/restrictions associated with each zoning district.

The Commission supports a DMUC Overlay which is more inclusive of the goals associated with the existing bonuses, particularly by encouraging additional density within well-designed, mixed-use projects which provide housing and jobs, and decreases SOV dependency in the downtown core. However, it also recognizes that all projects are not one-size-fits-all. The Commission offers the following ideas for the Council to consider regarding maximum height:

- Maximum height conditional upon provision of public ROW at St. Paul & Pine Streets
 - The amendment to the Official Map provides the City with the right to acquire ROW to establish new street connections. The Commission feels that it is critically important to retain the ability for street connections to be established at St. Paul and Pine Streets in the event that the current proposed redevelopment project is not successful, or in the event that the City does not have means to acquire ROW should it be offered. The Commission recommends that there be a condition of approval requiring that no buildings or structures be built within areas identified as future public ROW in order for a project to be built to the maximum height.
- Location of Parking Structures
 - The Commission strongly encourages parking structures to be located below ground or behind a liner-building. However, in cases where this is infeasible and parking is proposed to be located on in an above ground structure, the Commission recommends that there be a condition of approval that a developer must demonstrate all alternatives that have been considered and that no other viable alternatives exist in order for a project to be built to the maximum height.
- Housing Diversity
 - The Commission feels that achieving the *planBTV* goals for diversifying housing types and expanding availability of affordable and senior housing downtown are essential. The Commission offers that the permitting the maximum height by right, without additional inclusionary housing and senior housing, are counter to these *planBTV* goals.

Urban Design Standards

The Commission feels that the standards for urban design are the most important elements to ensure projects within the proposed DMUC area meet the community's vision as articulated through *planBTV*. The urban design standards prioritize the pedestrian experience and ensure that projects engage with and generate street life and pedestrian

activity. The Commission supports these standards as they are largely based on the draft *Form Based Code*, which has been developed through the work of the Joint Form-Based Code Committee.

In particular, the permitted locations and design treatments for structured parking is of the utmost importance. The Commission prefers that all parking for projects within the DMUC area be provided below ground. However, in the case that this is not feasible, the urban design standards are key to assuring that there is no discernable difference between the façade treatment on floors containing parking and other uses in the building. Additionally, the Commission feels that surface parking should not be permitted within the DMUC Overlay; accordingly, the proposed ordinance as transmitted does not permit surface parking.

DRAFT

PROPOSED ZA-16-14: DMUC Overlay – Summary of PC Comments & Actions- Updated for July 12, 2016 Meeting

This proposed zoning amendment comes at the request of the City Council. It is very important that the Commission return with a recommendation in early July in order for the Council to be able to give it their due consideration to meet their timeline as indicated in the Predevelopment Agreement (PDA). Below is a chart summarizing the key elements included within the proposed amendment ZA-16-14.

- In the “Staff Notes & Comments” section, it is noted when an element was described in the summary of the DMUC Overlay that was approved as part of City Council’s Predevelopment Agreement.
- The “PC Comments & Recommended Action” column includes a summary of the Commission’s comments on each of these key elements. More detail on the Commission’s recommendations can be found in the documents that follow.

	<u>Key Elements:</u>	<u>Staff Notes & Comments:</u>	<u>PC Comments & Action</u>
1	Create a new Overlay District, known as the Downtown Mixed Use Core (DMUC) Overlay District (the “DMUC District”)	The map of the potential district boundary was included in the summary of the amendment that the City Council approved as part of the PDA. Exact boundaries still TBD. Proposed map comes from the current draft of the FBC. PC may want to fine-tune.	The Commission has not reached a consensus on whether or not the College Street Garage and/or the People’s United Bank properties should be included within the boundary. Action: This has been included as a comment in the enclosed memo.
2	Expand the Official Map to include 60-ft. wide extensions of St. Paul Street and Pine Street between Cherry and Bank Streets.	The map of the street connections was included in the summary of the amendment that the City Council approved as part of the PDA. This summary indicated that the locations of these ROW should be consistent with Exhibit B of the PDA. These come directly from the recommendations of <i>planBTV: Downtown and Waterfront Master Plan</i> <u>Staff</u> strongly recommends that the street boundaries shown on the Official Map coincide with those shown on plans proposed for redevelopment of the mall, and recommends this <u>as proposed</u>.	The Commission would prefer the streets to be aligned with the existing grid, regardless of existing property lines and buildings. The Commission has also recommended that the absence of building within the areas indicated as future ROW, regardless of City’s action to acquire ROW, be made a condition of approval for the maximum height. Action: Regarding condition of approval, staff is advised that this is not a legal condition; however, both of these concepts have been included in the enclosed memo at the Commission’s request.
3	New development in the DMUC District will be exempt from seeking building height bonuses from the DRB pursuant to BCDO Sec. 4.4.1 (d) 7; instead, the DMUC District will establish the following new, by-right height and massing limits and requirements:		The Commission understands the limitations associated with bonuses and the rationale for moving away from them in this Overlay, and generally agrees that provisions/restrictions should be explicit; however, there are several items that the Commission feels should continue to be included as bonuses/conditions of approval in order for projects to reach a maximum height: • the condition regarding buildings within a ROW on the Official Map (#2) • demonstration of economic infeasibility of below-ground parking (#12) • providing housing diversity, particularly for inclusionary, senior, workforce and young professional housing (#15) Action: See notes in #2, #12, #15

	<u>Key Elements:</u>	<u>Staff Notes & Comments:</u>	<u>PC Comments & Action</u>
4	3 stories min., 14 stories max. not to exceed 160 ft. max.	The minimum and maximum height was included in the summary of the amendment that the City Council approved as part of the PDA.	The Commission has not reached a consensus on the proposed maximum height, and offers the following opinions for Council to consider: - The proposed maximum height is appropriate in this location, particularly when considered in conjunction with the limits on massing of upper stories, the urban design requirements and the anticipated community benefits from redevelopment. - The maximum height of the proposed DMUC District could be lowered to a height that the community is more comfortable with, without significantly impacting the proposed maximum FAR, by reconsidering the tiers for allowable FAR per floor. While the model of reducing the allowable FAR of floors as a building gets taller is appropriate, it could be less dramatic. - Set the maximum height at 146ft, with allowance for maximum height up to 160ft inclusive of variation for site’s grade and mechanical systems. - Retain current maximum height of 105ft to conform with illustrations in <i>planBTV Downtown & Waterfront</i>. Action: Each of these comments is represented in the enclosed memo.
5	Overall height allowed variation of 10% of the total allowable height (but no additional floor area) to account for grade changes across the site.	Comes from the proposed standards found in the current draft of the FBC. Applicable beyond proposed overlay but a very important element of flexibility for all development. PC may want to fine-tune.	The Commission has recommended striking this item. Action: This has been noted in the comments on the marked up version of the proposed DMUC Overlay text.
6	4 stories not to exceed 45-ft max on Church Street, with a 10-foot upper story setback required for every 10-feet of height above 45-feet	The proposed changes to height and setbacks on Church Street were included in the summary of the amendment that the City Council approved as part of the PDA. These standards come from the proposed standards found in the current draft of the FBC. <u>Staff</u> strongly recommends this <u>as proposed</u>.	The Commission feels that it is not necessary to include this as part of an amendment to establish a DMUC Overlay, but rather, that it should be considered as part of the Form-Based Code. Therefore, the Commission has recommended that this be removed from the proposed amendment. Action: This has been included as a comment in the enclosed memo.

	<u>Key Elements:</u>	<u>Staff Notes & Comments:</u>	<u>PC Comments & Action</u>
7	• Maximum FAR of 9.5	The maximum FAR was included in the summary of the amendment that the City Council approved as part of the PDA.	The Commission has offered alternative scenarios for how the overall FAR for sites in the DMUC can be organized. See notes in #4. In response, staff proposes minor modifications to the maximum permitted FAR of each floor within the proposed overlay. This encourages building sq.ft. to be arranged on lower levels of buildings, de-emphasizing bulk at higher levels. Action: This has been noted in the comments on the marked up version of the proposed DMUC Overlay text.
8	New developments in the DMUC District will be exempt from the existing upper story setback requirement pursuant to BCDO Sec. 4.4.1 (d) 4 A; instead, new prescriptive design standards will be used to ensure good urban design, façade articulation and especially street activation including but not limited to:	PC may want to fine-tune, but all come from the proposed standards found in the current draft of the FBC, and Staff recommends this largely as proposed.	The Commission has identified these standards as incredibly important to ensuring successful projects in the proposed DMUC area. Except where noted, the Commission concurs with these design standards as proposed.
9	• Façade Articulation:		
	○ Finer-grained surface relief within the façade plane (use of material changes, balconies, belt courses, columns, lintels, etc)		
	○ Creation of architectural bays to provide regular and strong vertical changes in the horizontal plane of a façade particularly within the lower 3-5 stories.		
	○ Horizontal changes in the vertical plane of a façade (articulated base, stepbacks of upper stores, and clearly defined top)		
10	• Street Activation at the ground floor:		The Commission has indicated that it is important to ensure that the language in the following sections is strengthened to ensure compliance with street activation requirements on both primary <i>and</i> secondary frontages: Action: Changes have been noted in the comments on the marked up version of the proposed DMUC Overlay text-- remove references to secondary frontages, encourage additional pedestrian connections from parking structures and other details related to street activation. See sections: 2.B.v., 2.C.i., 2.C.iv., and 4.iv.
	○ Location, frequency and operability of primary entrances		
	○ Proportion of and distance between openings (doors and windows)		
	○ Transparency of glazing		

	<u>Key Elements:</u>	<u>Staff Notes & Comments:</u>	<u>PC Comments & Action</u>
	○ Visual access within spaces		The Commission supports the language regarding the urban design treatment of parking floors. The Commission feels that if parking is permitted in these areas, high standards are needed regarding the screening of cars and lights. Action: Changes have been noted in the comments on the marked up version of the proposed DMUC Overlay text. See Section 4.5.8 (c)-: 2.C.iv. and 4.v.d.
11	• Acceptable primary and accent façade materials		The Commission has indicated that additional clarification is needed in the language for the following items related to materials and alternative compliance: • 2.D.iii (alternative materials) • 2.E.iii (alternative compliance) Action: Direct staff on whether any additional modifications to the proposed text, or comments in the memo, regarding these issues are needed.
12	Projects within the DMUC District will be required to participate in the emerging downtown parking initiatives being developed under the newly adopted <i>Downtown Transportation and Parking Plan</i>, provided that private owners of parking lots or parking structures shall not be required to participate in any parking initiatives to the extent that such initiatives impose or result in any material obligation or cost to the such owners.	This was included in the summary of the amendment that the City Council approved as part of the PDA.	The Commission recommends that for all projects in the DMUC District, parking be underground or set behind a liner building at all levels. The Commission feels parking up to the façade is not appropriate and deadens the street even if it’s located on upper floors. Therefore, the Commission recommends no parking structures at the perimeter of a building on the ground and second floors fronting streets, and reiterates the importance of the design and screening requirements to ensure that any parking located in above-ground structures is indistinguishable from other floors of a building from the street view. Furthermore, the Commission has recommended that surface parking not be permitted anywhere in the DMUC district. The Commission has also recommended that projects proposing parking in structures above ground submit information to demonstrate that all alternative options for off-site or underground parking have been tested, and that project design meets all other standards regarding parking management. Action: Regarding parking design standards and location, changes have been noted in the comments on the marked up version of the proposed DMUC Overlay text. See Section 4.5.8 (c)- 4.i.a., 4.i.c, 4.v.a., and 4.v.d. Regarding demonstration of below-ground parking feasibility, this comment has been included in the memo enclosed.

	<u>Key Elements:</u>	<u>Staff Notes & Comments:</u>	<u>PC Comments & Action</u>
13	Mixed use projects within the DMUC District will be required to develop a Master Sign Plan which provides for flexibility from some individual sign requirements/limits subject to DRB approval.	This was included in the summary of the amendment that the City Council approved as part of the PDA. Comes from the proposed Sign Type standards found in the current draft of the FBC, but PC may want to fine-tune.	The Commission concurs with these sign standards as proposed. Action: No changes.
14	<u>Green Buildings and Stormwater Management</u>	This was included in the summary of the amendment that the City Council approved as part of the PDA. The current draft ordinance requires projects to be built to LEED Gold Certification, evidenced by a checklist submitted by a LEED AP, and 3rd party commissioning of the building envelope and mechanical systems prior to issuance of Final Certificate of Occupancy (CO). New development/redevelopment is required to capture 100% of the 1-year storm event for stormwater runoff.	The Commission has indicated that there must be a high, measurable standard and a mechanism to ensure compliance, to meet the goals of <i>planBTV</i> and meet community expectations. Action: A potential change per the Commission's discussion has been included in the comments in the marked up version of the proposed DMUC Overlay text. See Section
15	<u>Inclusionary Housing</u>	.	A Commissioner has indicated concern at the loss of the additional Inclusionary Housing bonus, but no specific recommendation has been made on this issue. Action: This has been included as a comment in the enclosed memo.
16	<u>Use- Post-Secondary & Community Colleges</u>	Change this use from Conditional Use to Permitted Use	The Commission is uncomfortable with the remote possibility that this district could become a post-secondary school/campus. The Commission recommends that the CDO's Use Table not be modified as proposed. Action: Changes have been noted in the comments on the marked up version of the proposed DMUC Overlay text.
17	<u>Purpose</u>		A Commissioner offered that the purpose of the district is also to enhance pedestrian connectivity between Church St. and the waterfront. Action: Changes have been noted in the comments on the marked up version of the proposed DMUC Overlay text. See Section 4.5.8 (a).
18	<u>Model</u>		Several Commissioners feel that the ability to evaluate the proposed height and massing has been hindered by the lack of a physical model of the DMUC area and its surroundings.

Burlington Comprehensive Development Ordinance

PROPOSED: ZA-16-14 – Downtown Mixed Use Core Overlay

As revised by the Planning staff to reflect Planning Commission comments & concerns– July 1, 2016.

Changes shown (underline to be added, ~~strike-out~~ to be deleted) are proposed changes to the Burlington Comprehensive Development Ordinance.

Purpose: This amendment is to facilitate the redevelopment of a portion of the former Urban Renewal District with higher density mixed use development in the core of the downtown, and in so doing substantially and significantly help the City to implement many of the central goals and objectives found in the *planBTV: Downtown and Waterfront Master Plan* unanimously adopted in June 2013 to guide the future development and economic vitality of the downtown and waterfront area. It creates an overlay district to encompass a 1-2 block area in the core of the downtown area to enable taller Building Height without the necessity of a “bonus” from the DRB. It also establishes a number of building form requirements to ensure street-level activation and façade variation.

Article 4: Zoning Maps and Districts, Part 2: Official Map

Sec. 4.2.1 Authority and Purpose

A map entitled “The Official Map of the City of Burlington” and as depicted on Map 2.2.1-1 below is hereby established pursuant to 24 VSA 4421 that identifies future municipal utility and facility improvements, such as road or recreational path rights-of-way, parkland, utility rights-of-way, and other public improvements. The intent is to provide the opportunity for the city to acquire land identified for public improvements prior to development for other use, and to identify the locations of required public facilities for new subdivisions and other development under review by the city.

Map 4.2.1-1 Official Map of the City of Burlington (unchanged)

Sec. 4.2.2 Downtown and Waterfront Core Official Map Established

A map entitled “The Official Map of the Downtown and Waterfront Core” and as depicted on Map 2.2.2-1 below is established as part of the Official Map established above, ~~is to be dated as of the effective date hereof, is to be located in the department of zoning and planning and is incorporated herein by reference.~~ The proposed streets, public ways, public parks and other public lands and visual corridors contained therein are more particularly described as follows:

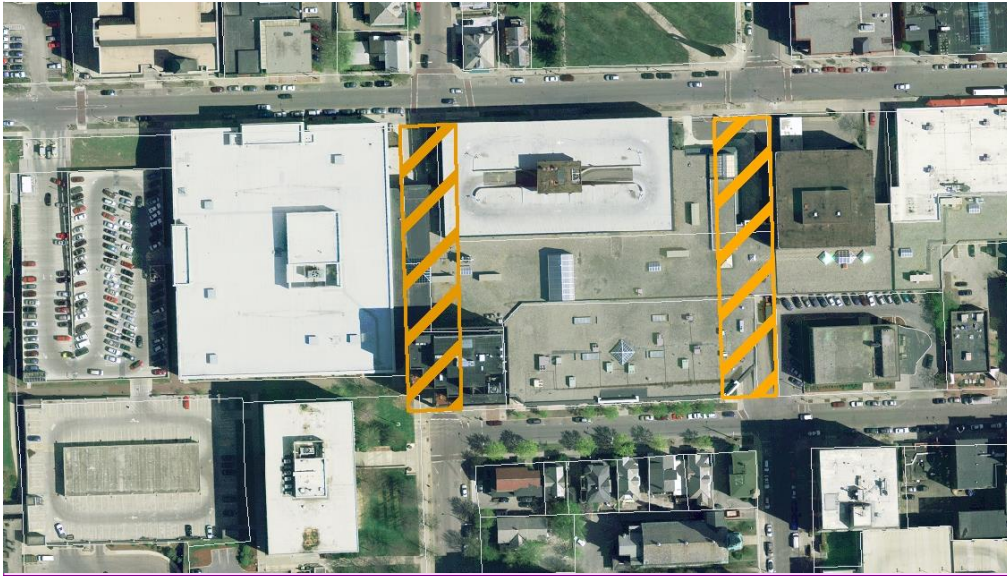
- (a) A pedestrian easement thirty (30) feet in width along the center line of Main Street extended to Lake Champlain west of the Union Station building;

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- (b) A waterfront pedestrian easement fifty (50) feet in width abutting the ordinary high water mark of Lake Chaplain from Maple Street extended to College Street;
- (c) A waterfront pedestrian easement one hundred (100) feet in width abutting the ordinary high water mark of Lake Champlain from College Street extended to the north property line of the city-owned lands designated as “urban reserve” and formerly owned by the Central Vermont Railway;
- (d) Visual corridors and/or pedestrian ways sixty (60) feet in width along the center lines of Bank, Cherry, Pearl and Sherman streets extended west to Lake Champlain and visual corridors above the fourth floor along Main Street and College Street;
- (e) The following existing streets remain: Maple and King Streets and as extended to Lake chaplain; Main street; College Street and as extended to Lake Champlain; Lake Street from Main Street to College Street; Depot Street; and Battery Street;
- (f) An easement for pedestrians and bicycles twenty (20) feet in width, located adjacent to and west of the old Rutland railway right-of-way and owned by the State of Vermont running between the King Street Dock and College Street; ~~and~~;
- (g) Lake Street (north) modified: The portion of Lake Street is a street seventy (70) feet in width, the center line of which commences on the north line of College Street thence running northerly following the center line of existing Lake to a point intersecting the northerly property line of the Moran Generating Station extended east.
- (h) The re-establishment of St Paul Street between Cherry and Bank streets as a public street with a right-of-way sixty (60) feet in width to accommodate pedestrians, bicycles and vehicles; and
- (i) The re-establishment of Pine Street between Cherry and Bank streets as a public street with a right-of-way sixty (60) feet in width to accommodate pedestrians, bicycles and vehicles.

Comment [DEW1]: This will ensure that the proposed north-south connectivity on Pine and St. Paul streets envisioned in planBTV is accomplished. The City will have 120-days to initiate proceedings to acquire any land within this area that may be proposed for new development.

This is necessary for compliance with the Pre-DA



(temporary illustration of the proposed addition)

Map 4.2.2-1 *Official Map of the Downtown and Waterfront Core Waterfront Core Official Map*

Comment [DEW2]: This is necessary for compliance with the Pre-DA

PC expressed preference for these to be in alignment with City urban street grid.

Article 4: Zoning Maps and Districts, Part 3: Zoning Districts Established

Sec. 4.3.2 Overlay Districts Established:

Overlay districts are overlaid upon the base districts established above, and modify certain specified development requirements and standards of the underlying base district. the land so ~~enumerated~~ Properties within an Overlay District may be used and altered-developed in a manner permitted in the underlying district only if and to the extent such use or alteration is permitted ~~in as may be modified by~~ the applicable overlay district. The following districts are established as overlay districts as further described in **Part 5** below:

- (a) A **Design Review Overlay (DR)** district;
- (b) A series of five (5) **Institutional Core Campus Overlay (ICC)** districts, as follows:
 - UVM Medical Center Campus (ICC-UVMMC);
 - UVM Central Campus (ICC-UVM);
 - UVM Trinity Campus (ICC-UVMT)
 - UVM South of Main Street Campus (ICC-UVMS); and,
 - Champlain College (ICC-CC);
- (c) An **RH Density Bonus Overlay (RHDB)** district;

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(d) A series of four (4) **Natural Resource Protection Overlay (NR)** districts, as follows:

- Riparian and Littoral Conservation Zone;
- Wetland Protection Zone;
- Natural Areas Zone; and,
- Special Flood Hazard Area;

(e) A **RL Larger Lot Overlay (RLLL)** district;

(f) A **Mouth of the River Overlay (MOR)** district; ~~and,~~

(g) A **Centennial Woods Overlay (CWO)** district; ~~and,~~

(h) A **Downtown Mixed Use Core (DMUC)** district.

Sec. 4.4.1 Downtown Mixed Use Districts

(d) **District Specific Regulations, 4. Building Height Setbacks**

A. - unchanged

B. **Church Street Buildings:**

For the purposes protecting the historic character and scale of buildings along the Church Street Marketplace, the maximum height of any building fronting on Church Street shall be limited to ~~38 feet~~ 4-stories not to exceed 45-feet. Any portion of a building ~~within 100 feet from the centerline of Church Street exceeding 45-feet~~ shall be set-back a minimum of ~~16~~ 10-feet for every 10-feet of additional building height above ~~38~~ 45-feet.

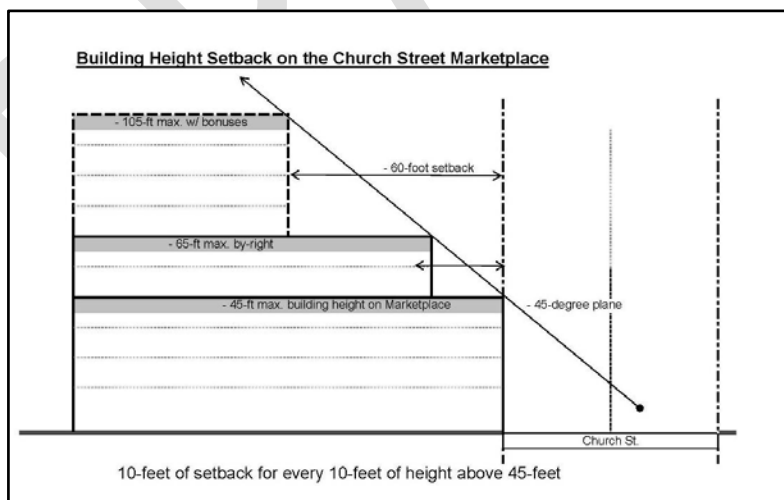


Figure 4.4.1-2 Measuring Height Limits for Church Street Buildings

C. - unchanged

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Comment [DEW3]: While outside of the proposed new overlay, this change is already envisioned as part of the currently proposed form-based code to provide better compatibility of building heights on Church Street.

This is necessary for compliance with the Pre-DA.

PC does not see need to include this at this time and recommends removal.

Sec. 4.5.8 Downtown Mixed Use Core Overlay (DMUC) District

(a) Purpose:

The Downtown Mixed Use Core Overlay (DMUC) district is intended to facilitate the redevelopment of a portion of the former Urban Renewal Area in order to provide for a more walkable, connected, dense, compact, mixed use and diverse urban center, and to enhance pedestrian connectivity between Church Street and the waterfront. The area should support a diversity of residential, commercial, recreational, educational, civic, hospitality, and entertainment activities, and create opportunities to better connect the street grid for enhanced mobility for automobiles, pedestrians, and bicyclists in order to sustain and advance the economic vitality Burlington's downtown urban core.

Comment [MT4]: Suggestion by HR to add.

This overlay allows larger scale development than is typically found in the underlying district, and development with larger and taller buildings. Development should be designed to support the diverse mixed-uses, activate and enrich the street and sidewalk for pedestrian activity, and encourage mobility throughout the district and adjacent districts for pedestrians and bicyclists with reduced reliance on automobiles.

(b) Areas Covered:

The Downtown Mixed Use Core Overlay (DMUC) district includes those portions of the Mixed Use Downtown (D) District as delineated on Map 4.5.8-1.



Comment [DEW5]: Boundary of this area needs to consider existing and potential development in this area which has generally been supported in planBTV and by the Joint FBC Committee as the part of the downtown where greater height could be appropriate.

This is necessary for compliance with the Pre-DA.

PC has not been able to reach a consensus regarding either: add People's Bank or remove College St Garage.

Map 4.5.8-1: Downtown Mixed Use Core Overlay (DMUC) district

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(c) District Specific Regulations: Downtown Mixed Use Core Overlay (DMUC) district:

1. Dimensional Standards:

The maximum Building height and mass shall be as prescribed in Table 4.5.8-1 below. Building height and mass in excess of 65-feet and 5.5 FAR shall be allowed by-right and without the necessity of the DRB granting of Development Bonuses/Additional Allowances pursuant to Sec 4.4.1 (d)7.

The Dimensional Standards within the DMUC Overlay District shall be as follows:

<u>Table 4.5.8-1 Downtown Mixed Use Core Overlay (DMUC) District Dimensional Standards</u>	
<u>Building Height</u>	3 stories min. 14 stories not to exceed 160-ft max
<u>FAR</u>	9.5 FAR total max per lot
<u>Floorplate:</u>	
Floors 1-5	100% of lot max.
Floors 6-8	80% of lot max.
Floors 9-12	55% of lot max.
Floors 13+	15,000 sf max per individual floorplate, with individual towers separated by a minimum of 60-ft measured orthogonally.
The floorplate of any floor may not be larger than the floor below.	
<u>Pervious Area¹</u>	10% min
<u>Setbacks:</u>	
- Front	0-ft min, 10-ft max. In no event shall a Building be closer than 12' from the curb.
- Side/Rear	0-ft min, 12-ft max.
<u>Occupied Build-to Zone²</u>	100%
<u>Ground Floor Height (floor to floor)</u>	14-ft min
<u>Arcades³</u>	10-ft clear depth min 14-ft clear height min

¹ Pervious Area is the area of a lot covered by surfaces or materials that allow for the movement or passage of water into soils below. Pervious areas include, but are not limited to, areas of a lot covered by soil/mulch, vegetative matter, permeable pavers/pavement, bio-retention areas, or other materials that allow for the infiltration of at least the first inch (1") of rainfall. For these purposes, green roofs that capture and attenuate at least the first inch (1") of rainfall are also considered pervious area.

Comment [DEW6]: This is necessary for compliance with the Pre-DA.

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Comment [DEW7]: This is necessary for compliance with the Pre-DA.

PC has not been able to reach a consensus regarding maximum height.

Comment [DEW8]: This is necessary for compliance with the Pre-DA

Comment [DEW9]: These comes out of the proposed form based code. The gradual reduction on upper floors is done to ensure that taller buildings are tapered as they go taller and reduce the perceived bulk of new buildings from the street level.

Revised per AM comments

Comment [DEW10]: This come directly out of the proposed form based code. See footnote regarding Pervious Area as a preferred alternative to lot coverage limitations. This will ensure improved stormwater management over existing.

Comment [DEW11]: Revised per EL comments

Comment [DEW12]: This come directly out of the proposed form based code in order to define a building wall along the street and create enclosure within a dense urban environment

Comment [DEW13]: This come directly out of the proposed form based code in order to ensure appropriately sized first floor spaces

Comment [DEW14]: This come directly out of the proposed form based code to ensure a spacious opening for pedestrians and outdoor activity

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² Occupied Build-to Zone is the proportion of the linear distance between the maximum and minimum front setback along a front property line that must be occupied by a Building facade. In lieu of a Building facade, a streetscreen between 3.5 and 8 feet in height or active public use or activity (such as outdoor cafes) occupying no more than the lesser of 20 feet or 20% of the Build-to Zone may be included.

³ An Arcade is where only the ground floor level of the Building facade is set back from the front property line. The Building facade for the upper floors is at or near the front property line within the Build-to Zone, and is supported by a colonnade with habitable space above.

2. Urban Design Standards:

The following urban design standards shall apply to all Buildings in the DMUC Overlay, and the DRB shall make a final determination regarding strict compliance with these standards except as provided for in E below. These standards and requirements shall take precedence without limitation over any duplicative or conflicting provisions of Article 6, and compliance with Article 6 shall be presumed where a Building is in compliance with these design standards as determined by the DRB.

A. Overall Design: Proposed Buildings shall present an architecturally significant design as follows:

- i. Step backs, horizontal and vertical variation, selection of materials and other architectural design techniques are used to reinforce the street wall, create transitions from adjacent buildings of a smaller mass and height, and reduce the perceived height and mass of the upper stories from the street level;
- ii. Proposed Buildings provide visual interest and human scale at the pedestrian level through the use of a variety of scales, materials, fenestration, massing or other architectural design techniques;
- iii. Upper story proportions of Buildings emphasize vertically-oriented proportions to assure a rich visually interesting experience as viewed within the context of the downtown skyline, reinforce opportunities for establishing points of reference for visual orientation, and retain opportunities for a view of the sky between individual Building elements.

B. Facade Articulation: All street-facing Building facades shall be articulated as follows:

- i. Building facades shall incorporate surface relief through the use of elements such as bay windows, cladding materials, columns, corner boards, cornices, door surrounds, moldings, piers, pilasters, sills, belt courses, sign bands, windows, balconies and/or other equivalent architectural features at least three (3) of which must either recess or project from the average plane of the facade by at least four (4) inches.
- ii. Buildings with facades between seventy-five (75) feet and one hundred and fifty (150) feet in width shall include vertical changes through the horizontal plane of the facade by dividing the facade into a series of architectural and/or structural bays between six (6) feet and sixty-five (65) feet in width involving up to a minimum of 50% of the height of the facade.

Comment [DEW15]: These come directly out of the proposed form based code. The process to incorporate role of DRB in making a final determination is a hybrid of current discretionary review process with more prescriptive FBC standards.

This is necessary for compliance with the Pre-DA in concept but not individual detail.

Comment [DEW16]: Pretty subjective and primary place for DRB discretionary review to focus. Ultimately following standards provide some objective measure of satisfying these

Comment [DEW17]: Remaining sections include detailed and prescriptive form standards.

- iii. Buildings with facades greater than one hundred and fifty (150) feet in width must include a more substantial change in the horizontal plane of the façade where for every one hundred and fifty (150) feet in facade width, one (1) or more architectural bay as required above must either recess or project by at least four (4) feet involving the full height of the façade from the average plane of the street wall portion of the facade. Such bays shall occur no closer than fifty (50) feet from the Building's corner.
- iv. Required Building Height Setbacks pursuant to Sec 4.4.1 (d) 4 shall not be applicable. Instead, upper stories of any street-facing Building facade exceeding six (6) stories in height shall be setback as follows:
 - a. An upper story setback at least ten (10) feet from the primary plane of the façade below shall occur within the first 60-ft of Building height at either the 3rd, 4th, or 5th story in order to provide a change in the vertical plane of the façade. Such a change shall involve the full width of the Building façade, but does not have to occur in the same story. Additional upper story setbacks may occur in order to provide additional terraces, taper and visual interest to taller Buildings.
 - b. For Buildings exceeding ten (10) stories in height a second upper story setback at least ten (10) feet from the primary plane of the façade below shall occur at either the 10th, 11th, or 12th story in order to provide another change in the vertical plane of the façade. Such a change shall involve the full width of the Building façade, but does not have to occur in the same story. Additional upper story setbacks may occur in order to provide additional terraces, taper and visual interest to taller Buildings.
 - c. Setbacks must be visually set off from the stories below by a balustrade, parapet, cornice and/or similar architectural feature, and are encouraged to be activated as an outdoor amenity space for Building occupants.
 - d. The upper stories beyond a setback may be visually differentiated from the stories below by a change in color, materials and/or pattern of fenestration in order to reduce the actual or perceived massing of the Building overall.
- v. Where visible, the raised foundation or basement of a Building shall not exceed 4-ft as measured from the exterior finished grade to the finished floor of the Story above., and must be visually differentiated from the stories above by a horizontal expression line and change in color, material, and/or pattern of fenestration.
- vi. The lower one to five stories of a Building must be visually differentiated from the stories above by a horizontal expression line, belt courses, banding, sign band, cornice and/or equivalent architectural feature, and include a change in color, material, and/or pattern of fenestration across a majority of the facade; and,
- vii. The top one to five stories of a Building must be visually differentiated from the stories below by a horizontal expression line, belt courses, banding, sign band, cornice and/or equivalent architectural feature, and include a change in color, material, and/or pattern of fenestration across a majority of the façade

Comment [DEW18]: added per J W-B comments

viii. The top of a Building must have a cornice, parapet, pitched or shaped roof form and/or other equivalent architectural feature involving a projection from the average plane of the facade by at least six (6) inches to serve as an expression of the Buildings top.

C. Street Activation: All Buildings shall activate the street as follows:

- i. Buildings shall have one or more principal entrances for pedestrians at street level that are clearly identified as such along the street frontage or at a corner where a corner lot.
- ii. The linear distance along the street frontage between ground floor entries shall not exceed 60-feet, and such doors must be open and operable by residential occupants at all times and non-residential occupants and customers during business hours.
- iii. Building entrances shall be defined and articulated by architectural elements such as lintels, pediments, pilasters, columns, canopies, awnings, transoms, sidelights and/or other design elements appropriate to the architectural style and details of the Building as a whole. Bays including a principal entrance should be expressed vertically, and may have little or no horizontal expression required below any required upper story setback.
- iv. Requirements regarding openings and the transparency of glazing on a street-facing Building facade shall be as follows:

	Ground Floor	Upper Floors
<u>Rough openings for windows and doors (per floor)</u>	<u>70% min, 80% of which shall be concentrated between 3-10 feet above the adjacent sidewalk</u>	<u>20% min</u>
<u>- Horizontal and vertical distance between rough openings</u>	<u>20' max.</u>	
<u>Transparency:</u>		
<u>- applicable to 80% of the glazing on each floor.</u>		
<u>- VLT - Visible Light Transmittance¹</u>	<u>60% min</u>	<u>40% min</u>
<u>- VLR - Visible Light Reflectance</u>	<u>15% max</u>	<u>15% max</u>

¹ May be reduced to 50 and 30% respectively to meet the requirements of a High Performance Building Energy Code or equivalent program as determined by the DRB.

- v. Street-facing, street-level windows must allow views into a ground story non-residential use for a depth of at least 3 feet for the first 4 feet above the level of the finished sidewalk in order to provide for a window display, and for a depth of at least 8 feet for the next 4 feet above the level of the finished sidewalk in order to provide a view into the interior of the space. Windows cannot be made opaque by window treatments (except operable sunscreen devices within the conditioned space). External security shutters are not permitted.

D. Materials:

The following requirements regarding the selection and use of Building materials is intended to improve the physical quality and durability of buildings, enhance the pedestrian experience, and protect the character of the downtown area.

Comment [DEW19]: This is necessary for compliance with the Pre-DA in concept but not individual detail.

- i. Primary Materials: Not less than 80 percent of each street-facing facade shall be constructed of primary materials comprised of high quality, durable, and natural materials. For facades over 100 square feet, more than one primary material shall be used. Changes between primary materials must occur only at inside corners. The following are considered acceptable primary materials:
 - a. Brick and tile masonry;
 - b. Native stone;
 - c. Wood – panels, clapboard or shingles;
 - d. Glass curtain wall; and
 - e. Cementitious siding;
- ii. Accent Materials: The following accent materials may make up no more than 20% of the surface area on each street-facing façade. Accent materials are limited to:
 - a. Pre-cast masonry (for trim and cornice elements only);
 - b. External Insulation Finishing System - EIFS (for upper story trim and cornice elements only);
 - c. Gypsum Reinforced Fiber Concrete (GFRC—for trim elements only);
 - d. Metal (for beams, lintels, trim elements and ornamentation, and exterior architectural metal panels and cladding only);
 - e. Split-faced block (for piers, foundation walls and chimneys only); and
 - f. Glass block.
- iii. Alternate Materials: Alternate materials, including high quality synthetic materials, may be approved by the administrative officer after seeking input from the Design Advisory Board. New materials must be considered equivalent or better than the materials listed above and must demonstrate successful, high quality local installations. Regionally-available materials are preferred.
- iv. Other:
 - a. The use of recycled and/or regionally-sourced materials is strongly encouraged.
 - b. With the exception of natural wood siding or shingles such as cedar or redwood intended to gradually weather with time, all exposed wood and wood-like products (e.g. fiber-cement) shall be painted or stained. Exterior trim shall be indistinguishable from wood when painted.

c. Any synthetic siding and finish products shall be smooth-faced with no artificial grain texturing.

E. **Alternative Compliance:** Relief from any non-numerical standard above, and any numerical standard with the exception of building height and FAR by no more than 20% of such requirement, may be granted by the Development Review Board after review and comment by the Design Advisory Board and administrative officer. In granting such relief, the DRB shall find that:

- i. the relief sought is necessary in order to accommodate unique site and/or Building circumstances or opportunities;
- ii. the relief if granted is the minimum necessary to achieve the desired result;
- iii. the property will otherwise be developed consistent the purpose of this ordinance, the purpose of the underlying Zoning District and this Overlay District, the purpose of the section that the relief is being sought, and all other applicable standards;
- iv. the relief if granted will not impose an undue adverse burden on existing or future development of adjacent properties; and,
- v. the relief if granted will yield a result equal to or better than strict compliance with the standard being relieved.

Comment [DEW20]: This come directly out of the proposed form based code in order to provide some guided flexibility/relief from the prescriptive standards where necessary.

3. **Use**

Schools - Post-Secondary & Community College shall be allowed as a Permitted Use, and any application requiring Major Impact Review pursuant to Sec. 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 identified as “CU” is also proposed.

Comment [DEW21]: adding Schools - Pre-school to use table as part of daycare amendment.

PC **very** uncomfortable with the possibility (albeit remote) of the entire district becoming a post-secondary school. Prefer that it be limited to a Conditional Use.

May want to consider (with GFA limit – 10k?): Civic Use: Places of public assembly that provide ongoing governmental, educational and cultural services to the public

4. **Parking**

- i. All onsite parking shall be provided in one or more of the following:
 - a. an underground parking structure (strongly preferred);
 - b. a parking structure separated from the public street by a liner building a minimum of 20-ft in depth; or,
 - c. a mixed-use building with parking located underground, setback a minimum of 20-ft behind the façade of building at the ground level and second story, and/or above the second floor.
- ii. All onsite parking shall participate in any Downtown Parking and Transportation Management District in order to minimize the amount of parking provided and maximize the efficiency of its utilization.
- iii. Vehicular entrances to parking structures shall not exceed 24-ft clear width, and 16-ft clear height at the street frontage.

Comment [DEW22]: This come directly out of the proposed form based code in order to specifically address the challenging urban design concerns associated with parking.

Comment [DEW23]: Strong preference to underground parking added by PC

Comment [DEW24]: revised per EL comments

Comment [DEW25]: This is necessary for compliance with the Pre-DA.

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- iv. At least one pedestrian route from all parking structures shall lead directly to a street frontage (i.e., not directly into a Building). Where a parking structure fronts on multiple streets, more than one such route is strongly encouraged.
- v. All structured parking with frontage on any portion of a public street shall be treated as follows:
 - a. The required setback between the parking and the public street at the ground level must be occupied by an active use (such as, but not limited to, residential lobby, retail, office, recreational or services). This requirement shall not apply to parking located either entirely below-grade or above the second floor where parking may extend out to the building's perimeter.
 - b. All floors of a parking structure fronting a public street must be level (not inclined), and any sloped ramps between parking levels must be setback a minimum of 20-ft from the street-facing building façade and shall not be discernible along the perimeter of the parking structure.
 - c. Where upper stories of structured parking are located at the perimeter of a building, parked vehicles, vehicle headlights and interior lighting shall be screened from view from the street and adjacent properties.
 - d. In addition to the Urban Design Standards required above, facade treatments (materials, fenestration patterns, and architectural detailing) must be continued on stories containing parking in a manner consistent with the overall architectural design of the Building and such that levels of parking are not clearly distinguishable from other uses in a building.

Comment [DEW26]: revised per J W-B comments

Comment [DEW27]: revised per EL comments

Comment [DEW28]: revised per extensive PC discussion

5. Signs

A master sign plan pursuant to Article 7 Part 3 is required for all sites occupied by more than three tenants where all signs must meet the requirements of the master sign plan. The master sign plan must establish standards of consistency as applicable of all signs to be provided on the subject property with regard to:

- Colors;
- Letter/graphics style;
- Location and Sign Type;
- Materials;
- Methods of illumination; and/or
- Maximum dimensions and proportion.

In addition to the flexibility from the requirements of Article 7 provided under Sec. 7.3.4, the following shall also be permitted when incorporated as part of a master sign plan in the DMUC Overlay:

- i. The area of projecting signs, marques, canopies and awnings shall not be deducted from the maximum allowed signage area permitted for signage under Sec 7.2.3.

Comment [DEW29]: This is necessary for compliance with the Pre-DA in concept but not individual detail.

This come directly out of the proposed form based code to provide greater clarity and specificity regarding size, placement and design of certain sign types.

ii. Projecting Signs: One projecting sign may be permitted for each ground floor use provided each sign:

- a. does not exceed 8 square feet in area;
- b. does not project more than 4 feet from the building façade on which it is attached;
- c. has its lowest edge at least eight (8) feet above any pedestrian way;
- d. has its highest edge no more than eighteen (18) feet above any pedestrian way; and,
- e. Any encroachment into the public right-of-way must also be approved by the City Council.

Comment [DEW30]: Consistent with Church Street Marketplace and proposed FBC. Currently limited to only 4 sf.

iii. Marquee Signs: One marquee sign per street frontage may be permitted provided such sign:

- a. is located above the principal Building entrance;
- b. projects a minimum of 6 feet from the building façade on which it is attached but in no event more than 10 feet and 3 feet from the curb;
- c. has its lowest edge at least 9'6" above any pedestrian way;
- d. has its highest edge no more the lesser of the floor level of the third story or 35 feet above any pedestrian way;
- e. is no more than 40 feet in width;
- f. may contain an area for manual changeable copy that does not exceed 30 percent of the area of the sign face on which it is located or 32 square feet, whichever is less; and,
- g. Any encroachment into the public right-of-way must also be approved by the City Council.

iv. Canopies and Awnings: Where provided, awnings and canopies placed on a building facade shall meet the following specifications:

- a. Awnings and canopies shall provide 8' minimum clear height above the finished grade, and shall project a minimum of 6' from the building façade to a maximum of 2' from the curb. 14' minimum clear height above the finished grade shall be provided above any area used for parking or circulation. Any encroachment into the public right-of-way must also be approved by the City Council.
- b. Awnings and canopies shall be placed, sized, shaped and proportioned to match the associated openings.
- c. Awnings and canopies that span across an entire building façade shall be fixed no higher than the top of the top of the first story.
- d. Except as provided below, awnings and canopies shall not be internally illuminated or backlit, however they may contain lighting fixtures intended to illuminate the ground beneath.
- e. Awnings shall have a metal structure covered with non-translucent canvas, synthetic canvas or painted metal, and shall have no soffit or sides. Retractable awnings are encouraged.

- f. Awnings shall be rectangular in elevation and triangular in cross-section with straight edges. The valance of the awning shall be no more than 12” in height.
- g. Canopies shall be constructed of wood and/or metal, and shall be cantilevered or supported from above. The face of the canopy shall be no more than 24” in height.
- h. Signage placed on an awning or canopy shall be limited to the windows and doors on the first (ground) floor, and shall not extend outside the overall length or width.
- i. Signage placed on a canopy shall be limited to the face or may project above and may be backlit.
- j. Signage placed on an awning or canopy shall be limited to:
 - i. 75% of the valance or canopy face and/or 25% of the sloping plane max.
 - ii. The height of lettering shall be limited to: 5” min - 10” max on the valance; 18” max on the sloping plane; or 24” max on or above the canopy.

6. Green Buildings

New and substantial redevelopment in the DMUC Overlay shall be built to the standard of LEED Gold Certification, or nationally recognized equivalent as determined by the administrative officer.

- i. The submission of a completed LEED checklist by a LEED AP shall be required at the time of application along with documentation of registration with the U.S. Green Building Council (USGBC).
- ii. Prior to the issuance of a zoning permit, a security in a form acceptable to the city attorney shall be posted for an amount equal to five (5) times the applicable building permit fees for the project as an assurance that the project is completed as proposed. The bond or escrowed funds will be released when the project receives its LEED green building certification from the USGBC. If however the project fails to meet LEED Gold Certification, the full amount of the security shall be released to the City. Additionally, such failure shall be regarded as a zoning violation which may be enforced and remedied by the City to the same extent as any other zoning violation.
- iii. The submission of a revised LEED checklist by a LEED AP, and the results of 3rd party commissioning of the building envelope and mechanical systems shall be required prior to the release of any Final Certificate of Occupancy.

Comment [DEW31]: This is necessary for compliance with the Pre-DA in concept but not individual detail.

Comment [DEW32]: revised per PC discussion.

Taken from original 2008 CDO height bonus provisions that have since expired.

Sec. 5.2.6 Building Height Limits

(a) *unchanged*

(b) Exceptions to Height Limits

1. Additions and new construction on parcels created prior to January 1, 2008 that contain a non-conforming existing structure-Principal Building exceeding thirty-five (35) feet the maximum permitted Building in height as of January 1, 2008 may exceed the maximum permitted Building height of the zoning district thirty-five (35) feet subject to the design review provisions of Art. 3 and 6, but in no event shall exceed the height of the existing non-conforming Principal Buildingstructure.
2. In no case shall the height of any structure exceed the limit permitted by federal and state regulations regarding flight paths of airplanes.
3. Greenhouses, rooftop gardens, terraces, and similar features are exempt from specific height limitations but shall be subject to the design review provisions of Art. 3 and 6.
3. Ornamental and symbolic architectural features of buildings and structures, including towers, spires, cupolas, belfries and domes; greenhouses, garden sheds, gazebos, rooftop gardens, terraces, and similar features; and fully enclosed stair towers, elevator towers and mechanical rooms, where such features are not used for human occupancy or commercial identification, are also exempt from specific height limitations and but shall be subject to the design review provisions of Art. 3 and 6. Such features and structures shall be designed and clad in a manner consistent and complimentary with the overall architecture of the Building.
4. Exposed mechanical equipment shall be allowed to encroach beyond the maximum building height by no more than 15-feet provided that portion exceeding the height limit does not exceed 20% of the roof area.
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 parapets, screens, latticework, louvered panels, and/or other similar methods.
Where mechanical equipment is incorporated into and hidden within the roof structure, or a mechanical penthouse setback a minimum of 10-ft from the roof edge, no such area limit shall apply and the structure shall be considered pursuant with 4 above.
5. The footprint of such architectural features shall not exceed ten percent (10%) of the total roof area.
5. All forms of communications equipment including satellite dish antennae shall not be exempt from height limitations except as provided in Sec 5.4.7 of this Article.

6. The administrative officer may allow for up to a 10% variation in the maximum building height to account for grade changes across the site. In no event however, shall such additional height enable the creation of an additional story beyond the maximum permitted.

Comment [DEW33]: Not specific to the DMUC however, important changes to screening requirements for rooftop equipment and flexibility in amount and numerical building height limits.

Much of this come directly out of the proposed form based code in order to provide stronger guidance around screening of mechanicals and flexibility regarding ornamental and architectural features.

Comment [DEW34]: This come directly out of the proposed form based code in order to provide some guided flexibility/relief from the prescriptive standards where necessary.

PC recommends removal.

Make this a maximum amount instead – no more that 5-ft?

July 6th, 2016

Fellow Planning Commissioners,

We are concerned that the Public Hearing on the Downtown Mixed Use Overlay is premature and does not meet legal requirements under Vermont Law. Furthermore, many of the documents in the meeting packet contain errors and/or omissions in regard to the Planning Commission's positions.

Vermont Law States:

"When considering an amendment to a bylaw, the Planning Commission shall prepare and approve a written report on the proposal...The report shall provide a brief explanation of the proposed bylaw, amendment, or repeal and shall include a statement of purpose as required for notice under section 4444 of this title, and shall include findings regarding how the proposal:

- (1) Conforms with or furthers the goals and policies contained in the municipal plan, including the effect of the proposal on the availability of safe and affordable housing.*
- (2) Is compatible with the proposed future land uses and densities of the municipal plan.*
- (3) Carries out, as applicable, any specific proposals for any planned community facilities.*

This mandatory Planning Commission report must be completed 15 days prior to a public hearing in order to meet certified notice requirements. The Planning Commission has not prepared and approved a written report as required by law. Nor have we had a comprehensive discussion on the proposed amendments' conformance with municipal policies, including the availability of affordable housing. Furthermore, we have not reached consensus on these issues. Indeed, some Commissioners have raised concerns that certain regulations do not conform to the goals and policies of our municipal plan. For instance, at our last meeting commissioners expressed universal opposition to the proposed regulation that would permit a college campus to occupy the Burlington Town Center site, emphasizing it would be contrary to Plan BTV which calls for mixed uses and a variety of housing types. Clearly, the Planning Commission need to carefully assess the proposed overlay district and its many regulations for conformance with the goals of Plan BTV, which is the Municipal Development Plan.

For instance, in order to comply with the law we are asked to consider the *effect of the proposal on the availability of safe and affordable housing*. We have not considered the number of affordable units the proposal without height bonuses would create compared to the existing bonus structure. Nor have we factored the impact of allowing student housing, which may be exempt from the low income housing requirement, into that equation. Without more specifics and study we cannot assume that this proposed amendment furthers our goals and policies regarding affordable housing

The Burlington Planning Commission Report Municipal Bylaw Amendment found on page 43 of the July 6th Planning Commission packet, was written by Planning and Zoning staff and not the Commission. The Commission members are seeing it for the first time in the packet and have never discussed its contents nor voted on it. It does not accurately represent the views of the Commission. Nor, does it satisfy our legal requirement to deliberate and write our own report.

The Summary of Planning Commission Comments & Actions in our packet for July 6th public hearing needs corrections and additions to truly reflect the positions taken by members of the Planning Commission at recent meetings as follows:

Key Elements #3 as written: "The Commission understands the limitations associated with bonuses and the rationale for moving away from them in this overlay, and generally agrees that provisions/restrictions should be explicit"

Note: *The Commission has not voted on this and this is not the unanimous opinion of the Commission.*

Key Element #4 as written: "Retain current maximum height of 105ft to conform with illustrations in planBTV Downtown & Waterfront."

Correction: The current maximum height is 65' and only with bonuses can a building be 105'. We suggest changing the language to reflect one member's stated preference to "Retain maximum height of 65 feet by right with options for additional height with bonuses."

Note: *Members of the Commission are not able to make an informed decision on the appropriate height and massing for this site because of a lack of appropriate visual tools such as a physical model and sufficient time to review and debate the change. The Planning Commission needs more time in order to make the legally required assessment for conformity to the municipal plan regarding height and massing.*

Key Element 11 as written: "The Commission supports the language regarding the urban design treatment of parking floors. The Commission feels that if parking is permitted in these areas, high standards are needed regarding the screening of cars and lights."

Note: *Some members of the Commission want stronger language regarding compliance with Plan BTV's emphasis on underground or completely wrapped parking, so that exterior design treatment and screening of cars and lights would not be needed at all.*

Conclusion in Key Element 12 as written: "Therefore, the Commission recommends no parking structures at the perimeter of a building on the ground and second floors fronting streets, and reiterates the importance of the design and screening requirements to ensure that any parking located in above-ground structures is indistinguishable from other floors of a building from the street view."

Note: *The Commission has not voted on this element. There were suggestions by members of the Commission to have the parking completely wrapped by a liner building or off site in order to be in conformance with Plan BTV that should be added to the letter.*

Key Element 16 as written: "The Commission is uncomfortable with the remote possibility that this district could become a post-secondary school/campus. The Commission recommends that the CDO's use table not be modified as proposed."

Correction: The Commission is uncomfortable with post-secondary school/ campus being an allowed use on the use table because it is not consistent with Plan BTV. The Commission recommends that the CDO's use table not be modified as proposed, allowing post-secondary schools/colleges as conditional uses only.

Note: *The term "remote possibility" is an editorial comment that does not reflect the opinion of the Commission.*

Many of the above errors and omissions are also present in the letter to City Council written by Planning and Zoning staff that suggests that the Planning Commission "strongly supports" the adoption of the Downtown Mixed Use Core Overlay District amendment". In fact, The Planning Commission has not voted on this matter. This letter goes on to states that, "The Planning Commission finds the proposed amendment to conform with the goals and policies contained within the City's Municipal Development Plan regarding the availability of safe and affordable housing, future land uses and densities, and proposed community facilities." In fact, the Planning Commission has not come to this conclusion and we have not chosen to delegate this decision-making to others.

In summary, due to our above mentioned concerns about the Public Hearing, We respectfully ask that the Public Hearing be postponed until we as a Planning Commission are able to perform the due diligence required to meet our legal obligations.

Thank you.

Emily Lee
Lee Buffinton

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Burlington Planning Commission DRAFT Minutes

Tuesday, April 26, 2016 - 6:30-8:00 P.M.

Conference Room #12, Ground Floor, City Hall, 149 Church Street

Present: B Baker, Y Bradley, E Lee, A Montroll, H Roen, J Wallace-Brodeur

Absent: L Buffinton

Staff: D White, M Tuttle, E Tillotson, S Gustin, K Sturtevant, W Ward

I. Public Forum

Y Bradley opened the public hearing at 6:35 p.m.

Barbara Headrick, resident of South Prospect St: Speaks about bakeries along major roads per a request for amendment to the CDO. Asked for the amendment to be withdrawn or modified so that residential areas, particularly on S. Prospect where retail is not desired, are not impacted. Advised the Commission to be thoughtful of residential areas surrounding the university where institutional zoning does not exist on both sides of the street. UVM should not lease out land if it is not serving the University's educational purposes. The CDO says that historical use of properties should be considered.

M Tuttle: Noted that not all communications at table were transmitted via email prior to the meeting.

II. Report of the Chair

Y Bradley: Thanked the Long Range Committee for time and effort it has given working on planBTV South End. Has a prepared statement from Sharon Bushor, City Councilor, which he read in the event she is not able to make the meeting.

III. Report of the Director

D White: April 25, 2016 Council meeting was for public comment on the Burlington Town Center Predevelopment Agreement, which City Council may act on at May 2 meeting. The Planning Commission will dive into proposed zoning amendment when the agreement has been approved. Another major zoning amendment will be for the St Josephs' Orphanage property on North Avenue; intent is to create a NAC zone. Permits are on track with this time last year. FBC Committee discussing public engagement for June to collect feedback on the draft code.

IV. Agenda

D White: F von Turkovich, who submitted the proposed amendment to permit bakeries in the Institutional Zone, has requested to withdraw the request.

Y Bradley: Take it off this agenda and Commission to-do list. Opened Fletcher Place rezoning discussion until the 7pm public hearing.

V. ZA-16-10: Waivers from Parking Requirements/Parking Management Plan Public Hearing

Y Bradley: Opened the public hearing at 7:00, and recused himself as the agent for the YMCA. B Baker chaired.

E Lee: Recused herself as a neighbor of the YMCA.

S Gustin: Two parking amendments on this agenda—only amendment regarding waivers is considered in public hearing. Initiated by the YMCA, amendment was originally a request to establish a new land use category, with its own parking requirements and provisions for waivers. Instead, this amendment applies City-wide and opens the door somewhat for non-residential uses to apply to the DRB for parking waivers.

Barbara Headrick: Six months ago Mayor proposed eliminating requirements for downtown parking. This proposal conflicts with City Council's decision to forego parking amendments until studies were done.

E Lee: As a citizen, very supportive of YMCA project and support the waiver proposal. Concerned that this proposal might go to the City Council and not be accepted, which could delay the YMCA.

S Gustin: Current proposal was made in a meeting a month ago and if it passes during this public meeting, it will advance to the City Council. If the Council is not receptive, the YMCA's original proposal is still an option to consider.

B Headrick: This erodes the public trust, by proposing something that has already been rejected.

H Roen: Under proposed amendment, wouldn't the request for a waiver go through the DRB process?

S Gustin: Yes. It makes sense to utilize this method, and tweak the waivers based on rationale, since the DRB process and standards are already in place.

A Montroll: Supports this based on using existing process for waivers and parking management plans, but has same concerns as E Lee.

S Gustin: Plan C is to bring back the proposal from the YMCA for the Commission to consider again.

B Headrick: This is too broad. Developers should not be able to use on-street parking in neighborhoods to meet parking demand.

A Montroll: The blanket approach to removing all parking requirements was rejected. This is different because it maintains parking requirements, and focuses on individual property/use needs when granting waivers. It's consistent with concerns about parking requirements, but rather than one-size-fits-all, it's flexible.

M Tuttle: Clarified that amendment does not change waivers for residential uses. While applies city-wide, not all districts permit non-residential uses, so limited in its ability to be taken advantage of.

B Headrick: Larger entities will propose projects where overflow parking spills into residential areas.

D White: Institutions operate under campus-wide parking management plans.

B Headrick: UVM is proposing that parking is moved to periphery of campus, onto residential streets.

L Ravin, UVM Planning Office: University is trying to reduce demand, increase mass transport, etc. Parking on periphery means on edge of campus, on UVM property, not in neighborhoods.

E Lee: YMCA scenario seems similar to the King Street Center.

S Gustin: There is a different parking standard for the YMCA that is somewhere between community center and fitness center. King Street Center was able to retain a parking non-conformity but also had to provide off-site parking, which is not being used.

D White: Parking management plans are not permitted to count on-street parking spaces to satisfy their parking need.

J van Driesche, Catherine Street resident and Deputy Director of Local Motion: Local Motion urges the Commission to support this change. Streets as overflow parking is a good use, compared to using large pieces of land for parking, which could be parks, schools or some other use. Parking does not build vibrant, people-

oriented projects. Proposal gives flexibility and removes handcuffs. Going forward, emphasis needs to be on walking and biking which in-turn will facilitate more flexible parking.

S Bushor, City Councilor, Ward 1: Concerned about whether or not new developments are accurately projecting parking demand for growth/expansion of uses. Actually support a waiver of up to 100%, but concerned about administrative officer approval and whether input from the public will be excluded.

Michael Long, resident of Ward 1: Philosophically support proposal, but instances today where the demand outstrips supply. Need to change behaviors; a waiver program will not accomplish this goal. Neighborhoods are being choked by automobiles.

D White: Describes existing provision for administrative officer approval of a waiver. The Commission will soon see another amendment to change parking requirements to be based on number of bedrooms, rather than number of units.

E Lee: There is no follow-up on parking management plans. Needs to be dealt with more holistically, but do support removing parking requirements.

S Gustin: Recently surveyed properties with approved parking management plans, found that most were adhering. Waivers are sparsely given, now have a requirement for an annual report from owner, and department is making concerned efforts to collect data. Only change proposed is for non-residential uses to be eligible for a 90% waiver, raised from 50%. Text about residential waivers is not new.

B Baker: Parking management plans could be more specific, especially in relation to timing of demand.

S Gustin: A three year review to assess need is under way as a method to evaluate how uses evolve.

D White: A time line with evaluation is a good idea; however, if a use expands, a new permit would be needed based on the evaluation of parking needs.

J Wallace-Brodeur: Many places in the city that don't have parking. Need to have some flexibility in the process for trying to address circumstances where things don't fit in a box, which is why it is important to have the waiver process. Because it has to go to the DRB, there is a public process and established requirements. This should move forward.

A motion by A Montroll, seconded by J Wallace-Brodeur, to forward this amendment to City Council for consideration was approved by B Baker, A Montroll, H Roen, and J Wallace Brodeur with Y Bradley and E Lee abstaining.

VI. Proposed CDO Amendment: 15 Year Statute of Limitations

This item was deferred to a future meeting.

VII. Proposed CDO Amendment: Off Site Parking

This item was deferred to a future meeting.

VIII. Proposed CDO Amendment: Fletcher Place Rezoning

S Gustin: Map in packet reflects Planning Commission desire from last meeting for properties on Fletcher Place to be rezoned RM, except the UVM Trinity Campus property mid-block. Agenda included excerpt of use and dimensional tables for comparison between Institutional and RM.

Y Bradley: Read a communication from Sharon Bushor, regarding owner-occupancy in boarding houses, addressing uses on dead end streets, and buffer zones or a residential transition district.

F von Turkovich: Distributed a memo and map regarding the proposed map change. Reiterated a conversation with staff concerning property owned by Ms. Reid at 49 Fletcher Place, who intends to sell him nearly one acre of her property. Questioned why the Commission is considering this amendment, and expressed support for an amendment to protect the livability of area, not one that is part of a plan to suppress

his project. This change will impact ability to use his property, and will have implications for Ms. Reid's investment as well. Considers this to be spot zoning and feels it is important that the Commission not put land in a zone which will destroy the viability of a current project.

E Lee: The dimensional requirements are essentially the same, rezoning would be a loss of 30 units.

F von Turkovich: Memo suggests three uses that are permitted in the Institutional Zone that are not permitted in RM that he suggests the Commission add if they approve the rezoning.

B Hickok, 26 Fletcher Place: Political risk is part of an investment and rezoning is a political risk. Contends the owners' financial risks are not a consideration of this meeting.

L Ravin: Reiterated UVM's opposition to rezoning of the land at 50 Fletcher Place. Parcel is contiguous with other UVM land, and prefers that zoning is consistent for all university property.

N Reid, 49 Fletcher Place: Purchased 1.5 acres of land with full awareness that she may be able to sell some for development. The land is valuable, and while RM would help maintain neighborhood, would like to see the present Institutional zoning retained.

R Butani, 31 Fletcher Place: Support the rezoning as recommended by staff and the Commission.

S Bushor: Acknowledged work that Scott and staff have done on the proposal. Supports the map presented in the packet, and feels the change from institutional to RM offers many appropriate protections. Fletcher Place was developed as RL. There are other small streets in area that are zoned RL, so the change is in keeping with the existing uses and still retains a fair amount of value to the property owners.

B Hickok: It is not a concern of this board to consider anyone's financial investment. 50 Fletcher Place has been residential ever since he has lived there. Rents are extremely high due to being rented by bedroom. UVM has added 3,000 students without planning for residences. UVM has not addressed housing and off-campus behavior but he has to live with it. Opposed to any special consideration for UVM.

C Long: Why are residential lots zoned institutional? Support this rezoning.

E Lee: Why can unbuildable land be used for density calculations? Should only consider buildable land.

D White: Require buildable land to be considered in calculating density of residential areas, but not in mixed use and institutional districts; in these areas there is an expectation that there will be denser development so the land can be used for the calculation of density.

Y Bradley: This is a separate subject for another time.

S Gustin: Seems to be agreement among parties about applying RM on Fletcher Place, but not on the location of the zoning district boundary.

F von Turkovich: Proposed map submitted would protect the frontage of Fletcher Place, but is otherwise arbitrary.

R Butani: It appears that F von Turkovich's proposal is spot zoning.

S Butani: It is not appropriate for institutions to be able to take advantage of a residential area.

F von Turkovich: In the Institutional zoning district, most properties are not owned by institutions. Appear to be hung up on the term "institutional."

S Bushor: Not supportive of Mr. von Turkovich's proposed map.

Y Bradley: Considering all the comments, it appears that the Commission is not ready to act on this issue. In the interest of time, it should come back to the full Commission at the next meeting.

A motion by A Montroll, seconded by B Baker, to continue this item at the next meeting was unanimously approved.

A motion by B Baker, seconded by H Roen, to move the remaining agenda items to the next meeting was unanimously approved.

IX. Proposed CDO Amendment: Bakeries in the Institutional Zone

Removed from agenda.

X. Committee Reports

Long Range Planning Committee: Goal for planBTV South End Plan is to wrap up and get it out for another public review by the end of the Fiscal Year.

Ordinance Committee: B Baker reports the committee will meet the following day.

Executive Committee: D White reports the committee will meet the following day.

FBC Committee: A Montroll reports the Commission is scheduling a joint City Council and Planning Commission meeting, and on NPA schedules. Opening their work up to the larger public process.

XI. Commissioner Items

H Roen: Would be helpful to have presentation on spot zoning.

D White: Will send materials previously shared by K Sturtevant.

B Baker: Bring a copy of the full zoning ordinance to future meetings for reference.

E Lee: April 27, 2016 will be the first meeting regarding The Neighborhood Project, which is one of 22 proposals from the Housing Action Plan, focused on neighborhood stabilization.

Y Bradley: Preservation Burlington has suggested to him that a model of the proposed Burlington Town Center might be valuable. Should discuss at the next meeting.

XII. Minutes/Communications

On a motion by A Montroll, seconded by B Baker, the Commission unanimously approved the minutes of April 12, 2016 and accepted the communications and placed them on file.

XIII. Adjourn

On a motion by A Montroll, seconded by B Baker, the Commission unanimously voted to adjourn at 8:22 pm.



Y Bradley, Chair

Signed: _____, 2016



E Tillotson, Recording Secretary

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vacant, Youth Member



Burlington Planning Commission Tuesday, May 10, 2016 - 6:30 P.M. Conference Room #12, City Hall, 149 Church Street

MINUTES

Present: B. Baker, H. Roen, L. Buffinton, A. Montroll, E. Lee, J. Wallace-Brodeur

Absent: Y. Bradley

Staff: D. White, M. Tuttle, K. Sturtevant, S. Gustin, E. Tillotson

Agenda

B. Baker opened the meeting at 6:32pm.

L. Buffinton: What would the audience like to address?

B. Baker: All comments will take place during public forum, and will be limited to two minutes per speaker.

A. Montroll: Move item VII to end of agenda time permitting.

I. Public Forum

B. Baker opened the public forum at 6:35pm.

G. Epler-Wood, S. Union St: City Council and Commission should request the developer provide fact-based cost analysis of putting the parking garage underground. Perhaps the citizens would be willing to invest in the difference. Sun studies throughout the year are needed.

C. Long, Henry St: Fletcher Place is as residential as they come. Do not increase downtown height limit, based on planBTV, and don't support student housing in the project because it is the school's responsibility. Vote no to stabilization plan for neighborhoods; does not endorse forgiveness for work done without permits. Doesn't understand why the city doesn't want to preserve neighborhoods.

S. Bushor, Ward 1 City Councilor: Does the 15 year statute of limitations allow emails to Planning & Zoning to constitute burden of proof, or when Code Enforcement is informed of violations that might not be acted upon? Pleased to see enforcement regarding occupancy violations and parking violations. Regarding the time requirement of more than 90 days when properties would then have to be brought into compliance, not clear. Commission should support the original staff recommendation to rezone Fletcher Place RM following property boundaries. We lose a neighborhood a house at a time, but also gain a neighborhood a house at a time.

G. Seidler, Lakeview Terr: Moved from NYC for quality of life which has been taken away each year. Neighbors are leaving, behemoth at one end of street was supposed to afford condos, now very large building at other end with COTS, noise too high, nature gone, house vandalized four times. Citizens have no clout; Commission is supposed to serve the community. Out of control growth is a cancer killing Burlington. She left a lot behind to have quality of life here, now will have to leave BTV, too.

As approved by the Planning Commission on .

C Bates, Caroline St: No one has made a model, so prepared photographic exhibit of Bank and Pine Streets. There is nothing on Don Sinex's website but Church Street. Used Trip Advisor site to gather comments about Burlington which support the need for small unique stores. The project needs to mimic Church Street.

N Kirby, Champlain Leather: Family was one that was displaced from downtown before the mall was built. Residents in the neighborhood were poor, proud, displaced. Building up equals warehousing human beings, and height will take sunlight away. City can do better than a fourteen story mall, not crazy about students being downtown because greedy slumlords have contributed to the housing situation. Lived on Fletcher Place and never considered that it was institutional. Think long and hard about what you are doing to downtown Burlington. Small businesses are the clay and mortar of this town. Be the citizens for us.

G Grill: Beseeches the Commission to be concerned about process and outcome, should proceed according to planBTV. A lot of people say this is spot zoning and will set a dangerous precedent. Unique and historic buildings will come down if this is approved. Hope you will demand to see an architectural model. Process is backwards. Demand that Commission address this proposal in a democratic planning process.

R Herendeen; Bike ride to meeting was an inspirational experience with views of Lake Champlain. Environmental background and member of the BED Commission. Do not believe we should raise the height limit one inch. Burlington is in competition with Boulder Colorado to be most sustainable City, but seem to want to compromise away our natural assets. Boulder has had a height limit of 55 feet; purpose is to preserve the scenic views and distinctive character. We can grow green, please hold on height.

B Headrick, S Prospect St: Mall is too tall, planBTV new mall only four or five stories higher which would be within 105 feet. That is what the public wanted and City Council approved. The City Council has put the Planning Commission in a difficult position, so consider requiring developer to provide everything that the city provides and that all studies should conclude with a 30 day public comment period. In off-site parking ordinance, parking waivers granted by administrative officer, advise it be stricken. It is important to include consequences for permitting.

Resident, S Prospect St: Reiterate others previous comments and encourage implementation of planBTV support. Drastic changes should be done by referendum.

S Overby: Process has been a problem, second the suggestion of underground parking reassessment and what others have said about planBTV. 160 foot height limit is not in planBTV, which states three to ten stories. In Washington, DC., this height is only allowed along Pennsylvania Ave. Uncomfortable with the process, difficult decision, want to see something good.

L Ravin, Campus Planning, UVM: UVM opposes rezoning 50 Fletcher Place. University has no intent to change the use of the property, but want to unite campus property. Zoning that splits the parcel into two zones doesn't allow planning as needed, UVM considers spot zoning.

A Radcliffe: Seems to be a trend where the city is eager to please developers; need to shift so it is other way around. plan BTV should be incorporated, the city should be strong about their regulations. Mall does not provide much affordable housing, shouldn't be supporting student housing. Washington DC built housing with a gym and beautiful amenities to house their homeless—not cost effective, but what we should focus on.

E Morrow: The City Council could have asked for model earlier. FBC Committee had opportunity to comment on height but did not. Boards are for decentralizing, people want to see process. The Commission has authority to control process.

C Simpson: There should be an explanation of public/ private partnership. In the PDA, public cannot hold developer to any standards, which is a reversal of normal planning process. Two streets will ameliorate the developer's project, but it is being sold as a concession to city. As if we have no power over public property.

L Martin: Providence, RI did what Burlington wants to do which resulted in a downtown not accessible, traffic awful. We are told that we can't let this pass us by, but big money drives out local businesses. We need more foot traffic or a city we know and care for will disappear forever. Please don't let this happen.

R Butani, 31 Fletcher Place: Supports rezoning to RM zone, following the property boundaries as presented by staff. 19 and 37 Fletcher Place have been transformed from party houses to appropriate rentals. RM will reflect historic use as residential street. Encourage the Commission to support P & Z recommendation.

B McGrew, Downtown: Particularly exercised that this project does not have to go through Act 250. The Mayor's office can bring undue pressure on city staff to see things a certain way. 274 units is a constructive way to avoid the law. There are umpteen plots that start with an attractive stranger with a lot of money.

Resident: Thank you for the fifteen year statute. Suggest more 90 days for a former use to be eliminated to honor people who have applied for a variance or change of use. Regarding burden of proof, need more examples of what proof is.

Resident: Initially the city wanted to hear what the citizens wanted. Where is the public voice in this now?

D Greenberg, local attorney: In support of 15 year statute of limitations. During the last few years he has learned more than ever about the process in Burlington, which is not always clear. Open permits go on forever, court says it is unfair to grant use of something when you insert it secretly, properties are inspected by one city department but assessed by another. City staff is helpful, but it took a month and a half to solve. Need to get this problem behind us.

C Messing, Pine & College: Doesn't understand opening up Pine Street when there is a building in the way; difficulties with St Paul St as well. The building is too large, doesn't belong here. This gift horse has bad teeth. Building it is a great source of money, but the saying that if you build it they will come, is not necessarily true. Jane Jacobs said, "We expect too much of new buildings and too little of ourselves."

M Fordham: Late to the process and very concerned like many others who are uninformed in our town. Concerned about height and domino effect of other developers suing to allow the same height. Advertisements for Burlington will not be enhanced with the height of building. Burlington is people sized and that is its attraction. This is not a responsible way for governance to proceed. What does that say about democracy, that back room deals can guide future developments? Fourteen stories is wrong.

B Hickok, 26 Fletcher Place: Recommends that rezoning be change to RM zone according to staff's original proposal.

II. Report of the Chair

Chair absent, no report.

III. Report of the Director

Given interest of time, no report.

IV. 15 Year Statute of Limitations

H Roen: Addressing public questions, what constitutes proof?

D White: Information within the Assessor, Planning & Zoning or minimum housing records. If there happens to be a file on hand in excess of the normal records, it would be considered pertinent.

B Baker: The purpose of this amendment was to set a bright line.

L Buffinton: What about other methods, like See Click Fix, or only one of the records David listed? What if there had been regular communication about a situation?

D White: The process has to be treated on a case-by-case basis. Assessor and Minimum Housing records are the best records.

J Wallace-Brodeur: An email with a complaint is not solid evidence, complaints aren't adequate unless verified.

E Lee: Language is an issue, we need a definition for "known," we need to define which city records apply.

A Montroll: The process should not be complaint driven, but acknowledgement by a City Department is acceptable. Can K Sturtevant propose language at this point?

B Baker: We were going to attempt to address the parking section, specifically parking in yards.

D White: Parking spaces are associated with the property use.

E Lee: Parking is a lightning rod issue.

B Baker: What about cases where an illegal unit never had parking? Way this is written, that will never be grandfathered.

A Montroll: Parking is a hot button issue. Start with less and add later.

K Sturtevant: Additional language regarding burden of proof, "submissions not verified by the City shall not be considered known to the City. Will continue to flesh it out.

The Commission approved a motion by L Buffinton, seconded by J Wallace-Brodeur, to warn the proposed 15 year statute of limitations amendment, to include K Sturtevant's changes regarding complains not constituting "known" unless verified by City, with E Lee opposed.

A Montroll: The public hearing is a month away. We should bring back the language before the hearing in case it should be changed.

M Tuttle: It can be submitted to the PC as a communication.

V. Fletcher Place Rezoning

D White: This is an attempt to protect the original development pattern.

J Wallace-Brodeur: Is there a development proposal associated with this?

S Gustin: Overview of the properties involved in sketch plan and comments on buildable area.

H Roen: Uncomfortable not following the property lines.

S Gustin: Need to remind everyone that zoning amendments are not a fast process.

J Wallace-Brodeur: The Commission should weigh the UVM parcel.

D White: Owners of the two northernmost properties under discussion do not support any zoning change.

E Lee: UVM's ownership is not appropriate in a residential area.

A Montroll: Change needs to happen, this was historically residential.

E Lee: Zoning should reflect what is on the ground. Let's let the neighborhood win.

B Baker: The von Turkovich proposal does present a reasonable compromise and lets the street flourish.

E Lee: It comes down to the slope, and density of development. The slope rule should apply across all zones.

The Commission unanimously approved a motion by A Montroll, seconded by L Buffinton, to warn a public hearing on the rezoning of Fletcher Place to RM following the parcel boundaries.

VI. Off Site Parking

No action taken.

VII. Downtown Mixed Use Core Overlay

L Buffinton: Planning Commission is purely advisory to the City Council and not the ultimate decision makers.

H Roen: The Commission does have statutory authority.

D White: Summary included in the packet describing mass and height of project established by the predevelopment agreement. This is looking at the amendment based on land use policy for the city, implementing the master plan. The proper location for larger infill development is downtown. The amendment establishes an overlay area which includes greater height and massing. It will amend the official map to establish the street connections, which is central to planBTV. Draft form based code massing is articulated in the overlay. Please share specific areas of concern so we can provide information needed for next meeting.

J Wallace-Brodeur: Need to be able to review public input and an overview of the process for the next meeting.

L Buffinton: The city website cut off top floor in the illustration of the proposed mall. An architectural model, shadow study, parking garage information are all concerns, but the largest concern is what the reopened streets are going to look like. Right now the proposed building seems incoherent and top heavy, height is a huge issue.

D White: The project is not yet fully baked. It is important not to put a lot of stock in present illustrations/information.

A Montroll: It would be helpful show what is permitted now vs the proposed 160 feet and what the differential would be.

E Lee: This is the moment when we need a model, don't want to weigh in on height and massing without it. It is important to show what is permitted now and proposed.

D White: For the purpose of zoning, we need to focus on buildable envelope.

E Lee: It is important to see that.

L Buffinton: A simple model, current and proposed build out at this proposed height are needed.

Brian Dunkiel: We need to see the official map also.

A Montroll: It feels as if we are being asked to increase height in this area in exchange for having the streets back.

E Lee: This is really important, it could be so great for Burlington, but needs to be done right.

L Buffinton: Does the Commission have any role in the consideration of housing college students? Any proposed changes in use?

B Dunkiel: Mall team will request to add secondary school use.

E Morrow: A model is crucial and having the Commission to take action tonight to move it forward will give people a lot of comfort.

D White: It is the agreement with Devonwood that they will provide money for production of modeling—it will get built. First, need to discuss its purpose.

VIII. Committee Reports

No reports.

IX. Commissioner Items

None.

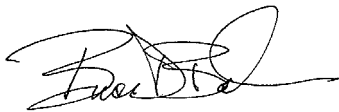
X. Minutes/Communications

H Roen: Do we need to respond to the Sun Common communication?

D White: Only if you would like to provide comments.

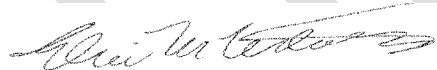
XI. Adjourn

On a motion by A Montroll, seconded by H Roen, the Commission unanimously adjourned at 9:07 pm.



B Baker, Vice Chair

Signed:



E. Tillotson, Recording Secretary

Burlington Planning Commission

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Burlington Planning Commission Minutes

Regular Meeting

Tuesday, May 24, 2016 - 6:30 P.M.

Public Works Conference Room, 645 Pine Street

Present: B Baker, L Buffinton, E Lee, A Montroll, H Roen, J Wallace-Brodeur

Absent: Y Bradley

Staff: D White, M Tuttle, E Tillotson

I. Agenda

No changes to the Agenda.

II. Report of the Chair

B Baker chaired meeting; no report.

III. Report of the Director

D White: Mayor is an ex officio member of the Commission and will be joining the meeting. At opening of Public Forum, will frame the Planning Commission role and focus.

IV. Proposed CDO Amendment: NAC-Riverside Boundary

M Tuttle: This proposed amendment in response to a request received which would affect the north side of Riverside Avenue; maps illustrating this are in the agenda. Initial staff recommendation to move boundary was an attempt to balance request with preservation of river bank. Commission requested a solution more sensitive to the steep slopes. Revised staff recommendation maintains concept of moving NAC-R 25 feet to the north, and incorporate buildable area definition on north side of Riverside Avenue. This means slope of 30% or more cannot be developed or counted in the lot coverage/density, and 15-30% slope can be considered for 50% of lot coverage/density by DRB Conditional Use approval.

L Smith: Suggested the buildable area consideration. The property is now a non-conforming piece of land. Boundary should follow the topography, make sewage treatment plant conforming, incorporate the plateau. Surprised that there was no site visit.

M Tuttle: The chair appreciated the request for the visit, but asked staff to provide a further recommendation.

M Furnari: Understand the reluctance to compromise the properties, but ask that the Commission consider one more time and include a site visit.

J Wallace-Brodeur: Can we get some concrete numbers on what the slopes are?

M Tuttle: In the area of the properties requesting the change, range from 12% to in excess of 30% along property lines. Can make information available.

L Smith: There is a lovely flat plateau way above flood plain.

H Roen: Should do a site visit.

M Tuttle: Will coordinate outside of this meeting.

L Smith: Suggest putting it off a little when there is not so much going on.

The Commission unanimously approved a motion by A Montroll, seconded by J Wallace-Brodeur, to table discussion of the proposed amendment until the fall.

V. Public Forum

D White: planBTV established the policy framework, regulatory, capital and other improvements for downtown. The mall has long been identified as underutilized. Question has been how to encourage and facilitate redevelopment. This area of downtown does not have an existing historic context, so there are many possibilities for this area. With a change of ownership of the mall, started a public engagement process almost two years ago. Have had a lot of public input during that time and City Council has anticipated a zoning change to incorporate proposals. Question now is how new development will interface with people on the street. Zoning limits height to 105 feet today. Proposed amendment expands that to 160 feet, and includes adjacent parcels as well. FBC Committee recommends this area as one for greater height.

H Roen: Read all of the emails that have been sent.

B Baker: Opened the public forum at 6:57 pm.

J Fayette: Support the project; ideally timed, thoughtful, environmentally sound, appropriate.

T Redington: No quarrel with a project at the zoning height maximum of 105 feet. planBTV establishes a basis for what the community wants to see, nothing over eight stories. Developer wants other rules, is exploiting the situation, especially with no environmental review.

A Taylor: Among colleagues and contemporaries, sit in the middle. This developer has made a lot of adjustments that were asked for; it is a green building, urban infill. Business is business. Using TIF will not burden taxpayers. Back to earth ethic needs to support this.

C Bates: Support some redevelopment. Propose that the Burlington Business Association buy the mall from Sinex and do development our way; have a team that could have local focus, lots of housing.

A Radcliffe: Building height is not human scale. planBTV does not support this proposal. FBC is not currently approved, should not be used as a justification. The plan does not measure up, will not impact housing affordability, zoning should not be changed in a random manner. Think about precedent this will set.

J Canning: Supports the town center redevelopment; however, the overlay should not apply to the City's parking garage behind Hotel Vermont.

M Fordham: Trying to spread the word about this project, not against smart development; however, first rule in business is when something works, you don't ruin it. This should not go forward.

G Grill: While the height is atrocious, the process is of utmost important and the request is an assault on the city. Planners and City Council are under pressure from the Mayor. The people have had enough, and if this is approved, Mayor will not be reelected.

R Herendeen: Process is happening too abruptly. Burlingtonians are actively engaged, it feels great nature is close. Mass, scale and height should honor the City, make the street level the focus. Need to respect the previous planning efforts, do not raise building heights at all.

C Messing: Project subverts zoning. Virtual tour shows Cherry Street empty of traffic, not realistic. If there was a scale model, the project would sink like a stone. Spoke to a construction worker, out of work, who said the local community will not gain employment in this venture.

J Brophy: Supports a livable city, should support infill, Williston's big box stores are not what we want.

K Andrews: Inclusionary housing ordinance in Burlington is excellent. This project is an unconscionable, luxury housing development. Separate affordable units is not what was meant to be. Most problems in our nation can be brought back to segregation.

A Petrarca: Vermont values are expressed here. In Pittsburgh, the citizenry organized and defeated a proposed downtown mall. The proposed height does not make any sense

C Dinklage: This has been a long process, dynamic process. We should consider why many young people are not choosing to move to Burlington right now. Smart growth is needed.

M Wallace: Have seen new Armenian development destroy character and not appeal to residents. Similarly, Burling will lose its character. There are no trade-offs worth the cost, do not see this as being good for Burlington.

M Holmes: Have traveled the world, and there is not anything better than Burlington. In own neighborhood, have seen redevelopment that blocks view of the sky. Didn't speak out then, so doing so now. Have to be careful with this project.

J Nick: All of the Church Street Marketplace merchants support the vibrancy of this project, believe it will improve the situation on Church Street. The turn of the century building at 1 Church Street is 125 feet high; with change in elevation to the mall property, 160 feet will not be much taller than existing historic buildings.

J Vos: Climate change is the elephant in the room. Bill McKibben, Naomi Kline warn that the world will be a different place.

J van Driesche: Perspective on a livable community is one with lots of traffic on foot and on bike, a higher concentration of residents, lessening taxes, growing the grand list, fewer cars. We need more people living in close proximity to where they work. See a trend to kill projects that are not perfect. This project is not yet perfect, but there is time to get it right. Encourage retaining leverage for this project through the bonuses.

R Dean: Public should look at what is actually proposed. Higher building elements are set back toward the center of the block away from streets. Citizens live on the streets, bring economic vitality. Most important project component is how it engages the street. Posters in room are a misrepresentation. Hold back, get the facts, let project move forward so that the public can evaluate.

G Eppler-Wood: In favor of the mall, but is asking the Commission, Mayor, City Councilors, to do more research to reduce height. Not lip service, actual change of height. Underground parking should be explored.

S Burton: Opposes to fourteen stories. Not a slightly larger building, it is going against the City's own recommendations. Keep in mind the unique character and scale of city, show foresight and backbone.

L Tucker: Have been teetering on this subject but attended several meetings. Feel confident in the process and staff who care about the community. Downtown can be bigger and better. Density in our city is a good thing.

A Simon: We are experiencing a global crisis like we have never seen before. Expanding tax base is not the answer and fourteen stories reflects a lack of understanding of the problem. Which planet do you live on?

I Avilix: planBTV illustration shows scale and density which doesn't seem to agree with the proposed project. Let's stick with planBTV.

M Tracey: Will not vote for the ordinance as proposed. Student housing is a negative, the developer needs to do a lot more at a moral level. FBC transect is from less dense to more dense and more height. The

conversation tonight is a strong indication that there is need for more conversation. Need 3 D model. This feels like a choice-less choice.

S Overby: Supportive of redevelopment of mall, but really disturbed by process. Very sketchy plan with no model. Commission is in difficult position, doesn't have enough time. Participated in plan BTV which does support what is proposed.

C Simpson: Building our way out of financial problems is not likely, the purpose of the height bonus is for public good. The proposed amendment is throwing this out and overlay is wider than footprint of mall.

H Manske: Personally would like to see the mall redeveloped. It is a process and he appreciates everyone's comments. On the Ward 5 steering committee, we always hear about housing and parking, which are two things this project will address.

L Politi: Feels as if Burlington has already spoken on this subject. Has conferred with an architect friend who commented that this proposal is unrealistic, a misrepresentation.

D Purcell: Has heard a lot of good comments. Supports the project even if it is imperfect.

B Castle: Supports the project, feels the program is basically good for Burlington. Burlington is one of success stories, have to work with developer to do it right.

M Long: Nothing in our regulations is presently preventing the development of the mall. The process is backwards, the developer doesn't establish the schedule. Work within the existing zoning parameters.

N Kirby: Likes old buildings, likes Burlington. She is not against repair and renovation, but is against the height.

Resident: Honored to share comments. In acupuncture, taught that there is harmony and balance. This project can find balance if we give it more time and consideration. Continue dialogue, revitalization, growth, restoration. We all have a stake in this.

I Ahmed: Concerned about process and claiming once in a lifetime opportunity. Need to make sure it's the right opportunity, need a more intense design and environmental study.

J Caulo: Support the project. While the process seems somewhat irregular, it is important that the process is being conducted in an open manner and that it not become tainted. Boards will have city's best interest at heart. Urban design something that we will be proud of. Have to keep process moving try to find a solution.

T Brassard: Is in support of the project. Housing is the crux of the project. State and city are challenged, stagnant population, need to have opportunity for younger generation. Burlington is the economic hub of the state, consideration needs to be given to growing the population. Adding housing is the issue.

G Seidler: Cannot park on own street anymore. Mayor proposed condos on block which are now rentals. Has spoken to 311 people who do not know what is going on. Moved away from NYC, now will leave Burlington. Get the model, people have no idea.

J Kilacky: Conceptually is in favor of mall with inclusionary housing, walkable downtown, Pine Street open. Permanent jobs are needed to reinvigorate our city. The public is being asked to move the process forward in concept.

P Binelli: Horribly insufficient wastewater treatment system. No one sees problem with adding new housing units with sewage issues, failing wastewater system.

L McKenzie: It is imperative to vitalize our downtown. Affordable housing is an issue, tax burden is so substantial that many cannot afford to live in town. This is just the beginning of the process.

C Long: Burlington's population has grown. California has banned using TIF money because it was supposed to be for public good. The proposal seems impractical, what is the city going to get out of it? We need housing and to restore neighborhoods save the lake.

Resident: Supports the project. As a father of five kids, see real challenges ahead. Need to embrace development and smart growth.

H Easter: Sad about this inverted, weird process for the zoning ordinance. Developer should have to convince you why the zoning change is a good idea. Missing a view of what this looks like from Pine Street. Listen to this process.

Resident: This is a really important process. Take a step back and listen to public even ones who are just coming to the meetings.

Resident: No feasibility study, no model, real problem with process. Concerned about no parking. Conceptually, this doesn't work.

S Goodkind: Squandering a great opportunity, mall needs to be redeveloped. We shouldn't have to oppose this. Developer needs to conform to the zoning and work with us. Hold the line.

B Headrick: Against the height and dorms downtown. Read all the City Council minutes back to 2008. When increased height was proposed, five people were opposed for every person in favor. 160 feet is not consistent; let's not ruin our city.

C Rameka: All for intelligent development downtown, but don't do it like Hartford, CT. They have dead streets, a dead city.

Resident: Very concerned about consistency with planBTV, TIF. Would not have voted for it if it looks like this. People who work in mall do not live downtown. Other projects proposed affordable housing, but did not happen. UVM students are UVM responsibility. People come here because it's small and green.

Resident: Buildings look like 1960. Suggest we take current mall, give it a facelift, fill it with small Vermont businesses.

P Simon: Question is height and mass. Curious to see a model of a project with the same square foot and program within a 10 story height comparison to what is proposed, see if people like it better. Charge is to maintain character of Burlington.

Mayor Weinberger: Not typically at Planning Commission, but wanted to hear concerns directly. Lots of concerns, but sensing there is a need for more information. For example, the wastewater treatment capacity is quite adequate except during major storm events when the City has such a high volume of stormwater in the system. Improvements have been and continue to be made. Today FAQs posted on website. There was a zoning effort in 2000s to reform zoning with a resulting lack of consensus over some issues. What came out of that process was the City receiving a \$300,000 federal grant for planBTV, marshalled by Karen Paul. It is worth noting that Don Sinex was excited about planBTV. We're still listening to ideas. But what we do now will define how successful planBTV was. A lot at stake for the future of Burlington.

E Lee: Read letter submitted to Planning Commission by Councilor Shannon.

VI. Proposed CDO Amendment – Downtown Mixed Use Core Overlay

D White: Commission has a nearly complete proposed ordinance amendment, including a map for where additional height would be worthy of consideration. Commission's role is to judge the community's attitude about building height. Have set up a number of meetings in June to get something back to City Council by

early July. City Council has said they are conceptually supportive of this proposal. Upcoming meetings include a work session June 9, a meeting June 14 and another meeting to make a recommendation to Council on July 6.

A Montroll: To confirm, if the public hearing is on July 6, by June 14th a draft would have be ready to warn.

D White: The Commission is free to make changes to the proposal after the hearing.

A Taylor: Don Sinex will be going to NPAs for more information for the public.

D White: Distributed handout regarding model. Important element is to consider what the utility of the model will be. 3D models are done for a variety of reasons. Model would look very different if it were to show a proposed building within its existing context, versus current zoning versus proposed zoning. What is most relevant to the Commission is a model of zoning buildout. Public is asking for a model of the proposed project. We are looking for someone who can get a model developed, but not sure can get that done during the Commission's review. Commission can help advise on what extent for a model.

H Roen: What about the digital model that was built to show possible buildout.

D White: As a staff, we will provide a variety of information for the Commission to use, including digital. Probably not a physical model, though.

E Lee: We will be doing ourselves a great disservice if we don't have a physical model. Really uncomfortable that it cannot be accomplished.

D White: We will build a model, the question is timeframe for Commission discussion.

M Tuttle: Goes back to what we can understand from the model. The Commission is being tasked with considering the proposed zoning compared to buildout potential under current zoning. Model will likely contain proposed project, which is not the purview of the Commission.

L Buffinton: Urge that we get every possible model. And the parking garage might need to be reexamined.

D White: The Mall team FAQ has information about garage cost.

J Wallace-Brodeur: The city has a technical team that looks at a variety of issues. Do we have access to them?

D White: The next meeting we will provide information from the tech team, a person to answer questions.

The Commission unanimously approved a motion by A Montroll, seconded by J Wallace-Brodeur, to defer the remainder of the items to the next meeting and adjourn at 9:34 pm.

VII. Committee Reports

Deferred to next meeting.

VIII. Commissioner Items

No Commissioner Items.

IX. Minutes/Communications

Deferred to next meeting.



B Baker, Vice Chair

Signed: 2016



E Tillotson, Recording Secretary

DRAFT

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Burlington Planning Commission Minutes- Special Meeting Thursday, June 9, 2016 - 6:00 P.M.

Present: Y Bradley, L Buffinton, E Lee, A Montroll, H Roen, J Wallace-Brodeur, M Weinberger
Absent: B Baker
Staff: D White, M Tuttle

I. Agenda

No changes to the Agenda.

II. Public Forum

K Walkerman- Completes energy modeling professionally. Design and architecture of the building is respectful of open space, of neighbors and to minimize visual impact of height.

B Dunkiel & J Beck- Represent the developer, available if there are questions related to Predevelopment Agreement (PDA) or the project as currently conceived.

W Nelson- Mechanical engineer with experience with tall buildings. The sustainability of project is high because design limits amount of materials needed, a lot less exterior surfaces which reduces energy footprint. Prefer a tall building setback off ROW to one not as tall, close to the street, and with few façade undulations.

C Simpson- So much to criticize, but focus on praise of existing zoning with discretionary bonuses. Proposal gets rid of DRB discretionary process, public input and tilts the process to benefit of the developers. Urge PC to reject proposal and retain current zoning.

III. Proposed CDO Amendment- Downtown Mixed Use Core Overlay

D White: Staff presentation on model, boundaries of the district, changes to the official map, height and mass, urban design and other standards in the proposed amendment. Julie Campoli, member of the City's Technical Team, present to help discuss height and mass.

J Wallace-Brodeur: Move the model discussion after substantive issues.

D White: Proposed amendment came via Council, with an overview of what ought to be contained in the amendment outlined in PDA. Details for boundary, urban design standards came from the Form Based Code (FBC) committee. Purpose to facilitate implementation of planBTV by building opportunities for vertical expansion; adding much needed housing, retail and office space; definition of streets as civic spaces; reestablish north-south connectivity; and activate a pedestrian experience along Bank and Cherry Streets.

Boundaries

D White: Similar to what FBC Committee agreed is appropriate location for increased height.

A Montroll: Huge mistake to rely on current zoning given opportunity we have for this area. Current zoning has some useful tools, but only looks at impact of development on site itself rather than on streetscape and pedestrian experience. Current zoning leaves it up to developers and DRB to get design right—could have something wonderful, or a horrible, solid wall of 105 ft buildings. FBC and proposed overlay focus on impact on streetscape, provides clear standards for how to break up mass, height, entrances, windows, etc.

H Roen: Might even include the People's Bank site in the boundary.

J Wallace-Brodeur: What is context for what is included in the boundary?

D White: Does not include buildings fronting Church Street, or the VT National Bank due to its historic value. Does include BTC property, Burlington Square, Macy's and city parking garages. Included because sites are identified in planBTV for redevelopment, there is little historic context and they're internal to the block.

L Buffinton: Is there a legal agreement preventing additional height behind Hotel Vermont?

D White: Can look into it. It is City's property, so have control over what happens. Zoning does not mean it will be developed.

A Montroll: FBC Committee focused on this area as one for greater development because no historic pattern of development, Cherry Street view corridor retained, and Bank Street view already blocked. Committee did not include People's Bank because it didn't seem to fit the pattern of tapered height. Committee didn't specify height because Committee was isolated from the public, didn't want to take that step without input, and because major deviations from zoning should occur within the PC realm.

M Weinberger: FBC perspective on area for taller heights validates the proposed overlay boundaries.

J Wallace-Brodeur: Area is most underdeveloped and appropriate for additional height. Can't come up with a rationale for taking anything out.

Y Bradley: Seems like People's building should be included.

L Buffinton: Could be 105 feet if redeveloped; current zoning seems to be more respectful of Bank St.

D White: Need to consider the terminal vista on Bank St that draws people in.

E Lee: What will height look like from Church Street?

J Campoli: Church Street is not wide enough to get far enough away from building to see the height.

L Buffinton: Will there be step backs from St. Paul and Pine Streets?

D White: Yes.

Official Map

D White: Purpose to establish two 60 ft. ROW. Proposed developments which impact features on Official Map, provide city an opportunity to acquire property at fair market value to implement city plans. If current proposed project goes away, this change is the mechanism to guarantee street connections will happen.

A Montroll: This is very important. FBC Committee did not discuss, but it is clear from planBTV.

Y Bradley: Is purpose of jog in the roads to accommodate existing buildings?

E Lee: Official map should show what we want, regardless of project. Should create a more aligned intersection, or be wider near intersections to provide flexibility in alignment.

D White: The proposed ROW allows for connectivity, but the jog can also help with traffic calming.

Y Bradley: Adding width comes at a cost.

J Wallace-Brodeur: What did the Technical Team say about the alignment?

D White: Much more comfortable with a road that is all at grade. Don't recall if there issue with alignment.

Height & Mass

D White: Outlined height and FAR in proposed overlay, particularly how the maximum floor area decreases as the height increases.

J Campoli: Study walkable cities around the country. Emphasis on streets; never paid attention to heights because it didn't matter as much. Looked at Google Earth for places previously visited to see how tall projects like proposal actually are. It is about massing, street activation, options to for how setbacks occur to create less uniformity. Setbacks aren't necessary, but good insurance policy against bad design. Width of street, doors and activation also important.

L Buffinton: What about shadows? If setback, get more sunlight.

D White: What are key places to preserve from shadow? All buildings will make a shadow at some point. Typically cities regulate shadows on civic spaces.

M Tuttle: Showed a model of maximum buildable envelope in downtown under existing zoning versus proposed zoning.

L Buffinton: How was 160 feet determined?

D White: Driven by public process and Council's discussions. planBTV recommended effort to reconsider zoning for downtown. This project and FBC give us something to test the ideas.

M Weinberger: Process began in 2014 with an opportunity to look at this area and share goals in planBTV. Don't want a specific project to drive policy decisions, but helpful to have a project to aid the discussion. Comfortable with this tension; last 18 months City's tech team has helped evaluate, make decisions informed by professionals. Has been an iterative process.

M Tuttle: Commission regularly receives requests from individuals who can't meet zoning. Proposal has a different value to the community, but is not outside of the PC purview to receive, consider a request like this.

H Roen: Not sure would be having conversations about height if it weren't for this project. Don't have a problem with the height specifically for this project, but for a zoning change, might think a bit differently.

L Buffinton: Support redevelopment, density, opening streets. Change 160 feet by-right is concerning because city won't get additional public good, like affordable housing in exchange.

D White: New developments inherently provide new, additional public good. Have had bonus provisions for 30 years, they're infrequently employed because they're seen as a burden. If development doesn't occur, then don't get community benefits associated with bonuses.

L Buffinton: Tax base will not increase if TIF is being used to build streets.

D White: City desires to build streets regardless of this project. If not built as a part of this project, using TIF, would be built using general taxpayer dollars. Doesn't burden taxes because this project generates the revenue to build the improvements.

J Beck: The design team held a public charrette – program has always been about mixed use, question was what uses and how tall. As an applicant, arrived at height based on ideas from the charrette.

L Buffinton: Parking is not the driver of the height?

J Beck: Not at all.

A Montroll: Issues are what is height and how to get there. FBC Committee agreed that if there are things we want, be direct about it. FBC does away with bonuses, but incorporates various levels of review. Could use this model for conditions on height based on opening of streets, or proving it's infeasible to place parking below ground.

Y Bradley: Need to remove biases towards developers, thinking about getting something in return. Think about what these projects mean overall for the community. More housing units by virtue means more affordable units.

L Buffinton: Parking numbers don't add up, Goody Clancy said it needs better design. Think parking is driving height.

M Weinberger: Images of proposed project are consistent with massing and height, but not design guidelines. Tech team is comfortable with height and massing, but not design. Design is important and PC's purview to get the design criteria right to help move project towards positive images in the packet. Concerned about above ground parking, but largely persuaded by Goody Clancy's images of successfully integrated parking. Instead of discretionary and uncertain review, be more explicit about the design of a parking garage.

H Roen: Expand the requirement for active uses in the first 20 ft to upper floors.

J Beck: Airport parking on a flat site, no soil issues cost \$12,000/space. UVM Medial Center underground parking, no soil issues cost \$46,000/space. Wrapping garage with buildings requires mechanical ventilation which adds cost, and people don't feel as safe. For natural ventilation, at least 40% of garage needs to be open.

J Campoli- How does exterior treatment impact cost?

J Beck: A wrap will drive up cost, but not as much as mechanical ventilation or underground structures.

E Lee: Don't want a garage that looks like proposed; it won't fit with FBC.

D White: Design standards in proposed overlay require parking on ground level to be setback 20 feet and behind active uses, upper floors must be level, screen cars and lighting, and façade must be integrated with overall design.

J Wallace-Brodeur: With public input and for what the project will achieve, there is a consensus that more height is appropriate, just need to determine what height is. If this project doesn't happen in downtown Burlington, where does it happen in Vermont? Could debate a few stories, but project's program is achieving our goals at this height so comfortable with it. Street level engagement is important; if we get design right this is a project the community will be happy with. Disappointed that the parking came above ground, but costs are high and not sure putting it underground is worth taxpayer money. Focus on making the design of above ground parking successful.

M Weinberger: How should we be confident that we'll get a garage design like [the positive parking example in image from Goody Clancy]?

D White: Reiterated design standards for parking.

H Roen: Amendment exempts parking from the design standards.

M Tuttle: Exemption only refers to providing active uses in the first 20 ft of building above the ground floor.

J Campoli: Should be careful about recessing buildings at street level. Want a canopy or temporary awning.

Urban Design

D White: Design standards require fine-grain variation in facades; vertical bays up to 65 feet wide for 150 of building length; projection of all or some of the façade; step backs that are an appropriate depth to be used for something meaningful, and flexible in their vertical location to provide variety; primary entrances defined and required every 60 feet; 70% of façade as voids.

E Lee: Voids are not a term FBC used, not consistent with screening requirements.

J Campoli: Maybe different standards are needed for parking. Also, language needs to direct design so designers aren't putting retailers at risk, functioning doors actually used.

J Wallace-Brodeur: What happens to a side street when two buildings back up to one another and have their primary entrances on the streets they front on?

D White: Any street needs doors that are operable during business hours, must be at least one direct connection between a parking facility and the street.

E Lee: planBTV says pedestrian is king. Should not prioritize a convenient experience for people that drive.

M Weinberger: Some level of confidence that the façade elements from FBC are informed by best practices to get us the design on the left. Could use some refinement to ensure parking design is right. Staff could look into this in more detail.

E Lee: Talking about development by right; language has to be tight.

M Weinberger: By right only applies to height and mass. Design will still be discretionary at DRB.

Y Bradley: Void language seems to be problematic.

A Montroll: Point is that parking doesn't look like parking.

D White: Purpose of urban design is to get the form right. Opportunities for discretionary relief through DRB, except for height and FAR.

Other Elements

D White: Overlay requires that buildings meet LEED Gold design, but not required to be certified.

L Buffinton: Need to demand green buildings, but not specify LEED.

E Lee: Asking for a checklist does not guarantee implementation. Need something with teeth.

J Beck: LEED is not best standard, but most understood, definitive, measurable. Good place to start, and can be exceeded.

J Wallace-Brodeur: Ask BED or other expert for input.

C Bates: LEED Gold is not a healthy building; health is most important and should be required.

M Weinberger: Downside of a real project is that there is a timeline for zoning amendment process. Need to strike a balance between policy discussions and schedule. Suggest focusing input on most outstanding elements regarding design so that it can move forward.

L Buffinton: Should prioritize issues; little details can be amended later.

Y Bradley: Need to get out of the weeds and focus on parking, height and mass.

A Montroll: Urban design standards are important, too.

IV. Adjourn

The Commission unanimously approved a motion by H Roen, seconded L Buffinton, to adjourn the meeting at 9:00pm.



Y Bradley, Chair

Signed: 2016



E Tillotson, Recording Secretary

Burlington Planning Commission Minutes
Regular Meeting
Tuesday, June 14, 2016 - 6:30-9:00 P.M.
Burlington Police Dept, Community Room, One North Avenue

Present: B Baker, L Buffinton, E Lee, A Montroll, H Roen, J Wallace-Brodeur
Absent: Y Bradley
Staff: D White, M Tuttle, E Tillotson

I. Agenda

No changes.

II. Report of the Chair

B Baker acting Chair.

III. Report of the Director

Deferred in the interest of time.

IV. Proposed CDO Amendment – DT/RH Zone Transition Line at George Street

John Alden: Presents a proposal to modify the zoning boundary line between Downtown Transition and Residential High Density at corner of Peal and George Streets. Showed a massing and buildout study (3 versions) of existing buildings, merged lots under existing residential zoning, and the proposed rezoning.

L Buffinton: There are two historic structures adjacent, could they be demolished?

J Alden: The district may be historic but perhaps the specific buildings are not.

D White: Explains possible reasons for demolition and that the decision is up to the DRB.

E Lee: Would the DRB consider demolition by neglect?

D White: The zoning question is if the buildings were to be removed, which scenario would be best for the site. Under proposal, move boundary, examples show fairly large buffers between nearby uses.

J Alden: The proposed development is not out of scale with the Pearl Street corridor. With bus station development across the street, seems appropriate. Opportunity to do some great housing, improved with flexibility of coverage and height. There is a plea from housing authorities to create more units.

E Lee: How would FBC affect this property?

D White: Assuming FBC is adopted, properties would be subject to that review; however, some of these properties are currently in RH zone so unless the boundary changes, it would not apply to those.

E Lee: It doesn't seem that green space is actually required. What is the proposed lot coverage?

J Alden: This is proposed with parking underground and would retain two areas of green space.

D White: Presently there is a required 15 foot buffer between zones. This is not necessarily an actual proposal.

L Buffinton: Is not seeing consideration of neighbors to north affected by shading. Four and five stories is too big, it dominates everything around it. Suggests a hybrid approach.

J Alden: He is not saying the buildout will be this large, this is just an illustration of possible massing.

J Wallace-Brodeur: It seems as if it would be better to retain scale of the RH district.

E Lee: Doesn't support this.

The Commission approved a motion by E Lee, seconded by L Buffinton, not to entertain the proposed change, and to retain the present zoning for these sites. Commissioners Buffinton, Lee, Montroll, Roen and Wallace-Brodeur voted in favor, Commissioner Baker opposed.

V. Proposed CDO Amendment – Article 10: Administrative Authority & Public Standards

D White: The purpose of this amendment is to establish administrative authority which affects subdivided land, often not actual development. Five lots or less are considered a minor subdivision. Also includes a reference to the standards of the city engineer for new infrastructure.

B Baker: Vestigial alleys in the city are a good example.

D White: If a property line is moved now, the permit application has to go to the DRB.

A Montroll: Could staff approve a subdivision of a property into four lots?

D White: If it is just a creation of lots with no development proposed.

E Lee: Couldn't this type of application just be on the DRB's consent agenda?

D White: It's about timing and complexity; for something so minor, it takes a long time.

L Buffinton: Perhaps we could scale back slightly to three or more lots, it seems as if we are raising the bar for staff approval.

D White: We can already do a lot line adjustment, but this proposal addresses when a new lot is created.

A Montroll: Not sure if comfortable with subdivision of lots being administrative. Subdivisions seem more significant, process should be more intensive.

J Wallace-Brodeur: Uncomfortable with staff approval if this would be creating developable lots. Would be helpful to have examples.

H Roen: We might want to consider monumentation, we might want to have some flexibility with this issue.

D White: Suggests advancing the portions of the amendment tied to subdivision and infrastructure standards and monumentation. Admin approval for subdivisions can be reconsidered.

The Commission unanimously approved a motion by J Wallace-Brodeur, seconded by L Buffinton, to warn an amendment for public hearing to include the changes to subdivision and infrastructure standards and monumentation.

VI. Public Forum: 7:15 pm

L Martin: Want more explanation on how the city benefits from the use of TIF for public streets and streetscape enhancements. Seems that it benefits the development.

K Devine: Appreciative of the Commission for their efforts. BTC Mall site needs new life. There will be several steps when the project returns to City Council, but it can't move forward without the PC sending it on. Please move this ahead.

E Morrow: Request the PC to make a formal motion and recommendation to Council that the zoning amendment not be adopted until a physical model is in place.

J Carton: Represents the owners of Hotel VT. 100% behind development on mall site, but not of the rezoning of the Lakeview garage, which creates an economic concern for the hotel.

K Backus: Against height of building. This zoning change would lead to more upward pressure on downtown development. Where will they put all of the traffic? There is not a good mix of people in the building, maintenance would be a problem. Eventually the less wealthy will be pushed out of the city's center.

A Hannaford: Supports redevelopment of mall, does not support a change to building height.

A Lavin: Fourteen stories is beyond anything this City has done. It will not happen.

L Terhune: Understands there is a push, developers want certainty, but residents deserve loyalty by upholding zoning. In the past DRB backed our community and was able to say no to an inappropriate plan. Don't change zoning so dramatically, the community has spent years forming the CDO. Just vote against this proposal.

Resident: Against the proposed height.

C Baker: Supports density downtown. Analysis points to the most important thing to sustain, is to increase density in the central city. There is a need for housing, it is a regional issue and this is the place to do it.

Resident: Supports good planning, but the proposed is a ridiculously high building. She is acquainted with several architects, all of whom have said the project is not well-designed. There is a need for something visual, doesn't understand why a model cannot be built in time.

B Headrick: In conversation with architects, set back at higher levels is important. If three towers are erected in three areas, it will create a solid cement presence. Residences on the hill will be looking into cement towers. The City Council looked at higher height limits in 2009 and refused to approve it.

M Manghis: The mall needs help, but it is important to speak to the town's personality. She has had a similar experience in a different state. The developers ran out of money and now there is an ocean front building going to ruin. The municipality is now admitting that the project is too big. We are jeopardizing the next generation who will be stuck with the bill.

M Bushey: Strongly supports the downtown overlay district and reconnecting the street grid. There is an opportunity to do that now. As the Chair of DAB, look at scale and mass, bring projects into compliance. There is sketch plan review today and there will be two more reviews. The DAB will work with the applicant to improve articulation of the façade. Frustrated by misleading information being distributed. Feeding on negative connotations, giving false impressions to public. Asks PC to approve and let project move forward.

G Grill: Asks PC if they believe they are charged with representing the view of the citizens. The overlay is not just raising height, it's what is received in exchange for height. The Commission Chair is a developer and has suggested that we stop asking things of developers. The Mayor is trying to do away with affordable housing. Very uncomfortable that a physical model is not available.

M Long: During sketch plan, the Boards work with an applicant to comply with the ordinance. This project works to bring the ordinance in compliance with developer's wishes. The Zoning ordinance is supposed to shape the development. It is necessary to have a broad discussion. He agrees with many things in planBTV.

M Wallace: Urges the Commission to listen to the community. It is always a temptation to think that we know what the community needs. We need to slow down the process and listen to the community. Growth, rapid and uncontrolled is cancer. We do not want this process to be a betrayal of a contract with the community.

J Dagget: Zoning regulations exist for a reason and should be maintained.

A Petraca: Now is not the time for this establishment politics or economics. This process is rigged to benefit the 1%.

C Messing: Don't ask a barber if you need a haircut. Skyscrapers in NYC which were supposed to provide housing have had no effect on housing. If the Commission is sincere about public input, microphones and sound system should be provided at these meetings.

A Radcliffe: It is lip service to call this project a housing solution. Don't fall into the too big to fail mindset; consider a smaller scale and don't give up on a model.

C Bates: planBTV says eight story buildings. One Burlington Square is 100 feet tall and about 100 feet wide. Consider if that were repeated three times in each direction and add 60 feet on top.

VII. Proposed CDO Amendment – Downtown Mixed Use Core Overlay

D White: Model is in process. A physical model, covering about 46 acres, five by three blocks, with terrain, existing buildings and the proposed project. Will take about another month, but expected in time for Council to consider it.

E Lee: What is the time frame for the zoning amendment? Is it possible that it could come back to us after the model arrives?

D White: 120 days for zoning amendment is about September 12, if the Commission forwards the amendment to the City Council for the July 11 meeting. If City Council makes a substantive change, it must come back to the Planning Commission. This is opportunity for feedback. The Commission can participate and provide input to the City Council at their ordinance committee meetings.

L Buffinton: To understand true impact, we would need to see the maximum build out in a model. Should slow the process and get all of the visuals.

D White: The digital model M Tuttle created shows maximum build out.

J Wallace-Brodeur: We need to compare apples to apples in a model. Building to building, zoning to zoning. Are there any changes in the text of the amendment that was in this packet?

D White: Yes, to section regarding screening proposed parking and green buildings.

A Montroll: We are asked to take action to warn tonight for July 6th. Can the Commission provide a series of comments? Not ready to say yes or no.

D White: Yes.

E Lee: Physical model needs to show existing buildings with the maximum massing of this area because there are many buildings that may not build to the max. Don't want to live in a Burlington of the maximum build out. If Commission recommended not to pass the amendment, can the Council still move forward?

D White: Yes.

E Lee: There is inadequate time.

J Wallace-Brodeur: Most important issues are street level engagement, parking screening, building articulation. It would be helpful to identify in the draft where that language is. The Commission needs to weigh in on these to make it better.

D White: When the proposal is warned, you can continue to discuss the proposal.

L Buffinton: There are way bigger issues, height, spot zoning, concern for precedent, height increase without benefits to the public. The proposed is a huge change to city policy, we need to look at the big picture. 160 feet is the single biggest hurdle.

D White: There is a multi-step test that the State Supreme Court has established to determine spot zoning. This proposal does not meet these requirements. It fits the kind of development in planBTV; it's not out of context.

B Baker: It is important to look at the tradeoffs and what we gain as a City.

D White: The current ordinance related to bonuses has not been effective. Since 2008, we have not seen many developments take advantage of them and provide buildings over 65 feet or housing. Zoning reconfigures what height looks like, what it does, and distributes it in a different way.

L Buffinton: Current zoning would require more setbacks.

M Tuttle: Setbacks are replaced by much more prescriptive standards for where the massing of a building could be.

A Montroll: It would be helpful to see something between the two examples. Height seems to be major concern. The Mall needs good redevelopment, but mindful that Burlington is not ready for buildings that high. We need a height more compatible with more peoples' visions.

J Wallace-Brodeur: As much as there is concern about the height, massing is a bigger concern, issues that are critical for us to weigh in on. Setbacks, engaging with the street, assurance that massing is appropriate.

H Roen: Comparisons under current and proposed zoning would be helpful.

L Buffinton: Should be thinking bigger picture. This could be a launching point to get into finer points of zoning. Look at alternatives. It will result in a better and stronger project.

J Wallace Brodeur: We have done a lot of thinking about how buildings interact with the street through FBC. Height is important, but design issues, massing, parking, street interaction are bigger.

A Montroll: FBC work on street level, interaction between building and street, worried we will lose a lot of that by pushing up so high.

E Lee: Our job is to make a recommendation about height. If we don't make a decision who will? The Commission should make a non-political decision about what is right for Burlington.

J Wallace-Brodeur: Height is not a separate issue—the massing and design points are related.

H Roen: Agree with redeveloping site with more density, but a little uncomfortable with the limited time we have to do this.

D White: After looking at regulations through FBC for last several years, not uncomfortable about height, don't think it is grossly out of scale. Comfortable with design standards in the proposed ordinance. Regulations will require more vertical articulation and attention to relationship to streetscape.

B Baker: Maybe we should focus on massing and design questions, and then decide of height is right.

J Wallace-Brodeur: We need to identify sections that are the most important to focus on. We should pass on signs, and spend time on urban design standards for street articulation, parking, building design. These should lead to a conclusion about height.

D White: Design standards require articulation, vertical orientation. Require a first floor of 14 feet. Parking garage designed in unity with the rest of the building.

E Lee: We have spent a lot of time talking about improved parking requirements.

D White: What are specific things that the Commission wants to talk about?

L Buffinton: Next meeting we should go through the actual ordinance.

A Montroll: We have a whole series of issues with this, not sure with time allowed that we can come to resolution with this.

J Wallace-Brodeur: Maybe Commission should develop a memo identifying areas where language doesn't succeed, and list priorities and issues.

A Montroll: Dedicate the next meeting to identification of issues for City Council.

The Commission unanimously approved a motion by E Lee, seconded by A Montroll, to warn the proposed amendment for a public hearing.

B Dunkiel: For the Commission's next discussion, it seems that Sections 2, 3, & 4 represent 95% of what the project is about and seem to be the items of concern to the Commission.

L Buffinton: The proposal for the mall is at DAB for sketch plan review.

VIII. Adjourn

The Commission unanimously approved a motion by L Buffinton, seconded by J Wallace-Brodeur, to adjourn at 9:14 pm.

B Baker, Vice Chair

Date

E Tillotson, Recording Secretary

Burlington Planning Commission Minutes
Special Meeting
Tuesday, June 21, 2016 - 6:00-9:00 P.M.
Burlington Police Dept. Community Room, One North Avenue

Present: B Baker, L Buffinton, E Lee, A Montroll, H Roen

Absent: Y Bradley, J Wallace-Brodeur

Staff: D White, M Tuttle, E Tillotson

I. Agenda

No changes.

II. Appointment of Assistant Zoning Administrator

M Tuttle: Ryan Morrison, Associate Planner, was hired in January. Ryan was formerly ZA in Waterbury and previously worked in western US. Successfully completed the probationary period of employment and Planning Director requests his appointment as an Assistant Zoning Administrator.

The Commission unanimously approved a motion by A Montroll, seconded by H Roen, to recommend the appointment of Ryan Morrison as Assistant Zoning Administrator to City Council.

III. Proposed CDO Amendment- Downtown Mixed Use Core Overlay

M Tuttle: D White will have a presentation, not formal, to help answer questions about various elements of the proposed ordinance. At the last meeting the Commissioners were asked to submit suggestions to help guide our discussion at this meeting. Received a few questions from L Buffinton.

L Buffinton: It would be helpful to go through the amendment as written. A slide show with graphics is helpful.

M Tuttle: The first change addresses new street ROWs in the official map, and renames to the downtown and waterfront map. This provides language around ownership and use, gives the City option to establish public streets.

E Lee: There is concern from the public about whether these will truly be public streets. There is a rumor that entrances to public parking will change and uncertainty about what Pine Street is going to look like.

A Montroll: Suggests that provision of streets be a condition of development to maximum height.

E Lee: How do people feel about widening the ROW?

H Roen: This is just a ROW, it gives the city the right to acquire the street.

L Buffinton: Let's go through the document point-by-point.

A Montroll: We need to define the goal for this discussion.

B Baker: Preparing a list of comments to send to City Council will be helpful for the public to react to.

E Lee: Not comfortable endorsing the ordinance since there is no model. Suggest sending the document to City Council, anticipates they will send back to the Commission. The ball will be in their court.

A Montroll: We need to compose a list of comments for the Council.

E Lee: Welcome public dialogue during this work session, but not interruptions. Suggest increasing the ROW beyond 60 feet and discuss use within it. If we were considering this amendment outside of this project, we would want streets to have alignment. Doesn't necessarily mean a road has to be in the ROW, but maybe include some additional public area.

B Baker: For instance, no loading docks.

D White: The question is what is public purpose that we are acquiring these lands for?

H Roen: Strongly in favor of what is included in the ordinance.

L Buffinton: The elephant in the room is building height, need to deal with it. The ordinance says buildings needs to be in compatibility with neighborhoods. Start with a Church Street height discussion.

D White: Rationale for this is that almost every block of Church Street has at least one building taller than 38 feet. Changes setback measurement to be from the property line rather than the center of the street. Intended to promote sense of enclosure and scale and strong definition to create more continuity. To create enclosure, general rule of thumb is height of buildings along street as tall as streets are wide, which typically is 66 feet; only proposing 45 feet along Church.

L Buffinton: Necessary to pull buildings back so that light penetrates to the street.

D White: This is the purpose of the 45 degree angle created by the required setbacks.

A Montroll: One of the biggest concerns is height. The illustration show squashing the building mass so it projects upward—looks like a wedding cake. Interested in looking at how to increase the FAR of each floor to potentially reduce the overall height.

D White: Each time increase FAR of a floor, it creates more bulk.

A Montroll: Is not sure bulk matters that much from a distance. Setbacks/stepbacks, down on street looking up is where they make a difference. Don't know that squeezing gains anything. Expansion at lower levels might allow the height to come down.

L Buffinton: Scaled across the width, thinking about in the street, looking at small houses, this will block older, smaller houses from light and sun. Want to look at view slides 12,13 and 21 of the proposed project.

A Montroll: The graph on the left looks like an urban design, the one on the right does not.

D White: Part of this reduction is to help with sky view and ability to see through a block rather than a solid mass.

L Buffinton: Going from 65 feet to 160 foot height is a significant change. It's too bad this discussion is before FBC is approved.

A Montroll: We could recommend exploring each floor plate be a little wider than what is included, and lower the overall height.

E Lee: Feels the opposite—that taller buildings are better, increased stepping back enhances the building.

H Roen: Maybe 160 feet is too high, but think the more tiered approach is better.

A Montroll: Doesn't now that it has to be so pushed together.

E Lee: It would be helpful to see how two different massings would compare.

B Baker: Street design, street connectivity, widening street are all tradeoffs that take away from building square foot. Would be interesting to have setbacks that achieve same GFA but within, say, 12 stories.

E Lee: Would rather see truly aligned streets and allow a building up to 14 stories.

L Buffinton: Like B Baker's idea but it's not enough, setbacks are really important.

A Montroll: Proposed tiers is limiting on design and creativity. Don't want DRB to have to be the ones to worry about how to avoid wedding-cake buildings.

E Lee: Setback on street level on level four or five, setbacks higher up might not be so important. Would be unfortunate to have a poor quality building because people were afraid of height.

A Montroll: We need to have a way to make this work with less controversy. Trying to be more descriptive of what is wanted.

E Lee: Could see this building from my house. If it's a choice of totally blocked or views between two towers, would rather have two towers, still see water and mountains.

L Buffinton: We don't want to be too prescriptive. Allowing architectural flexibility, overall height.

B Baker: We are looking at this as if it is one building, illustrations show differentiation between buildings.

D White: One Burlington Square is an example. The intent is to break up the mass with spacing requirements between towers. It is critical that the façade get broken into blocks, breaking horizontal plane into different bays with stepbacks. The building is taller but the façade articulation includes the stepback requirements.

E Lee: Want to get something done. Would rather talk about low income housing, parking and other issues to reach a consensus.

H Roen: Doesn't believe there is consensus on height issue yet.

L Buffinton: Want to look at views. More stepbacks are needed to reduce the sheer walls and massive bulk of these buildings. By right question is big, and it is a tremendous loss not to address those issues through the ordinance. The public is essentially paying for streets with TIF, we need to look at bonuses, there are hundreds and hundreds of seniors waiting for housing every month. Seems as if we could restructure bonuses, we could do better.

D White: This requires 20% affordable units. The extra 15% bonus has not worked. We do not need the parking bonus, because we don't need additional public parking.

Mayor Weinberger: It appears very few units have actually been built under present policy which is being reviewed through a separate process; doesn't recommend changes to IZ until that process has provided recommendations. Going higher than 20% makes the development nearly impossible. The City Council considered this issue also, and in the end, the vote did not include more than 20% inclusionary. The Commission is having detailed conversations and written comments to the City Council would be helpful.

L Buffinton: Are you and the City Council exploring more ways to encourage housing?

Mayor Weinberger: The City Council has been grappling with this issue over last couple of years. There were 22 recommendations that came out of the Housing Action Plan. They support new and existing projects, will recommit as a city to permanent affordable housing, housing trust fund has doubled, taking proactive role in issues like Farrington's Mobile Home Park. Lack of housing at other levels has an effect on affordable housing, it is a contributing factor to pressure on overall affordability.

L Buffinton: Workforce housing and senior housing needed.

Mayor Weinberger: There are no subsidies for workforce housing, but no doubt that this project if built will serve many households in this area.

D White: There is a coalition in Chittenden County advocating for more housing.

E Lee: Do we have consensus?

M Tuttle: The goal with this proposed amendment is to be more inclusive across the board, of space for housing and jobs. Some of the previous bonuses contradicted each other in terms of our priorities for downtown.

A Montroll: Concern is that Official Map gives City the option for streets. If development doesn't work, we still need to make sure that the streets open up. Find a way to require no development in these areas. The other issue of concern is above-ground parking. If this is permitted, there needs to be a way to require demonstration that underground doesn't work.

B Baker: Hasn't heard anyone opposed to opening streets.

A Montroll: Need to change zoning so that if the project doesn't happen, someone else comes in and the City is not in a position to buy the streets back, we need to ensure that those streets are not built over and we lose the opportunity.

D White: Understand the concept, but need to have city Attorney's office review.

Mayor Weinberger: That is worth reviewing, but raises some constitutional questions and not sure we can do better than the mechanism in the agreement.

A Montroll: We see a proposal for parking on second and/or third floor and right against the street. Would like to see some conditions saying underground is better. Or, consider putting another deck on an existing structure. If there is a better way to accomplish the parking, would like to see a condition for that as part of the process.

L Buffinton: Need to make sure we're not being overly prescriptive on amount of required parking.

E Lee: Position should be that parking recommended to be underground, and if above ground it must be indecipherable from rest of building.

B Baker: Sounds like consensus that parking should not look like parking, and that developer demonstrate that has exhausted options for parking management plans, shared and off-site parking.

A Montroll: And that underground parking is not feasible. At least Council should consider the idea.

D White: The ordinance already requires some of those. The key issue is where it is located and how manifested in design.

E Lee: Not married to LEED standards for the energy efficiency section, but need a standard that can be met and measured. Need a hard line that is met, such as that the project must be registered with LEED. To be in harmony with planBTV, the City needs the reputation that it is cutting edge, buildings should be constructed at highest standards. This building must set an example.

D White: BED suggests that the building envelop and systems be commissioned by a third party for maximum efficiency.

Mayor Weinberger: Appreciate the comments. The language in the original development agreement was not strong enough, and now says that the building shall be built to LEED Gold standards.

E Lee: The language needs to be tightened up, accountability is the key. The current ordinance requires it. The City requires a high standard. Not comfortable with idea of withholding CO if not met, but maybe something like bonding.

L Buffinton: And we need to emphasize healthy buildings.

D White: There used to be a bonus for LEED, but it has expired. We need a high and measurable standard, and ability to demonstrate compliance. Commissioning process affirms this.

E Lee: We have been talking a lot about massing, what is the model going to be of?

D White: It will model existing buildings and proposed building.

E Lee: Does that mean that the maximum building envelope will not be shown?

L Buffinton: We need to see what this looks like. Current proposal doesn't show full buildout.

H Roen: Liked M Tuttle's zoning buildout, but not helpful. Other examples would be helpful.

B Baker: This goes to an earlier point, about massing vs height. Different roof heights create visual interest. We need to incentivize creativity rather than "max" building height.

D White: The model will be of existing buildings with a removable piece representing the proposed BTC redevelopment. Predevelopment agreement ultimately outlined what would be modeled.

IV. Public Forum

J Robbins: When we talk about green buildings, height and density are sustainability. There are 7.8 billion people on planet, must build up. Character of community will change here either by building up or by sprawl. Comparison to Boulder, Colorado's limit on building heights overlooks that they are building in sensitive areas, replacing wildlife habitat, and that there is only 1 property currently listed for less than half million dollars. PlanBTV indicated that we would need to change ordinances to codify the vision. Ok with stepbacks as presented. Agree with inclusionary housing points- the requirement is tough to get built, there are technical issues with the ordinance due to HUD rules. Project in general is good for the city, fundamentally height and density are more sustainable.

R Montgomery: The objective side of the conversation is about zoning. The subjective side is about benefits from this project. There are intentions to facilitate housing for graduates, families, businesses who want to stay here in VT. This is a step in the right direction and shows willingness to adapt and move forward. Inaction is the biggest threat.

Sharon Bushor: Clarify some statements in a memo in the packet that did not keep Commission and Council autonomy. Staff recommendations, not City Council recommendations.

B Dunkiel: Suggest that the Commission comments to Council address the three charges required by statute—how it fits within planBTV, how it addresses goals for housing and density, and what effect on public facilities.

R Herendeen: Author of the Boulder letter, he salutes the Commission. Need to control height because the vision of this place is physically special.

C Bates: Highly recommends different roof heights. PlanBTV says open space, buildings with different height, roof gardens, food gardens, street gardens, green space, parking underground. Is the mall site a brownfield? PlanBTV supports all sorts of alternatives for parking. Think about park and rides and alternative uses for Champlain Parkway that will bring people up and down Pine Street without need for parking downtown.

Lea Terhune: Feels that the Commission has heard us. Suggestion to limit comments to the City Council, but feel the ordinance encourages the Commission to make broad comments. Livable City Coalition has lots of incredible ideas for ways to get housing. Tiny houses, and incentivize accessory apartments. Renters spending 44% of incomes on housing is incorrect, the Art Wolf article corrects this.

A Radcliffe: Need to be careful about confusing the Sinex project with the zoning. Where did 160 ft and no bonuses come from?

Laurie Stafford: Has worked on large projects. The Commission lacks tools for analysis. Not meaningful illustrations. We live in a special place. It is good to have limitations, it doesn't limit creativity.

V. Adjourn

The Commission unanimously approved a motion by A Montroll, seconded by L Buffinton, to adjourn the meeting at 9:10 pm.



Bruce Baker, Vice Chair

Signed: 2016



E Tillotson, Recording Secretary

July 12, 2016

Dear Planning Commission Members:

Thank you for your review and careful attention to the Downtown Mixed Use Core overlay district (DMUC) zoning amendment that would, if adopted, enable the Burlington Town Center (BTC) redevelopment proposed by my company, Devonwood LLC, as set forth in the May 2016 Predevelopment Agreement (PDA) adopted by the City Council and signed by the Mayor and me. I am writing to provide brief input regarding issues you are considering for inclusion in your letter to the City Council regarding the draft ordinance you voted to send on the City Council at last week's Public Hearing.

I previously submitted comments on a few topics that I repeat and amplify here for your ease, along with a few other comments, tracking the item numbers on the chart you have developed:

Item 1 – DMUC Parcel Boundaries: On this point, BTC supports that boundary as referenced in the PDA. However, we would not be opposed to an expansion of the overlay district if the majority of the City Council supported it. Brian Dunkiel previously submitted analysis of the spot zoning issue and I urge you to take it into account as you formulate your recommendations to the City Council.

Item 2: Official Map. The provisions of the PDA related to the proposed new streets at St. Paul and Pine between Bank and Cherry were carefully and closely negotiated by the parties. The City successfully sought to increase the Pine Street right of way to a full 60 feet (sufficient for a "complete street"), even though another property owner at 100 Bank is impacted by that requirement and that parcel is outside of my control. Providing that additional right of way required my development team to redesign the project to account for about 1 million lost square footage (roughly calculated at 20 additional feet width X 350' length X 160' height, minus the portion occupied by the adjacent 100 Bank Street not owned by me).

Aligning Pine Street north to south on the Official Map, rather than adopting the Official Map attached to the Predevelopment Agreement, is a serious issue that will impact the PDA and my ability to undertake the BTC redevelopment for a couple of reasons. First, it would as you know be inconsistent with the PDA adopted and agreed to by the City and me. Second, any further adjustment east will take additional significant square footage from the program of the BTC project as planned, at corresponding cost to the project and, if accomplished through a taking as contemplated by state law, to the City. Third, it does not appear to me that Pine Street currently actually aligns straight above and below the parcels in DMUC; this complicates the impact of requiring "alignment" and likely means that a change to the Official Map as contemplated in comments would affect development rights of more than just my parcels within the proposed overlay.

Thus, to modify the map as proposed by some Planning Commission members would have the unintended consequence of jeopardizing future zoning permit applications for numerous properties not owned by BTC in the area. Indeed, the DRB could be required by statute to deny

permits and delay project depending on how the map is ultimately modified. Supporting the proposed official map amendment would avoid this consequence.

In addition, with respect to St. Paul Street, I had early in the process offered to align this street but that was not welcomed by the City for a couple of good reasons. First, it would require the LLBean building, which I own, to be razed as a part of the current development plan, at significant additional cost given the building's condition and existing tenancies. Second, the new transit center on St. Paul Street north of the BTC will utilize one-way south traffic patterns for the GMT buses; I believe there was real concern by some in the City that aligned streets would actually be less safe and more difficult for traffic than the plan as submitted, which is “jogged” and can be signaled and signed to avoid direct conflict.

I ask that you reconsider this issue and recommend the Official Map as attached to the PDA for all of these reasons. If the streets are aligned as commented on by the PC, I am afraid I won't be able to proceed with the proposed designs and program for the BTC.

Item 3: By Right Height and Official Map. I am very concerned that conditioning the otherwise "by-right" height on the Official Map street alignment issue may constitute an impermissible taking without compensation (to any parcel owner, not just me). However, if the Planning Commission recommends adopting the Official Map as attached to the PDA, showing the layout of the streets as agreed to by the City as a part of this process, I would have no objection to the Planning Commission also commenting that the full district height should be utilized only if there is no new building within the street rights of way as shown on that new Official Map, as proposed in your draft letter to City Council.

Item 3 and Item 12: Parking Garage. I urge you to review the information we submitted (from myself and a knowledgeable construction company) at your earlier meeting regarding an underground garage, and I ask that you not recommend requiring a showing that an underground garage is "infeasible" or “no viable alternative exists” or similar language. Making that type of showing could present a very high and ill-defined bar that I believe could add significant time, cost, and uncertainty to any permitting process.

Even though we investigated to find a realistic underground garage solution, there are many reasons that a below grade garage did not work for the BTC project, and we understood that the City tech team agreed with this assessment. These included but were not limited to cost - the disruption from the trucking and excavating alone would be very significant. Also, the BTC project is already partially below grade, as shown in the plans and as currently built, and I am not sure that has been understood in the commentary on the garage location. We provided many weeks ago our assessment of this issue; public comments claiming that it has not been considered adequately are not correct.

I submitted to you recently the new garage facade views we provided to the DAB and DRB; I am hopeful you will see that these are significant improvements over the original sketch plan. The feedback we have received has been positive that these are trending in the right direction, and certainly further refinements will occur as we discuss how best to screen the garage with the DAB and DRB. We understand the City's desire to ensure that any above-ground parking structure is both sufficiently off of street grade to allow for an engaged pedestrian experience and screened well enough that it blends in with the rest of the building.

We are also designing the floor to ceiling plates of the garage to full height for residential reuse, if in the future that were possible due to decreased parking spot requirements. The Planning Commission could consider recommending making that a requirement of any above-ground facility in the DMUC, in my view. Many individuals have commented on their desire for less parking downtown; while neither City permitting rules nor the realities of tenant leaseholds make that feasible now, there is no reason why garage floors in above-ground structures can't be built for potential reuse when we achieve the less car-dependent future many envision.

It is unrealistic to require offsite shuttle parking, or all underground parking the DMUC. Similarly, requiring full use of liner buildings (the "Hotel Vermont" model referred to) is also very challenging - that site was a small, separate lot without any need to connect to other uses and functions, and unless it built as it did, it could not have properly utilized the site at all. The additional design and engineering work, entrances, corridors, garage ventilation systems, and exterior structures that would be required to accomplish this on other parcels would be quite significant.

Good garage design should indeed be required, but I urge you not to recommend unrealistic conditions that would make it very difficult to construct the the sort of larger mixed-use development contemplated on these key downtown lots. For the BTC project, we have already substantially improved the garage facade and have said that we will continue to do so, including investigating whether a liner approach could be used in key areas to help break up the facade and further improve the streetscape - let us continue to work with the DAB and DRB to create an acceptable design, under the zoning standards as submitted by planning staff. Please reconsider recommending a stricter showing or other requirement to build parking above ground.

Item 14 – Bonding for LEED Gold: The recommendation in the current draft ordinance and as reflected in Planning Commission comments to require a bond 5X the building permit fee for LEED Gold Certification would add a material cost to projects in the DMUC that may not encourage development as the City hopes. I have gone beyond any previous commitment by not only agreeing to construct to LEED Gold standards as stated in the PDA, but also to take the 2030 energy challenge into account. The sort of agreement the City has made with me for these standards is innovative and more appropriate than a zoning ordinance requirement that adds financial burden to already difficult-to-build projects. The bonding cost recommended would in essence become another outlay from a project, raising overall costs and therefore making the finances more difficult.

Item 15 – Inclusionary Housing: I am disappointed in the unfounded claims by some that the inclusionary units I am agreeing to provide – without buyout or other exemption, as expressly

promised in the PDA – somehow do not constitute a public benefit. I worked hard with the Mayor and City Council to find the right balance in the housing mix set forth in the PDA. I believe that the number of student units, which was a compromise with the City Council, will help Champlain College fulfill its plan to take its students out of neighborhoods. I believe the number of inclusionary units – 20 % – will be among the largest influx of privately-developed units Burlington has seen. The balance of the units will be available at market, adding new options to our limited housing stock downtown. I'll continue to work with the City Council to make sure the mix is right as we finalize a Development Agreement. But I urge you not to recommend requiring greater than 20% inclusionary units as a condition in this DMUC zone. A greater percentage will not achieve the City's goal of facilitating development here to help the housing problem Burlington faces. Requiring 20% inclusionary is a big but achievable number; more is not. Also, achieving even that number of units is dependent upon getting enough height to build the units planned, something that cannot happen if the project is lowered as some have asked for. Balance is the key to achieving the City's goals, and changing one element will affect other parts of the program.

Item 16 – Post-Secondary and Community College Permitted Use: I want to assure you that the concerns are unfounded that the entire project – which will be defined by state law as a Priority Housing Project requiring mixed-uses – will somehow become only a downtown college or community college campus. The reason for the requested change from conditional to permitted use is that other educational uses are presently permitted uses, but not post-secondary; it is likely that Champlain College would want to provide some study lab, maker space, or similar educational space in the new project given that a number of Champlain College students will be living in the apartments under a master lease with the College. Just as I would like to provide early childhood education space to support working families in and near the redevelopment, so too would I like to provide the sort of study lab space that likely would benefit the Champlain College students living in the redevelopment's apartments.

My counsel Brian Dunkiel also has a few specific line edit comments to the DMUC draft amendment itself, and he plans to provide these directly to David White and the City Council.

Thank you again for your hard work on this zoning overlay. I have been engaged in the City process every step of the way to help achieve goals the City had well before my project came about - to reconnect its streets, to find greater density in the downtown to support housing and jobs, to fix what has become a blemish of a suburban mall in the middle of Burlington. This has been a long and thorough process, despite claims you have heard otherwise. I am very positive about Burlington, the future of this city, and the benefits this project will bring to it. Thank you for considering my concerns regarding your comments to the City Council on the DMUC overlay.

Sincerely,

Don Sinex
Devonwood Investors LLC

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vacant, Youth Member*



Burlington Planning Commission Meeting Notes Tuesday, July 12, 2016 - 6:30-8:30 P.M. Conference Room 12, City Hall

Present: Y Bradley, B Baker, E Lee
Absent: A Montroll, H Roen, J Wallace-Brodeur
Staff: D White, M Tuttle, E Tillotson, E Blackwood

I. Agenda

There was no quorum of the Planning Commission. Therefore, the Commission held a public forum rather than a discussion of items on the agenda.

II. Public Forum

Frank von Turkovich: Regarding next week's public hearing on the rezoning of Fletcher Place, Commission should know he and neighboring property owner, N Reid applied to city change lot lines. Distributed map showing change to lot lines requested, which should resolve issues the Commission had in discussing this map change.

Sharon Bushor, City Councilor: Will there be a notification to adjacent owners regarding this new information?

D White: The public hearing for the zoning amendment is warned for next meeting. F von Turkovich's application has been submitted; other than posting of the "Z" Card, no notification to adjacent owners.

Suki Rubin: Trying to follow [DMUC] process, but concerned as a full time resident. Has done own due diligence since 2014, but with major proposals over the summer, and the lack of quorum, it makes it difficult for everyone. The project is happening in my back yard and have supported it, but it seems as if railroading is going on and now don't trust the process.

Y Bradley: Commissioners have jobs and vacations; sometimes conflicts come up. Commissioners who came were expecting a quorum.

B Baker: Struggling with one resignation and two preplanned vacations.

Eric Morrow: Excited about the model being built; is it on track to be delivered next week? Will it be displayed in a public space?

D White: Not a hard date for delivery, but on track and will be here in time for the City Council hearings.

Ibnar Avilix: Public comments need to be tied to decisions as they were in planBTV, tallies of comments to specific subjects. The amendment seems to be pushed for economic reasons. Project needs more work before asking for the maximum. If parking not underground, need to see numbers. We're being asked to trust that project works without numbers, and the general public seems to outnumber persons who are for the project.

Y Bradley: In a normal zoning amendment process there are hearings, input, and an amendment is delivered to City Council. In this case, City Council moved a request for an amendment forward to the PC; asked for

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language so that the Council could move the process to next step. As a result, the PC will provide comments individually, not as a Commission recommendation. This was a very unusual request from City Council. The Commission does not always agree on decisions, but comes to compromise and understanding; these are issues the Commission will need to repair in its working process going forward.

B Baker: Every time the City Council has asked the Commission for something, we provide it. Commission is advisory to the City Council, and takes it very seriously. The City Council has the tough job.

S Rubin: What is the difference between zoning language from the Commissioners for City Council, and the language of the public discussion?

Y Bradley: Some Commissioners will provide their own opinions to the City Council. There is perceived conflict around my position, so will not opine. The Commission was not asked to provide their opinion, but rather, the amendment text. .

Caryn Long: Thought the PC worked together in recent meetings and would present recommendations as a Commission for zoning changes. Wouldn't Commission normally do that together? Concerned about the original proposal, letter from staff. Thought tonight the PC would put together the last details. Why is this different from the usual process?

Y Bradley: Because it comes from the City Council.

E Lee: Council gave the PC parameters and said this is the timeline.

B Baker: At beginning of process there was funding that supported independent advisors and a Committee with two City Councilors and two Planning Commissioners were tasked to evaluate this determining what are the trade-offs. Looked at whether the things the City gets are worth the detriments? That's the debate.

Steve Goodkind: State statute discusses where an amendment can originate. If voters endorse and it gets passed on, it moves forward as if an individual presented it.

D White: City Council has the same authority to ask the PC to consider amendments. When amendments are sent by Council, they can limit PC role to making corrections to incorporate state statutes, local ordinances.

Robert Herdeen: PC doesn't appear to have much power and ok with it, but freaking me out.

E Lee: Some Commissioners have had a lot of criticism; there has been a lot of debate, and sending City Council comments. The PC has a powerful voice in process.

B Baker: Technically, the Commission could stop now; they have fulfilled their charge by sending the ordinance. But want to send comments.

E Lee: PC could have used our positions to kill project. Have been asked to present language to the City Council; PC could have chosen not to send language forward.

D White: According to statute, PC has to have a public hearing and that is it.

Richard Hilliard: From the start, has been interested in due diligence, he hasn't seen it from the City Council president. Did research and found information that D Sinex was CEO of a tech company in Holland, which filed for bankruptcy in 2015. Ought to be some sort of forensic investigation as to economic stewardship. Don't think the public knows this, but the Mayor must know about this since he has done due diligence.

B Baker: The Commission's role is not economic analysis. That is a critical piece that has to be evaluated at some point, not a Planning Commission charge.

D White: Only the zoning portion is for the Commission.

R Hilliard; There is a lot going on, seems appropriate to ask the City Councilors and the City Attorney.

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S Bushor: Key question when considering the PDA was, whether the vote was going to bind the hand of the Planning Commission. Concerned about autonomy in the zoning amendment process. Don't see this as spot zoning even if public does. As a community we want to allow some growth and change in downtown. As a Councilor, value PC's expertise; bring forward what seems to be right for city. Commission is immersed in planBTV, the City Council and the public are not as much. Council needs the comments to give the public as much information as possible, and understand all positions on this issue.

E Lee: Three of us have drafted comments which are in the minutes.

D White: Next week we should have the draft that was started which incorporated some Commissioners comments; edits will contain comments of other Commissioners.

M Tuttle: Public hearings for the statute of limitations and Fletcher Place are on the agenda for next week.

Y Bradley: Suggest sending comments by email.

E Blackwood: Comments can be sent to David, but no back and forth communication is permissible on email.

D White: Will provide to the City Council the full range of comments from the Commission.

B Baker: Council would like to see vote from the Commission including positives and negatives with comments.

Y Bradley: Must keep in mind that it is not the project, but the proposed overlay, which is the subject. Conversation will continue into the next meeting.

E Morrow: At the public meeting preceding the PDA, remembers that the height was not decided and there would be a process involving community to determine height.

Y Bradley: PDA evolved until the time of signing.

B Baker: The City Council makes their own decision, but takes our input, we should be weighing in.

D White: Question becomes how much time the Commission spends trying to come to consensus when Council has already provided input on what should be in it.

E Lee: Can we postpone the public hearings coming up?

Y Bradley: Perhaps keep them, but let people know they will be limited and continued at another meeting.

E Blackwood: Can cancel, or keep it and continue.

D White: It appears it might be best to cancel the public hearing and reschedule it.

Karen Paul, City Councilor: Early on in process, received a legal opinion that this was not spot zoning. Council sending PC ordinances is not unusual; perhaps more controversial, but not unusual. Upsetting at the City Council meeting last night, and at several Planning Commission meetings, that upset community members have singled people out and criticized them. People are doing this as volunteers, devoted their life's work to planning City's future. Wouldn't have planBTV without D White. This is not the way we should treat each other—we don't treat people that way, it is not right to treat us that way. David does a great job, lucky to have him. City Council appointed you because we want your comments, insight, talent, expertise, experience. The City Council could have chosen to keep with the ordinance committee until absolute last minute under PDA. Chose to bring it back to City Council for discussion, because this is the most open way we can do it. Glad that motion passed last night, glad public is involved, and hope it will be respectful.

R Hilliard: Naïve if we didn't think that there was a project driving this initiative. Take S Bushor's point that the public is the Trojan horse for all battlements to follow, sets precedent. Very difficult for public to separate the zoning and the project.

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B Baker: Typically get amendments and don't have a good idea what we're looking at. Since there is a project, more tangible, easier to debate.

B Dunkiel; Has spent a lot of time with all versions of materials for public comments, thinking about what would be most valuable for Council. The real weight of PC thoughts is through consensus, but sometimes can't do that. Five issues for consensus: height, exact boundaries, official map alignment of streets, FBC design standards including by-right concept, green buildings. Amount of inclusionary housing not a PC issue.

R Herendeen; still reacting to issue of PC autonomy. Does the Commission believe it is within their purview to just say no to a zoning amendment?

E Lee: The Commission could have responded saying it does not conform to planBTV.

S Bushor: Doesn't believe the Commission could just say "no." Council asked for an ordinance.

E Blackwood: The PC job is not to approve an amendment, PC is to review and submit comments. They could say that they don't endorse.

B Herendeen: In environmental situations, sometimes it is possible to say "no action."

Y Bradley: All agree that something needs to be done.

D White: The Commission could have voted unanimously to send it back to the City Council with the recommendation not to endorse it.

C Long: City going to be challenged by a developer with spot zoning claim. Are we opening up a can of worms? Did the PC write the letter that warned the meeting? E Blackwood works for Miro, D White works for Miro. Council has a signed agreement that created huge pressure. Would like to know if there is hired expert staff? Saw a report from staff that it's not possible to connect Pine Street. Is it worth doing this when street, sidewalks, schools are in disrepair?

B Baker: The Planning Commission appoints its own director. D White does not work for Mayor.

E Lee: Got the letter Friday before the meeting, at first was a little outraged thought opinions were being misrepresented. E Blackwood explained process that every other zoning amendment has been done that way. Could have delayed until we rewrote the letter, but did not have a problem with the way it was written, and delaying a hearing and rewriting the letter wouldn't have given new information or changed opinion. Should let the letter issue die.

M Tuttle: There was a draft letter in the packet of comments that Commission decided to send as a supplement to the amendment. This is not required by statute. What is required by statute, is a PC report regarding a bylaw change. It is a long-standing practice that staff prepares this report and sends it to all adjacent communities when a hearing is warned, and PC reviews it after their hearing. This has been the same process for every amendment the PC moves forward.

Y Bradley: The cost of constructing streets is not what the PC does.

D White: The report C Long mentions was regarding a proposed design that is more than a year old, when a road underground was proposed. The proposal for connecting Pine Street has changed. However, it is not the PC responsibility for those kinds of details.

B Baker: One of the things PC can do is say "if you want this" then do "this." Traffic experts will debate those issues. The Design Advisory Board, Design Review Board, Conservation Board takes our rules and interprets them and decides if they've been met.

Y Bradley: DPW will weigh in, too.

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S Rubin: If this isn't the forum to ask questions, do we have to go to all of the different boards? Developer at Westlake didn't do affordable housing because couldn't do it because of cost. How does that happen? If we're barking up the wrong tree, then who do we go to?

B Baker: The ordinance describes when there is relief from requirements; ordinances are different now. PC job is to see there aren't unintended consequences.

I Avilix: Confused about going by-right to 165 feet.

Y Bradley: It is 160 feet.

I Avilix: So are we dropping the bonuses? If so, then a change to inclusionary units is part of the discussion.

D White: Inclusionary housing applies to the whole city. Bonuses say that for every 5% more units than required, get additional height. Only recommending eliminating bonus, no change to the requirements.

I Avilix: So we're losing units we could get through the bonuses.

D White: Saying losing assumes that it is practical and economical to build more than required. If we don't get housing development, we don't get inclusionary units.

S Goodkind: But the bonuses will still apply in the rest of the City.

M Tuttle: It is required city-wide, but is only a bonus downtown.

I Avilix: It is good to have more clarity around that.

III. Report of the Chair

No report.

IV. Report of the Director

No report.

V. Proposed CDO Amendment – Downtown Mixed Use Core Overlay

VI. Committee Reports

No reports.

VII. Commissioner Items

No Commissioner Items

VIII. Minutes and Communications

No action was taken to approve minutes and communications.

IX. Adjourn

The chair called the meeting at 8:21 pm.



Yves Bradley, Chair

DATE: 08.15.2016



Elsie Tillotson, Recording Secretary