

Burlington Planning Commission

149 Church Street
Burlington, VT 05401
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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 Special Meeting- Work Session Wednesday, June 29, 2016 – 6:00-9:00 P.M. Burlington Police Department Community Room, One North Ave

AGENDA

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

I. Agenda

II. Annual Report (5 min)

Commissioners will review and endorse the FY 2016 Annual Report to City Council and the Mayor.

III. Proposed CDO Amendment- Downtown Mixed Use Core Overlay

The Commission will hold a special work session to continue its discussion of the proposed CDO Amendment to establish a Downtown Mixed-Use Core (DMUC) overlay.

IV. Public Forum

Please consider yielding time to individuals who have not previously shared comments with the Commission.

V. Upcoming Meetings

- **July 6, 2016 at 6:30pm**, Contois Auditorium, City Hall- Public Hearing on ZA-16-13 Subdivision Infrastructure Standards and ZA-16-14 Downtown Mixed Use Core Overlay (Public Hearing begins at 7:00pm)
- **July 12, 2016 at 6:30pm**, Conference Room 12, City Hall- Regular Meeting
- **July 19, 2016 at 6:30pm**, Public Works Conference Room- Public Hearing on ZA-16-11 Enforcement Period of Limitations and ZA-16-12 Rezone Fletcher Place to Residential Medium (Public Hearing begins at 7:00pm)

VI. Adjourn

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.

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To: Jane Knodell, Council President
Burlington City Council
Mayor Weinberger
From: Yves Bradley, Chair, Burlington Planning Commission
DATE: July 11, 2016
RE: Annual Report of the Burlington Planning Commission, Fiscal Year 2016 (July 1, 2015-June 30, 2016)

Please see the enclosed FY 2016 Annual Report of the Burlington Planning Commission. This year, the Planning Commission participated extensively, through its own work and on committees with City Councilors, to advance projects that shape and implement *planBTV*—the City's Municipal Development Plan.

Thank you for your attention to the work of the Planning Commission. Please feel free to contact me with any questions. The Commission looks forward to our continued collaboration and progress on these and many other matters facing the City.

Yves Bradley, Chair

Andy Montroll

Bruce Baker, Vice Chair

Harris Roen

Lee Buffinton

Jennifer Wallace-Brodeur

Emily Lee

FY 2016 BURLINGTON PLANNING COMMISSION ANNUAL REPORT

PREPARED FOR:
BURLINGTON CITY COUNCIL
MAYOR WEINBERGER

insert photo here
planbtv community meetings

The **Planning Commission** dedicates a tremendous amount of time to **creating and implementing *planBTV***, our **Municipal Development Plan**.

3

STANDING
COMMITTEES
MEET MONTHLY

2

JOINT PC/COUNCIL
COMMITTEES FOR
SPECIAL PROJECTS

81

PARTICIPATED IN 81 PC,
COMMITTEE, SPECIAL
MEETINGS IN FY 2016

MAJOR ACTIVITIES IN FY 2016, INCLUDED:

creating *planBTV*:

South End Master Plan

Long Range Committee worked with South Enders to revise the June 2015 Draft.

implementing *planBTV*:

DAPAC- BTC Mall Project

Committee directed staff on community engagement for redevelopment of the site.

implementing *planBTV*:

Downtown Form-Based Code

Joint Council & Commission Committee worked to develop a revised draft code.

implementing *planBTV*:

CDO Amendments

Provided recommendations on 10 CDO amendments; reviewed several others.

OVERVIEW

Planning Commission Membership

The Planning Commission is composed of seven members, appointed to staggered terms of four years. Intermittently since 2005, the Commission also includes a non-voting Youth Member. Each Commissioner participates on at least one Standing Committee, and some Commissioners also participate on ad-hoc committees established to facilitate special projects. The FY 2016 membership of the Planning Commission and participation in Committees is listed below; a record of attendance for the full Commission meetings is included in Appendix A.

Yves Bradley, Chair, *Executive Committee*

Bruce Baker, Vice-Chair, *Executive and Ordinance Committees, Development Agreement Public Advisory Committee (DAPAC)*

Lee Buffinton, *Ordinance Committee*

Emily Lee, *Long Range Committee, Joint Form-Based Code Committee*

Andy Montroll, *Executive and Ordinance Committees, Joint Form-Based Code Committee (Chair)*

Harris Roen, *Long Range Committee (Chair)*

Jennifer Wallace-Brodeur, *Long Range Committee, DAPAC*

Planning Commission Duties

The Burlington Planning Commission facilitates the optimal and sustainable development of Burlington's built and natural environment by engaging the community in long-range, comprehensive City-wide land use planning; advising the Mayor and City Council on matters pertaining to land use planning and development in general; reviewing and developing land development ordinances for approval by the City Council; providing oversight to the Department of Planning & Zoning (DPZ); providing comments and feedback, as necessary, to the Chittenden County Regional Planning Commission and the Chittenden County Metropolitan Planning Organization; and other functions as set forth in 24 V.S.A. §4325. In short, the Planning Commission dedicates a tremendous amount of time to creating and implementing planBTV—our community's Municipal Development Plan—which includes specific plans for areas and important issues in the City.

FY 2016 Meetings

In FY 2016, Commission members have dedicated an extraordinary amount of time to important projects in Burlington. Full Commission meetings are held at least twice monthly, and usually last 1.5 to 2 hours, although meetings lasting as long as 3 hours occurred several times this year. In addition to regular monthly meetings, and meetings of the Commission's Standing Committees, the Long Range Committee held 11 special meetings dedicated exclusively to the review and revision of the draft *planBTV South End Master Plan*; members of the DAPAC participated in 6 Committee meetings and numerous public events regarding the redevelopment of the Burlington Town Center Mall; and the Joint Form-Based Code Committee held 18 meetings to continue its work on the draft *Article 12: Downtown Burlington Form-Based Code*. In total, Planning Commissioners participated in 81 meetings this year to advance planBTV!

So, what did we do this year?

plan for BTV!

Long-Range, Comprehensive Planning

planBTV: South End Master Plan

The draft *planBTV: South End* was released in June 2015, and was available for public comment until the beginning of October. The Planning Commission reviewed each section of the draft plan, and public comments on these elements, and provided direction to the Long Range Committee and Planning Staff for revision to the plan. The Long Range Committee spent a significant amount of time discussing the plan's details with staff and South End stakeholders, and has provided recommendations on a revised draft plan that is anticipated in the summer 2016.

Advising the Mayor & City Council

In addition to its recommendations regarding amendments to the City's Comprehensive Development Ordinance, members of the Planning Commission continued to work closely with City Councilors on two special project committees this year.

Joint Form-Based Code Committee

The Joint Form-Based Code Committee continued its work to develop and refine the draft form-based code, in order to implement planBTV's vision for the downtown and the waterfront. The Committee made several revised drafts of the code available online for public review, and visited the NPA's throughout the City to provide an update on its work.

Development Agreement Public Advisory Committee

Members also continued to be actively involved in the Development Agreement Public Advisory Committee (DAPAC), regarding the proposed redevelopment of the Burlington Town Center. DAPAC members provided oversight and guidance on public input and key public issues related to the release of revised plans for BTC in January 2016, and on the framework for the Predevelopment Agreement that was approved by City Council in May 2016.

Land Development Ordinances

The Planning Commission and its Ordinance Committee have reviewed and discussed nearly twenty proposed amendments to the City's *Comprehensive Development Ordinance (CDO)* this year. The Commission recommended ten of these proposed amendments for adoption by City Council. The Commission has scheduled public hearings on four additional amendments, and will continue discussion on many others amendments in the coming year. The following amendments have been recommended by the Planning Commission to the City Council in FY 2016:

ZA-16-01 Thresholds for Major Impact Review: This proposed amendment creates varying thresholds that trigger Major Impact Review based on the location of the proposed development project rather than the current one-size-fits-all approach. This proposal creates four groups, based on similar types

of zoning districts. Different thresholds for each group are based on the proposed scale of the project relative to the intent of the zoning district and its capacity to accommodate new development. This amendment is being considered by City Council's Ordinance Committee.

ZA-16-02 Mobile Home Parks: This amendment sets forth development and review standards for pre-existing and newly-formed mobile home parks in accordance with state statute (24 V.S.A Sections 4412 (1)(B) & (7)(B)). This amendment was approved by the City Council, and has been incorporated into the Comprehensive Development Ordinance amended March 31, 2016.

ZA-16-03 Grocery in the E-LM: This amendment permits grocery stores under 30,000 sq.ft. in size to be allowed as a Conditional Use in that portion of the Enterprise- Light Manufacturing zoning district between Flynn and Home Avenues. This amendment was approved by the City Council, and has been incorporated into the Comprehensive Development Ordinance amended March 31, 2016.

ZA-16-04 Zoning Administrative Officer: This proposed amendment removes reference to a "Chief Assistant Administrative Officer" reflecting the Council-approved reorganization of the Planning & Zoning Department, and to conform to state statute regarding the appointment of the Administrative Officer. City Council's Ordinance Committee has recommended this amendment to the City Council; action on this amendment is likely to occur in FY 2017.

ZA-16-05 UVM Medical Center: This proposed amendment (1) reflects the name change from Fletcher Allen Health Care to University of Vermont Medical Center; (2) modifies the boundary between the UVM Central Campus Core Campus Overlay and the UVM Medical Center Campus Core Campus Overlay to reflect a recent property line adjustment; and (3) makes a correction with regard to the regulation of signs within the Institutional District. City Council's Ordinance Committee has recommended this amendment to the City Council; action on this amendment is likely to occur in FY 2017.

ZA-16-06 Animal Boarding/Kennel/Shelter in Downtown Zones: This proposed amendment amends Appendix A- Use Table to permit animal boarding/kennel/shelter uses as a conditional use in the Downtown, Downtown Transition, Downtown Waterfront and Battery Street Transition zones. Criteria are aimed at lessening the potential for off-site impacts by requiring uses to be fully enclosed and subject to City licensure. This amendment is being considered by City Council's Ordinance Committee.

ZA-16-07 Low Impact Development: This proposed amendment amends Sec.4.4.5, (d) 3.A. Exceptions for residential features; Sec. 6.2.2, (i) Vehicular Access; and Article 13: Definitions in order to permit an additional 10% in lot coverage in R-L and R-M zoning districts when pervious pavement is installed on lots for improved on-site stormwater management. City Council's Ordinance Committee has recommended this amendment to the City Council; action on this amendment is likely to occur in FY 2017.

ZA-16-08 Shoreland Protection: This proposed amendment amends Sec.4.5.4 Natural Resource Protection Overlay (NR) District and Map 4.5.4-1 to include shoreland from 95.5 ft above sea level in the Natural Resource Protection Overlay District: Riparian and Littoral Conservation Zone, and additional language relative to the purpose of the district. These amendments satisfy two conditions imposed by the VT Agency of Natural Resources when it granted delegation to the City over the 2014 State of VT Shoreland Protection Act. City Council's Ordinance Committee has recommended this amendment to the City Council; action on this amendment is likely to occur in FY 2017.

ZA-16-09 Duplexes on Existing Lots: This proposed amendment amends Appendix A- Use Table to remove footnote “2,” in order to permit duplexes as a conditional use both on existing and new lots in the R-L and RL-W zones, consistent with the express purpose of these zoning districts. This amendment is being considered by City Council’s Ordinance Committee.

ZA-16-10 Waivers from Parking/Parking Management Plans: The purpose of this proposed amendment is to allow the DRB to approve up to a 90% waiver of required parking for non-residential uses in all zoning districts within the City, except for the adaptive reuse of a historic building pursuant to Sec.5.4.8. and for retail uses in mixed use zoning districts. In both of these cases, the DRB may approve up to a 100% waiver of required parking, which is currently permitted by the existing ordinance. The proposed amendment does not change the existing requirements for providing parking management plans. This amendment is being considered by City Council’s Ordinance Committee.

Oversight of Planning & Zoning Department

In FY 2016, the Commission provided guidance to the Department and City Council regarding the organizational structure, appointment of Assistant Zoning Administrative Officers, and new hires. The Commission endorsed a plan for the Department’s restructuring, which included the elimination of the Assistant Director/Chief Assistant Zoning Administrative Officer position; creation of two new Principal Planner- Development Review positions, and the promotion the Department’s two Senior Planners into these positions; and creation of a new position of Associate Planner- Development Review. The Commission recommended the appointment of Assistant Zoning Administrative Officers Scott Gustin, AICP; Mary O’Neil, AICP; and William Ward. Later in the year, the Commission also recommended the appointment of Ryan Morrison, who was hired to fill the Associate Planner position in January 2016, as an additional Assistant Zoning Administrative Officer. Finally, several Commissioners participated on a committee to review candidates for the Comprehensive Planner position; Meagan Tuttle, AICP, joined the Department in this position in October 2015.

Other Activities

Andy Montroll represented the City of Burlington as the Chair of the Chittenden County Regional Planning Commission, and will continue as Immediate Past Chair and member of the Executive Committee in the coming year. The Commission meets monthly to discuss matters related to the implementation of the regional ECOS Plan, transportation plans, hazard mitigation plans, and other activities.

Lee Buffinton joined staff, elected, and appointed officials from municipalities across Vermont at the Preservation Trust of Vermont’s Downtown & Historic Preservation Conference, held in Waterbury in June 2016.

The Commission also received updates and provided comments on projects of other City Departments. This year, the Commission received reports on the Department of Public Works’ *Downtown Parking & Transportation Management Plan* and the *Residential Parking Study*, as well as an update on the *Health Impact Analysis of planBTV South End* from the State Department of Health.

Appendix A: Planning Commission Attendance Log FY 2016– July 2015 through June 2016

DATE	Baker	Bradley	Buffinton	Lee	Montroll	Roen	Wallace-Brodeur
2015							
7/14	X	X	X	X		X	
7/28	X	X	X	X	X	X	X
9/08	X	X	X	X	X	X	X
9/22	X	X	X	X	X	X	X
10/06	X	X	X		X	X	X
10/27	X	X	X	X	X	X	X
11/10		X	X	X	X	X	X
11/24		X	X		X	X	X
12/8	X		X		X	X	X
2016							
1/12	X	X	X	X	X	X	X
1/26	X	X	X	X	X	X	X
2/09	X	X			X	X	X
2/23		X	X	X	X	X	X
3/08	X	X	X	X	X	X	X
3/22	X	X	X	X	X		X
4/12	X		X	X	X	X	
4/26	X	X		X	X	X	X
5/10	X		X	X	X	X	X
5/24	X		X	X	X	X	X
6/09		X	X	X	X	X	X
6/14	X		X	X	X	X	X
6/21	X		X	X	X	X	
6/29	X	X	X	X	X		

Department of Planning and Zoning

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David White, AICP, Director
Meagan Tuttle, AICP, Comprehensive Planner
Jay Appleton, GIS Manager
Scott Gustin, AICP, Principal Planner
Mary O'Neil, AICP, Principal Planner
Ryan Morrison, Assistant Planner
Elsie Tillotson, Department Secretary
Anita Wade, Zoning Clerk



TO: Planning Commission
FROM: Planning Staff
DATE: June 29, 2016
RE: Planning Commission comments on proposed DMUC Overlay

During its June 14 and June 21 Work Sessions, the Planning Commission provided comments regarding elements of the proposed DMUC Overlay that it feels should be further refined. Additionally, Commissioners Wallace-Brodeur and Roen have sent comments for consideration since the last meeting, which have been incorporated into this chart. The Commission intends to send a list of these items for the City Council to consider during its review of the proposed ordinance. These comments have been summarized in the attached chart, which includes:

- Key elements of the proposed DMUC amendment
- Staff notes/comments regarding these elements
- Planning Commission comments on these elements, and a staff recommendation on next steps

In compiling these comments, staff feels that there are a number of items the Commission may want to discuss and attempt to reach consensus on before the amendment is transmitted to Council. These items are generally regarding modifications to the language of the urban design and parking standards to ensure the intent of these standards are realized. Staff recommends the Commission spend time on the items identified for discussion in the attached chart, and take the following actions:

- At this work session, discuss specific ways in which the draft ordinance language may be modified to address these issues, and determine whether or not these modifications should be included prior to transmittal to Council.
- Following the July 6 Public Hearing, assuming the modifications are still appropriate, instruct staff to make the identified changes prior to transmitting the draft amendment and cover memo to Council.

For other issues on which consensus has not been reached, staff recommends including the Commission's comments in the cover memo to Council. These items are generally regarding overall height and massing requirements, conditions of approval for projects to reach maximum height, and alignment of the Rights of Way proposed to be added to the Official Map.

PROPOSED DMUC Overlay – Summary of PC Comments & Staff Recommendations

This 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 of the key elements as they were described in the summary of the DMUC Overlay amendment that was approved as part of the Predevelopment Agreement. Staff has included recommendations below on PC actions on each of these key elements. Additionally, the chart includes PC comments to-date on these items. Staff has provided a recommendation on whether the PC should consider including these items in a revised version of the proposed ordinance after its public hearing, or include them in a letter of comments to the City Council for consideration during their review.

	<u>Key Elements:</u>	<u>Staff notes & comments:</u>	<u>PC Comments & Recommended Action</u>
1	Create a new Overlay District, known as the Downtown Mixed Use Core (DMUC) Overlay District (the “DMUC District”)	Exact boundaries still TBD. Proposed map comes from the current draft of the FBC. PC may want to fine-tune.	The Commission has discussed whether or not to include the People’s Bank site in the boundary. Staff Recommendation: Staff recommends that the Commission discuss the boundary, and make a recommendation on whether or not to modify it following the public hearing.
2	Expand the Official Map to include 60-ft. wide extensions of St. Paul Street and Pine Street between Cherry and Bank Streets.	Comes directly from the recommendations of <i>planBTV: Downtown and Waterfront Master Plan</i> The map of the street connections was included in the summary of the amendment that the City Council approved as part of the PDA. <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. Staff Recommendation: Regarding alignment, staff recommends the Commission include this in its comments to Council. Regarding condition of approval, staff will consult with City Attorney to determine whether this is legal. If so, staff recommends the Commission include this in its comments to Council.
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 supports by-right height and massing, but has recommended that the DRB process include condition of approval of maximum height related to: • the above condition regarding buildings within a ROW on the Official Map • demonstration of economic infeasibility of below-ground parking (see below) Staff Recommendation: Staff recommends that the amendment be explicit about requiring or prohibiting elements of design and/or performance, rather than including conditions. However, if the Commission feels strongly about including these conditions, staff recommends the Commission includes these concepts in its comments to Council.

	<u>Key Elements:</u>	<u>Staff notes & comments:</u>	<u>PC Comments & Recommended 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. <u>Staff</u> strongly recommends this <u>as proposed</u>.	The Commission has not reached a consensus on the proposed maximum height, and offers two opinions: - 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. <u>Staff Recommendation:</u> Staff recommends that the Commission include both of these viewpoints in its comments to Council.
5	Overall height allowed variation of 5% 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 not specifically discussed this item. <u>Staff Recommendation:</u> Include in the proposed amendment the text as written.
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	Comes from the proposed standards found in the current draft of the FBC. The proposed changes to height and setbacks on Church Street was included in the summary of the amendment that the City Council approved as part of the PDA. <u>Staff</u> strongly recommends this <u>as proposed</u>.	The Commission concurs with this as proposed, and recommends the setbacks as a model for setback requirements in other parts of the DMUC Overlay.
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. <u>Staff</u> strongly recommends this <u>as proposed</u>.	The Commission has not specifically discussed this item. <u>Staff Recommendation:</u> Include in the proposed amendment the text as written.
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.

	<u>Key Elements:</u>	<u>Staff notes & comments:</u>	<u>PC Comments & Recommended Action</u>
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:		
	○ Location, frequency and operability of primary entrances		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: • 2.B.v (basements/foundations) • 2.C.i and 2.C.ii (locations of entrances) • 4.iii (parking entrances) • 4.vii.a (active street frontages for parking) • 4.v (pedestrian connections to parking areas) <u>Staff Recommendation:</u> Staff recommends that the Commission discuss these elements, and make a recommendation on whether or not to modify text of the ordinance following the public hearing.
	○ Proportion of and distance between voids (doors and windows)		
	○ Transparency of glazing		
	○ Visual access within spaces		The Commission supports the language regarding the urban design treatment of parking floors, with the exception of how to treat voids on levels where parking extends to the building façade. The Commission feels that if parking is permitted in these areas, better standards are needed regarding the screening of cars and lights. <u>Staff Recommendation:</u> Staff recommends that the Commission discuss these elements, and make a recommendation on whether or not to modify text of the ordinance following the public hearing.

	<u>Key Elements:</u>	<u>Staff notes & comments:</u>	<u>PC Comments & Recommended Action</u>
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) Staff Recommendation: Staff recommends that the Commission discuss these elements, and make a recommendation on whether or not to modify the text of the ordinance following the public hearing.
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.		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. The Commission reiterates comments above regarding design and screening of parking to ensure that any parking located above ground is indistinguishable from other floors of a building from the street view. Furthermore, the Commission has suggested that surface parking should not be permitted in the DMUC district (Section 4.vi). The Commission has also recommended that for projects proposing parking above ground, developers demonstrate that all alternative locations for parking have been explored and are economically infeasible as a condition of approval to build to the maximum height in this district. Staff Recommendation: Regarding screening and surface parking, staff recommends that the Commission discuss these elements and made a recommendation for whether or not to modify the text of the ordinance following the public hearing. Regarding conditions related to parking feasibility, staff recommends the Commission include this in its comments to Council.
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.	Comes from the proposed Sign Type standards found in the current draft of the FBC, but PC may want to fine-tune.	The Commission has not specifically discussed this item. Staff Recommendation: Include in the proposed amendment text as written.

	<u>Key Elements:</u>	<u>Staff notes & comments:</u>	<u>PC Comments & Recommended Action</u>
14	<u>Green Buildings and Stormwater Management</u>	Current 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 and measurable standard and a mechanism to ensure compliance, such as a requirement to post a bond until a project is registered with LEED rather than withholding CO. <u>Staff Recommendation:</u> Staff recommends that the Commission discuss these elements and make a recommendation whether or not to modify the text of the ordinance following the public hearing.
15	<u>Inclusionary Housing</u>	This has not been included in the proposed DMUC; staff recommends the City’s Inclusionary Zoning ordinance as the applicable standard for the proposed DMUC area.	Some Commissioners have indicated concern at the loss of the additional Inclusionary Housing bonus, but no recommendation has been made on this issue. <u>Staff Recommendation:</u> Staff recommends the current requirements for Inclusionary Housing per the IZ Ordinance, and does not recommend any modifications to the proposed DMUC Overlay.

Meagan Tuttle

From: Jenn Wallace-Brodeur <jwb@burlingtontelecom.net>
Sent: Thursday, June 23, 2016 8:07 PM
To: David E. White
Cc: Lee Buffinton; Meagan Tuttle; Yves Bradley; bbaker@cdbesq.com; andym@montrolllaw.com; Emily Lee; Harris Roen
Subject: Re: Church Street Building Height

Hi everyone,

Sorry I missed the meeting Tuesday and am late to provide my list of questions. If these have already been addressed, please disregard and I can get filled in when I'm back.

Definition of secondary street facades and frontages: there are several references to secondary street frontages and I'm concerned with how this is defined - by us, developer or tenant? It seems like we could have dead blocks if we aren't more deliberate about defining what has to happen in these areas, particularly given that all blocks are important in this downtown area. Specific sections where this is referenced include:

- 2.C.i and 2.C.ii (street activation)
- 3.ii (Parking) - what would define a secondary street frontage in this situation? Also "where available" seems broad, we might want to tighten that.
- 3.vi.a - again in parking we are not requiring street level activation of parking on a secondary frontage. I can't thinking of a spot in this overlay district where this would be acceptable.

Section 2.B.v - can you show where we might expect to see raised foundations or basements at street level? I'm concerned about this and would like to better understand how this is handled from a design perspective. Also, is this in conflict with our desire for street activation?

Section 2.D.iii (alternate materials) - are these alternates for primary and accent materials? Needs clarification.

Section 2.E.iii - seems very broad or a catch all exception. Suggest tightening this.

Parking:

- 3.iv - how are we defining "parking area" to make sure that there is more than one pedestrian route leading directly to a street frontage in the garage? The way this is written makes it sound like you only need one route in the whole structure.

- 3.v - I don't think we should allow surface parking in the overlay district

I'm also concerned about the screening requirements per our earlier discussion. I'm not sure we've hit it in the current language.

That's it for now. I'll catch up when I'm back from vacation.

Jenn

On Jun 20, 2016, at 4:19 PM, David E. White <DEWhite@burlingtonvt.gov> wrote:

Thanks Lee.

Anyone-else have any specific issues you want to focus on? If we know in advance we can try to bring some information that can hopefully help the discussion.

David E. White, AICP
Director of Planning & Zoning

City of Burlington, VT

*** Please note that any response or reply to this electronic message may be subject to disclosure as a public record under the Vermont Public Records Act*

From: Lee Buffinton [<mailto:l.buffinton@gmail.com>]
Sent: Monday, June 20, 2016 2:33 PM
To: Meagan Tuttle <mtuttle@burlingtonvt.gov>
Cc: David E. White <DEWhite@burlingtonvt.gov>; Yves Bradley <ybradley@vermontrealestate.com>; bbaker@cdbesq.com; andym@montrolllaw.com; Emily Lee <emilyannicklee@gmail.com>; Jennifer Wallace-Brodeur (jwb@burlingtontelecom.net) <jwb@burlingtontelecom.net>; Harris Roen <harris@roen.net>
Subject: Re: Church Street Building Height

If possible I'd like to work through the zoning amendment as proposed focusing on the most substantive changes (the meat of the matter) as a priority to discuss first as Brian Dunkiel suggested. We can always tweak the details later. And that's coming from a detail-oriented person!

And a reminder- I believe we agreed to replace the word "void" representing windows and doors to the more relevant and understandable "openings" in the proposed amendment.

Thanks.

Lee

On Mon, Jun 20, 2016 at 12:06 PM, Meagan Tuttle <mtuttle@burlingtonvt.gov> wrote:

Thanks, Lee. We'll add this to our list of topics to discuss tomorrow night.

Meagan E Tuttle, AICP
Comprehensive Planner
City of Burlington, VT
[802.865.7193](tel:802.865.7193)

***Please note that any response or reply to this electronic message may be subject to disclosure as a public record under the Vermont Public Records Act.*

From: Lee Buffinton [<mailto:l.buffinton@gmail.com>]
Sent: Monday, June 20, 2016 11:38 AM
To: David E. White; Meagan Tuttle; Yves Bradley; bbaker@cdbesq.com; andym@montrolllaw.com; Emily Lee; Jennifer Wallace-Brodeur (jwb@burlingtontelecom.net); Harris Roen
Subject: Church Street Building Height

The proposed Sec 4.4.1 B says that **the maximum height of any building fronting on Church Street shall be limited to 4 stories** not to exceed 45 feet. Then it goes on to say that portions of the building can exceed 45 feet which doesn't make sense. I think we need to clarify and tighten the wording on this and I'd like to understand better the justification for switching from 16' step backs to 10'. By the way, the graph is helpful.

Thanks!

Lee

Proposed CDO Downtown Mixed Use Core Overlay

Comment for the Public Hearing on July 6, 2016

Harris Roen, Planning Commissioner

The proposed CDO Downtown Mixed Use Core Overlay is one of the most important ordinance changes the Planning Commission has considered during my tenure. Because I am unable to attend this public hearing, I feel it is important to submit my comments.

As I have said at previous meetings, I believe the site in question is the exact location where we should be looking to increase density in Burlington. In order to maintain a vibrant downtown, we need to enhance opportunities for housing, office and retail in the downtown core. This will also support efficiencies of urban living for those who want to avoid a car-centric lifestyle.

The main benefits of this proposed ordinance in my mind are: reconnecting the street grid; increasing opportunities for housing; and supporting economic vitality for downtown Burlington. On housing, it is clear that finding a place to live in Burlington is a problem. One need only start hunting to see what is available to confirm this. The Chittenden County Regional Planning Commission and other partners have targeted a lack of housing as a major issue, and have recently announced a campaign to build 3,500 new homes in the next five years. I believe this is the right location to help meet this goal.

I have been asking everyone I can about their opinion of the redevelopment project and related zoning change. This is in addition to having digested all the public comment, both on-line and at our meetings. I have found a wide range of opinions both for and against, as well as much misinformation and misunderstandings (my favorite is not being in favor of a 16-story mall, “we just don’t need that much shopping”). The public comment has been voluminous and I see merit on both sides of the debate. Despite the divergent views, the strongest area of agreement seems to be the desire to redevelop the mall site in some fashion.

Although the planning the process can often seem messy due to the size and complexity of the efforts involved, I do believe the process for consideration of this zoning change has been problematic. If a change in height of this magnitude were being considered outside of the project in front of us, it would likely take much longer than the time allotted in the development agreement to come to consensus. Considering the time frame, I believe the Commission should only forward some elements of the ordinance on to the City Council where consensus can be reached, such as changing the official map and façade treatments. Otherwise, I agree that the Commission should focus on making recommendations to the City Council that highlight issues to consider, rather than forward specific ordinance language.

It's hard to weigh in on many of the important design considerations without being part of the discussion at the meetings, but below are my comments on a few of the major items in the proposed ordinance:

Sec. 4.2.2 Downtown and Waterfront Core Official Map Established

I strongly support this section and recommend forwarding it to the City Council. Paragraphs (h) and (i) leave no question that the streets are being reestablished as public right-of-ways. I agree with the suggested change to Map 4.2.2-1 made at our meeting on June 21 to allow for better alignment to the existing street grid.

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

(a) Purpose:

I think this language is very good. I would only suggest adding as a purpose "enhance pedestrian connections between Church Street and the waterfront."

(b) Area Covered:

I am OK with the map as is, but would not object to expanding it to encompass the People's Bank building property.

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

1. Dimensional Standards:

Despite my reservations about the process as mentioned above, I personally do not object to the 160-foot height limit as proposed. I believe this would allow for increased density in an appropriate location, and anticipate that it would allow for a better building design. Yes, it would change the skyline, but so too have many other buildings built throughout the history of Burlington. Having said that, I would be open to considering other options by manipulating the standards in Table 4.5.8-1. There may be potential to redevelop the site by decreasing height and increasing bulk, which may better reflect desires of the community.

Thank you.

Meagan Tuttle

From: Bob Wolf <bcwolf@burlingtotelecom.net>
Sent: Tuesday, June 28, 2016 8:09 PM
To: 'YvesBradley'; 'Bruce Baker'; 'Lee Buffinton'; 'Emily Lee'; 'Andy Montroll'; 'Harris Roen'; 'Jennifer Wallace-Brodeur'; Meagan Tuttle
Cc: Bushor, Sharon; Maxwell Tracy; Sara Giannoni; Kurt Wright; Chip Mason; Karen Paul; Ayres, Tom; Adam Roof; Selene Colburn; Jane Knodell; Joan Shannon; David Hartnett; Mayor's Office
Subject: Please do not approve Mall exemption

Dear Burlington Planning Commissioners

I attended the 6/9/16 meeting at the Police Station to speak against the proposed 14 story mall, something I have never done in my 25 years living here in Burlington. Unfortunately I didn't arrive in time to speak so I stayed awhile to listen to your group's discussion. Much to my surprise, my takeaway was this is a done deal with the discussion centered on how BPC was going to package it. I also came away with there are some serious flaws in the logic presented by Julie Campanoili and another woman presenting the zoning height pictorial. I personally hope the project doesn't look like the slides Julie presented of Colorado, Seattle, Texas, Copenhagen, etc! One of Julie's points was the 14 story buildings wouldn't be noticed from Church Street; true, but they would be noticed from afar and certainly be disproportional to all surrounding buildings. And the zoning height pictorial assumed the surrounding buildings would be 105 feet, therefore the new mall would only be slightly higher and not a big deal, however this isn't the case given the historical nature of many of our downtown buildings. I hope our downtown will never be made up of 105 buildings! This is not the city I wish to leave my kids.

Another issue for me is the rush to approve by the Mayor and Don Sinex. I heard the Mayor say much of this negotiation was done in Executive Session dating back to November 2014. He should not be surprised then if the public is now critical of only being involved since April 2016 for such a massive project. Also where are the feasibility studies to support or disprove the claims made on both sides of this issue? Is one not required before final approval? There are too many unanswered questions for such a transformative project and we seem to be enamored by someone dangling large sums of money with promises of rainbows and unicorns. I know what Sinex gains from all of this, a large profit; I'm not so sure about the citizens of Burlington though. I do agree the mall needs redevelopment, but let's keep downtown Burlington on a human scale for future generations.

Thanks for listening.

Bob Wolf
41 Caroline Street

Meagan Tuttle

From: Carolyn Bates <cbates@burlingtontelecom.net>
Sent: Tuesday, June 28, 2016 5:50 PM
To: Meagan Tuttle; YvesBradley; Bruce Baker; Lee Buffinton; Emily Lee; Andy Montroll; Harris Roen; Jennifer Wallace-Brodeur; Meagan Tuttle
Subject: FAR question to send to planning commission

PLease have this comment be part of the record for the meeting June 29.

I am quite confused
This is in the overlay play, right?
The FAR

I keep seeing 8-++ put up side by side with the new 9.5 FAR when David shows his slides and building build outs.

Yet when I read the overlay document it says 5.5
Why? are we being told it is 8.+++????

See below

Carolyn L. Bates Photography

Email: cbates@carolynbates.com

ADDRESS: PO Box 1205, Burlington, VT
05402

(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:

Table 4.5.8-1 Downtown Mixed Use Core Overlay (DMUC) District Dimensional Standards

Building Height	3 stories min. 14 stories not to exceed 160-ft max
FAR	9.5 FAR total max per lot
Floorplate:	
Floors 1-5	100% of lot max.
Floors 6-7	75% of lot max.
Floors 8-11	55% of lot max.
Floors 12+	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.	
Pervious Area¹	10% min
Setbacks:	
- Front	0-ft min, 10-ft max.
- Side/Rear	0-ft min, 12-ft max.
Occupied Build-to Zone²	100%
Ground Floor Height (floor to floor)	14-ft min
Arcades³	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.

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,

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Comment [DE] out of the propo footnote regardi preferred alterna limitations. BTC (39,405 sf) of up comparison

Comment [DE] out of the propo to define a build create enclosure environment

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Phone: (802) 238-4213
Web: [www carolynbates.com](http://www.carolynbates.com)

Meagan Tuttle

From: Lee Buffinton <l.buffinton@gmail.com>
Sent: Wednesday, June 29, 2016 9:36 AM
To: Meagan Tuttle; David E. White; Yves Bradley; bbaker@cdbesq.com; andym@montrolllaw.com; Emily Lee; Jennifer Wallace-Brodeur (jwb@burlingtontelecom.net); Harris Roen
Subject: Communication for discussion at June 29th meeting and for the record

To my fellow Planning Commissioners,

Vermont Law is very clear- Local zoning regulations must conform to the municipal plan. For Downtown Burlington that municipal plan is planBTV Downtown & Waterfront adopted after extensive public involvement. Our planning packet materials for the various zoning amendments before us emphasize that it's important to "comply with the Pre-Development Agreement" for the mall project, but what is far more imperative and required by law is that we comply with our municipal plan.

Clearly plan BTV and all of us on the Planning Commission support a vibrant, mixed-use, mall redevelopment with a healthy mix of retail, commercial, and diverse residential spaces to meet the needs of the city. The City and the developer deserve credit for working so hard together toward this vision and, in particular, the effort to re-open St. Paul Street and Pine Street as complete, public streets. While these efforts are exactly what plan BTV envisioned, some of the specific zoning amendments as proposed are not consistent with plan BTV and, therefore, should be reconsidered and reconfigured in order to meet the legal requirement, avoid legal wrangling over potential spot zoning, and facilitate redevelopment.

3 areas of concern:

Proposed zoning amendment to allow post secondary schools and community colleges as a permitted use-

Under this proposal the entire mall could be turned into a college or university campus, exempt from Inclusionary Zoning requirements and without the conditional use review that is currently mandated. Nowhere in planBTV does it suggest that we put a college campus downtown! A college campus does not align with plan BTV's call for mixed use retail, commercial and diverse residential uses at the mall site. Nor would a college campus address the goal of creating more affordable and moderately priced housing downtown essential for workforce housing, seniors, and others, as prioritized in plan BTV. It's essential to retain conditional use review of any proposed secondary school/college at this site.

Proposed zoning amendment to raise building height limits from the current 65' by right to 160' (14 stories) by right with no provision for requiring additional public benefits such as affordable or senior housing.

This proposal represents a dramatic increase in building height and a major change in policy that has little basis in the adopted plan BTV or the draft Form Based Code.

While Plan BTV wisely calls for "larger residential, mixed-use buildings" at the current one-story mall site as well as strategic infill and liner buildings, the plan does not suggest the need for any increase in our current height limits and says; "While allowing for even taller isn't necessarily the answer, efforts to encourage development that more fully utilizes the permitted development envelope need to be supported". Plan BTV seems to be responding to public sentiment and cites its public survey that found only a very small percentage of respondents who were dissatisfied with the scale of buildings downtown. Even the plan's graphic images of

what a redeveloped mall site could look like show new buildings no taller than 6 to 8 stories in keeping with our current height limits.

Furthermore, 14-story buildings towering over historic Bank Street, Cherry Street and the new sections of St. Paul and Pine Streets could block sunlight and increase and alter wind currents and downdrafts at these locations, potentially diminishing the positive pedestrian experience that plan BTV envisions. In addition such heights would seem to be at odds with Section 6 of our current Comprehensive Zoning Ordinance that emphasizes the importance of maintaining neighborhood proportions of scale and mass and sensitive transitions between new buildings and existing neighborhoods.

Under this proposed zoning amendment to allow 14-story buildings by right a developer could put in the bare minimum number of inclusionary zoning units (15-20%) and all of the remaining units (80 to 85%) could be luxury apartments. This fundamental policy shift would be counter to plan BTV's strong emphasis on creating a variety of housing options: "more choices, more types, more affordable, more diversity". Plan BTV calls on us as a city to use "a number of strategies that can and should be employed to encourage the creation of significantly more housing- particularly affordable and affordable market-rate units". Specifically cited in plan BTV's vision for the mall are "downtown workers, young professionals, and empty nesters" who need affordable and moderately priced housing downtown. By adopting a massive height increase with no incentives attached we could lose on an opportunity to get the housing variety that our city needs.

Proposed zoning amendments that would allow for surface parking lots and a parking garage to be built to the perimeter of a building at any floor except the first floor.

Surface parking lots, whether on the ground or on the top deck of a parking garage, are completely at odds with 21st century planning and the green roofs and stormwater management called for in plan BTV.

In regard to parking, plan BTV emphasizes underground or wrapped parking where needed, stating: "In all cases, any new facilities should be wrapped with mixed-use buildings to screen the parking and activate the street." Our plan does not say that this only applies at the ground floor level. Lastly, plan BTV emphasizes the need for the city to "work closely with developers to manage their parking needs" and consider alternatives to building conventional parking garages. I urge that we delete the amendment allowing for surface parking and make the parking garage section more consistent with plan BTV objectives.

In conclusion:

We as a Planning Commission have been urged to adopt, in their entirety, the zoning amendments to enable the mall redevelopment as proposed. However, we would not be performing our due diligence or meeting our legal obligations if we passed the particular zoning amendments cited above as written. I'm no lawyer, but it seems to me that we need to avoid the potential lengthy legal mess associated with accusations of "spot zoning" by making absolutely sure that any zoning amendments comply with the goals of our publicly supported plan BTV.

Until we go through the public process of changing it, plan BTV is our guide for Burlington's future. The city supports and wants plan BTV. Developers want certainty. We can have both.

I respectfully request of my fellow planning commissioners that we reshape proposed zoning amendments as needed to keep us on solid legal ground and to better reflect the vision and values of Plan BTV and the citizens of Burlington.

Thank you.

Lee Buffinton

PC meeting notes/comments

Proposed written comments to submit today to PC on the memo from Staff, to be submitted by Don by email - please review and provide any feedback ASAP - Brian needs to look at it for takings comments...

I am writing to provide brief responses to the most critical issues raised in the summary of your deliberations by City Planning staff, as reflected in the memo sent out in your packet for tonight's meeting.

Item 2: Official Map. The provisions of the Predevelopment Agreement (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, which 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 development 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 Burlington Town Center (BTC) project as planned, at corresponding cost to the project and, if accomplished through a takings 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 the staff memo would affect multiple parcels within the proposed overlay. Finally, conditioning the otherwise "by-right" height on the street alignment issue may constitute an impermissible taking without compensation (to any parcel owner, not just me). 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 can be signaled and signed to avoid direct conflict if it is "jogged" as shown. I ask that you reconsider this issue and recommend the Official Map as attached to the PDA for these reasons. If the matter as commented on by the PC is adopted I am afraid I won't be able to proceed with the proposed designs and program.

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 ensuring that the full district height is utilized only if there is no new building within the street rights of way shown on that Official Map.

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 revisit whether to require a showing that an underground garage is "economically infeasible." That phrase seems to present both a very high and ill-defined bar that I believe will add significant time and cost to any permitting process. There are many reasons, with respect to the BTC project, that a below grade garage did not work, 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. 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.

I am attaching new garage facade views we have submitted to the DAB and DRB recently; 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 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 making that a requirement of any above-ground facility in the DMUC, in my view.) It is unrealistic to require 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 cannot have properly utilized the Hotel Vermont site.

The additional design and engineering work, entrances, corridors, garage ventilation systems, and exterior structures that would be required to accomplish this would be quite significant. 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, adopting the zoning standards as submitted by planning staff. Please reconsider the showing required to build parking above ground, and reconsider recommending a requirement of full liner buildings for above ground garage floors. These are requirements that will deter development, not encourage it. The DMUC district is intended to encourage development, not deter it.

Thank you for considering my concerns, and for your hard work on this proposed amendment.

Images provided by Devonwood/BTC Mall Team
For Planning Commission discussion 6/29/2016



Cherry Street Façade



Cherry/St. Paul Perspective



Bank Street Façade



St. Paul/Bank Perspective



Detail of Bank Street Parking level façade



St. Paul Street Facade



Pine Street Facade

Dear Planning Commissioners,

As three members of the Form Based Code (FBC) Committee we felt that it was important to build on the tremendous amount of work the Committee has done in reviewing and refining the requirements of the proposed Form Based Code such that the ordinance changes under consideration by the Planning Commission for this overlay district are consistent with both PlanBTV and with the specific requirements for Form District 6 (The Downtown Core) where the overlay district is located. We appreciate that time is of the essence in your review process and hope that the time we spent reviewing the proposed ordinance compared with the Form Based Code will be helpful. While the draft overlay has included much of the work of the FBC Committee, after careful review we believe the proposal could be brought into further alignment with our committee's discussions if the following changes were made to the requirements of the proposed ordinance:

- 1. Amend the proposed Overlay District Map as follows:** Remove the Southern Parking Garage behind People's United Bank (formerly the Chittenden Bank) from the Overlay. Reasons: This is what FBC committee agreed to and it doesn't effect the Mall project in anyway. This will keep all of the tallest buildings in direct alignment with one another minimizing the extent of views that are blocked when looking west along Bank Street.
- 2. Remove changes to Church St.** - Any revisions to the current zoning requirements governing development fronting on the Church Street Marketplace deserve significantly more discussion than is afforded by this current request for review/approval by the City Council. It is our understanding that the redevelopment proposal for the BTC site could be accomplished without making changes to the zoning regulations governing Church Street. While the FBC Commission did review the changes proposed for Church Street zoning included in the language of the ordinance change before you, we request that the Planning Commission wait until the Form Based Code Committee has completed their public process and final review before considering these changes since there is no need for these changes at this time.
- 3. Lower proposed max. height to 146'** - It has been noted in public discussion that the 160' limit could be exceeded to accommodate rooftop mechanicals. In addition there is an administrative allowance to increase height by 10% to account for grade changes across the site - a concept included in the administrative provisions of the Form Based Code. If the desire is to establish a true maximum height of 160' we recommend lowering the height limit to 146' and allowing the administrative discretion for grade variations, mechanicals, etc. that would then bring the overall height with rooftop mechanicals to 160'.
- 4. Assure a minimum of 15' sidewalks.** - This concept was debated at length in the Form Based Code Committee. We came to agreement that it is critically important that wider sidewalks be required and provided where development is more intense and pedestrian activity is greatest on busier streets. As the streets in this district will be rebuilt it is the perfect opportunity to assure-adequate sidewalk dimension is provided in an area that must be pedestrian friendly. This requirement should be coordinated with the planning guidelines and findings of the Burlington Great Streets Initiative currently underway.
- 5. Assure that the maximum height is conditioned on getting the streets back** consistent with PlanBTV. If the current proposed mall project does not ultimately move forward to construction, we wouldn't want to allow another development and developer to purchase the property and receive the additional height and density benefits inherent to this overlay district without requiring that Pine Street and Saint Paul Streets be returned to the public domain and the City grid.
- 6. Assure that step backs are consistent with those required in Urban Design Standards of Form Based Code.** The proposed massing shown in current design studies appear to be slightly different than that shown in the FBC. We would request that the step-back requirements be

reviewed for consistency.

7. Require LEED Gold Certification from the USGBC (US Green Building Council) for all buildings in the overlay district over 65'. This will be a significant measure to assure that the tallest buildings in the state will meet best practice requirements for energy efficiency and sustainable practices. We would recommend that developers in the overlay district be required to provide a performance bond that will be returned to the developer once the project is complete and the LEED standards are shown to be met, or given to the City if the standard is not met.

8. Parking – This development proposal includes three (3) stories of parking located at exterior building elevations on the 3rd, 4th and 5th floors of the buildings. One of the focuses of the FBC has been to minimize the disruptive influence of parked cars on the character of the urban environment. Example photos of other completed parking structures in downtown areas have been shown that appear to include glazed windows with the cars parked behind, which effectively disguises the nature of the building's use as a parking structure. We would recommend that development in the overlay district be required to meet the examples of these projects and be designed such that areas of the building elevation screening parked cars be fully integrated with the design of the remainder of the building. The effect should be that the elevation areas screening parking are generally indistinguishable from the rest of the building's design.

9. Remove Surface Parking - If this is referencing at grade surface parking it should be removed. If it is referencing above ground parking above the 2nd floor it could stay.

10. Energy Efficiency - consistent with FBC design standards to allow for high efficiency buildings.

11. No structured Parking on First or Second floor levels - Mall developers are proposing structured parking on floors 3-5. That would be better than starting the parking on the second floor, in terms of the street experience. We recommend making it the standard for the district.

Thank you for your consideration of these proposed changes and for all of your work to return the proposed new zoning to the Council expeditiously.

Sincerely,

Joan Shannon
Form Based Code Committee Member
South District City Councilor

Richard Deane
Form Based Code Committee Member
Principal at Truex Cullins Architects

Emily Lee
Form Based Code Committee Member
Planning Commissioner

Burlington Planning Commission

149 Church Street
Burlington, VT 05401
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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 Minutes Special Meeting Wednesday, June 29, 2016 - 6:00 P.M.

Present: Y Bradley, L Buffinton, E Lee, A Montroll

Absent: H Roen, J Wallace-Brodeur

Staff: D White, M Tuttle, E Tillotson

I. Agenda

No changes.

II. Annual Report

M Tuttle: Draft in the agenda; has a similar format to previous years with some additional information. Planning Commission members attended 81 meetings over the year. The report addresses the work of different committees, the Commission's work with the City Council, and enumerates the 10 ordinances sent to City Council this year. There is a scheduled presentation to the City Council on July 11.

D White: It is still possible to provide any additional information to staff to be included.

Y Bradley: Suggests that the Commission address this at the next meeting.

III. Proposed CDO Amendment- Downtown Mixed Use Core Overlay

D White: The agenda packet is an outline of the amendment with the Commission's comments from the last meeting added. Hope to solidify the Commission recommendations and comments to the City Council.

M Tuttle: The materials identify staff recommendations on how to address Commissioner's comments. For some, there seemed to be consensus, particularly around items like the urban design standards. These could go into a list of changes to make to the ordinance after the hearing. Other issues, such as height and massing, for which there is not consensus, can be in a letter to go to the City Council. The first item in the chart is the boundaries of the overlay and the question about whether or not to include the People's Bank and College Street garage sites.

L Buffinton: Hotel VT is concerned about the city parking garage, we should look at height there.

E Lee: Presented a communication from herself, Joan Shannon and Richard Deane, members of the Form Based Code (FBC) Committee, regarding ways to bring the proposed amendment in line with FBC recommendations. Doesn't feel that the FBC's recommendations are represented in the current proposal. However, the amendment should not specifically consider any one property's views.

Y Bradley: Communication is only from three FBC Committee members; would like other members to review.

E Lee: The authors of the letter were careful to ensure that there was no quorum; comments do not represent the FBC Committee.

M Tuttle: Perhaps E Lee can share the comments on each issue as it comes up in tonight's discussion.

J Shannon: Communication reflects the original decisions of the FBC committee. This area had been reserved for taller buildings, but it only included those buildings between Cherry and Bank- not site behind People's Bank. Burlington is not that comfortable with tall buildings.

E Lee: FBC committee is not finished with their work.

Y Bradley: This is a new district; it seems that these buildings should be part of the overlay. From an urban planning perspective, why limit to such a tight geographic area.

D White: There is no historical pattern of development being disrupted; sites are internal to several blocks. Area where higher and bigger buildings could go. Caution about how it affects the view down Bank Street.

L Buffinton: People's building is important to the view at the end of the street. Suggest boundary doesn't include People's or College Street Garage.

Y Bradley: Need to consider future planning. Not everything will be redeveloped, some buildings might be repurposed.

B Baker: On the fence; could include these sites, but condition them not to permit 14 stories.

E Lee: Stand by the FBC Committee decision. Was a lot of give and take.

Y Bradley: Compromise and change comes with a range of opinions.

B Baker: A Montroll and H Roen may help us come to consensus.

M Tuttle: Next item is by-right height and FAR. Chart captures comments submitted by A Montroll that the amendment should be explicit about requirements; however, notes A Montroll's suggestions about ROW and underground parking discussed in other meetings. Received a communication from the BTC team about these two issues.

L Buffinton: Don't agree with by-right height and massing. Read communication sent to Commission regarding conforming to planBTV; elimination of bonuses, particularly for inclusionary, senior housing; secondary schools as a permitted use; and surface parking lots built to the perimeter of buildings. Requests that inclusionary housing and the use change be included the chart of discussion items.

D White: Bonuses have been around for three or more decades, and haven't produced much other than some parking. The ordinance needs to be really clear with goals stated. FBC doesn't retain any bonuses for housing. Inclusionary Zoning Ordinance is presently subject to a study. One question is whether to include workforce housing, because we know including that level is more challenging.

M Tuttle: Commission discussed that standards need to be clear and measurable.

B Baker: How effective is the requirement? The Commission should not weigh in on this matter at this time.

L Buffinton: The market will dictate fancy condos; the Commission needs to be more prescriptive.

Y Bradley: Inclusionary zoning is seen as a penalty, which impacts market realities. It's extremely hard to provide family housing, and we need to find a way to provide all housing types.

D White: This is a complicated issue; don't know that we will be able to answer it as part of this amendment.

E Lee: Not comfortable saying 160 feet is right height or wrong height without tools to see it, like model.

M Tuttle: This item is not about the height, but whether height is permitted by-right or through bonuses.

L Buffinton: Strike "the Commission supports by-right" because we did not vote.

E Lee: Had a discussion about legal ways to open streets tied to height. FBC included administrative discretion for 10% height variation for changes in elevation of site. Height should be a hard line; 160 feet means height is 146 feet with 10% variation up to 160 feet.

M Tuttle: Commission agreed not ready to make recommendation on overall height, but will provide all comments to Council. These are summarized in chart.

L Buffinton: Recommend current height limits, project within current ordinance because of planBTV. Don't feel this is legally justified until we have public process. Should be cautious and not let this leapfrog to other sites.

E Lee: Don't agree. Think this area is appropriate to have higher height, just don't have tools yet to make a decision on what height is.

B Baker: Recommending height is our charge. We have to follow planBTV and Municipal Development Plan, and making changes to zoning bylaws are implementing items of the plan. Good to get City Attorney's input, though.

D White: planBTV speaks to infill, but ambiguous on whether height should change to facilitate infill. Can facilitate by going taller or not going taller. Statute defines what conformance is, and difficult to argue this is no in conformance. Without the plan specifying what the height should be, have to consider the plan as one concept.

The Commission unanimously approved a motion by B Baker, seconded by E Lee, to include all opinions of the Commissioners including those submitted at the meeting by E Lee and L Buffinton, regardless of agreement by the Commissioners, regarding the proposed height of the ordinance in a letter to Council.

[A Montroll arrived 7:06 pm.]

A Montroll: While FBC recommends 10% variation in height, this district is already much higher. Suggest no administrative relief.

E Lee: 160 feet should be hard line.

A Montroll: Need to define the way the top of a building is measured.

M Tuttle: Sounds like recommendation to strike. At the last discussion, height and setbacks along Church Street were acceptable and chart reflects this.

E Lee: There needs to be a larger discussion about Church Street.

L Buffinton: It seems as if this works, but there is no pressing need to do it now.

D White: This language came from the FBC committee.

A Montroll: Should consider it as part of the FBC review.

The Commission unanimously approved a motion by E Lee, seconded by L Buffinton, to recommend that Council not include the proposed change to the Church Street height and setbacks as part of the DMUC Overlay.

L Buffinton: FAR is very confusing, what is being recommended?

D White: Existing zoning allows max 8.5 FAR. Proposed is 9.5 FAR, with limits on how it can be arranged to create spaces that are more functional for upper levels of a building, typically windows in upper story housing units.

M Tuttle: Items 8, 9, & 10 include comments from J Wallace-Brodeur. She raised the point that a secondary entrance is not defined, but that none of the streets in the overlay should be considered secondary. Staff discussed removing references to secondary, making all requirements for all facades.

A Montroll: Statement about parking design in #12 is more correct.

L Buffinton: To be consistent with planBTV, parking should be underground or completely wrapped.

M Tuttle: Suggestion was made not to permit surface parking.

Y Bradley: Green roofs, underground parking all costs money. Some surface parking is good planning. Layering everything involves expense; someone has to pay for it. Need to be realistic.

L Buffinton: This seems like a false argument; stormwater problems and surface lots are polluting the lake.

A Montroll: On ground level, is it possible to have parking behind frontages? The core overlay area is not where we want open surface parking.

L Buffinton: Disagree about allowing it to come to the edge of the building.

D White: The mall team has provided some information as to cost. Question is, at what point does burying parking become cost prohibitive and how do we include that as a measure of evaluation in zoning?

L Buffinton: It's important to think outside of the box.

Y Bradley: Don't know if it is always feasible for it to be wrapped. Some areas where it is not realistic; there may be areas where office space is not wanted, such as where dumpsters and utilities have to happen.

A Montroll: Permitting needs to be dealt with at the DRB level. As planners we need to put in what we want to have happen.

M Tuttle: Chart summarizes location and how screened. Demonstration that underground placement is economically not feasible is difficult, but can be included in the comments. Demonstration of economic feasibility is difficult to demonstrate and it is tricky to incorporate in language.

A Montroll: Is there a way to build it into the ordinance instead of as a condition of a permit?

D White: How do we determine the appropriate economic standard? Would need to have some really clear standards for DRB. Have to be really specific, and don't know of any good examples.

B Baker: Could require a parking plan that demonstrates all other options have been explored.

E Lee: Are the master sign plans consistent with ordinance work on LED signs that the Commission did?

D White: We do allow changeable message signs, and defines sizes and placement of other signs.

E Lee: Is there a reason requirements now need to be changed?

D White: Comes from work on FBC.

L Buffinton: It is important to hold this site to highest standards for stormwater performance.

D White: Per the City Stormwater team, the current standard is capturing 50% of a 1-year storm for new development. Ordinance proposes 100%.

E Lee: Regarding green buildings, not married to LEED but it is measurable. Would change to require bonding until confirm that it is certified.

B Baker: Skeptical of tying standards to a particular program.

M Tuttle: Need to determine what are the measurable standards we will use for compliance.

E Lee: LEED ensures accountability and is a recognized standard by the community.

L Buffinton: Needs to say something about healthy buildings.

B Baker: Sometimes Act 250 contains an engineer's statement stating measurability.

Y Bradley: Support tying to a standard. Tying into a standard we don't understand doesn't seem wise. Maybe staff can provide language.

E Lee: Could be any standard, but at least needs to be LEED or higher, measurable, and accountability.

B Baker: Some of these items are in the VT Energy Code. I don't know anything about this program, not comfortable with recommending it.

A Montroll: Want a high standard, but don't know what the standards are.

E Lee: Can't be a made up standard that staff writes. Needs to be an outside standard.

D White: Communities typically tie to something like LEED or create their own standards. LEED is best thing that's objective and measurable. Challenging because certification comes down the road, which is why there was a suggestion for bonding.

C Bates: San Francisco uses three standards in their ordinances for green and healthy buildings.

Y Bradley: Refer to staff to research and give some options.

L Buffinton: Commission needs to provide comments in this chart on the issue of schools as a permitted use. No one has mentioned, where did it come from?

D White: If you have housing associated with a school use, does it make sense to provide some space for educational uses—classroom, lab, etc. Only way current ordinance allows for it is as a school.

L Buffinton: Is there a financial reason why this is proposed? For example, if there is an educational use associated, then the housing units are considered dorms and they don't have to pay taxes?

D White: Taxes are based on who owns the building, not tenants. Dorms are defined as units owned and or operated by a school for an academic term. The relationship to academic term is what differentiates dorms and apartments.

L Buffinton: Developer says building student housing, isn't that a dorm?

D White: That's just who they intend to lease to. When building housing, it needs to be functional to someone beyond that current lease.

L Buffinton: Could condo a chunk of the building, sell to a school who could build a downtown campus with its own housing. There is something about this that we're not hearing. If it was a good idea, it can stay under conditional use and it'll get approved. Why is this slipping through? Whole mall could be a college campus, which is not consistent with planBTV. Propose leave as a conditional use.

D White: Have these kinds of activities on Lakeside Ave in satellite locations.

A Montroll: Leave it as a conditional use.

Y Bradley: As a conditional use, gives flexibility. CCV was downtown and it was great.

D White: If it's a matter of scale, could we consider it as an accessory? Accessory is 25% or less of space.

L Buffinton: If it is to scale, the DRB will approve. Doesn't seem necessary to change.

A Montroll: What would a classroom be accessory to? The housing is just housing students live in. The mall has opened up some of the vacant space for some classes and meetings. Those are good uses, but don't see them as accessory—it's just a shopfront that's being rented for a temporary classroom, but not a full school.

B Baker: Sounds like the Commission agrees on conditional use.

B Dunkiel: No ill intent. Ambiguity in current ordinance and two different definitions for labs, want to be able to permit in a holistic process rather than have part of the project go through conditional use.

L Buffinton: Maybe we just more clearly define lab.

Y Bradley: Staff prepare thoughts for next meeting.

M Tuttle: Staff will work on refining the table. Next meeting is public hearing. Will present a list of items there is consensus on that might be able to change in the ordinance, and a list of comments to send to Council with the ordinance.

IV. Public Forum

Resident: Request that more thought be given to arrangement of the room to accommodate hearing disability. Don't want to interrupt the Commission's discussion.

Lea Terhune: Commission should focus on public presence and make meetings welcoming. Sign on food table is disgusting. NPA's always feed people. Welcoming the public, setting room up differently are great suggestions. Meetings are very educational and we leave here and educate more people. Are there rules about members being present in order to participate in discussion? A person who can't attend meetings should not participate and should not be voting.

Albert Petrarcha: This is the third meeting, and there are more issues with no resolution. This is about the morality of a project and it's losing in the court of public opinion. All in Weinberger's back pocket. This deal is rigged, momentum for it has been stopped in its tracks. Should think about how not to inflame city. Each week the chasm is getting wider between people and project.

Genese Grill: Don't have time. This ordinance is in contradiction to planBTV. Please say no until this can be approved responsibly. We have a petition asking people if they want this zoning change, or if they want planBTV. Gathered lots of signatures online and outside City Market.

J.J. Vanat: First time at one of these meetings. Huge fan of bikeable, smart development. However, fourteen stories not in planBTV. This has been super rushed and it doesn't sit good with me. Rethinking downtown haven't heard about parking and traffic. Been here four years, and feel that community and culture, sunsets and light are key to identity.

Michael Long: Working on a zoning amendment that shouldn't even be considered. It's ethically questionable—amendments are not for a specific proposal. FBC has not yet been adopted. Conflict of interest may exist with Mr. Bradley.

Caryn Long: No one uses computer labs. Would like to know about this paid committee of planning commissioners and councilors. Have only confirmed that it included Jane Knodell and Karen Paul. This is being rushed. Reads letter from friend lives on N. Prospect. Do not make decision in summer, not enough public participation. Whole project is ill-conceived. Seems like staff working for Devonwood.

Amey Radcliffe: FBC not adopted. Y Bradley has conflict of interest and missed a lot of meetings. Need clarification on what comments are going to Council. Broader question addresses L Buffinton's comments—are we going to pay attention to what people asked for at planBTV?

Carolyn Bates: What is going on is past imagination. Absolutely furious that summer is being ruined. Started in 2013 to communicate with Sinex about a project. Now it's massive and rushed. Mayor has not given enough time and proper tools to vet. There is no feasibility plan. What do you know about Sinex? Stop this until you have proper tools. Read planBTV and be enlightened on what it says. Have spent hours researching this.

Eric Morrow: We are all members of same community with different roles in this process. Impressed with high level of conversation, discussion about details and substance. Should not be personal.

Barbara McGrew: Need to look at the plans. It is now up to 15 stories and 180 feet.

V. Adjourn

The Commission unanimously approved a motion by E Lee, seconded by L Buffinton, to adjourn the meeting at 9:09 pm.



Y Bradley, Chair

Signed: 08.15. 2016



E Tillotson, Recording Secretary