

Burlington Planning Commission

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



Burlington Planning Commission

REGULAR MEETING

Tuesday, June 24, 2014 - 6:30 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)** – Yves Bradley, Chair
- IV. **Report of the Director (5 min)** – David E. White, Director
- V. **North Avenue Corridor Study (45 min)**
The Commission will hear a presentation from Public Works staff on the progress and alternatives/recommendations of the North Avenue Corridor Study.
- VI. **Clean Hands Policy (30 min)**
- VII. **Committee Reports (5 min)**
- VIII. **Commissioner Items (5 min)**
- IX. **Minutes/Communications (2 min)**
The Commission will review communications and approved minutes from the May 13 & 27, 2014 meetings.
- X. **Adjourn** (8:00 p .m.)

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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Burlington Planning Commission Minutes

Tuesday, May 13, 2014 - 6:30 pm

PC Present: L. Buffinton, H. Roen, J. Wallace-Brodeur, Y. Bradley, B. Baker, A. Montroll

Absent: E. Lee

Staff: D. White, S. Thibault, E. Tillotson, K. Sturtevant

I. Agenda

No changes.

II. Public Forum

Y. Bradley – Opened the public forum at 6:35 pm.

J. Rippa, owner of a property on East Avenue, was invited by B. Baker to speak about a zoning issue. He currently owns a building being used as a triplex, but only approved as a duplex; he has additionally submitted a letter.

B. Baker: There are contradictory directives from the state statutes and the City ordinance.

K. Sturtevant: For the record, the current status of law, zoning violations have a 15 year limitation, but there are many exemptions. The City zoning records don't reflect the current use of three units. Generally the policy addresses fairness back to 1973.

D. White: The city could choose to define a policy as long as it doesn't conflict with state law. The confusion is about additional living space, not an additional unit.

K. Sturtevant: There have been discussions of alternative ways to solve the issue.

J. Rippa: K. Lerner, zoning administrator, didn't have any problem with the whole thing. The original contact was John Rasys who instructed him as to the building approach, incorporating John's ideas.

B. Baker: Do we have discretion to set policy? It all adds up to the fact that we need a policy to address issues like this and the Planning Commission has the discretion to set policy.

D. White: A common thread is that property may have been assessed for actual use and never permitted by zoning. Now records are shared between departments.

B. Baker: The Bianchi ruling was put in place because records weren't being kept.

Y. Bradley: What does the average citizen expect? We need to encourage ways to not blindsides the average person.

B. Baker: Burlington is the only municipality that has distinguished between use and structure relative to Bianchi.

A. Montroll: At times there is a need to cure.

L. Buffinton: The recommendation seems a waste of energy and cost.

Y. Bradley: Can we have a straw poll about how much time is appropriate, 15 years?

J. Wallace-Brodeur: Would like to see a proposal.

As approved by the Burlington Planning Commission on .

Y. Bradley: Could D. White and K. Sturtevant work to find some language to propose?

D. White: A lot of situations have adjoining issues which may not be addressed.

Y. Bradley: The average person assumes that contractors will close out permits and this is often not so.

D. White: Would encourage the Planning Commission to have consistency, to reflect whatever time limitation is in statutes.

A. Montroll: If a situation has been disclosed to the city, it should not be the obligation of the owner. The City departments should share information.

J. Ripa: Nothing has changed since 1973; there have been multiple building permits and housing inspections.

Y. Bradley – Closed the public forum at 7:06 pm.

III. Report of the Chair

The Chair presented the following report:

- He has met with the Director and the Comprehensive Planner to discuss the historic buildings material and discussed the likelihood that the City Council Ordinance Committee will/will not approve the existing proposed amendments and the common opinion is that it has less than a 10% chance of passing. After looking at what was proposed, it's not perfect. He believes the Commission was tired of it and wanted to be done with it. He would rather the Commission get to the point that we wish to be at and then present the material to the City Council Ordinance Committee. It's important that the Mayor have the same position as the Planning Commission. As of now, it's not everything we want it to be. The Commission needs to get back to basics. We could consider looking at the notion of eligibility again. He would suggest that the Commission take one meeting, ask certain stakeholders to attend the meeting, and try to formulate the policy. The feedback from the Mayor's office and the State of Vermont indicates pushback and the City Councilors haven't been paying attention to the proposal. The process would be better with engagement of the City Council members. He would suggest that the ordinance proposal be referred back to the Commission.

D. White: The timeline is too short for the Council to have time to understand and do something productive with the amendment.

Y. Bradley: Politically we have spent a lot of time on policy.

J. Wallace-Brodeur: There has not been good dialogue with all of the different parties. It would be better to have advocates in a more productive role. The product is not clearly articulated, not enough information; it seems like lot of talking in circles. A work session is a good idea.

L. Buffinton: It would be good to ask the City Council members to participate in the process.

Y. Bradley: It has been too long and there is not time enough to present it now. He would like to have it referred back.

H. Roen: Agrees, but the Commission has to be prepared that there may not be consensus on the subject.

D. White: The process began with what are some problems, it is better to begin with a partnership to solve problems.

On a motion by L. Buffinton, seconded by J. Wallace-Brodeur, the Commission unanimously requested that the Council Ordinance Committee refer ZA-13-12-Historic Materials back to the Planning Commission.

As approved by the Burlington Planning Commission on .

IV. Report of the Director

The director presented the following report:

- Two weeks ago, the film The Human Scale was presented at the Main Street Landing theatre to a sellout audience which was wonderful.
- There has been a lot of work done on FBC.

S. Thibault: Noted that Burlington is the first city in the state to get the Neighborhood Development Area Designation. And she hopes all of the Commission saw the email, planBTV South End was launched last Friday!

V. Clean Hands Policy

K. Sturtevant: She wishes to clarify further what the Commission is looking to accomplish. Is the policy to be based on zoning violations, other municipal issues, or zoning applications? There needs to be a nexus to acquire answers, does the type of permit matter? Should there be a grandfathering of the statute of limitations effect on clean hands policy? Apply only to one specific property or to other properties of owner?

Y. Bradley: To use the analogy of bar owners, some are cooperative, others obstructionist, etc. The clean hands policy is a tool to have in case of code enforcements or minimum housing violations. It's an opportunity to illustrate the necessity to comply with the rules and exhibit responsibility.

B. Baker: Agrees, the policy needs to be designed to get properties into compliance.

J. Wallace-Brodeur: And not just with the primary property. A pattern of violations is more an indicator than is one violation.

K. Sturtevant: It has to be something that has to be fixed.

L. Buffinton: It might be a situation where the tenants are the problem. There could be a range of problems: property violations, code enforcement, codes, police calls, taxes, land use violations, the possibilities are too broad.

Y. Bradley: That will be our challenge to decide the parameters.

J. Wallace-Brodeur: It would seem reasonable to weigh violations vs the number of units, to establish a ratio as a tool.

D. White: Should the policy include other properties under the same ownership?

K. Sturtevant: The Planning Commission does have authority to seek remedies. The city of Milwaukee has such an ordinance. The applicant has to fill out an affidavit stating whether or not the property owner is in good standing. It can be an opportunity for a whole review process including a hearing on violations previous to permitting.

D. White: It would address known violations, but it would not be chasing unknown violations.

B. Baker: What is the trigger and what is the path to remedy?

A. Montroll leaves to attend a meeting about 7:20 and returns about 7:40.

D. White: There has been much other interest voiced on this topic. City Councilors will be weighing in on these issues.

K. Sturtevant: So I will work on drafting some possible language?

VI. Downtown Form-Based Code

This presentation will not occur tonight due to time conflicts.

As approved by the Burlington Planning Commission on .

VII. Application for Certificate of Public Good

D. White: It seems everybody is applying for a Certificate of Public Good (CPG) for alternative power. The legislature has just changed the law. In the old north end on North Winooski Avenue, the new building that Redstone has under construction is specific to the concern. The panels out near the edges of the building are a spot where typically some screening would be expected. This one has some red flags; the City should look into participating in the hearing process.

Y. Bradley: Our understanding that it is Verizon installation, driven by Verizon, and we might suggest to the developer that it is unacceptable as is and will not be approved as presented.

L. Buffinton: I would encourage participating in this hearing and requesting a projected elevation.

A. Montroll: I represent folks who are negotiating with Verizon but it is a different entity and I don't think it is a conflict of interest.

D. White: It is the opportunity for the city to participate.

A. Montroll: Cell phone coverage is poor in this area. Their request is consistent with regional plan for cell coverage. There are ways for it to be screened.

D. White: Let's encourage this in a positive way.

B. Baker: The Commission doesn't have engineering expertise; our goals are the public good.

D. White: We don't have to solve the problem; the Public Service Board will address the problem.

L. Buffinton: In this neighborhood, the reception is good all of time, screening solutions for the panels is possible. She would like better photos of this project.

On a motion by J. Wallace-Brodeur, seconded by L. Buffinton, the Commission unanimously directed staff to participate in the act 248 process for this property.

VIII. Committee Reports

Ordinance Committee – Has been working on conditional uses. There are proposed amendments about conditional uses in several sections, inclusionary PUDs require a conditional use permit. Committee likes recommendations. The next conversation will be about major impact.

B. Baker: At an earlier meeting with the Mayor, he raised the issue that this revision to the inclusionary portion of the ordinance was coming. The Mayor needs to know if this is conjunctive with Form Based Code, both are independent with predictability and a rational process and are separate conversations, but do go hand in hand.

IX. Commissioners Items

L. Buffinton: Did everyone see the article on accessory units from the NY Times sent by E. Lee? In Burlington the obstacles are parking and lot coverage. They create a missed opportunity to encourage family togetherness. It would be great if we could look at the zoning ordinance in a manner that would be friendlier to accessory units. There is a conflict between coverage and density, especially in the RM zone.

X. Minutes/Communications

On a motion by A. Montroll, seconded by H. Roen, the Commission unanimously accepted the minutes of March 25, April 8, April 22, with corrections, and placed them on file.

As approved by the Burlington Planning Commission on .

XI. Executive Session – Director’s Evaluation

On a motion by H. Roen, seconded by A. Montroll, the Commission unanimously agreed to go into executive session.

On a motion by H. Roen, seconded by A. Montroll, the Commission unanimously agreed to close the executive session at 8:30 pm.

XII. Adjourn

On a motion by B. Baker, seconded by J. Wallace-Brodeur, the Commission unanimously adjourned at 8:35 pm.

Y Bradley, Chair

Date

E. Tillotson, recording secretary

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Burlington Planning Commission Minutes

Tuesday, June 24, 2014 - 6:30 pm

PC Present: L. Buffinton, H. Roen, Y. Bradley, B. Baker, A. Montroll, E. Lee

Absent: J. Wallace-Brodeur

Staff: D. White, S. Thibault, E. Tillotson, K. Sturtevant

I. Agenda

A. Montroll: Suggests amendment of the agenda to add appointment of the director, 4.5.

S. Thibault: Staff suggests an amendment to the agenda to discuss approval of a contract for planBTV South, 6.5.

II. Public Forum

No public present.

III. Report of the Chair

The Chair presented the following report:

- The Directors' evaluation is available online. It was brought to his attention that there was a procedural glitch in the reappointment of the Director which will be addressed tonight.

IV. Report of the Director

The director presented the following report:

- The Planning & Zoning office has been inundated by applications.
- There is a tremendous amount of activity going on in the office. The City Council Ordinance Committee is a meeting this week, Wednesday at 5:30 to talk about residential parking, Commissioners are encouraged to attend. The Committee would love to hear directly from the Commissioners with their input on the ratio of required parking to number of bedrooms in any residential unit.
- In development review, the staff is anticipating a couple of major development projects this summer. First Fletcher Allen Health Care will soon be delivering an application which will include a request from UVM to tear down three dorms. They will present alternative plans, perhaps by the end of the month and they will also be providing temporary housing to fill in for the removed dorm spaces of approximately 400 beds. At the end of summer, there is another 80 million application anticipated from UVM, referred to as the STEM (science, technology, e , math) project. It will involve the removal of two buildings, Cook Science and Angell Lecture.

Agenda amendment 4.5

On a motion by Y. Bradley, seconded by L. Buffinton, the Commission unanimously appointed David E White as Planning and Zoning Director.

As approved by the Burlington Planning Commission on August 12, 2014.

V. North Avenue Corridor Study

Eleni Churchill from the Regional Planning Commission and Nicole Losch, Transportation Planner, DPW

N. Losch: Describes the content of the Corridor study, which includes all transportation and land use. The project is in coordination with the Municipal Development Plan. They have changed the street perspective to reflect increased bicycle priorities. Some streets are already designated as complete streets which are structured to accommodate everyone and all modes of travel, and are associated with the current and projected land uses.

The Corridor Study encompasses the area from North Street to Plattsburgh Avenue. They are following the traditional corridor study process. Information gathering, evaluation, develop mission, provide public workshops, provide an on line tool for feedback, as well as some direct outreach. There will also be formation of an advisory committee composed of representatives from the school, the city, city departments, the Chittenden County RPC, CCTA, AARP, the City wards and others.

The Vision statement will establish priorities for the primary transportation core, North Avenue, which will be safe and convenient access, more livable and desirable neighborhoods. The EPA's building blocks for planning are being used as a tool to accomplish this.

E. Churchill: Discusses existing conditions. The volume of cars is highest north of the 127 intersection. Capacity analysis anticipates more growth around the shopping center area with possible development around Burlington College being an unknown. They are hoping to plan for 20 years down the road. There are high crash locations at the North Street end and the shopping center area.

N. Losch: Several public meetings have been held. At the first one there was discussion of pedestrian crossings, curb ramps, and poor sidewalks. At the second workshop, some anticipated improvements were discussed. Intersections, roundabouts, signals realignment, improved pedestrian and bike travel through intersections, bike accommodations and pedestrian facilities.

E. Churchill: Workshop three was held in May where refined concepts from the previous two workshops were presented. During the third open house, an addition to the voting forum with another cross section was introduced so that input from the on line tool will be utilized.

There are three conceptual options:

The first is short term. It is what can be accomplished within three years, at a lower cost, consists of the more simple actions.

The mid level is longer five to ten years. It is a more substantial cost, would reduce the street to three lanes. Bike travel is especially a problem, there is a large need to facilitate a smoother ride. Curbs are not being moved. They are trying to devise more bike visibility, perhaps with auto parking on one side of North Avenue and biking on the opposite side. There should be bike lanes on both sides of the corridor.

There are nine suggested new pedestrian crossings which DPW will implement in a staggered fashion. The intersections need to improve the capability to carry bike routes through the intersections. The 127 high speed intersection will be modified to be less accident prone. Details of the proposed improvements are on their web site.

A. Montroll: If the width is staying the same, where is the cost?

E. Churchill: The pavement has to be ground and relined. The old painted lines are too visible otherwise. The long term concepts consists of adding bike lanes to all segments, buffering the bike lanes, constructing on street one way cycle tracks, or raised two way on street cycle track. There are some constraints with the amount of available land closer to the city. The most favored concept analysis and implementation of a two way raised cycle track. The thought is to have an implementation plan ready to vote on July 1st by the advisory group, then go to the City Council in August or September.

H. Roen: Comments on the talk about sharrows, which is being proposed as a temporary measure, he finds them dangerous.

As approved by the Burlington Planning Commission on August 12, 2014.

N. Losch: That is not our preferred solution.

Y. Bradley: His perspective, that encouraging cyclists to take up an entire lane, drivers expect cyclists to hug the side of the road. Whatever is instituted needs to be in a really safe manner, just consider Shelburne Road.

N. Losch: A culture change is needed in bike approaches/attitudes.

L. Buffinton: Education and enforcement are the keys. Cyclists are ignoring the rules, a little more enforcement would be good.

E. Lee: There has been a lot more enforcement.

N. Losch: Enforcement does come in cycles and spurts.

VI. Clean Hands Policy

K. Sturtevant: Discusses the proposed ordinance changes. The purpose is to have properties with no violations, and in compliance with applicable ordinances.

Y. Bradley: How do you approach ownership registered with different names (LLC, Trust, etc)?

L. Buffinton: Maintaining current name corrections is an ongoing issue, keeping up to date is a challenge.

Y. Bradley: Is there a way to require mandatory disclosure of ownership?

A. Montroll: A LLC form of ownership needs more thought about how to link different ownerships together.

L. Buffinton: What if a violation is minor?

K. Sturtevant: There would be a need to establish a method of differentiation.

A. Montroll: Feels that it would benefit the Commission to be thoughtful about violations and the need to move forward. The Clean Hands definition is really tight. What if there is a conflict in process of appeal/cure period, what happens at that point could be problematic.

B. Baker: One thing that is a concern is permits categorized as "permit indeterminate", which is a records problem that places the onus on the owner.

E. Lee: When a permit is approved, there is a two year period to finish a project. She has seen the clean hands policy used for outstanding fines.

L. Buffinton: I think in terms of chronic long term violators. If the open permit exceeds the cure period.

K. Sturtevant: And who is falling into that category?

L. Buffinton: On occasion, someone may not even know that they have this issue, if the owner is acting in good faith there shouldn't be penalties, it's a different story if there is a long time period of violations.

D. White: There has been a notification track as opposed to permit indeterminate. The goal is to clean up the records which are technically violations but usually there is active dialogue with property owner to cure the records.

A. Montroll: There was an instance where windows weren't permitted properly and the owners are still working on a solution.

D. White: There is an agreement with the property owner that he will put the windows back over a period of time.

B. Baker: An owner could have a condition which is in violation and not know about it. If it's serious enough, a Notice of Violation (NOV) will be issued. He thinks issuance of a NOV is a good line to determine if the clean hands policy needs to be followed.

As approved by the Burlington Planning Commission on August 12, 2014.

D. White: This doesn't address a situation where someone comes in to get permit to add fifth unit to a property that is only entitled to two units.

K. Sturtevant: There have been different ideas about the solution to this situation from the beginning of time. She is aware of a case study situation where the property owner comes in for permit, owns three other properties, all with violations. If you are coming in for a permit your property should be in good standing.

B. Baker: Bill Ward, Code Enforcement Director, believes there is no need to hurt property owners who unknowingly have a violation. Let's say the contractor forgot to get a GFI outlet inspected, it doesn't seem a big enough problem to bother with since it is not intentional.

E. Lee: All property owners should be following city requirements.

Y. Bradley: We are all saying same thing, perhaps K Sturtevant could take the comments and try to refine them a little.

Agenda amendment 6.5

S. Thibault: Discusses planBTV South, the process is moving along nicely, an existing conditions analysis, funded and managed by Regional Planning Commission will be available soon. Land use inventory, brownfields analysis are beginning soon will end in the fall. The second piece, real estate market analysis, was recently sent out as a proposal to qualified companies. As it happened, only one firm responded, which was the firm that was anticipated to respond since they had just finished the downtown housing study. Their bid was under budget and they are being offered the standard city contract which needs to be approved by both the Planning Commission and the Board of Finance. This firm was the prime candidate since the bid period was a short time frame, the project needs to be finished by October 15, and this firm already has a lot of data from the downtown housing study.

On a motion by A. Montroll, seconded by L. Buffinton, the Commission unanimously endorsed signing of this contract.

S. Thibault: A selection committee is being formed for planBTV South End and she would like to have at least one Planning Commissioner on this committee which will review proposals, will interview the top three consultants, etc. Perhaps H. Roen since this is his neighborhood?

H. Roen volunteers.

VII. Committee Reports

Ordinance Committee – Hasn't met, will meet next on the 10th of July.

Long Range Planning Committee - has not met, doesn't have anything on the horizon, but perhaps might discuss the south end project.

Executive Committee - has not met but suggest next Wednesday.

VIII. Commissioners Items

E. Lee: Would like information about 287-289 South Winooski Avenue where there was a permit to demolish and rebuild garage, appealed, and which is now being used as parking lot. What is the incentive for a replacement plan? There is much neighborhood concern about the lack of a future for this proposed garage.

D. White: This property now has a permit for rebuilding a garage on its original footprint. No rebuilding activity is noted, but that is all the permit allows. There is a year to start and a total of two years to finish.

Y. Bradley: Could staff get back to the Commission with thoughts about a resolution to this?

As approved by the Burlington Planning Commission on August 12, 2014.

L. Buffinton: There is an on going need to look at density in RM zones and the addition of accessory units. The coverage should be higher than 40% and it should be easier to accomplish accessory units.

E. Lee: Has been hearing about a property on Weston Street with an accessory apartment, which is being misrepresented as a duplex.

Y. Bradley: We did promise the City Council Ordinance Committee that we would meet with them to discuss historic building materials. We should prompt them for a mutual meeting time.

IX. Minutes/Communications

B. Baker notes a correction to the May 13 minutes.

On a motion by B. Baker, seconded by H. Roen, the Commission unanimously approved the minutes of May 13 with corrections, and placed them on file.

A. Montroll: At the last meeting the Commission heard a great presentation of the draft Parks Master Plan by J Bridges, Director.

Y. Bradley: We need to get the Power Point presentation available for commissioners who missed the presentation.

X. Adjourn

On a motion by A. Montroll, seconded by H. Roen, the Commission unanimously adjourned at 8:34 pm.



Y Bradley, Chair

8-22-14

Date



E. Tillotson, recording secretary