

Burlington Planning Commission

149 Church Street
Burlington, VT 05401
Telephone: (802) 865-7188
(802) 865-7195 (FAX)
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www.burlingtonvt.gov/planning

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



Burlington Planning Commission

REGULAR MEETING

Tuesday, April 28, 2015 - 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 – Yves Bradley (5 min)

IV. Report of the Director – David White (5 min)

V. Proposed Amendment (15 min)

The Commission will review the following proposed amendment to the Comprehensive Development Ordinance:

- ZA-15-06 – Performing Arts Centers in the ELM Zone - to allow performing arts centers as a conditional use in the Enterprise – Light Manufacturing (ELM) Zone.

VI. Public Hearings (30 min) – Time Certain 7:00pm

The Commission will hold public hearings for the following two proposed zoning amendments:

- **ZA-15-05 – Appendix A – Use Table Amendments**
 - o **ZA-15-05A** - The first part of this amendment adds footnote 26 to the *Use Table*. This new footnote is associated with “Attached Dwelling(s) – Mixed Use” and clarifies that the mix of uses allowed under this category are limited to those uses that are permitted, conditional, or pre-existing nonconforming within the relevant zoning district.
 - o **ZA-15-05B** - The second part of this amendment uses “reserved” footnote 8 for a new provision that allows “Daycare – Small (7-20 children)” as a conditional use in the RCO Zones. It may be allowed only as part of a “Small Museum” and is limited to < 50% of the museum’s gross floor area.
- **ZA-15-07 – Community Gardens Impact Fee Incentive & Off-Site Improvements Impact Fee Inclusion** - Section 3.3.3 (d) provides incentive for installing new community garden space by reducing the amount of parks impact fee equivalent to the cost of installation of the community

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garden. Sec. 3.3.4, Offsite Improvements, is unrelated to the proposed incentive. It is in the city's impact fee ordinance but was not carried over to the CDO with the rest of the impact fee ordinance when the CDO was adopted in 2008. The language simply puts it back

VII. Form-Based Code and Major Impact Discussion (30 min)

VIII. Committee Reports (5 min)

IX. Commissioner Items (5 min)

X. Minutes/Communications (2 min)

The Commission will review communications and approve minutes from the March 10 & 24, 2015 meetings.

XI. Adjourn (8:00 p .m.)

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CITY OF BURLINGTON

In the Year Two Thousand Fifteen

An Ordinance in Relation to

stages of passage: _____

COMPREHENSIVE DEVELOPMENT ORDINANCE --

Performing Arts Centers In ELM Zone

ZA #15-06

ORDINANCE _____

Sponsor: Planning Department

Public Hearing Dates: _____

First reading: _____

Referred to: _____

Rules suspended and placed in all

It is hereby Ordained by the City Council of the City of Burlington as follows:

That Appendix A, Comprehensive Development Ordinance, of the Code of Ordinances of the City of Burlington be and hereby is amended by amending the Use Table – All Zoning Districts thereof to read as follows:

*See proposed changes on attached table.

** Material stricken out deleted.

*** Material underlined added.

lb/KS/c: Ordinances 2015/Zoning Amendment – Performing Arts Centers in ELM Zone, App. A, Use Table – All Zoning Districts, ZA #15-06
3/13/15

	Urban Reserve	Recreation, Conservation & Open Space			Institutional	Residential			Downtown Mixed Use					Neighborhood Mixed Use			Enterprise	
USES	UR	RCO - A	RCO - RG	RCO - C	I	RL/W	RM/W	RH	D	DW	DW-PT ¹⁶	DT	BST	NMU	NAC	NAC-RC	E-AE	E-LM
NON-RESIDENTIAL USES	UR ²¹	RCO - A	RCO - RG	RCO - C	I	RL/W	RM/W	RH	D	DW	DW-PT ¹⁶	DT	BST	NMU	NAC	NAC-RC	E-AE	E-LM
Performing Arts Center	N	N	N	N	Y	N	N	N	Y	Y	(See Sec. 4.4.1(d)2)	CU	CU	CU	Y	N	N	NCU ²⁶

1. Residential uses are not permitted except only as an accessory use to an agricultural use.
2. Duplexes may be constructed, or a single unit may be converted into a duplex, on lots existing as of January 1, 2007 and which meet the minimum lot size of 10,000 square feet.
3. Duplexes shall only be allowed as a result of a conversion of an existing single family home. New duplexes are prohibited.
4. No more than 5 rooms permitted to be let in any district where bed and breakfast is a conditional use. No more than 3 rooms permitted to be let in the RL district.
5. An existing fraternity, sorority, or other institutional use may be converted to dormitory use subject to conditional use approval by the DRB.
6. Must be owner-occupied.
7. Must be located on a major street.
8. Reserved.
9. Automobile sales not permitted other than as a separate principal use subject to obtaining a separate zoning permit.
10. Exterior storage and display not permitted.
11. All repairs must be contained within an enclosed structure.
12. No fuel pumps shall be allowed other than as a separate principal use subject to obtaining a separate zoning permit.
13. Permitted hours of operation 5:30 a.m. to 11:00 p.m.
14. Such uses not to exceed ten thousand (10,000) square feet per establishment.
15. Excludes storage of uncured hides, explosives, and oil and gas products.
16. See Sec.4.4.1(d) 2 for more explicit language regarding permitted and conditional uses in the Downtown Waterfront – Public Trust District.
17. Allowed only as an accessory use.
18. A permitted use in the Shelburne Rd Plaza and Ethan Allen Shopping Center.
19. Cafes not permitted as an accessory use. Retail sales and tasting are permitted as an accessory use.
20. Accepted agricultural and silvicultural practices, including the construction of farm structures, as those practices are defined by the secretary of agriculture, food and markets or the commissioner of forests, parks and recreation, respectively, under 10 VSA §1021(f) and 1259(f) and 6 VSA §4810 are exempt from regulation under local zoning.
21. See Sec. 4.4.7 (c) for specific allowances and restrictions regarding uses in the Urban Reserve District.
22. See Sec. 4.4.5 (d) 6 for specific allowances and restrictions regarding Neighborhood Commercial Uses in Residential districts.
23. Allowed only on properties with frontage on Pine Street.
24. Such uses shall not exceed 4,000 square feet in size.
25. Dormitories are only allowed on properties contiguous to a school existing as of January 1, 2010.
26. *(Pending under ZA-15-05)*
27. Performing arts centers in the ELM zone shall be limited to a total of 5,000 square feet in size and to properties with frontage on Pine Street. Performing arts centers may contain accessory spaces for preparation and serving food and beverages, including alcohol, provided this accessory space comprises less than 50% of the entire establishment.

Legend:	
Y	Permitted Use in this district
CU	Conditional Use in this district
N	Use not permitted in this district
Abbreviation	Zoning District
RCO – A	RCO - Agriculture
RCO – RG	RCO – Recreation/Greenspace
RCO – C	RCO - Conservation
I	Institutional
RL/W	Residential Low Density, Waterfront Residential Low Density
RM/W	Residential Medium Density, Waterfront Residential Medium Density
RH	Residential High Density
D	Downtown
DW	Downtown Waterfront
DT	Downtown Transition
BST	Battery Street Transition
NMU	Neighborhood Mixed Use
NAC	Neighborhood Activity Center
NAC-RC	NAC – Riverside Corridor
E-AE	Enterprise – Agricultural Processing and Energy
E-LM	Enterprise – Light Manufacturing

Burlington Comprehensive Development Ordinance

PROPOSED: ZA-15-05 – Appendix A – Use Table

As warned by the Planning Commission for public hearing on April 14, 2015.

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

Purpose: Two separate amendments to Appendix A – Use Table – All Zoning Districts are proposed. The first amendment adds footnote 26 to the Use Table. This new footnote is associated with “Attached Dwelling(s) – Mixed Use” and clarifies that the mix of uses allowed under this category are limited to those uses that are permitted, conditional, or pre-existing nonconforming within the relevant zoning district.

The second amendment uses “reserved” footnote 8 for a new provision that allows “Daycare – Small (7-20 children)” as a conditional use in the RCO Zones. It may be allowed only as part of a “Small Museum” and is limited to < 50% of the museum’s gross floor area.

Appendix A-Use Table – All Zoning Districts

	Urban Reserve	Recreation, Conservation & Open Space			Institutional	Residential			Downtown Mixed Use					Neighborhood Mixed Use			Enterprise	
USES	UR	RCO - A	RCO - RG	RCO - C	I	RL/W	RM/W	RH	D	DW	DW-PT ¹⁶	DT	BST	NMU	NAC	NAC-RC	E-AE	E-LM
RESIDENTIAL USES	UR	RCO - A ¹	RCO - RG	RCO - C	I	RL/W	RM/W	RH	D	DW	DW-PT ¹⁶	DT	BST	NMU	NAC	NAC-RC	E-AE	E-LM
Attached Dwelling(s) – Mixed-Use ²⁶	N	N ¹	N	N	CU	CU	CU	CU	Y	Y	N	Y	Y	Y	Y	Y	N	N
Daycare – Small (7-20 children) (See Sec.5.4.1)	N	N ⁸	N ⁸	N ⁸	CU	CU ¹³	CU ¹³	CU ¹³	Y	Y	N	CU	CU	Y	Y	Y	CU	CU ¹⁷

1. Residential uses are not permitted except only as an accessory use to an agricultural use.
2. Duplexes may be constructed, or a single unit may be converted into a duplex, on lots existing as of January 1, 2007 and which meet the minimum lot size of 10,000 square feet.
3. Duplexes shall only be allowed as a result of a conversion of an existing single family home. New duplexes are prohibited.
4. No more than 5 rooms permitted to be let in any district where bed and breakfast is a conditional use. No more than 3 rooms permitted to be let in the RL district.
5. An existing fraternity, sorority, or other institutional use may be converted to dormitory use subject to conditional use approval by the DRB.
6. Must be owner-occupied.
7. Must be located on a major street.
8. Reserved-Small daycares in the RCO zones shall be conditional use and shall only be allowed as part of small museums and shall constitute less than 50% of the gross floor area of the museum.
9. Automobile sales not permitted other than as a separate principal use subject to obtaining a separate zoning permit.
10. Exterior storage and display not permitted.
11. All repairs must be contained within an enclosed structure.
12. No fuel pumps shall be allowed other than as a separate principal use subject to obtaining a separate zoning permit.
13. Permitted hours of operation 5:30 a.m. to 11:00 p.m.
14. Such uses not to exceed ten thousand (10,000) square feet per establishment.
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21. See Sec. 4.4.7 (c) for specific allowances and restrictions regarding uses in the Urban Reserve District.
22. See Sec. 4.4.5 (d) 6 for specific allowances and restrictions regarding Neighborhood Commercial Uses in Residential districts.
23. Allowed only on properties with frontage on Pine Street.
24. Such uses shall not exceed 4,000 square feet in size.
25. Dormitories are only allowed on properties contiguous to a school existing as of January 1, 2010.
- 25-26. The mixed uses shall be limited to those that are either permitted, conditional, or pre-existing nonconforming in the zoning district.

Legend:	
Y	Permitted Use in this district
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Abbreviation	Zoning District
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Burlington Comprehensive Development Ordinance

PROPOSED: ZA-15-07 – Community Gardens Impact Fee Incentive & Off-Site Improvements Impact Fee Inclusion

As warned by the Planning Commission for public hearing on April 28, 2015.

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

Purpose: The purpose of this proposed amendment is to provide incentive for providing new community garden space. Sec. 3.3.4, Offsite Improvements, is unrelated to the proposed incentive. It is in the city's impact fee ordinance but was not carried over to the CDO with the rest of the impact fee ordinance when the CDO was adopted in 2008. The language below simply puts it back.

Sec. 3.3.3 Exemptions and Waivers

(a) through (c) As written.

(d) Community Garden Waivers:

A development that creates new community gardens as defined in Article 13 of this ordinance shall be provided a waiver of the parks impact fee in an amount equivalent to the actual cost of installation of the community garden created. The value of the garden shall be supported by a tabulation of the actual cost of installing the community garden and shall be subject to review and approval by the Department of Parks & Recreation. The waiver of parks impact fees shall not exceed 100% of the parks impact fee that would otherwise be paid.

To be eligible for the waiver, the community garden shall meet the following standards:

1. The community garden shall be made available to residents of the property and of the surrounding area.
2. It shall be located onsite in consultation with the Department of Parks & Recreation to ensure adequate solar access, visibility, and accessibility.
3. It shall contain an area of at least 360 square feet (i.e. such as 18 ft X 20 ft) with at least six (6) 4 ft X 8 ft plots and 2 ft wide aisles between plots. Soil testing to determine the safety of the soil for food gardening purposes shall be the responsibility of the applicant (or property owner if different). Where soils are found to be unsafe for food gardening purposes, the community garden plots shall be in the form of raised beds with imported soil safe for food gardening use. Results of soil testing shall be subject to review by the Department of Parks & Recreation.
4. It shall either be managed as a neighborhood garden by the Burlington Area Community Gardens program operated by the Department of Parks & Recreation or privately managed to the same operating standards as a neighborhood garden. If privately managed, all maintenance and repair costs shall be the responsibility of the applicant (or property owner if different). The community garden shall be managed as such for the duration of the approved development.
5. It shall be created within an area of the city consistent with the express goals and strategic plans of the Department of Parks & Recreation. The Department of Parks

& Recreation may reject creation of a new community garden and require payment of the full impact fee if the development is located in an area of the city that is already adequately served by community gardens.

6. The completed community gardens shall be guaranteed for a period of two (2) years following their completion. All repairs and maintenance of the community gardens within this period shall be at the cost of the applicant (or property owner if different).

Sec. 3.3.4 Offsite Improvements

In categories for which impact fees have been charged, no exactions for construction of offsite public facilities will be required as a condition for a zoning permit except for water distribution lines, sewer connection lines and stormwater improvements, and street and sidewalk infrastructure that are essential to the development of the project.

For the purposes of this section, “offsite” public facilities are defined as those facilities which are not on or immediately adjacent to the private land proposed for development.

Sec. 3.3.~~45~~ Calculation of Impact Fee

As written.

Sec. 3.3.~~56~~ Effect of Project Change on Impact Fees

As written.

Sec. 3.3.~~76~~ Demolition or Change to Existing Building

As written.

Sec. 3.3.~~87~~ Time and Place of Payment

As written.

Sec. 3.3.~~98~~ Penalties for Nonpayment

As written.

Sec. 3.3.~~109~~ Expenditure and Distribution of Impact Fees

As written.

Sec. 3.3.~~110~~ Relationship to Other Fees

As written.

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Burlington Planning Commission Minutes Tuesday, March 10, 2015 - 6:35 pm

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

Absent:

Staff: D. White, M. O'Neil, S. Gustin, K Sturtevant

I. Agenda

No changes

II. Public Forum

Solveig Overby: Cell towers on No Winooski and Lakeside – has concerns about what has been supported by the commission. Based on scant information and limited visual examples. Setbacks are important and to be maintained/respected. What we experienced from the street is most important – behind can go higher. What's the enforcement mechanism under the FBC?

Brian Sullivan: Materials the Commission considered at last meeting offered a range of simulations possible, and Commission supported design favored by property owner. Never proposed a tower alone. Antennas were reduced, and bracing elements reduced visual impact.

III. Report of the Chair

The Chair presented the following:

- Has missed the last couple of meetings.
- Offers thanks to staff for all the hard work on planBTV South End.
- Lots to look forward to over coming months.

IV. Report of the Director

The Director presented the following:

- Very busy couple of months – spring permit workload has started
- Has filled the Planning & Zoning Clerk position. New person will start in early April

V. Telecommunications Facility – 86 Lake St

Brian Sullivan: Verizon provides coverage but it's capacity is not adequate to meet growing demand. Past strategy was to go higher (marco sites), but given current demand and technology the focus today is to serve neighborhoods (micro sites – fewer antennas). Existing signal is being taxed and capacity is nearing exhaustion. Staff memo outlines the process undertaken thus far. Design intent is to appear as mechanical infrastructure behind a painted fiberglass structure and not chimney's as originally proposed. No other suitable alternative was available. Lack of another suitable property and structural considerations prevent them from being set back or require them to be taller. Meetings with SHPO have resulted in concurrence with current design.

H Roen: Did you consider taller buildings along Battery St?

Verizon Technical Representative: No. Other site considered was 60 Lake St. Desire was to center the site within the focused service area. Preference is to use newer buildings and avoid historic buildings whenever possible. Considered and rejected ECHO, Boathouse and LCT properties as well. This was determined to be the best site among those available. The property owner is paid for the use of the site.

M. O'Neil: Grateful for the opportunity for the City to participate. Context for this site are different than past proposals considered. Our review criteria and process is very different than that for the SHPO. Our CDO and MDP provide specific guidance that we must consider. How have they considered other suitable locations and technologies?

A Montroll: Clearly we have a need for better service. If the best site is on a historic building, and if there are not other suitable alternatives, then telecom service may need to take priority as long as we can mitigate impacts.

B. Sullivan: PC and Council has party status before PSB relative to the local MDP (not CDO) in making comments.

M. O'Neil: Notes that A Montroll advertises experience in telecom matters and asks if he may have any business interests that may affect his objectivity.

A Montroll: Is not working in telecommunications currently, and not doing similar work in Burlington. Feels that given the importance of this technology we need to ensure that we are not placing ourselves at a disadvantage. Has some expertise in similar matters that may be helpful to these discussions.

Y. Bradley: Need to balance competing interests – telecommunications vs historic preservation. Going to continue to run into these issues in the future. Operating in a more sensitive environment on Burlington's waterfront and challenge them to be sure to have given us the very best. Can't we do better? We all need to compromise to find better alternatives to get this done.

L. Buffinton: Would prefer to see a process where we are looking at broader future needs across the City and exploring a wider variety of options rather than being given just one place to consider.

H Roen: Would prefer to see other options and how they have been assessed.

E. Stebbins: Need to appreciate that future development will happen with future opportunities. Appreciates that this is a reversible change to the building and could be removed without permanent damage should better options come along. But there is no way that would ensure that such consideration would be given.

Verizon: Agreements with owners allow multiple opportunities for termination when better alternative may present themselves.

J. Wallace-Brodeur: What are our options at this point?

K. Sturtevant: Commission can choose to or not to provide comments and recommendations to the PSB.

E. Stebbins: Does not support, and would like to see more options and more thorough comparison. Need to better understand the trade-offs.

J. Wallace-Brodeur: Agree, but also need to address bigger issue so it doesn't dominate PC time and effort.

H Roen: PC should offer comments, and see other options.

A Montroll: Would also like to see other viable options, but if they cannot work could support this proposal.

B. Baker: Commission should not miss opportunity to provide our comments. Should highlight issues and concerns raised and mitigating factors. Take that forward into the process.

Motion. B. Baker, second by E. Stebbins: Staff to prepare memo on the supports and tension in MDP relative to this application, and provide those comments to Verizon.

A Montroll: Let the Commission's discussion tonight stand as comments to Verizon prior to filing of application, and then we can see what actually gets filed. Mover and seconder find this a friendly amendment.

Motion approved: unanimous.

VI. Public Hearing: Proposed Zoning Amendments

- **ZA-15-03 – Inclusionary Zoning for Institutional Zoning Districts**

D. While: Establishes how inclusionary housing should be applied to institutional housing outside of the Institutional District. Modeled after Champlain College Eagles Landing approach.

Solveig Overby: Need to consider future use of housing dedicated to students. May not always be the case.

E. Stebbins: Building student housing off-campus is a good solution to housing issues, but feels we need to get more protections. Need to have a management component when we allow off-campus student housing.

J. Wallace-Brodeur: An important issue, but this may not be the right place to address this.

Y. Bradley: Recommends that if this is an important issue it should be part of a different conversation

A Montroll: Want to be clear that "affiliates" could occupy. Staff confirmed this to be the case.

Motion: H. Roen, second by A Montroll: refer to Council with recommendation for approval.

E. Stebbins: Going to vote no. Supports the concept, but doesn't want to miss opportunity to consider issue more holistically

Motion approved: 5-1

- **ZA-15-04 – Downtown, Neighborhood Mixed-Use, Enterprise Districts Setbacks Abutting a Residential Zone**

D. While: Applies to an active appeal currently before the Court. This will clarify the issue.

Motion: L. Buffinton, second by H. Roen: Move to refer to Council with recommendation for approval.

Motion approved: unanimous.

VII. Proposed Amendments

- **Small Daycare allowance in RCO districts.**

S. Gustin: Proposal tied to existing small museum, limits size and comes at the request of WVVPD.

A Montroll: Footnote should be with district rather than use and use should be listed as a CU

Motion: L. Buffinton, second by E. Stebbins: Move as amended to send to a public hearing.

Motion approved: unanimous.

- **Clarification of mixed uses allowed the "Attached Dwellings" category**

S. Gustin: Applies to an active appeal. CDO says “any mix of uses.” Clarifies that this only includes those listed permitted and conditional uses.

Motion: L. Buffinton, second by E. Stebbins: Move to send to a public hearing.

Motion approved: unanimous.

VIII. **planBTV South End Community Workshop Debrief**

Deferred to LRPC meeting tomorrow

IX. **Committee Reports**

- LRPC meets tomorrow. Getting a lot of comments from members of the community relative to the planBTV: South End project.
- Joint CC/PC Form Based Code Committee – been focused on walk-through. Now getting into details and recommending changes. Focusing 2+ meetings on each Form Districts and then will discuss other areas. Already removed E-LM and changed how height is calculated. Will need more time than April and will go to Council with update and new timeframe. Still going to need public process and education once a new draft is complete.
- Ordinance discussed 15-yr Statute of Limitations with City Attorney which will be coming back to the Commission. Still working on parking
- Executive needs to schedule a meeting

X. **Commissioner Items**

A Montroll: An underwater/underground electric transmission line (mostly in lake) proposed. All RPC's are participating in the process to preserve participation rights. City has not chosen to participate but can through RPC is necessary.

A Montroll: All members of the Commission have potential conflicts on any number of issues that come before it. Has previously disclosed past telecommunications role and experience in the past. Felt that the way M. O'Neil raised the issue was inappropriate and felt like a personal attack and attempt to quiet his comments. Should have raised any question prior to beginning of the discussion rather than after comments had been made. The question isn't the issue, but it's the way they get raised that is the issue.

XI. **Minutes/Communications**

Motion: L. Buffinton, second by H. Roen: Approve the minutes from the January 13 & 27, 2015 meeting.

Motion approved: unanimous.

XII. **Adjourn** (9:05 p .m.)

Motion: L. Buffinton, second by H. Roen: Adjourn

Motion approved: unanimous.

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Bruce Baker, Vice-Chair
Lee Buffinton
Emily Lee
Andy Montroll
Harris Roen
Jennifer Wallace-Brodeur
Holly Ransom, Youth Member*



Burlington Planning Commission

REGULAR MEETING

Tuesday, March 24, 2015 - 6:30 P.M.

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

MINUTES

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

Absent: Y. Bradley

I. Agenda

No changes.

II. Public Forum

No members of the public present.

III. Report of the Chair

No report.

IV. Report of the Director

The director presented the following report:

- He is just back from vacation and getting back to the swing of things. Staff continues to be busy with the Form-Based Code and the development review planners are extremely busy as well.

V. Burlington Town Center Redevelopment Process Update

N. Wildfire provided an update on the Burlington Town Center Redevelopment process. There has been a two and a half month public process so far and there is a report now ready to be shared with the consultants about what we've heard from the community.

B. Baker – Important for the commission to engage with the advisory committee.

A. Montroll – What is the role of the PC in this process?

D. White – This proposed process is loosely based on a similar process they do in Chapel Hill, NC but is adapted to Burlington. The work under way may involve change to the zoning regulations so the commission may have an important role to be play in that. Even without a zoning change, it is likely that the City Council would still want input from commission.

N. Wildfire – Very unusual process for CEDO to work with private developer.

Input so far included about 1,000 people and the following activities:

- January 8 event with 150 people in Contois with presentations and stations. All comments are online at www.burlingtonvt.gov/btvmall/, all 263 of them.
- Website
- Neighborhood Planning Assemblies Visit
- Committees (Planning Commission, Accessibility, etc.)
- Community Planning Workshop Feb 18-21 – 400 comments during that workshop, all online.

Tuesday, March 24, 2015

- Comment boxes all throughout the city at different locations – 245 comments

N. Wildfire – Provided information about what was heard with the public comments received. See report attached for a summary of comments on the following topics:

- Circulation & Mobility
- Mixes of Uses
- Public Space and Amenities
- Urban Design

L. Buffinton – North-South Connection – how many people wanted the road to be re-opened for cars?

N. Wildfire – Was really a mix.

L. Buffinton – The New England Culinary Institute (NECI) model that used to be on Church Street would be great for job training example to follow.

A. Montroll – On the mix of uses, is office also part of the conversation? If we create more housing we need to remember to provide places for people to work.

N. Wildfire – The developer is planning on having some level of office but it's also the softest place in the market and where we have the most availability.

H. Roen – Did people comments about having downtown and waterfront connections down the bluff?

N. Wildfire – That was mentioned a lot with providing connections to the waterfront, especially at the end of Cherry Street.

B. Baker – Can you talk about next steps?

N. Wildfire – The committee is taking a last crack at the report and that will go to the developer. The developer will then come back early April with a concept or narrative for feedback on the report. Then, the City's technical team will weigh in every step of the way with the developer. Then, once good draft/concept is ready, there will be another large public meeting for feedback on that. Then, we finalize the development agreement with steps that need to happen from there. They still need to go through the normal review processes.

VI. Proposed Amendments

Low Impact Development

S. Gustin – Presented the proposed Low Impact Development (LID) amendment to provide lot coverage credits or reliefs for the use of pervious pavement on a lot. This amendment is not the end all be all but a good start. A stormwater manual will be much better place for additional changes and incentives. This is an initial step in the right direction. Pervious surface needs to be a system that actually works and that needs to be proven to staff in order to receive credits.

L. Buffinton – Could we clarify the second paragraph and the example in there a little?

E. Lee – She has a pervious driveway and it was quite an ordeal to get put in and cost much more than a regular driveway. There is no way of knowing that people put it in. The systems take maintenance as well and that needs to be done regularly so that the systems continue to work over time.

S. Gustin – There is a procedure in place now with the stormwater planners so that when people come in for zoning permits it's being reviewed by them and the engineers need to provide their report. There is also a maintenance report requirements.

E. Lee - What are the consequences if not maintained?

S. Gustin – At that point it's a zoning violation.

A. Montroll – In a district where lot coverage is 50% already, what does this give you?

S. Gustin – Could allow someone to build an addition or a deck by removing coverage with pervious pavement.

L. Buffinton – Megan should give her feedback.

S. Gustin – Megan and the Conservation Board have given their blessing to this proposal.

On a motion by H. Roen, seconded by L. Buffinton, the Commission refers this proposed amendment to the ordinance committee for further review and consideration.

Community Garden Impact Fee

S. Gustin – City has an open space protection plan with goals which discuss where community gardens are needed within the City. The Urban Agriculture Task Force report requested incentives. If a new development provides community gardens on site, they can be managed by Parks or by the property owner but need to be open to the public at large. Providing the gardens can reduce the Parks impact fee that the developer has to pay by the same amount equal to the cost of building the gardens themselves.

L. Buffinton – We should not be dictating the width of the aisles within the gardens.

H. Roen – The width is provided between the plots not within the individual gardens themselves.

A. Montroll – Is the value of the garden the cost of installation?

S. Gustin – Correct, the impact fee reduction is the cost of installing the garden itself.

H. Roen – If someone provides these gardens they will be available for anyone?

S. Gustin – Yes.

On a motion by J. Wallace-Brodeur, seconded by A. Montroll, the Commission unanimously warned a public hearing for ZA-15-07 for April 28, 2015, as amended.

VII. Committee Reports

The joint FBC committee is meeting again on April 1st. Hopefully, the make-up of the committee will not change with the new council. The commission probably has another 8 to 9 more meetings to get through the document. We need to make sure that there is a public process.

Long Range Planning Commission – Got an update of the planBTV South End process. There is divergent of opinions on the housing question mostly, but a lot of consensus on other issues.

Ordinance Committee – There is a 15 year limitation amendment coming to the commission soon. The committee is now working on a shared parking amendment.

VIII. Commissioner Items

None.

IX. Minutes/Communications

On a motion by A. Montroll, seconded by H. Roen, the Commission unanimously accepted the communications and placed them on file.

X. Adjourn

On a motion by E. Lee, seconded by L. Buffinton, the Commission unanimously adjourned at 7:54pm.

Yves Bradley, Chair

Sandrine Thibault, Recording Secretary

Letter to the Planning Commission

4-5-15

Dear Commissioners,

This communication represents the re-zoning request of four of five property owners on the north side of Riverside Avenue between the City Treatment Facility and the Winooski Bridge. We are:

Matt Huber, principal, 207 Riverside Ave LLC, 199-215 Riverside Avenue

Mark Furnari, Principal, Karass LLC, 237-241 Riverside Avenue

Joe Larkin, Larkin Realty, Principal, 245 Riverside Avenue

Mark Taylor, principal, Riverside LLC, 189-91 Riverside Avenue, Burlington, Vermont 05401

History:

When each owner purchased their property, each parcel was zoned GC (General Commercial). This changed dramatically when the City of Burlington rezoned the Riverside Corridor in 2007. At that time a number of owners petitioned the City Council to take into account the differences in topography east or west of the Treatment Facility as neither site visits nor feedback from property owners was part of the re-zoning process. Due to the large number of issues with city-wide rezoning, we were encouraged to drop our objection and approach the City for a zoning change at a later date.

Current Situation:

The current zoning; NAC/RCO permits development in the first 75 feet from the roadway. Since the lots mentioned extend up to 350 feet deep from the roadway to the Winooski River, we believe that the 75 feet limitation represents an adverse appropriation of value by the City. For example: under the prior GC zoning classification approximately 25-30 housing units/acre could have been created as opposed to the current zoning which would allow approximately 10-12/units/acre. We believe that there is sufficient land to allow reasonable development, up to 150 feet back from the roadway, while preserving the embankment and a generous zone for conservation.

At least two property owners have been approached by a non-profit housing entity interested in housing development on one or more of the parcels and we would like to explore this option while recouping some of our land value. This is especially true for those owners who invested pre-development funds before the 2007 zoning change.

Remedy:

Our request is that the Planning Commission restore the original zoning to these parcels in a manner that allows all concerns to be addressed.

Thank you for your consideration,

Mark Furnari for the aforementioned property owners.

Burlington Planning Commission

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Burlington Planning Commission

REGULAR MEETING

Tuesday, April 28, 2015 - 6:30 P.M.

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

MINUTES

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

I. Agenda

Discussion on parking meeting added to the end of the agenda.

II. Public Forum

Mark Furnari & Matt Huber (property owners on Riverside Avenue) - In 2007 their properties along with others along Riverside Avenue were rezoned to Neighborhood Commercial. The topography on the lower part along the river is not that abrupt and could be redeveloped. The rezoning took away development value back then and councilors ask them to come back. Burlington Housing authority asked them to build housing but the zoning stops at 75 feet from the roadway.

L. Buffinton – The land is very steep down to the river.

M. Furnari – There is an easement for the Winooski Valley Park District. Some of the properties are not that steep and you can easily walk down the hill. There could have built 20+ housing units before the rezoning occurred in 2007.

Y. Bradley – Staff should pursue looking into this change in zoning to allow for more density and use of the slope.

III. Report of the Chair – Yves Bradley

His schedule is becoming more and more difficult on Tuesday nights and he might have to step down as chair.

IV. Report of the Director – David White

The Director provided the following report:

- City staff visited Somerville, MA to see Artisan Asylum, a maker space there and talk with planning staff about their Form-Based Code.
- D. White and S. Thibault were in Seattle at the National American Planning Association (APA) Conference last week. It was a great conference!
- planBTV South End plan is being drafted now by the consultants and a DRAFT plan release party is scheduled for Tuesday, June 16th.

V. Proposed Amendment

S. Gustin – Allow performing arts center in the Enterprise Zone. Arts Riot started as performing arts studio and café. Staff worked with CEDO and city councilors to find a better situation for them. Arts Riot is well received in the area so should be allowed. The Council started the amendment process and now wants comments from the planning commission on the amendment.

E. Lee – Sounds great!

L. Buffinton – Where does the zone end? Just before Flynn.

A. Montroll – 50% of the entire establishment sounds a bit loose. Should be more exact to make sure no issues come up.

VI. Public Hearings

The Commission will hold public hearings for the following two proposed zoning amendments:

ZA-15-05 – Appendix A – Use Table Amendments

Part A

S. Gustin – Added a footnote

On a motion by A. Montroll, seconded by L. Buffinton, the Commission unanimously approves ZA-15-05 Part A and sends to City Council for adoption.

Part B

N. Warner – Ethan Allen Homestead, been using classrooms for classes and would like to formalize one of them for a daycare/pre-school. Slightly more intense use of the space with 10 kids.

S. Gustin – Open the door to small daycare, limited to 50% of the Gross Floor Area or less of the space. In use table, replace N with CU, not there yet.

On a motion by A. Montroll, seconded by J. Wallace-Brodeur, the Commission unanimously approves ZA-15-05 Part B and sends to City Council for adoption, with corrections.

ZA-15-07 – Community Gardens Impact Fee Incentive & Off-Site Improvements Impact Fee Inclusion

S. Gustin – The Urban Agriculture amendment originally had a bonus clause but City Council was not ready to approve at the time. The proposed amendment allows for garden space provision to provide a break on parks impact fees.

L. Buffinton – What happens after two years?

S. Gustin - This warranty is similar to other warranty that we ask for other infrastructure, like road. After the two years, the gardens can be operated by Parks or operated privately, just like park would operate.

E. Lee – Would the property owner be required to bond for the warranty, like for a road.

S. Gustin – Not going that far here.

E. Lee – Could the fee be reimbursed after the two years once the owner has done the first two years properly? It's a lot easier to uphold people to do the right thing and then reimburse them afterwards.

L. Buffinton – Double hit and would disincentivize people from doing that if they have to pay impact fees and pay for construction of the gardens too.

D. White – And keeping track of the money would be difficult.

A. Montroll – Are they able to charge for use of the gardens?

S. Gustin – The City charges now.

A. Montroll – Who decides how much they would be allowed to charge? Is this creating a commercial enterprise in someone's backyard?

D. White – Community gardens are used for people growing their own food.

L. Buffinton – The first two years, the property owners collect the fee and keep it? And what about liability?

D. White – If you don't want to you don't have to charge a fee. If done under Parks program, then it's covered under that program for liability.

A. Montroll – These questions are important to keep in mind so that the program works.

On a motion by H. Roen, seconded by E. Lee, the Commission unanimously approves ZA-15-07 and sends to City Council for adoption, as amended and with caveat to check into the liability/insurance issue raised.

VII. Form-Based Code and Major Impact Discussion

D. White – In the Form-Based Code discussion we are soon moving into a discussion about when project reviewed by-right or not. We often think about this as major impact projects. At what point does a project get so large and complex that it required a more subjective review? The FBC committee has talked about building height, if taller than the lower limit, and then another review process should apply. Is that additional review happening because of height, or mass, or something else? During past discussions about major impact, we talked about having no major impact downtown but not sure that will fly politically. The review process can be whatever we want it to be with the FBC. The pre-application phase could also be where there is a higher level of review, perhaps by the DAB.

A. Montroll – Within the FBC, projects would all be approved administratively.

E. Lee – There were so many cooks in the kitchen for the Eagles Club and it looked terrible for a while. If the massing had been more in control from the beginning then perhaps the building would have been better in the first place.

J. Wallace-Brodeur – A lot of the upfront thinking of what the building will look like is in the code. We are pre-defining some important elements that we want for sure. What are we trying to do with the FBC? What is the ultimate goal? As we add more review, then we might not have a better process that we are trying to achieve and we are adding subjectivity back in the process.

L. Buffinton – As you look at the form-based code, do you use height limits now as a given?

D. White – A lot of the standards are coming out of the current zoning. Today we allow buildings to go to a certain height, but for additional height, now its bonuses.

L. Buffinton – The DRB often get into the design.

D. White – There is an opportunity to have a pre-application review with the DAB and the public.

E. Lee – DAB, what role do you see them play under the code? Do they have value now?

D. White – If the makeup of the committee is good, then it can have great value. In a strict FBC process, DAB wouldn't have much of a role unless much flexibility is required.

A. Montroll – Don't know what the threshold is but should involve the community to an extent. Could work well with pre-application with DAB. We don't want to drag the process but not miss the opportunity of input either. We should keep opportunity for input in the process.

J. Wallace-Brodeur – Major impact threshold needs to change for downtown.

D. White – Will bring back major impact amendment to the commission at a meeting soon.

E. Lee – Better understand how major impact works now and how the review process works now too.

VIII. Parking Discussion

A. Montroll – Asked to discuss the parking forum. In downtown if there is more parking available in the core of the downtown, would be great to know where people park. Residential parking – scattered solutions were presented without figuring out what the goals are and define the problem. Be clearer with city policy and goals for this program.

J. Wallace-Brodeur – Most of the people there were from further out and closer to the campuses.

D. White – Do we need to find a way to bring one or both projects to a meeting and talk about larger goals?

J. Wallace-Brodeur – That would be very important.

A. Montroll – What are the criteria to get a residential permit on a street?

E. Lee – Talked about showing the use.

IX. Committee Reports

Burlington Town Center Committee – Public meeting on May 5th 6pm in Contois, for concepts development. There is also a website with everything on there.

X. Commissioner Items

None

XI. Minutes/Communications

On a motion by J. Wallace-Brodeur, seconded by H. Roen, the Commission unanimously approves minutes, as amended.

XII. Adjourn

On a motion by A. Montroll, seconded by E. Lee, the Commission unanimously adjourned the meeting at 8:32pm.



Yves Bradley, Chair



Sandrine Thibault, Recording Secretary