

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, March 22, 2016 - 6:30 P.M.

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

AGENDA

Attendees: Yves Bradley, Bruce Baker, Lee Buffinton, Emily Lee, Andy Montroll, Jennifer Wallace-Brodeur, David White, Meagan Tuttle, Scott Gustin, Kim Sturtevant, other interested parties

I. Agenda

Change order of items X and XI. Item X only if time permits.

II. Report of the Chair

Nothing to report.

III. Report of the Director

Just back from a trip to Sarasota; some examples of new roundabouts and bike lanes, but interesting to see the impact on traffic in the gulf coast due to poor land use and development patterns.

IV. Public Forum

Tony Redington, Resident, Ward 2: In Europe, roundabouts are preferred intersection treatments; some cities have prerequisites for new development that land must be dedicated for roundabouts. Burlington should look at this, for sites such as Burlington College property intersection with North Avenue. A roundabout could help get public acceptance for the plans. New group, Pine Street Coalition, recommending design guidelines for the Champlain Parkway. Preparing a white paper about design defects and remedies. USDOT has adopted new safety regulations requiring states to adopt targets for reducing vehicular and pedestrian/bike fatalities in transportation projects.

Sharon Bushor: Councilor, Ward 1: Concerned about motivation to look at 15 year statute of limitations, since as proposed it would include driveway, parking spaces/lot violations. No one has ever tired of raising concerns over parking issues. Have seen a lot of violations that impact quality of life in neighborhoods; some never got addressed when the zoning rewrite process got halted several years ago. Opposed to saying that a violation is ok just because it has existed more than 15 years. DPW Commission is looking into whether they can deal with some of the parking violations by partnering with Code Enforcement. There are other ways that we can address these issues.

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Maura Fitzgerald & Holly Farrington, Majestic Car Rental, Willard St: Purchased the Rotary Mobil, received a conditional use permit from the DRB for 11 cars on site. Owners never interpreted the number of on-site parking spaces to limit the number of cars in the company's fleet. Have an informal arrangement with the Greek Orthodox Church to use the lot as overflow. Due to issues with vandalism, had to cut down trees on the Church's property, which led to complaints by neighbors and code enforcement got involved. DRB's new ruling says that there are no harmful impacts on the neighborhood from our business, but still denied more than 11 cars in the fleet. Will appeal it, but don't have time and money to spend on a lawsuit with the City. How is only option for appeal to go to court? Looking to the Planning Commission for recourse.

L Buffinton: Did you have a parking management plan with the church?

M Fitzgerald: No.

E Lee: What if the informal relationship with church ended?

M Fitzgerald: Would have to be creative.

S Gustin: Offered to meet with H Farrington when DRB rendered the decision to discuss options. Bottom line, this is a non-conforming use, which cannot be expanded.

A Montroll: Did the zoning for this site change?

S Gustin: Last application was under the 1995 regulations, which permitted the swapping of one non-conforming for another. That is no longer provided for in the current CDO.

M Fitzgerald: Interpretation of the DRB's original decision seems to be the issue.

A Montroll: Planning Commission is not the right place, unless you're asking for a zoning change. The Commission doesn't oversee what the DRB does or give them guidance.

D White: Best route is to talk to Scott. Ordinance Committee has been talking about a shared parking ordinance, which might address the issues you're having, but not in time to address your current concerns.

B Baker: Our role is not to rule in your case; it's to set policy. If you chose not to pursue DRB option, you could pursue a course to change the ordinance. Scott is in a box that says he must enforce zoning the way it is written; there can be interpretations by the DRB, but he can't change it.

V. Proposed ZA-16-06 Animal Boarding - Public Hearing

Y Bradley, Chair, opened the hearing at 7:04 pm.

S Gustin: Proposed amendment originates from a request by Megan Sterns to permit animal boarding as a conditional use in downtown zones. Changes from not permitted to a conditional use through the addition of a footnote requiring full enclosure and licensure by City Council.

L Buffinton: This should reiterate the impacts that should be covered under the license.

S Gustin: Our understanding is that those suggestions will be covered in the narrative that is sent when the amendment goes to Council.

The Commission unanimously approved a motion by B Baker, seconded by A Montroll, to send the proposed amendment and required report to City Council.

VI. Proposed ZA-16-07 Low Impact Development- Public Hearing

Y Bradley, Chair, opened the hearing at 7:06 pm.

S Gustin: This amendment has been in the works for nearly 3 years. Proposed amendment permits additional 10% in lot coverage for pervious paving; puts paving into the same box as patios, decks, porches. Must meet standards for one-year storm event, but avoids pitfalls of more expansive provisions.

A Montroll: The attached report could be clearer on intention. Clarify that there are two separate concepts. One is the 10% for pervious paving, and the other is the driveway issue. Clarify what the 10% is for, that it is adding pervious paving into the same box with decks and these features collectively can qualify for an additional 10% coverage. Also need to clarify that additional pavement is pervious, not the whole site.

Bob Dunkin, property owner: Is there a particular square footage that has to be added to qualify for the extra 10%?

S Gustin: It's not about the size of the pervious paving. Permits a property to exceed maximum lot coverage by up to 10% when installing these elements on site.

B Dunkin: Increase coverage up to but not exceed an additional 10%. It could be clearer that it's not just for the pervious pavement, but that it's inclusive with the other elements.

Scott Mapes, Environmental Consultant: Intent of the amendment should be clear that it's about all pervious and porous options, not just pervious pavement, which implies asphalt. Language should say "one-year, 24-hour storm event" because that is the parameter in statute.

A Montroll: The definition for pervious pavement addresses concern about range of materials.

L Buffinton: Propose the term "pervious surface system" rather than "pervious pavement." It's a more ubiquitous term and wouldn't require a change in the ordinances as pervious options evolve.

S Gustin: Could add "and the like" to the definition of pervious pavers.

E Lee: If a site already has pervious paving, is it still eligible for a 10% increase?

S Gustin: The site would already be in compliance, but all of these uses go in the same box so theoretically, yes.

Y Bradley: What about a green roof?

S Gustin: This was included at one time, but was removed.

D White: Reason not to define as "pervious surface system" is that it would imply green roof, which is not the intent of the amendment.

The Commission unanimously approved a motion by A Montroll, seconded by B Baker, to amend the proposed amendment to include "one year, 24-hour storm event," to make the requested clarifications to the report regarding intent of the ordinance, and forward the proposed amendment and required report to City Council.

VII. Proposed ZA-16-08 Shoreland Protection- Public Hearing

Y Bradley, Chair, opened the hearing at 7:22 pm.

S Gustin: Amendment is minor change regarding state's Shoreland Protection Act. Burlington took advantage of a provision for municipal delegation, which required that the NR Overlay be amended to shift the elevation from 100 feet to 95.5 feet. Effect is that there is a little less land in the overlay on Appletree Point due to how shallow the Lake is. State also asked for some additional language regarding vegetative cover.

L Buffinton: Why is downtown exempt?

S Gustin: State buffer exempts downtowns and industrial areas because of the urbanized nature. Has been this way previously because vegetation doesn't exist, there is filled land and a different stormwater infrastructure.

The Commission unanimously approved a motion by J Wallace-Brodeur, seconded by L Buffinton, to forward the proposed amendment and required report to City Council.

VIII. Proposed ZA-16-09 Duplexes on Existing Lots- Public Hearing

Y Bradley, Chair, opened the hearing at 7:28 pm.

S Gustin: Amendment originated from a request by Bob Dunkin. Footnote regarding duplexes in these districts talks about existing lots, but not new lots. Purpose statement of the districts specifically mentions single family and duplexes. Has no impact on minimum lot sizes for duplexes, simply gets rid of the preexisting lot requirement.

A Montroll: Think it's clear that minimum lot size is 10,000 sf, but given confusion, is there any harm in leaving the footnote without the "existing as of 2007" phrase?

S Gustin: Leaving the footnote doesn't do any harm now, but if something gets changed, the footnote may not get changed. Duplication in the ordinance leads to conflicts.

A Montroll: Include a cross reference like, "Duplexes may be constructed or single unit may be converted to a duplex, as long as the lot size meets the minimum size articulated in" with a citation of the table number.

The Commission unanimously approved a motion by L Buffinton, seconded by J Wallace-Brodeur, to amend the proposed amendment to include a footnote with the language proposed by A Montroll, and to send the proposed amendment and required report to City Council.

IX. Proposed CDO Amendment: Recreational Community Center

Commissioners Y Bradley and E Lee recused themselves from the discussion due to conflicts of interest.

S Gustin: YMCA shared a proposal for a new land use with different parking standards, ability to pursue up to 100% parking waiver. From land use and policy perspective, a better idea is to change Article 8 standards to open door for non-residential uses in all districts to have the ability to pursue a greater than 50% parking waiver and parking management plan. In some recent DRB cases this could have made sense, such as the King Street Center, which had to find parking and now leases them because they don't need them. The YMCA, whose new location is located in the high-density residential zone, would likely need more than 50% waiver of parking. Makes more sense to have something broad-based where parking waivers and standards for parking management plans stay the same.

L Buffinton: Agree with this approach. By adopting this amendment, we are empowering DRB to grant a more than 50% waiver for non-residential uses; recommend the DRB embrace this.

Tuesday, March 22, 2016

D White: Similar to a recommendation from the Downtown Plan consultants, who suggested the 100% waiver should apply to all uses, as long as they meet parking management plan standards.

S Bushor: Support this proposal; however, concerned about the clause granting approval by administrative officer. Don't want the public to be caught off-guard about what can be done administratively versus through the DRB.

S Gustin: Conditions 7 & 8 are the only ones that allow for administrative approval, which is not a change from the ordinance today.

A Montroll: No problem with YMCA using this waiver, but concerned about how broad it is. Could permit up to a 100% waiver city-wide; however, when the elimination of downtown parking standards was proposed it was not passed. Concern is that the YMCA could get tangled up in a much more difficult community discussion that will impact their timeline.

S Gustin: The amendment does not apply the increased waiver to residential uses, and parking minimums still apply with a reduction through a waiver instead of wholesale.

A Montroll: This isn't going to be an easy amendment to get done given what the YMCA needs.

J Wallace-Brodeur: What's the alternative?

S Gustin: Original proposal from YMCA was to create its own use category. Struggled with the question of how the YMCA is truly different from sports and fitness education facilities.

S Bushor: It's different from the first approach, but don't disagree with A Montroll's concern. Always surprised how few people come and speak to the Commission, but then get bombarded at Council. Concern is not about the YMCA itself, but potentially a big commercial building downtown. Potential for some opposition to giving that total power to the DRB and could become a prolonged process.

L Buffinton: Need to be mindful of spot zoning and doing something exclusively for the YMCA.

S Gustin: It's more complicated because the Community Recreation Center use would need to be applied in a residential zone.

A Montroll: Is it possible to take this to council to get a weather report?

S Bushor: Is it likely that the YMCA will request a 100% waiver?

S Mapes: Site design still in the works. Giving a developer the opportunity to waive 100% doesn't waive the responsibility to provide parking. Parking management plan standards are pretty rigorous even to request a 50% waiver. Some uses could make the case for a 100% waiver with a parking management plan, but not all projects can demonstrate ability. Opportunity for the DRB to use discretion based on information available; not sure that this change would open up very many projects to be eligible for the 100% waiver.

A Montroll: Not concerned about the policy, but the process and whether or not that will happen in a timely manner. Not sure enough people will agree quickly enough to meet the YMCA's needs. Is there a simpler solution? Is the YMCA ok with this?

B Baker: Could recommend and report that indicates the Commission's support for YMCA's initial request, but didn't feel that the initial request had the right legal structure.

L Buffinton: Could propose up to an 85% waiver, that way there is always something that is required regardless of the parking management plan.

A Montroll: If we considered that option, we need to preserve the current 100% waiver for ground-floor non-residential uses in any mixed-use districts.

D White: Would need to incorporate tiers, because there is also a waiver for adaptive reuse.

S Gustin: The proposal is to send an amendment to the existing Article 8, with the addition of a third tier for non-residential uses to waive parking up to 85%?

S Mapes: Site is very tight; YMCA request might be more than 85% depending on the final arrangement.

L Buffinton: So we consider 90% waiver.

B Dunkin: Can you clarify when this ordinance would take effect?

D White: Not in effect until ordinance committee has finished with it and warned for a public hearing by City Council.

A Montroll moved to warn a proposed amendment to Article 8, with up to 90% waiver for non-residential uses city-wide, and preserving the 100% waiver for adaptive reuse and ground floor commercial in mixed use districts, for a public hearing. J Wallace-Brodeur seconded.

B Baker, L Buffinton, A Montroll and J Wallace-Brodeur approved the motion. Y Bradley and E Lee abstained.

X. Proposed CDO Amendment: Downtown Mixed-Use Core Overlay

This item was deferred to the next meeting.

XI. Proposed CDO Amendment: 15 Year Statute of Limitations

K Sturtevant: Added an exception in the draft regarding violations of the four unrelated rule.

E Lee: Improvement, but still don't support it. There are egregious violations, especially around parking. It is worth inviting Bill Ward in to give his opinion. Bianchi doesn't apply to use violations. If a use is something that can be discontinued, should work towards that. Should set a time limit on how long to discuss this issue.

L Buffinton: I understand people that are suddenly faced with hardships. However, we need to do better on the enforcement side, and try to incentivize property owners to address problems rather than exempting them. Seems like we're trying to do it all in one ordinance, when there might be a need to treat cases differently.

B Baker: If we start from Bianchi, we have to have 15 years as a threshold, and violations beyond that have to be exempted. Bianchi doesn't talk about use, but we have case law that started considering use. Case law is where real decisions are made and it is determined how important things are. Talking about clandestine uses is different than talking about ones the City knew about. Is a parking violation considered a use or a structure?

K Sturtevant: If violation is accessory to the primary use, like a strip parking lot for a business or residential parking for a property, it's considered to be structural. If it's parking that is not accessory to the primary use, then it is considered use.

A Montroll: Maybe it makes sense to take out parking violations. Parking is a difficult thing to enforce because whenever a car leaves the site, the violation is considered "cured" even if it comes back.

B Baker: Parking is so ethereal that it's a continuing violation.

E Lee: What about accessory units that have to be owner-occupied, but aren't. That is a use violation. If we can't enforce it, now it becomes ok for those properties to become duplexes.

B Baker: Back to the clandestine issue—if the City didn't know, then it's not ok and can be enforced.

D White: Stabilization wouldn't change the type of unit; there is a difference between an accessory unit and a duplex.

E Lee: Taking something really big and whittling it away. Should be thinking about the specific things we do want to give relief for, rather than including everything and then pulling out the few things we don't like.

B Baker: Major concern to begin with is lost units that have existed for 20 years, and would be impacted as a result of bad records.

E Le: If that's what we're talking about, then the ordinance should be about that.

J Wallace-Brodeur: We've been trying to do exactly that for a long time. We've already established that legitimate situations are worthy of a remedy, but it's hard to determine what's worthy on a piece of paper. What we have to decide is if there is enough of a reason to provide a remedy for people that have been trying to do the right thing, and take our chances that someone who's not worthy might occasionally slip through. We can't be the judge and jury when writing a zoning ordinance, and have to start with something.

Joel Rippa: What I was proposed was simple, and it has turned into a much more complicated thing. My intent was never about blatant violations, and it can be relatively easy to detect when false information is shared in the paperwork. However, it's different when an owner has divulged information and the city did anything to enforce. You're struggling because now you're addressing everything like number of bedrooms and parking.

B Baker: The Commission has settled on carving out the more than 4 unrelated use. Removing use completely would result in lots of lost units. Would catch people who thought the previous owner had done the right thing with the units.

L Buffinton moved to add an exemption to the current draft regarding parking violations. B Baker seconded.

Y Bradley: Talked to Bill Ward, impression is that he supports that what we're trying to do is fair. See if he can come to the next meeting. We mess with things for too long that they become too complicated and then we don't care. Need to do something legitimate with this proposed ordinance.

L Buffinton: Need to make sure that we're not legitimizing a real problem that the City is trying to enforce.

D White: These situations put the department in an untenable box where we legitimately can't enforce.

B Baker, Y Bradley, L Buffinton, A Montroll and J Wallace-Brodeur approved the motion. E Lee opposed.

XII. Committee Reports

J Wallace-Brodeur: LRPC meets tomorrow night at 5:30, trying to mix it up on time of day to accommodate schedules.

Y Bradley: Please be mindful of staff time in the evenings. Executive Committee meets tomorrow at 1:30 pm.

XIII. Commissioner Items

No items to report.

XIV. Minutes/Communications

On a motion by A Montroll, seconded by B Baker, the Commission unanimously approved the minutes of the March 8, 2016 meeting as submitted and accepted communications into the record.

XV. Adjourn

The Commission unanimously approved a motion by J Wallace-Brodeur and seconded by B Baker to adjourn at 8:27 pm.



Y. Bradley, Chair

Signed: April 15, 2016



E. Tillotson, Recording Secretary

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PUBLIC HEARING NOTICE

Burlington Comprehensive Development Ordinance

PROPOSED

ZA-16-06 Animal Boarding/Kennel/Shelter in Downtown zones

Pursuant to 24 V.S.A. §4441 and §4444, notice is hereby given of a public hearing by the Burlington Planning Commission to hear comments on a proposed amendment to the City of Burlington's *Comprehensive Development Ordinance* (CDO). The public hearing will take place on **Tuesday, March 22, 2016** beginning at 7:00pm in Room #12, on the ground floor of Burlington City Hall, 149 Church Street, Burlington VT.

Pursuant to the requirements of 24 V.S.A. §4444(b):

Statement of purpose: This amendment is proposed to the Burlington CDO as follows:

- **ZA-16-06 Animal Boarding/Kennel/Shelter in Downtown Zones:** The purpose of this proposed amendment is to allow for animal boarding, kennel and/or shelter use in the downtown mixed-use zones by conditional use, with criteria aimed at lessening the potential for off-site impacts by requiring the uses to be fully enclosed and subject to City Council licensure.

Geographic areas affected: the proposed amendments are applicable to the following areas in the City of Burlington:

- Animal boarding/kennel/shelter uses are already defined in the CDO. The proposed amendment would permit these uses by conditional use within the Downtown, Downtown Waterfront, Downtown Transition, and Battery Street Transition zones.

List of section headings affected:

- **Appendix A – Use Table**

The full text of the *Burlington Comprehensive Development Ordinance* and the proposed amendment is available for review at the Department of Planning and Zoning, City Hall, 149 Church Street, Burlington Monday through Friday 8:00 a.m. to 4:30 p.m. or on the department's website at www.burlingtonvt.gov/pz.

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PUBLIC HEARING NOTICE

Burlington Comprehensive Development Ordinance

ZA-16-07 Low Impact Development

ZA-16-09 Shoreland Protection

ZA-16-09 Duplexes on Existing Lots

Pursuant to 24 V.S.A. §4441 and §4444, notice is hereby given of a public hearing by the Burlington Planning Commission to hear comments on the following proposed amendments to the City of Burlington's *Comprehensive Development Ordinance* (CDO). The public hearing will take place on **Tuesday, March 22, 2016** beginning at **7:05pm** in Room #12, on the ground floor of Burlington City Hall, 149 Church Street, Burlington VT.

Pursuant to the requirements of 24 V.S.A. §4444(b):

Statement of purpose: This amendment is proposed to the Burlington CDO as follows:

- **ZA-16-07 Low Impact Development:** The purpose of this proposed amendment is to provide an incentive for the installation of pervious pavement for improved on-site stormwater management by permitting an additional 10% in lot coverage in RL and RM zones. This proposed amendment also includes a minor amendment to the development review standards for vehicular access and adds definitions for "Stormwater Administrator" and "Pervious Pavement."
- **ZA-16-08 Shoreland Protection:** The purpose of this proposed amendment is to include shoreland from 95.5 feet above sea level in the Natural Resource Protection Overlay District: Riparian and Littoral Conservation Zone, and to include additional language relative to the purpose of this overlay district citing the preservation of natural shoreland vegetation and protection of native plants and vegetative cover. 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 Vermont Shoreland Protection Act.
- **ZA-16-09 Duplexes on Existing Lots:** The purpose of this proposed amendment is to remove footnote "2" in Appendix A-Use Table, in order to permit duplexes as a conditional use on existing and new lots in the RL and RL-W zones, consistent with the express purpose for these zones.

Geographic areas affected: the proposed amendments are applicable to the following areas in the City of Burlington:

- **ZA-16-07:** This amendment is applicable to all areas of the city zoned Residential Low Density and Residential Medium Density.
- **ZA-16-08:** This amendment is applicable to all areas of the city to which the Natural Resource Protection Overlay District: Riparian and Littoral Conservation Zone applies.
- **ZA-16-09:** This amendment is applicable to all areas of the city zoned Residential Low Density and Waterfront Residential Low Density.

List of section headings affected:

- **ZA-16-07:** Sec. 4.4.5, (d) 3.A. Exceptions for Residential Features; Sec. 6.2.2, (i) Vehicular Access; and Article 13: Definitions
- **ZA-16-08:** Sec.4.5.4 Natural Resource Protection Overlay (NR) District; Map 4.5.4-1 Natural Resource Overlay District
- **ZA-16-09:** Appendix A- Use Table

The full text of the *Burlington Comprehensive Development Ordinance* and the proposed amendment is available for review at the Department of Planning and Zoning, City Hall, 149 Church Street, Burlington Monday through Friday 8:00 a.m. to 4:30 p.m. or on the department's website at www.burlingtonvt.gov/pz.

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Burlington Planning Commission

Regular Meeting

Tuesday, March 22, 2016 - 6:30-8:15 P.M.

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

AGENDA

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

I. 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.

II. Report of the Chair (5 min)

III. Report of the Director (5 min)

IV. Agenda

V. Proposed ZA-16-06 Animal Boarding - Public Hearing - Time Certain: 7:00 pm

The Planning Commission will hold a public hearing on a proposed CDO amendment permitting animal boarding, kennel and/or shelter uses as a conditional use in the Downtown, Downtown Waterfront, Downtown Transition and Battery Street Transition zones. Documents related to the proposed amendment, including a communication requested by the Planning Commission to the City Council, are included on pages 3-4 of the agenda packet.

VI. Proposed ZA-16-07 Low Impact Development- Public Hearing

The Planning Commission will hold a public hearing on a proposed CDO amendment which permits an additional 10% in lot coverage in RL and RM zones to incentivize the installation of pervious pavement. Documents related to the proposed amendment are included on pages 5-7 of the agenda packet.

VII. Proposed ZA-16-08 Shoreland Protection- Public Hearing

The Planning Commission will hold a public hearing on a proposed CDO amendment to include shoreland from 95.5 feet above sea level in the NR Overlay: Riparian and Littoral Conservation Zone, and to include additional language regarding the purpose of the district in order to satisfy conditions from the VT Agency of Natural Resources. Documents related to the proposed amendment are included on pages 8-12 of the agenda packet.

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VIII. Proposed ZA-16-09 Duplexes on Existing Lots- Public Hearing

The Planning Commission will hold a public hearing on a proposed CDO amendment to permit duplexes as a conditional use on existing and new lots in RL and RL-W zones consistent with the express purpose of these zones. Documents related to the proposed amendment are included on pages 13-16 of the agenda packet.

IX. Proposed CDO Amendment: Recreational Community Center (20 min)

The Planning Commission will review and discuss a staff recommendation related to the amendment request from the Greater Burlington YMCA. A staff memo and the GBYMC's original communication to the Commission is included on pages 17-24 of the agenda packet.

X. Proposed CDO Amendment: Downtown Mixed-Use Core Overlay (20 min)

The Commission will receive a presentation outlining a proposed CDO Amendment to establish a Downtown Mixed-Use Core overlay. The purpose of this amendment is to facilitate the redevelopment of the Burlington Town Center and help the City to implement many of the central goals and objectives found in the planBTV: Downtown and Waterfront Master Plan.

Commissioners who wish to review recent presentations regarding the project can do so on the City's website. The January presentation of revised plans for the mall, March presentation of views of the redevelopment, and a summary of public comment are online here: <https://www.burlingtonvt.gov/CEDO/BTV-Mall-Redevelopment-Process>

XI. Proposed CDO Amendment: 15 Year Statute of Limitations (20 min)

The Commission will conclude its discussion of a proposed amendment regarding the 15 Year Statute of Limitations. Revised text for the proposed amendment will be provided in advance of the meeting.

XII. Committee Reports

XIII. Commissioner Items

XIV. Minutes/Communications

The Commission will review approve minutes from the March 8, 2016 meeting which are provided on pages 25-29 of the agenda packet.

XV. Adjourn – Time Certain 8:30 p.m.

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

II. Report of the Chair (5 min)

III. Report of the Director (5 min)

IV. Agenda

V. Proposed ZA-16-06 Animal Boarding - Public Hearing - Time Certain: 7:00 pm

The Planning Commission will hold a public hearing on a proposed CDO amendment permitting animal boarding, kennel and/or shelter uses as a conditional use in the Downtown, Downtown Waterfront, Downtown Transition and Battery Street Transition zones. Documents related to the proposed amendment, including a communication requested by the Planning Commission to the City Council, are included on pages 3-4 of the agenda packet.

VI. Proposed ZA-16-07 Low Impact Development- Public Hearing

The Planning Commission will hold a public hearing on a proposed CDO amendment which permits an additional 10% in lot coverage in RL and RM zones to incentivize the installation of pervious pavement. Documents related to the proposed amendment are included on pages 5-7 of the agenda packet.

VII. Proposed ZA-16-08 Shoreland Protection- Public Hearing

The Planning Commission will hold a public hearing on a proposed CDO amendment to include shoreland from 95.5 feet above sea level in the NR Overlay: Riparian and Littoral Conservation Zone, and to include additional language regarding the purpose of the district in order to satisfy conditions from the VT Agency of Natural Resources. Documents related to the proposed amendment are included on pages 8-11 of the agenda packet.

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.

VIII. Proposed ZA-16-09 Duplexes on Existing Lots- Public Hearing

The Planning Commission will hold a public hearing on a proposed CDO amendment to permit duplexes as a conditional use on existing and new lots in RL and RL-W zones consistent with the express purpose of these zones. Documents related to the proposed amendment are included on pages 12-15 of the agenda packet.

IX. Proposed CDO Amendment: Recreational Community Center (20 min)

The Planning Commission will review and discuss a staff recommendation related to the amendment request from the Greater Burlington YMCA. A staff memo and the GBYMCA's original communication to the Commission is included on pages 16-23 of the agenda packet.

X. Proposed CDO Amendment: Downtown Mixed-Use Core Overlay (20 min)

The Commission will receive a presentation outlining a proposed CDO Amendment to establish a Downtown Mixed-Use Core overlay. The purpose of this amendment is to facilitate the redevelopment of the Burlington Town Center and help the City to implement many of the central goals and objectives found in the planBTV: Downtown and Waterfront Master Plan.

Commissioners who wish to review recent presentations regarding the project can do so on the City's website. The January presentation of revised plans for the mall, March presentation of views of the redevelopment, and a summary of public comment are online here: <https://www.burlingtonvt.gov/CEDO/BTV-Mall-Redevelopment-Process>

XI. Proposed CDO Amendment: 15 Year Statute of Limitations (20 min)

The Commission will conclude its discussion of a proposed amendment regarding the 15 Year Statute of Limitations. Revised text for the proposed amendment will be provided in advance of the meeting.

XII. Committee Reports

XIII. Commissioner Items

XIV. Minutes/Communications

The Commission will review approve minutes from the March 8, 2016 meeting which are provided on pages 24-28 of the agenda packet.

XV. Adjourn – Time Certain 8:30 p.m.

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Burlington Planning Commission Report Municipal Bylaw Amendment

ZA-16-06 – Animal Boarding/Kennel/Shelter in Downtown Zones

This report is submitted in accordance with the provisions of 24 V.S.A. §4441(c).

Explanation of the proposed bylaw, amendment, or repeal and statement of purpose:

The proposed amendment amends the Comprehensive Development Ordinance Appendix A- Use Table to permit animal boarding, kennel and/or shelter uses in the downtown mixed use zones by conditional use, with criteria aimed at lessening the potential for off-side impacts by requiring the use to be fully enclosed and subject to City Council licensure.

Conformity with and furtherance of the goals and policies contained in the municipal development plan, including the availability of safe and affordable housing:

This proposed amendment to the Comprehensive Development Ordinance (CDO) expands a use that is currently permitted by conditional use within the City to additional zoning districts within the downtown mixed use zones, and conforms with the goals and policies contained in the City's Municipal Development Plan. The proposed amendment does not limit the ability to provide safe and affordable housing within the community.

Compatibility with the proposed future land uses and densities of the municipal development plan:

This proposed amendment is consistent with the proposed future land uses and densities of the Municipal Development Plan by considering land use policies that will limit sprawl and by enabling further mixed-use development in the downtown in a way that ensures needs of the city's residents and visitors are served.

Implementation of specific proposals for planned community facilities:

This proposed amendment supports the City's plans for an expanded and active waterfront area, particularly for visitors to City who utilize hotels, the Burlington Boathouse Marina, North Beach Campground, city parks, and who are attending waterfront events where dogs can be a nuisance or liability.

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TO: Planning Commission
FROM: Scott Gustin
DATE: March 22, 2016
RE: Animal Boarding/Kennel/Shelter in Downtown zones

Megan Stearns has requested that the Comprehensive Development Ordinance (CDO) be amended to allow for animal boarding/kennel/shelter use in the city's downtown zones. This use is already defined within the CDO, but it is presently not allowed in the downtown zones. Following favorable consideration by the Planning Commission on October 6, 2015 and by the Planning Commission Ordinance Committee on December 3, 2015, the Ordinance Committee voted January 7, 2016 to forward the amendment to the full Planning Commission. On January 26, 2016, the full Planning Commission voted to move this amendment to public hearing.

The requested animal boarding/kennel/shelter use would be allowed as a conditional use in the downtown mixed use zones, subject to certain criteria aimed at lessening the potential for offsite impacts. New language is shown in red, and deleted language is ~~crossed out~~.

Proposed CDO Language:

Appendix A – Use Table – All Zoning Districts [excerpt]

	D	DW	DW-PT	DT	BST
Animal Boarding/Kennel/Shelter	N <u>CU²⁹</u>	N <u>CU²⁹</u>	N	N <u>CU²⁹</u>	N <u>CU²⁹</u>

Footnotes

1-26 as written.

29. Must be fully enclosed within a building and is subject to licensure by the City Council.

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Burlington Planning Commission Report Municipal Bylaw Amendment

ZA-16-07 – Low Impact Development

This report is submitted in accordance with the provisions of 24 V.S.A. §4441(c).

Explanation of the proposed bylaw, amendment, or repeal and statement of purpose:

The proposed amendment amends the Comprehensive Development Ordinance Sec. 4.4.5, (d) 3.A. Exceptions for Residential Features; Sec. 6.2.2, (i) Vehicular Access; and Article 13: Definitions. The purpose of the proposed amendment is to provide an incentive for the installation of pervious pavement to improve on-site stormwater management on sites in residential low density and residential medium density zoning districts. An additional 10% in lot coverage is permitted in these zoning districts when pervious pavement is installed. The amendment also includes a minor amendment to the development review standards for vehicular access and adds definitions for "Stormwater Administrator" and "Pervious Pavement."

Conformity with and furtherance of the goals and policies contained in the municipal development plan, including the availability of safe and affordable housing:

This proposed amendment furthers the municipal development plan's Natural Environment element goals to investigate opportunities to utilize permeable surface materials in place of impermeable materials, and to utilize best management practices to capture/treat stormwater runoff from existing development. The proposed amendment does not limit the ability to provide safe and affordable housing within the community.

Compatibility with the proposed future land uses and densities of the municipal development plan:

This proposed amendment is consistent with the proposed future land uses and densities of the Municipal Development Plan by preserving the scale and density of low and medium density residential neighborhoods while also providing for an incentive to achieve greater on-site stormwater management in these districts.

Implementation of specific proposals for planned community facilities:

This proposed amendment supports the City's Integrated Municipal Stormwater and Wastewater Plan (IMSWP) and related capital improvements to the stormwater system. In particular, this amendment incentivizes installation of stormwater-friendly driveways, which is a best-management practice recommended in the IMSWP addressing the quality and quantity of stormwater runoff from existing development.

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Elsie Tillotson, Department Secretary*



TO: Planning Commission
FROM: Scott Gustin
DATE: December 4, 2015
RE: Low Impact Development (LID) Amendment to CDO

Following several reviews and iterations beforehand, the Planning Commission Ordinance Committee recommended approval of this LID amendment at their December 3, 2015 meeting.

This amendment simply allows an additional 10% lot coverage in RL and RM zones for pervious pavement. The purpose of the amendment remains to provide at least a small incentive for installing pervious pavement for improved onsite stormwater management. The amendment merely affords an extra 10% for pervious pavement, like the provisions for decks, patios, and the like.

Proposed CDO Language:

Article 4: Zoning Maps and Districts

Sec. 4.4.5, Residential Districts

(d) District Specific Regulations

3. Lot Coverage

A. Exceptions for Accessory Residential Features

i – vi as written.

vii. Walkways; ~~and/or,~~

viii. Window wells; and/or,

ix. Pervious pavement designed and maintained to infiltrate the 1-year storm event onsite, subject to review and recommendation by the Stormwater Administrator.

Article 6: Development Review Standards

Part 2: Site Plan Design Standards

Sec. 6.2.2, Review Standards, (i) Vehicular Access:

Paragraph 1: as written.

Residential driveways shall be a minimum of 7 feet in width or consist of two 2' driveway strips made of pavement or pervious pavement. ~~Driveway strips shall be accompanied by a paved area for the parking and/or storage of motor vehicles.~~ The maximum width for single or shared access driveways shall be 18'. In a residential district, driveways and parking areas shall be set back a minimum of 5' from side and rear property lines. Driveways that have a slope of 5% or greater (towards the right of way) shall be made of a solid surface including conventional pavement, pavers or pervious pavement.

Paragraph 3: as written.

Article 13: Definitions

Stormwater Administrator: The administrative officer of Chapter 26: Wastewater, Stormwater, and Pollution Control for the City of Burlington.

Pervious pavement: Pervious pavement is a permeable pavement surface with an underlying stone reservoir that temporarily stores surface runoff before infiltrating into the subsoil. Pervious pavement includes porous asphalt, pervious concrete, grass pavers, and plastic grid systems, or their equivalents as deemed acceptable by the Stormwater Administrator.

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Burlington Planning Commission Report Municipal Bylaw Amendment

ZA-16-08 – Shoreland Protection

This report is submitted in accordance with the provisions of 24 V.S.A. §4441(c).

Explanation of the proposed bylaw, amendment, or repeal and statement of purpose:

The proposed amendment amends the Comprehensive Development Ordinance Sec. 4.5.4 Natural Resource Protection Overlay (NR) District and Map 4.5.4.-1 Natural Resource Overlay District. The purpose of this amendment is to include shoreland from 95.5 feet above sea level in the Natural Resource Protection Overlay District: Riparian and Littoral Conservation Zone, and to include additional language relative to the purpose of the overlay district.

In July 2014 the State of Vermont enacted its Shoreland Protection Act. In June 2015, the City was successful in obtaining municipal delegation from the VT Agency of Natural Resources. Delegation was granted with two conditions relating to the NR Overlay District. The first condition was to include shoreland from 95.5 feet above sea level (a change from the CDO's current inclusion of shoreland from 100 feet above sea level) in the NR District. The second conditions was to add language regarding the district's purpose citing the preservation of natural shoreland vegetative cover when reasonably possible and the protection of native plants and vegetative cover that provide shoreland wildlife habitat to the greatest extent possible.

Conformity with and furtherance of the goals and policies contained in the municipal development plan, including the availability of safe and affordable housing:

This proposed amendment to the Comprehensive Development Ordinance (CDO) is consistent with the Natural Environment element of the municipal development plan. In particular, it furthers the plan's shoreline and wetlands goals, which specifically discuss the need to stabilize the shoreline, filter surface runoff, and provide habitat for wildlife. The proposed amendment does not limit the ability to provide safe and affordable housing within the community.

Compatibility with the proposed future land uses and densities of the municipal development plan:

This proposed amendment is consistent with the proposed future land uses and densities of the Municipal Development Plan, specifically the policy to protect natural areas from harmful and incompatible development and maintain the integrity of natural systems.

Implementation of specific proposals for planned community facilities:

This proposed amendment does not impact planned community facilities.

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TO: Planning Commission
FROM: Scott Gustin
DATE: February 23, 2016
RE: Shoreland Delegation: Sec. 4.5.4 Natural Resource Protection Overlay amendment

As of July 2014, the State of Vermont enacted its Shoreland Protection Act. The act is focused on preservation of natural lakeshore vegetation for improved water quality. The Act contains provision to exempt downtowns, village, and similar growth centers from its standards. Burlington's downtown waterfront is exempt. The Act is administered by the Agency of Natural Resources. Following enactment, the City of Burlington sought municipal delegation of the Act via its existing Natural Resource Protection Overlay District: Riparian and Littoral Conservation Zone. This overlay district is the city's own lakeshore protection overlay and has similar provisions and exemptions (such as for the downtown waterfront). The city succeeded in obtaining municipal delegation June 22, 2015. Delegation was granted by the VT Agency of Natural Resources with two conditions relating to the city's Natural Resource Protection Overlay District. They are:

- Amend the CDO to include shoreland from 95.5' above sea level (currently, the CDO refers to 100' above sea level) within the Riparian and Littoral Conservation Zone.
- Amend the CDO to include additional language relative to the purpose of the Natural Resource Protection Overlay District citing the preservation of natural shoreland vegetative cover when reasonably possible and the protection of native plants and vegetative cover that provide shoreland wildlife habitat to the greatest extent possible.

The stipulated amendments are consistent with existing city policy and standards.

The change to 95.5' has virtually no effect on lakeshore vegetation. Most of the affected lakeshore is sand or rock between 100' and 95.5'. The change is required by the Agency of Natural Resources to be consistent with the state Shoreland Protection Act that cites 95.5' above sea level. Except for deletion of 100' in favor of 95.5', standards of the city's Riparian and Littoral Conservation Zone remain unchanged. The overlay map will be changed accordingly.

Existing standards of the Riparian and Littoral Conservation Zone limit tree clearing and will remain unchanged. Wildlife habitat is not specifically noted in the Riparian and Littoral Conservation Zone; however, it is a benefit of the existing buffer protections. Wildlife habitat is specifically cited in the landscaping standards of criterion (m) of Sec. 6.2.2, *Review Standards*. The existing language states "contiguous green space... should be provided on a site whenever possible and be designed to protect wildlife travel corridors and habitat preservation..."

Per the municipal delegation agreement, the amendments are to be made within two years of delegation (i.e. by June 22, 2017).

Proposed changes to the Comprehensive Development Ordinance are below. New language is underlined in red. Deleted language is ~~crossed out~~.

Sec. 4.5.4 Natural Resource Protection Overlay (NR) District

(a) Purpose and Authority:

The Natural Resource Protection Overlay District is intended to:

- Protect surface waters and wetlands from encroachment by development, and from sources of non-point pollution;
- Preserve natural lake shoreland vegetative cover where reasonably possible, and the protection of native plants and vegetative cover that provide lake shoreland wildlife habitat, to the greatest extent possible;
- Protect the functions and values of Burlington's wetlands;
- Protect and enhance water quality near public beaches and other water-based recreation areas from sources of non-point pollution;
- Preserve natural features and communities, geologic features and cultural sites for education and research.
- Provide opportunities for public access where feasible and appropriate;
- Facilitate connections and corridors for wildlife between areas of publicly protected sites.
- Ensure that development that occurs within a Flood Hazard Area conforms to the requirements of the National Flood Insurance Program.
- Minimize and prevent the loss of life and property, the disruption of commerce, the impairment of the tax base, and the extraordinary public expenditures and demands on public services that result from flooding and other flood related hazards; and
- Ensure that the design and construction of development in flood and other hazard areas are accomplished in a manner that minimizes or eliminates the potential for flood and loss or damage to life and property; and
- Manage all flood hazard areas designated pursuant to 10 V.S.A. § 753; and
- Make the City of Burlington and its residents eligible for federal flood insurance and other federal disaster recovery and hazard mitigation funds as may be available.

(b) Areas Affected

This overlay district consists of all areas delineated on Map 4.5.4-1-Natural Resources Protection Overlay (NR) District and is divided into four (4) subparts:

1. A **Riparian and Littoral Conservation Zone** which consists of all surface water and a corresponding upland buffer area, and specifically includes the following areas:
 - A. Uplands within 250 feet of the Lake Champlain lakeshore (measured at ~~100 feet~~ 95.5 feet above mean sea level per National Geodetic Vertical Datum 1929) with the exception of that portion of the shoreline between the northern extent of the Interim Development Area north of the former Moran Generating Station

and the most westerly extent of Roundhouse Point described as the “Urban Waterfront” in the *2000 Open Space Protection Plan*;

- B. Uplands within 250 feet horizontal distance measured from the top of the slope where the channel runs adjacent to a valley wall or high terrace, or top of the bank where the channel has access to its floodplain, of the Winooski River;
- C. Uplands within 100 feet horizontal distance measured from the top of the slope where the channel runs adjacent to a valley wall or high terrace, or top of the bank, where the channel has access to its floodplain, of Engelsby Brook, Potash Brook or Centennial Brook; and,
- D. Uplands within 50 feet horizontal distance measured from the top of the slope where the channel runs adjacent to a valley wall or high terrace, or top of the bank where the channel has access to its floodplain, of all other minor streams, or the mean shoreline of all other minor ponds;

2-4 As written.

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Burlington Planning Commission Report Municipal Bylaw Amendment

ZA-16-09 – Duplexes on Existing Lots

This report is submitted in accordance with the provisions of 24 V.S.A. §4441(c).

Explanation of the proposed bylaw, amendment, or repeal and statement of purpose:

The proposed amendment amends the Comprehensive Development Ordinance Appendix A- Use Table to remove footnote "2" regarding duplexes as conditional uses on existing lots. The purpose of this ordinance is to allow duplexes as a conditional use on both existing and new lots in the R-L and RL-W zoning districts, which is consistent with the express purpose of these zones.

Conformity with and furtherance of the goals and policies contained in the municipal development plan, including the availability of safe and affordable housing:

This proposed amendment to the Comprehensive Development Ordinance (CDO) supports the goals and policies of the municipal development plan Housing Element. In particular, the amendment supports the goal to support the creation of new units on all parcels of land currently zoned for residential development at the number of units allowed by zoning.

Compatibility with the proposed future land uses and densities of the municipal development plan:

This proposed amendment is consistent with the proposed future land uses and densities of the Municipal Development Plan, which envisions a historic pattern of development in neighborhoods through policies that conserve and strengthen residential areas.

Implementation of specific proposals for planned community facilities:

This proposed amendment is consistent with policies to encourage more efficient use of properties already developed in order to maintain the scale and character of the city, and in particular, its residential neighborhoods.

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TO: Planning Commission
FROM: Scott Gustin
DATE: February 23, 2016
RE: Duplexes on existing lots

Duplexes are allowed in the low density residential zones (RL & RL-W) as a conditional use, subject to footnote 2. That footnote reads:

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

This footnote prevents establishment of a duplex on any new lot within the low density residential zones (except as part of a PUD). The Planning & Zoning Department has received a request to eliminate this footnote. Doing so would continue to allow duplexes as a conditional use in the low density residential zones; however, they could be established on any lot (new or existing) meeting the minimum dimensional requirements. Duplexes are expressly cited in the purpose statement for the low density residential zones:

The Residential Low Density (RL) district is intended primarily for low-density development in the form of single detached dwellings and duplexes...

The Waterfront Residential Low Density (RL-W) district is intended primarily for low-density development in the form of single detached dwellings and duplexes...

Duplexes are consistent with the intent of the low density residential zones. Removal of footnote 2 could enable additional duplexes within these zones, consistent with the express intent of these zoning districts.

Proposed amendment language is depicted in the attached Use Table excerpt.

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
Single Detached Dwelling	N	N ¹	N	N	Y	Y	Y	N	N	N	N	N	N	N	N	N	N	N
Accessory Dwelling Unit (See Art.5, Sec.5.4.5)	N	N	N	N	Y	Y	Y	N	N	N	N	N	N	N	N	N		
Attached Dwellings - Duplex	N	N ¹	N	N	Y	CU ²⁻	Y	Y	N	N	N	N	N	Y ³	N	Y	N	N
Attached Dwellings - Multi-Family (3 or more)	N	N ¹	N	N	CU	N	Y	Y	Y	Y	N	Y	Y	Y	Y	Y	N	N
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
RESIDENTIAL SPECIAL 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
Assisted Living	N	N	N	N	CU	CU	Y	Y	Y	Y	N	Y	Y	Y	Y	Y	N	N
Bed and Breakfast ^{4, 6}	N	N	N	N	CU	CU	CU	CU	Y	Y	N	Y	Y	Y	Y	Y	N	N
Boarding House ⁶ (4 persons or less)	N	N	N	N	CU	CU	Y	Y	Y	Y	N	Y	Y	Y	Y	Y	N	N
Boarding House ⁶ (5 persons or more)	N	N	N	N	CU	CU	CU	CU	Y	Y	N	Y	Y	CU	CU	CU	N	N
Community House (See Sec.5.4.4)	N	N	N	N	CU	CU	CU	CU	Y	Y	N	CU	CU	CU	CU	CU	N	N
Convalescent /Nursing Home	N	N	N	N	CU	CU	Y	Y	Y	Y	N	Y	Y	Y	Y	Y	N	N
Dormitory ⁵	N	N	N	N	CU	N	N	N	N	N	N	CU	CU	N ²⁵	CU	CU	N	N
Group Home	N	N	N	N	Y	Y	Y	Y	Y	CU	N	Y	N	Y	Y	Y	N	N
Historic Inn (See Sec.5.4.2)	N	N	N	N	CU	CU	CU	CU	Y	Y	N	CU	CU	CU	Y	Y	N	N
Sorority/Fraternity ⁵	N	N	N	N	CU	N	N	N	N	N	N	CU	N	N	N	N	N	N
NON-RESIDENTIAL USES	UR ²¹	RCO - A	RCO - RG	RCO - C	I	RL/W	RM	RH	D	DW	DW-PT ¹⁶	DT	BST	NMU	NAC	NAC-RC	E-AE	E-LM
Adult Day Care	N	N	N	N	CU	N	N	N	Y	Y	N	Y	Y	Y	Y	Y	N	N
Agricultural Use ²⁰	N	Y	Y	CU	Y	N	N	N	N	N	N	N	N	N	N	N	Y	N
Amusement Arcade	N	N	N	N	N	N	N	N	Y	Y	N	CU	CU	N	CU	CU	N	N
Animal Boarding/Kennel/Shelter	N	CU	N	N	N	N	N	N	N	N	N	N	N	N	CU	CU	CU	CU
Animal Grooming	N	N	N	N	N	N	N	N	N	N	N	Y	Y	Y	Y	Y	CU	CU
Animal Hospitals/Veterinarian Office	N	CU	N	N	CU	N	N	N	CU	N	N	CU	CU	CU	CU	CU	Y	Y
Appliance Sales/Service	N	N	N	N	N	N	N	N	Y	Y	N	CU	Y	Y ²⁴	Y	Y	N	Y
Aquarium	N	N	CU	N	CU	N	N	N	Y	Y	(See Sec.4.4.1(d) 2)	CU	Y	N	N	N	N	N
Art Gallery/Studio	N	N	N	N	Y	N	N	CU ^{8, 13}	Y	Y	(See Sec.4.4.1(d) 2)	Y	Y	Y	Y	Y	Y	Y
Auction House	N	N	N	N	N	N	N	N	Y	Y	N	Y	Y	N	Y	Y	N	CU
Automobile Body Shop	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	Y	N	Y
Automobile & Marine Parts Sales	N	N	N	N	N	N	N	N	Y	Y ¹⁴	(See Sec.4.4.1(d) 2)	CU	Y	CU	Y	Y	N	Y

Appendix A-Use Table – All Zoning Districts

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.~~ **Reserved.**
 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. 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.
 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. The mixed uses shall be limited to those that are either permitted, conditional, or pre-existing nonconforming in the zoning district.
 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 space 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

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, CFM, Principal Planner
Mary O'Neil, AICP, Principal Planner
Ryan Morrison, CFM, Associate Planner
Anita Wade, Zoning Clerk
Elsie Tillotson, Department Secretary



TO: Planning Commission
FROM: Scott Gustin
DATE: March 22, 2016
RE: Parking Management Plans

The YMCA is looking to establish a new facility at 298 College Street. The present site at 266 College Street is within the downtown transition zone and the concurrent downtown parking district. The existing facility is about 50,000 sf with 20 parking spaces (8 onsite and 12 offsite). The parking standard is 1 parking space per 1,000 sf (50 spaces total). While very close to its existing location, the new site is located in the high density residential zone and the related neighborhood parking district. The parking requirement jumps to 3 spaces per 1,000 sf. The proposed 100,000+ sf facility would require some 300 parking spaces. Actual and anticipated parking demand is nowhere near that number.

The YMCA introduced a proposed zoning amendment to the Planning Commission at their February 23, 2016 meeting. That proposal included establishing a new zoning use (recreational community center) and an associated change in the parking management plan standards that would allow up to a 100% parking waiver for that newly defined use. While this proposal may have enabled the YMCA to proceed into the permitting process with a potential solution to the parking problem, it would have resulted in a case-specific amendment to the Comprehensive Development Ordinance (CDO) with no broad-based benefits.

Planning & Zoning staff suggest an alternative detailed below. This alternative has been discussed with the YMCA and has their support. The zoning uses presently articulated in the CDO adequately cover the YMCA. Parking is the problem. Sec. 8.1.15 of the CDO spells out provision for parking waivers and associated parking management plans. Currently, there is a 50% waiver limit for almost all uses. The cleanest way to address the YMCA's potential parking shortfall at the new site would be to remove the 50% parking waiver limit. The Development Review Board has not approved more than a 50% parking waiver for any residential use, even where presently enabled for adaptive reuse. Therefore, this change is limited to non-residential uses. It is important to note that standards for parking management plans will not change. An applicant must demonstrate to the satisfaction of the Development Review Board that actual parking demand will be a certain percentage of the standard parking requirement, whether it's 70% or 40%.

The amendment as proposed could provide a solution for the YMCA but also for other projects that can demonstrate parking demand of less than 50%. From a city-wide policy standpoint, it makes much better sense. It would be broadly applicable and steers away from additional complexity and case-specific provisions in the CDO.

Proposed CDO language is below. New language is underlined red and deleted language is ~~crossed out~~.

ARTICLE 8: PARKING

PART 1: GENERAL REQUIREMENTS

Sec. 8.1.1 – 8.1.14 as written.

Sec. 8.1.15 Waivers from Parking Requirements/ Parking Management Plans

The total number of parking spaces required pursuant to this Article may be reduced to the extent that the applicant can demonstrate that the proposed development can be adequately served by a more efficient approach that more effectively satisfies the intent of this Article and the goals of the municipal development plan to reduce dependence on the single-passenger automobile.

Any waiver granted for a residential use shall not exceed fifty percent (50%) of the required number of parking spaces except for the adaptive reuse of a historic building pursuant to Sec. 5.4.8. Any waiver granted for a non-residential use may be ~~and ground floor retail uses in any Mixed Use district which may be waived by~~ as much as one hundred percent (100%). Waivers shall only be granted by the DRB, or by the administrative officer pursuant to the provisions of Sec. 3.2.7 (a)7.

In order to be considered for a waiver, the applicant shall submit a Parking Management Plan that specifies why the parking requirements of Sec. 8.1.8 are not applicable or appropriate for the proposed development, and proposes an alternative that more effectively meets the intent of this Article. A Parking Management Plan shall include, but not be limited to:

- (a) A calculation of the parking spaces required pursuant to Table 8.1.8-1.
- (b) A narrative that outlines how the proposed parking management plan addresses the specific needs of the proposed development, and more effectively satisfies the intent of this Article and the goals of the Municipal Development Plan.
- (c) An analysis of the anticipated parking demand for the proposed development. Such an analysis shall include, but is not limited to:
 1. Information specifying the proposed number of employees, customers, visitors, clients, shifts, and deliveries;
 2. Anticipated parking demand by time of day and/or demand by use;
 3. Anticipated parking utilizing shared spaces or dual use based on a shared parking analysis utilizing current industry publications;
 4. Availability and frequency of public transit service within a distance of 800-feet.
 5. A reduction in vehicle ownership in connection with housing occupancy, ownership, or type; and,
 6. Any other information established by the administrative officer as may be necessary to understand the current and project parking demand.
- (d) Such a plan shall identify strategies that the applicant will use to reduce or manage the demand for parking into the future which may include but are not limited to:
 1. A telecommuting program;
 2. Participation in a Transportation Management Association including methods to increase the use of mass transit, car pool, van pool, or non-auto modes of travel;

3. Implementation of a car-share program;
4. Development or use of a system using offsite parking and/or shuttles; and,
5. Implementation of public transit subscriptions for employees.

Prior to any approval by the DRB pursuant to this section, the means by which the parking management plan will be guaranteed and enforceable over the long term, such as a contract, easement, or other means, and whether the city should be a party to the management contract or easement, shall be made acceptable to the city attorney.



FOR YOUTH DEVELOPMENT
FOR HEALTHY LIVING
FOR SOCIAL RESPONSIBILITY

January 25, 2016

Department of Planning & Zoning
City of Burlington
149 Church Street
Burlington, VT 05401

Dear City of Burlington Planning Commission,

On behalf of the Greater Burlington YMCA, we are pleased to submit this request for amendment to the City of Burlington Comprehensive Development Ordinance. As we have progressed the planning process for the proposed development of the Ethan Allen Club on College Street, our team has identified several areas of the CDO that do not accurately reflect the proposed land use and unique operational characteristics of our non-profit, community-focused, health, wellness, learning and lifestyle programs.

As demonstrated in the attached documentation from RSG, our transportation planning and engineering partner, we are requesting that the Comprehensive Development Ordinance recognize the unique range of services that a YMCA or similar facility provides to the city by amending the land use table in Appendix A and all associated regulations to include "Recreational Community Center", and allow an increased parking waiver up to 100% for this land use. It is our belief the unique RCC definition and parking flexibility more accurately describes the services and infrastructure demands that our organization requires, which are otherwise not captured in the CDO.

By amending the Comprehensive Development Ordinance to accurately capture the impacts and demands of our proposed development, we will be able to ensure the new YMCA is right-sized for the neighborhood, the community, and the City. After 80 years in our current location, we look forward to serving many more generations in our new location, building our relationship with the families of Burlington and beyond.

Warmest Regards,

Pam Mackenzie
Interim CEO

ZONING AMENDMENT ANALYSIS

TO: Scott Gustin, Burlington Planning and Zoning
FROM: Corey Mack, PE
CC: Pam Mackenzie, CEO GBYMCA; Scott Mapes
DATE: January 25, 2016
SUBJECT: Zoning Amendment to add Land Use “Recreational Community Center”

The purpose of this document is to provide support for an amendment to the Burlington Comprehensive Development Ordinance (CDO) to add “Recreational Community Center” as a recognized land use. Based on the findings outlined in this document, the following changes to the CDO are proposed:

- Create a new Non-Residential Land Use to Appendix A and all applicable tables: “Recreational Community Center” (RCC) as defined by the Institute of Traffic Engineers (ITE) Land Use Code 495.
 - RCC is proposed for conditional use in all Residential, Downtown Mixed Use, and Neighborhood Mixed Use zoning districts in Appendix A.
 - RCC is proposed to have a parking requirement of one (1) parking space per 1,000 square feet of gross floor area in Table 8.1.8-1.
- Add the “Recreational Community Center” land use to the one hundred percent (100%) waiver exceptions detailed in Section 8.1.15 provided the proposed building documents the land use generates a minimal parking demand exclusive to the land use.

The two proposed amendments are justified in this document in the following three items.

ITEM 1: “Recreational Community Center” Describes a Unique Land Use

This zoning amendment is proposed following review of the CDO with respect to the development of a new YMCA facility. A YMCA provides a unique service to the community not captured by the existing range of land uses in Appendix A. In particular, the Greater Burlington YMCA (GBYMCA) is a non-profit operating in Burlington for almost 150 years, providing three areas of focus including youth development, healthy living, and social responsibility. These combined services, all contained within the facility, do not function the same as the seemingly related Daycare, Health Club, and Community Center land uses defined in the CDO. The services provided by the GBYMCA are complimentary, and similar to mixed-use developments, the peak demand for one of their services is generally not at the same time as the other services.

The Institute of Traffic Engineers (ITE) provides national guidance on parking and trip generation from different land uses. ITE assigns codes to each distinct land use, and ITE identifies a land use code for YMCA facilities specifically. ITE Land Use Code (LUC) 495: Recreational Community Center is defined as:

“Recreational community centers are stand-alone public facilities similar to and including **YMCAs**. These facilities often include classes and clubs for adults and children; a day care or nursery school; meeting rooms; swimming pools and whirlpools;...”

The ITE Land Use Description for Recreational Community Centers (“YMCAs”) also notes that “significant pedestrian trips” have been recorded in their trip and parking generation studies.

When comparing ITE LUC 495 to ITE LUC 492: Health/Fitness Club, it is clear the PM peak hour trip and parking generation rates between the two land uses is significantly different (Table 1). While the studies conducted to develop the trip and parking generation rates were based on small sample sizes, such a substantial difference in rates necessitates a unique land use definition for Recreational Community Centers.

TABLE 1: ITE TRIP GENERATION RATES FOR THE PM PEAK HOUR (7TH EDITION).

	Land Use Code 492: Health / Fitness Club	Land Use Code 495: Rec. Community Center
PM Peak Hour Trip Generation (Trips / 1,000 SF)	4.05	1.64
Peak Period Parking Demand (Vehicles / 1,000 SF)	5.19	1.15 (Urban Environment)

In summary of Item 1:

- A YMCA provides a unique range of services distinct from Health / Fitness Clubs and Day Cares;
- National traffic guidance authorities (ITE) distinctly categorize YMCAs in their literature;
- A substantial difference in ITE trip and parking generation rates is noted between the YMCA category and those defined by the existing zoning land uses; and
- There is potential for “significant pedestrian trips”.

Given these characteristics, a unique land use code is proposed to be added to the CDO to be applicable to Recreational Community Centers.

ITEM 2: Existing Recreational Community Center Requires Fewer Parking Spots

In support of the development of a Recreational Community Center land use in the CDO, the GBYMCA surveyed their existing membership and employees to understand the current travel mode choice of the membership and employees. An online survey was conducted in mid-December. A variety of information was gathered from 145 members and 64 employees (response rate of 5% of

the members, 66% of employees). Some of the more relevant information regarding GBYMCA member and employee travel mode choice to the existing downtown Recreational Community Center follows.

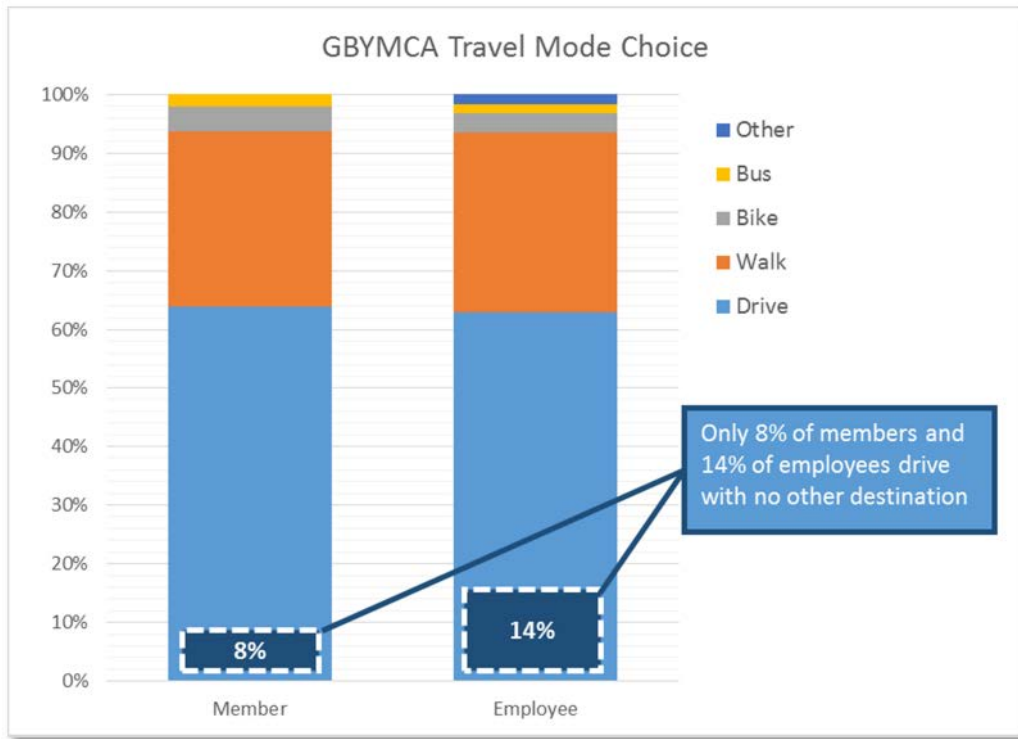


FIGURE 1: MEMBER AND EMPLOYEE TRAVEL MODE CHOICE TO AND FROM THE EXISTING GBYMCA RECREATIONAL COMMUNITY CENTER.

Figure 1 illustrates that roughly two thirds of both the members and employees (64% and 63%, respectively) drive downtown to access GBYMCA Recreational Community Center. Further analysis of the survey results indicate that most trips to the GBYMCA include other destinations, such as work, shopping, or other destinations (“trip-chaining”). For instance, a member may visit the Y over their lunch break or shop at nearby City Market or Church Street after their trip to the GBYMCA, or an employee at the Y may coordinate their shift with other work engagements. Only 11 of the 145 members (8%) and nine of the 64 employees (14%) reported driving straight to the GBYMCA and driving straight home following their visit to the Y.

Since the visit to the GBYMCA Recreational Community Center is generally just one stop in a larger, multi-destination trip downtown, those who do drive are parking in a variety of locations that serve the entire trip purpose. Of members who report regularly driving to the Y, 64% (59 of 92) responded that they typically park on the street nearby, which was defined as Maple Street north to Pearl Street, and from St Paul Street to east to Willard Street, while 29% reported parking in an off-street parking lot or garage. This area spans a great number of destinations, including residential, office, commercial, and retail.

It should be noted that the survey was conducted in December where a large portion vehicle trips would be expected and the number of bicycle trips would be underrepresented, the results only

captured a portion of the members, and the results were never tested for statistical significance. Even so, the survey results indicate:

- A large number of members and employees walk to the Y Recreational Community Center, even in the winter; and
- Those that drive are generally combining trips with other destinations.

These two items indicate that a low parking rate per square foot is applicable to Recreational Community Centers, and an increased waiver for the parking requirement is appropriate for the RCC land use.

ITEM 3: Variety of Adjacent Land Uses to Recreational Community Centers

As suggested in Item 2, Recreational Community Centers benefit from a centralized location by combining trip destinations. By locating within a short distance to a variety of land uses, RCCs are better able to achieve their mission by reaching a larger population. By locating close to a variety of land uses, near both trip origins (residential locations) and destinations (retail, office), the RCC becomes part of the members routine.

The existing GBYMCA, which is an example of a Recreational Community Center in operation in an urban setting, has been in service to the community for over 80 years, providing only 20 spaces for use by employees (8 on property and 12 leased spaces). Similar YMCAs around the country operate successfully under similar limited parking scenarios. The intention of these RCCs is to capitalize on the mixed-uses and variety of activities in the surrounding neighborhood, and in doing so, RCCs are desirable destinations outside of vehicle travel.

In addition, since RCCs are commonly in densely developed areas near residential land uses, providing a large number of parking spaces, either in an open lot or multi-story structure, will likely not fit within the context of the surrounding neighborhood.

SUMMARY

Based on the findings documented above:

- A YMCA provides a unique range of services not captured in the current zoning land use, and based on national guidance; a new land use category should be developed based on ITE Land Use Code 495: Recreational Community Center.
- The parking requirement should reflect the data captured from national guidance and site-specific observations. The ITE PM peak parking generation rate for Urban Recreational Community Center is 1.15 spaces per 1,000 SF. Additionally, the PM peak hour trip generation rate is approximately 1/3 that of the ITE “Health / Fitness Club”; it is proposed that the parking requirement is also approximately 1/3 that of “Health Club” in Burlington CDO, or one (1) per 1,000 SF.
- The operations of the existing GBYMCA Recreational Community Center support the development of a new land use, and since the RCC land use is generally sited within an area that encourages trip-chaining, an increased waiver of up to 100% is proposed.

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

Tuesday, March 08, 2016 - 6:30 P.M.

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

MINUTES

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

Absent: None

Staff: D White, M Tuttle, E Tillotson, K Sturtevant

I. Public Forum

Michael Long: Provided comments regarding the 15 year statute of limitations amendment. Attorney Norm Williams has provided a letter analyzing the Bianchi ruling as applied to structures, which M Long recommends the Commission read. M Long has sent communications regarding this issue to the Commission in the past several years regarding his position that this should apply to structures, but not to uses or parking. M Long endorses breaking down the zoning ordinance, which is not predictable in particular zones, and is against this amendment because the standard of proof has been very low.

II. Report of the Chair

Y Bradley: Attended a very interesting meeting of real estate professionals during which Kevin Dorn, City of South Burlington, discussed plans for City Center and redevelopment of the Burlington Square Mall. Real estate professionals are seeing a growing pattern of malls turning themselves into downtowns, which is something to be aware of, especially in light of the Burlington Town Center redevelopment.

III. Report of the Director

D White: On March 7 Devonwood Associates presented a variety of views of the Burlington Town Center redevelopment. At March 22 Commission meeting, will begin discussing outline of the zoning ordinance amendment. D White's job is to develop a zoning amendment addressing the height and bulk of buildings by right in a downtown overly, as well as other considerations, such as form-based elements.

L Buffinton: Will we get a presentation on the designs as part of this discussion?

D White: It is on the City's website. Also currently working on a zoning amendment proposal for the Burlington College, St Joseph's Orphanage site where the City just purchased 12 acres. Also editing a report regarding on-site parking requirements in downtown.

M Tuttle: Interviewing consultants for the Great Streets project for downtown to create street design standards as well as construction documents for key streetscape projects. There will be public meetings scheduled in the future.

IV. Agenda

No Changes

As approved by the Planning Commission on March 22, 2016

V. City of Burlington Permit Reform Project

D White: City's permit reform project is being led by Beth Anderson, considering all aspects of permitting from application to certificate of occupancy. Introduced the consultant team from Matrix Consulting and Graydon Land Use.

Alan Pennington and Jocelyn Mathieson, Matrix Consulting: Have extensive national experience with permit/process reform. Will be meeting with stakeholders one-on-one next week to understand the Burlington process. Over the next 18 weeks, there will be an extensive public outreach process, consultation with all City departments involved in process, and best practices research. This will inform the development a profile of the current processes, as well as observations and analysis about where code/regulations differ from any requirements. They strongly wish to keep the Commission in the loop

L Buffinton: Will members of the public be able to submit written comments?

A Pennington: An on line survey process will be part of the process so input is available to everyone.

Sean Suder & Brandon McCuin, Graydon Land Use: On team to evaluate historic preservation processes, to facilitate reviews, with the final product being a recommendation for best practices. Burlington has a wonderful heritage, unique, historic, varieties of architecture. Will be looking at how our codes address these characteristics.

H Roen: Is really glad this reform is going forward, it's an area where there have been some big problems. It's really important to get feedback from public.

L Buffinton: Is the feedback confidential?

Y Bradley: This is important because there is a fear that if you are open with your opinion about the City's processes, you will pay later.

A Pennington: Input will be summarized by key themes, and there will be anonymity. Typically find that stories aren't always 100% accurate when team does fact checking, but they will reflect the general perceptions. The more public participation the better to make sure hearing about all of the issues that exist today.

B Baker: You will speak with each of the different permitting entities? Just last week I experienced problems with permitting.

Y Bradley: Was asked to write a developers guide to the permitting process in Burlington in 1984 for a college class! This is a long standing issue, tremendous amount of possibility for streamlining. The victims of the inefficiency are the general public.

D White: Our goal is to make the process predictable so that applicants understand how to get from A to Z; we need to maintain the possibility of change and improvement.

E Lee: There is a lot of mistrust in the community about consultants and where it appears to go wrong is acknowledgement of public input. It is important for Burlington citizens to feel they have been heard and that the end result is not predetermined.

VI. Proposed CDO Amendment: NAC – Riverside Boundary

D White: Originated as a request from affected property owners along Riverside Avenue.

M Tuttle: Outlined existing zoning of the area, and discussed the purpose of the NAC-R, RCO-C and other overlays. Presented a staff recommendation to move the NAC-R boundary another 25 feet north of Riverside

Avenue, to achieve the purpose of the district, but not impact the river bank. However, 189 Riverside is the farthest east, is not presently zoned NAC-R, and is not recommended to be changed.

A Montroll: There are two different maps, are they the same?

M Tuttle: Yes, one shows the extent of the NAC-R on the north side of Riverside Avenue, the other zooms in to the properties requesting the changes.

A Montroll: This has what effect on the corridor?

M Tuttle: This incorporates currently developed area of these properties into the NAC-R without significantly increasing development potential on the north side of street. However, change will have more impact on the steep slopes west of the water treatment plant.

L Buffinton: Not sure this is a good solution given the impact on the slopes to the west.

Laurie Smith: Has development background and previously served on the DRB in Shelburne. As an environmental engineer, he understands the issue of the stability of the bank, but the topography west of the plant is very different from the east end. The Town of Shelburne uses a gradient factor to address these situations. This has the potential to be a beautiful recreation area, and still serve as a buffer and recreation access area. Proposed a combination of gradient factor and an easement from the river might be a way to work forward and still retain development potential.

J Wallace-Brodeur: The plateau behind sewage treatment area to east has potential for redevelopment if the plant ever moves.

L Smith: It is actually a beautiful piece of land. It also sits high enough so that it does not disturb the river and the wildlife corridor.

H Roen: Likes the creative thinking from staff about the solution, but has concerns about the western area along Riverside Avenue being included.

A Montroll: Where is the floodplain?

D White: At this point in the corridor, very close to the edge of the river.

L Buffinton: Would like staff to reconsider ideas shared tonight, and a site visit would be great.

A Montroll: We could be open to looking at other options.

D White: Should this come to the full Commission or to the Ordinance Committee?

Y Bradley: Full Commission.

VII. Proposed CDO Amendment: 15 Year Statute of Limitations

A Montroll: Assuming this is adopted there will be a number of properties which will be affected. Should there be a period of time before this goes into effect?

D White: This is about setting administrative procedures to implement state law. There is not a concern from staff about the administration.

E Lee: Shared comments she received from neighbors on this issue, including: this incentivizes property owners to continue to take advantage of the ordinance, there is ongoing litigation right now with the City regarding some of the properties that have been discussed that shows the impact on neighborhoods, takes away a lot of hope for and stability in neighborhoods, properties and uses that would be permitted aren't

positive for the neighborhood or the students that live in them, undermines accessory units as owner occupied, and notice to interested parties is essential. Does not like this and will not support it; this is huge loophole.

D White: This is existing state law that we have to follow; it does not make these violations ok, but articulates that City's enforcement is limited. Aside from the question of use, it is fair to say this is just administrative procedure. The only real policy issue is around whether use should be included in the statute, which the Planning Commission directed staff on previously.

E Lee: If it is state law, then why don't people appeal to the state? Hearing two different things: this is just state law and we are making a process for it, and there is ambiguity in state law around uses and we are clarifying whether this applies to use.

D White: Those are both true.

E Lee: If it is just about structures, then fine. Have a problem with use.

B Baker: Bianchi decision says nothing about use. Other concern is over loss of legitimate units due to the City's historical record keeping. We can't really solve the problem until we know what the problem is.

L Buffinton: What if we move forward with what we all agree on, which is structures and take use out.

B Baker: I think you would lose thousands of units.

A Montroll: This issue seems to have come up more often over last few years. How often are these units discovered?

D White: The question comes up six to twelve times a year, probably. It's not that often than these issues get pursued all the way.

K Sturtevant: Don't have hard numbers, but it is becoming more of an issue. Part of that is because of the approach to enforcement and we are doing more to keep records.

J Wallace-Brodeur: We've set the threshold that an owner has to prove that the City knew about it. They have to go through this process to prove it. They've hit the 15 years, the City knew about, we've outlined how they will prove it. If they can prove it, it is stabilized, but if it doesn't continue in perpetuity, it can be discontinued.

K Sturtevant: State law doesn't say anything about having a determination of "stabilized." We've added that for records for the owner, and to trigger the notification provision.

J Wallace-Brodeur: E Lee, did you explain the process we've outlined? It is really complicated. We are trying to establish a process to move forward that's fair. We run this risk of having situations that we aren't happy with, but it's about a balance, just like any policy. I think this is rational and clear and my inclination is to support this. We need to hold our City accountable to act on violations they know about—if they haven't done it in 15 years we have to have a process to move forward.

D White: Similarly, if the City doesn't act on a zoning permit within a defined period of time, then it is automatically approved. The benefit goes to the owner if the City doesn't follow through.

E Lee: Student group quarters are a big concern, there are too many for the City to handle, and to enforce. Time of sale is a great time for this to change, so biggest concern is the group quarters being covered by this ordinance. It's a shame that people have been notifying the City that violations have been happening, it hasn't been enforced, then a law gets passed to permit it to continue.

A Montroll: If that will be a major point, we could consider pulling out the four unrelated persons as a use that is covered.

K Sturtevant: Suggesting that we have a nuance to a use, that there would be an exception to this for one particular use. If the Commission wants to move that out, we could.

Y Bradley: I think we all agree on that, no one likes the four unrelated. This is a concern, Kim, please look at how it could be excepted.

On a motion by A Montroll seconded by L Buffinton, the Commission unanimously voted to retain the existing language about use with an exception related to four unrelated people in a unit.

H Roen: There should be further discussion about when properties change hand?

D White: No, because everything runs with the land.

L Buffinton: A delay period before starting is a good idea.

K Sturtevant: A DRB decision regarding when to enforce a four unrelated has been appealed to state Environmental court. To clarify, looking at connecting four unrelated to the health and safety aspect or finding a way to make it an exemption.

VIII. Committee Reports

Ordinance Committee: B Baker reports the Ordinance Committee discussed the George Street zoning boundary adjustment. L Buffinton requests a build out to assess impacts of the change. He has also spoken with a citizen who came in to discuss daycare in the residential low density zone and believes the issue has been resolved.

Long Range Planning Committee: H Roen reports that the Committee has met and are still working on a next draft.

Joint Form Based Code Committee: A Montroll reports that the committee met and is anxious to wrap up the draft. There are four or five issues to work through, a final review, and he is quite optimistic that they can wrap up soon. Public process is going to be a big part of this process.

IX. Commissioner Items

None.

X. Minutes/Communications

On a motion by E Lee, seconded by L Buffinton, the minutes of February 23, 2016 with punctuation corrections, were unanimously approved.

XI. Adjourn

On a motion by L Buffinton, seconded by E Lee, the Commission unanimously adjourned at 8:11 pm.



Y. Bradley, Chair

Signed: DATE 2016



E. Tillotson, Recording Secretary