



Town of Burlington  Planning Board

Minutes of the Planning Board Meeting of February 4, 2010

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1. Chairman Covino called the Regular Planning Board Meeting to Order with the Pledge of Allegiance at 7:30 p.m. with Vice Chairman Raymond, Member Clerk Cummings, and Members DeFrancesco, Hyde, Impemba, and Roth present.

2. **Minutes**

**MOTION** – To accept the minutes of December 3, 2009 as corrected (correction p.4).

**APPROVED: 6-0-1** (Chairman Covino abstained)

3. **Citizens Time**

Mr. Ernie Zabolotny spoke. He said that he had attended a meeting hosted by MAPC in which that organization outlined grants to member communities amounting to \$2 million. He also asserted that funds were likely to be available for energy grants in the amount of \$15 million. He urged the Board to take advantage of these grant programs. Further, Mr. Zabolotny suggested investment in renewable energy systems for Town facilities to save on electrical and heating costs. Director Fields then spoke in support of such programs, including green roof, wind energy, and fuel efficient vehicles, but noted that Burlington's Selectmen must take the lead in which programs and grants to pursue.

4. **Announcements/Chairman's Comments**

- a. Following up on an inquiry after Town Meeting, Director Fields noted that a butter notification for rezoning proposals is not required by law, but it is recommended in Burlington pursuant to a Town Meeting resolution passed in 1973.
- b. Mill Pond Conservation Area Walk – Saturday, February 6, 2010 @ 10:00 a.m. – off Town Line Road – sponsored by the Conservation Commission Land Use Subcommittee.
- c. Zoning Warrant Article deadline for the May 2010 Town meeting will be February 9, 2010.
- d. Presidents' Day – Town offices will be closed Monday, February 15, 2010.

5. **Legal Notices of Interest**                      **None**

6. **Non-Approvals**                                      **None**

7. **Administrative Matters**                      **None**

8. **Matters of Appointment**

- a. Continued Public Hearing – Application for Approval of an Definitive Subdivision – 25 Margaret Road – Peter & Kathleen Bergquist, Applicant

Continued without discussion or comment.

**MOTION** – To continue this matter to the Planning Board meeting of February 18, 2010 at the request of the applicant’s attorney in a letter dated February 3, 2010.

**APPROVED: 7-0-0**

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- b. Continued Public Hearing - Petition to amend the Zoning Bylaw, Article IV, Section 4.2.0 “Use Table” to change subsection 4.2.1.2 “Garden Apartment dwelling units” from YES to SP in the Garden Apartment (RG) District, and subsection 4.2.1.17 “Multi-Family other than 4.2.1.2” from YES1 to SP1 in the Civic Center (CC) and Central Business District (CBD) Overlay Districts; And further to amend Article XI “Special Residential Regulations” by creating a new Section 11.8.0 “Inclusionary Zoning Requirements for Multifamily Housing” – Submitted by the Planning Board.

Director Fields outlined the current iteration of the proposed inclusionary zoning article. Options for a formula for fractional units range from a price per square foot arrangement to a percentage of sales price multiplied by the number of units. The Board discussed the location of affordable units, and under what circumstances off-site units might be allowed. The Board agreed to require an affordable unit for every ten market rate units, rather than allowing a payment in lieu for projects of less than 20 units.

The discussion then focused on the question of a monetary contribution for development of less than ten units and fractions for projects above ten units. The Board discussed an option that would require some minimum provision of on-site affordable units for developments of more than twenty dwellings on the premise that it is desirable to have a diversity of family types and income levels. The Board went on to discuss the relation between the total number of units in a development and the percentage of affordable units that must be provided on-site. Among the options they discussed: a requirement for 25% on-site affordable units when 20 to 50 total dwellings are being developed; a requirement for 50% on-site affordable units when more than 50 total dwellings are being developed. The Board also discussed how the requirement might change for rental as opposed to for-sale dwellings.

Member Roth expressed opposition to a provision regarding off-site affordable units. Vice Chairman Raymond said that the request came from developers participating at a subcommittee meeting seeking flexibility in meeting the requirements. Member Hyde also noted that the Inspector of Buildings had recommended off-site units as an option. Member Roth said that he felt that the provision of off-site units is discriminatory, and wondered who would decide their value. Director Fields said that the determination of value would be a part of the special permit process, and also noted that DHCD will review the Board’s decision regarding the comparability of on and off-site units as part of any LIP application. Member Cummings added that allowing off-site units might help to preserve smaller houses.

The Board went on to discuss unit valuation and the desired percentage of on and off-site affordable units. Member Cummings suggested getting something ready for Town Meeting soon and collecting money toward affordable units in the meantime. Vice Chairman Raymond suggested collecting money to build affordable units.

Director Fields noted an apparent difference of opinion on the Board regarding the level of contribution expected—ranging from “seed money,” a lower level of contribution that might help low income families make down-payments—to a much higher level of contribution proportional to the cost of building or buying an affordable unit. The Board then discussed payment options.

Member Roth said that Burlington will not see many developments of ten or more units, the level at which a unit contribution would be required under the proposed regulation, and that the focus of the regulation should be the acquisition of units. Chairman Covino said that large parcels cannot be divided to create developments of nine and nine, and nine, and so forth to avoid the bylaw. The Board discussed the threshold for the contribution of units. Director Fields said that ten units is a common threshold for requiring a unit contribution, and added that generally towns do not require any contribution from smaller projects. Member DeFrancesco asked where in the proposed bylaw is parsing of parcels prohibited. In response, Director Fields referred to a provision in section 11.8.3 “applicability” that addresses the issue.

The Board went on to discuss the intent of the bylaw. Member Hyde said that developments of very few units are unlikely. Director Fields noted that multi-family housing is defined as four or more units. Member Roth expressed further concern about the proposed off-site percentage of affordable units. Director Fields explained that these scenarios developed out of a subcommittee meeting with the Inspector of Buildings. Director Fields suggested that on-site units be the default option and that a proponent must justify off-site units. Member DeFrancesco asserted that a proponent would need to have off-site units in-hand at the time of Board hearing. Member Roth agreed with the notion of an on-site default for units. Director Fields then read proposed language pertaining to findings, segmentation, and phasing of development. He also presented options for contribution for fractional units (4-9 units), including price per foot, market-affordable differential, a percentage of the sales price, and an option based on 80% of median income. Staff will circulate a summary of the different options. The Board discussed phasing and different contribution schemes. Member Cummings suggested establishment of an affordable housing fund now. Director Fields said that such a fund is not a zoning matter and would require only a majority vote on the part of Town Meeting.

Member Impemba posed questions about wording on market value and sales price, expressing concern over the wording of the proposed provisions. The Board went on to discuss sales scenarios, whether the marketing price and the actual sales price would differ, and how that might affect contributions. Member Hyde suggested that this can be dealt with administratively with a memorandum of agreement. Director Fields suggested that payment be tied to the occupancy permit.

Member Cummings asked for an example of a memorandum of agreement. Director Fields said that this would be a project based document. Vice Chairman Raymond suggested the Board remember the “big picture,” namely, 40B, and said that the town needs affordable units. Member Hyde said that land area devoted to affordable housing is an alternative to the affordable housing percentage. Director Fields said that Burlington has a small land area, and that staff calculations indicate that the town qualifies under this

provision. He also noted the town would have to lose many units to fall below the 10% threshold.

Board discussion ended without comment from the audience.

**MOTION** – To continue this matter to the Planning Board meeting of February 18, 2010.

**APPROVED: 7-0-0**

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- c. Continued Public Hearing – Petition to Amend the Zoning Bylaw by creating a new Section 5.2.1.6 “Lot shape requirements in the One Family Dwelling (RO) District” – Submitted by the Planning Board

Director Fields referred the Board to the dimensional table regarding lot width, which, he said, is measured at the front setback. He said that this method does not get at issue of “tails” on a lot. The Board discussed the language of the lot width definition. Director Fields then read various definitions of lot width. The Board discussed lot lines and pie-shaped lots. Member DeFrancesco argued against the lot shape/width approach, saying that a very small percentage of lots are affected. Director Fields said that regulations in most towns do not address lot shape behind the house. Chairman Covino suggested that Director Fields discuss the matter with the building inspector. Member DeFrancesco read a list of Board priorities and target dates, and suggested that this matter was not a priority. Member Roth suggested that the Board stick with a list of five major priorities. Board discussion ended without comment from the audience.

**MOTION** – To continue this matter to the Planning Board meeting of February 18, 2010.

**APPROVED: 7-0-0**

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- d. Continued Public Hearing – Petition to create a new Business Park (BP) District by amending Article II, III, IV, V, X and XIII and by creating create a new Section “Regulations in the Business Park District” – Submitted by the Planning Board

Continued without discussion or comment.

**MOTION** – To continue this matter to the Planning Board meeting of March 4, 2010.

**APPROVED: 7-0-0**

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## 9) **Other Business:**

### a) **Discussion**

#### 1. May Town Meeting Warrant Articles

Director Fields requested that the Board Member prioritize among several zoning initiatives for submission to the May Town Meeting. The Board then engaged in a discussion of priorities, yielding the following:

- Inclusionary Zoning (1<sup>st</sup> priority)
  - Sign Bylaw (2<sup>nd</sup> priority)
  - Floodplain (3<sup>rd</sup> priority)
  - Business definitions (ex: prototype manufacturing, R&D, biotech and lab uses) (4<sup>th</sup> priority)
  - Home occupation (5<sup>th</sup> priority)
  - Lot Width (Shape) definition (hold for future consideration)
  - Accessory drive-thru by SP (hold for future consideration)
2. Economic Development Strategies Plan—Director Fields said that the Board should adopt the plan and/or issue an advisory opinion. Several Members were of the opinion that the Board had already done so. Staff will review.
  3. FY11 Budget— Director Fields discussed an alternative budget scenario to create a third planning position. Member Hyde reminded the Board that the town is under a hiring freeze.
  4. 2009 Annual Report – Director Fields requested that Members submit comments on the draft annual report as soon as possible.

**b) Correspondence**

**c) Reports from Town Counsel**

Director Fields referred Members to a Town Counsel memorandum on changes to the Open Meeting Law.

**d) Subcommittee Reports**

**e) Unfinished Business**

**f) New Business**

**MOTION** – To adjourn at 10:22 p.m.

**APPROVED: 7-0-0**

**Donald Benjamin**

**Ann Cummings**

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Donald Benjamin, Acting Recording Clerk

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Ann M. Cummings, Member Clerk

**5-20-2010**

Minutes accepted at the Planning Board meeting of \_\_\_\_\_.

**6-4-2010**

Minutes filed with the Town Clerk on \_\_\_\_\_.