

The South Burlington Development Review Board held a regular meeting on Tuesday, 4 November 2020, at 7:00 p.m. via Go to Meeting interactive technology.

MEMBERS PRESENT: M. Cota, Chair; B. Sullivan, J. Wilking, M. Behr, D. Philibert, J. Langan, E. Portman

ALSO PRESENT: D. Hall, Administrative Officer; M. Keene, Development Review Planner; P. Conner, Director of Planning & Zoning; C. Frank

1. Additions, deletions, or changes in order of agenda items:

Ms. Keene asked to move item #5 to follow item #3 as item #5 is to be continued.

2. Comments and questions from the public not related to the Agenda:

No issues were raised.

3. Announcements:

No announcements were made.

4. (previously #5) Preliminary and final Plat Application #SD-20-35 of TPG Architecture to amend a previously approved plan for a 101,38 sq. ft. shopping center in two buildings. The amendment consists of constructing a detached 3,354 sq. ft. financial institution with remote drive-up ATM and canopy, 570 Shelburne Road:

At the request of the applicant, Mr. Cota moved to continue #SD-20-35 to 1 December 2020. Ms. Philibert seconded. Motion passed unanimously.

5. Presentation by and discussion with Paul Conner, Director of Planning and Zoning, on 7/27/20 LDR updates and upcoming LDR updates:

Mr. Conner said there are three sets of amendments to update the Board on:

- a. recently adopted inclusionary zoning
- b. Amendments to be heard at the next Commission meeting
- c. The major Commission project updating/revising subdivisions, master plan and PUD standards

Inclusionary Zoning:

The amendments expanded inclusionary zoning to include the Transit Overlay District and adjacent areas exempted from Interim Zoning. Amendments relate to developments of 12 units or more, and affordability would be in perpetuity. There are some offset units, but no more density that would previously have been allowed with bonuses. These amendments apply to all applications at preliminary plat. Units must be integrated into the overall project layout. The average number of bedrooms in the inclusionary units must be the same as the average in the market rate units. The inclusionary units must also be equally energy efficient. They may differ in amenities but be of the same exterior materials. They must be for "concurrent occupancy," not pushed to the end of the project.

There was also a change to the affordable housing bonus which applies to areas where inclusionary zoning does not apply. Champlain Housing Trust recommended that in order to be able to market the affordable units, the price point be kept at 80% of market value but buyers could earn up to 100% of the median income.

These changes were passed by the City Council and are now in full effect.

Amendments to be considered at the next Planning Commission meeting:

The first amendment would allow properties along Shelburne Road and a small part of Williston Road to go up to 80% of lot coverage. There would be 2 options: provide an on-site civic space or purchase TDRs (this would be the first trial use of TDRs outside the SEQ).

The second amendment would modify the Table of Open Space Types and applicability in the City Center Form Based Code District.

The final amendment would eliminate the requirement for submission of paper copies of applications under the LDRs.

Ms. Keene asked whether the open meeting law would be affected if more than half of DRB members attended a Planning Commission meeting. Mr. Conner said it would not. The law was changed to allow members of one committee to attend another committee's meeting without being in violation of the open meeting law.

LDR Amendments Under Development:

Mr. Conner noted that currently there are very “sketchy” differences between subdivision, PUD, and Master Plan, and they are all together in one chapter. The aim of the amendments is to separate the types using subdivision as a framework. Site plans would have waiver authority that applies only to site plans. Subdivisions would have strictly “division authority” with some waiver authority. A PUD would be a specific, intentional type of development. The Master Plan would be more of a classic Master Plan that lays out the whole framework of a project, and the DRB could vest a project into the current regulations.

Environmental Protections standards are receiving better characterizations. Classes of resources to be protected are divided into categories: hazards (these are nationally recognized and include such things as flood plains), Level 1 resources which would be protected, and Level 2 resources which can be addressed with good design.

Some of the new pieces include:

- a. Steep slopes: no building allowed over a 25-foot slope
- b. Habitat Blocks: these are the second rated resource in the city (behind water resources). Arrowwood did a study and came back with a series of habitat blocks, and these would be areas where no building is allowed. In the SEQ, these line up with already protected areas, and some of the properties are municipally owned. Outside of the SEQ, most of these areas are otherwise protected. The ones that are not the Commission is still looking at

Mr. Wilking noted that the economic development committee has not been approached in any way to consider the economic impact on taxes with these new regulations. He felt the Commission was being very short-sighted and was not considering all views before making regulations. He also noted that the Affordable Housing Committee is very concerned. He said the Commission needs to spend a lot more time on this.

Mr. Conner said he would be happy to talk to the Economic Development Committee.

Mr. Cota asked how the new regulations would affect how the DRB looks at Map 7 of the Comprehensive Plan to see if someone is building in a protected area. Mr. Conner said it is very clear what the protected resources are. Things to be regulated are the things in the regulations. As the Commission gets to the conclusion of the standards, it should be clear in all the regulations what standards apply. Mr. Conner also noted the Commission will have to make a judgment call as to whether the new regulations require an update to the Comprehensive Plan at the same time to avoid any “grey areas.”

Mr. Cota asked if all of the areas can be mapped out in advance so that consultants can come to an agreement. Mr. Langan said that is also his concern. Mr. Conner said he fully recognizes that issue. As currently proposed the resources are identified with a “mapped line.” A decision will have been made as to where that line is. Mr. Cota said if you determine today where animals go, that could change in a year. Mr. Conner said they are considering an option for a developer to do a field study to move a line. Mr. Cota asked what about the opposite situation where the public complains about a line. He asked if the public has the option to do a field study. Mr. Conner said only the developer has that option.

Mr. Wilking said a lot of this is “borderline taking,” and he felt the city was being set up for a lot of problems. Mr. Conner noted the Planning Commission Chair will be doing a presentation to the City Council regarding forest blocks.

Mr. Conner then explained the “development side” of the new regulations, focusing on PUDs. There would be 3 types of PUDs: Traditional Neighborhood Development (TND), Neighborhood Commercial (NC) and Conservation.

In a Conservation PUD, 70% of the land would have to be set aside. The remaining 30% can be built on with the density allowed for the whole property. Even if 90% of the property is covered with resources, the owner/developer could still build on 30%. Mr. Wilking said that is still a “taking.” He said “you can’t stuff 10 pounds into a 2-pound bag,” and you won’t get the full density on 30% of a property. Mr. Conner said that point is well taken.

The TND and NC PUDs would have tight standards (like the current SEQ standards). Density would not be calculated as units per acre but would be “design based” on building types. There would be minimum and maximum dimensions based on lot size, and an owner/developer could build up to what fits on the property. Regulations also take into account the relationship to an adjacent development.

Mr. Langan said he understands the intent but didn’t know if it will be any clearer than it is now – to the owner, the developer, or to the DRB. He felt the DRB would be asked to change a line based on a presentation, and that is tough to do and will create the same issues that exist now. Mr. Cota said the only thing that would create “certainty” is field mapping. Mr. Conner said there can be field mapping, but even professionals can disagree.

Mr. Wilking noted that in his neighborhood the real concern is that people want only single family homes on large lots like theirs. He asked what happens when the market and the neighborhood don’t want what the city wants. Mr. Conner said he would relay that concern.

Ms. Keene asked what Neighborhood Commercial means. Mr. Conner said it is typically a non-residential oriented. He cited the Larkin development on Shelburne Road where there can be some residential but it is not the focus.

Mr. Conner noted that all Planning Commission meetings are open to the public. The Commission is trying to put together something complete so the public can see it all laid out.

6. Minutes of 20 October 2020:

No minutes were presented for approval.

7. Other Business:

Ms. Keene noted that the next meeting will be the organizational meeting at which a Chair, Vice Chair and Clerk will be elected.

As there was no further business to come before the Board, the meeting was adjourned by common consent at 8:05 p.m.

These minutes were approved by the Board on November 18, 2020.