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3 **Town of Charlotte**
4 **PLANNING COMMISSION**
5 **Meeting Conducted at Town Hall and via Teleconference**
6 **June 15, 2023**

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8 *As approved by the Planning Commission—June 29, 2023*

9 **Planning Commission:** Charlie Pughe, Linda Radimer, Robert Bloch, Kyra Wegman, Carrie Spear,
10 Gerald Bouchard (virtual), Matt Krasnow (virtual)

11 **Staff:** Larry Lewack, Town Planner; Nicole Burnell, Recording Secretary

12 **OTHERS:** Frank Tenney, Paul Plante, Jesse Bryce, Lynn Hale, Kelly Devine, Charles Russell, Alexa
13 Lewis, JD Herlihy, John Stern, Jessie Price, Claudia Mucklow

14 **Posted Agenda:**

15 7:00 PM Call to Order
16 7:02 PM Changes to Agenda (if any); Public Comment
17 7:05 PM Public Hearing on proposed amendments to the Charlotte Land Use Regulations.
18 7:25 PM Next steps in this process; opportunities for additional public comment
19 7:30 PM Joint meeting with the Development Review Board: re: LURs amends agenda
20 8:15 PM Work session, LURs amends: EV charging, 1-unit limit in mixed uses, cannabis draft
21 changes?
22 8:45 PM Review & approve draft meeting minutes: June 1 mtg.
23 8:50 PM Adjourn

24
25 **Call to Order:** Charlie Pughe called the meeting to order at 7:03 p.m.

26
27 **Changes to Agenda (if any):**

28 Larry Lewack asked to provide an update on recent legislative changes signed into law.
29 Charlie suggested to add an update on the Community Heart and Soul initiative. Linda Radimer
30 asked to discuss low-income housing by way of reuse of abandoned or neglected houses.

31
32 **Public Comment:** None.

33
34 **Public Hearing on proposed amendments to the Charlotte Land Use Regulations:**

35 Charlie reviewed why a second hearing was required; passage of H.270 (now law)
36 eliminates town oversight of outdoor cannabis cultivation. Going forward, outdoor cultivation will
37 essentially to be treated as agriculture. Draft amendments to the Charlotte Land Use Regulations
38 (LURs) the PC prepared re: outdoor cultivation need to be amended to reflect these changes.
39 Charlie opened the hearing to public comment.

- 40
- 41 • Jessie Price said she supports cannabis cultivation, and suggested performance standards
42 changes pertaining to nuisance odors are irrational. Kyra Wegman asked if Jesse was
43 referring to the grow operation on Greenbush Rd.; Jesse confirmed. Kyra clarified that no
44 complaints have come from that grow. Charlie noted the complaints have been from the
45 grow operation on Prindle Rd.
 - 46 • Lynn Hale questioned if the town has authority over structures that enable outdoor grows
47 such as hoop or greenhouses. Charlie responded that is currently a gray area. Lynn asked if
48 vegetables are grown in a greenhouse does that require a permit. Charlie responded it does
not. Larry added that when a new farm structure is built, it requires obtaining a verification

49 letter from the Vermont Agency of Agriculture, Food, and Markets (VAAFMM). The VAAFMM
50 ensures the structure is compliant with town standards such as setbacks and height.
51 Determination letter from VAAFMM is then submitted to the town, which documents that by
52 placing a copy in the property's permit file. But the town does not issue a zoning permit,
53 which is not required.

- 54 • Lynn also asked if there has been any consultation with the Vermont League of Cities and
55 Towns (VLCT). Larry responded that he had reached out to the VLCT initially; they did not
56 provide any guidance. Larry then reached out to other Town Planners for model bylaws,
57 their responses became the basis for the draft LURs. Lynn clarified that she was asking if
58 the legislature reached out to towns for input. Larry stated he had reached out to
59 legislators involved in passing the new statute. Larry: he did.
- 60 • Charles Russell asked about the revised performance standard: *A public nuisance is a*
61 *persistent odor which is verified by persons of normal odor sensitivity to exist for three*
62 *consecutive days within any two-week period.* Charles asked how this would be enforced.
63 Charlie: it would begin with someone making a complaint to the Zoning Administrator.
64 Charles then asked if there are smell experts. Larry responded that there are researchers at
65 the University of Vermont who have devised methods for measuring odors, and there's also
66 a 'sniffer' device on the market that measures odor intensity.

67
68 Hearing no further comments, Charlie Pughe closed the public hearing at 7:20 p.m.
69

70 **Joint meeting with the Development Review Board: re: LURs amends agenda:**

71 Charles Russell and Alexa Lewis, members of Development Review Board (DRB), appeared
72 to present their outline of suggested topics for potential LURs revisions. They clarified the entire
73 DRB has not yet weighed in on these changes, & they don't have specific language to suggest.

74 Charles asked for clarity on how to evaluate non-conforming structures that go further into
75 setbacks. He commented on Hinesburg approach, which considers effect on neighbors. Charles
76 moved on to ambiguity in density standards; minimum density should be maximum. Charles
77 spoke to frontage requirements for minor subdivisions being evaluated under Planned Residential
78 Development (PRD) standards. The DRB has interpreted this to mean that minimum frontage can
79 only be waived if the project involves clustering houses. He is unsure if that was the intent, or if
80 there's a reason to elevate frontage over other standards that can be waived.

81 Kelly raised concern about adding language to non-conformance that might eliminate the
82 DRB's ability to use discretion. Charles responded that they have discretion & use it; what's
83 lacking is standards to determine how and when that flexibility should be applied. Kyra suggested
84 the town should be more flexible about enforcing dimensional standards for small lots in the
85 villages vs. large lots in the rural parts of town, where people generally have more options in
86 choosing where to local buildings.

87 Charles mentioned the need for standards with respect to evaluating a project's potential
88 impacts upon areas of high public value. Charles noted the Town Plan states no development is
89 permitted in the Shoreland District within 150 ft. of the mean high-water mark. Linda responded
90 that state regulations need to be considered. Larry spoke to state shoreline rules which differ at
91 the 100 ft., 150 ft., 250 ft. distances from the shoreline. Kelly commented on a case before the
92 environmental court and advice from the town attorney that the Town Plan does not overrule
93 LURs. Denials based upon standards in the Town Plan (but not specific rules in the LURs) will
94 likely be overturned on appeal.

95 *Other issues raised:*

- 96 ▪ Charles asked that use of the term 'adverse effect' in district purpose statements revert

- 97 back to the former criteria, which was ‘undue adverse effect.’ ‘Adverse effect’ is too broad.
98 ▪ Charles requested further clarity on standards for conditional use, character of the area,
99 roads, shared driveways for an accessory dwelling unit, legally in existence as of effective
100 date, abandonment.
101 ▪ Charles suggested definitions be added for bylaws in effect, conformance with Town Plan,
102 and asked to change language throughout LURs from ‘should’ to ‘shall.’ Charles noted the
103 need to add a more clear definition of “building footprint.”
104 ▪ Standards for development in the Shoreland. Alexa added assets of high public value.
105 ▪ Charles made mention of short-term residential rentals in town & asked if this should be
106 regulated. Larry confirmed that there are many short-term rental units in Charlotte; in
107 2021 there were approximately 93. Other towns have enacted regulations when short-term
108 rentals cut significantly into low & moderate income rental housing stock. Kelly suggested
109 that these are beneficial to the local economy, and that in Charlotte it is not cutting into
110 housing stock, given that most of our short terms rentals are seasonal.
111

112 **Work session, LURs amends: EV charging, 1-unit limit in mixed uses, cannabis draft**
113 **changes:**

114 Charlie suggested cannabis draft changes be discussed first. He noted previous edits that
115 had circulated before the meeting. Larry recalled Linda’s question regarding setbacks and *as*
116 *deemed appropriate* (by DRB) language. Consensus to remove *as deemed appropriate*. Kelly
117 questioned if the Planning Commission is seeking to get the cannabis draft on the Selectboard
118 agenda soon, if there a sense of urgency. Kyra questioned if the draft would be adopted as an
119 interim bylaw. Kelly clarified on interim bylaws; action needed to extend beyond 2 years. Larry
120 suggested fast-tracking these standards to the Selectboard will require permits for most types of
121 cannabis businesses, and aid the DRB by providing clear standards.

122 Charles suggested that changes to non-conformance be adopted at the same time as
123 cannabis standards. Frank Tenney responded to the Charles’ request for non-conformance
124 standards. From Frank’s understanding, the DRB is denying expansion based on applicants having
125 reasonable use (which is not defined) of their property. Charlie redirected the conversation due to
126 time constraints. Matt Krasnow suggested that the draft be evaluated by the town attorney before
127 presentation to the Selectboard to ensure it’s legal. Matt suggested the Planning Commission
128 schedule a discussion with the town attorney vs. just getting his recommendations in writing.
129 Charlie responded that counsel could join a Planning Commission meeting.

130 JD Herlihy stated that it is up to the Planning Commission to develop specific language for
131 the DRB’s recommendations. Charlie agreed.

132 Charlie moved onto EV charging. Larry presented Charlie’s simplified version. Charlie
133 clarified that adding a single Level 2 charger would be exempt from permitting. Robert questioned
134 if two chargers would require permitting. Charlie confirmed. Larry added that new commercial
135 structures must go through site plan review, which is a good time to discuss EV charging stations
136 be added. Frank mentioned the amount of time EV charging requires and questioned if EV
137 charging spaces would be counted in the total number of required parking spots. Charlie
138 responded that it would be counted as a parking space. Frank noted that use of the space for long-
139 term charging could block that parking space for other uses. Robert asked if Level 3 requires
140 permitting. Charlie responded that it would. Frank suggested a Level 3 charger would be an
141 accessory use. JD pointed out that Level 1 would require permitting according to the draft.
142 Wording changed to include Level 1. Members agreed on this language.

143 Larry spoke the fact that Sec. 4.12 (Mixed Uses) sets a limit of only one residential dwelling
144 allowed within the mixed use, unless the development is a Planned Unit Development (PUD).

145 Larry commented that the condition is arbitrary; there is no reason to limit the number of
146 residential dwellings in a mixed use. This was flagged by Regional Planning staff for revision
147 during recent audit. The proposal is to remove the clause, and renumber accordingly. JD Herlihy
148 asked if the intent is to allow more than one commercial use in a single building. Charlie
149 responded that is currently permissible. JD agreed that it is allowed with a PUD and therefore
150 language in the PUD section should be reviewed and updated; mixed use without a PUD needs to
151 be reflected in the PUD section. Charlie asked how density would be calculated in a mixed use
152 project. Larry responded that density standards for each use still apply. Consensus from the
153 Commission that this change needs more work, and should be tabled, for now.

154

155 **Review/approve draft PC meeting minutes: for June 1 mtg.:**

156 **MOTION by Robert Bloch; seconded by Carrie Spears to approve the PC meeting**
157 **minutes for June 1, 2023. VOTE: 6 ayes, motion carried.** Matt Krasnow abstained due to being
158 absent from that meeting.

159

160 **Community Heart & Soul update:**

161 Robert asked if members have read the draft Resolution for the Selectboard to consider in
162 support of the Heart & Soul project. Kyra questioned if it should include that the initiative would
163 not be funded by taxpayers. Robert agreed this should be removed; he will include that point in
164 the cover letter instead. Matt suggested that the word *endorse* be edited out of the Resolution, as it
165 implies financial obligation. Charlie Pughe noted the Commission has already voted to endorse
166 this process, so no further action is needed. Robert asked members to reach out to him with any
167 additional suggestions.

168

169 **Recent legislative changes signed into law:**

170 Larry reported that the Governor signed S.100 on Monday (6/12). The main implications
171 for local bylaws are becoming clearer. Most changes will go into effect in 2024. One example:
172 towns are not allowed to zone out residential recovery residences, this went into effect
173 immediately. Another big change is to essentially eliminate single family zoning, by requiring
174 towns to allow duplexes wherever single family homes are now allowed. LURs amendments now
175 only require a Planning Commission hearing. Once they go to Selectboard, they hold a public
176 hearing. Upon their approval, amendments will go into effect without a town vote. Kyra asked if
177 the Selectboard does not approve, are proposed amendments kicked back to the Planning
178 Commission. Larry confirmed. Kyra asked if becoming a charter town would be beneficial. Larry
179 responded that he believes it would not, as charter changes still have to be vetted & approved by
180 the legislature. Robert pointed out that local control over housing and cannabis has been taken
181 away by the Legislature, questioning if this is a trend. Larry does not feel that is the case: more
182 housing is desperately needed, and local zoning bylaws were a hindrance. Matt added that the
183 legislature is trying to reduce barriers to building more housing, while balancing use of land for
184 housing and conservation. Kyra added the housing crisis primarily impacts middle and low
185 income residents, but hasn't significantly affected more affluent residents.

186

187 **Adjournment:**

188 **MOTION by Robert Bloch; seconded by Carrie Spears, to adjourn the meeting. VOTE:**
189 **7 ayes, motion carried.** The meeting was adjourned at 9:11 p.m.

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191 Minutes respectfully submitted:

192 Nicole Burnell, Recording Secretary, with edits by Larry Lewack, Town Planner