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3 **Town of Charlotte**  
4 **PLANNING COMMISSION**  
5 **Meeting Conducted at Town Hall and via Teleconference**  
6 **November 16, 2023**

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8 ***DRAFT – subject to approval by the Planning Commission***

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

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

12 **OTHERS:** Paul Plante, Frank Tenney, Kelly Devine, Charles Russell, Matt Citarella, Jessie Price

13 ***Posted Agenda:***

14 7:00 PM Call to Order

15 7:02 PM Changes to Agenda (if any); Public Comment

16 7:05 PM 2024 Meeting Calendar: review mtg. schedule, set variances as needed

17 7:15 PM Thompson’s Point LURs: discuss background materials shared; revise worksheet;  
18 Determine next steps, schedule to markup revised draft

19 8:00 PM Nonconforming Structures: consider redraft of LURs amends: two approaches

20 8:30 PM Review & approve draft meeting minutes: June 29, Nov. 2 mtgs.

21 8:40 PM Adjourn

22  
23 **Call to Order:** Charlie Pughe called the meeting to order at 7:03 p.m.

24  
25 **Changes to Agenda (if any):** Larry Lewack: last-minute addition of Chittenden County Regional  
26 Planning Commission annual report for Charlotte to meeting packet; scheduling of a Planning  
27 Commission group photo for the Town Report.

28  
29 **Public Comment:** None.

30  
31 **2024 Meeting Calendar: review mtg. schedule, set variances as needed:**

32 Charlie recapped remaining meetings in 2023; 11/30 & 12/14. In 2024, holding meetings  
33 on the 1<sup>st</sup> and 3<sup>rd</sup> Thursdays will work each month up until July. July requiring a change in  
34 schedule due to the 4<sup>th</sup> of July holiday. Meetings in July to be held on 7/11 & 7/25. Subsequent  
35 changes in August to avoid back-to-back weeks. Meetings in August to be held on 8/8 & 8/22.  
36 Group picture was scheduled for 11/30 at 9 a.m. at the Old Brick Store.

37  
38 **Thompson’s Point LURs: discuss background materials shared; revise worksheet;**  
39 **Determine next steps, schedule to markup revised draft:**

40 Prior to the meeting, Charlie distributed a copy of excerpts from the Town Plan which he  
41 highlighted sections referencing the shoreland and Thompson’s Point. Charlie called attention to  
42 page 117, item 6 which states: “*No development shall be allowed within 150 feet of the Mean High*  
43 *Water Mark of the Lake Champlain shoreline.*” His interpretation is that means no new  
44 construction or expansion of existing structures within that setback.

45 Charlie pointed out that Mean High Water Mark, for Charlotte, is 98 feet, which he could not  
46 locate in the Town Plan, and which differs from the Shoreland Protection Act’s Mean Water Level  
47 (which is defined as 95.5 ft. for Lake Champlain).

48 Charlie explained that the Shoreland Protection Act is divided into two sections: 100 feet  
49 and then 150 feet from that. Development in the first 100 feet, not permitted.

50 Larry said that per the town attorney, when there is discrepancy between the Town Plan  
51 and Land Use Regulations (LURs), LURs override the Town Plan. Given that, the DRB has  
52 interpreted the LURs to allow replacement of existing structures, and (with conditional use  
53 approval) expansion or rebuilding within a different footprint. Charlie restated that the Town  
54 Plan is saying no expansion. Robert Bloch clarified that the restriction of expansion is not stated in  
55 LURs. Matt Citarella stated that throughout LURs, there is reference to the need to follow the Town  
56 Plan. Robert suggested that the upcoming Town Plan update bring consistency. Charlie agreed  
57 that the Town Plan should be updated to reflect LURs as enacted.

58 Larry directed conversation to the statement *No development shall be allowed within 150*  
59 *feet of the Mean High Water Mark of the Lake Champlain shoreline*, and asked if it is an isolated  
60 statement. Charlie responded, he believes #5 on p. 117 of the Town Plan, supports the statement.

61 Linda Radimer asked if there are any lots on Thompson's Point without an existing  
62 structure. (*Ed. note: there are.*) Linda recapped potential to change to a 25 feet setback, as was  
63 previously discussed.

64 Charles Russell said that with the strict interpretation of the *No development* statement,  
65 structural alterations of any kind would be prohibited. This is unhelpful to leaseholders, and  
66 defies ZBA & DRB precedent. Charles believes this should be a priority fix for the Town Plan, even  
67 perhaps should be made before the next scheduled update in 2025. Matt Citarella pointed out that  
68 the residents of Charlotte might not want to change that aspect of the Town Plan.

69 Larry clarified that in Table 2.7 in the LURs, the existing distance from any existing  
70 structure to the shoreline is the regulatory minimum setback; in fact, many structures are closer  
71 than 150 feet. Larry suggested we standardize town standards to those found in the the Shoreland  
72 Protection Act. He displayed an illustration of that standard. The first 100 feet from the lakeshore  
73 is designated the Lakeside Zone, where no building, minimal tree cutting, no addition of  
74 impervious surfaces may occur. 100 – 250 feet is the Upland Zone, with far fewer restrictions.

75 Charlie pointed out that dated LURs and Town Plan are not accessible on the updated Town  
76 website, and requested that they be added. Larry will do.

77 Charles said the intent of the purpose statement for the Shoreland District, is to prevent  
78 runoff from entering the lake, and to protect scenic views. That perhaps stronger protection  
79 against erosion would be more appropriate than the 150 feet setback.

80 Robert pointed out that much of what the Development Review Board (DRB) is seeking  
81 guidance for falls under judgment, and suggested use of design professionals. Charles responded  
82 that there is language in LURs that supports Robert's suggestion.

83 Robert circled back to the proposed 25 feet setback. Charles stated that changing to a 25  
84 feet setback would eliminate a great deal of non-conformity.

85 Robert revisited suggestions made by the Thompson's Point Leaseholders Association  
86 (TPLA), including the opportunity to replace a shed or other accessory structure without going  
87 through conditional use review. Larry reviewed proposed *permitted uses*, which include accessory  
88 structure and demolition of an existing structure of portion thereof, both currently *conditional*  
89 *uses*. Matt Citarella asked about lost revenue from the proposed change, which would be minimal.

90 Jessie Price, member of the TPLA, asked for one governing body, namely the DRB, versus  
91 both the DRB and the Design Review Committee. Charlie suggested hiring a professional to offer  
92 opinion to the DRB. Robert added that requesting an outside design professional's opinion would  
93 be at the DRB's discretion. Linda pointed out that having a Design Review Committee may save the  
94 applicant money. Robert questioned if it would be helpful to stipulate color on rebuilds be  
95 consistent with character of the area. Charlie cautioned against being too prescriptive.

96 Larry reviewed proposed changes to district standards, including what's included in the  
97 definition of an accessory dwelling, and that boundary line adjustments are not permitted. Charlie  
98 suggested adding a statement to reflect that any new accessory structure must be placed at least  
99 100 feet from Lake Champlain.

100 Robert asked about the TPLA's opinion on setbacks. Charlie responded that the TPLA could  
101 not agree on a proposed setback. Gerald Bouchard cautioned that topography must be considered.  
102 Jessie stated that despite the TPLA not being able to agree upon a setback, reducing side yard  
103 setbacks to 25 feet would eliminate a significant amount of problems. Robert asked: what would  
104 be the harm in agreeing to that change?

105 *Next steps:* Charlie said he has been working on a setback census (based on the CEA lot  
106 layout and wastewater system maps), and will present that analysis at the next meeting.

107  
108 **Nonconforming Structures: consider redraft of LURs amends: two approaches:**

109 Larry stated that he created two drafts: version 2a includes standards for setback waivers;  
110 version 2b separates the standards into a new section allowing setback waivers that would be  
111 adjacent to the Variance rules. Charles Russell came in that afternoon & had some good edits to  
112 version 2a, which he also presented as version 2c. Larry noted that in all drafts, the proposed  
113 standards are somewhat subjective, but provide some guidance for the DRB to apply.

114 All drafts outline different categories, as developed during our last discussion. The first  
115 being routine maintenance and repair, including restored or reconstructed after damage or  
116 destruction. These projects would not require a permit. Charlie questioned if he is certain that no  
117 permit would be needed. Larry responded that it would not & cited Sec. 9.2 exemptions & Sec. 3.1,  
118 which address that issue re: structures that sustain significant damage or destruction.

119 The second category outlines structures moved on site, provided they meets all  
120 dimensional standards (setbacks etc.). Taking a non-conforming structure and making it conform.  
121 This would require a zoning permit. Charlie said this would not include Thompson's Point. (*Ed.*  
122 *note:* currently true, but could change if Table 2.7 was amended as discussed.)

123 The third category is a project to demolish and rebuild a non-conforming structure in a  
124 location that's more conforming to dimensional standards (but still within a setback). This  
125 situation requires conditional use review and approval from the DRB. Charlie pointed out this  
126 would be a new structure, and asked how much less non-conforming it would need to be. Larry  
127 agreed that's why he provided draft standards for the DRB to apply. He also noted the suggestions  
128 that illustrations be provided to clarify these rules. He agrees with this & will include some  
129 drawings in the next draft. Robert questioned why this category would require conditional use  
130 review instead of just a zoning permit. Larry: conditional use allows neighbors an opportunity to  
131 state their opinions, and for the DRB to take a qualitative look & apply standards as findings if they  
132 will approve it. Frank Tenney gave an example which fell under the third category.

133 The fourth category are structural alterations to a non-conforming structure which are  
134 proposed away from the setback lines entirely, that does not increase height or footprint outside  
135 of any setbacks and meets all dimensional standards. This would require only a zoning permit.

136 Charlie asked about parallel expansion along the setback line, within the setback at the  
137 same distance from a property as the existing nonconforming structure. Larry responded this is  
138 covered in the third category (requires conditional use review & approval by the DRB).

139 Charlie called attention to setback waivers in version 2b and cautioned against allowing the  
140 DRB to reduce required setbacks to wetland or surface water setbacks. Larry said it does not  
141 propose that, but it could be clarified that this rule applies only to lot line setbacks.

142 Robert asked about balconies that go further into the setback but do not touch the ground.  
143 Larry responded that the DRB would need to consider under conditional use review.

144 Larry pointed out in version 2b, standards are separate. In addition, various justifications  
145 for waivers are also outlined, which are not included in version 2a or 2c.

146 Frank asked why height is being proposed as a consideration for character of the area.  
147 Frank suggested height be considered by district standards versus character of the area. Larry  
148 responded that height is only being considered in the non-conforming part of the structure.

149 Gerald asked if development rights could be purchased from neighbors without boundary  
150 line adjustments being made. Frank responded that setbacks are determined by property lines,  
151 not easements.

152 Larry asked that the Planning Commission review drafts and send markups. Charlie  
153 requested that markups be submitted before the end of Thanksgiving weekend, and to work off  
154 from draft 2c for consistency in editing.

155  
156 **Review/approve draft PC meeting minutes: for June 29, November 2, mtgs.:**

157 The needed quorum to approve the June 29<sup>th</sup> draft minutes was not in attendance.

158 **MOTION by Robert Bloch seconded by Gerald Bouchard to approve the PC meeting**  
159 **minutes for November 2, 2023, as amended. VOTE: 4 ayes, motion carried.** Linda Radimer  
160 exited the meeting prior to review.

161  
162 **Adjournment:**

163 **MOTION by Robert Bloch; seconded by, Gerald Bouchard, to adjourn the meeting.**  
164 **VOTE: 4 ayes, motion carried.** The meeting was adjourned at 9:04 p.m.

165  
166 Minutes respectfully submitted:

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