

**Brandon Planning Commission Meeting - Draft  
October 7, 2024**

**Board Members Present:** Jack Schneider, Sara Stevens, Neil Silins

**Board Members Present via Zoom:** Natalie Steen

**Other Present:** Logan Solomon, Jeremy Gildrien

**1. Call to order**

The meeting was called to order at 6:09PM by Jack Schneider - Chair.

**2. Agenda Approval**

A motion was made by Sara Stevens and seconded by Neil Silins to approve the agenda. **The motion passed unanimously.**

**3. Approve Meeting Minutes**

**. Brandon Planning Commission Special Meeting – September 18, 2024**

A motion was made by Neil Silins and seconded by Natalie Steen to approve the September 18, 2024, Brandon Planning Commission meeting minutes. **The motion passed unanimously.**

**4. Nominate Natalie Steen as Acting Zoning Administrator in the Event the ZA has a conflict of Interest**

Jack Schneider advised the town manager has requested the commission nominate Natalie Steen to be the acting zoning administrator in the event the zoning administrator has a conflict of interest or is not available.

A motion was made by Neil Silins and seconded by Sara Stevens to appoint Natalie Steen as the Acting Zoning Administrator in the event of a conflict of interest or if the current Zoning Administrator is unavailable. **The motion passed unanimously.**

**5. Public Participation and Comment**

There was no discussion held.

**6. Zoning Administrator's Report**

The Zoning Administrator was not available due to illness. Sara Stevens advised Mr. Stevens had noted there was nothing major to report. Jack Schneider stated he will be requesting information on the permit process through the .gov site that is available through the Town's website. Mr. Schneider advised the Town switched the URL to brandonvermont.gov and that is why many of the emails have changed.

**7. Continue Progress on BLUO Update**

Logan Solomon advised that from the last meeting's discussion, he reviewed the draft BLUO and flagged comments from each section to review at this meeting. He will incorporate the comments from this meeting and provide a document that outlines all of the significant changes and references sections for people to be able to review the changes. Jack Schneider stated there are references to Section 614 and they have to make sure it still exists. Mr. Solomon reported he has checked all references of sections and articles. He has renumbered everything and it should be close to a completed document. The

specific changes to the zoning maps and mapping related information will also be included in the document. Mr. Schneider met with the Brandon Chamber and provided a copy of the Sign section that will be sent to all Brandon businesses requesting their feedback by the end of the month. He also sent a copy of the Administration section to Sam Stone, Chair of the DRB. She will also provide feedback regarding the powers of the DRB. This is part of the outreach for stakeholders and businesses. The draft should also be reviewed with Town management.

Mr. Solomon reviewed the comments with the first pertaining to the purpose. He stated this is currently in the BLUO and is worth including at the beginning. The next comment was a suggestion from the prior Zoning Administrator as there is not currently zoning with regard to height of a structure. He included language on how to determine height that considers the slope of the roof and the average grade. Neil Silins asked if an HVAC system could be on a roof. Mr. Solomon stated there is a section that speaks to exemptions on height. Natalie Steen did not think it would count as it is not part of the structure but is attached to the structure. Mr. Silins suggested there should be a requirement for the elevated component to be set back far enough from the road to not be seen. Ms. Steen stated there could be specifics included in the BLUO. Mr. Solomon advised this section is about slope and elevation and all were in agreement with the addition. For Section 203 about aesthetics, Mr. Solomon created language. This involves all the senses, sense of place, quality of life and is bigger than what is seen. All were in agreement. It was questioned who would be responsible for determining what is not desirable aesthetically and Mr. Solomon advised there is some structure that is established through case law and would be done through the administrative process. Mr. Solomon advised Commercial 1 would be permitted in several districts and could be a tough decision in terms of categorizing. Mr. Schneider noted the permit only has a site plan and not what the building is going to look like. If it matches the BLUO the Zoning Administrator would sign off and if the requirements are not met, it would go to the DRB. Mr. Solomon stated the Quechee test offers guidance but the questions are not as clear cut. Mr. Schneider suggested including it but give the DRB the power to weigh in as the Zoning Administrator is the beginning of the process. Natalie Steen suggested the steps of the Quechee test could be used.

Mr. Solomon stated in the Childcare section, there is talk about state law that has parameters in regulating childcare. Subsection 3c regarding use categories indicates the State law would treat childcare like any other civic or institutional use and is permitted in all districts. Jack Schneider stated that a childcare facility with a larger number of children would be treated as a facility and would be conditional use, but a smaller size would be permitted in all districts. Natalie Steen stated childcare could be listed in a separate section. A sentence could be added to indicate that a family childcare in the home is permitted in all districts. Mr. Solomon suggested it may fit in home occupations as it is an accessory use. Mr. Solomon will create a new section for Family Childcare Homes and insert the verbiage in that section. Ms. Steen also suggested changing the verbiage from 6 full-time and 4 part-time to serving more than 10 children.

Mr. Solomon advised he added another clarifier in categories regarding Commercial 1 and 2 uses, light manufacturing, industry, and high impact uses. There were no objections from the Commission.

Mr. Solomon stated under Article 3 with regard to uses as to whether they are permitted, the current BLUO has residential as a conditional use. The Home Act is written that in areas that are serviced by sewer and water, like the CBD, 1-to-4-unit dwellings have to be permitted. This draft indicates any residential dwelling in the CBD would be a permitted use and is a notable change. Mr. Schneider stated the current BLUO requires retail on the first floor and questioned if an apartment building was to be established, would that be a problem. Mr. Solomon stated mixed use developments are addressed and is written as Commercial 2 which may not be appropriate and as requirement would still stand. He stated mixed use developments should be categorized. Natalie Steen noted that it is commercial mixed use, not residential. Ms. Steen suggested removing the verbiage about mixed use development. Mr. Solomon advised a permitted use would have to adhere to all the current standards of the BLUO and this is going from conditional to a permitted use. Mr. Solomon stated prior to this draft, it was just residential uses that were conditional use in the CBD. For Residential 2 uses, Ms. Steen suggested 5 units could then be conditional. Mr. Solomon stated if the area is served by water and sewer, a minimum of 4 or fewer units have to be a permitted use. Five or higher can be a conditional use. Mr. Solomon suggested residential 2 uses could be 3- or 4-unit structures and residential 3 be 5+ structures. Ms. Steen suggested for Residential 2 served by water and sewer, that the structures would be permitted, but if there were no water or sewer it would be conditional. Mr. Solomon stated it could be segmented further by keeping Residential 1 the same, Residential 2 would be 3 or 4 permitted and Residential 3 would be 5+ units. Ms. Steen preferred 5+ units to be conditional use. Jack Schneider suggested adding Residential 3 and the 10,000 square foot requirement. Ms. Steen noted 5 or more units should be reviewed in more detail

as it could have an impact on the neighborhood. Mr. Solomon asked if there is anywhere that should be prohibited and it was noted that as long as it meets all standards and does not have an adverse impact. Mr. Schneider advised DRB conditions may need to be added as there is no longer Act 250 review for one acre lots. The DRB section should be reviewed for this change.

With regard to height restrictions, Mr. Solomon stated commercial structures more than 36 feet may be approved as a conditional use and asked about expanding this language to mixed use developments. Natalie Steen suggested just multi-unit developments. Mr. Schneider stated there are height restrictions in all districts. Mr. Solomon stated the language indicates a conditional use permit is approved if the height is essential and would apply to a building that is more than 36 feet and whatever reason the height is needed, his assumption is it would allow. Ms. Steen asked if it would be a waiver and Mr. Solomon agreed it would be. Mr. Schneider questioned if it is needed and Ms. Steen stated the rule is 36 feet and if additional height is needed, it would need to go to the DRB. She suggested taking Item C out of the section and all were in agreement.

Mr. Solomon advised he spoke to the RRPC energy planner regarding solar panels and was advised that everything is regulated under Section 248. For smaller scale projects, he found something that summarized it well. Natalie Steen stated it can be regulated where it is on the property. Mr. Solomon found verbiage indicating municipalities are precluded from regulating energy and noted in the State's planning module there is a legal precedent with a ruling and state law clarified that it clearly prohibits municipalities regulating through local zoning. Jeremy Gildrien advised Section 248 has different levels for the smaller projects and it is not a full application but is a registration process and as long as one is within the basic concerns of the utilities, it is assumed to be accepted. If one is off grid, they would be exempt from State regulations, but grid-tying would be preempted by State regulations. The only regulations for renewable energy would be screening requirements, but not regulations of the actual installation. The Town could not preclude solar panels in a front yard but could have a requirement for screening. Mr. Gildrien noted the PUC does not want energy to be uniquely regulated and want to avoid over-regulation. The PUC and Public Service Department will not take into consideration regulations on energy, over other areas. Mr. Gildrien stated if one is under 15 kilowatts for ground-mounted it would still be a registration, but the Town could indicate that it would need to be screened. Ms. Steen suggested reviewing this further as she thought that location could be noted and she would like that double checked. It would be preferred to be sited inconspicuously as long as it does not take away from the effectiveness. Mr. Gildrien stated it depends on the orientation of the property with regard to the effectiveness of the solar. Mr. Solomon will consult with Mr. Gildrien and discuss it further at the next meeting.

Mr. Solomon advised he reinserted language in the Nonconformity section regarding existing lots. This talks about existing lots that meet the minimum lot size but do not conform in other ways. This is another clarifier because the minimum lot size is met and one can still develop. Natalie Steen noted that one cannot add to the non-conformity. Mr. Schneider stated if one has a non-conforming site, they can go to the DRB if it meets all other criteria. Mr. Solomon stated a nonconforming use that has been discontinued can be resumed within 3 years and questioned if that should be the timeframe. Mr. Silins suggested a fire would be an instant abandonment. Ms. Steen stated there is a difference between nonconforming use, lot, and structure. It was agreed that a nonconforming use that has been discontinued should have a timeframe. Ms. Steen stated if it were a sale of the nonconforming use property, there should be a reasonable timeframe for it to be continued. It was clarified that the sale of the business that is continuing would be allowed a continuing non-conforming use. Mr. Schneider noted that one could not replace one non-conforming use with a different non-conforming use. Mr. Solomon suggested the timeframe could be reduced to 2.5 or 2 years. Ms. Steen also suggested abandonment needs to be defined. Sara Stevens thought that abandoned may be the wrong term. Ms. Steen stated if someone discontinues the use they could be allowed to reinstate the business within 3 years, but if the building is abandoned and dilapidated, it should not be allowed. Ms. Silins suggested taking out Item e in the section.

In the Sign regulations, Mr. Solomon noticed when comparing the purpose and scope of this draft versus the current one, one thing that is missing is talking about property values. His assumption is that one can have an unsightly sign on one lot and have an impact on other properties and asked if that should be reinstated. Sara Stevens suggested it be similar to the aesthetics criteria. Natalie Steen suggested it should protect the Town's historic nature and aesthetics. In Section b, Jack Schneider noted that in the prior version, one temporary sign adjacent to the curb had to be a certain distance from the center from the road. Neil Silins asked if the sign would affect pedestrian traffic if brought further away from the road.

Mr. Schneider is concerned that they could be too close to the roadway and could distract traffic. Natalie Steen suggested the verbiage could indicate it be adjacent to the curb or green space and does not interfere with pedestrian traffic or vehicular sight lines. Mr. Schneider requested Mr. Solomon research this item for future discussion. Section 904 Standards for All Signs – Mr. Schneider asked how many are being allowed. It was suggested to clarify that it is 4 signs per business. Mr. Silins stated there can be difficulty with having several signs in front of a building with multiple businesses and suggested differentiating between wall mounted and free standing. If there is signage that will interfere with pedestrians or traffic, they should be subject to a separate permitting process. Mr. Solomon stated there are currently no specific regulations for wall signs and they are not exempt unless carved into a building, an address number or directional sign. Mr. Silins suggested one wall mounted sign per business. Mr. Solomon stated a wall sign was defined if it projects more than 18 inches it would be considered a projection sign. It was agreed to change the wall mounted sign to projecting no more than 6 inches. Mr. Solomon will provide the commission remaining comments to review prior to the next meeting.

## **8. Discussion of BLUO Outreach to Various Constituents**

Jack Schneider advised the Planning Commission will hold a hearing and the Select Board will need time to review the draft and hold its public hearing. Mr. Schneider asked if this is not approved until January whether it would affect the grant. Logan Solomon stated that the grant language indicates the by-laws are to be adopted before January but noted there can sometimes be wiggle room. Mr. Solomon reported the RRPC is creating a regional plan and there will be a meeting for public feedback on October 30<sup>th</sup>. The commission was provided with details of the meeting.

## **9. Other Business**

There was no other business discussed.

## **10. Add Another Special Session or Meet on Regular Meeting on November 4th**

It was decided another special meeting to work on the BLUO would be needed.

## **11. Date of Next Meeting**

Monday, October 21, 2024 – 6:00PM - Brandon Town Hall  
Monday, November 4, 2024 - 6:00PM – Brandon Town Hall

## **12. Adjournment**

A motion was made by Sara Stevens and seconded by Neil Silins to adjourn the meeting at 8:30PM. **The motion passed unanimously.**

Respectfully submitted,

Charlene Bryant  
Recording Secretary