



City Council Meeting

Monday, February 26, 2024, 5:30 PM, Contois Auditorium OR REMOTELY via ZOOM

5:30 pm, Contois Auditorium OR Remotely via ZOOM:

Please click the link below to join the webinar:

<https://zoom.us/j/99756965793>

Or Telephone: +1 646 931 3860 US

Webinar ID: 997 5696 5793

****CCTV link: https://www.youtube.com/playlist?list=PLIjLFn4BZd2PwCge7lNoKug676jIf_iUA ****

To participate in Public Forum in person, sign up at the meeting.

To participate in Public Forum via ZOOM sign up here:

<https://www.burlingtonvt.gov/citycouncil/publicforum>

*****ONLINE closes one hour prior to the beginning of public forum*****

Do not sign up in person and via Zoom - select one only

1. Agenda

Subject	1.1. Motion to amend/adopt agenda
Meeting	February 26, 2024 - Regular City Council Meeting - Monday, February 26, 2024, 5:30 PM, Contois Auditorium OR REMOTELY via ZOOM
Category	1. Agenda
Department	Council and Board
Type	Action Procedural
Recommended Action	Motion to amend/adopt agenda as follows: add to the consent agenda item 8.18. Communication: CAO Katherine Schad, re: Creation of Mayor Transition Fund; add to the consent agenda item 8.19. Communication; Jackie Mattaliano, re: Supporting the Neighborhood Code as it is Written; add to the consent agenda item 8.20. Communication: Marty Gillies, re: public comment for 2/26/2024 council meeting; add to the consent agenda item 8.21. Communication: Solveig Overby, re: 2/26 CC Agenda Item 5. Gateway Block RFP-No RFP; no 50 year ground lease commitment from Eric Farrell and Joe Larkin; add to the consent agenda item 8.22. Communication:

Solveig Overby, re: 2/26 City council - Agenda Item 9.7 - Burlington FY23 Audit Management Letter missing 2nd Recommendation from FY22 Management Letter; remove from the consent agenda item 8.8. Parking Management Sublease Agreement with Unified Parking Partners - DPW and place it on the Deliberative Agenda as agenda item 9.9. (per Councilor Magee); add to the consent agenda item 8.23. Communication: Grace Palmer, re: Please support Neighborhood Code; add to the consent agenda item 8.24. Communication: Benjamin Cooley, re: Support for Neighborhood Code; add to the consent agenda item 8.25. Communication: Todd DeLuca, re: Neighborhood Code and Inclusionary Zoning public comment; add to the consent agenda item 8.26. Communication: Caryn Long, re: 11 Weston Street; add to the consent agenda item 8.27. Communication: Taylor Adams, re: Neighborhood Code Comment; add to the consent agenda item 8.28. Communication: Sequoia Young, re: Neighborhood code; add to the consent agenda item 8.29. Communication: Paul Bierman, re: Neighborhood Code: Update for Monday's Council Meeting; add to the consent agenda item 8.30. Communication: Nicholas Persampieri, re: City Council Meeting 2/26/24: Agenda Items 9.2 & 9.3 (Neighborhood Code) and 9.4 (Climate Policy Review); note proposed amendments regarding 9.4. (per Councilor King); add to the consent agenda item 8.31. Communication: Rose Dumas, re: Vote for the Neighborhood Code; add to the consent agenda item 8.32. Communication: Evan Gould, re: Parking Management Sublease Agreement with Unified Parking Partners; add to the consent agenda item 8.33. Communication: Peter Wyman, re: Neighborhood Code; add to the consent agenda item 8.34. Communication: Julia Randall, re: Comment on Wildlife Corridors & Neighborhood Code; add to the consent agenda item 8.35. Jak Tiano, re: Neighborhood Code; add to the consent agenda item 8.36. Communication: Jak Tiano, re: Inclusionary Zoning Resolution

2. Work Session: Decker Towers (verbal) **5:30 pm - 6:30 pm **

Subject	2.1. Work Session: Decker Towers (verbal) **5:30 pm - 6:30 pm** Presenters: Steve Murray, Executive Director, Burlington Housing Authority; Jeff Metcalf, Director of Asset Management, Burlington Housing Authority; Cathy Foley, President, Decker Towers Resident Council; Jane Knodell, BHA Board Member
Meeting	February 26, 2024 - Regular City Council Meeting - Monday, February 26, 2024, 5:30 PM, Contois Auditorium OR REMOTELY via ZOOM
Category	2. Work Session: Decker Towers (verbal) **5:30 pm - 6:30 pm **
Department	Council and Board
Type	Information Discussion Communication

3. Work Session: South End Coordinated Redevelopment Draft pre-Development Agreement **6:30 pm - 7:15 pm**

Subject	3.1. Work Session: South End Coordinated Redevelopment Draft pre-Development Agreement **6:30 pm - 7:15 pm** Presenters: Brian Pine, CEDO Director; Samantha Dunn, Assistant Director, Community Works CEDO; Meagan Tuttle, Planning Director; Charles Dillard, Principal Planner
Meeting	February 26, 2024 - Regular City Council Meeting - Monday, February 26, 2024, 5:30 PM, Contois Auditorium OR REMOTELY via ZOOM
Category	3. Work Session: South End Coordinated Redevelopment Draft pre-Development Agreement **6:30 pm - 7:15 pm**
Department	Community & Economic Development Office (CEDO)
Type	Information Discussion

4. Public Forum: Time Certain: 7:15 pm **See above for signup instructions**

Subject	4.1. Verbal Comments
Meeting	February 26, 2024 - Regular City Council Meeting - Monday, February 26, 2024, 5:30 PM, Contois Auditorium OR REMOTELY via ZOOM
Category	4. Public Forum: Time Certain: 7:15 pm **See above for signup instructions**
Department	Council and Board
Type	Action Procedural
Recommended Action	open Public Forum close Public Forum

5. Work Session: Memorial Block Update **45 minutes, following Public Forum**

Subject	5.1. Work Session: Memorial Block Update **45 minutes, following Public Forum** Presenters: Brian Pine, CEDO Director; Samantha Dunn, Assistant Director, Community Works CEDO
Meeting	February 26, 2024 - Regular City Council Meeting - Monday, February 26, 2024, 5:30 PM, Contois Auditorium OR REMOTELY via ZOOM
Category	5. Work Session: Memorial Block Update **45 minutes, following Public Forum**
Department	Community & Economic Development Office (CEDO)
Type	Information Discussion Presentation

6. Climate Emergency Reports (5 - 10 mins.)

Subject	6.1. Verbal reports
Meeting	February 26, 2024 - Regular City Council Meeting - Monday, February 26, 2024, 5:30 PM, Contois Auditorium OR REMOTELY via ZOOM
Category	6. Climate Emergency Reports (5 - 10 mins.)
Department	Council and Board
Type	Information

7. Public Health & Safety Emergency Updates (5-10 mins.)

Subject	7.1. Verbal reports
Meeting	February 26, 2024 - Regular City Council Meeting - Monday, February 26, 2024, 5:30 PM, Contois Auditorium OR REMOTELY via ZOOM
Category	7. Public Health & Safety Emergency Updates (5-10 mins.)
Department	Council and Board

Type Information

8. Consent Agenda

Subject **8.1. Motion to adopt the consent agenda (as amended) and take the actions indicated**

Meeting February 26, 2024 - Regular City Council Meeting - Monday, February 26, 2024, 5:30 PM, Contois Auditorium OR REMOTELY via ZOOM

Category 8. Consent Agenda

Department Council and Board

Type Action (Consent)
Procedural

Recommended Action Motion to adopt the consent agenda (as amended) and take the actions indicated

Subject **8.2. Communication: C/T Office, re: Accountability List**

Meeting February 26, 2024 - Regular City Council Meeting - Monday, February 26, 2024, 5:30 PM, Contois Auditorium OR REMOTELY via ZOOM

Category 8. Consent Agenda

Department Clerk/Treasurer's Office

Type Action (Consent)
Communication
Information

Recommended Action waive the reading, accept the communication and place it on file

Subject **8.3. Communication: C/T Office, re: January 16, 2024 Regular City Council Meeting Minutes, Draft**

Meeting February 26, 2024 - Regular City Council Meeting - Monday, February 26, 2024, 5:30 PM, Contois Auditorium OR REMOTELY via ZOOM

Category 8. Consent Agenda

Department Clerk/Treasurer's Office

Type Action (Consent)
Communication
Information
Minutes

Recommended Action waive the reading, accept the communication, place it on file and adopt the minutes as received at the February 12, 2024 Regular City Council Meeting

Subject **8.4. Communication: C/T Office, re: January 22, 2024 Regular City Council Meeting Minutes, Draft**

Meeting February 26, 2024 - Regular City Council Meeting - Monday, February 26, 2024, 5:30 PM, Contois Auditorium OR REMOTELY via ZOOM

Category	8. Consent Agenda
Department	Clerk/Treasurer's Office
Type	Action (Consent) Communication Information Minutes
Recommended Action	waive the reading, accept the communication, place it on file and adopt the minutes as received at the February 12, 2024 Regular City Council Meeting
Subject	8.5. Communication: C/T Office, re: January 29, 2024 Regular City Council Meeting Minutes, Draft
Meeting	February 26, 2024 - Regular City Council Meeting - Monday, February 26, 2024, 5:30 PM, Contois Auditorium OR REMOTELY via ZOOM
Category	8. Consent Agenda
Department	Clerk/Treasurer's Office
Type	Action (Consent) Communication Information Minutes
Recommended Action	waive the reading, accept the communication, place it on file and adopt the minutes as received at the February 12, 2024 Regular City Council Meeting
Subject	8.6. Request for Authorization to Sign a Janitorial Services Contract with Janitech Services, LLC - Airport
Meeting	February 26, 2024 - Regular City Council Meeting - Monday, February 26, 2024, 5:30 PM, Contois Auditorium OR REMOTELY via ZOOM
Category	8. Consent Agenda
Department	Airport
Type	Action (Consent)
Recommended Action	to approve and authorize the Director of Aviation to execute a contract for janitorial services with Janitech Services, LLC in the amount of \$799,200.00 for the first year, \$823,175.00 for the second year and \$282,625.00 for the final few months through June 2026, subject to the final review and approval by the office of the City Attorney
Subject	8.7. City Council Initiatives Fund Reimbursement Request: \$6,700.00 - Councilor Dieng
Meeting	February 26, 2024 - Regular City Council Meeting - Monday, February 26, 2024, 5:30 PM, Contois Auditorium OR REMOTELY via ZOOM
Category	8. Consent Agenda
Department	Council and Board

Type	Action (Consent)
Recommended Action	move to approve and authorize the Chief Administrative Officer to expend \$6,700.00 in Councilor Initiative Funds for reimbursement to City Councilor Ali Dieng for the events he orchestrated with the New American communities and the Vermont National Guard, as outlined in the attached memo
Subject	8.8. Parking Management Sublease Agreement with Unified Parking Partners - DPW **NOW AGENDA ITEM 9.9.**
Meeting	February 26, 2024 - Regular City Council Meeting - Monday, February 26, 2024, 5:30 PM, Contois Auditorium OR REMOTELY via ZOOM
Category	8. Consent Agenda
Department	Public Works Department
Type	Action (Consent)
Recommended Action	to authorize the Director of Public Works to execute Attachment A - Parking Management Sublease Agreement with Unified Parking Partners and Courthouse Plaza, in an amount not to exceed \$142,715 per year
Subject	8.9. Budget Amendment between Penny for Parks Projects - BPRW
Meeting	February 26, 2024 - Regular City Council Meeting - Monday, February 26, 2024, 5:30 PM, Contois Auditorium OR REMOTELY via ZOOM
Category	8. Consent Agenda
Department	Parks, Recreation, & Waterfront
Type	Action (Consent)
Recommended Action	to approve and authorize the Chief Administrative Officer, or their designee, to affect the necessary budget amendment and transfer of \$80,000 in funds from the Penny for Parks Projects (Calahan Park Court & /Stormwater Design to Oakledge Park-Restrooms) as outlined on on the Budget Amendment Request form
Subject	8.10. 2024 VTRANS Certificate of Highway Mileage - DPW
Meeting	February 26, 2024 - Regular City Council Meeting - Monday, February 26, 2024, 5:30 PM, Contois Auditorium OR REMOTELY via ZOOM
Category	8. Consent Agenda
Department	Public Works Department
Type	Action (Consent)
Recommended Action	to accept the recorded mileage for the City of Burlington with the Vermont Agency of Transportation in the 2024 Highway Mileage Certificate, and authorize Chapin Spencer, Director of Public Works, to execute the certificate on behalf of City Council
Subject	8.11. Conservation Legacy Fund Grant Awards - DPI
Meeting	February 26, 2024 - Regular City Council Meeting - Monday, February 26, 2024, 5:30 PM, Contois Auditorium OR REMOTELY via ZOOM

Category	8. Consent Agenda
Department	Permitting & Inspections
Type	Action (Consent)
Recommended Action	to approve disbursement of \$152,060 in Conservation Legacy Fund monies via grant awards to Vermont Youth Conservation Corps (\$48,500), Vermont Garden Network (\$48,560), and Burlington Wildways (\$55,000) as recommended by the Conservation Board and Parks Commission
Subject	8.12. Communication: Caryn Long, re: Neighborhood Code and more
Meeting	February 26, 2024 - Regular City Council Meeting - Monday, February 26, 2024, 5:30 PM, Contois Auditorium OR REMOTELY via ZOOM
Category	8. Consent Agenda
Department	Clerk/Treasurer's Office
Type	Action (Consent)
Recommended Action	waive the reading and place the communication on file
Subject	8.13. Communication: Jonathan Chapple - Sokol, re: On the Neighborhood Code and Ward 1
Meeting	February 26, 2024 - Regular City Council Meeting - Monday, February 26, 2024, 5:30 PM, Contois Auditorium OR REMOTELY via ZOOM
Category	8. Consent Agenda
Department	Clerk/Treasurer's Office
Type	Action (Consent) Communication
Recommended Action	waive the reading and place the communication on file
Subject	8.14. Communication: Sharon Bushor, re: Neighborhood Code
Meeting	February 26, 2024 - Regular City Council Meeting - Monday, February 26, 2024, 5:30 PM, Contois Auditorium OR REMOTELY via ZOOM
Category	8. Consent Agenda
Department	Clerk/Treasurer's Office
Type	Action (Consent) Communication
Recommended Action	waive the readng and place the communication on file
Subject	8.15. Communication: Ashton MacKenzie, re: Support for the Neighborhood Code

Meeting	February 26, 2024 - Regular City Council Meeting - Monday, February 26, 2024, 5:30 PM, Contois Auditorium OR REMOTELY via ZOOM
Category	8. Consent Agenda
Department	Clerk/Treasurer's Office
Type	Action (Consent) Communication
Recommended Action	waive the reading and place the communication on file
Subject	8.16. FIO Documents
Meeting	February 26, 2024 - Regular City Council Meeting - Monday, February 26, 2024, 5:30 PM, Contois Auditorium OR REMOTELY via ZOOM
Category	8. Consent Agenda
Department	Clerk/Treasurer's Office
Type	Information Action (Consent) Communication
Recommended Action	for information only
Subject	8.17. Ordinance: Solid Waste Generation Tax Updates (Department of Public Works)
Meeting	February 26, 2024 - Regular City Council Meeting - Monday, February 26, 2024, 5:30 PM, Contois Auditorium OR REMOTELY via ZOOM
Category	8. Consent Agenda
Department	Public Works Department
Type	Action (Consent)
Recommended Action	move to suspend the rules, adopt the amendment to Chapter 14 of the Burlington Code of Ordinances as detailed in the attached ordinance form, and place the amendment in all stages of passage
Subject	8.18. Communication: CAO Katherine Schad, re: Creation of Mayor Transition Fund
Meeting	February 26, 2024 - Regular City Council Meeting - Monday, February 26, 2024, 5:30 PM, Contois Auditorium OR REMOTELY via ZOOM
Category	8. Consent Agenda
Department	Clerk/Treasurer's Office
Type	Action (Consent) Communication Information

Recommended Action	waive the reading, accept the communication and place it on file
Subject	8.19. Communication: Jackie Mattaliano, re: Supporting the Neighborhood Code as it is Written
Meeting	February 26, 2024 - Regular City Council Meeting - Monday, February 26, 2024, 5:30 PM, Contois Auditorium OR REMOTELY via ZOOM
Category	8. Consent Agenda
Department	Clerk/Treasurer's Office
Type	Action (Consent) Communication
Recommended Action	waive the reading and place the communication on file
Subject	8.20. Communication: Marty Gillies, re: public comment for 2/26/2024 council meeting
Meeting	February 26, 2024 - Regular City Council Meeting - Monday, February 26, 2024, 5:30 PM, Contois Auditorium OR REMOTELY via ZOOM
Category	8. Consent Agenda
Department	Clerk/Treasurer's Office
Type	Action (Consent) Communication
Recommended Action	waive the reading and place the communication on file
Subject	8.21. Communication: Solveig Overby, re: 2/26 CC Agenda Item 5. Gateway Block RFP - No RFP; no 50 year ground lease commitment from Eric Farrell and Joe Larkin
Meeting	February 26, 2024 - Regular City Council Meeting - Monday, February 26, 2024, 5:30 PM, Contois Auditorium OR REMOTELY via ZOOM
Category	8. Consent Agenda
Department	Clerk/Treasurer's Office
Type	Action (Consent) Communication
Recommended Action	waive the reading and place the communication on file
Subject	8.22. Communication: Solveig Overby, re: 2/26 City Council - Agenda Item 9.7 - Burlington FY23 Audit Management Letter missing 2nd Recommendation from FY22 Management Letter
Meeting	February 26, 2024 - Regular City Council Meeting - Monday, February 26, 2024, 5:30 PM, Contois Auditorium OR REMOTELY via ZOOM
Category	8. Consent Agenda
Department	Clerk/Treasurer's Office

Type	Action (Consent) Communication
Recommended Action	waive the reading and place the communication on file
Subject	8.23. Communication: Grace Palmer, re: Please support Neighborhood Code
Meeting	February 26, 2024 - Regular City Council Meeting - Monday, February 26, 2024, 5:30 PM, Contois Auditorium OR REMOTELY via ZOOM
Category	8. Consent Agenda
Department	Clerk/Treasurer's Office
Type	Action (Consent) Communication
Recommended Action	waive the reading and place the communication on file
Subject	8.24. Communication: Benjamin Cooley, re: Support for Neighborhood Code
Meeting	February 26, 2024 - Regular City Council Meeting - Monday, February 26, 2024, 5:30 PM, Contois Auditorium OR REMOTELY via ZOOM
Category	8. Consent Agenda
Department	Clerk/Treasurer's Office
Type	Action (Consent) Communication
Recommended Action	waive the reading and place the communication on file
Subject	8.25. Communication: Todd DeLuca, re: Neighborhood Code and Inclusionary Zoning public comment
Meeting	February 26, 2024 - Regular City Council Meeting - Monday, February 26, 2024, 5:30 PM, Contois Auditorium OR REMOTELY via ZOOM
Category	8. Consent Agenda
Department	Clerk/Treasurer's Office
Type	Action (Consent) Communication
Recommended Action	waive the reading and place the communication on file
Subject	8.26. Communication: Caryn Long, re: 11 Weston Street
Meeting	February 26, 2024 - Regular City Council Meeting - Monday, February 26, 2024, 5:30 PM, Contois Auditorium OR REMOTELY via ZOOM
Category	8. Consent Agenda
Department	Clerk/Treasurer's Office

Type	Action (Consent) Communication
Recommended Action	waive the reading and place the communication on file
Subject	8.27. Communication: Taylor Adams, re: Neighborhood Code Comment
Meeting	February 26, 2024 - Regular City Council Meeting - Monday, February 26, 2024, 5:30 PM, Contois Auditorium OR REMOTELY via ZOOM
Category	8. Consent Agenda
Department	Clerk/Treasurer's Office
Type	Action (Consent) Communication
Recommended Action	waive the reading and place the communication on file
Subject	8.28. Communication: Sequoia Young, re: Neighborhood code
Meeting	February 26, 2024 - Regular City Council Meeting - Monday, February 26, 2024, 5:30 PM, Contois Auditorium OR REMOTELY via ZOOM
Category	8. Consent Agenda
Department	Clerk/Treasurer's Office
Type	Action (Consent) Communication
Recommended Action	waive the reading and place the communication on file
Subject	8.29. Communication: Paul Bierman, re: Neighborhood Code: Update for Monday's Council Meeting
Meeting	February 26, 2024 - Regular City Council Meeting - Monday, February 26, 2024, 5:30 PM, Contois Auditorium OR REMOTELY via ZOOM
Category	8. Consent Agenda
Department	Clerk/Treasurer's Office
Type	Action (Consent) Communication
Recommended Action	waive the reading and place the communication on file
Subject	8.30. Communication: Nichola Persampieri, re: City Council Meeting 2/26/24: Agenda Items 9.2 & 9.3 (Neighborhood Code) and 9.4 (Climate Policy Review)
Meeting	February 26, 2024 - Regular City Council Meeting - Monday, February 26, 2024, 5:30 PM, Contois Auditorium OR REMOTELY via ZOOM
Category	8. Consent Agenda
Department	Clerk/Treasurer's Office

Type	Action (Consent) Communication
Recommended Action	waive the reading and place the communication on file
Subject	8.31. Communication: Rose Dumas, re: Vote for the Neighborhood Code
Meeting	February 26, 2024 - Regular City Council Meeting - Monday, February 26, 2024, 5:30 PM, Contois Auditorium OR REMOTELY via ZOOM
Category	8. Consent Agenda
Department	Clerk/Treasurer's Office
Type	Action (Consent) Communication
Recommended Action	waive the reading and place the communication on file
Subject	8.32. Communication: Evan Gould, re: Parking Management Sublease Agreement with Unified Parking Partners
Meeting	February 26, 2024 - Regular City Council Meeting - Monday, February 26, 2024, 5:30 PM, Contois Auditorium OR REMOTELY via ZOOM
Category	8. Consent Agenda
Department	Clerk/Treasurer's Office
Type	Action (Consent) Communication
Recommended Action	waive the reading and place the communication on file
Subject	8.33. Communication: Peter Wyman, re: Neighborhood Code
Meeting	February 26, 2024 - Regular City Council Meeting - Monday, February 26, 2024, 5:30 PM, Contois Auditorium OR REMOTELY via ZOOM
Category	8. Consent Agenda
Department	Clerk/Treasurer's Office
Type	Action (Consent) Communication
Recommended Action	waive the reading and place the communication on file
Subject	8.34. Communication: Julia Randall, re: Comment on Wildlife Corridors & Neighborhood Code
Meeting	February 26, 2024 - Regular City Council Meeting - Monday, February 26, 2024, 5:30 PM, Contois Auditorium OR REMOTELY via ZOOM
Category	8. Consent Agenda
Department	Clerk/Treasurer's Office

Type	Action (Consent) Communication
Recommended Action	waive the reading and place the communication on file
Subject	8.35. Communication: Jak Tiano, re: Neighborhood Code and the Housing Crisis
Meeting	February 26, 2024 - Regular City Council Meeting - Monday, February 26, 2024, 5:30 PM, Contois Auditorium OR REMOTELY via ZOOM
Category	8. Consent Agenda
Department	Clerk/Treasurer's Office
Type	Action (Consent) Communication
Recommended Action	waive the reading and place the communication on file
Subject	8.36. Communication: Jak Tiano, re: Inclusionary Zoning Resolution
Meeting	February 26, 2024 - Regular City Council Meeting - Monday, February 26, 2024, 5:30 PM, Contois Auditorium OR REMOTELY via ZOOM
Category	8. Consent Agenda
Department	Clerk/Treasurer's Office
Type	Action (Consent) Communication
Recommended Action	waive the reading and place the communication on file

9. Deliberative Agenda

Subject	9.1. March 5, 2024 Annual City Election Public Information Hearing
Meeting	February 26, 2024 - Regular City Council Meeting - Monday, February 26, 2024, 5:30 PM, Contois Auditorium OR REMOTELY via ZOOM
Category	9. Deliberative Agenda
Department	Clerk/Treasurer's Office
Type	Public Hearing Action
Recommended Action	open hearing close hearing
Subject	9.2. Public Hearing Regarding ZA-24-02 Neighborhood Code
Meeting	February 26, 2024 - Regular City Council Meeting - Monday, February 26, 2024, 5:30 PM, Contois Auditorium OR REMOTELY via ZOOM
Category	9. Deliberative Agenda

Department	Planning
Type	Action Public Hearing
Recommended Action	open public hearing close public hearing
Subject	9.3. Ordinance: Comprehensive Development Ordinance ZA-24-02 Neighborhood Code, Part 1 (30 mins.)
Meeting	February 26, 2024 - Regular City Council Meeting - Monday, February 26, 2024, 5:30 PM, Contois Auditorium OR REMOTELY via ZOOM
Category	9. Deliberative Agenda
Department	Planning
Type	Action Ordinance - Second Reading
Recommended Action	Second reading. Waive the reading, approve the technical amendments proposed by the Office of City Planning and warn for a public hearing for March 25, 2024.
Subject	9.4. Resolution: Climate Policy Review And Next Steps For Existing Commercial And Industrial Buildings Less Than 50,000 Square Feet (Councilors Traverse, Barlow)(15 mins.)
Meeting	February 26, 2024 - Regular City Council Meeting - Monday, February 26, 2024, 5:30 PM, Contois Auditorium OR REMOTELY via ZOOM
Category	9. Deliberative Agenda
Department	Council and Board
Type	Action Resolution
Recommended Action	waive the reading and adopt the resolution
Subject	9.5. Resolution: Urging Vermont State Officials To Work With The USDA Through 2024 To Ensure Reporting And Other Capability For Compliance And Summer Grocery Benefits Program Eligibility In 2025 (Councilors Carpenter, Bergman, Shannon, Grant, Paul, Magee, King, Traverse)(10 mins.)
Meeting	February 26, 2024 - Regular City Council Meeting - Monday, February 26, 2024, 5:30 PM, Contois Auditorium OR REMOTELY via ZOOM
Category	9. Deliberative Agenda
Department	Council and Board
Type	Action Resolution
Recommended Action	waive the reading and adopt the resolution

Subject	9.6. City of Burlington, VT 2021-2023 Dog Task Force Report (10 mins.)
Meeting	February 26, 2024 - Regular City Council Meeting - Monday, February 26, 2024, 5:30 PM, Contois Auditorium OR REMOTELY via ZOOM
Category	9. Deliberative Agenda
Department	Parks, Recreation, & Waterfront
Type	Action
Recommended Action	to refer the recommendations of the 2021-2023 Dog Task Force Report to the following Committees, Commissions, and Departments for further review, study, and recommended action, and to request that such bodies report back to the full Council with their findings by the first Council meeting of September, 2024: • Recommendation regarding updates and additions to Chapter 5 and Chapter 22 of the Burlington Code of Ordinances to the Ordinance Committee, with Council recommendation to engage the Clerk Treasurer's Office and Parks, Recreation, and Waterfront Department regarding sharing of license revenues; and • Recommendation regarding additional Animal Control staffing and improvements to include animal related concerns to the online police report system to the Public Safety Committee and Police Commission for concurrent review; and • Recommendation regarding creation of additional off-leash areas to the Parks Commission; and • Recommendation regarding standing up an Education Campaign with respect to licensing requirements to the Clerk Treasurer's Office; and, best practices for animal ownership in the City to the Police Department and the Parks, Recreation, and Waterfront Department

Subject	9.7. Resolution: Acceptance and Approval of the FY 2023 Audit (Board of Finance)(20 mins.)
Meeting	February 26, 2024 - Regular City Council Meeting - Monday, February 26, 2024, 5:30 PM, Contois Auditorium OR REMOTELY via ZOOM
Category	9. Deliberative Agenda
Department	Clerk/Treasurer's Office
Type	Action Resolution
Recommended Action	waive the reading and adopt the resolution

Subject	9.8. Resolution: Updating Inclusionary Zoning Payment In Lieu (Councilors Hightower, Bergman, Magee, Dieng)(25 mins.)
Meeting	February 26, 2024 - Regular City Council Meeting - Monday, February 26, 2024, 5:30 PM, Contois Auditorium OR REMOTELY via ZOOM
Category	9. Deliberative Agenda
Department	Council and Board

Type	Action Resolution
Recommended Action	waive the reading and adopt the resolution
Subject	9.9. Parking Management Sublease Agreement with Unified Parking Partners - DPW **WAS AGENDA ITEM 8.8.** (20 mins.)
Meeting	February 26, 2024 - Regular City Council Meeting - Monday, February 26, 2024, 5:30 PM, Contois Auditorium OR REMOTELY via ZOOM
Category	9. Deliberative Agenda
Department	Public Works Department
Type	Action
Recommended Action	to authorize the Director of Public Works to execute Attachment A - Parking Management Sublease Agreement with Unified Parking Partners and Courthouse Plaza, in an amount not to exceed \$142,715 per year

10. Committee Reports

Subject	10.1. Verbal reports
Meeting	February 26, 2024 - Regular City Council Meeting - Monday, February 26, 2024, 5:30 PM, Contois Auditorium OR REMOTELY via ZOOM
Category	10. Committee Reports
Department	Council and Board
Type	Information

11. City Council - General Affairs (up to 15 mins.)

Subject	11.1. Verbal reports
Meeting	February 26, 2024 - Regular City Council Meeting - Monday, February 26, 2024, 5:30 PM, Contois Auditorium OR REMOTELY via ZOOM
Category	11. City Council - General Affairs (up to 15 mins.)
Department	Council and Board
Type	Information

12. City Council President - Council Updates (up to 5 mins.)

Subject	12.1. Verbal reports
Meeting	February 26, 2024 - Regular City Council Meeting - Monday, February 26, 2024, 5:30 PM, Contois Auditorium OR REMOTELY via ZOOM
Category	12. City Council President - Council Updates (up to 5 mins.)
Department	Council and Board

Type Information

13. Mayor - General Affairs (up to 10 mins.)

Subject	13.1. Verbal reports
Meeting	February 26, 2024 - Regular City Council Meeting - Monday, February 26, 2024, 5:30 PM, Contois Auditorium OR REMOTELY via ZOOM
Category	13. Mayor - General Affairs (up to 10 mins.)
Department	Council and Board
Type	Information

14. Adjournment

Subject	14.1. Motion to adjourn
Meeting	February 26, 2024 - Regular City Council Meeting - Monday, February 26, 2024, 5:30 PM, Contois Auditorium OR REMOTELY via ZOOM
Category	14. Adjournment
Department	Council and Board
Type	Action Procedural
Recommended Action	Motion to adjourn

15. Informational and Non-Discrimination Statements

Subject	15.1. This agenda is available in alternative formats upon request. For more information on access, call Lori Olberg, Licensing, Voting and Records Coordinator (802-865-7136)(TTY 802-865-7142). Persons with disabilities who require assistance or special arrangements to participate are encouraged to contact 802-865-7000 (voice) or 802-865-7142 (TTY) at least 72 hours in advance so that proper arrangements can be made. This meeting will also air on Town Meeting TV the Wednesday after the meeting, starting at 8:00 pm and repeating at 1:00 am and 7:00 am the following day. The City of Burlington will not tolerate unlawful harassment or discrimination on the basis of political or religious affiliation, race, color, national origin, place of birth, ancestry, age, sex, sexual orientation, gender identity, marital status, veteran status, disability, HIV positive status, crime victim status or genetic information.
Meeting	February 26, 2024 - Regular City Council Meeting - Monday, February 26, 2024, 5:30 PM, Contois Auditorium OR REMOTELY via ZOOM
Category	15. Informational and Non-Discrimination Statements
Department	Council and Board
Type	Information

To: City Council

From: Samantha Dunn, Asst. Director of Community Works, CEDO
Meagan Tuttle, Director, Office of City Planning
Charles Dillard, Principal Planner, Office of City Planning

Cc: Brian Pine, Director, Community & Economic Development Office
Chapin Spencer, Director, Department of Public Works

Date: February 21, 2024

Subject: South End Coordinated Redevelopment Draft pre-Development Agreement

At the February 26 Council Meeting, staff will provide an update on coordinated planning studies that have advanced under a January 2023 Memorandum of Understanding (MOU) for an approximately 13-acre area within the newly-designated South End Innovation District, and answer questions about a proposed draft pre-Development Agreement to further this work. No action is requested on this item at the upcoming meeting; we anticipate requesting Council action to approve a resolution authorizing the Administration execute this pre-Development agreement at the March 11 meeting.

Background

In December 2021, the Administration put forth an Action Plan to fulfill the promise of Housing as a Human Right in Burlington which included a commitment to open new housing opportunities in the South End. In July 24 2023, City Council unanimously approved the South End Innovation District (SEID) zoning amendment, which was developed with the intent to promote a vibrant urban district with a mix of uses, including hundreds of new homes and neighbors coexisting with new spaces for arts, light manufacturing and other commercial uses. The SEID covers 14 vacant or underutilized parcels on the west side of Pine Street between Howard Street and Sears Lane, including the City-owned 68 Sears Lane parcel.

In anticipation of this Zoning Amendment, on January 31, 2023 the Administration entered into a Memorandum of Understanding (MOU) with the owners of land parcels neighboring City-owned property in the South End: Champlain College, owners of 175 Lakeside Avenue, and Ride Your Bike, LLC, owners of 125 Lakeside Avenue – which is being developed by the same developers as the nearby Hula Lakeside. The purpose of the MOU was to facilitate a conceptual design and framework for the coordinated redevelopment of the parcels resulting in a vibrant, sustainable, and accessible mixed-use neighborhood and the three parties have been working together over the past year with funding from the Chittenden County Regional Planning Commission.

During that time the newly formed South End Innovation District Zoning Amendment was designated a *Neighborhood Development Area* and the City was successful in securing a grant from the Agency of Commerce and Community Development for public realm design for this site. The City has held two public engagement events to share progress and gather feedback from the community and currently has an on-line survey available to continue

gathering input. The MOU, survey and more background about this work can be found at <https://www.burlingtonvt.gov/CEDO/Capital-Projects-Financing/SouthEnd>.

January 2023 MOU Outcomes

Based on the MOU work completed to date, the Parties have agreed upon the following four foundations: a mobility framework of streets and paths that foregrounds pedestrian mobility and accessibility; a conceptual program used for infrastructure analyses that includes approximately 1,100 units of housing and 230,000 square feet of non-residential space; a maximum projected wastewater intensity in gallons per day and a clearer understanding of infrastructure capacity challenges in this area which require further study; and a maximum projected number of peak hour car trips, parking demand, and distribution of cars to and from the sites. More detail on these will be provided in the presentation, and are detailed in exhibits attached to the draft pre-Development Agreement.

In addition to these four foundational outcomes, the work identified the need for future study of the development and financial performance and feasibility of the framework and conceptual program, a sustainability audit and the potential for land swaps and collaborative permitting.

Draft Pre-Development Agreement

The proposed Pre-Development Agreement with Ride Your Bike, LLC and Champlain College will further this collaborative planning work. It identifies an agreed upon set of foundational objectives and design goals to which we are making commitments for ongoing study and potential future collaboration. The agreement assumes we will work together over the next nine months to develop a site-wide housing plan (with a minimum of 20% affordable housing); a public realm conceptual design; and a joint PUD application. During this time, we will also continue to study the infrastructure challenges and opportunities on the site and immediate vicinity, as well as potential funding mechanisms.

Based on the outcome of this work we anticipate entering into a Development Agreement in early 2025, an intended joint Planned Unit Development (PUD) application, and potential joint funding applications to support site development.

We look forward to discussing this further over the upcoming Council meetings. Please feel free to reach out to the Planning or CEDO teams with any questions about the draft pre-Development Agreement.

Attachments

DRAFT South End Coordinated Redevelopment Pre-Development Agreement

Pre-Development Agreement

This Pre-Development Agreement (“Agreement”) is entered into as of March ____, 2024 by and between the **City of Burlington**, a Vermont municipal corporation (the “City”) **Ride Your Bike LLC**, a Vermont limited liability company (“RYB”) and **Champlain College Incorporated**, a Vermont nonprofit corporation (the “College”). Each is referred to individually as a “Party” and collectively as the “Parties.”

Background

A. The Parties own contiguous parcels of real property (each, a “Parcel”) in the City of Burlington which collectively measure ±13.28 acres (collectively, the “Site”, as depicted on the plan attached hereto as **Exhibit A** and made a part hereof) identified as follows:

- The College owns the ±3.65-acre parcel numbered 175 Lakeside Avenue, Burlington, Vermont, Parcel No. 053-2-007-000.
- RYB owns the ±6.32-acre parcel numbered 125 Lakeside Avenue, Burlington, Vermont, Parcel No. 053-2-009-000.
- Through its affiliate Burlington Community Development Corporation, a Vermont nonprofit corporation (“BCDC”) the City owns the ±3.33-acre parcel numbered 68 Sears Lane, Burlington, Vermont, Parcel No. 057-1-050-000.

B. The Parties desire to redevelop the Site in a coordinated fashion with a mixed-use development project (the “South End Coordinated Redevelopment Project” or “Project”), as contemplated by a Memorandum of Understanding made among the Parties effective as of January 21, 2023 (the “MOU”, a copy of which is attached hereto as **Exhibit B** and made a part hereof) in which the Parties agreed to create a conceptual design and development framework for the coordinated, phased redevelopment of their respective Parcels within the Site, and agreed to a process for iterative design and analysis in the creation of a selected development framework, the primary components of which will include: a transportation network, including streets, paths and integration with existing infrastructure; and identification of water and wastewater infrastructure requirements for the development; an affordable housing allocation program; and identification of funding strategies. Within the MOU, the parties further agreed to undertake and perform certain investigations and analyses more particularly described therein and to enter into a development agreement upon the conclusion of their initial investigations and analyses.

C. The Parties desire to enter into and memorialize certain agreements and commitments to reasonably facilitate the South End Coordinated Redevelopment Project substantially in accordance with the terms, conditions, design framework, principles and schedule referenced below.

Now therefore, in consideration of the covenants, considerations and mutual benefits set forth herein, and other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, the Parties agree as follows:

1. Foundational Elements and Objectives. As the result of the investigations conducted pursuant to the MOU, the Parties agree that the Project will include the following foundational elements and objectives:

- (a) The Project represents a unique opportunity and corresponding challenge to develop an entire district as a sustainable, walkable and mixed-income neighborhood, and as such, may require additional process collaboration between the Parties, the Burlington City Council, the Burlington Development Review Board (DRB) and the Burlington Planning Commission in order to achieve these shared goals and aspirations.
- (b) The Project will include a mobility framework of streets, paths, parking and other mobility infrastructure and services that support the shared and respective goals of the Parties in the manner encompassed by the Mobility Framework Diagrams attached hereto as **Exhibit C** and made a part hereof (the “Mobility Framework”). Although the Parties intend for the Mobility Framework to form the network of streets and paths within the Site, because the Project will be constructed in phases it may be necessary for the Parties to modify the Mobility Framework by future mutual agreement to accommodate the construction schedule.
- (c) The Project goal is to maximize the number of new residents who can be accommodated in a variety of housing types, including, but not limited to, rental housing, home-ownership, and “beds” associated with any student housing component on the Site, incorporating a program of compatible, non-residential uses in order to establish a mixed-use active neighborhood, including but not limited to: daycare, educational and training spaces; retail, restaurants and services; maker, collaborative suites, healthcare, general business and start-up spaces; civic, artistic and cultural venues; and other activities that enhance a low impact, walkable district.
- (d) In addition to basing the Project’s conceptual design on future market and affordable housing demand and financing, development phasing and design analyses, the Project’s ongoing conceptual design will be informed by the overall water, wastewater, stormwater, traffic and parking projections – which in turn will enable the Parties to better understand the magnitude of infrastructure constraints and develop strategies to address such constraints on the Site. Initial traffic analyses and trip-ends and wastewater projections have been developed and are attached hereto as Exhibit D and Exhibit E. These exhibits may be updated over time by mutual agreement of the Parties as additional analyses, reports, review procedures, monitoring programs and/or proposed tenant mix and technical solutions demonstrate a per unit reduction in trip-ends or wastewater flows. Until updated modeling of the Pine Street wastewater collection system provides new capacity information, any initial phases of development within the Site may need to be designed with 24 hours of on-site retention of Site wastewater flows for that initial development. The Parties will continue to work together to develop phased development proposals that work within existing infrastructure capacities or include investments that will expand capacity in particular assets where needed.
- (e) The Parties intend for the Project to be developed as a planned unit development (a

“PUD”) under the City’s Comprehensive Development Ordinance (“CDO”) and they intend to become (and, in the case of the City, to cause BCDC to become) joint co-applicants for a zoning permit for a Master PUD Framework. Subsequent modifications or site plans may be proposed jointly by the Parties or by individual owners, subject to the Master PUD Framework conditions and procedures.

2. Project Design Goals. The Parties share the vision of coordinating the development of a vibrant, sustainable and accessible mixed-use district, as expressed in the planning context described in the MOU. This vision includes the following components:

- (a) As one of the largest single development sites remaining in Burlington, the Site is of critical importance in the achievement of the community’s goal of expanding the housing supply.
- (b) The Site should include a range of housing tenure types (i.e., rental properties, owned properties, student housing, senior, workforce, etc.), including but not limited to affordable ownership and rental opportunities.
- (c) The Parties acknowledge that a diversity of residents is integral to the community’s vision of inclusive growth. Therefore, the Parties are committed to delivering a Project with a minimum of 20% of housing units meeting the State’s definition of “affordable housing” codified in 10 V.S.A. § 6001(29).
- (d) As the core development site within the South End Innovation District, the Parties will pursue a development program for the Project that is housing forward, and also integrates into the current fabric of the existing district by prioritizing non- residential space to expand the South End’s arts and innovation economy.
- (e) The Site’s development as a walkable, bikeable and active-mobility-focused urban district is a generational opportunity to support the Burlington community’s vision of a car-light future. The majority of street space will be allocated to pedestrians and cyclists and the site will strive to incorporate one or more structured parking “mobility hubs” and implement the model of shared parking established in *planBTV: South End*.
- (f) Sustainable building and site design practices are to be explored in good faith, with a particular focus on supporting the City’s Net Zero Energy Roadmap, reducing embodied carbon and employing ecological design practices that support clean water and healthy local ecosystems.
- (g) The Site will not place an undue burden on water resources infrastructure. The Parties will work with the City’s Water Resources team to develop necessary infrastructure improvements to accommodate the Project. The Parties acknowledge that the water, wastewater and stormwater infrastructure intended to be adopted as part of the public right of way acceptance must be built in accordance with the City’s Engineering Standards.

3. Continuation of MOU Planning Study Work. The Parties desire to build on the investigations

and analyses conducted pursuant to the MOU and they agree to ongoing Planning Study work under the MOU, subject to funding and joint agreement, while making progress on the formal Development Agreement and preliminary project review of a Master PUD Framework “Sketch Plan”. Accordingly, the Parties desire to accomplish the following additional work by September 30, 2024 in order to advance a Development Agreement and prepare a Master PUD Framework application:

- (a) Identify preliminary estimates for residential and non-residential program, including a range for the residential unit counts and non-residential gross floor area that will be refined for the final Development Agreement, based on the economic feasibility of paying for the cost of constructing necessary infrastructure and the desired infrastructure, housing affordability, sustainability and urban design goals.
- (b) Work collaboratively to identify planning and construction funding sources in addition to the State of Vermont Community Partnership for Neighborhood Development in the amount of \$133,000 that the City has been awarded to advance the conceptual design of 68 Sears Lane, and in cooperation with all Parties, evaluate the shared public realm elements across the Site, pedestrian/bike connections within and adjacent to the District, and pedestrian/bike/auto access options to potential mobility hub locations.
- (c) Continue to evaluate the wastewater infrastructure analysis and develop design, engineering, and funding options for addressing challenges identified in the Pine Street Collection System.
- (d) Identify a preliminary master budget within the overall trip-end and wastewater projections that have been developed for the Project based on the development program describe in Section 3(a), as also described in Section 1(d) of this Agreement. Investigate the feasibility of, and an allocation of responsibilities related to the construction of, an incremental mitigation program, including temporary systems for the initial development phase of the Project to provide onsite wastewater retention for wet weather conditions. The Parties commit to refine the wastewater and trip-end projections (Section 4(c)) and to develop an allocation protocol throughout the Project phases as more current and relevant data becomes available.
- (e) Continue to explore Net Zero Energy Roadmap requirements and to work in good faith to develop the Project as a Net Zero development across the Site, in furtherance of the Parties’ mutually agreed-upon development framework that incorporates approximately 1,000-1,100 homes (in accordance with the 2021 Action Plan to Fulfill the Promise of Housing as a Human Right in Burlington) in addition to the Parties’ additional respective development goals for their Parcels.
- (f) Evaluate the financial feasibility, infrastructural adequacy and urban design character of the working preliminary development framework, as well as the framework’s contribution to a high quality, accessible and livable urban district.
- (g) Demonstrate the ecological sustainability of potential development concepts, including an analysis of embodied carbon within all framework and parking scenarios.

- (h) Continue to work with the Vermont Agency of Transportation to explore the cost to extinguish the deed restrictions applicable to the use of 68 Sears Lane, which state that such property is “to be used for highway purposes only” and which state that “the City of Burlington shall not permit any alterations of access control, any encroachments on, or disposal of [such property] ... without written permission of the State of Vermont” and/or whether monies used to extinguish the deed restrictions can be used to design and construct Project transportation infrastructure.
- (i) Identify alternative design, location, phasing and funding strategies for satisfying applicable Inclusionary Zoning (i.e., affordable housing) requirements in a manner that will enable individual Parcels to be developed on a phased basis while balancing the costs of constructing road, wastewater, open space, pedestrian/bike connections and other infrastructure improvements.
- (j) Identify and agree upon individual and shared roles and responsibilities to undertake the analyses in order to accomplish the foregoing and to accomplish any other objectives established in this Agreement, including by agreeing to an estimated budget, a development schedule, and a process for selecting, engaging and paying Project consultants.

4. Mobility Framework. The Parties agree to further refine the Mobility Framework by June 1, 2024 in advance of preparing a PUD application and entering into a Development Agreement as follows:

- (a) The Parties acknowledge that the vision of a shared parking district as established in *planBTV: South End* and the South End Innovation District zoning standards is a universal best practice. As such, the Parties shall agree upon the location, identified in the Mobility Framework, of up to two shared mobility hubs, which shall include services and amenities that encourage sustainable, non-car modes of transportation along with structured parking. The Parties agree that the need for and capacity within the mobility hubs for car parking should be continuously monitored based on development phasing, evolving market demand and the Parties’ shared goals, along with the availability of local, regional, state and/or federal grants.
- (b) The Parties acknowledge that the adopted design of the Champlain Parkway as a limited-access road is not conducive to their vision of the Project as a highly integrated, walkable and sustainable coordinated development. Therefore, the Parties agree to engage with State and Federal agencies to seek permission for desired interventions to the Champlain Parkway to ensure safe, accessible and inviting access across this roadway in lieu of bridges and enclosed paths. City staff will take the lead in this effort, with support from the other Parties.
- (c) The Parties acknowledge that the Mobility Framework and initial traffic modeling were developed using anticipated Champlain Parkway traffic data, and they agree to update the model data with actual data upon completion of the Champlain Parkway, or portions thereof. The Parties acknowledge that the initial traffic modeling does not obviate the requirement to complete a traffic impact study as part of the Master PUD Framework,

which will establish the parameters for the purpose of obtaining future land use permits and other regulatory permits and approvals for the Project.

- (d) The Parties agree that the vision of a sustainable, highly accessible and actively mobile urban district will be created through a combination of infrastructure and transportation demand management (“TDM”) programs and services. Therefore, the Parties agree that future development proposals will include a TDM program that will, at minimum, comply with the CDO and conform to achieve a robust TDM plan that addresses the proposed building types/mix of residential and non-residential tenants.
- (e) The Parties acknowledge the shared goal of a visionary urban design. As such, the Parties agree to continue collaborating on the design of public rights-of-way, including regular coordination with the Department of Public Works and the City Engineer. Such design shall be funded through the Vermont ACCD Community Partnerships in Neighborhood Design grant, with support from other Parties if possible.
- (f) The Parties intend for all streets and paths in the Project to be located within public rights of way and constructed to the City’s Engineering Standards, as they may be updated to support the overall goals of the Project. The Parties acknowledge that rights-of-way are only made public through the City Engineer’s acceptance and City Council’s adoption of streets as public rights-of-way in compliance with applicable law.
- (g) The Parties agree that the Site’s fullest potential and the community’s goal of a more accessible South End can only be realized through the extension of proposed internal streets beyond the Site. The Parties acknowledge that such extensions are most appropriately made through adjacent properties, the owners of which are not parties to this Agreement. Therefore, the Parties agree to continue exploring the incorporation of such adjacent properties (east of the Champlain Parkway) in the Project. The Parties agree that collaboration is essential to this effort and that they will make good faith efforts to communicate the status of any such discussions to one another in a timely manner.
- (h) The Parties agree that potential modifications to internal and adjacent rights-of-way which may impact the Project and the Site should be considered, including but not limited to the following:
 - (i) The Parties acknowledge a twenty-foot (20’) buffer alongside the western boundary of the Site to allow for flexibility for future needs (e.g., transit access). Within this buffer the Parties agree that no major structures shall be proposed or constructed, and that only sidewalks, paths, parking and landscape elements are appropriate within such buffer.
 - (ii) The Parties acknowledge a shared goal that modifications to right-of-way (ROW) designs, typical street sections, and landscaping and sidewalk dimensions for Sears Lane, Pine Street, Lakeside Avenue and the Champlain Parkway should be pursued. The Parties agree to collaborate and communicate openly regarding

such modifications, including on any real estate acquisitions that would facilitate such modifications. The City agrees to make a good faith effort to facilitate such modifications to the extent practicable and appropriate.

- (iii) The Parties will collaborate to explore the identification and incorporation of one or more parking mobility hub(s), and to explore new public street ROW's over time, in order to facilitate the goals of the SEID to increase pedestrian and bike connectivity and the smooth flow of traffic in and around the SEID area, including Pine Street, Lakeside Avenue and Sears Lane. The Parties agree that a Mobility Framework shall be incorporated into the Master PUD Sketch Plan and be used as a template in subsequent PUD applications, and not be subject to material changes beyond those outlined in that PUD Sketch Plan unless new traffic projections indicate that material changes are warranted.

5. Housing. The Parties agree to further refine the agreed-upon development framework with regard to housing in advance of entering into a development agreement and preparing a PUD application, as follows:

- (a) The Parties agree that a socioeconomically diverse population is a shared and fundamental goal of the Project. In addition to meeting the Inclusionary Housing requirements applicable to the SEID zoning overlay district under the CDO, the Parties agree to pursue development of the Project as a Priority Housing Project (PHP) that as defined in 10 V.S.A. § 6001(35). The PHP shall provide a minimum of 20% affordable housing units (as defined in 10 V.S.A. § 6001(29)) inclusive of the 15% Inclusionary Units required by Article 9 of the CDO. Assuming a Project housing program of between 1,000-1100 dwelling units (as currently estimated), developing the Project as a PHP would result in the creation of approximately 200 -220 affordable housing units across the three Parcels.
- (b) Given the Project's goals to develop a range of housing affordability, including but not limited to more deeply discounted rental units, affordable home ownership opportunities, targeted workforce housing, and market rate units, the Parties will work in consultation with internal and external stakeholders, including third-parties who are experts in the provision of affordable housing, in the process of developing and/or delivering a housing agreement applicable to the Project.
- (c) Parcel Modifications; Inclusionary Housing. The Parties will explore opportunities to exchange real property and/or engage in the collaborative distribution of the development program across the Parcels in the interest of maximizing cost-efficient housing and non-residential construction, provided such construction meets the urban design, programmatic, sustainability and equity goals of each Party as outlined in the MOU, this Agreement and any future Development Agreement. Such collaboration will consider the Parties' shared goal of developing a Priority Housing Project and will explore mutually beneficial siting and allocation of Inclusionary Housing (as defined in the CDO), permanently affordable home ownership opportunities and other purpose-built housing for traditionally underserved and/or market-burdened communities.

6. Funding Sources. The Parties agree to identify and seek funding sources to pay for the design and construction of the Project and, in some instances, to pay for the maintenance and operation of Project elements post-construction, as follows:

- (a) The Parties agree to collaborate to identify and complete State and Federal grant applications for the provision of funds to support the design and construction of the Mobility Framework.
- (b) The Parties agree to explore whether the Vermont legislature will support establishing a municipal Tax Increment Financing District to help finance the construction of the Mobility Framework and other Project infrastructure.
- (c) The Parties agree to advocate as feasible for the State's Sales Tax Reallocation benefit to be extended to Neighborhood Development Areas to be reinvested in the Site as a means of financing the construction of the Mobility Framework and other Project infrastructure.
- (d) If the Parties desire for any streetscape public infrastructure within the Project to be designed and/or constructed in a manner that is substantively and materially different from the City's Engineering Standards, as interpreted by the City Engineer, the Parties may provide a traffic and engineering report to identify additional engineering standards that might be applied to streets located within the Project, which is being designed as a walkable district containing lower traffic volumes. Obtaining the City's consent to proposed deviations from the City's Engineering Standards shall be forwarded with recommendations by the City Engineer to the City Council which, the Parties acknowledge, may condition approval on a future agreement to establish a maintenance regime for such infrastructure, including funding sources and the establishment of maintenance responsibilities.
- (e) The Parties agree to continue collaborating to identify and obtain funding sources to support the design, construction and management of affordable housing.
- (f) The Parties agree to communicate openly, as feasible, regarding the going-forward budget, allocation of expenses and pursuit of additional third-party funding to support further study in support of this Agreement and any future Development Agreement.
- (g) Notwithstanding anything in this Agreement to the contrary, the parties agree that no party is obligated to pay any costs, make any financial commitment, or be bound by any land use restrictions or other conditions or restrictions pursuant to this Agreement unless such party enters into a separate written agreement concerning such costs, commitments, conditions or restrictions. For clarity, the parties acknowledge that this Agreement is part of a negotiation being pursued in good faith following the related MOU between the Parties, and no terms concerning the payment of costs, the making of financial commitments, or the imposition or acceptance of any land use restrictions or other conditions or restrictions should be considered binding unless or until final agreement(s) are reached with regard thereto.

7. Collaboration and Coordination; PUD Considerations.

- (a) The Parties agree to collaborate and communicate openly in any study funded by the Community Partnership for Neighborhood Development (CPND). The Parties will work together to identify the most efficient approach to complete the scope of work anticipated in the CPND grant application. The City will administer all component of the CPND grant and the College and RYB agree to consider how they can support this work substantively or materially as needed.
- (b) Recognizing that significant public resources have been and will be allocated to the Project's successful implementation, the Parties agree that they will each support and participate in public engagement related to the Project. Public engagement shall consist of a minimum of one public open house, together with the provision of online engagement opportunities.
- (c) The Parties agree to cooperate and communicate with each other on a regular basis, including by arranging joint meetings with appropriate personnel present to address issues set forth in this Agreement, to discuss any proposed changes to the Project and to discuss the ongoing work described in this Agreement so as to permit the orderly and efficient development of the Project. The Parties agree to execute, acknowledge, if necessary, and deliver such documents, certificates or other instruments and take such other actions as may be reasonably required from time to time to carry out the intents and purposes of this Agreement. Without limiting the foregoing, (i) the City agrees to share, as appropriate, any information regarding State, Federal, and/or other governmental agency decisions that materially impact RYB and/or the College, (ii) RYB and the College agree to brief the City and one another regarding the status of any negotiation to acquire or secure agreements for adjacent properties, as allowed within the limits of confidential discussions between private landowners. The terms of such communication and decision-making shall be further elaborated and codified in a future development agreement.
- (d) As stated above, the Parties agree that a Master PUD Framework identifying elements such as, but not limited to, a connected road network, the configuration of development lots and blocks, density maximums, building heights and a mix of land uses for all of the Parcels, is the preferred instrument for permitting the overall/major components of the Project's phased development. Any such PUD shall include a phasing strategy, the content of which will be defined in a future development agreement. The Parties agree to collaborate with the City of Burlington Department of Permitting and Inspections in the creation of a Master the PUD Framework in order to facilitate an efficient regulatory review process for iterative design, development phasing and permitting. The City acknowledges that current standards regarding PUD applications and modifications are sufficient and supportive of the Parties' preferred development application process. However, the Parties agree that they will continue to evaluate whether any modifications to Article 11 of the CDO, or any other Articles therein, will be necessary to effectively facilitate a multi-partner, multi-phased PUD process and subsequent permit revisions.

8. Schedule; Termination. The Parties desire to determine, by December 20, 2024, whether the

Project is viable as a coordinated, mixed-use development project, developed as a multi-phase PUD. To determine viability, the Parties agree to work together in good faith to implement the terms of this Agreement and to enter into subsequent agreements as reasonably necessary to achieve mutually desired outcomes. If the Parties determine that the Project is viable as coordinated, mixed-use development project, developed as a multi-phase PUD, they anticipate completing and submitting a PUD Sketch Plan application review by June 30, 2024 and entering into a formal Development Agreement by December 16, 2024. However, if, despite the Parties' good faith efforts upon completion of the investigations, analyses and other tasks outlined in this Agreement, any Party determines that the Project is not viable to them, or it cannot provide the resources, time or continued strategic direction to undertake additional joint efforts, then it shall not be obligated to continue to pursue the Project and it may freely develop its Parcel in any manner permitted by applicable laws, ordinances and regulations.

9. Confidentiality. RYB and the College recognize that this Agreement is a public record and that communications and correspondence between the parties are subject to Vermont's public meeting laws and public records laws. The City agrees, however, that to the extent the City requires RYB or the College to disclose to or provide the City with material nonpublic, confidential information or material in connection with the Project, the City will work in good faith with RYB and/or the College to maintain the confidentiality of such information or material in a manner that complies with applicable law.

10. No Assignment. This Agreement shall not be assigned by RYB or by the College without the prior written consent of the City.

11. Governing Law; Venue. This Agreement shall be governed and construed in accordance with the laws of the State of Vermont, without regard to its conflicts of law rules. The Parties consent to and submit to in personam jurisdiction and venue in the State of Vermont, County of Chittenden, and in the federal district courts which are located in the City of Burlington. The Parties assert that they have purposefully availed themselves of the benefits of the laws of the State of Vermont and waive any objection to in personam jurisdiction on the grounds of minimum contacts, waive any objection to venue, and waive any plea of forum non conveniens. This consent to and submission to jurisdiction is with regard to any action related to this Agreement, regardless of whether the Parties' actions took place in the State or elsewhere in the United States.

12. Severability. If any term, covenant or condition contained in this Agreement is held to be invalid by any court of competent jurisdiction, such invalidity shall not affect any other term, covenant or condition herein contained, provided that such invalidity does not materially prejudice any Party in their respective rights and obligations contained in the valid terms, covenants or conditions hereof, and the Parties shall cooperate to modify the Agreement to cause it to conform to the original language of the Agreement to the extent consistent with the finding of the court.

13. Construction; Headings. The Parties waive the benefit of any rule that this Agreement is to be construed against one Party or the other. The headings in this Agreement are for the purposes of reference only and shall not limit or otherwise affect the meaning hereof.

14. Integration; Modification. This Agreement, together with the exhibits referenced herein and/or attached hereto, constitutes the entire agreement between the Parties with respect to the subject matter hereof and supersedes any prior agreements or representations, oral or written, on the same subject. The Agreement can be modified only by written agreement executed by authorized representatives of each

Party.

15. No Partnership. The Parties do not intend by this Agreement to create, nor shall this Agreement be deemed to create, a partnership or a joint venture among the Parties; each Party is an independent actor and entity, and nothing in this Agreement shall be deemed to make either Party an agent or partner of the other, or to give either Party the right to bind the other in any way, notwithstanding any reference to the Project as a “public-private partnership.”

16. Waiver. The failure of either Party to insist on strict performance of any of the provisions of this Agreement or to exercise any right it grants will not be construed as a relinquishment of any right or a waiver of any provision of this Agreement. No waiver of any provision or right shall be valid unless it is in writing and signed by a duly authorized representative of the Party granting the waiver.

17. Incorporation by Reference. The content of the Background section to this Agreement, including without limitation the definitions set forth therein, and all exhibits hereto and the terms contained therein and the contents thereof, are incorporated into this Agreement by reference.

18. Authority. Each of the Parties warrants to the other that the person or persons executing this Agreement on behalf of such Party has the full right, power and authority to enter into and execute this Agreement on such Party's behalf and to thereby bind the Party on whose behalf such person, and that no consent from any other person or entity is necessary as a condition precedent to the legal effect of this Agreement.

19. Notices. Any notices to be given pursuant to this Agreement shall be sufficient if given by a writing: deposited in the United States mails, certified mail or registered mail, return receipt requested, postage prepaid; by commercial courier, provided the courier's regular business is delivery service and provided further that it guarantees delivery to the addressee by the end of the next business day following the courier's receipt from the sender; or by email (provided that the electronic process used is reasonably secure and not easily susceptible to manipulation) addressed as follows:

If to the City: City of Burlington
 149 Church St.
 Burlington, VT 05401
 Attention: Mayor
 Attention: CEDO Director

If to RYB: Ride Your Bike LLC
 Attention: Todd Sarandos
 50 Lakeside Avenue
 Burlington, VT, 05401

If to the College: Champlain College Incorporated
 Attention: April O'Dell
 163 South Willard St.
 Burlington, VT 05401

or to such other person, address or number as the Party entitled to such notice or communication shall

have specified by notice to the other Party given in accordance with the provisions of this Section. Any such notice or other communication shall be deemed given: (i) if mailed, three days after being deposited in the mail, properly addressed and with postage prepaid; (ii) if sent by courier, the next day after being deposited with the courier, properly addressed and with prepaid; (iii) if sent by email, when transmitted as long as the sender does not receive a delivery failure notification or “out of office” notification.

Signature Page to Follow

DRAFT

In Witness Whereof, this Agreement is executed by the duly authorized officers or representatives of the Parties as of the date first set forth above.

City of Burlington

Ride Your Bike LLC

By: _____
Name: Miro Weinberger
Title: Mayor

By: _____
Name: Todd Sarandos
Title: Manager

Champlain College Incorporated

By: _____
Name: April O'Dell
Title: Vice President of Finance & Treasurer

Exhibit A
Orthophoto of Site, Outlining Parcels

Exhibit B
Memorandum of Understanding effective as of January 21, 2023

Exhibit C
Preliminary Mobility Framework Diagrams

Exhibit D
Preliminary Project Trip-End Projections

Exhibit E
Preliminary Project Wastewater Budget Projections

South End

Coordinated Redevelopment **PRE-DEVELOPMENT AGREEMENT**

City Council - February 26, 2024



Meagan Tuttle, Director of Planning
Charles Dillard, Principal Planner
Samantha Dunn, Asst. Director of Community Works, CEDO

Purpose of Discussion

1. Provide an update on progress on South End Coordinated Redevelopment MOU work
2. Highlight preliminary findings of studies from CCRPC Funded Scope of work outlined in the MOU
3. Share draft Predevelopment Agreement and respond to questions

South End Coordinated Redevelopment MOU



South End Coordinated Redevelopment Collaborative Work Timeline



South End Coordinated Redevelopment Current MOU Goals

The current MOU study includes three phases.

The **first phase** included three distinct study areas:

- An examination of existing conditions, including property data and encumbrances, planning regulations, and infrastructural conditions and constraints.
- The iterative and collaborative design of multiple alternative development framework scenarios
- An evaluation of each development framework scenario for performance related to affordable housing, streets, open space and parking

The **second phase** includes three separate analyses:

- Transportation and Parking
- Wastewater
- Stormwater

The **third and final phase** is the Predevelopment Agreement, which includes four foundational elements and future study topics.

MOU Outcomes Informing Predevelopment Agreement

Four foundations:

1. Mobility Framework that foregrounds active mobility and accessibility
2. Conceptual Development Program for Analyses including ~1,100 units of housing and ~230k sf of non-residential space
3. Wastewater Budget and Infrastructure Capacity Expansion Needs
4. Car Trip Budget and promotion of City's standard level of service

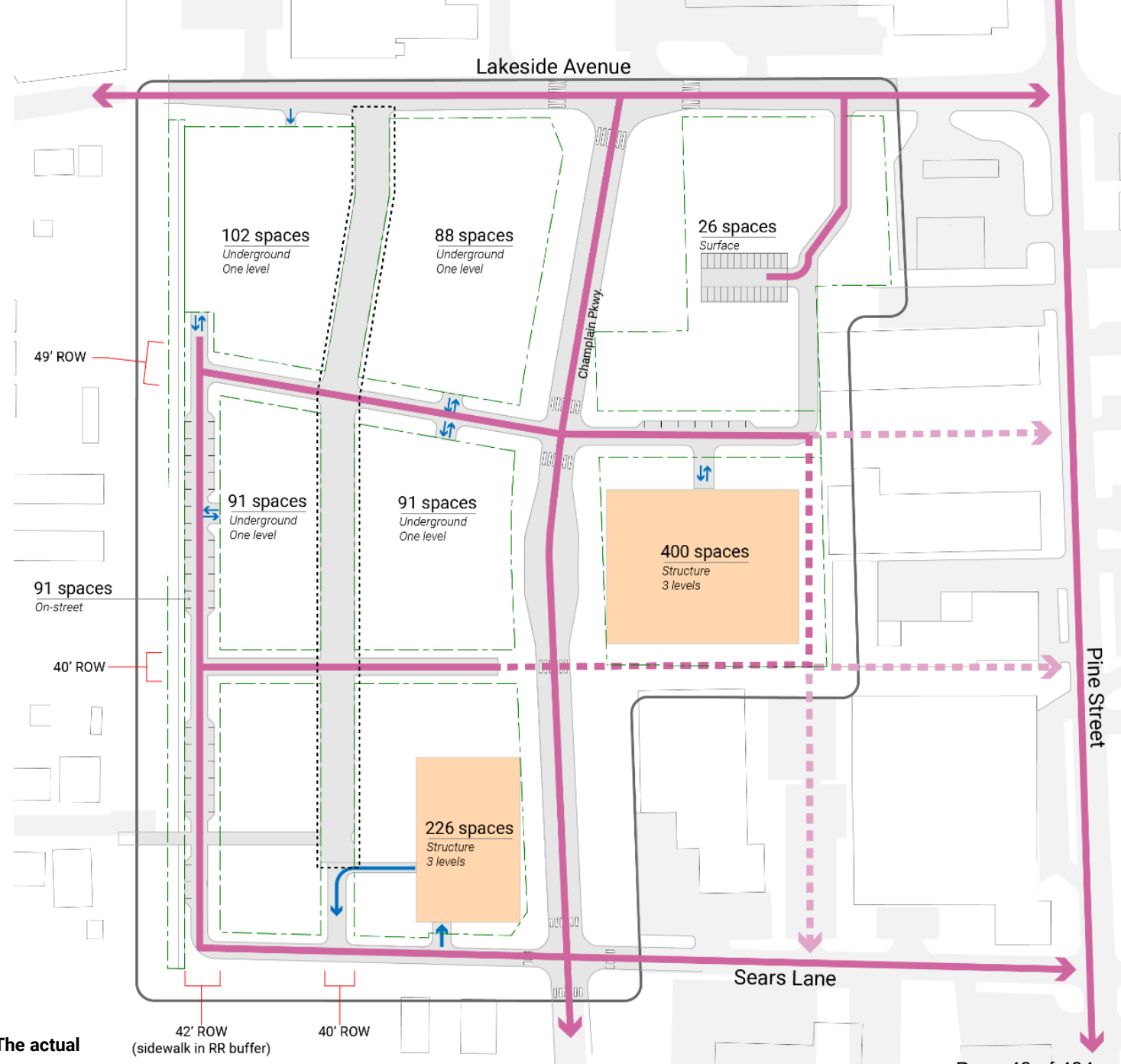
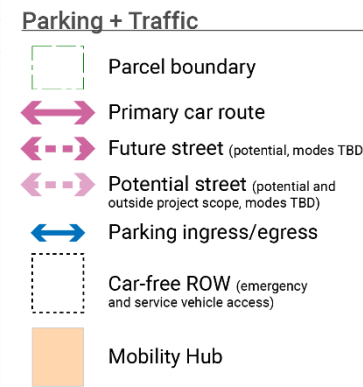
Future Study Topics:

- Continued wastewater analysis to right-size infrastructure and identify funding sources
- Housing & Affordability Program
- Development financial performance and feasibility
- Public Realm Design
- Sustainability Audit + Exploration
- Land Swaps + Collaborative Permitting

South End Coordinated Redevelopment Mobility Framework

Guiding Principles:

- Majority of street space is dedicated to accessible and active transportation = **more people, fewer cars**
- A network of shared parking facilities should serve the development and greater South End

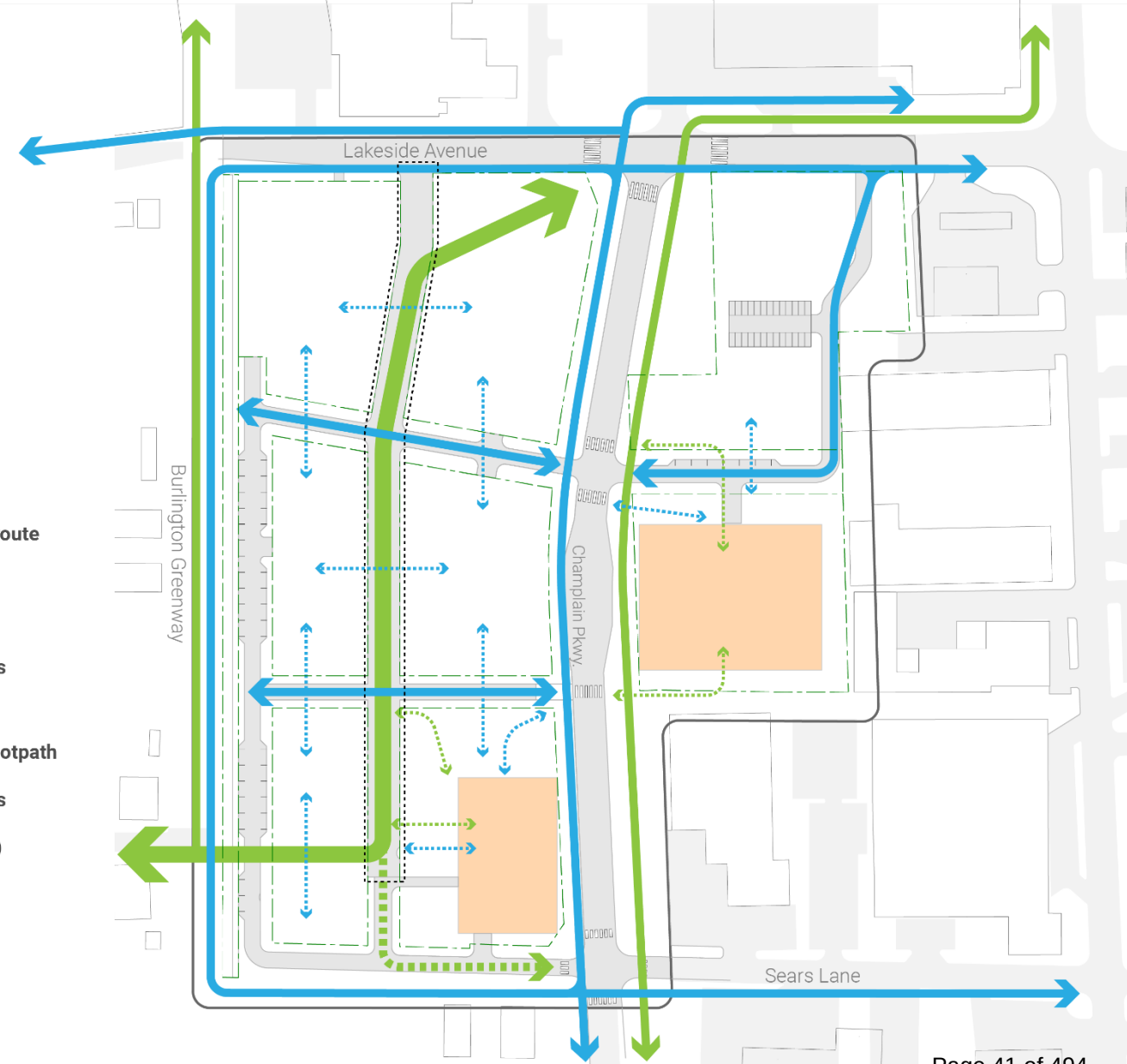
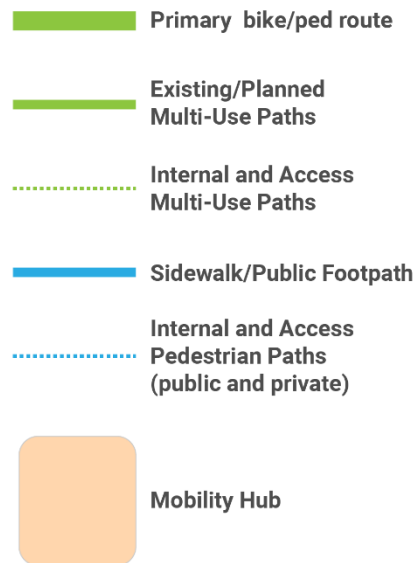


NOTE: The location and number of parking spaces is conceptual and for analysis purposes only. The actual location and number of parking spaces has not yet been determined.

South End Coordinated Redevelopment Mobility Framework

Guiding Principles:

- Majority of street space is dedicated to accessible and active transportation = **more people, fewer cars**
- A network of shared parking facilities should serve the development and greater South End



Conceptual Program for Analyses

Parties have agreed to a working conceptual program that consists of a wide range of uses, including ~1,100 homes and ~230K sf of non-residential space.

These uses, and their corresponding conceptual space needs, are critical to understanding the development's impact on local infrastructure and what improvements are needed.

Conceptual Program:

- Homes
- Childcare
- Art Studios/Makerspaces
- Office
- Medical/Dental Office
- Indoor recreation
- Restaurants
- Convenience Commercial (e.g. retail, hair salon, etc.)
- Champlain College classrooms & Student Housing

South End Coordinated Redevelopment Wastewater

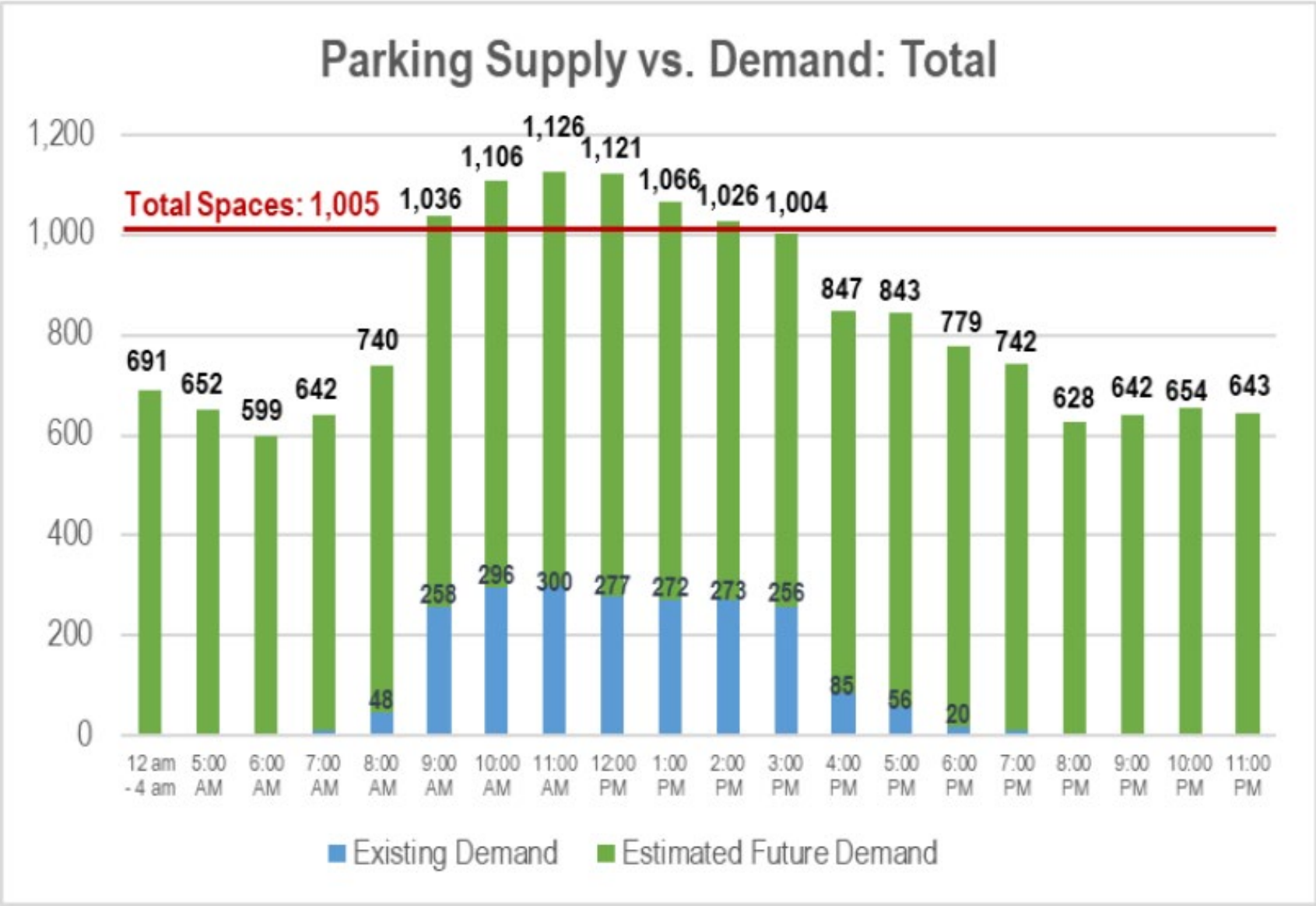
- Limited pipe capacity in the Pine Street Combined Collection System.
- Additional study required to inform needed capacity expansions and other mitigations necessary to ensure success.



South End
Coordinated Redevelopment
Parking

Conceptual Parking Supply & Demand

Vision:
Shared parking district
and parking structures
functioning as mobility
hubs with long term goal
of 1,100-1,200 parking
spaces to serve the new
neighborhood and
surrounding area (not a
regional commuter
facility).



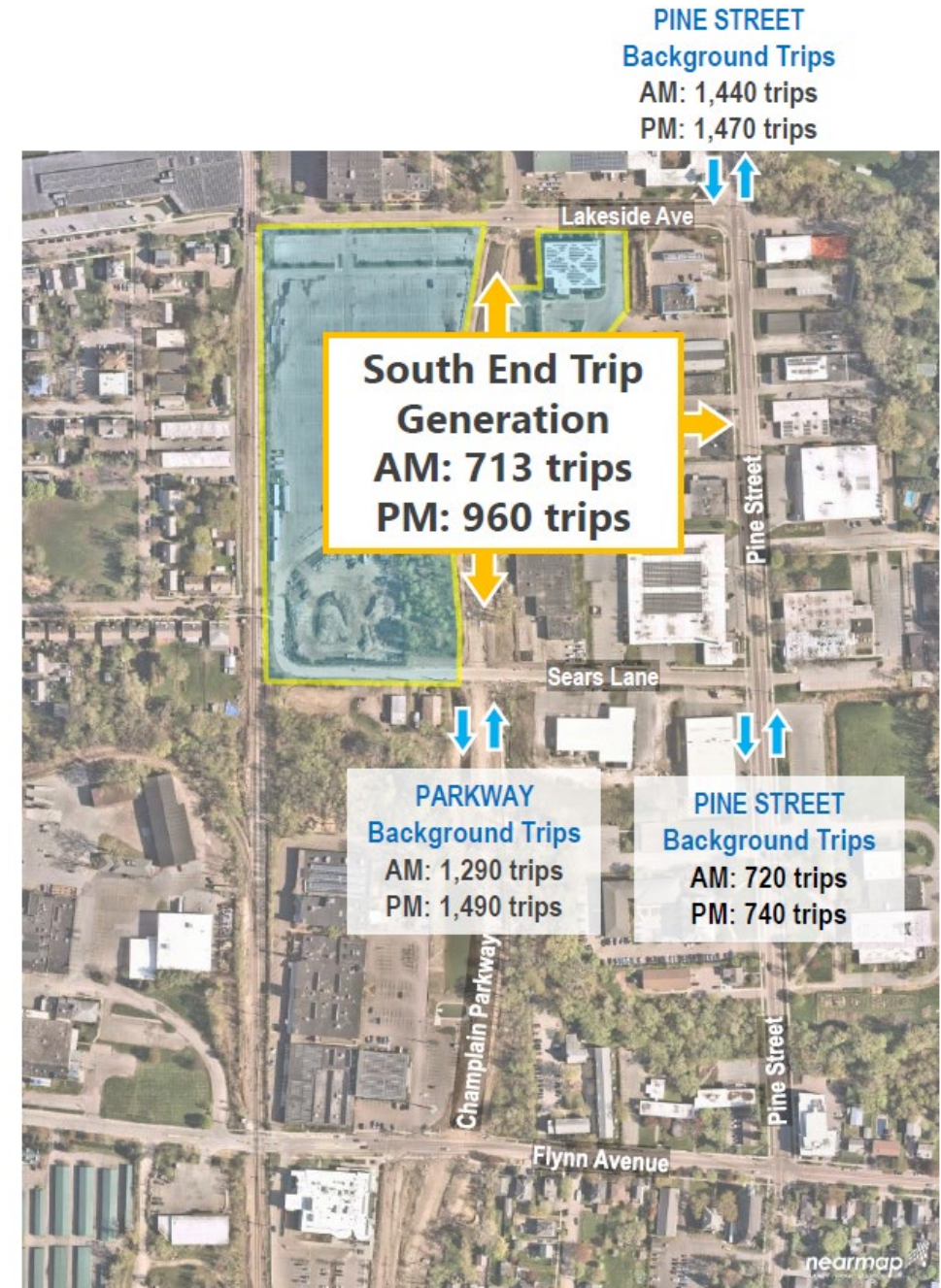
South End Coordinated Redevelopment Trip Budget

Conceptual Generation & Distribution

Vision:

Car-light neighborhood developed in phases with interventions to mitigate impact on the immediate transportation network. DPW is pursuing CCRPC funding support for an update to the traffic network performance for the larger South End.

NOTE: The trip generation data is conceptual for analysis purposes only; the actual trip generation and distribution for the development on these parcels has not yet determined.



South End Coordinated Redevelopment MOU Public Engagement

- SEID zoning amendment process included multiple in-person, virtual and continuous online engagement opportunities
- April 20, 2023: Public Open House @ 645 Pine Street (co-scheduled with Ward 5 NPA)
- December 7, 2023: Public Open House @ 645 Pine Street
- Ongoing online survey open through Pre-Development Phase
- South End Coordinated Redevelopment Website & Email List
- **Continued public engagement as part of anticipated Pre-Development Agreement study, funded by CPND grant.**

Why we're here

Our goal tonight is to share a few concepts, talk with you, and collect your feedback, all on the following:

Development Scenarios for the City's property

These boards include four potential, unique development scenarios for the city's property.

Pay attention to things like the type of buildings that each includes, how many homes might be built and the look and feel of the streets and open spaces.

The Housing Typologies board shares more detailed information about different types of housing. Which are your favorites?

Streets, Paths and Open Spaces (the public realm)

This board includes a concept for the layout of streets and paths, as well as images from Burlington and elsewhere that we think make great inspiration for ongoing design thinking.

This layout will evolve as we continue coordinated design work. Do you have a different layout to propose? What do you think about the images and the character of streets and paths that they invoke?

Mobility Hubs What are they and how are they a model for the future?

Mobility hub is one name for a new type of shared mobility infrastructure that can include a range of amenities that make moving around a city more sustainable, equitable, safe, and fun!

These hubs are central to the most sustainable districts being designed around the world. Learn more on the Mobility Hub board and tell us what you think!



Conceptual Framework Vision C

VISION C



In general how supportive are you of the conceptual framework for Vision C? Please make your selection below.



Please share your thoughts and other comments on Vision C below:

1000

What is in the Predevelopment Agreement?

Foundational Elements & Objectives

- **Unique Opportunity to develop new, sustainable, walkable, mixed-income neighborhood encompassing 68 Sears Lane, 125 and 175 Lakeside Avenue**
- Mobility Framework
- Maximize new homes & incorporate compatible non-residential uses
- Project phasing & design informed by infrastructure constraints, strategies and financial feasibility

Agreed Upon Design Goals

- Visionary urban design
- Housing forward with a diversity of residents and housing types
- Prioritize non-residential space to expand South End's arts and innovation economy
- Walkable, bikeable, and active-mobility-focused urban design district
- Sustainable building and site design practices

What is in the Predevelopment Agreement?

Commitments for Ongoing Collaboration

- Development of Housing Plan that achieves a minimum of 20% affordable housing
- Public Realm Conceptual Design (ACCD Grant)
- Intent to pursue a Joint Planned Unit Development (PUD) Application & Phasing of Development
- Exploration of future interventions to the Champlain Parkway
- Use of 68 Sears Lane (address deed restrictions)

Commitments for Ongoing Study

- Wastewater Infrastructure Analysis & Options
- Funding sources and uses (Including public and private financing options)
- Traffic Analyses & TDM
- Potential land swaps / parcel modifications

Anticipated Next Steps & Schedule

March 11, 2024 – City Council Action on Predevelopment Agreement

Spring/Summer 2024

- Convene Housing Stakeholders & Develop Housing Plan
- Public Realm Design
- Development & Infrastructure Phasing
- Ongoing Wastewater Analysis
- Identify Funding Opportunities

Fall/Winter 2024-2025

- PUD Application
- Development Agreement
- Funding Applications

Questions?



Board of Finance and City Council Submission Checklist

Department: CEDO Submitter: Samantha Dunn

Title/Subject: South End Coordinated Redevelopment Pre-Development Agreement Update

	Approval:	Meeting Date:
☐	Board of Finance	Click or tap to enter a date.
☒	City Council	2/26/2024
☐	Concurrent	Click or tap to enter a date.

This form must be completed by the person submitting the materials, and sent with the final submission. Please do not indicate that a signoff was received until it has actually been obtained.

Signoffs Received

Signoff Needed	Received	Date Received	Note
Department Head	Yes	2/21/2024	Brian Pine
Mayor's Office informed and approved memo	Yes	No response	Jordan Redell
Board/Commission, if required	N/A	Click or tap to enter a date.	Click or tap here to enter text.
City Attorney's Office has approved contract and/or legal documents, -Identify attorney in note	N/A	Click or tap to enter a date.	Click or tap here to enter text.
City Attorney's Office has approved memo and motion(s) or resolution(s) -Identify attorney in note	Yes	2/21/2024	Jared Pellerin
CAO has reviewed budget, financing, and memo	Yes	2/21/2024	Katherine Schad
Human Resources, if personnel action -Identify HR Manager in note	N/A	Click or tap to enter a date.	Click or tap here to enter text.
CIO, if an IT-related investment/purchase	N/A	Click or tap to enter a date.	Click or tap here to enter text.

Materials Included

	Included?	Note
Final Memo Attached?	Yes	Click or tap here to enter text.
Contract Attached, if applicable?	N/A	Click or tap here to enter text.
Additional Materials, if necessary	Yes	Slides and Draft Pre-Development Agreement
Draft Resolution or Motion?	N/A	Click or tap here to enter text.
If for submission to Council, are sponsors identified?	N/A	Click or tap here to enter text.

Memorial (Gateway) Block Redevelopment

February 26, 2024



COLLEGE ST

CHURCH

LIBRARY

FIRE
STATION

AUDITORIUM

Memorial
Block

MAIN ST

WINOOKSI

UNION

Background

1990s City began to struggle to keep up with repairs on the building; 1994 failed bond vote.

2013 PlanBTV Downtown provides vision for redevelopment for underutilized sites

2013 YMCA to Occupy Memorial Auditorium; balance of block to be Mixed-Use w/ Student Housing

2016 UVM Arena with Hotel on Gateway Block

2016 Memorial Auditorium closed to ensure public safety

2018 Robust Public Process by CEDO leading to Adaptive Re-use plans for Memorial Auditorium as a "Community Hub"; 2019: RFP to find a Private Operator for Memorial Community Hub

2021 Failed Bond Vote that included Memorial Redevelopment

2021 Gateway Block considered as site of new Burlington High School

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2022 Voters approve \$165MM in bonding for new BHS

2022 RFP for Redevelopment through Public/Private Partnership

2023 Selected Proposal (Babaroosa) withdraws proposal for financial feasibility reasons

2023 City facilitates strategic visioning exercise for Gateway Block Redevelopment

2023 City signs LOI with Eric Farrell and Joe Larkin

Barriers to Previous Projects

- Failed bond votes for investment in Memorial Auditorium
- Ravine Sewer (crossing the Main/Winooski Parking Lot)
- Lack of control of the private land comprising the "hole in the donut"
- City's inability to finance the 2018 vision/City bond capacity limited due to BHS
- Cost of repairing and renovating Memorial Auditorium makes adaptive reuse financially infeasible on its own

Key Priorities for the City

- An attractive and welcoming entrance to the downtown
- Mixed Income Housing
- Preservation of Veterans Memorials
- Inclusion of civic space, including space dedicated to youth, with opportunity for input on programming from the City and Community
- Public Parking
- Grow the Grand List (increased property tax revenue)
- Long-term economic benefit for the community

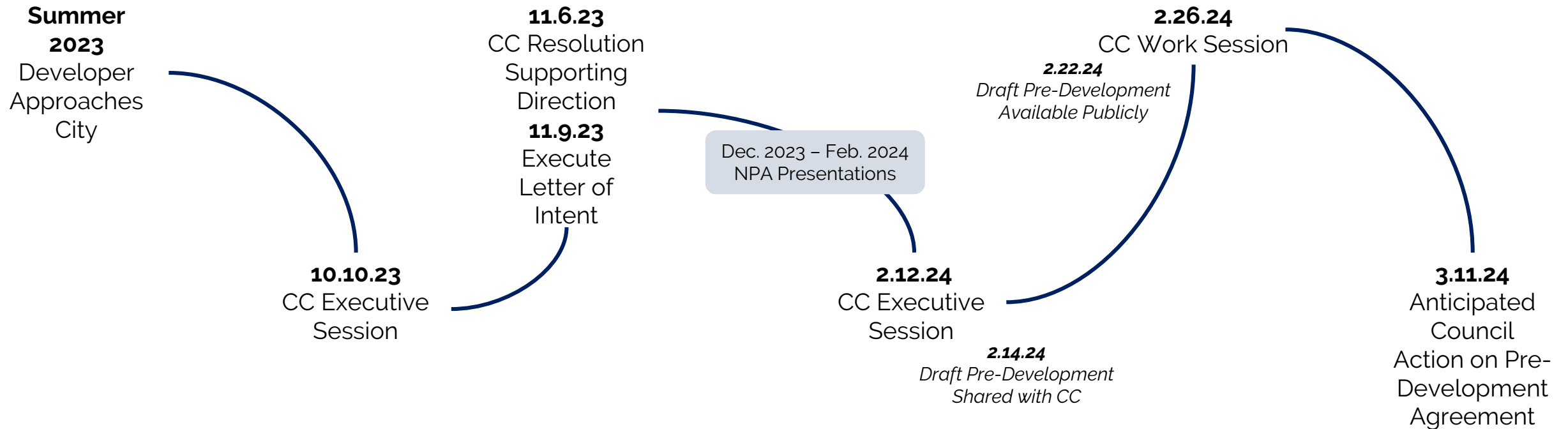
Public Engagement

Ward 1	12/13/2023
Ward 2/3	12/15/2023
Ward 5	1/18/2024
Ward 6	2/1/2024
Wards 4/7 & 8	No response to our request

What we heard (Common Themes):

- Supportive of taking a comprehensive approach (looking at the entire block)
- Recognition that we need to address the liability of Memorial Auditorium
- Strong support for maintaining veterans memorial on site
- Support for generous amount of civic space, including space for youth, on the block
- Does BFD support relocation?
- Will the public have an opportunity to make comments about the development?

Pre-Development Agreement Process



Pre-Development Agreement:

- Agreement grants the Developer a period of nine months to conduct due diligence and present the City with a proposal.
- Agreement is a commitment on the City's part to give the Developer time to investigate the property and propose a project that is responsive to the City's needs and wants and is both market and financially feasible.
- While the City is obligated to act in good faith under this agreement, the City is not obligated to accept the Developer's proposal or to proceed beyond the due diligence phase.

What's in the Pre-Development Agreement:

Physical Due Diligence – including further evaluation of the feasibility of keeping a portions of the Memorial Auditorium (including the memorial component).

Programmatic Due Diligence

- Development of a detailed program of uses & conceptual plans
- Market feasibility assessment
- Regulatory feasibility assessment
- Preliminary budget (sources & uses)
- Appraisals.

Programmatic Due Diligence – confirmation of capacity to implement the development plan.

Central Fire Station Relocation Feasibility

- Exploration of a new public safety facility
- City will be responsible for identifying a location and providing specifications for the new facility.
- Developer will finance the construction of the new facility and the City will make lease payments until such time that the City has the capacity to bond for its purchase.

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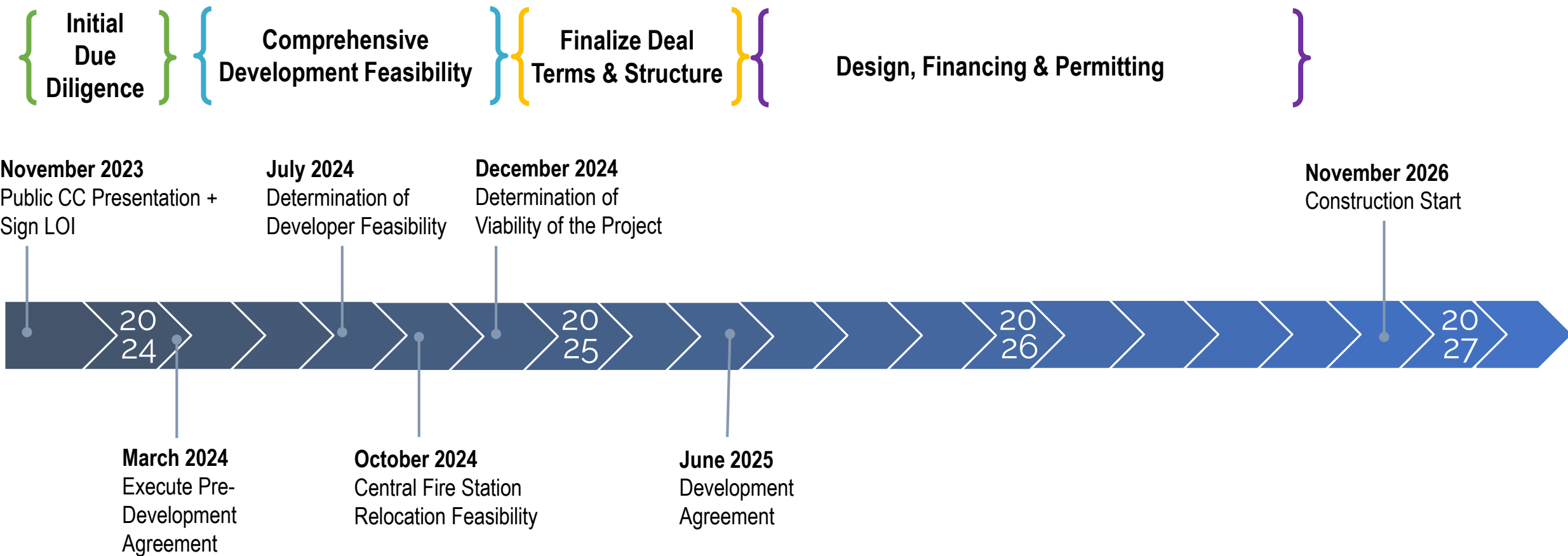
Further Agreements & Implementing Documents

- Development Agreement detailing reciprocal commitments
- Ground lease, or other implementing documents, to convey the right of development to the Developer and to dictate what the City will receive in return.

Public Engagement

- Public input at this time will be in shaping the priorities for the new civic-spaces to be incorporated in the redevelopment.
- Regular updates to City Council
- Developer commits to a design process that engages public participation and solicits public feedback.

Proposed Timeline







COMMUNITY & ECONOMIC DEVELOPMENT OFFICE

149 CHURCH STREET • ROOM 32 • CITY HALL • BURLINGTON, VT 05401
(802) 865-7144 • (802) 865-7024 (FAX)
www.burlingtonvt.gov/cedo

To: City Council

From: Samantha Dunn, Asst. Director of Community Works, CEDO
Brian Pine, Director, Community & Economic Development Office
Jeffrey Glassberg, Development Consultant, Renaissance Development Company

Date: February 21, 2024

Subject: Memorial Block Update

Background

Memorial Auditorium was built in 1927 as a World War I Memorial and Public Assembly Space. Since that time Memorial Auditorium has hosted public performances, private functions, athletic events, farmers' markets, exhibits, a day care, and a teen center. In 1988, Memorial Auditorium was listed on the National Register of Historic Places as a contributing building with the Main Street - College Street Historic District - many in Burlington and the surrounding area have a favorite memory linked to this building. While the building served many important uses, the City struggled to maintain the capital requirements of the building. The building was shut down at the end of 2016, when it was no longer safe to occupy.

Memorial Auditorium sits on the corner of Main Street and South Union Street, a city block (also bounded by College Street and South Winooski) including a total of 3.81 acres of land – 77% of which is owned by the City and almost half of which is occupied by surface parking.

Over the past three decades, the City has simultaneously struggled to keep up with the growing maintenance needs of Memorial Auditorium and explored a series of potential plans for redevelopment of the building and the entire block. During this time, the City has previously engaged in RFPs for Memorial and a strong public process, but those earnest and robust efforts did not come to fruition in a project that could move forward. The timeline below summarizes the City's efforts since the 1990s with respect to both Memorial and the municipal parking lot:

1990s City began to struggle to keep up with repairs on the building; 1994 Memorial bond vote failed; 1993 bond for a public safety building for the municipal parking lot failed.

2013 PlanBTV Downtown provides vision for redevelopment for underutilized sites

2013 YMCA explored adaptive reuse of Memorial Auditorium; balance of block slated for Mixed-Use w/ Student Housing

2016 UVM Arena with Hotel on "Gateway Block"

2016 Memorial Auditorium closed to protect public safety

2018 robust public process by CEDO leading to Adaptive Re-use plans for Memorial Auditorium as a "Community Hub"; *2019*: RFP to find a private operator for Memorial Community Hub

2021 Bond vote that included Memorial renovations failed

2021 Gateway Block considered but rejected as the site of a new Burlington High School
2022 Successful bond brings \$1MM to Memorial Stabilization & Exploration of future uses
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2022 RFP for Redevelopment through Public/Private Partnership
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2023 City facilitates strategic visioning exercise for Gateway Block Redevelopment

Barriers to the success of previous efforts have included: failed bond votes for investment into Memorial Auditorium; the ravine sewer running diagonally across the Main Street/South Winooski parking lot; lack of control over the three privately held parcels in the middle of the block; and the financial infeasibility of the investment required to repair and renovate Memorial Auditorium as a stand-alone development.

Exploration of Public/Private Partnership

Memorial Auditorium has become a liability for the City and provides no public benefit. Redevelopment of this block is necessary to chart the direction for key capital activities in the downtown, activate underutilized properties, address the City's chronic housing shortage and replace blight and liability with a range of public benefits.

In the summer of 2023, two local developers – Eric Farrell and Joe Larkin – gained site control of the three privately held parcels in the middle of the block and approached the Administration with a proposal to explore a partnership with the City on a redevelopment that would meet many of the City's goals, and the goals identified through the public process that CEDO undertook in 2018. The Administration brought this proposal to the City Council in the fall of 2023, outlining this opportunity for partnership with a local, experienced development and management team, with a proven track record of performance in Burlington, including under Development Agreement(s) with the City, site control of a portion of the block, a vision that aligns with key City goals and comes from a love for Burlington and a long record of securing major project financing.

In November of 2023, the City Council passed, pursuant to public consideration, a resolution supporting further exploration for this opportunity, and authorizing the Mayor to sign a Letter of Intent (LOI) to explore the feasibility of entering into a development agreement to provide the framework for comprehensive redevelopment of the block. The LOI was edited to incorporate City Councilor comments and executed on November 9, 2023.

Since that time, with the help of real estate development consultant, Jeffrey Glassberg, the City has been working closely with Eric Farrell and Joe Larkin to gain consensus on key terms and direction to advance the public interest. CEDO also presented the redevelopment concept at the Ward 1, Ward 2/3, Ward 5 and Ward 6 NPA Meetings (CEDO received no response from Ward 4/7 and Ward 8 to our request). Public feedback from these sessions generally supported taking a comprehensive approach (looking at the whole block) and recognized that there is an urgent need to expand our housing stock and address the future of Memorial Auditorium. There was also support for maintaining the veterans' memorial plaques on site and for a generous amount of civic space, including space for youth programming.

Proposed Next Steps / Pre-Development Agreement

The City is now proposing to enter into a Pre-Development Agreement that will set the foundation for future agreements. It sets a schedule for the due diligence required to determine the feasibility and deal structure for a comprehensive redevelopment of this important part of our downtown. The Pre-Development Agreement outlines processes and a timeline for completing physical, financial and programmatic due diligence that, if determined feasible, will lead to the development of a set of binding agreements for implementation of the redevelopment project. In this agreement, the area being considered for redevelopment is referred to as the “Memorial Block,” as an homage to the landmark building that anchors its southeast corner.

At this time, the Parties anticipate that the project will include a mix of housing, hotel, and commercial uses, both indoor and outdoor civic space and below grade public parking to serve the block and surrounding area. The new development is expected to include all of the parcels that have frontage on Main Street as well as the Central Fire Station and surface parking lots between the library and the church. It is anticipated that the City will maintain ownership of its land underlying the development and that the improvements will revert back to the City in the future.

The work being proposed under the pre-development agreement includes:

- Physical Due Diligence – including further evaluation of the feasibility of preserving and re-purposing portions of the Memorial Auditorium, including the memorial plaques in the lobby area;
- Programmatic Due Diligence – including the development of a detailed program of uses and conceptual plans, market feasibility assessment, regulatory feasibility assessment, preliminary budget, and appraisals;
- Developer Due Diligence – confirmation of capacity to implement the development plan;
- Central Fire Station Relocation Feasibility – including the exploration of a new public safety facility which is intended to meet the near- and long-term public safety needs of the City. CEDO will be working closely with the Fire Department and other departments to ensure the public safety needs of the first responders and the community are incorporated. The City will be responsible for identifying a location and providing specifications for the new facility. It is anticipated that the Developer will finance the construction of the new facility and the City will make lease payments until such time that the City has the capacity to bond for its purchase.
- Further Agreements & Implementing Documents - if the City and Developer determine the project is feasible at the end of the due diligence period, the Parties will negotiate a Development Agreement detailing reciprocal commitments and then a ground lease, or other implementing documents, to convey the right of development to the Developer and to dictate what the City will receive in return.
- Public Engagement - as indicated in the LOI, there is a commitment to include the public in the process of re-envisioning this area. The role for public input will inform the priorities for the new civic spaces to be incorporated into the redevelopment. We also anticipate making regular updates to City Council as we move through the Due Diligence period. As the project progresses past due diligence, the Developer will commit to a design process that engages public participation and solicits public feedback.

This agreement grants the Developer a period of nine months to conduct due diligence and present the City with a proposal. This agreement is a binding commitment on the City's part to give the Developer

the requisite time to investigate the property and propose a project that is responsive to the City's needs and wishes and is desirable and financially feasible. While the City is obligated to act in good faith under this agreement, the City is not obligated to accept the Developer's proposal or to proceed beyond the due diligence phase.

Proposed Timeline

March 2024	Execution of Pre-Development Agreement
July 2024	Determination of Developer Capacity
October 2024	Determination of Central Fire Station Relocation Feasibility
December 2024	Determination of viability of the project
June 2025	Development Agreement and Implementing Documents
November 2026	Construction Start

Attachments

- Gateway Block Redevelopment Presentation to CC (2023.11.06)
- November 6, 2023 City Council Resolution: "Support for the Redevelopment of the Gateway Block Through Further Due Diligence of a Public-Private Partnership"
- Letter of Intent executed November 9, 2023
- DRAFT Pre-Development Agreement

These documents are also available in the Gateway Block and Memorial Auditorium Document Library on CEDO's website: <https://www.burlingtonvt.gov/CEDO/Memorial-Auditorium>

Memorial (Gateway) Block Redevelopment

February 26, 2024



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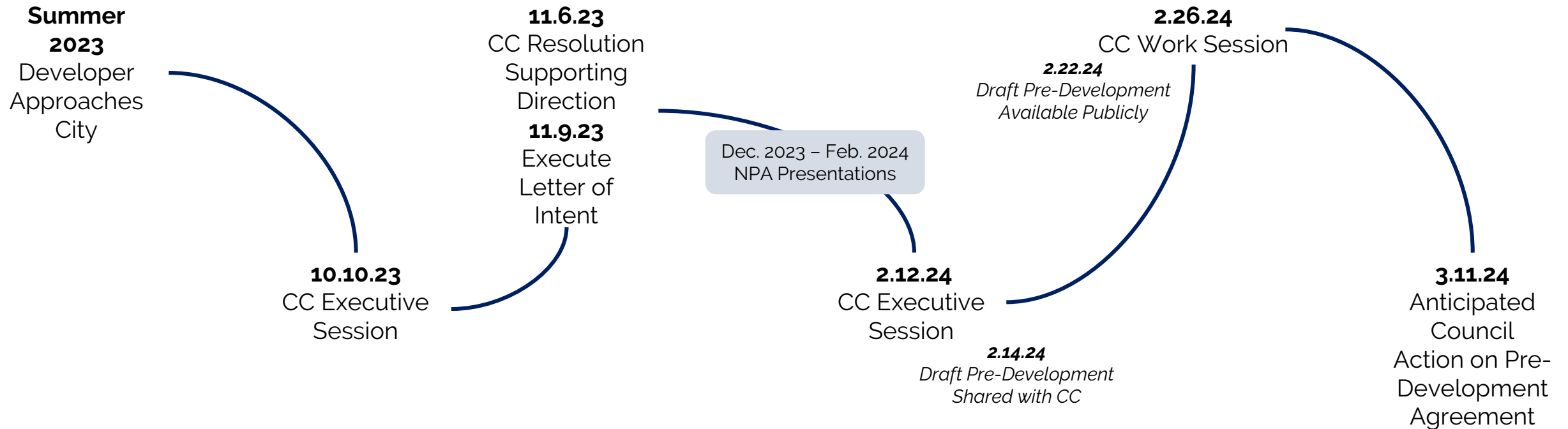
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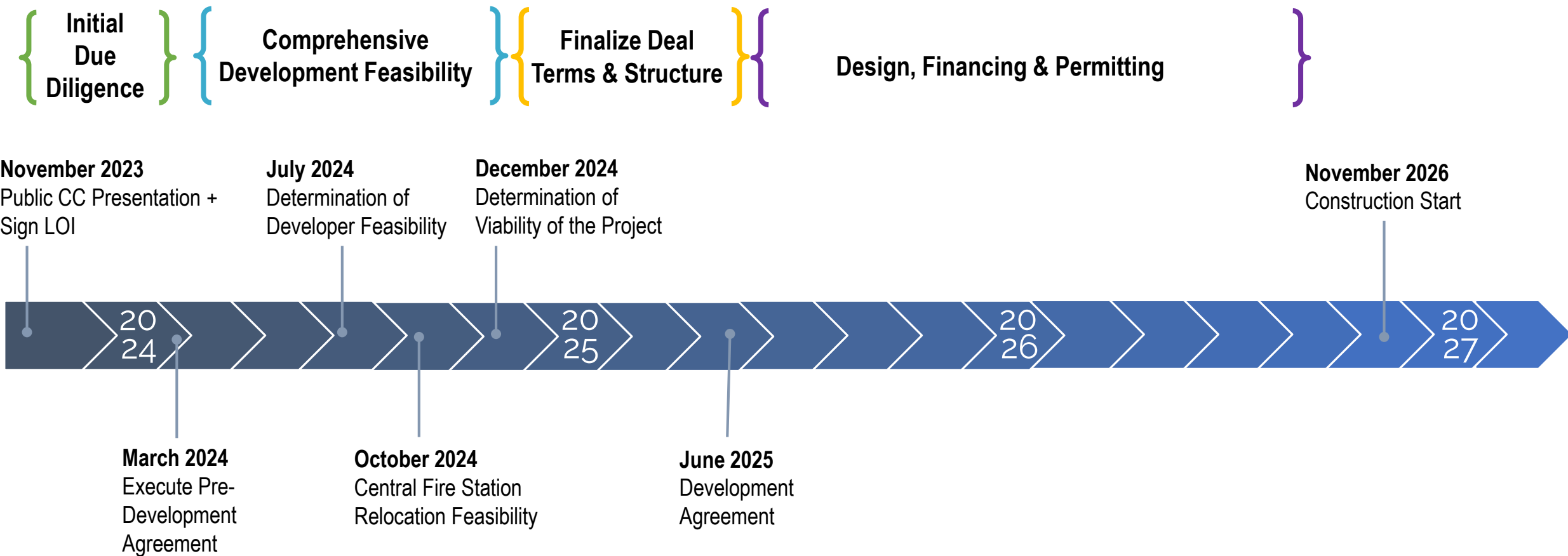
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- Developer commits to a design process that engages public participation and solicits public feedback.

Proposed Timeline





Resolution Relating to

SUPPORT FOR THE REDEVELOPMENT OF THE
GATEWAY BLOCK THROUGH FURTHER DUE
DILIGENCE OF A PUBLIC-PRIVATE PARTNERSHIP

RESOLUTION 8.2._____

Sponsor(s): Councilor Paul

Introduced: 11/06/23

Referred to: _____

Action: adopted as amended

Date: 11/06/23

Signed by Mayor: 11/09/23

CITY OF BURLINGTON

In the year Two Thousand Twenty-Three.....

Resolved by the City Council of the City of Burlington, as follows:

1 That WHEREAS, the City's 'Gateway Block' has long been at the forefront of discussions about how to
2 augment Burlington's vibrant Downtown; and

3 WHEREAS, the 'Gateway Block' encompasses the properties between Main Street and College Street
4 and South Union Street and South Winooski Avenue and contains approximately 3.81 acres of land in the
5 heart of downtown Burlington; and

6 WHEREAS, The City of Burlington owns approximately 2.95 acres, or 77% of the block which
7 includes the historic Central Fire Station, the Fletcher Free Library, Memorial Auditorium and the Main and
8 Winooski Parking lot; and

9 WHEREAS, over the past several decades, the City's Administrations and community members have
10 engaged in processes to reimagine this central block that has long served as a valuable community epicenter;
11 and

12 WHEREAS, the 'Gateway Block' is an important point of entry into Downtown Burlington, and as
13 such, needs to achieve the planning goals of our community as a vibrant and attractive gateway to the
14 downtown welcoming residents and visitors alike, providing new housing, public space, parking and long-
15 term economic benefits for the community; and

16 WHEREAS, after many attempts to revitalize the properties on this block, the City has identified an
17 opportunity to achieve the long held community goals that appear to resolve the previously identified barriers
18 to redevelopment;

19 NOW, THEREFORE, BE IT RESOLVED that the City Council supports further exploration and due
20 diligence centered around redeveloping the 'Gateway Block' in a public-private partnership; and

21 BE IT FURTHER RESOLVED that the City Council supports the Mayor entering into the attached
22 Letter of Intent, with the Goals and Visions amended by city staff given Council feedback, to explore the
23 feasibility of executing a development agreement between the parties to provide the framework for
24 comprehensive redevelopment; and

* * * * *

DISTRIBUTION:

I hereby certify that this resolution
has been sent to the following
department(s) on

ORIGINAL

RESOLUTION RELATING TO

.....
.....
.....

Adopted by the City Council

....., 20
..... Clerk

Approved....., 20

..... Mayor

Vol. Page

Attest:

* * * * *

SUPPORT FOR THE REDEVELOPMENT OF THE GATEWAY BLOCK
THROUGH FURTHER DUE DILIGENCE OF A PUBLIC-PRIVATE
PARTNERSHIP

25 BE IT FURTHER RESOLVED that this process continue to engage the community and encourage
26 public input on the redevelopment and use of the City's 'Gateway Block.'

27

28 SD/KP/JP/Resolutions 2023/*Support For The Development Of The Gateway Block Through Further Due Diligence Of A Public-Private*
29 *Partnership*

30 November 6, 2023

* * * * *

DISTRIBUTION:

I hereby certify that this resolution
has been sent to the following
department(s) on

Samantha Dunn, CEDO

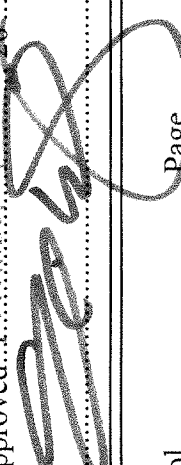
ORIGINAL

RESOLUTION RELATING TO

Support For The Redevelopment Of The Gateway Block Through Further
Due Diligence Of A Public-Private Partnership

As amended
Adopted by the City Council

November 6, 2023
 Clerk

Approved November 9, 2023
 Mayor
Vol. Page

Attest:

Lori Olberg
Licensing and Records Coordinator

* * * * *

LETTER OF INTENT

November 9, 2023

City of Burlington
Attention: Miro Weinberger, Mayor
City Hall, Room 34
149 Church Street
Burlington, VT 05401

Re: Redevelopment of the Gateway Block, Burlington, Vermont

Dear Mayor Weinberger,

This Letter of Intent reflects our expression of interest in forming a Public/Private Partnership for the purpose of redeveloping the Gateway Block as the gateway to the City.

The City and the Developer agree to work diligently to execute a formal and binding Development Agreement on or before March 29, 2024 ("Development Agreement") reflecting the expressions contained in this Letter of Intent.

Developer

A new entity (NEWCO) to be formed by Eric Farrell and Joe Larkin.

Gateway Block

The city block bounded by Main Street, South Union Street, College Street and South Winooski Avenue.

Background

The Gateway Block contains approximately 3.81 acres of land. The City of Burlington owns approximately 2.95 acres, or 77%, of the block including the historic Central Fire Station, Fletcher Free Library, Memorial Auditorium and the Main Street Parking Lot. The Northeast corner (0.58 acres) is owned by the College Street Congregational Church. NEWCO holds site control of the remaining 0.28 acres including the properties numbered 230 Main Street, 234 Main Street and 236 Main Street located between Memorial Auditorium and the Main Street Parking Lot.

Since closing Memorial Auditorium for safety reasons in 2016, the City has sought to return this public asset to active use and to facilitate its redevelopment as part of the so-called Gateway Block as anticipated in *planBTV - Downtown and Waterfront Master Plan* adopted on June 10, 2013.

The City is moving forward the Great Streets Main Street vision from *planBTV* that will use the City's Downtown TIF district to make major new investments in the public infrastructure of Main Street, introducing a toolkit of amenities to create a vibrant, walkable, and sustainable urban core.

This project, slated to begin construction in the next 6 months, will also relocate the ravine sewer that currently crosses the Main Street Parking Lot, which will prepare that portion of the Gateway Block for redevelopment.

Vision/ Goals of Redevelopment

The redevelopment plan should reflect the following important elements and goals:

- The architectural design of the Gateway Block should be inspirational and welcoming. It should honor both the history of the City and the promise of its future.
- The architectural design of the Gateway Block should reflect its central role as an important point of entry into Downtown Burlington.
- The Gateway Block should represent a meaningful connection between adjacent neighborhoods, encouraging pedestrian movement in support of the businesses and services all along the way.
- The Gateway Block design should embrace the presence of the College Street Congregational Church and the Fletcher Free Library buildings and endeavor to create a vibrant pedestrian streetscape surrounding these important community resources.
- The Gateway Block should maintain the historic integrity of the Central Fire Station, repurposing it to serve in many capacities, such as additional public space, as a function space for an adjacent hotel, or some combination of public and private uses. The potential relocation of the Central Fire Station will be thoroughly studied to ensure the highest level of public safety and to improve the working conditions of fire department members.
- The Gateway Block should include a Central Public Assembly & Activity Space to replace Memorial Auditorium, although not of equal size nor equivalent in use, anchoring the core of the Block and serving as the heart of this new community. Alternatively, such space could be comprised of a combination of a portion of Memorial Auditorium that is retained and new Central Public Assembly & Activity Space. New public space on the Gateway Block should include space dedicated to youth. Such spaces can be either owned privately, or owned by a public/private partnership, or a combination thereof.
- If no portion of Memorial Auditorium is retained, then the Central Public Assembly & Activity Space should include a Veterans Memorial using the plaques that are currently on display in the lobby of Memorial Auditorium,
- After nearly 100 years of public ownership of most of the properties in the Gateway Block, the public should be included in the process of re-envisioning this area.
- The Gateway Block may include hotel use with a minimum of 100 rooms, serving as a vibrant anchor for the Block.

ETJ JPL

- The Gateway Block should result in the creation of a minimum of 200 units of housing, including a mix of housing types, and both affordable and market-rate units. The affordable housing must satisfy the City's requirement for inclusionary housing units, which requirements will be more specifically articulated in the Development Agreement.
- The Gateway Block should explore secure rooftop greenspaces, where feasible, for the enjoyment of the residents, business employees, hotel guests and the general public, when appropriate (i.e., during public events). Rooftop solar should be considered wherever feasible.
- The Gateway Block should be designed to advance the City's Net Zero Energy goals.
- All parking for the Gateway Block should be located within an understory garage, not visible from the surrounding streets except for the required garage entrances. The garage should include a component of public parking. Incidental surface parking and drop-off zones should be allowed at the entrances to the hotel, residential buildings, Fletcher Free Library, and the College Street Congregational Church. Surface parking should not otherwise be allowed within the Gateway Block.
- The architectural plans for the Gateway Block should be coordinated with, be complementary to, and otherwise support the significant improvements planned for the Main Street corridor.

Items to be addressed in a Development Agreement

Roles, Responsibilities & Capacities of the Parties

- NEWCO's ability to complete the project (financial and technical capacity).
- Role of the City in the design of the redevelopment project.
- Identification and applicability of potential funding sources and financial benefits that may be available to the redevelopment through the public/private partnership; identification of any requirements associated with particular funding sources.

Property Valuation, Ownership, Redevelopment Structures

- What is the value of the property being conveyed?
- Will the property be sold or redeveloped under a long-term lease?
- What is the anticipated value of the redevelopment including access to public space, public parking, increased tax revenue, increase in Rooms & Meals taxes?
- Negotiation of Development Agreement including basis for Purchase / Lease price.
- Consideration in the Development Agreement of the potential for an in-kind contribution of new public spaces towards the Purchase / Lease price.

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Development Program Priorities & Mutual Efforts to Overcome Potential Barriers

- What is the size, nature, function, and management of the Public Space to be included in the redevelopment?
- How is space dedicated to youth incorporated into the redevelopment?
- Potential constraints of existing zoning regulations.
- Number of anticipated new housing units and application of Inclusionary Zoning requirements.
- Ability to change traffic circulation on South Union Street to support redevelopment.
- Are there any City requirements pertaining to the design of the project or its components.
- Preservation of some portion of the historic fabric of Memorial Auditorium.

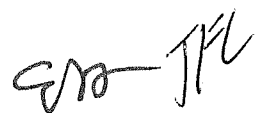
Logistics & Interrelated Details

- Timing and cost of relocating the Central Fire Station.
- Project Timeline.
- Other related capital priorities.

This work is intended to result in a Development Agreement that will provide the basis for the public/private partnership required for redevelopment.

Access to the Gateway Block: During the Due Diligence Period, as defined below, the Developer shall have reasonable access to Memorial Auditorium, the Central Fire Station and to the Main Street Parking Lot for the purpose of performing due diligence as set forth below, provided that (a) Developer shall not perform any invasive environmental testing without the City's prior written consent and (b) Developer shall only be permitted to enter into Memorial Auditorium while accompanied by a representative of the City. The City shall reasonably cooperate with Developer to facilitate Developer's access to and due diligence of Memorial Auditorium. Developer acknowledges that portions of Memorial Auditorium are being occupied by, or are being used for storage by, others, and Developer agrees that its due diligence shall not disturb such use.

Preliminary Due Diligence Period: Developer shall have from the date of this Letter of Intent to the later of the date on which the parties execute the Development Agreement or March 29, 2024 (the "Preliminary Due Diligence Period") to perform a project feasibility evaluation of Memorial Auditorium, the Main Street Parking Lot, and the Central Fire Station, including an engineering and environmental review to ascertain their physical condition; legal review of the City's title to such property, including but not limited to review of title and survey to determine the existence or materiality of any encumbrances affecting its use, occupancy, or enjoyment. The City acknowledges and agrees that such preliminary study will not obviate the need for a more comprehensive investigation of the Gateway Block, which investigation will require a substantial outlay of time and expense to be borne by the Developer, which expenses cannot be reasonably incurred by the Developer until after the execution of the Development Agreement. A comprehensive Due Diligence Period will be more fully articulated in the Development Agreement. Developer agrees that in conducting any inspections or investigations, Developer and Developer's Agents shall: (a) not damage any part of the City's property; (b) promptly pay when due the costs of all tests, investigations, and examinations; and (c) not permit any liens to attach to the City's property by reason of the exercise of Developer's rights hereunder. If any damage occurs to the City's property as



a result of Developer's due diligence or any activities upon the Gateway Block by Developer or its agents, Developer shall promptly restore the damaged property to the condition that existed prior to the commencement of the due diligence or such other activities, at Developer's sole cost and expense, and save and hold the City and its successors and assigns harmless from any claim, damage, cost or expense, including reasonable attorneys' fees, for any property damage or for any personal injuries arising in whole or in part from any inspections or investigations performed by Developer or its agents. Developer's obligations under this provision shall survive the termination of this Letter of Intent for any reason.

Limitations. Developer acknowledges and agrees that this Letter of Intent only provides Developer with a limited license for the purposes described herein and for no other purposes and for no other periods, and does not constitute, and no provision shall be construed to constitute, the grant, conveyance or assignment of any interest in real estate or a lease of any portion of the Gateway Block or any rights extending beyond the period and purposes identified above. The Developer shall at its own cost and expense comply with any and all laws, ordinances, regulations, codes and other legal requirements relating to its activities hereunder.

Insurance. Throughout the effective period of this Letter of Intent, Developer, at Developer's own cost and expense, will maintain a policy or policies of commercial general liability insurance (or its equivalent) insuring the City and Developer against all claims or demands for personal injuries to or death of any person, and damage to or destruction or loss of property, which may or may be claimed to have occurred on the Gateway Block or in the vicinity of the same arising from the acts or omissions of Developer. Such policies shall be in an amount not less than Two Million Dollars and 00/100 (\$2,000,000.00) for injury to or death of any one person or for damage to or destruction or loss of property in a single accident or occurrence. The Developer shall deliver to the City certificates evidencing such insurance coverage prior to its entry onto the Gateway Block (other than those portions which Developer already controls), which certificates shall name the City as an additional insured.

Liability; Indemnification. The City shall not be liable for any personal injury or damage to property which Developer or its employees, contractors, agents, or invitees may incur, regardless of the cause thereof, unless the cause of such injury or damage is a willful or grossly negligent act by the City, its officers, employees, and agents. Developer hereby releases the City from all such liability except as otherwise stated, it being the intent of the parties that Developer shall maintain adequate insurance to cover any such losses. Developer hereby agrees to defend, indemnify and hold harmless the City, its officers, employees and agents, from and against any and all damages to the Gateway Block, any personal injuries, claims, damages, losses, suits, judgments, costs and expenses (including without limitation reasonable attorney's fees) arising from Developer's use of and access to the Gateway Block or breach of this Letter of Intent including, but not limited to, the amounts of deductibles on Developer's insurance policies, or any costs resulting from Developer's failure to acquire insurance coverage as required hereunder, and any costs arising from subrogation under worker's compensation or liability claims. The indemnification provisions set forth above shall survive termination of this Letter of Intent.

No Assignment. The Developer may not assign this Letter of Intent under any circumstances.

END JFL


Termination: If at any time during the Preliminary Due Diligence Period set forth in this Letter of Intent, the Developer determines, in its sole discretion, that the Gateway Block is not suitable for Developer's intended use, Developer may terminate this Letter of Intent, upon written notice to the City and the Developer will have no further obligations to the City. In addition, the City may terminate this Letter of Intent in the event of breach by Developer of any of the covenants set forth herein following Developer's failure to cure such breach within ten (10) days following written notice by the City.

Confidentiality: Developer recognizes that this Letter of Intent is a public record and that communications and correspondence between the parties are subject to Vermont's public meeting laws and public records laws. The City agrees, however, that to the extent the City requires Developer to disclose to or provide the City with material nonpublic, confidential information or material in connection with the project, the City will work in good faith with Developer to maintain the confidentiality of such information or material in a manner that complies with applicable law.

Good Faith Letter of Intent: This Letter of Intent is intended to represent the good faith actions of the parties and therefore binding, subject to the full execution of a Development Agreement on or before March 29, 2024. The City agrees not to solicit any other interest, nor otherwise engage with any other party in connection with the redevelopment of the Gateway Block during the term of this Letter of Intent.

Miscellaneous: This Letter of Intent constitutes the entire understanding and agreement between the City and the Developer to date with respect to the subject matter hereof, and supersedes all prior agreements, representations, warranties, and understandings of the parties (whether oral or written). No promise, inducement, representation, or agreement, other than as expressly set forth herein, has been made to or by either the City or the Developer. This Letter of Intent may be amended only by written agreement signed by both the City and the Developer. This Letter of Intent may be executed in several counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument; all such counterparts may be evidenced by a copy sent by facsimile, .pdf or other secure electronic format and each such copy shall be deemed an original, shall be binding upon the parties for all purposes herein, and, together with any other counterparts, shall constitute one and the same instrument.

Authority: Each of the undersigned signatories represents that they have the authority to act on behalf of their respective entities. Within thirty (30) days of the execution of this Letter of Intent, the parties will provide each other with evidence of said entity's authority to execute this Letter of Intent and to negotiate the terms of the Development Agreement.

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DEVELOPER

Eric Farrell 11/9/23
Eric Farrell Date

Joe Larkin 11/9/23
Joe Larkin Date

ACCEPTED AND AGREED

City of Burlington

By: Mayor Miro Weinberger 11/9/23
Mayor Miro Weinberger Date

Pre-Development Agreement

This Pre-Development Agreement (“Agreement”) is entered into as of March ____, 2024 by and between the **City of Burlington**, a Vermont municipal corporation (the “City”) and Memorial Block, LLC, a Vermont limited liability company and single-purpose entity under the control of Eric Farrell and Joseph Larkin (“Developer”). Each is referred to individually as a “Party” and collectively as the “Parties.”

Background

- A. The “Memorial Block” is the city block in Burlington, Vermont bounded by Main Street, South Winooski Avenue, College Street, and South Union Street, measuring ± 3.81 acres. The City owns ± 2.95 acres, or 77%, of the Memorial Block including the historic Central Fire Station (the “CFS”), the Fletcher Free Library, Memorial Auditorium and the Main Street parking lot. The northeast corner of the Memorial Block is owned by the College Street Congregational Church (measuring ± 0.58 acres), and Developer holds site control over the remaining ± 0.28 acres including the properties numbered 230 Main Street, 234 Main Street and 236 Main Street located between Memorial Auditorium and the Main Street parking lot. An orthophoto outlining the boundaries of the City-owned portions of the Memorial Block is attached hereto as **Exhibit A**.
- B. The City seeks to redevelop the Memorial Block (the “Project”) as anticipated in *planBTV - Downtown and Waterfront Master Plan* adopted on June 10, 2013, and has entered into a Letter of Intent dated November 9, 2023 with Developer’s principals, Eric Farrell and Joe Larkin, in which the Parties agreed to work diligently to execute a formal and binding pre-development agreement on or before March 29, 2024 reflecting the expressions contained therein, including the following description of the Parties’ vision and goals with respect to the Project (the “Project Principles”¹):

“The redevelopment plan should reflect the following important elements and goals:

- The architectural design of the Memorial Block should be inspirational and welcoming. It should honor both the history of the City and the promise of its future.
- The architectural design of the Memorial Block should reflect its central role as an important point of entry into Downtown Burlington.
- The Memorial Block should represent a meaningful connection between adjacent neighborhoods, encouraging pedestrian movement in support of the businesses and services all along the way.

¹ The Letter of Intent refers to the “Gateway Block”; the quoted language below replaces the term “Gateway Block” with the term “Memorial Block” but is otherwise a direct quote from the Letter of Intent.

- The Memorial Block design should embrace the presence of the College Street Congregational Church and the Fletcher Free Library buildings and endeavor to create a vibrant pedestrian streetscape surrounding these important community resources.
- The Memorial Block should maintain the historic integrity of the Central Fire Station, repurposing it to serve in many capacities, such as additional public space, as a function space for an adjacent hotel, or some combination of public and private uses. The potential relocation of the Central Fire Station will be thoroughly studied to ensure the highest level of public safety and to improve the working conditions of fire department members.
- The Memorial Block should include a Central Public Assembly & Activity Space to replace Memorial Auditorium, although not of equal size nor equivalent in use, anchoring the core of the Block and serving as the heart of this new community. Alternatively, such space could be comprised of a combination of a portion of Memorial Auditorium that is retained and new Central Public Assembly & Activity Space. New public space on the Memorial Block should include space dedicated to youth. Such spaces can be either owned privately, or owned by a public/private partnership, or a combination thereof.
- If no portion of Memorial Auditorium is retained, then the Central Public Assembly & Activity Space should include a Veterans Memorial using the plaques that are currently on display in the lobby of Memorial Auditorium,
- After nearly 100 years of public ownership of most of the properties in the Memorial Block, the public should be included in the process of re-envisioning this area.
- The Memorial Block may include hotel use with a minimum of 100 rooms, serving as a vibrant anchor for the Block.
- The Memorial Block should result in the creation of a minimum of 200 units of housing, including a mix of housing types, and both affordable and market-rate units. The affordable housing must satisfy the City's requirement for inclusionary housing units, which requirements will be more specifically articulated in the Development Agreement.
- The Memorial Block should explore secure rooftop greenspaces, where feasible, for the enjoyment of the residents, business employees, hotel guests and the general public, when appropriate (i.e., during public events). Rooftop solar should be considered wherever feasible.
- The Memorial Block should be designed to advance the City's Net Zero Energy goals.

- All parking for the Memorial Block should be located within an understory garage, not visible from the surrounding streets except for the required garage entrances. The garage should include a component of public parking. Incidental surface parking and drop-off zones should be allowed at the entrances to the hotel, residential buildings, Fletcher Free Library, and the College Street Congregational Church. Surface parking should not otherwise be allowed within the Memorial Block.
 - The architectural plans for the Memorial Block should be coordinated with, be complementary to, and otherwise support the significant improvements planned for the Main Street corridor.”
- C. Developer and the City desire to enter into and memorialize certain agreements to reasonably facilitate Developer’s development of the Project substantially in accordance with the Project schedule referenced below.

Now therefore, in consideration of the covenants, considerations and mutual benefits set forth herein, and other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, the City and Developer agree as follows:

1. Preliminary Project Schedule. The Parties desire to determine, by December 31, 2024, whether the Project is viable. To determine viability, the Parties agree to work together in good faith to implement the terms of this Agreement and to enter into subsequent agreements as reasonably necessary to achieve mutually desired outcomes. If the Parties determine that the Project is viable, they anticipate negotiating and executing either a formal development agreement or a ground lease and other Implementing Documents (defined below) by June 30, 2025, after which Developer would obtain all necessary municipal, state and federal land use and regulatory permits for the Project (“Project Permits”) by June 30, 2026 and would commence Project construction by October 31, 2026.
2. Due Diligence Period. To determine whether the Project is viable, Developer agrees to undertake and perform due diligence with respect to the Memorial Block, as described below, from the date of this Agreement until December 31, 2024 (the “Due Diligence Period”). In the event the Developer has made a good faith effort to perform its due diligence requirements, as set forth below, but has not been able to complete such undertakings and analysis by December 31, 2024, through no fault of its own, or in part due to the City’s inability to perform its obligations as set forth below, then the Developer shall have the right to extend the Due Diligence Period to June 30, 2025, subject to the consent of the City, which consent shall not be unreasonably withheld.
 - (a) Physical Due Diligence and Title Work. During the Due Diligence Period, Developer agrees to undertake and perform physical due diligence with respect to the Memorial Block in accordance with the following:
 - (i) Developer shall be entitled, during the Due Diligence Period, to perform a physical evaluation of Memorial Auditorium, the Main Street parking lot, and the CFS,

including an engineering and environmental review to ascertain their physical condition, and legal review of the City's title to such property, including but not limited to a review of title and survey records to determine the existence or materiality of any encumbrances affecting use, occupancy, or enjoyment.

(ii) Developer agrees that in conducting any inspections or investigations, Developer and its agents shall: (A) not damage any part of the City's property; (B) promptly pay when due the costs of all tests, investigations, and examinations; and (C) not permit any liens to attach to the City's property by reason of the exercise of Developer's rights hereunder. If any damage occurs to the City's property as a result of Developer's due diligence or any activities upon the Memorial Block by Developer or its agents, Developer shall promptly restore the damaged property to the condition that existed prior to the commencement of the due diligence or such other activities, at Developer's sole cost and expense, and save and hold the City and its successors and assigns harmless from any claim, damage, cost or expense, including reasonable attorneys' fees, for any property damage or for any personal injuries arising in whole or in part from any inspections or investigations performed by Developer or its agents. Developer's obligations under this provision shall survive the termination of this Agreement for any reason.

(iii) During the Due Diligence Period, Developer shall have reasonable access to Memorial Auditorium, the CFS and to the Main Street parking lot for the purpose of performing due diligence as set forth above, provided that (A) Developer shall not perform any invasive environmental testing without the City's prior written consent, (B) all inspections of the CFS shall be coordinated in advance with the Burlington Fire Department and with the Burlington Community Economic Development Office ("CEDO"), and (C) Developer shall only be permitted to enter into Memorial Auditorium while accompanied by a representative of the City. The City shall reasonably cooperate with Developer to facilitate Developer's access to and due diligence of Memorial Auditorium. Developer acknowledges that portions of Memorial Auditorium are being occupied by, or are being used for storage by, others, and Developer agrees that its due diligence shall not disturb such use.

(iv) Developer acknowledges and agrees that this Agreement only provides Developer with a limited license for the purposes described herein and for no other purposes and for no other periods, and does not constitute, and no provision shall be construed to constitute, the grant, conveyance or assignment of any interest in real estate or a lease of any portion of the Memorial Block or any rights extending beyond the period and purposes identified above. The Developer shall at its own cost and expense comply with any and all laws, ordinances, regulations, codes and other legal requirements relating to its activities hereunder.

(v) Throughout the effective period of this Agreement, Developer, at Developer's own cost and expense, will maintain a policy or policies of commercial general liability insurance (or its equivalent) insuring the City and Developer against all claims or demands for personal injuries to or death of any person, and damage to or destruction or loss of property, which may or may be claimed to have occurred on the

Memorial Block or in the vicinity of the same arising from the acts or omissions of Developer. Such policies shall be in an amount not less than Two Million Dollars and 00/100 (\$2,000,000.00) for injury to or death of any one person or for damage to or destruction or loss of property in a single accident or occurrence. The Developer shall deliver to the City certificates evidencing such insurance coverage prior to its entry onto the Memorial Block (other than those portions which Developer already controls), which certificates shall name the City as an additional insured.

(vi) The City shall not be liable for any personal injury or damage to property which Developer or its employees, contractors, agents, or invitees may incur, regardless of the cause thereof, unless the cause of such injury or damage is a willful or grossly negligent act by the City, its officers, employees, and agents. Developer hereby releases the City from all such liability except as otherwise stated, it being the intent of the parties that Developer shall maintain adequate insurance to cover any such losses. Developer hereby agrees to defend, indemnify and hold harmless the City, its officers, employees and agents, from and against any and all damages to the Memorial Block, any personal injuries, claims, damages, losses, suits, judgments, costs and expenses (including without limitation reasonable attorney's fees) arising from Developer's use of and access to the Memorial Block or breach of this Agreement including, but not limited to, the amounts of deductibles on Developer's insurance policies, or any costs resulting from Developer's failure to acquire insurance coverage as required hereunder, and any costs arising from subrogation under worker's compensation or liability claims. The indemnification provisions set forth above shall survive termination of this Agreement.

(b) Programmatic Due Diligence. In addition to its conduct of physical due diligence, during the Due Diligence Period Developer agrees to undertake and perform programmatic due diligence with respect to the Project to determine its viability in accordance with the following:

(i) Program. Develop a program for the Project consistent with the Project Principles, in terms of the various uses of space within the Project (e.g., housing, hotel, retail, office, public assembly, structured parking, park space, photovoltaic power generation, etc.), the square footages and/or unit counts devoted to each use, the quantity and mix of housing units, the number of structured parking spaces, and any other information or metrics relevant to a determination of viability. The number of housing units in the Project may vary from the Project Principles as a result of this effort.

(ii) Concept Plans and Drawings. Engage civil engineers, architects, landscape architects and other professionals to develop concept plans and drawings for the Project, including scaled site plans and elevation drawings, sufficient to depict the proposed program for the Project. The concept (schematic) plans and drawings should depict the Project layout and also identify and describe proposed infrastructure and utility improvements and include a proposed phasing schedule.

(iii) Market Feasibility Assessment. Engage reputable, independent third-party market consultants to assist in the assessment of the feasibility of developing the Project with the proposed program. Such market feasibility assessments should include estimates

of the approximate values of the completed elements of the Project.

(iv) Regulatory Feasibility Assessment. Engage civil engineers, architects, land use attorneys and/or other land use planning professionals to assess the feasibility of obtaining all necessary land use and regulatory permits and approvals to develop the Project with the proposed program. If the regulatory feasibility assessment concludes that current municipal zoning would not permit the Project to be developed as proposed, then it should identify such limitations and propose solutions to overcome or remove such limitations.

(v) Sources and Uses of Funds. Develop a preliminary budget for the Project, including a sources and uses table, to include estimated hard and soft costs typically associated with the development and construction of a project that includes the desired programmatic elements and to include typical development and construction contingencies and forward-looking cost escalators to account for the anticipated construction timeline. If the Project is proposed to be developed in phases over time, then the preliminary budget shall address the first phase with details sufficient to support the commencement of the Project with an estimated timeline, sequence and schematic designs for future phases that demonstrate the financial feasibility of completing the Project over the proposed timeline.

(vi) Appraisal. Developer shall engage a Qualified Appraiser, mutually selected by Developer and the City, to determine the existing value of the Memorial Block and its constituent parcels and improvements (meaning, prior to the construction of the Project), subject to a mutually agreed-upon set of assumptions and parameters to be determined by the Parties (the “Appraisal”). Such parameters shall include, but not be limited to, existing physical deficiencies and/or atypical building and site conditions that would negatively impact the financial feasibility of developing any portion of the Memorial Block. As used herein, the term “Qualified Appraiser” shall mean an MAI-certified appraiser or other professionally licensed appraiser with at least five (5) years’ experience appraising commercial real property similar in location, nature and quality to the properties that comprise the Memorial Block; provided, however, that the term “Qualified Appraiser” shall not include any individual who has any professional, business, family or personal affiliation with a Party that would compromise his or her independence; such exception shall not include work the “Qualified Appraiser” may have performed on behalf of a bank or lending institution in connection with one or more properties owned by the Developer.

(c) Termination. If at any time during the Due Diligence Period Developer determines, in its sole discretion, that the Memorial Block is not suitable for Developer’s intended use, Developer may terminate this Agreement upon written notice to the City, and thereafter the Developer will have no further obligations to the City except for those obligations that explicitly survive termination.

(d) Share Work Product. Developer agrees to share the work-product produced by its activities described in this Section 2 with CEDO staff for their review so that the City can evaluate whether Developer’s proposals implement the Project Principles in a manner that is reasonably likely to be acceptable to the City, and whether the Parties will be able to relocate the CFS in the

manner described below to facilitate the Project. Developer agrees to use good faith efforts to provide its work product by the end of the Due Diligence period so that City staff has sufficient time to review and comment upon such materials in an effort to move the Project beyond the Due Diligence Period. The Parties acknowledge that if the City, after review by CEDO staff, determines, in its reasonably exercised discretion, that the Project satisfies the requirements set forth in this Agreement, it will be necessary to obtain authorization from the Burlington City Council to deliver site control to Developer in the manner contemplated by Section 7 of this Agreement and to provide Developer with the right, pursuant to the Implementing Documents (as defined in Section 7), to proceed to obtain Project Permits and to work towards the construction of the Project and the relocation of the CFS.

(e) The City acknowledges the Developer will be expending considerable time and expense to satisfy its obligations during the Due Diligence Period; Developer acknowledges that it is undertaking such efforts and incurring such expenses at its own risk, and that the City does not guaranty that the Project will be feasible or that the Project will proceed beyond the due diligence phase.

3. Central Fire Station Relocation. The City commits to relocating the CFS to a new public safety facility on Pine Street by a date that will facilitate Developer's construction of the Project thereon, subject to Developer's performance under Section 3(b) and Section 3(d).

(a) The City agrees to investigate the feasibility of relocating the CFS to a new public safety facility to be constructed on City-owned property on Pine Street including by determining whether existing zoning and land use regulations and institutional controls permit the construction of a new public safety facility on the target property. The City acknowledges and agrees that the relocation of the CFS is an absolute requirement of the Developer for the Project and, accordingly, the City agrees to work diligently and in good faith to identify a City-owned location for the new public safety facility in satisfaction of the requirements set forth in this Section 3, including by completing its zoning and land use analysis by September 30, 2024 in order to afford Developer a reasonable time to fulfill its obligations under Section 3(b).

(b) Developer shall investigate the feasibility of relocating the CFS to a new public safety facility to be constructed on City-owned property on Pine Street (to be identified by the City), including (i) the estimated cost to develop, construct and equip a new public safety facility to the City's specifications, (ii) the proposed timeline for the construction and relocation project, (iii) the availability and cost of financing for the construction and relocation project, and (iv) the projected monthly carrying costs of the completed project.

(c) The City shall participate and support Developer's investigations by providing Developer with specifications and requirements for the new public safety facility sufficient for the Developer to undertake its obligations as set forth herein. Developer shall have the right to determine when the new public safety facility is constructed in coordination with its development schedule for the Project.

(d) To facilitate the City's relocation of the CFS to a new public safety facility on a schedule that facilitates the Project, Developer agrees to construct a replacement public safety

facility to the City's specifications on property located on Pine Street that is currently City-owned, and to (i) net lease the new public safety facility to the City, if the City retains ownership of the underlying land; or (ii) if the City is required to transfer the City-owned property to the Developer in order to facilitate the Developer's financing, then to ground lease the land and building to the City until such time as the City's Chief Administrative Officer determines that the City has capacity to bond for its purchase and, if required, the voters shall have authorized the City to bond for its purchase. In the event of (ii) above, the transfer of the City-owned property to the Developer shall be at no cost. The rent payable under the ground lease will be established at a rate that covers Developer's carrying costs with respect to the new public safety facility (i.e., Developer's cost of constructing and owning the new public safety facility, including soft costs, financing costs including a reasonable return on equity and debt service costs). The purchase price for the completed public safety facility will equal Developer's total costs of development, construction and ownership of the new public safety facility, together with any operating and/or carrying costs that shall not have been reimbursed through the payment of rent.

4. City Commitments. To facilitate Developer's ability to develop plans for the Project and to commit to a Project timeline, the City agrees to the following commitments should the Project proceed:

(a) Properties. The City will contribute the following properties to the Project: Memorial Auditorium, the CFS, the Main Street parking lot, and the surface parking lot serving the Fletcher Free Library.

(b) Ravine Sewer. Once Developer and the City shall have fully committed to a specific, designed and permitted Project, the City agrees that it will abandon the existing ravine sewer line that runs through the Main Street parking lot, at its expense, by a date that will facilitate Developer's construction of the Project thereon.

(c) Library Improvements. The City agrees to work in good faith with Developer to coordinate Developer's planned improvements for the Memorial Block with the improvements the City has planned for the Fletcher Free Library.

(d) Public Process. The City agrees to engage the public to solicit feedback regarding desired public uses to be incorporated into the program for the Project.

(e) Review of Developer Submissions. The City will timely review Developer's work product regarding the Project program, design, construction phasing, infrastructure elements, and deal structure, and shall use good faith efforts to timely provide Developer with constructive feedback to indicate its areas of approval and any items of concern.

(f) Funding Sources. The City will investigate and identify potential funding sources and financial benefits that may be available to the Project by reason of the City's involvement, support and/or sponsorship, including the identification of any requirements associated with particular funding sources, and will communicate its findings to Developer to assist the Developer to develop its sources and uses proposal.

(g) Regulatory Assistance. If Developer's regulatory feasibility assessment concludes that current municipal zoning would not permit the Project to be developed as proposed, the City will work with Developer in good faith to develop solutions to, or to overcome or remove, such limitations. If the Parties determine that it will be necessary to amend the City's Comprehensive Development Ordinance ("Zoning Ordinance") to permit the Project to proceed, then the City, acting through the Office of the Mayor, will use diligent, good faith efforts to facilitate the adoption of an amendment or amendments to the Zoning Ordinance to facilitate the Project, with the understanding that only the Burlington City Council and Planning Commission have the authority to adopt amendments to the Zoning Ordinance, which must be adopted in accordance with applicable laws, ordinances and regulations.

5. Developer Commitments. Developer agrees to the following commitments should the Project proceed:

(a) Properties. Developer will contribute the following properties to the Project: 230 Main Street, 234 Main Street, and 236 Main Street. Developer represents that it currently controls such properties, and that it holds the option and right to acquire fee title to such properties should the Project proceed. At the time that Developer contributes such properties to the Project, it will provide the City with copies of its title reports, title and survey materials, and title insurance policies with respect thereto.

(b) College Street Congregational Church Parking Lot. Developer agrees to use commercially reasonable, good faith efforts to (i) acquire fee title to the surface parking lot serving the College Street Congregational Church for inclusion in the Project, and to contribute such property to the Project should the Project proceed, or (ii) facilitate the repurposing of the surface parking lot into green space to be retained by the Church for its use, in either case consistent with the final plan to develop the Project. At the time that Developer contributes such property to the Project, it will provide the City with copies of its title reports, title and survey materials, and title insurance policies with respect thereto.

(c) Financial Capacity. On or before June 1, 2024, Developer agrees to provide the City with information regarding the experience, qualifications and financial capability of the Developer and its principals, and their ability to implement a feasible plan for the Project (including the identification of possible equity sources, debt sources and associated financial sureties), together with information listing the Developer's real estate development experience managing an investment and development team, including architects, engineers, attorneys, contractors, investors and lenders, capable of designing, financing, constructing, operating and managing the Project long-term. The Parties agree to cooperate as needed to facilitate the completion of these disclosures and assessments, including appropriate treatment of proprietary or confidential information. If the City after reasonable review is not satisfied with such disclosures and assessments, then the City shall have the right to terminate this Agreement. The City shall make such determination on or before July 1, 2024.

6. Further Agreements. Developer agrees to use good faith efforts to provide City staff with the work product produced by its activities described in Section 2 of this Agreement on or before sixty (60) days prior to the end of the Due Diligence Period, so that City staff has sufficient time

to review and comment upon such materials in an effort to move the Project beyond the Due Diligence Period. If the Parties determine at the end of the Due Diligence Period that the Project is viable and that it is necessary for them to memorialize further agreements with respect to the Project including, without limitation, with respect to the relocation of the CFS, prior to or concurrent with their entry into the Implementing Documents (as further discussed in Section 7, below), the Parties will use good faith efforts to negotiate a Development Agreement to encompass and address such further commitments and agreements for presentation to the Burlington City Council for its review and approval. The intent of the Development Agreement would be for the Parties to make reciprocal commitments covering the period from the end of the Due Diligence Period to the execution of the Implementing Documents described in Section 7 below.

7. Implementing Documents. Upon the expiration of the Due Diligence Period, or the period covered by the Development Agreement referenced in Section 6 above, the Parties intend for Developer to convey to the City those elements of the Memorial Block that the City does not already own, and for the City (a) to ground lease to Developer those portions of the Memorial Block that are to be redeveloped, and/or (b) to establish other legal structure(s) that the Parties determine to be appropriate and in the best interests of the Project and the mutual best interests of each Party (collectively, “Implementing Documents”). In making such a determination, the Parties recognize that an appropriate legal structure for the Project may be one in which the City maintains ownership of all or a portion of the land using a mechanism other than a ground lease, and each Party shall act in good faith to consider the interests of the other Party. If the Parties determine that the Project is viable and that they desire for Developer to proceed to obtain Project Permits and work towards the construction of the Project and the relocation of the CFS to a new public safety facility, the City would prepare a draft ground lease for review and approval by Developer, and Developer would prepare drafts of the other Implementing Documents for review and approval by the City, in each case with the intent of drafting documents which, upon execution, would deliver site control to Developer. The City’s execution of the Implementing Documents will require authorization from the Burlington City Council, and if authorization is granted it would be conditioned on Developer’s conveyance of real property to the City, if required by the Implementing Documents, in the manner contemplated by this Agreement. The Parties anticipate that the Implementing Documents would include, without limitation, the following concepts:

(a) The consideration payable to the City pursuant to the Implementing Documents will reflect, among other factors, the value of: Developer’s acquisition of 230 Main Street, 234 Main Street and 236 Main Street and contribution of such properties to the Project (as established by the Appraisal); Developer’s acquisition of the College Street Congregational Church surface parking lot, if applicable, and contribution of such property to the Project (as established by the Appraisal); the City’s contribution of Memorial Auditorium, the CFS, the Main Street parking lot, and the surface parking lot serving the Fletcher Free Library to the Project (as established by the Appraisal); Developer’s costs to restore or demolish Memorial Auditorium; the Project’s provision of public amenities, including infrastructure upgrades, assembly space, youth-led space, structured parking, and park space; the Project’s provision of workforce, affordable and market housing; the Project’s effect on the municipal Grand List; the Project’s generation of municipal meals and rooms tax; the Project’s generation of municipal sales tax, and; the Project’s profitability.

(b) The City will reserve easements for water and sewer infrastructure through portions

of the subject property that will be identified on a plan attached to the Implementing Documents.

(c) The Implementing Documents will include infrastructure and construction requirements established by the Burlington Department of Public Works.

(d) The Implementing Documents will be effective upon full execution, but if the Implementing Documents include a ground lease it will not take effect until all Project Permits will have issued and Developer will have satisfied all commencement contingencies and is prepared to commence construction, and in that case the ground lease will provide that once construction commences the lease term will be 99 years.

(e) Commencement pursuant to the Implementing Document will be contingent on (i) the Parties' entry into a mutually satisfactory agreement with regard to the relocation of the CFS, (ii) Developer's receipt of all Project Permits, issued without conditions to which either Party objects, and such permits having become final and unappealable, (iii) the City's approval of the final Project program, plans and specifications, (iv) Developer being able to demonstrate to the City's reasonable satisfaction that it has sufficient financial capacity, through a mixture of equity and a debt financing, and other municipal, state, federal and private sources and considerations, to construct an agreed-upon scope of the work (it being understood that the Project will be constructed in phases), and (v) Developer's entry into a construction contract with a capable, reputable general contractor or construction manager which establishes either a guaranteed maximum price or lump sum price consistent with Developer's available sources of debt and equity financing, for a fixed construction term, to construct the first phase of the Project. If the contingencies are not satisfied by a date certain, the City shall have the right to the remedies set forth in the Implementing Documents. The Parties acknowledge that it will be necessary for Developer to obtain permits and approvals for the Project from the Burlington Development Review Board ("DRB"), that the DRB is an independent body not under the City's control, and that the City does not and cannot guaranty that the DRB will approve the Project.

(f) Developer will commit to a design process that engages public participation and solicits public feedback regarding the public spaces that are a component of the Project at the commencement of the design process and thereafter at intervals throughout the design process.

(g) The City will provide Developer with active support during the regulatory review process.

(h) The Implementing Documents will grant Developer the ability to establish "pad sites" to be transferred or subleased to entities which would then own individual buildings constructed as components of the Project, subject to the Implementing Documents. The Implementing Documents will allow for the establishment of an air-space condominium, as permitted by the Vermont Common Interest Ownership Act, to facilitate the establishment and transfer of such "pad sites".

(i) If the Implementing Documents include a ground lease it will establish a capital reserve requirement and will address the disposition of improvements at the expiration of the lease term.

(j) The Implementing Documents will include provisions designed to anticipate and address the needs of Project lenders.

8. Within one week of the full execution of this Agreement, Developer shall provide the City with an organizational chart which shall, without limitation, confirm that Eric Farrell and Joe Larkin are Developer's principals with operational authority and control over Developer's activities.

9. Confidentiality. Developer recognizes that this Agreement is a public record and that communications and correspondence between the parties are subject to Vermont's public meeting laws and public records laws. The City agrees, however, that to the extent the City requires Developer to disclose to or provide the City with material nonpublic, confidential information or material in connection with the Project, the City will work in good faith with Developer to maintain the confidentiality of such information or material in a manner that complies with applicable law.

10. No Assignment. This Agreement shall not be assigned by Developer without the prior written consent of the City, which consent shall not be unreasonably withheld or delayed so long as Eric Farrell and Joe Larkin hold and exercise executive managerial authority over the assignee.

11. Cooperation; Further Assurances. The Parties shall cooperate and communicate with each other on a regular basis, including by arranging joint meetings with appropriate personnel present to address issues set forth in this Agreement, to discuss any proposed changes to the Project and to discuss the work product generated as the Project progresses, so as to permit the orderly and efficient development of the Project. The Parties agree to execute, acknowledge, if necessary, and deliver such documents, certificates or other instruments and take such other actions as may be reasonably required from time to time to carry out the intents and purposes of this Agreement.

12. Governing Law; Venue. This Agreement shall be governed and construed in accordance with the laws of the State of Vermont, without regard to its conflicts of law rules. The Parties consent to and submit to in personam jurisdiction and venue in the State of Vermont, County of Chittenden, and in the federal district courts which are located in the City of Burlington. The Parties assert that they have purposefully availed themselves of the benefits of the laws of the State of Vermont and waive any objection to in personam jurisdiction on the grounds of minimum contacts, waive any objection to venue, and waive any plea of forum non conveniens. This consent to and submission to jurisdiction is with regard to any action related to this Agreement, regardless of whether the Parties' actions took place in the State or elsewhere in the United States.

13. Severability. If any term, covenant or condition contained in this Agreement is held to be invalid by any court of competent jurisdiction, such invalidity shall not affect any other term, covenant or condition herein contained, provided that such invalidity does not materially prejudice any Party in their respective rights and obligations contained in the valid terms, covenants or conditions hereof, and the Parties shall cooperate to modify the Agreement to cause it to conform to the original language of the Agreement to the extent consistent with the finding of the court.

14. Construction; Headings. The Parties waive the benefit of any rule that this Agreement is to

be construed against one Party or the other. The headings in this Agreement are for the purposes of reference only and shall not limit or otherwise affect the meaning hereof.

15. Integration; Modification. This Agreement, together with the exhibits referenced herein and/or attached hereto, constitutes the entire agreement between the Parties with respect to the subject matter hereof and supersedes any prior agreements or representations, oral or written, on the same subject. The Agreement can be modified only by written agreement executed by authorized representatives of each Party.

16. No Partnership. The Parties do not intend by this Agreement to create, nor shall this Agreement be deemed to create, a partnership or a joint venture among the Parties; each Party is an independent actor and entity, and nothing in this Agreement shall be deemed to make either Party an agent or partner of the other, or to give either Party the right to bind the other in any way, notwithstanding any reference to the Project as a “public-private partnership.”

17. Waiver. The failure of either Party to insist on strict performance of any of the provisions of this Agreement or to exercise any right it grants will not be construed as a relinquishment of any right or a waiver of any provision of this Agreement. No waiver of any provision or right shall be valid unless it is in writing and signed by a duly authorized representative of the Party granting the waiver.

18. Incorporation by Reference. The content of the Background section to this Agreement, including without limitation the definitions set forth therein, and all exhibits hereto and the terms contained therein and the contents thereof, are incorporated into this Agreement by reference.

19. Authority. Each of the Parties warrants to the other that the person or persons executing this Agreement on behalf of such Party has the full right, power and authority to enter into and execute this Agreement on such Party's behalf and to thereby bind the Party on whose behalf such person, and that no consent from any other person or entity is necessary as a condition precedent to the legal effect of this Agreement.

20. Notices. Any notices to be given pursuant to this Agreement shall be sufficient if given by a writing: deposited in the United States mails, certified mail or registered mail, return receipt requested, postage prepaid; by commercial courier, provided the courier's regular business is delivery service and provided further that it guarantees delivery to the addressee by the end of the next business day following the courier's receipt from the sender; or by email (provided that the electronic process used is reasonably secure and not easily susceptible to manipulation) addressed as follows:

If to the City:	City of Burlington
	149 Church St.
	Burlington, VT 05401
	Attention: Mayor
	Attention: CEDO Director

If to Developer: Memorial Block LLC
 Attention: Eric Farrell
 Attention: Joe Larkin

With a copy to:

or to such other person, address or number as the Party entitled to such notice or communication shall have specified by notice to the other Party given in accordance with the provisions of this Section. Any such notice or other communication shall be deemed given: (i) if mailed, three days after being deposited in the mail, properly addressed and with postage prepaid; (ii) if sent by courier, the next day after being deposited with the courier, properly addressed and with prepaid; (iii) if sent by email, when transmitted as long as the sender does not receive a delivery failure notification or “out of office” notification.

Signature Page to Follow

In Witness Whereof, this Agreement is executed by the duly authorized officers or representatives of the Parties as of the date first set forth above.

City of Burlington

Memorial Block LLC

By: _____
Name: Miro Weinberger
Title: Mayor

By: _____
Name: Eric Farrell
Title: Authorized Agent

By: _____
Name: Joseph Larkin
Title: Authorized Agent

Board of Finance and City Council Submission ChecklistDepartment: CEDO Submitter: Samantha DunnTitle/Subject: Memorial Block Pre-Development Agreement Update

	Approval:	Meeting Date:
☐	Board of Finance	Click or tap to enter a date.
☒	City Council	2/26/2024
☐	Concurrent	Click or tap to enter a date.

This form must be completed by the person submitting the materials, and sent with the final submission. Please do not indicate that a signoff was received until it has actually been obtained.

Signoffs Received

Signoff Needed	Received	Date Received	Note
Department Head	Yes	2/21/2024	Brian Pine
Mayor's Office informed and approved memo	Yes	No response	Jordan Redell
Board/Commission, if required	N/A	Click or tap to enter a date.	Click or tap here to enter text.
City Attorney's Office has approved contract and/or legal documents, -Identify attorney in note	N/A	Click or tap to enter a date.	Click or tap here to enter text.
City Attorney's Office has approved memo and motion(s) or resolution(s) -Identify attorney in note	Yes	2/21/2024	Jared Pellerin
CAO has reviewed budget, financing, and memo	Yes	2/21/2024	Katherine Schad
Human Resources, if personnel action -Identify HR Manager in note	N/A	Click or tap to enter a date.	Click or tap here to enter text.
CIO, if an IT-related investment/purchase	N/A	Click or tap to enter a date.	Click or tap here to enter text.

Materials Included

	Included?	Note
Final Memo Attached?	Yes	Click or tap here to enter text.
Contract Attached, if applicable?	N/A	Click or tap here to enter text.
Additional Materials, if necessary	Yes	Slides and Draft Pre-Development Agreement
Draft Resolution or Motion?	N/A	Click or tap here to enter text.
If for submission to Council, are sponsors identified?	N/A	Click or tap here to enter text.

CITY COUNCIL ACCOUNTABILITY LIST

This list is a working document. It is a record of resolutions, ordinances, communications that have come to the Council and there is an action requested.

Prepared by: Lori Olberg, Licensing, Voting & Records Coordinator

2/11/2024

	Meeting Date	Type of Document	Action Requested	Updated Next Steps in the Process
1	2/6/2023	Communication re Ward 2/3 NPA Resolution to Name the New Shelburne Street Roundabout After Tony Redington and Ward 2/3 NPA Resolution in Support of Big Heavy World Teen Center Proposal for Memorial Auditorium	refer the communication to TEUC and CDNR Committees respectively for further review and engagement	TEUC Item was taken up at the March meeting, more information was requested for the next TEUC meeting. As of February 2024, no further action taken
2	3/13/2023	Communication re Ward 5 NPA Steering Committee to Name the New Shelburne Street Roundabout after Tony Redington	refer the communication to TEUC for further review	TEUC Item was taken up at the March meeting, more information was requested for the next TEUC meeting. As of February 2024, no further action taken
3	3/13/2023	Resolution: Supporting LGBTQIA+ Community Members and Condemning Transphobia	City Council will work with community members and organizations and the City administration to develop a plan for ongoing activities to support and amplify the voices of the LGBTQIA+ community; City Council urges Burlington’s state legislative delegation to look at current state hate crime statute to look to extend protections for schools and organizations that advocate/support LGBTQ+ (and other minoritized communities) from hate motivated targeted crimes City Council’s Ordinance Committee shall, in coordination with the Burlington Police Department and the City Attorney’s Office, examine Burlington’s graffiti ordinance and consider changes that address continued defacement of public property, and graffiti that spreads hateful and harmful messages.	There have been stakeholder meetings brought forward by the Administration to address the directives in the resolution.
4	4/17/2023	Communication re Winooski Avenue Corridor Study Implementation Update	refer the communication to TEUC in order to work with the Administration on the plan to monitor and evaluate the changes to the North Winooski Avenue corridor and any proposal to address the transportation and neighborhood needs arising from the evaluation	This is an ongoing item as the businesses and organizations in the area continue to work on this.
5	5/15/2023	Resolution: BTV Solar Eclipse 2024	The City Council requests that the event planning staff in Burlington City Arts, Business and Workforce Development, and the Burlington Parks, Recreation and Waterfront Department provide regular updates to the City Council Parks, Arts, and Culture Committee regarding planning for this event, including but not limited to, developing a page on the City’s website with visitor data, coordinating with local organizations on events in the area, and city-sponsored events to celebrate the eclipse in collaboration with area schools, scientific organizations, and/or other groups celebrating the arrival of the exclipse. Staff to update the Parks, Arts, and Culture Committee in July or August 2023 and in January 2024 with a full plan for the event.	Referred to PACC with updates to the full Council in September and early 2024. UPDATE: final update to the Council and community on March 11.
6	6/5/2023	Resolution: Accepting Grant Funding from the Department of Mental Health for the Crisis Response Team and Exploring the Creation of a Burlington CAIP Department	requests an evaluation be done to explore Burlington CAIP becoming a department of the City , an evaluation be done to review the reporting and supervisory structure needed to support three public safety departments (police, fire and CAIP), that a report come to Public Safety Committee in October 2023,	Report to come to Public Safety in October 2023.
7	7/24/2023	Resolution: The Climate Emergency and the Council Request to Count Vermont Air National Guard GHG Emissions and to Plan to Eliminate VTANG Aviation and Ground GHG Emissions in the Spirit of the City's 2030 Net Zero Goals	requests that the Vermont Air Force National Guard Adjutant General, beginning for the year 2023, calculate aviation and ground fuel usage at the VTANG base and to annually provide BTV Director and TEUC with a complete record of the calculated aviation and ground greenhouse gas emission; for VTANG to work collaboratively to draft a plan to adopt simulation and augmented reality training to substantially reduce or eliminate GHG with initial meeting on or before 12/31/23 and follow up at TEUC's March 2024 meeting	Initial meeting of the parties by 12/31/2023; UPDATE: Council President followed up w/committee chair 2/11/2024
8	12/18/2023	Ordinance: Burlington Code of Ordinances-Sections 21-45 - 21-49 Trespass	refer the proposed to the ordinance committee for further review to include, but not be limited to, consideration of the list of parties authorized to issue no trespass orders, balancing no trespass orders with proactive harm reduction efforts and to evaluate expanding the ability to enforce the trespass ordinance on private property.	
9	1/29/2024	Ordinance: ZA-24-02 Neighborhood Code	warned for a first hearing to take place on Febraury 26, 2024	

NOTE: These communications are both regarding the Shelburne Street Roundabout naming after Tony Reddington

**BURLINGTON CITY COUNCIL
CITY HALL, CONTOIS AUDITORIUM *OR*
REMOTE MEETING WITH CALL-IN
BURLINGTON, VERMONT
MINUTES OF MEETING
January 16, 2024
DRAFT**

MEMBERS PRESENT:

Karen Paul
Joan Shannon
Ali Dieng (via Zoom)
Zoraya Hightower
Sarah E Carpenter
Mark Barlow
Joe Magee
Gene Bergman
Ben Traverse
Tim Doherty
Melo Grant
Hannah King

OTHERS PRESENT:

Miro Weinberger
Katherine Schad
Jared Pellerin
Kim Sturtevant
Samantha Sheehan
Lori Olberg
Nathan Lavery
Tom Flanagan
Clare Wool
Brian Pine
Chapin Spencer
Laura Wheelock
Josh Olund
Steven Spear
Mike LaCroix
Bob Klinefelter
Carolyn Cota

1. CALL TO ORDER and AGENDA

The meeting was called to order by City Council President Paul at 5:33 PM.

MOTION by Councilor Doherty, SECOND by Councilor King, to amend/adopt the agenda as follows:

- **Add to the consent agenda item 7.22. Communication: Jake Twarog, re: Winooski Bridge Project – Pedestrian & Bike Safety.**

VOTING: unanimous; motion carries.

2. PRESENTATION: BURLINGTON SCHOOL DISTRICT, RE: BUDGET DEVELOPMENT UPDATE

2.1. Presentation: Burlington School District, re: Budget Development Update
Superintendent Flanagan and Director of Finance Lavery presented on this item.

Superintendent Flanagan began by speaking about budgetary assumptions. He noted that wages and benefits saw an increase of 5%, and that health insurance premiums are estimated to increase by 16.4%. He said that there was a \$9.5 million increase in debt service due to bonding. He noted that ESSER funds are ending, which means that programs and positions funded by federal dollars can only be retained if the budget is increased to support them.

He then spoke about the equity budgeting model, noting that this will be the third year that BSD uses this approach. He said that the model is created with input from the community and centers around allocating resources to students who need them the most. He noted that the model provides a foundational level of support and additional funds for equity-focused investments unique to the school community, and it recognizes that staffing levels must be responsive to enrollment changes. He noted that the staffing model provides each school with core staffing, that non-personnel funds are allocated based on a per-student basis, and an Equity Allocation provides additional funding using a weighted student formula that allocates more funds for schools with greater need.

Superintendent Flanagan then spoke about the School Boards budget guidance for this year. He said that it was to recognize that staffing levels must be responsive to enrollment changes, that budget growth must be limited due to increases in wages, benefits, and pending BHS/BTC costs, that funding must meet strategic plan objectives, that the district must continue to offer robust programmatic offerings, that multi-year impacts of changes be considered, and that investments should be identified that serve the most vulnerable students.

Director Lavery then spoke about the impact of the bond for BHS/BTC. He said that the majority of the bonding has occurred, and that BSD has borrowed \$130 million of the total \$165 million that was authorized. He said that the biggest tax impact of the project is in FY25, with an 11% increase on taxes. He noted that if the remaining \$35 million is borrowed, it will increase tax rates by an additional 2.8% (everything else held constant). He noted that remaining borrowing is likely to occur over two years, and will impact the FY26-27 budgets and taxes.

He spoke about Act 127 and the tax cap and how this interacts with BSD's budget development. He noted that Act 127, which changed the pupil weight methodology, also included a tax cap to help communities adjust spending over multiple years in response to new pupil counts. He said that the cap has a 5% cap on the increase in equalized tax rate (before the Common Level of Appraisal, or CLA) and a review by the Agency of Education if growth in spending per pupil exceeds 10%. He said that because the 5% cap is applied to equalized tax rates, it does not shield communities from tax rate increases resulting from CLA changes, and noted that due to CLA changes in Burlington, any budget scenario subject to the 5% cap will still increase tax rates by nearly 14%. He noted that the CLA decreased by 7.87%, which had the effect of driving tax rates up. He said that with the CLA at that level, BSD's budget proposal saw a 17% tax increase. He said that even with the 5% tax rate cap applied, the CLA still results in an increase of 13.67% in the tax rate. He said that this has been extremely disruptive across the region. He noted that BSD can only achieve a below 8% tax increase by making massive reductions in force (at least 12%).

Superintendent Flanagan then spoke about five scenarios that were developed to attempt to minimize the tax rate increase in the FY25 budget. He noted that he recommends Scenario 2, which responds to CLA pressures while allowing for necessary programmatic and operational investments. He spoke about the breakdown of increased spending within this scenario, noting that the majority of it is attributed to debt servicing of the bond. He noted that it minimizes impacts on staffing and includes modest programmatic investments to support the strategic plan and leadership development, and offsets those with reductions. This scenario would increase the tax rate by 13.97%. He noted that the tax rate increase without the bond would have been 3.97%, and the tax rate increase without CLA would have been 5%. Director Lavery noted that because the majority of the increase is due to the bond, Burlington should not see this kind of increase year after year. He noted that the FY23 audited fund balance was \$2.4 million, which is being used to support the FY25 budget, and is currently being used specifically to support costs associated with rent for temporary spaces for the school.

Director Lavery spoke about the property tax impact of Scenario #2. He said that using the example of a homestead valued at \$370,000, the taxes would increase by \$749, and that for a homestead valued at \$500,000, the taxes would increase by \$1,012. He also showed the income adjustment tax impact of Scenario #2, showing that income of \$50,000 would have an increase of \$134, and income of \$120,000 would have an increase of \$321.

Councilor Hightower asked why so much of the bond money has been drawn down already. Director Lavery replied that the City issued the bonds and received the money and it is now in the District's bank account. He said that they have not prepaid anything. He said that it is earning interest in the District's bank account. He said that they borrowed so much because the City issues bonds once per year and that they would need to draw down enough to pay back or reimburse for expenses that have already been incurred, as well as last through the entire year of project spending. He also noted that some of the project costs have been incurred earlier than anticipated. Councilor Hightower asked what public input is going into informing the scenarios for the budget. Superintendent Flanagan replied that they received the tax estimates from the State on January 2 and have had tight turnarounds to incorporate those into the budget. He noted that each school has an advisory group that has been giving input, and the district has a good sense from families about how to prioritize spending based on the input received at those groups.

Councilor Traverse asked for confirmation that there's one scenario that shows that in order to come below the cap and decrease the education tax from what was in Scenario #2, the district would need to cut up to 50 FTEs, and that even with that, there would be a tax increase of 8% due to the CLA and bonding. Superintendent Flanagan confirmed this. Councilor Traverse asked whether the district has mapped out what the core staffing model and ratios would look like if 50 FTEs were cut from the budget. Superintendent Flanagan replied that they have an idea of what that would look like, but it is very disruptive to the district, and he isn't recommending the scenarios related to these aggressive cuts. He said that it would also impact school choice models and overall staffing ratios, and would have a very destabilizing effect. Councilor Traverse asked about historic CLA trends as they relate to tax increases for the education fund. Director Lavery replied that there have been years where the CLA has decreased by 2-4%, but it hasn't had as big of an impact as it is having this year. Councilor Traverse asked whether the District had gotten any advance notice from the State about this significant impact, and Director Lavery replied that they typically do not receive advanced notice about this, but must wait until the Tax Department provides these numbers to all communities across the state. He noted that the City Assessor reviewed this and was not taken aback by the level of CLA decline, based on the current landscape in the real estate market. Councilor Traverse said that because this number is only coming to communities weeks before they need to finalize budget proposals to place on ballots for Town Meeting Day, this is one indicator of how the state's education funding model is deeply broken.

Councilor Barlow concurred with Councilor Traverse about the education funding model. He asked whether neighboring districts are having the same challenges with their budgets as Burlington. Superintendent Flanagan replied that yes, neighboring districts, and even districts that are further away, are experiencing similar challenges with their district budgets. Councilor Barlow asked whether the City has already triggered the threshold at which a Citywide reappraisal is necessary. Director Lavery replied that the law has changed and that reappraisals will happen more often, but the metric by which they are triggered is different.

Councilor Bergman agreed with the approach the District is taking by not making austerity cuts that would negatively impact staffing levels. He asked about rebounding enrollment trends. Superintendent Flanagan replied that he is optimistic that the K-5 and pre-K numbers are increasing. Councilor Bergman said that the relationship between income sensitivity and the \$400,000 cap is now at a critical point, because people have no control over their home values and incomes aren't rising. He said that this is an issue that must be taken to the legislature. He said that BSD's presentations should include more illustrations to help the average homeowner understand some of these implications. He noted comments by the State Auditor about health care costs and alternative ways of trying to deal with them, and Director Lavery replied that the health insurance benefit is collectively bargained at the State level, which limits the levers through which Burlington itself can influence the rising costs of that plan.

Councilor Carpenter suggested that the City have a model or an interactive tool that homeowners could use to see what the effect on their tax bills would be. She also noted that after the last reappraisal, one of the lingering questions of the Ad Hoc Reappraisal Committee was how to match circuit breaker incomes to property values, and that the City should revisit that to build its own case about lifting that \$400,000 cap. She also suggested several changes to the staffing model graphics to more accurately reflect them.

Councilor Shannon asked about the value of the per pupil weights under the new system compared to the old system. Director Lavery replied that the two are not directly comparable, but the new model is estimated to provide the City with \$8 million more in spending before they would need to increase taxes than the old model would have.

Councilor Grant agreed that the education funding system is broken. She also emphasized the importance of personnel and staff as a driver of quality education.

Councilor Dieng said it is important to understand that the tax rate is going up while enrollment is going down and why that is happening. He noted that this presentation has been giving to the school boards and people have weighed in on it. He asked what the District has been hearing in terms of feedback thus far. Superintendent Flanagan said that at the school level, the schools are saying that this is a big increase and that the district and City should be doing everything it can to make sure that it helps the citizens of Burlington out over time, while maintaining robust programmatic support. He also said that the school district is continuing to advocate for PCB funding as well as construction aid, the latter of which is something that most other states have in place, which would help the district significantly. He also noted that the Monsanto lawsuit is still pending, and that the school district is working hard to bring additional funding into the system. Councilor Dieng asked whether classroom size is comparable between Burlington and surrounding districts. Superintendent Flanagan replied that Vermont and other New England states have lower pupil to teacher ratios than other parts of the country, and that Burlington is comparable with surrounding districts. Councilor Dieng asked what the backup plan will be if this budget proposal is rejected by the voters. Director Lavery replied that they have not yet developed a Plan B, and that their main focus is on communicating the drivers of the rate increase and emphasizing that part of it is being driven by a decision that was largely supported by the voters (the bond), and the other part is being driven by decisions that have no relation to school spending decisions. He said that the more people hear this, the more they will agree that this is a responsible budget proposal.

Chair Wool emphasized the fact that Burlington is the only school district in the State that has had to permanently close its high school in the last five years and that has had to absorb the cost and expenses of bonding for and building a new high school. She said that the district led the new weighting system through Act 127 and thanked the City Council for its work to help advocate that. She asked the citizens of Burlington to support this budget.

3. COMMUNICATION: MAYOR WEINBERGER, RE: REQUESTED AMENDMENTS TO LAND USE MOU WITH UVMC; CITYPLACE ARDA 2.0 AMENDMENTS; AMENDMENTS TO DEVELOPMENT AGREEMENT WITH CAMBRIAN RISE **EXPECTED EXECUTIVE SESSION**

3.1. Communication: Mayor Weinberger, re: Requested Amendments to Land Use MOU with UVMC; CityPlace ARDA 2.0 Amendments; Amendments to Development Agreement with Cambrian Rise **Expected Executive Session**

Mayor Weinberger began by noting that related to the UVMC MOU, there is a document summarizing the current agreement and the areas that need to be updated (and this is public). He said that with respect to the other two projects, there are long-term agreements with the developers and that there are changes that need to be made to reflect updates. He said that he anticipates that changes to both of these agreements will come before the Council relatively soon. He said that no votes are anticipated for tonight's executive sessions.

MOTION by Councilor Doherty, SECOND by Councilor King, to find that premature general public knowledge of the City's stance on requested amendments to the development agreement with Cambrian Rise; amendments to the CityPlace ARDA 2.0; and amendments to the land use MOU with UVMC, would clearly place the City at a substantial disadvantage because the City risks disclosing its negotiating stance prematurely.

VOTING: unanimous; motion carries.

MOTION by Councilor Doherty, SECOND by Councilor King, that based on the finding of substantial disadvantage, the City go into executive session to communicate with legal counsel and the City Administration under the provisions of 1 V.S.A Section 313(a)(1)(A) and (F), to include the Acting City Attorney, Chief Administrative Officer, outside consultant David G. White, DPW Senior Engineer, the CEDO Director, the Director of Planning, and outside legal Counsel Tim Sampson.

VOTING: unanimous; motion carries (Councilors Traverse and Doherty recused from the portion of executive session dealing with the UVMC MOU).

4. PUBLIC FORUM: **TIME CERTAIN – 7:30 PM**

4.1 Verbal Comments

Forum opened at 7:39 PM.

COMMENTS:

Burlington residents (in person):

- Brandon Dayton spoke about the MOU that the City has with UVM. He said that he is disappointed that the City isn't discussing the low wages that UVM pays its staff and faculty in addition to talking about the housing in the agreement. He said that UVM's average salary is \$39,000, and that someone making that would have to spend half of their income to be able to afford living in the City, and that UVM has also caused the housing crisis that has led to high housing costs. He suggested that the City work with labor unions to hold UVM accountable.

- John Mahoney spoke about the proposed MOU with UVM regarding housing. He said that the proposed MOU shows no strength for the City, and asked why it doesn't suggest cutting the number of enrolled students while increasing housing. He said that the University does not care about the City but only about itself.
- Romeo van Hermann noted that there were many items last year that came up at City Council that did not pertain to the City, and hopes that the Council spends more of its time this year tackling issues that pertain directly to the City. He also wished everyone a happy new year.
- Marty Gilles expressed frustration with the Winooski Bridge proposal, because it does not have bike lanes, and said that the City should push back on VTrans to accommodate bike lanes on the bridge.
- Colin Larson spoke about the Winooski Bridge proposal, saying that the proposal would funnel more cars through Winooski and Burlington when it should be focusing less on cars and more on alternative modes of transportation, noting that this is the only pedestrian connection between Burlington and Winooski.
- Jack Tiano spoke about the Winooski Bridge proposal, saying that VTrans, which is leading the design of the project, has failed. He said that they have ignored valid public feedback, been biased toward 20th century approaches to rural and urban infrastructure, and the fundamental failure of climate action. He said that vehicle miles traveled will increase with this proposal rather than decrease.
- Todd Lacroix said that people fail to learn from history. He spoke about past leaders and how they have failed because they are narcissistic psychopaths.
- Dan Castrigano spoke about his frustration with the design proposal for the Winooski Bridge project. He said that the bridge's design should be climate-forward and that it should help shift modes of transportation. He said that the bridge should be redesigned with an eye to decreasing vehicle miles traveled, not increasing them.
- Alyssa Chen spoke about negative experiences with going over the Winooski Bridge. She then spoke about the apartheid free ballot resolution. She noted that over 1,500 Burlingtonians have petitioned to have this item on the ballot, and asked the Council that the democratic process play out and allow the item to be placed on the ballot. She said that putting this on the ballot creates a public forum for discussion around the Israeli/Palestinian conflict to occur. She said that standing against apartheid is standing for peace.
- Jake Schumann said that he would like to remove his name from the petition regarding the apartheid-free ballot resolution. He said that the organizers behind this petition are being duplicitous and attempting to divide the left.
- Shawn McConnell spoke about being homeless in the community and being on a homeless voucher. He said that he is able-bodied and is able to work, and that there are no opportunities for him to do so. He also said that drug-users should be penalized for using in public, and should also be presented with treatment options and resources (and suggested including drug testing strips and treatment literature at needle exchange sites in the City).
- Shawn McConnell's wife, also homeless, spoke about their experience as a non-drug-using homeless couple and how there is a lack of resources for them as unhoused individuals who don't use drugs. She spoke about how drug use in City Hall Park is rampant and that Burlington must do more to clean up its parks and make them family-friendly again.

Burlington residents (via Zoom):

- Trisha O'Kane spoke in support of the charter change to strengthen the civilian control of municipal security forces. She spoke about how the Troubles in Ireland started due to distrust of the local police, saying that this has been improved in part due to reform in oversight of the police force.
- Sharon Bushor spoke about the School Board presentation, specifically about the decreases in enrollment. She noted that this decrease in enrollment was seen in certain sections of the City, saying that this is germane and potentially linked to the City's housing initiatives. She said that the City's housing initiative does not address increasing housing for families. She said that the City must work on ways to increase families in the City.

- Evan Gould spoke about the Winooski Bridge project proposal, noting that nowhere in public hearings did people suggest that the lanes need to be wider on that bridge, but that this is just what the current proposal plans to do. He said that they have asked VTrans to come back with another proposal that would prioritize multi-modal transportation, but that VTrans has done nothing. He noted that VTrans applied for a grant specifically targeted to multi-modal, multi-jurisdictional projects, but that this project is more of the status quo.
- Nolan Rogers spoke about the Winooski Bridge project, saying that pedestrian and cycling infrastructure should be increased and the vehicle lanes should be reduced. He said that the intersections around this bridge are some of the worst around Burlington. He said that the bridge should be two-lane vehicle lanes and increase the pedestrian and cycling infrastructure on the bridge.
- Quinn Bisby spoke about the Winooski Bridge project, saying that it is a massive investment for the City and that the project should be designed correctly and in accordance with the opinions and attitudes of Burlington's residents. He said that the Council should delay its decision to approve the proposed design and take the time to get this right. He said that cars should not be prioritized over pedestrian and biking options.

Non-Burlington residents (in person):

- Keren Sita spoke in all Vermonter's, saying that what is happening is inhumane. She said that leaders should be ashamed of themselves for how they have treated and handled the homeless situation in the state. She also said that leaders should prioritize biking and healthy options.

Forum closed at 8:22 PM.

5. CLIMATE EMERGENCY REPORTS

5.1 Climate Emergency Reports

Mayor Weinberger spoke about legislative activity and support around developing a 100% renewable energy standard, and that Burlington Electric Department has been a key part of these discussions. He said that it is a framework that works well with Burlington's Net Zero Energy Plan. He also spoke about his participation at the Mayor's Innovation Project Conference in Washington, DC about Burlington's long-term climate leadership and its electrification plan.

6. PUBLIC HEALTH AND SAFETY EMERGENCY UPDATES

6.1 Public Health and Safety Emergency Updates

Councilor Magee noted that last week, the Vermont House of Representatives passed H. 72, which would authorize and pilot two overdose prevention centers in Burlington and southern Vermont. He said this type of evidence-based approach is greatly needed.

Mayor Weinberger spoke about other legislative activity in Montpelier, noting that the City is preparing to testify on various aspects of the opioid crisis, including the retail theft bill, which would respond to some of the challenges downtown and would allow multiple thefts to be aggregated to prevent recidivism. He also noted the potential creation of a vehicle theft statute. He then provided an update on the winter warming shelter at the VFW, which opened on December 15 and serves 35 people every night, and that it is operating without conflict from neighboring properties. He also noted that there is a plan from the Agency of Human Services to end the remaining motel program by April 1st, which is problematic, and that the City has proposed an alternative wind-down plan back to the State. He said that it urges the State to continue this plan to July 1st.

Councilor Grant said that the State Attorney's data is still around 3,000 cases, and that they are busy and backlogged. She reminded the public that they should reach out to the State Attorney to determine whether their case was logged. She encouraged the public to review the community safety public forums that were held on December 14th and 19th, and said that the City should make more effort to make the presentations and public questions available through the City. She said that she is planning another forum to be held mid-February and to focus on harm reduction and the work of the Fire Department. She noted that she was at Decker Towers this morning with Fire Department leadership to look at conditions in the stairwells. She noted that people were sleeping in the stairwells, there were needles, empty food containers, Narcan, feces, and cigarette butts littering the floors. She said that the City has failed the residents that live in this building and expressed sadness and disappointment at these conditions. She spoke about retail theft and how the Police Department is now discouraging filing online reports by businesses. She said that while this is an improvement, it is not appropriate to blame retail businesses for doing nothing. She said that some larger businesses are paying significant sums of money for their own private security.

7. CONSENT AGENDA

7.1 Motion to adopt the consent agenda (as amended) and take the actions indicated

7.2 Communication: C/T Office, re: Accountability List – waive the reading, accept the communication, and place it on file.

7.3 Tobacco License and Tobacco Substitute Endorsement Renewals (2024-2025); see attached list – approve the 2024-2025 Tobacco License and Tobacco Substitute Endorsement Renewals as listed.

7.4 Special Event Outdoor Entertainment Permit Application (one day only): Vermont Future Fest, 377 Pine Street, private parking lot, June 15, 2024, 11 am – 4 pm. – approve the one day only special event outdoor entertainment permit application for Vermont Future Fest, 377 Pine Street, private parking lot, June 15, 2024, 11 am – 4 pm.

7.5 FY23 Recycling Truck & Plow Truck Purchase Cost Increase – DPW - approve and authorize the Department of Public Works to spend an additional \$16,189.00, for a total of \$222,722.00, for the FY23 plow truck, and additional \$21,242.00, for a total of \$285,242.00 for the FY23 recycling truck purchase; and to further authorize the Director of the Department of Public Works to execute a purchase agreement and other associated documents necessary to effect such purchase with Allegiance Trucks for a total purchase price not to exceed \$222,722.00 for the FY23 plow truck, and \$285,242.00 for the FY23 recycling truck, subject to the review of the City Attorney's Office.

7.6 Conversion of BED Energy Assistance Program from a Pilot to a Permanent Rate – BED - approve BED seeking approval from the Vermont Public Utility Commission of the Energy Assistance Program tariff provided with this memo as a permanent BED tariff offering to its customers.

7.7 Position Elimination and Creation – BED/HR - approve the elimination of an Enterprise Data & Integration Specialist, a Regular, Full-Time, Exempt, Union, Grade A2, A4, and A6 (depending on tiered level) position and create a Cybersecurity Engineer, a Regular, Full-Time, Exempt, Union, Grade A4 and A6 (depending on tiered level) position within the Burlington Electric Department.

7.8 Communication: C/T Office, re: October 10, 2023 Regular City Council Meeting Minutes, Draft – waive the reading, accept the communication, place it on file, and adopt the minutes at the January 29, 2024 Regular City Council Meeting.

7.9 Communication: C/T Office, re: October 10, 2023 Local Cannabis Control Commission Meeting Minutes, Draft - waive the reading, accept the communication, place it on file, and adopt the minutes at the January 29, 2024 Regular City Council Meeting.

7.10 Communication: C/T Office, re: October 10, 2023 Local Control Commission Meeting Minutes, Draft - waive the reading, accept the communication, place it on file, and adopt the minutes at the January 29, 2024 Regular City Council Meeting.

7.11 Communication: C/T Office, re: October 23, 2023 Regular City Council Meeting Minutes, Draft - waive the reading, accept the communication, place it on file, and adopt the minutes at the January 29, 2024 Regular City Council Meeting.

7.12 Communication: C/T Office, re: October 23, 2023 City Council With Mayor Presiding Meeting Minutes, Draft - waive the reading, accept the communication, place it on file, and adopt the minutes at the January 29, 2024 Regular City Council Meeting.

7.13 Communication: C/T Office, re: November 6, 2023 Regular City Council Meeting Minutes, Draft - waive the reading, accept the communication, place it on file, and adopt the minutes at the January 29, 2024 Regular City Council Meeting.

7.14 Communication: C/T Office, re: November 20, 2023 Regular City Council Meeting Minutes, Draft - waive the reading, accept the communication, place it on file, and adopt the minutes at the January 29, 2024 Regular City Council Meeting.

7.15 Communication: C/T Office, re: November 20, 2023 Local Cannabis Control Commission Meeting Minutes, Draft - waive the reading, accept the communication, place it on file, and adopt the minutes at the January 29, 2024 Regular City Council Meeting.

7.16 Communication: C/T Office, re: November 20, 2023 Local Control Commission Meeting Minutes, Draft - waive the reading, accept the communication, place it on file, and adopt the minutes at the January 29, 2024 Regular City Council Meeting.

7.17 Communication: C/T Office, re: December 11, 2023 Regular City Council Meeting Minutes, Draft - waive the reading, accept the communication, place it on file, and adopt the minutes at the January 29, 2024 Regular City Council Meeting.

7.18 Communication: C/T Office, re: December 18, 2023 Regular City Council Meeting Minutes, Draft - waive the reading, accept the communication, place it on file, and adopt the minutes at the January 29, 2024 Regular City Council Meeting.

7.19 FIO Documents – for information only.

7.20 Resolution: Selection of Newspapers For Publication Of 2024 Election Warnings And Notices (Councilor Paul) – waive the reading and adopt the resolution.

7.21 BED Advanced Distribution Management System Project – BED - approve and authorize the General Manager of BED to execute with Survalent a Software License Agreement, an Implementation Services Agreement, and a Support & Maintenance Agreement to purchase and receive associated implementation, support, and maintenance services for an Advanced Distribution Management System at fixed, not-to-exceed prices, subject to review and approval of the City Attorney's Office and subject to appropriations for each relevant fiscal year.

7.22 Communication: Jake Twarog, re: Winooski River Bridge Project – Pedestrian & Bike Safety – waive the reading and place the communication on file.

MOTION by Councilor Magee, SECOND by Councilor Shannon, to adopt the consent agenda as amended and take the actions indicated for items 7.1-7.22.

VOTING: unanimous; motion carries.

8. DELIBERATIVE AGENDA

8.1 First Public Hearing on Proposed Charter Amendments for March 5, 2024 Annual City Meeting

City Council President Paul said that there are two amendments that require two public hearings prior to placement on the ballot on Town Meeting Day, and that the Council may amend the amendments further based on feedback from these public hearings.

Acting City Attorney Pellerin provided an overview of the proposed charter changes. He said that the first one was brought by the Administration and Burlington Electric Department to increase BED's revolving line of credit from \$5 million to \$10 million to provide for more working capital. He said that the second is around police oversight, which was developed by a Joint Committee formed by the Charter and Ordinance Committee.

City Council President Paul opened the public hearing.

Jake Schumann spoke about basing opinions on what's good for the community rather than personal opinions. He spoke about the charter change related to police oversight, saying that this is the bare minimum that the Council can do.

Lee Morrigan spoke about the charter change on police oversight, saying that they disagree with the statement that there has been a lack of public engagement. They said that there were 39 instances of public input over 15 meetings of the Joint Committee, saying that they were impressed by how intentional the Committee was in incorporating that feedback.

City Council President Paul closed the public hearing.

Councilor Shannon noted that the proposed amendments were referred to the Police Commission and that they were also referred to the Police Union, but that these activities occurred at the end of the process. She said that the Police Commission in a 4-1 vote were not supportive of moving these amendments forward at this time, though she acknowledged that there is much of great value in these changes. She said that she agrees with the Commission that more work is needed on it.

MOTION by Councilor Shannon, SECOND by Councilor Barlow, to refer the proposed charter change to the Police Commission for further consideration and a request that the Commission provide edits or a proposal that addresses comments made at the Commission to the City Council by June 3, 2024.

DISCUSSION:

- Councilor Hightower asked how this would affect the placement of the item on the Town Meeting Day ballot, and City Council President Paul noted that it would be referred to the Police Commission and not placed on the ballot.
- Councilor Bergman said that there was consistent engagement between the Joint Charter/Ordinance Committees and the Police Commission. He said that this set of amendments is a bare minimum of what should be done, and is better than the status quo. He said that a referral is a move to kill this set of amendments. He said that the voters deserve to be able to decide on this. Councilor Shannon said that the intent of this referral is not to kill it.
- Councilor Hightower said that she is not supportive of referring this to the Police Commission.
- Councilor Grant said that there have been clear attempts to stop this from moving forward. She said that this would represent a broken promise, since it was promised that if the ballot item failed last year, a Joint Committee would be formed and a set of amendments would be put forth for voters in 2024 based on that work.
- Councilor Traverse said that the Joint Committee (which he and Councilor Bergman cochaired) met a number of times and received a significant amount of public feedback and input, and that he believes this set of amendments is very close, if not final, in terms of what the Council should be putting in front of the voters. He said that most of the feedback from the Police Commission were really questions around the edges of the amendments, rather than major questions. He said that the Council owes it to the voters to present them with an oversight ballot item, but also a ballot item that has the best chance of passing. He said that he will support this motion, acknowledging that it will push the timeline out, but also acknowledging that the legislature isn't able to take up this charter change until 2025 anyway, and that supporting this motion could tee up this charter amendment for November 2024 voting.
- Councilor Magee said that there is not a forgone conclusion that the legislature wouldn't take this set of amendments up this session and that the City owes it to the voters to put something before them for their consideration. He said that for the Council to not take the bare minimum action that it promised Burlingtonians last March is awful.
- Councilor Carpenter said that she wants to put this before the voters but she also wants to put before the voters a set of amendments that will pass and garner support from Burlingtonians. She said that postponing this would represent a broken promise on the timeline for a charter change related to police oversight, but she wants to develop something that is viable and that will pass.

- Councilor Grant said that there is no such thing as a perfect set of amendments and that this postponement represents a stalling tactic. She noted that the co-chairs of the Police Commission were involved from the beginning and knew what the timeline would be.
- Councilor Shannon pointed out, in response to accusations that this is a stalling tactic, that Councilors Grant, Hightower, and Magee voted not to put this item on the ballot as is, during one of the Council's meetings last December. She said that this set of amendments did not have strong support at this table, nor at the Police Commission nor the Police Union. She said that the Police Commission had concerns about how this would be implemented, which is why she is proposing to refer it to them.
- City Council President Paul noted that the June 3 date in this motion was picked carefully to align future decisions with the timeline for putting police oversight-related charter amendments on the November 2024 ballot.
- Councilor Magee said that his opposition to the resolution on December 11 was not to prevent it from being put on the ballot, and said it is disingenuous to suggest such.
- Councilor Dieng said that this is disheartening. He said that it is this Council's job to do the work, and that this work has been going on for a number of months. He said that this vote is killing the democracy in the City, and that the Council should put this in the hands of the voters now.
- Councilor Traverse clarified that Councilor Shannon's statement about voting at the December 11th meeting was a vote to warn the public hearing for today that is the first step in putting this on the ballot in March. He said that it was after that vote took place that the Police Commission met again (on December 26th), and that their feedback is relatively new information. He noted that there was significant turnover on the Police Commission in the last number of months, which coincided with the work being conducted by the Joint Ordinance/Charter Committee, which made it difficult to conduct some of the work related to crafting these amendments.
- Councilor Bergman said that he believes that the majority of the Police Union's issues with the amendments could have been resolved if they had been made in a public hearing, since then the amendments could have been further amended based on the public hearing. He said that the engagement that would allow the Council to move forward with this isn't happening, because the Police Commission is not at this public hearing. He expressed disappointment that there aren't public comments occurring tonight based on the concerns raised.
- Councilor Hightower said she was hopeful when this process started that there would be a compromise reached between the original language proposed in Question 7 and a more moderate police oversight proposal. However, the longer the process went on, the fewer voices who wanted change showed up, and she said that Burlington has a real problem with wearing down community members. She said that the hundreds of people who signed the petition to put a police oversight item on the ballot have stopped paying attention because they've given up on the City and City Council, which is extremely frustrated.
- Councilor Grant agreed, saying that this represents a wearing down of the community who do not have faith in their representation and their government. She expressed dismay at the negativity that was fed to the current Police Commission to imply that they didn't have the expertise to accomplish this, and said that maybe this is why they stopped paying attention to this.

VOTING (by roll call): Councilor Barlow – aye, Councilor Bergman – nay, Councilor Carpenter – aye, Councilor Dieng – nay, Councilor Doherty – aye, Councilor Grant – nay, Councilor Hightower – nay, Councilor King – aye, Councilor Magee – nay, Councilor Shannon – aye, Councilor Traverse – aye, City Council President Paul – aye (7 ayes, 5 nays); motion passes.

City Council President Paul said that the second public hearing on charter changes will be on January 22, and that the only item being discussed at that time is around the BED bonding item.

8.2 ARPA Funding Dedicated to Housing and Homelessness – CEDO

MOTION by Councilor Carpenter, SECOND by Councilor Shannon, to approve and authorize the allocation and spending of \$2,025,000 of City ARPA funds, by the Chief Administrative Officer, pursuant to the City's spending policies, to continue to address housing and homelessness throughout the City as outlined in the above memo and in the following way: 1. Increase the amount of ARPA funds allocated to address the acute homelessness crisis by \$75,000 from \$2,975,000 to \$3,050,000; and 2. Dedicate \$1,000,000 of ARPA funds to the Post Apartments project at 176 S. Winooski Avenue to aid in the creation of permanently affordable housing units; and 3. Dedicate \$950,000 of ARPA funds to Champlain Housing Trust for use towards the creation of permanently affordable housing units in the next phase of their development at Cambrian Rise.

DISCUSSION:

- **Councilor Carpenter expressed support for using this funding in this way, but cautioned that ARPA funding will be sunseting and that these initiatives will be more difficult to sustain. She said that the City must continue to work with the State to take more leadership on this issue, as the City needs more resources for this.**
- **Director Pine thanked the Council and the Administration for the use of this ARPA funding to tackle Burlington's massive problems with housing and homelessness. He said that the City has been able to significantly increase the Housing Trust Fund with the revenue from the short-term rental registry and fees, and thanked the City Council for this action. He agreed that they will need to seek alternative funding for these important initiatives once ARPA funding expires.**

VOTING: unanimous; motion carries (Councilors Magee and Doherty absent for vote).

8.3 Presentation Regarding Burlington-Winooski BF RAIZ (2)/Burlington STP 5000(29): Burlington Winooski Bridge – DPW
Director Spencer began by noting that this pertains to the Winooski River Bridge and adjacent intersection, and represents \$60 million in investments to improve the safety and connectivity between Burlington and Winooski. He said that this project has engaged bike and pedestrian stakeholders from the beginning, but noted that the project isn't over with. He said that design work continues, and they are still working to further enhance mobility and safety of all modes.

Josh Olund, Project Manager for HNTB, the design consultant working with Burlington and Winooski on the bridge project, provided an overview of the project. He noted that the project pertains to both the bridge itself and the intersection adjacent to the bridge on the Burlington side of the Winooski River. He noted past efforts on this project, including a scoping phase in April 2017-May 2019 where each the bridge and intersection were evaluated separately. He said that this resulted in a bridge scoping report that was released in 2019, which recommended replacing the bridge, and focusing on bike and pedestrian accommodations. He said that the recommended replacement contemplates 4 lanes (similar to current bridge), with wider lanes and shoulders and separated multi-use paths with barriers for pedestrians and cyclists on both sides. He spoke about the intersection scoping report that was also release in 2019, which would take the three-lane intersection on the Burlington side of the bridge and convert it into a four-lane intersection. He also spoke about the bridge grant application that was put together in 2022, which obligates the project to improve safety, address bike and pedestrian accommodations, provide an appealing bridge, and complement the natural and cultural environment.

Steve Spear, Project Manager for HNTB, then spoke about current efforts around this project. He said that they are now at the point where they're combining the two projects into one cohesive project to ensure that there is a continuous corridor through this area. He said that

currently, they're focused on selecting the alternative refinement, conducting preliminary design, traffic control, and the right-of-way process. He spoke about continued outreach and communication with stakeholders and the public. He spoke about targeted public outreach conducted to date. He acknowledged that some of the feedback they've received on the project to date is conflicting, and they are working to balance that and incorporate it into the project.

He spoke about alignments to the bridge for constructability and traffic control. He spoke about bridge phasing and presented several alternatives for bridge reconstruction. He said that the first would build the new bridge next to the existing bridge, transfer pedestrians and utilities to this bridge, and temporarily close the route for 4-6 weeks for demolition and sliding the new bridge together. He said that this bridge is trafficked very heavily and that they are looking at ways to minimize disruptions while allowing the time necessary for reconstruction. He said that part of this project looked at adjacent crossings of the river and how the closure of this bridge would affect them. He noted that the temporary detour (shortest vehicular route) would be utilizing I-89's bridge crossing into Winooski. He emphasized that all pedestrian routes would be maintained on site at all times.

He then spoke briefly about the right of way process, and then future efforts, which would include utility relocation, environmental permitting, and RFQ and RFP development for design-build contracts. He said that utility relocation activities currently include mapping out what utilities will require relocating during this project, developing relocation plans and construction sequencing, and developing utility agreements. He noted that municipal utility relocations are project reimbursable. He spoke about environmental permitting, which include determining permitting restriction commitments, and noted that because this bridge is listed on the National Historic Register, they are also having to work through the Historic process as defined in statute.

He spoke about the benefits of utilizing design-build contracting, which incorporates final design and construction into a single contract, and places increased responsibilities on the Contractor in an attempt to reduce risks and costs to the State. He said that this promotes innovation and improves design/construction efficiencies.

He then spoke about the project schedule. He said that they are currently working through the concept design phase, and that they anticipate working through commitments and clearances (environmental and right-of-way-related) in 2025, with solicitation of contractors in 2026, contracting in 2027, commencement of construction in 2028, and completion of construction in 2030.

He then spoke about project costs and funding. He noted that the project received a federal RAISE grant worth approximately \$24.8 million, and that the total project costs are conceptually estimated to be approximately \$60-80 million. He said that the intersection would be 100% federally-funded, and that the bridge would be funded 80% federally, with a 10% match from the State, and a 5% match from each Burlington and Winooski.

Councilor Barlow noted that many people advocated for a two-lane versus a four-lane bridge, and asked what it would mean for design if it included two rather than four lanes. Mr. Olund said that a two-lane alternative was examined during the scoping phase and that it was determined that there would be significant gridlocking and queuing if the lanes decreased to two. He said that I-89 can generally handle the volume, but it's the intersections coming off the intersection that would turn into gridlock were this bridge to decrease. He said that they do not recommend this decrease. Councilor Barlow also noted a number of comments advocating for separation of bicycle and pedestrian paths on the bridge, and asked why they are proposing a shared-use path. Mr. Olund replied that shared-use paths are a proven method of transporting people and cyclists in the same space, and that splitting that space up would increase obstructions, maintenance, and access, and that open spaces are safer. He said that they are examining potentially shrinking one lane of the shared-use path and increasing the other side (both are currently proposed at a 12-foot width).

Councilor Carpenter asked about the decision-making process, who makes the final decision, and how Burlington relates to that. Mr. Olund replied that there is a finance and maintenance agreement being developed between VTrans and the City and that the project managers want to be as transparent as possible. Director Spencer noted that the Council will need to review and approve the finance and maintenance agreement sometime in the next several months.

Councilor Hightower spoke about the importance of reducing engagement fatigue, and said that a good approach to soliciting public feedback is to be up front with the public about what aspects of the design of the project they are willing to change based on feedback versus the aspects of the project that they are not willing to change, regardless of public input. She asked what feedback they are willing to implement, based on what they have heard. Mr. Olund replied that the project has been defined, and that it will contain four lanes of vehicular traffic and two shared use paths. He said that there can be some give-and-take with regards to the width of each shared use path, and realigning the bridge for improved traffic during construction, and natural traffic calming, but the general definition of the project has been defined.

Councilor Bergman noted that he had had a number of requests related to bike and pedestrian safety around intersection crossings for inclusion the RFP, and asked City staff to point out where and how they were integrated into the process. Mr. Spear replied that they are in the early part of balancing these features into signal design, and that they are working on balancing shortening crosswalks and limiting vehicle speeds with the need to accommodate emergency access as well. Councilor Bergman said it will be important to understand how all of the traffic calming measures are being incorporated into this project. He said that a separated or projected bike lane over the Winooski Bridge is essential. He asked what it will take to have a protected bike lane over the bridge, whether the vehicle lanes have to be widened, and whether the bridge itself can't be widened further. Mr. Spear replied that they are looking to modify the shared use path widths on both sides, and that they are aligning with the Vermont standard widths for shoulder and lane width for vehicular traffic, which will help better accommodate emergency vehicles. Councilor Bergman cautioned that building wider lanes will encourage vehicles to drive more quickly, and that is something that isn't needed in the least (though he acknowledged the importance of better access for emergency vehicles on the bridge).

Councilor Doherty asked how long the bridge closure would be anticipated for during the construction phase of the project. Mr. Spear replied that they would be looking at a 4-6 week total closure, and are looking to minimize the closure time as much as possible. Councilor Doherty asked at what phase in the project the project engages with the potential environmental effects of doing construction in the river itself, speaking about the fragility of the ecosystem at that crossing. Mr. Spear replied that resource assessments are conducted at the outset of the project and that they work through the permitting processes through the life of the project. He said that the final environmental permits are the responsibility of the contractor but that the parameters to limit the footprint of the environmental impact will be defined in the RFP.

Councilor Traverse asked whether the project has received feedback from Green Mountain Transit or emergency services with respect to the current lane width. Mr. Olund replied that they have had very specific conversation with both of those groups and that that feedback is captured in meeting minutes. Councilor Traverse asked whether there are updated figures in traffic studies that the Council could review, and Mr. Olund replied that yes, they update that information. Councilor Traverse noted that this Council unanimously supported the recommendation from CCRPC in 2019 to have four lanes instead of two in the proposed project, and said that while he will respect that decision, he would like to see if there are any flexibilities to work on widening the pedestrian and bike infrastructure to be responsive to constituent concerns.

Councilor Grant spoke about her daily commute across this bridge into Essex and said that moving down to two lanes might not have the deleterious effect that is being projected, since drivers adjust to changes in ways that traffic studies may not show. She said that often, the

backups at the rotary are present even with multiple lanes of traffic and that decreasing the number of lanes on the bridge may not worsen it. She spoke about some of the innovative things that Montreal has been doing to delineate their shared-use paths.

MOTION by Councilor Shannon, SECOND by Councilor Hightower, to suspend the rules and complete the remainder of the deliberative agenda and the Local Control Commission agenda.

VOTING: unanimous; motion carries (Councilor Magee absent for vote).

Councilor Hightower asked how many how many of the improvements will be reduced or obliterated by the increased speed of people coming off the bridge. Mr. Spear replied that they can't predict future crash rates and that the intent is to simplify the route and reduce conflict points, which should reduce crashes. Councilor Hightower said that the intersection is so car-centric that she doesn't want to make that worse by increasing speeds. Director Spencer replied that he agreed and that this investment can't decrease safety.

9. COMMITTEE REPORTS

9.1. Verbal reports
None.

10. CITY COUNCIL – GENERAL AFFAIRS

10.1. Verbal reports
None.

11. CITY COUNCIL PRESIDENT – COUNCIL UPDATES

11.1. Verbal reports
None.

12. MAYOR – GENERAL AFFAIRS

12.1. Verbal reports
None.

13. ADJOURNMENT

13.1 Motion to Adjourn

MOTION by Councilor Doherty, SECOND by Councilor Shannon, to adjourn the meeting.

VOTING: unanimous; motion carries.

The meeting adjourned at 10:42 PM.

RScty: AACoonrad

**BURLINGTON CITY COUNCIL
CITY HALL, CONTOIS AUDITORIUM *OR*
REMOTE MEETING WITH CALL-IN
BURLINGTON, VERMONT
MINUTES OF MEETING
January 22, 2024
DRAFT**

MEMBERS PRESENT:

Karen Paul
Joan Shannon
Ali Dieng (via
Zoom, then in
person at 7:42
PM)
Zoraya Hightower
(via Zoom)
Sarah E
Carpenter
Mark Barlow
Joe Magee
Gene Bergman
Ben Traverse
Tim Doherty
Melo Grant (via
Zoom, then in-
person at 6:55
PM)
Hannah King

OTHERS PRESENT:

Miro Weinberger
Katherine Schad
Jared Pellerin
Kim Sturtevant
Samantha
Sheehan
Lori Olberg

1. CALL TO ORDER and AGENDA

The meeting was called to order by City Council President Paul at 5:30 PM.

MOTION by Councilor King, SECOND by Councilor Dieng, to adopt the agenda.

VOTING: unanimous; motion carries.

2. WORK SESSION ABOUT PUBLIC SAFETY TAX INCREASE **5:30 – 6:30 PM**

2.1. Work Session About Public Safety Tax Increase

Mayor Weinberger began by noting that the Board of Finance has received a number of updates about the administration's proposed Fiscal Year 2025 budget, but that it is now at the point where the full Council should be informed about the budget build and challenges, particularly if they are asked to vote on tax rate changes. He said that fortunately, they had known that the FY25 budget would be challenging when they finished the FY24 budget, and so they have implemented a number of studies with the hope of finding efficiencies in the City and lessening the gaps in the budget, and have been anticipating this challenge since last July. He said that the large elements driving the budget

challenges are sustained inflation, sunseting federal assistance, and large increases in investments in public safety. He said that addressing these challenges entails reducing spending in non-public safety cost centers, growing existing revenue, and an increase in tax revenues from a tax on visitors and a modest 4% fire and safety property tax increase. He noted that the City is very cognizant of the large property tax increase that will result from the BSD's requested increase, and has tried to limit the increased tax burden for the municipal portion of property taxes.

Chief Administrative Officer Schad began a more detailed presentation on the FY25 budget. She began by setting the context, noting increased costs to the General Fund, decreased emergency and one-time funds available to balance the budget. She spoke about the budget pressures that the City has successfully navigated since the last voter-approved tax increase in FY20. These include responding to a global pandemic, historic inflation, rebuilding the police officer ranks, creating a new host of public safety resources (CSOs, CSLs, etc), creating the Racial Equity, Inclusion, and Belonging (REIB) and Business and Workforce Development departments, and focusing on the unsheltered population in the City. She noted that budgetary challenges have risen along with these other challenges, particularly driven by inflation and higher personnel costs, the expiration of federal one-time funding, and a lack of property tax increases since FY20.

Chief Administrative Officer Schad noted that these challenges have culminated in a \$9 million budget gap if no action is taken. She said that this gap can be closed while maintaining the projected public safety budget by capturing growth in grand list revenues and other taxes, reducing the City's operating costs through efficiencies, completing a review and increase of non-property tax revenues within Council authority, extending the full phase-out of one-time funds by one year, and requesting voter approval to increase the current Police and Fire Property Tax Cap by \$0.03 on Town Meeting Day. She spoke about organic growth in grand list and other taxes, which includes about \$900,000 combined between the two. She spoke in more detail about the operational efficiency studies that would identify areas to reduce spending in the largest General Fund City Departments. She spoke about a study pertaining to raising non-property tax revenues, which would include increasing user fees by about 10% to account for inflation while ensuring that youth scholarships and access to programming remain available, and increasing the hotel tax by 2% so that the City and State rate would be 13% (comparable with the rest of the region), which would raise approximately \$1 million per year. She noted that the current budget includes \$1 million of ARPA funding. She spoke about increasing the Police and Fire Tax Cap, which would fully fund the police and fire budgets, and would include the projected increase in officers per the Rebuilding Plan and \$250,000 of flexible police funding for emerging needs. She said that lifting the cap does not obligate the Mayor and City Council to implement the tax increase, but gives them the authority to do so. She noted that the current public safety tax only funds about one third of the Fire and Police needs, and that the remainder comes from the General Fund and other sources. She provided details about the increased public safety costs since the last tax increase in FY20, which add up to around \$4.1 million.

Councilor Carpenter noted that the police department is over budget and understaffed, and asked where the vacancy savings are for their budget. Mayor Weinberger said that they will share vacancy details as a follow-up. He said that with the current year's budget, they are already spending more than the vacancy savings. Councilor Carpenter said that a 4% increase in municipal tax doesn't equal a 4% increase in property tax, and said it would be good to articulate the effects overall. Mayor Weinberger agreed, saying that this would be a 4% increase on the 33% of property taxes that come from the municipality, not from the State, and is smaller than 4% overall.

Councilor Shannon said that she would caution about communicating it as a 4% increase on the 33% of taxes that come from the municipality, since some people have income-sensitive tax bills, which are reduced for the State share based on income, but that such tax reductions don't occur for the municipal portion of taxes. She asked about the reduction of \$3 million in General Fund spending after operational analysis is conducted, and asked whether that includes job cuts and asked why the City is presenting that number if the study is still underway. Mayor Weinberger replied that they think this is an achievable goal based on the operational analysis. Councilor Shannon confirmed that this is a goal to which the administration is aiming, and that that could mean a reduction in services. Mayor Weinberger replied that yes, there could be a decrease in services as a result of this reduction goal, but that they are seeking the minimize service reduction.

Councilor Grant asked about the \$250,000 in flexible funding for the Police Department, and asked why this does not also apply to the Fire Department. Mayor Weinberger replied that the Fire Department plays a key role in the challenges the City is facing and that they are budgeting for substantial overtime for the Fire Department, and that they could reallocate some of that flexible funding to the Fire Department if needed, though they are projecting a need for this funding more on the enforcement side. Councilor Grant said that it would be best to be clear that both departments could access that funding, given that the Fire Department has been nimble in responding during this crisis, given that they responded to 40% of overdose calls on their own in 2023, as well as creating a community response team. Councilor Grant asked about the study around PILOT (payment in lieu of taxes) funds, given that certain properties are paying less than they should and that this should be reviewed. Chief Administrative Officer Schad replied that PILOT review is not occurring this year but in FY25, given that other ideas are being implemented in FY24 and there is a lack of staff capacity to also conduct the PILOT fee study this year. Councilor Grant requested a list of the properties that pay PILOT funds and copies of their agreements, and Mayor Weinberger replied that this information could be provided.

Councilor Doherty said that a question that constituents will likely ask is why Burlingtonians are being asked to pay more for the Police Department when they feel that they aren't getting as good a set of services from the Police Department. He asked what community supports are being provided, and Mayor Weinberger replied that the community supports line includes the CSOs, CSLs, supervisors, park rangers, the CARES team, CAIP director, and domestic violence team. Chief Administrative Officer Schad replied that the majority of this line item is new since FY20. Councilor Doherty asked whether this budget projects the costs of growth for the 20 or so officers that were lost since FY20, and Chief Administrative Officer Schad replied that this budget projects for growth in the number of officers to increase to 77. Mayor Weinberger said that the CSOs and CSLs are adding a lot of value to the department currently, and that when the Department is back up to its goal of 82 sworn officers, they may have to revisit staffing levels and determine what numbers are adequate for a fully-staffed Police Department. Councilor Doherty asked whether there are rubrics or metrics to assess whether the community supports are adding value. Mayor Weinberger replied that the City tracks the calls that the CSOs and CSLs respond to, which is a way of measuring productivity, and that the City continues to determine the value of these community resources. Councilor Carpenter added that it will be important to determine if there are activities that the CSOs and CSLs aren't currently doing that they could be doing in future, to fully utilize them.

Councilor Bergman requested more detail about the actual dollar tax increase for the public safety tax cap. He also asked for details about operational cuts, in terms of the work done to date. He also asked for the percentage and dollar amounts in the unassigned fund balance. Mayor Weinberger noted that the \$1 million one-time funding is being used so as to avoid the use of unassigned fund balance to close budget gaps. Councilor Bergman asked the administration to share the legal opinion on the franchise fee that was alluded to. He also said that he would like to see the administration's analysis for both gross receipts and local option taxes, saying that he would support a further increase if there is room to do so. He asked for examples of what the flexible \$250,000 of funding for the Police Department could be spent for. Mayor Weinberger replied that for example, when the Council wanted additional funding for security during the holiday shopping season downtown, this flexible funding could have been used for that.

City Council President Paul asked whether the reduction in Burlington Police Department FTEs at the airport from 8 to 6 is reflected in the chart that compares FY20 to FY25 BPD spending, and Chief Administrative Officer Schad replied in the affirmative. Chief Administrative Officer Schad also noted that they are able to increase the number of FTEs at the airport to 7. City Council President Paul asked about the \$1 million in one-time funding that is proposed for closing the budget gap, since at a previous Board of Finance meeting they were told that there were no more ARPA funds remaining. Mayor Weinberger replied that not all of it is ARPA funding, and that not all of the ARPA funding that was committed to other activities was spent, and that a recent review showed unspent ARPA funding in other areas. He said that there is at least \$400,000 in ARPA funding that could be used for this, and that they are looking for other sources of one-time funding without tapping into the unassigned fund balance. City Council President Paul asked for an analysis of still-existing one-time funding.

Councilor Traverse said that voters are going to look at the tax increase as a package, which includes both the 13.9% increase related to the school district, and this municipal increase. He said it would be helpful to see the full effect of tax increases if they vote in favor of the increase. He said he would like additional information on the revenue currently generated from gross receipts and local option taxes, saying that if there is any flexibility to further tweak these to lessen the pressure on the property tax increase. He asked if there are any other gross receipts taxes that the City is not taking advantage of. Mayor Weinberger said that the administration will follow up with further information. He noted that the City will be about 1% higher than surrounding municipalities with its gross receipts taxes, so he cautioned about increasing it too much further.

Councilor Hightower asked for a breakout of the currently-provided preventative services and new preventative services, to see what is being maintained versus what is being added, for the CSOs and CSLs. Mayor Weinberger replied that they will follow up with this detail.

Councilor Barlow asked for more detail about local option tax and gross receipts taxes for Burlington's regional neighbors, such as South Burlington, Williston, and Colchester. He also asked about the projected \$3 million reduction in operational expenses in the General Fund, and asked how much room there is there to offset some of these larger increases elsewhere in the budget, noting that this operational reduction projection seems fluid. Mayor Weinberger acknowledged that the projection is fluid until the study is finished. He also pointed out that the lifting of the public safety tax cap does not obligate the City to raise taxes to that cap, and that if more revenue comes in from other sources, they may not need to raise the taxes up to the cap. He said that they will have a further update on the operational study's timeline next week.

Councilor Shannon asked about other additional public safety costs that were needed, such as the use of State police presence downtown to fill gaps, and asked about assumptions related to these other costs in the budget. She said she wants to ensure that the City is budgeting for all of the various forms of security needs that they have.

Councilor Grant reiterated the point about the delineation between what a sworn officer can do versus what a CSL or CSO can do. She said that often, officers can't do some of the work around mental health issues that the CSLs can do, saying that the City needs to be mindful of the unique offerings of each position as they pertain to public safety responses. She also expressed frustration about the difficulty of getting data on a consistent basis, saying that the issues being responded to by each type of position should be on the Chief's monthly report, to help inform future staffing decisions.

Councilor Dieng said that the Police Department should be included in the list of departments assessed for the operational study, given that the focus until now has been on rebuilding the Police Department but not necessarily assessing its needs. He said that if the City cannot do this, they should consider a separate assessment focused specifically on the public safety departments in the City.

3. SECOND PUBLIC HEARING ON PROPOSED CHARTER AMENDMENTS FOR MARCH 5, 2023 ANNUAL CITY MEETING **START TIME: 6:30 PM**

3.1 Second Public Hearing On Proposed Charter Change Amendments For March 5, 2024 Annual City Meeting

Acting City Attorney Pellerin noted that state law requires the City to hold two public hearings if charter changes are being proposed, and that this amendment pertains to allowing the Burlington Electric Department (BED) to increase its revolving line of credit from \$5 million to \$10 million. He said that additionally, the Council was considering a charter change revolving the oversight of police, but that this was referred to the Police Commission at the last City Council meeting, and it will come back to the Council for consideration in June.

City Council President Paul opened the public hearing.

There were no public speakers.

City Council President Paul closed the public hearing.

4. PUBLIC FORUM: **TIME CERTAIN – 6:45 PM**

4.1 Verbal Comments

Forum opened at 7:05 PM.

MOTION by Councilor Traverse, SECOND by Councilor Bergman, to suspend the rules and increase public forum to 3 hours and extend it until 10:00 PM.

VOTING: unanimous; motion carries.

COMMENTS:

Burlington residents (in person):

- Jordan Weiner said that the apartheid free pledge should go on the ballot. He spoke as a Jew who lost families in the Holocaust, and opposed the restriction of democracy to get this on the ballot. He said that the Palestine Solidarity Movement surpassed the number of required signatures to get this measure on the ballot, demonstrating popular support for this measure. He spoke about statements made to put this measure on the ballot.
- Helen Scott said that the apartheid-free Burlington resolution is authored and endorsed by Jewish, Christian, Muslim, and secular residents and groups, and that the democratic process was followed to get it on the ballot. She said that they are seeing a pattern of censorship of criticism of Israel, and asked why this is happening now. She said that Israel is committing crimes against humanity, and the majority of the world is horrified. She said that the Council should put this resolution on the ballot and that this is a question of democracy and humanity.
- David Geddes urged a no vote on the apartheid-free pledge. He said that the resolution vilifies Israel and would energize extremists and divide the Burlington community. He spoke about the security measures that the local temple has had to implement, in response to the wave of anti-Semitism in the community.
- Alyssa Chen spoke about a number of arguments used by Zionists with regards to this ballot measure. She said that one argument is that placing the measure on the ballot would cause a rise in anti-Semitism. She said that this conversation will occur in the community whether or not the Council creates a civic venue for it, and that Israel's current genocidal actions have certainly contributed to a rise in anti-Semitism. She said that ignoring this genocide will not cause a decrease in anti-Semitism. She said that another argument asks why the City is singling out Israel, and noted that U.S. involvement and intervention could stop this genocide and apartheid. She said that another argument is that it goes too far to call this a settler project.
- Spencer Karofsky said he is appalled that yet another resolution demonizing Israel is being considered by this Council, saying that the City has its own issues to deal with. He said that Israel is objectively the most progressive and democratic nation in the Middle East, and said that this focus against Israel is targeting Jews. He said that similar outreach should have been displayed for the attack of Hamas on Israel in October.
- Maya Sobel said she has been an active member in the community fighting anti-Semitism. She said that narrowing the frame and placing the blame on the world's only Jewish country is problematic. She said that Israel unilaterally withdrew from Gaza in 2005 and has been thanked by nonstop rockets and bombings since then. She spoke about the Jews still being held hostage in Gaza. She spoke about the violence of Hamas, speaking about their goals of annihilating all Jews.
- Josephina Leit spoke about the pain and sorrow on both sides of this war. She pointed out that it is disingenuous that Burlington's City Council is allowing this issue to divert its time and not focus on the real issues at hand in this community. She said that there are issues in the community that need the City's attention, and that this resolution will bring no benefit to the Burlington community. She said that this resolution will not bring peace and will cause tensions to rise in the City. She said that the City should not use other genocides to describe this one [this current issue].
- Max Abrahams spoke about the terrorist attack against Israel on October 7, saying that the conflict came to him personally, as his Israeli family sought shelter and friends were deployed in a war they don't want. He spoke with concern about the number of anti-Semitic acts that

have increased around the world, including in Burlington. He asked why the City Council is wasting its time and resources on a resolution that will have no effect.

- Ashley Smith said that the City should uphold the democratic right to uphold the citizens' wishes to place this measure on the ballot. He said that the City should have rights to decide where it stands on local, national, and international issues, given that three Palestinian men were shot in the Burlington community as a result of this conflict. He spoke about the Zionist claim that Israel is not an apartheid state, which is false, given the documented apartheid nature of Israel. He noted over 65 laws that discriminate over Palestinians. He said that this resolution does not sow divisions or racism.
- Brita Fisher urged the City not to block this apartheid resolution from going on the ballot. She said that Jewish safety depends on Palestinian liberation. She said that allowing Zionists to define Jewish identity endangers Jews by eroding the definition of anti-Semitism. She said she is heartsick that the language, which opposes all forms of bigotry and oppression, is language that the Council wishes to exercise its power to keep off the ballot despite the 5,000 signatures garnered from Burlington residents. She urged the Council to let the public weigh in on this issue, which is a non-binding resolution.
- Winifred McCarthy-Don began by noting that over 20% of Israel's population are Muslim and many are high-ranking military and other academic, science, and art positions. She said that 8,550 Jews were forced to leave their homes in other Arab countries in 1948. She noted that Vermont is bigger than Israel.
- Rabbi Aaron Philmus spoke about the sense of openness and love in Burlington and that this ballot item makes many residents afraid, citing anti-Semitism in the community. He said that Israel is a tiny country populated by refugees from across the world, despite millennia of forced conversions. He said that Israel is not apartheid. He said that Israel withdrew from Gaza to exchange land for peace but that Hamas took over Gaza, and now uses its civilians as human shields. He said that Hamas is pro-Iran, not pro-Palestine. He expressed hope that local leaders form a partnership for peace and create opportunities for more facilitated dialogue on this issue.
- Rabbi Eliyahu Junik noted that any petition with the right number of signatures deserves a place on the ballot as the people have spoken, however, he challenged this and said that the City Council can exercise its right as guardians of the City's well-being. He said that petitions should align with the values of the community. He said that this petition does not make the community feel safe, and that it is divisive and false. He said that Israel is not apartheid.
- Rabbi Jan Salzman said that she is not supportive of the Netanyahu administration, nor Hamas. She said that the community needs to listen to each other. She said she would support a motion that places equal blame on the Palestinians and Gaza, in addition to Israel. She said that a ballot item should be more accurate. She said that this current proposed ballot item is causing a lot of pain.
- Adam Winter provided the definition of genocide, saying that the Gaza conflict is not a genocide, but that the pro-Palestinian movement is calling for a genocide against Israel. He noted the number of Arab Israelis in positions of power in Israel, while noting that no Jewish individuals hold positions of power in Gaza. He said that the effect of this resolution will create divisiveness in the community and concern for Jewish safety in the community.
- Jeff Schulman expressed concern for the level of hate and vitriol caused by these resolutions in the City of Burlington. He said that the supporters of the ballot light a fire in the community that doesn't need to exist, saying that any impact of this resolution will have no effect on the situation in Gaza but will only cause more divisiveness in the community.
- Lucy Gluck spoke as an ally for both Jewish and Muslim neighbors. She said that the City needs to look at how it comes together or divides itself. She spoke about anti-Jewish sentiments on UVM's campus. She said she is pro-Israel and pro-Palestine and said that Burlingtonians should come together to discuss peace, and that this petition is bringing divisiveness to the community. She expressed support for the interfaith group that is pursuing a two-state solution.
- Paul Fleckenstein spoke against genocide and apartheid in Gaza and how this division and violence have come to the U.S. in the form of racism, shooting of students, billions of dollars in taxes to prop up an apartheid state, and Zionists aligning with pro-Israel right-wing anti-Semites in the U.S. He said that the Democratic majority on this Council will continue to foster racism and violence by pretending that this divisiveness isn't caused by those perpetuating the genocide.

- Maggie Chadwell expressed concern about the Council disrupting the democratic process that got it elected in the first place. She said that this plan was brought to the people to vote on, and that the Council is protecting the Zionists. She emphasized that this is a local issue and urged the Council to allow the community to vote on this.
- Isabella Lucarelli spoke about taking an activists stance against the genocide in Palestine, and that the City must stand with Palestinians to protect the freedom of all people. She said that by not adopting this pledge, the City is staying silent against these issues. She urged the Council to allow this resolution on the ballot.
- Alison Adams agreed that this issue is divisive, and spoke about the treatment of Palestinians in Israel and Gaza and the West Bank. She said that Palestinians do not have freedom of movement and equal treatment in Israel, and that this meets the definition of apartheid. She said that this ballot initiative isn't divisive, because the division has already existed for decades. She said that the Council should uphold Burlington's democratic values.
- Abby Massell said that the Council and Mayor's agreement or disagreement with the content of the resolution at hand is irrelevant, given that they have as much of a right to vote on this referendum on Town Meeting Day as the rest of Burlington's voters. She urged the City to allow the voters to vote on this. She spoke about the 3 Palestinian men who were shot in this community. She said that violence is already here, due to anti-Arab and anti-Muslim hate.
- Kate Massell spoke in solidarity with the 3 Palestinian men who were shot by a white supremacist two months ago in Burlington. She said that this has brought the Israel/Palestinian issue to Burlington. She said that if the Council prevents this measure from going onto the ballot, it is clearly an endorsement of atrocities like the genocide in Gaza. She said that the shooting of the Palestinians in Burlington did not occur in a vacuum.
- Melanie Needle spoke about the negative impacts that voting yes on this resolution would have on the people of Burlington. She said that these include negative impacts against Jews, that this is a hateful resolution, that this resolution would be in violation of Title VI, which precludes the City from engaging in activities that are discriminatory on the basis of nationality, and that this resolution would single out Israel as not being entitled to the same equality.
- John Tatlock said that this shows that the democratic right to vote is not being upheld in Burlington. He said that the City needs to allow the democratic right to vote on ballot initiatives brought forth by the citizens. He said that the City should push back against the imperialist agenda that creates sanctuary cities in the first place.
- Marek Broderick called on the Council to allow the people of Burlington their chance to vote on the apartheid-free community pledge. He said that voting against this resolution to allow the citizens to vote would demonstrate that the Council does not trust its constituents to take part in governing this City. He said that this is censorship and is an insult to democracy and the people of Burlington.
- Jackson Francis spoke about the work done by Vermonters for Justice in Palestine and its broader coalition to gather the required signatures to have this placed on the ballot, with the expectation that the City would respect its own charter. He said that an affirmative vote does not support Israel or Palestine, but supports the voters' right to choose for itself.
- Jessie Gustafson spoke in support of the apartheid-free measure and the democratic process. They said that this is a local issue, given the shooting of Palestinian men in Burlington tow months ago. They asked the Council to allow the voters to be heard, rather than obstruct the democratic process.
- Jeff Potash said that the quality of life in Burlington has deteriorated in recent years and expectation that were taken for granted, including properly maintained roads, personal safety, urban cleanliness, exemplary schools, have been waylaid in favor of political grandstanding and social experimentation. He said that this is exemplified by tonight's discussion. He said that the Council was elected to focus on the local issues. He spoke about a growing sense of hatred, anti-Semitism, and Islamophobia in the City.
- Adam Franz spoke about the process of obtaining signatures to get the apartheid-free resolution on the ballot for Burlington. He said the Council is likely to overturn this initiative and tend toward oligarchy. He reminded the Council that they are not asking it to vote on the measure, but to vote to allow its constituents to make their democratic decision. He noted that democracy itself is inherently divisive. He noted the City's historic opposition to South African apartheid. He said that the Council should allow this measure to proceed to the ballot in March.

- Rosalie Schachter said that there is a different path forward than this ballot initiative, saying that this resolution prompts the City to choose sides and vilify one over the other. She said that the City should focus on creating opportunities for dialogue and furthering the discussion around peace and healing. She spoke about the group Partnership for Peace, which is leading work toward sustained peace in Israel and Palestine.
- Mort Zachter asked the Council to vote in opposition to this petition, as it only addresses oppression by Israel and does not mention Hamas or the actions on October 7th. He said that when Israel forcibly took residents out of Gaza in 2006, they left greenhouses. He said that it is emotional on all sides. He expressed hope for a peaceful two-state solution.
- Nurit Zachter spoke about the suffering of the Palestinians, hostages, citizens of Israel, Ukraine, and all war zones around the world, women under Sharia law, and LGBTQ people who are persecuted internationally. She said that the Council will serve its citizens best by creating cultural programs and activities that create dialogue that unit its residents rather than divide them. She spoke about the homeless and mentally ill in the City that need the City's help, and that this resolution won't help them.
- Crystal Cole spoke as a representative of the Vermont Worker Center, saying that the City should follow the democratic process and put the apartheid ballot measure up for a vote. She noted that opposition to Zionism is not anti-Jewish. She also noted that speaking against apartheid isn't anti-Israel. She said that coexistence is possible. She also said that this is a local issue, and that Burlington should support its Muslim community by showing that it cares about their safety.
- Peg Price said she wants to live in a City that embraces diversity and spoke about how this resolution directly impacts the City. She said that Palestinian Americans, Muslims, and Jews are living in fear right now, and that the City needs to work to build a sense of safety for everyone. She said that she is scared about how this petition will be interpreted, expressing fears that it may lead to more targeted attacks and negative treatment of Jews in the community.
- Ilana Siegelman said that this is the third time in two years and second time in six weeks that the topic of Israel is on the table for discussion at City Council. She said that the City should be talking about its many local issues, not about this conflict. She noted that many Jewish members of the community have sent money to Israel, and asked how the City would approach the divestment statement in this resolution. She asked whether Jews would be determined to be unacceptable to live in Burlington and whether synagogues will close. She asked whether businesses will be closed because they sent money to Israel. She asked whether this resolution would be legal under laws of boycott. She said that she would like to create unifying conversations in the Burlington community.
- Robin Maza said that she supports a two-state solution and that this anti-Israel rhetoric is untrue. She said that children in public schools are experiencing anti-Semitic language that is specifically targeting Jews. She said that Burlington is unsafe for Jews in the City. She said that this petition is grossly one-sided.
- Andrew Shawbeck urged the City not to adopt the ballot petition, and that the City is not designed to be involved in complex foreign policy matters. He said that adopting this pledge will sow discord and disunity in the community. He urged the Council to support peace and unity within the community by voting no.
- Lynda Siegel spoke about the number of international issues that that the City could be up in arms about, and named a number of them. She noted that this is the third time in two years that this issue has come up in the City and asked whether there is some measure of anti-Semitism at work here to demonize the state of Israel. She said that initiatives such as this reduce the quality of life for many Burlingtonians.
- Adam Bluestein said that the petition to place a referendum on the Town Meeting Day ballot is another attempt to vilify Israel in this chamber, and urged the Council to vote no. He noted that Jews make up just 1.2% of the population in Vermont. He said that this current ballot initiative makes people feel less safe.
- David Harari expressed disappointment about the citizen petition to add an anti-Israel advisory question to the Town Meeting Day ballot in March, which attributes the terms apartheid regime and settler colonialism to Israel. He said that this initiative is not one-sided, and that the divisive and inflammatory language is dangerous. He urged the Council to vote no on this ballot initiative.

- Celia Liberman spoke about moving here from Israel after a mass shooting terrorist attack in 2016, which was perpetrated by Palestinians belonging to ISIS. She expressed disappointment that this ballot initiative further polarizes the community and pits it against itself, especially when many here are not personally affected by such division. She said that this initiative will legitimize the sense of anti-Semitism in the community. She said it will also invalidate the pain that Israelis are living with every day and will dismiss the hurt caused by Hamas.
- Xochi Kajatt said that residents are begging to be allowed to vote on a subject that so many have already expressed a community need for, and that to be silenced and rejecting the right to vote makes a joke of democracy. She urged the City Council to say yes to the right to vote and to say no to genocide.
- Ben Jastatt said that a proxy war is being waged in Burlington. He spoke about the rising homelessness, fentanyl addiction, petty and violent crime, housing crisis, and children going to school in an abandoned mall. He said that the Council is taking vital time, effort, and goodwill and focusing them on this conflict rather than on the community and supporting one another. He said that this is a dangerous game of ideological brinkmanship.
- Thomas Sutton urged the Council to uphold the democratic process.
- Antonio Golán said that this ballot measure's opponents have repeatedly argued that this matter is divisive and it is not within the City's purview. He said that in reality, this is nothing but empty rhetoric, and that the reality is that allowing citizens to vote to have Burlington declare itself an apartheid-free community would put the Democrats in a politically uncomfortable position. He said that years from now, history will recognize Israel's apartheid regime for what it is.
- Michelle Sagalchik said that it is now Burlingtonians' turn to vote as ordinary citizens, and that the Council should allow the democratic process to play out. She asked what kind of lesson this teaches children about civic engagement, because this is allowing the peoples' voices to be blocked because those in power disagree with it.
- Brosh Teucher urged the City Council to vote no on this proposed item, asking what business it is of the City to weigh in on a conflict occurring 5,000 miles away. He asked how this will help with any of the very real, very close issues that the City needs to contend with. He said that City resources should go to places under the City's purview.
- Theo Wheeland spoke in support of democracy, which has always been a battle. He said that the 55 richest white men in the country wrote its constitution, and that it was designed to thwart democracy. He spoke about how workers and poor people have tried to improve democracy, including with citizen-led ballot initiatives. He said that one way to solve social issues is to put them on the ballot and letting people speak. He expressed disappointment in the Zionists who are afraid of democracy.
- Aspen Overy said that "never again" truly means "never again", and not just when it's convenient or benefits our economic interests. She spoke about Palestinians being killed in airstrikes and Palestinian babies orphaned by the Israeli apartheid regime. She said that the City has an obligation to be on the right side of this issue and that voters have the right to vote to say this.
- Romeo von Hermann spoke in opposition to any resolution or ballot item that is divisive or anti-Israeli, because there are local issues that need the City's urgent attention, such as the unhoused and tent encampments in the City. He expressed disappointment that the unhoused are not seeing the same level of attention and support that this ballot initiative is.
- Dan Castrigano said that they should declare Burlington an apartheid-free City and that this item should be placed on the ballot to let the people decide.
- Hannah Lawrence expressed support for the apartheid-free ballot measure, and expressed concern about the power grab that would prevent this from going on the ballot. She said that conflating criticism of Israel with anti-Semitism is dangerous and distracting from the real anti-Semitism that is occurring here and around the world. She said that opponents have said that there are more urgent issues to address in the City, but asked what is more urgent than addressing the root cause of the anti-Arab and Islamophobia that led to the shooting of three Palestinian Americans two months ago here. She said that the City's leadership is uplifting a foreign government.
- Lizzie McCullough urged the Council to put the apartheid-free measure on the ballot. She said that efforts to distance the community from the acts of violence going on purposely obscures the truth that US-made weapons kill children in Palestine and Israel, and that these depend on

our tax dollars to fund an apartheid government. She said it would be a shame that the hard work done to bring this measure forward would be blocked by our own elected officials.

- Will Lynch urged the Council to allow the apartheid-free pledge to go on the ballot in March. He urged the Council to understand the humanity of these communities in the Middle East that are so gravely affected by this conflict. He urged the Council to pause and mourn those who have been lost, as well as think about the implications of their actions tonight on their political futures.
- Mirza Korojkic said that on behalf of the 6,000 Muslims living in Burlington, they do not feel safe because the Council voted against a ceasefire. He asked how a ceasefire could hurt anyone. He said that this sent a clear message, which was that shooting Muslims and shooting Palestinians is okay, even when they are shot right here in Burlington. He said that it is the Council's job to protect Burlingtonians, and to think about how its actions and stances regarding international issues affect its constituents here.
- Joe Kane said that this body is anti-democratic, and that it was anti-democratic when it chose to give an unpopular handout to the Air Guard with the lease extension, with its appointment of the police chief, and with its pulling of the police oversight board measure off the ballot last week. He said that it was anti-democratic to keep the City Hall Park ballot item off the ballot in 2019. He said that only those who are blinded by privilege can see this municipal government as representative and democratic. He said it is anti-democratic that City Councilors are paid so poorly that the working class need not apply. He said that it is anti-democratic that elections aren't publicly funded. He said that this will set a precedent.
- Chris Gish asked the Council to respect democracy and allow the people to vote on an item that they feel is important to them. He spoke about numerous instances where voters disproved of something but their voices weren't heard. He said that this item does not condemn Israel or Jews, but calls for an end to its apartheid regime, settler colonialism, and military occupation. He said that this measure is the first step toward any real healing.
- Maya Jamaledine it is ridiculous to have to come here and beg the Council to allow its citizens to vote on a ballot item. She said that her family begged her not to return to Burlington after the Palestinian men were shot, and she spoke about being worried about being targeted if she speaks Arabic or looks too Arabic. She said that it is very disrespectful to not let citizens to vote.
- Chaim Lodish said that the resolution has incorrect and false statements. He stated that Israel is not an apartheid regime nor settler colonialism. He said that Israel has the right to exist and protect itself.
- Amalia Kane spoke in support of democracy, safety, and justice for Palestinians. She spoke about the collapse of the health system and the massive amount of human suffering taking place in Gaza.
- Muhaideen Batah said that his treatment as a Palestinian here is similar to his treatment as a Palestinian in Israel, except that here he isn't being killed. He said that the policies are similar. He said that it seems that this country is being ruled by Zionists. He asked where American pride is when it comes to policies against Israeli brutality.
- Rach Margolies said that she is here to stand up against hate, hate against Muslims, hate against Jews, and hate against fellow Americans. She said that she is here so that she can tell her children that she stood up against hate.
- Susan Leff said that before she comments on what is being discussed here, she highlighted what isn't being discussed, which includes the Uighur Muslims being held in concentration camps in China, the war crimes in the Ukraine, the Palestinian refugees confined to refugee camps in Lebanon, Syria, and Jordan, or other issues. She urged the Council not to put hate on the ballot in Burlington. She said that the pledge is one-sided and endangers both the Jewish and Muslim citizens in the City. She said that the Council needs to work on the problems it has, not make the City less safe for everyone.
- Mazhr Quraishi said that he moved here for peace and tranquility. He said that this is a human issue, because all people are humans. He said it is the Council's responsibility to ensure peace.
- Dylan Pilcher spoke in support of putting this measure on the ballot and that people should have the choice of making Burlington an apartheid-free City. He said that this should not be a controversial issue. He said that research shows that the West Bank is under military occupation and Gaza is under a suffocating blockade. He said that the City needs to work for justice for all people.

- Emma Redden expressed concern about sentiments heard from the Council and Mayor about blocking a vote on the apartheid free community pledge. She said that Burlington has a history of debate and participatory democracy, and that it feels condescending to suggest that a community cannot hold the weight of this. She urged the Council to allow the democratic process to play out. She said that this movement is multi-faith and multi-racial because they understand that Jewish safety is also tied to Palestinian safety.
- William Keetor noted that at Columbia University, the police used chemical weapons against Palestinian solidarity protestors, which were developed by the IDF to be used against Palestinians and used against people here. He said that this shows that the democratic rights that the City thinks it has can be taken away at any moment. He urged the Council to vote with its conscience.
- Amy Malinowski spoke about a unique feature of Vermont's democracy, which is its Town Meeting Day, and which is used to come together for the common good and to instruct its direct representatives. She said that however, in Burlington, the most recent efforts that people have made to hear each other out have been shut down or attacked by City leadership. She spoke about instances of community-petitioned ballot items being blocked by the Council.
- Faried noted that every other municipality in Vermont has some sort of measure for direct democracy, but that Burlington does not and has time and again blocked these types of measures. He said that those who will vote against this measure tonight are the same people who have no problem with using state violence right here in Burlington to move homeless people out of the public.
- Martha Carpenter spoke as a teacher from the Ohavi Zedek preschool, noting previous synagogue leaders who have spoken as not in support of the resolution, saying that it is being driven by a small and vocal group that seeks to vilify Israel. She urged the Council to allow the voters to weigh in on this issue and asked that they support the resolution and allow it to be placed on the ballot.
- Jay Johnathan said that the Council wouldn't need to spend all this time discussing this if the City would just let it go on the ballot, which is simple, and more representative of the democratic process. He said that this is a global issue but it also has local implications. He said that preventing dialogue on this conversation is a nod to white nationalism.
- Debra Clemmer spoke in support of this resolution being on the ballot, saying that the vast majority of Israelis and Palestinians want peace, though their leaders don't. She said that the citizens of both countries are suffering. She said that communities around the country are discussing this because the U.S. government lacks the courage and will to demand that Israel stop killing Palestinians and destroying their land, hence this grassroots movement at the community level.
- Laura Massell urged the Council to allow the apartheid-free measure on the ballot for Town Meeting Day, saying that Burlingtonians deserve to learn, discuss, and weigh in on these difficult issues, without conflating the opposition of the actions of the Israeli government and the U.S. support of this with anti-Semitism. She said that voting Burlington an apartheid-free City would declare the community's opposition to racism.
- Peter Lackowski spoke about South African apartheid and how it mirrored the Jim Crow South in the U.S. He also noted that Germany studied this in the 1930s as well. He said that this is a worldwide phenomenon and harkens back to a time of racial terror. He said that this resolution is a great success because it has sharpened in peoples' minds what is going on in Palestine.
- Logan Roots asked why this resolution is being perceived as bad, since it condemns apartheid and the horrors that are occurring in Gaza right now. He said this isn't a question of anti-Semitism, but a question of democracy, since they are asking the Council to allow this to be put on the ballot for a vote.
- Christopher Aaron Felker spoke about how the rise in anti-Semitism and Islamophobia have made the community feel. He urged the Council to vote no on any initiative condemning Jewish people, since the City is experiencing unprecedented outbreaks of lawlessness, drug trafficking, and homelessness, and asked how the Council feels that it can weigh in on this global issue.
- Kit Andrews said that the issues at hand are peoples' understanding of the history of the current situation in a faraway land and how that relates to the wording on the resolution, and whether the voting citizens of Burlington should be allowed to express their opinion on the

resolution. She said that in her mind, there is only one issue, and that is giving voice to the voters and allowing the democratic process to play out.

- Jake Schumann spoke about the divisive City Council meeting on December 11th, saying that a precedent of systemic racism was established. He encouraged everyone to understand the opposition, because everyone wants the same thing—an end to this war.
- Will Lambek said that the proposed referendum is not anti-Semitic. He asked the Council to put this on the ballot and let the voters decide, since no single person is the arbiter of what is anti-Semitic or not.
- Satya Emerick expressed shock that residents would put in so much work to get this on the ballot and follow the legal, democratic process, just to have it blocked from the ballot by the City Council. He said that Councilors can disagree with the wording of the referendum, because they can vote against it on Town Meeting Day, which is the point of putting it on the ballot.

MOTION by Councilor Bergman, SECOND by Councilor Traverse, to reconsider the suspension of the rules and extend the time limit of public forum to allow the Burlington residents (in person and online) and the representatives of organizations and property-owners in Burlington who have signed up to speak.

VOTING: unanimous; motion carries.

- Sandy Baird urged the Council to put this resolution on the ballot for the Town Meeting Day vote, in honor of the tradition of Town Meeting Day and American democracy. She also spoke about Burlington as the first municipality to have both a sister city in Palestine and a sister city in Israel. She asked the Council to honor the traditions of local politics and democracy and allow the voters to vote on this issue.
- Emily Lightman expressed disappointment that the reputation of Burlington is tarnished by the obstruction of dialogue and progress. She spoke about how the divisions seen within the Israeli-Palestinian conflict are seeping into the community and dividing Burlington itself. She asked the for opportunity to engage in productive discomfort and lean into necessary dialogue. She said that the way forward must begin at the local level. She asked the Council not to support this resolution, but to allow for community engagement in a way that empowers communal conversation.
- Colin Palmer spoke about the effects of the current conflict on the health system in Gaza. He also noted Vermont's participation in trade with Israel, saying that participating in this trade makes Vermont complicit in an apartheid fascist regime. He spoke about how Sears Lane was bulldozed by the City, noting similarities in Israel's actions in Gaza.
- Halle Sisenwine asked whether those who have called Israel an apartheid state have been to Israel, saying that the attacks of October 7th were pure anti-Semitism and hate. She spoke about how she feels unsafe in Burlington and on campus. She urged the Council to vote no on putting this resolution on the ballot and to help find a path of peace that does not alienate any citizen.
- Fiona Duckworth said that the only parts of the resolution she disagrees with are the parts that mention apartheid regimes, settler colonialism, and military occupation. She said that she wants equality for all people and wants Palestinians to feel safe in Burlington. She said she supports a resolution to this conflict, but also wants to bring attention that the language surrounding this conflict requires nuance and thought and conversation. She urged the Council to vote no and to help provide a space for conversation that supports peace in the community.
- C. Green asked the Council to put the apartheid-free question on the ballot in March. He said that the fact that at least 5% of the voting population put their signature to a petition for this to be on the ballot signals that this is truly a local issue. He said that tens of thousands of people have been killed and that is a massive problem, and it should stop.
- Nicole Hansen said that she is a Palestinian who has never been to Palestine because it is an apartheid state. She urged the Council to vote yes on putting the apartheid-free measure on the ballot. She spoke about the limitations on movement in the West Bank for Palestinians. She urged the Council to let the people vote and let the City be a democracy.

Burlington residents (via Zoom):

- Siavo Lavina Chason thanked the Council for attempting to stifle democracy, as it makes her job as a radical so much easier. She urged them to let the peoples' voices be heard. She said that equating Israel and Zionism to Jews and Judaism is deeply anti-Semitic. She said that Israel is guilty of genocide, not apartheid.
- Valerie Goldberg spoke about the injustice of women being held hostage in captivity and asked how this liberal City that respects women is fine with them being raped and mistreated. She spoke about how Vermonters need to take responsibility for this, and that they owe it to their children to stand up against rewriting history and that the Council should vote no on this. She said that Jews are the indigenous people of Israel and that they can't be colonizers. She urged the Council to vote no on this resolution.
- Patricia Myers said that placing this item on the ballot in March is inappropriate and is outright anti-Semitism. She urged the Council to vote against placing this on the ballot.
- Sharon Bushor expressed concern for the Council and residents of Burlington about the work session around the public safety tax that took place earlier tonight, saying that the work session was rushed, given that it is considering adding a City tax increase to the ballot. She said that there is more information that is needed for the Council to make a good decision on it. She suggested, as an alternative, phasing the tax in over FY25, to lessen the brunt of the increase on residents. She spoke about the disproportionate death that is occurring in Gaza versus what is occurring in Israel. She said that putting it on the ballot is appropriate, but said that the City should additionally have dialogues in the community to get to a mutual understanding and start healing.
- Ferene Paris spoke about the declaration that many on this Council supported, which was a declaration in 2020 of racism as a public health emergency. She said that the issue that is occurring right now in Palestine and Israel and its effects on the local community are no different, and that we have wavered from that stance of racism as a public health emergency. She said that she is worried about the collective state of the community.
- Dee Graham spoke in support of this resolution and putting it on the ballot.

Burlington property-owners or organizations (in person):

- Naomi Burrell spoke as the Director of Youth Education at the Ohavi Zedek Synagogue. She spoke about how Burlington's Jewish community is frightened of the current environment, and said that this fear will only increase if the Council decides to vote yes on this resolution to allow the measure on the ballot. She said that this would cast a very complicated Middle East conflict into a stark yes or no light. She said that this ballot measure would only sow more division in the community.
- Wafik Fayor spoke as a Palestinian refugee. He said that this ballot measure can be considered a local issue as long as the United States supports the state of Israel and taxpayer money is going to support the regime. He said that if Burlington wants to solve its own issues, it should stop sending aid to Israel. He said that this conflict can be solved by approaching it similarly to how apartheid was solved in South Africa. He said that the Council should respect democracy and allow this to be on the ballot.
- Sergey Sprenner said that this is the second time in six weeks that this issue has come before the Council, and the third time in two years. He said that white supremacist comments are still racist even if uttered by people of color, and spoke about having rabbis be lectured in this room about what anti-Semitism is. He said that this resolution was never about fixing anything.
- Marina Schapner spoke as a Jewish refugee from the Soviet Union, saying that she was brought to the U.S. by her parents to escape the anti-Semitism of that country. She spoke about feeling unsafe for herself and her children in this community since the attacks on Israel by Hamas on October 7th. She said that anti-Israel rhetoric eventually leads to violence against Jews across the world.
- Topaz Weiss spoke about how what is happening in Gaza and Israel is horrendous. She spoke about feeling unsafe and helpless in this situation, and added that this referendum will hurt the Jewish community and make them feel unsafe and that it is the product of anti-Semitism.

Forum closed at 10:41 PM.

MOTION by Councilor Bergman, SECOND by Councilor Dieng, to suspend the rules and complete the agenda.

VOTING: unanimous; motion carries.

5. DELIBERATIVE AGENDA

5.1 Resolution: March 5, 2024 Annual City Meeting—Advisory Ballot Question re: Pledge of Mayor And City Council (Councilors Bergman, Magee, Dieng)

MOTION by Councilor Bergman, SECOND by Councilor Magee, to waive the reading and adopt the resolution.

DISCUSSION:

- Councilor Bergman said that he is sponsoring this resolution because he believes in supporting the fundamentals of democracy. He spoke about past examples where he has done this, such as the nuclear freeze ballot item in March 1981. He said that this is about the right of people to have a real and meaningful say on the issues that matter to them. He said that he has been struck by the widespread support in his ward and throughout the City to put this measure on the ballot. He said that denying this right would weaken democracy. He noted criticism that this would divide the community, and responded by saying that the community is already divided and that keeping this off the ballot will not bring the community together. He said that there will be conflict in the Middle East over this until there is a peace that addresses the root cause of this conflict, and that keeping this item off the ballot and ending the Citywide debate on it will not change that. He noted criticism about the characterizations within the pledge portion of the ballot question, and that it is one-sided and doesn't address other countries' atrocities, and he replied that this is what an election is for, and it will allow a full and honest debate on apartheid and colonialism. He said that voting to place this on the ballot does not put Councilors on one side of the debate or the other, and he urged the Council to not deny the voters of Burlington this opportunity. He said that the Council must act on this because it was brought to them by the voters and this is the City Council's job to do. He spoke about how putting the nuclear freeze petition on the ballot in 1981 actually made a difference in international dialogue.
- Councilor Hightower spoke about how she has learned a lot on this issue from people on all sides of it. She said that the Council needs to be more educated on this issue. She said that because the City has had a hate crime occur here, the Council should create the space to come together to discuss what happened. She said that because this was brought to the Council by petition, she will support to put it on the ballot. However, she said that there are speakers who come to speak during public forum who have no personal ties to this issue but speak in violent terms, and said that sometimes it feels as though they are unaffected by their own words, and cautioned that they choose a different path, because others are affected by their words and it is sometimes difficult to listen to, especially if others have endured trauma due to this issue. She said that speaking violently and dehumanizing people causes violence and dehumanization and that hate creates more hate. She said that she will work to bring forward a resolution that promotes discourse and a community conversation, because this is needed in the community. She spoke about how the first resolution related to this issue was tabled and there was no action, despite having a divisive conversation about it. She reminded everyone that one of the three Palestinian men who was shot asked the community to think of the dehumanization of Palestinians that have become collateral in a conflict. She said that this current resolution came to the Council from the community due to the Council's inability to find language or come to a conclusion about the resolution in December. She said that Burlington has a unique responsibility in light of what happened here in November. She said that she does not support the language around apartheid and ending colonial settlements, and would rather see language around a ceasefire in the pledge.
- Councilor Traverse expressed appreciation for the effort put in to organize and collect signatures for this petition, but said he would respectfully vote against placing the proposed referendum on Burlington's ballot. He noted that there are

multiple examples in Burlington and across the state of municipal governing boards electing against placing petitions for questions before their voters, and he cited Supreme Court rulings allowing such. He agreed with Councilor Bergman around the outpouring of sentiments around this item, and said that the biggest concern from his perspective is around the hundreds of comments received by members of the community who are unsettled, hurt, and afraid that the City Council would take up an issue that is solely critical of Israel. He spoke about the rise in anti-Semitism and Islamophobia in the community. He expressed concern that placing this question on the ballot would cause further division and harm in the community. He acknowledged that this question may spur productive dialogue and debate, but said that he would rather keep this discussion going through other avenues than a ballot item.

- Councilor King spoke about her engagement with the community over the past number of weeks on this issue. She said that she voted for the ceasefire measure in December, but said that this question is different and was written in a way that is one-sided. She said that this petition would increase the division in the community and that Burlingtonians on all sides of the issue have said that they do not feel safe in Burlington. She said that she would prefer if members of the community found ways to dialogue with each other to promote peace, and that she would actively support such activities and would put time and resources toward this and tangible ways to contribute to humanitarian efforts.
- Councilor Magee said that this room is the most tangible access that people have to their government, whether through their City Councilor or the Mayor's office, and that this is where people come to have their voices heard. He said that this City has a long history of standing against oppression and apartheid. He recognized the effort that it took to collect signatures and petition for this issue to be on the ballot, and said that it is not the Council's place to stand in the way of that. He said that the community owes it to itself to show up and discuss this in as many venues as possible and find common humanity in these situations. He said that this Council should not stand in the way of democracy.
- Councilor Carpenter said that she cannot support put this on the ballot, noting that the structure that allows for advisory, non-binding ballot items would not be used for the common good in this instance. She said that she supports most of the language in the first portion of the pledge, but expressed puzzlement with what it means to be an apartheid-free City, and asked how that would be implemented, given that it's a statement. She said that the City needs facilitated dialogue. She said that she has learned a lot about the Middle East through the course of this process, but said that she is still learning and is not ready to pick a side, which is what this ballot item would require. She said that Burlington has a strong history of coming together, but said that this ballot item will not foster the dialogue and conversation that the community needs to promote peace.
- Councilor Grant spoke in support of the college students who shared their stories, saying that UVM has had a great deal of controversy in their non-reaction to charges of anti-Semitism, and adding that UVM can still do better. She noted Bernie Sanders as saying that a just cause for war does not excuse atrocities in the conduct of that war, in response to Netanyahu's response to criticism about the conduct of his campaign. She said that the City needs to think about the tens of thousands of people who have been killed in this conflict. She said that placing this item on the ballot would uphold vibrant democracy. She said that the relationship that the U.S. has had with Israel makes this conflict not equivalent to some of the other international conflicts, such as the war in Ukraine and the plight of Uighurs in China. She said that she also doesn't feel safe in the community, having dealt with equity and policing for a number of years, but that it is nothing new. She said that bias and racism in schools is a terrible problem, saying that they need to do more education in schools to combat this for Muslims, Blacks, and now Jews. She noted that with regards to apartheid, the occupied territories are occupied. She said that the community is not as progressive as it thinks it is and that it needs to be real about some of its discussions.

- Councilor Barlow acknowledged that this issue divides the community and makes the community feel unsafe. He said that the ballot is not a healthy way to continue this dialogue, nor the way to find common understanding or unit on this complex topic. He said that he would support Council action to promote a facilitated community dialogue on this.
- Councilor Dieng agreed that this issue is complicated, divisive, and unsafe, and that this is the third time that the Council is allegedly targeting the Jewish community (which is untrue). He said that they are all members of this community and that they agree that what is happening between Israel and Palestine is wrong and it is a genocide. He said that they love and support the Jewish community here, but that is not the problem. He said that the issue here is around democracy, and that the Council's fundamental role is to respect human rights and freedom of speech, which is what this resolution is about. He asked to allow the voters to have a say. He urged the public to listen to the recent Mayoral debate about free speech. He said that the City is opening the door for more controversy if it does not allow this measure on the ballot. He said that it will continue coming to the City Council until they allow the people to have a say.
- Councilor Bergman said that he is struck by how criticism of Israel is conflated with anti-Semitism, which is a long-standing political tactic. He said that as a non-Zionist Jew, he does not believe that they are the same or that criticism of Israel is anti-Semitic. He said that he hopes that this false equivalence continues to be rejected, and he additionally hopes that the conflation that ties all Jews to wrongful acts is also rejected. He spoke about how he, other Councilors, and the Mayor, have regularly gotten emails from a local neo-Nazi. He said that quashing a vote on this question will not decrease anti-Semitism in this community. He stated that anti-Semitism is vile and that threats of violence against Jews are unacceptable, and critics of Israel must be clear about this. He said that supporters of Palestinian freedom need to be clear that the work to end the occupation requires a rejection of anti-Semitism. He noted that one of the most successful strategies of the defenders of Israeli policies is to delegitimize non-violent forms of resistance, including BDS (boycotting, divestment, sanctions). He quoted Jonathan Kuttab, an international rights lawyer and a citizen of East Jerusalem, regarding the use of non-violence in this conflict.
- Councilor Hightower said that she is supporting putting this on the ballot tonight and that she is supportive of a community forum, but not at a replacement. She would like both. She said that this Council has a history of saying that it can do things better than the community initiatives brought forward but that sometimes it ends up not following through on those statements. She said that for any member of the community who has been targeted and feels unsafe, they should know that members of the Council have also been directly targeted because of their identities as well, and that they emphasize.
- Councilor Grant said that the Council really needs to think about how it handles certain issues, since it does not handle some issues well. She said that the Council has been ignorant and insensitive about some issues of equity within the community and that it needs to figure out how to act upon them and be empathetic. She said that the Council needs to be trusted in order to help foster dialogue within the community.

VOTING (by roll call): Councilor Barlow – nay, Councilor Bergman – aye, Councilor Carpenter – nay, Councilor Dieng – aye, Councilor Doherty – nay, Councilor Grant – aye, Councilor Hightower – aye, Councilor King – nay, Councilor Magee – aye, Councilor Shannon – nay, Councilor Traverse – nay, City Council President Paul – nay (5 ayes, 7 nays); motion fails.

6. ADJOURNMENT

6.1 Motion to Adjourn

MOTION by Councilor Magee, SECOND by Councilor King, to adjourn the meeting.

VOTING: unanimous; motion carries.

The meeting adjourned at 11:32 PM.

RScty: AACoonrad

**BURLINGTON CITY COUNCIL
CITY HALL, CONTOIS AUDITORIUM *OR*
REMOTE MEETING WITH CALL-IN
BURLINGTON, VERMONT
MINUTES OF MEETING
January 29, 2024
DRAFT**

MEMBERS PRESENT:

Karen Paul
Joan Shannon
Ali Dieng
Zoraya Hightower
Sarah E Carpenter
Mark Barlow
Joe Magee (via Zoom, then in person at 5:48 PM)
Gene Bergman
Ben Traverse (via Zoom, then in person at 5:57 PM)
Tim Doherty
Melo Grant (via Zoom)
Hannah King

OTHERS PRESENT:

Miro Weinberger
Katherine Schad
Jared Pellerin
Kim Sturtevant
Samantha Sheehan
Lori Olberg
Brian Pine
Samantha Dunn
Eric Farrell
Meagan Tuttle
Andy Montroll
Nancy Stetson
Kelly Stoddard Poor

1. CALL TO ORDER and AGENDA

The meeting was called to order by City Council President Paul at 5:27 PM.

MOTION by Councilor King, SECOND by Councilor Doherty, to amend and adopt the agenda as follows:

- **Note removal of item 2 (per Chief of Staff Redell).**

VOTING: unanimous; motion carries.

2. COMMUNICATION: MAYOR MIRO WEINBERGER, RE: SOUTH END COORDINATED REDEVELOPMENT PREDEVELOPMENT AGREEMENT (VERBAL)EXPECTED EXECUTIVE SESSION** AGENDA ITEM REMOVED****

2.1. Communication: Mayor Miro Weinberger, re: South End Coordinated Redevelopment Predevelopment Agreement (verbal)**expected executive session** AGENDA ITEM REMOVED**
No discussion.

3. WORK SESSION REGARDING CAMBRIAN RISE

3.1 Work Session Regarding Cambrian Rise

CEDO Director Brian Pine, Assistant Director Samantha Dunn, and developer Eric Farrell spoke to this agenda item, which focused on the proposed amendment to the agreement related to the Cambrian Rise project.

Director Pine noted that the City created a development agreement pertaining to this development project that would ultimately end up with the City having control in perpetuity of about one third of the Cambrian Rise property. He noted that this agreement was originally entered into 8 years ago between the City, the Vermont Land Trust, and Farrell Real Estate. He said that the first phase of the project focused on the full refurbishment and development of the St. Joseph's Orphanage building, the second phase involved Champlain Housing Trust and Cathedral Square constructing 140 units of permanently affordable housing, and the third phase focusing on Mr. Farrell continuing to proceed with the remaining private market rate homes. He said that 12 acres of the land are conserved in perpetuity to provide access to the community gardens and recreational trails.

Director Pine said that this proposed amendment is focused on the requirement in the development agreement for a cap on the number of housing units. He said that since this was put in place, the City has seen an exacerbated shortage in housing supply. He noted that the cap was increased in 2020 from 750 units to 950 units, but that now they are seeking an amendment to remove the cap altogether and have the developer secure approval from the Comprehensive Development Ordinance and the Development Review process to govern how many units can be built there.

Mr. Farrell began by noting that the original cap was increased by 180 units, largely through excluding commercial space. He noted that by shifting this focus from commercial to residential space, the anticipated traffic impacts were not as large as originally anticipated, and said that with this proposed removal of the cap and the additional 100 units he would seek to propose, the traffic impacts should continue to be minimal. He said that if they pursue these additional units, they would continue to decrease space for commercial uses, by eliminating plans for a 64-room hotel and reduce proposed additional office space and restaurant space. He said that the underlying zoning doesn't limit density, but that density is governed by the floor area ratio. He said that they have enough acreage where they would not come close to the density limits within the ordinance. He showed renderings of what the final project would look like. He noted that with units coming online in June and later this fall, they have completed construction of about 500 units, or half of the entire proposed project (if the additional 100 units from tonight's proposed amendment are approved). He asked that the City Council eliminate the cap, and said that they will still need to go through the entire Development Review approval process.

Councilor Bergman confirmed that these 100 units would not result in the construction of additional buildings, and Mr. Farrell confirmed this. Councilor Bergman asked about building height and Mr. Farrell replied that the unbuilt buildings are already approved for the maximum

height allowed (6 stories), and that additional units would be accommodated by changing the building's footprint. He said that these units would be offered for homeownership and would be sized accordingly. Councilor Bergman asked if any of these units are earmarked for inclusionary housing. Director Pine replied that the required percentage of inclusionary zoning on the development for the previous zoning requirements has already been met through the Cathedral Square and CHT units. He said that he will be working with the developer on how to meet the new IZ requirements moving forward. Councilor Bergman asked if this would result in changes to designated parking areas. Mr. Farrell replied that no, they will not modify the levels of parking or parking area.

Councilor Shannon asked about the ratio of homeownership to rental housing both currently built and to be build. Mr. Farrell replied that when the two buildings that are nearing completion are done, out of the 567 units, they will comprise 38 homeownership units. He said that once totally completed, there will be a total of 450 homeownership units (out of 1,050 units) at Cambrian Rise.

Councilor Carpenter asked about the difficulty of developing homeownership units, given that the Council receives a number of questions about why more homeownership apartment units aren't being built in the City. Mr. Farrell replied that in today's climate, it's much more difficult to build anything, given high construction costs and high interest rates. He said that another challenge is that banks are willing and eager to finance apartment units, given Burlington's low vacancy rate, but that it's more difficult to finance homeownership units in this market. Councilor Carpenter asked for an update on the path to the waterfront, noting that part of that would be a Council-financed healing garden in memory of the St. Joseph's Orphanage children. She also asked for an update on what is anticipated for commercial space and nonresidential amenities at this development. Mr. Farrell replied that the redevelopment of the park is 95% complete and that this proposed amendment commits him to having the path built by the end of this year. He said that there is currently a 3,500 square foot space for a café-style restaurant, space for some service businesses in certain buildings, and a 4,000 foot co-working space. He said that the neighborhood will largely be residential, but that there will be some services and amenities.

Councilor Magee expressed appreciation for Mr. Farrell's willingness to engage early on in this process. He said that he had raised concerns about capacity issues with wastewater and increased demand on public safety services. He said that he looks forward to these questions being answered through the development review process. He asked about the total number of CHT units. Mr. Farrell replied that Cathedral Square developed 70 units of affordable senior housing, CHT developed 76 units of affordable family housing (rentals) and that the building that CHT will construct a year from now will be 30 units of affordable IZ units for homeownership and 40 additional IZ rental units.

Councilor Grant asked if there is an updated summary sheet for the Council of the number of buildings and units already built and the number that are proposed, with a breakdown of the mixture between rentals and homeownership. Mr. Farrell replied that they can develop a one-pager on this for the Council.

City Council President Paul opened the discussion up to the public.

The following public comments were received:

- Solveig Overby said that early on in the development there was a lot of excitement about the co-working space, saying that it was very well-received by the community. Mr. Farrell replied that 3 to 4 years ago there was a group that approached him to pursue a co-working space similar to Hulu (but on a smaller scale), but that this group has since dissolved. He said that they would like to pursue a form of co-working space (4,000 feet of it), potentially with a membership arrangement, but said that this is several years into the future.
- Keren Sita asked whether any Cambrian Rise apartments are being marketed as luxury apartments. Mr. Farrell replied that they haven't built anything that they have called luxury apartments.

- Sharon Bushor (via Zoom) noted that when Mr. Farrell began this project, he invited all City Councilors to engage and review his plans, which she took advantage of [as a former City Councilor] and said that she has been extremely supportive of this entire project. She said that this is an appropriate site to add housing and she is excited that there will be so much homeownership. She asked whether the new buildings will have shared amenities similar to the amenities offered in the original St. Joseph's building, since that building had really wonderful features and amenities. Mr. Farrell replied that the new rentals and homeownership units will include common spaces in the buildings and outside, including common rooms, a pool room, verandahs, pet washes, bike washes, bike racks, and storage. Ms. Bushor said that she hopes the fact sheet requested by Councilor Grant will be also be part of public record, since it would be helpful for the public to have these summary statistics as well.

4. PUBLIC FORUM: **TIME CERTAIN – 7:00 PM**

4.1 Verbal Comments

Forum opened at 7:05 PM.

COMMENTS:

Burlington residents (in person):

- Brett Gates spoke about encouraging the Council to work toward establishing a more systematic and transparent framework for determining when a non-binding popular initiative should or shouldn't appear on the ballot, given the events of the prior City Council meeting. He said that guardrails for determining what to put on or keep off a ballot should be clear and consistent and applied uniformly. He said that this would protect against potential personal biases of Councilors when making determinations about whether popular initiative ballot measures are appropriate.
- Solveig Overby spoke about the audit report from Fiscal Year 2023, saying that she puts together a summary of findings and would like updates on the audit findings on how the City managers its capital project accounting. She said it will be critical for voters to know about this information. She also expressed concern about the proposed \$3 million cuts in the non-public safety operating budget. She also noted a previously earmarked \$800,000 for removal of Burlington Telecom equipment from the basement of Memorial Auditorium, and asking whether that equipment has been removed.
- Romeo van Hermann expressed strong support for item 8.5, which marks a significant step for urgently needed action on sustainable practices in the City for commercial and industrial sectors. He advocated for a community forum related to item 8.6, if possible, to discuss the pros and cons.
- Kathy Ohwell spoke about the neighborhood code item that will be voted on tonight. She asked the Council to give the citizens 45 days they have asked for prior to bringing them to the board. She said that the NPA in Ward 1 would have liked to discuss this with their representative Councilors prior to it going up for a vote at the City Council. She said that they have not seen the final change, and that it would affect Ward 1 deeply. She asked for a delay for 45 days until the NPAs have the chance to talk about this.
- Karen Long said that neighborhood code does not address parking, runoff, or the desirability of attracting and providing suitable housing opportunities for young families in the neighborhoods near the downtown and university. She said that these are glaring omissions, and the greatest opportunities for increasing density are in the neighborhoods that there are larger lots and buildable area opportunities. She expressed concern that the significantly increased density allowance would completely change many of the neighborhoods in Burlington.
- Michael Long spoke about neighborhood code, saying that density is good but that extreme density is destructive. He said that the proposed neighborhood code would increase density and lot coverage beyond reason. He said that this would increase standard 8 units per acre to an astounding 80 units per acre. He said green space loss, runoff increase, and the missed opportunity to build also stand out as shortcomings of this proposal. He said that the wealthier neighborhoods and lots with more room for growth would

remain as they are, but the smaller and denser lots would lose what greenery they have and become even more dense. He said that this proposal is deregulating to the point of not regulating at all.

- Sandy Wynne said that the demand for more off-campus student rentals is strong, which puts pressure on the City's housing market. She said that the rents offered to students guarantees that they are at a level that no working family can compete with. She said that the neighborhood code proposal is a misnomer, and rewards investors, landlords, and contractors at the expense of certain neighborhoods near UVM while sparing other neighborhoods that are equally close to campus, which is discrimination. She urged the City to stop protecting areas like the Hill Section and golf course, at the expense of her own neighborhood in Ward 1. She said that to guarantee equity, the City should eliminate all RL zones everywhere, not preserving some while modifying others.
- Gordon Dragoon said that cheaper housing and more density are the solutions to many problems in the City, saying that more density makes places more walkable and more bikeable, and allows for more revenue for the City to fund initiatives. He said that this neighborhood code proposal deserves the Council's due consideration.
- Nick Persampieri asked the Council to support the ballot measure to improve the carbon impact fee and extend it to all fuels and energy systems that increase greenhouse gas emissions. He said that this is needed for the fee to work properly; otherwise, it would incentivize non-fossil fuels that still contribute to emissions, such as advanced wood heating, liquid biofuels, and renewable gases. He noted that the fee applies only to new systems, and that it is clear that the best solutions for new systems are electrification. He also asked for support for the neighborhood code proposal.
- Rye Sherman spoke about the urgency around climate change policies, and that elected officials must stand up and lead the public toward action that makes real impacts on the climate crisis. He urged the Council to vote yes on the resolutions that allow Burlington voters to weigh in on ballot items that take real action toward climate change, and no on the resolution that avoids action with spending 10 months to generate and new proposal. He said it is important to put fees on fuels that emit CO2 pollution, rather than falsely treating them as zero-emission fuels.
- Emma Shaw spoke about how her peers and her are forced to consider things such as how their diets, university choices, and jobs will impact the earth and what cities will be livable by the time they finish their education and settle down. She asked the Council to treat this issues with the same level of understanding she is seeing around her all the time. She asked the Council to vote yes on the proposal to put a fee on clean polluting fuels such as wood and renewable natural gas, as well as the proposal that would put climate decisions on the ballot on August.
- Ashley Adams urged the Council to support the Town Meeting Day 2024 carbon pollution impact fee ballot question sponsored by Councilors Bergman and King. She noted that many residents have spoken against the false climate solutions in the deeply flawed carbon impact fee ordinance that went into effect this month. She also respectfully asked the Council not to support the resolution proposed by Councilors Barlow and Traverse.
- Jak Tiano spoke about the neighborhood code proposal, saying that the residents who are appalled at the proposal do not understand it. He said that as a housing advocate, the proposal does not go remotely far enough and that the City needs to be building at least a thousand units per year to maintain a healthy housing market, when they are barely building 200 of them. He urged the Council to support this proposal.
- Karen Vastine spoke as the senior community relations officer at the University of Vermont Health Network. She said that they strongly support the City's net zero goals and have demonstrated a commitment to do their part to reduce the UVMHC campus's carbon footprint. She spoke about UVMHN's intense participation in the carbon impact fee ordinance that was implemented recently. She said that the speed in which the proposed carbon impact fee ballot items arose after the November 20th implementation of the prior fee significantly erodes the Health Network's confidence in the durability of decisions made by this body. She also noted that achieving the City's net zero energy goals requires collaboration and teamwork, and noted that the current ballot items as proposed remove an important avenue for the type of partnership needed to address the climate crisis.

- Jack Hanson said the lack of action or inadequate action is disheartening. He said that the City needs to do better and that ballot measures are the best way to bring people in to this conversation. He said he would love to see the Council take more leadership to push the community forward on the climate conversation and progress.
- Chris Gish urged the Council to allow the voters to vote on the carbon pollution impact fee ballot item, which would allow the City to close the loophole in the current carbon pollution impact fee ordinance and assess the fee on other fuels that increase climate change. He noted that all biofuels available to Burlington have serious environmental impacts, at least compared to their fossil-fuel equivalents. He said that wood emits more CO2 than any fossil fuel and that it takes many decades to reabsorb that CO2 as more particulate emissions than any other fuel. He said that letting the public vote on this is just the start of the process.
- Lizzie McCullough expressed support for allowing the voters to vote on the carbon pollution impact fee ballot item, saying that all voters should be allowed to weigh in on it because it impacts everyone. She expressed concern for the existing loophole for pollution from biofuels and that the current City policy incentivizes these fuels. She noted that she attended the symposium that the Council hosted on these fuels and said that she thought the verdict from scientists at this event was pretty clear and straightforward that these fuels cause emissions that contribute to the climate crisis.
- Richard Hillyard urged the Council to allow consequential decisions to go through 45 day cycles of communication back to the NPAs that those decisions greatly affect. He said that specifically in this instance he's referring to the vote on the neighborhood code.
- Clare Bradley said that her generation is consistently confronted with the fact that future generations will not look like past generations with regards to the impact of climate change, and urged the Council to act aggressively to reduce the climate catastrophe. She urged the Council to support the Town Meeting Day ballot item as well as the carbon pollution impact fee. She urged the Council to vote no on the climate policy review and next steps resolution because we don't need to waste time generating a report given that we know what we're facing.
- Lena Greenberg noted that the fossil fuel industry has been delaying climate policy for decades, given that delaying climate policy is the same as not doing anything at all because it causes irreversible damage to the planet, to communities, and to the future. She said that the item that would ask for a 10 month study on the thing that the Burlington Electric Department doesn't want is the same thing as losing, since climate policy change is urgently needed now. She said that Burlington needs to be a place of refuge from other areas' climate disasters and that the community needs to be allowed to vote on the climate policy that it agrees that it needs.
- Colin Palmer said that all carbon emissions need to be taxed as soon as possible. He said that seeing Waterbury and Montpelier flooded over the course of this year and the fact that it was not declared a disaster broke his heart, and that it will keep happening if people continue to keep delaying meaningful climate policy.
- Dan Castrigano spoke about how Burlington's winters have warmed up incredibly fast—nearly 8 degrees since 1970. He agreed with previous speakers who said that climate delay is climate denial, since there is an urgent need to get to net zero emissions as quickly as possible. He urged the Council and public to vote yes on 1 and 2, and vote no on 3. He said that the City does not have 10 months to delay. He urged the Council not to listen to corporate or special interests when making this decision.
- Harry Doerr spoke in support of the changes to the neighborhood code, noting the housing crises faced in Vermont and Burlington.
- Lee Morrigan thanked the Council and administration for making them, as a trans person, feel safe in this room, regardless of what others who speak during public forum might say or stand for. They spoke about being a happy trans person and that this is one of the most dangerous and effective forms of resistance for them, and that they feel welcomed and loved in their community.

Burlington residents (via Zoom):

- Mitzi Batay spoke about the previous Council meeting's decision regarding Palestine, speaking about the current conflict and saying that the facts will not change because they offend some in the community. She said that negating the suffering of others to appease the citizens of this City is disgusting and appalling.

- Michael Chaucer spoke in support of the changes outlined in the proposed neighborhood code. He said that he works in residential architecture and development and that in his professional opinion, the proposed changes will not only help ease the housing crisis but will positively impact the walkability of the City. He said that he would like the Council to consider removing the explicit density limits from the zoning ordinance altogether, since those limits nullify many of the proposed changes in the RM district.
- Rex Euden spoke on the racist equity programs being used in city ordinances and on the restriction of free speech being done across the nation at the behest of the anti-defamation league. He noted that affirmative action was just struck down after damaging many peoples' lives over race. He asked what equity means other than stealing from white people and what inclusion means other than excluding white people.
- Scott Mason said that the Gaza and Palestine conflict is troubling and people don't understand what is going on and the U.S. is funding the Israeli government. He said that people need to know all of the facts.
- Christie Barry spoke about how the western world is pushing the LGBTQ narrative and that we need to stand against the pedophilic degenerate cult. He said that transgenderism is delusional.
- Alex Johnson spoke about the diversity in the Council and around the room tonight, but expressed concern about a lack of diversity in the President's cabinet, given that it is heavily Jewish, which isn't representative of the country as a whole.
- Evan Gould spoke in support of the neighborhood code, saying that Burlington is very underbuilt and would still be underbuilt even with the adoption of the proposed neighborhood code. He said that the number one carbon emitter in Vermont is vehicular travel, and asked why housing isn't being built near where the jobs are.
- Arista Haverback spoke about questionable passages in the Talmud.
- Sharon Bushor spoke about the development of the neighborhood code proposal. She asked that Burlingtonians should know what is being proposed and that it should go back to the NPAs for their feedback.
- Jake Schuman said he will continue to come to meetings until the Council adopts a resolution saying that the Burlington community is against gun violence, racism, and hate. He spoke about previous commenters' racist sentiments.
- Colin Larson spoke about the neighborhood code proposal, saying that there was a lengthy engagement process and that the City's zoning needs to be changed now, and this proposal would remedy that and increase development in the future. He said he does support up-zoning the entire City to Residential Medium (RM).
- Nolan Rogers spoke about putting the carbon fee on the ballot, saying that all greenhouse gas emitting fuels should be included in the ordinance and that the space threshold for the buildings should be lowered from 50,000 square feet. He spoke in support of the neighborhood code proposal.
- Bob Duncan encouraged the Council to move the neighborhood code proposal forward, saying that he has been wanting zoning changes like this since the 1970s.
- Martin King spoke in support of the free speech being heard today, saying that all views are valuable. He spoke about how corporations and banks are corrupt and purchase carbon credits and leave everyone else to suffer. He also said that that far left and far right have more in common in terms of climate activism than people realize.
- Bill Cooper spoke about national murder rate statistics from the FBI National Incident Based Reporting System by race and gender, noting that black females, males, and Hispanic males commit the most murders. He said that this makes him opposed to diversity.

Burlington property-owners or organizations (in person):

- Elizabeth Dolce spoke on behalf of the University of Vermont as the Director of its Office of Sustainability. She spoke about UVM's carbon neutrality goal that aligns with the City's net zero energy goal. She spoke in support of the currently implemented carbon impact fee, and spoke about concerns about the resolutions on tonight's agenda. She said that they would like to work on the operational implementation of the current policy that was passed.

- Neil Lunderville spoke as the president of Vermont Gas Systems, saying that VGS welcomes robust partnership with the City to meet its net zero energy goals, and urged the Council to oppose the resolution for a revised carbon impact fee on tonight's agenda.
- Keren Sita spoke about potential Mayoral candidates and their sexual orientation, as well as how certain of them are deceptive and problematic.

Forum closed at 8:30 PM.

5. CLIMATE EMERGENCY REPORTS

5.1 Verbal Reports

None.

6. PUBLIC HEALTH & SAFETY EMERGENCY UPDATES

6.1 Verbal Reports

Councilor Doherty spoke about item 7.11, a letter from the Fletcher Free Library Commission, drawing attention to a violent incident that took place at the library recently and asking the Council to direct its attention toward the Library and public safety issues related to the library.

Councilor Grant extended her thanks to the Fletcher Free Library, who continue to work hard to make that space welcoming and safe for the community, noting that part of their jobs now entail engaging in community safety in ways that they had not previously had to do. She additionally noted item 7.10 in the consent agenda, a letter regarding a resident's experience in policing and police oversight. She additionally noted that the Public Safety Committee meeting that occurred on the 24th entailed full reports from Fire Chief LaChance and Police Chief Murad on 2023 activities, data, and challenges. She said that this meeting was extremely informative. She spoke about attending the latest Ward 8 NPA meeting, in which she presented on public safety and misinformation regarding the drug crisis, as well as what the police can and cannot do for the community and how the community plays a role in its own safety.

Councilor Carpenter requested that the Public Safety Committee review the letter from Amy Mellencamp and the Fletcher Free Library Commission and give it some consideration.

Mayor Weinberger updated the public on the extension of the motel program. He said that one event that put more pressure on the Library was the closing and ending of the Statewide motel voucher program. He said that the State's Agency of Human Services (AHS) is again proposing to sunset this program on April 1 and that the City is in opposition to this. He noted that the full House vote to extend the motel program through June, and that it is going to the Senate next week.

Councilor Magee noted that he and Councilor Grant checked in with the owner and staff of T. Ruggs Tavern after the hostage event that took place last Monday, expressing gratitude for the public safety officers who responded to it, as well as to the members of the community involved in the event who stepped up to care for each other.

Councilor Dieng noted that there were two public safety forums that occurred earlier in the winter that were well-attended by the community. He noted that many residents are asking about the next steps from those public forums, saying that it would be disappointing and a bad use of resources if there were no actions that came out of those public forums. He said that one next step could be the creation of a task force or ad hoc committee to continue the work. City Council President Paul replied that the idea behind the community forums was to educate the

community on what they are able to do and not able to do. She said that they were also intended to be an opportunity for residents to come together with suggestions and ideas for the City to improve public safety.

Councilor Grant said that the City still needs to make sure it is responding to every individual comment and question that was submitted as a result of those two public forums. She noted that those forums were also an opportunity for people to speak about their own personal experiences in addition from hearing from Burlington business employees and employees of the City. She said that there should still be a deeper dive into educating the community on harm reduction as it relates to the current drug crisis, and that she is working on putting together a third public forum with this topic as the focus. She spoke about the event at T.Ruggs, saying that community actions resulted in a safe resolution to that situation.

7. CONSENT AGENDA

- 7.1 Motion to adopt the consent agenda and take the actions indicated
- 7.2 Communication: C/T Office, re: Accountability List – waive the reading, accept the communication, and place it on file.
- 7.3 Creation of a Wastewater Operator position – DPW-Water Resources/HR - approve the creation of Wastewater Plant Operator, Regular, Full-time, Non-Exempt, AFCSME, Grade 17, role in the Department of Public Works.
- 7.4 Request for Approval of a \$331,500 Budget Neutral Amendment to the FY 2024 Patrick Leahy Burlington International Airport - approve a budget neutral amendment in the amount of \$331,500 to the Fiscal Year 2024 Patrick Leahy Burlington International Airport budget by increasing the accounts as described in the affiliated memorandum.
- 7.5 Request to Execute a Ten Year Lease Extension with HG Burlington JV (Hudson News) – Airport - approve and authorize Mayor Miro Weinberger to execute a ten year lease amendment with HG Hudson JV.
- 7.6 Request to purchase MB 4 Rotary Plow (snow blower) through Passenger Facility Charge (PFC) funding – Airport – authorize a purchase from M-B Companies, Inc. in the amount of \$826,579.
- 7.7 Communication: Kyle Berkshire, re: Thank You – waive the reading and place the communication on file.
- 7.8 Communication: Submitted as Part of Public Comment by Ashley Smith, re: Documenting Israeli Apartheid - waive the reading and place the communication on file.
- 7.9 Communication: Romeo von Hermann, re: Public Forums - waive the reading and place the communication on file.
- 7.10 Communication: Kevin Walters, re: Police Oversight proposals - waive the reading and place the communication on file.
- 7.11 Communication: Amy Mellencamp, Chair, Fletcher Free Library Commission, re: Letter from the Fletcher Free Library Commission - waive the reading and place the communication on file.
- 7.12 Communication: Bradley Wiltfong, re: Protect the Bike Infrastructure on Pine St - waive the reading and place the communication on file.
- 7.13 Communication: Steven Toth, re: Charter vote 1/21/24 - waive the reading and place the communication on file.
- 7.14 Communication: Jak Tiano, re: Critique and Analysis of Burlington-Winooski Bridge - waive the reading and place the communication on file.
- 7.15 Communication: C/T Office, re: October 10, 2023 Regular City Council Meeting Minutes, Corrected Version, Draft – waive the reading, accept the communication, place it on file and adopt the minutes as corrected and received at the January 16, 2024 Regular City Council Meeting.
- 7.16 Communication: C/T Office, re: October 10, 2023 Local Cannabis Control Commission Meeting Minutes, Draft - waive the reading, accept the communication, place it on file and adopt the minutes as received at the January 16, 2024 Regular City Council Meeting.
- 7.17 Communication: C/T Office, re: October 10, 2023 Local Control Commission Meeting Minutes, Draft - waive the reading, accept the communication, place it on file and adopt the minutes as received at the January 16, 2024 Regular City Council Meeting.
- 7.18 Communication: C/T Office, re: October 23, 2023 Regular City Council Meeting Minutes, Draft - waive the reading, accept the communication, place it on file and adopt the minutes as received at the January 16, 2024 Regular City Council Meeting.

7.19 Communication: C/T Office, re: October 23, 2023 City Council With Mayor Presiding Meeting Minutes, Draft - waive the reading, accept the communication, place it on file and adopt the minutes as received at the January 16, 2024 Regular City Council Meeting.

7.20 Communication: C/T Office, re: November 6, 2023 Regular City Council Meeting Minutes, Draft - waive the reading, accept the communication, place it on file and adopt the minutes as received at the January 16, 2024 Regular City Council Meeting.

7.21 Communication: C/T Office, re: November 20, 2023 Regular City Council Meeting Minutes, Draft - waive the reading, accept the communication, place it on file and adopt the minutes as received at the January 16, 2024 Regular City Council Meeting.

7.22 Communication: C/T Office, re: November 20, 2023 Local Cannabis Control Commission Meeting Minutes, Draft - waive the reading, accept the communication, place it on file and adopt the minutes as received at the January 16, 2024 Regular City Council Meeting.

7.23 Communication: C/T Office, re: November 20, 2023 Local Control Commission Meeting Minutes, Draft - waive the reading, accept the communication, place it on file and adopt the minutes as received at the January 16, 2024 Regular City Council Meeting.

7.24 Communication: C/T Office, re: December 11, 2023 Regular City Council Meeting Minutes, Draft - waive the reading, accept the communication, place it on file and adopt the minutes as received at the January 16, 2024 Regular City Council Meeting.

7.25 Communication: C/T Office, re: December 18, 2023 Regular City Council Meeting Minutes – Draft - waive the reading, accept the communication, place it on file and adopt the minutes as received at the January 16, 2024 Regular City Council Meeting.

7.26 FIO Document – for information only.

7.27 Ordinance: ELECTIONS—Rank Choice Voting Implementation BCO Sec. 2-9 (Councilor Traverse) – waive the reading, suspend the rules and place the ordinance in all stages of passage.

MOTION by Councilor Traverse, SECOND by Councilor Barlow, to adopt the consent agenda and take the actions indicated for items 7.1-7.27.

VOTING: unanimous; motion carries.

8. DELIBERATIVE AGENDA

8.1. Ordinance: ZA-24-02 Neighborhood Code (Office of City Planning, Planning Commission, Council Ordinance Committee)

MOTION by Councilor Traverse, SECOND by Councilor Carpenter, to waive the reading, suspend the rules, and warn for a public hearing.

DISCUSSION:

- Councilor Traverse provided opening remarks on this ordinance proposal, speaking about the extensive process with the public, Planning Commission, and Ordinance Committee, noting that 9 joint meetings took place related to it. He said that this item arose from state legislation that was passed requiring municipalities to pursue certain up-zoning measures and increase density. He spoke about how increasing density helps the City meets its affordability and climate goals. He said that the proposal was the result of a careful deliberative process, and allows for growth in the residential-low and residential-medium neighborhoods.
- Planning Commission Chair Montroll noted that this proposal is coming to the Council with unanimous support (minus one absent member when vote was taken), and that it seeks to align Burlington’s code with new state law on housing issues, align with the City’s Comprehensive Plan, and solve some of the City’s housing issues.
- Kelly Stoddard Poor, Associate State Director of the AARP, said that AARP Vermont supports the neighborhood code, as it supports missing housing types that are more desirable or useful for older adults, such as duplexes, triplexes, and four-plexes. She said that too many adults are forced to move out of Burlington if they want to downsize, and that this proposal helps address this issue.

- Director Tuttle began by reminding the Council about the goal of the neighborhood code, which is to encourage housing types generally seen as the “missing middle” housing types (duplexes, triplexes, four-plexes, two freestanding buildings on one lot, cottage courts, townhouses, and other small, multi-unit developments). She also spoke about how this would bring the City into compliance with the HOME Act of 2023 (passed by the state legislature) in four major areas, including minimum residential density requirements of 5 units per acre, allowing duplex and single-family with ADU lots to be treated same as single-family without ADU lots, allowing 3-and-4 unit buildings where residential uses are allowed, and clarifying standards so that DRB decisions don’t limit density, building footprint, or height, or require large lots or more parking than what is otherwise allowed in ordinance. She spoke about how this translates into the current proposal. She said that the core recommendations are to create flexible dimensional standards, regulate building mass instead of density, and modify residential districts and boundaries to ensure that all neighborhoods have opportunities to access new housing types being proposed by the code. She said that the notable changes to existing standards through this proposal would be changes to eliminate the minimum lot size requirements, change the minimum lot coverage requirements for RL and RM, and new standards that would regulate the overall size of buildings in terms of footprint and height.
- Senior Policy & Data Analyst Stetson spoke about the changes that would be implemented to the City’s residential zoning districts. She noted that currently there are 5 residential zoning districts (residential low density, waterfront low density, medium density, waterfront medium density, and high density). She said that these proposed recommendations would combine the waterfront low density and low-density zones and combine the medium density and waterfront medium density zones, and rezone five areas from residential low (RL) to residential medium (RM). She noted that this last change would align some areas more closely with what is on the ground, particularly related to lot size and coverage, to address high levels of non-conformity. She then spoke about the creation of the residential corridor zone, which would allow for greater flexibility for these housing types along high-transportation-oriented areas such as North Avenue, Colchester Avenue, Shelburne Road, and Saint Paul Street.
- Director Tuttle noted other changes, which include the elimination of the large lot overlay zone, and the elimination of the RH high density bonus overlay. She also spoke about how the proposed standards for the residential corridor zones would allow for a range of neighborhood-serving commercial uses in order to expand the potential for mixed-use within walkable areas near all neighborhoods.
- Senior Policy & Data Analyst Stetson spoke about the outreach and engagement activities that occurred between August 2022 and January 2024.
- Director Tuttle spoke about how this is the initial set of recommendations related to the neighborhood code, but that other proposals will come forward as a result of this work as well. Some of these include standards related to cottage court type developments and planned use development standards, figuring out implementation for flag lot or other unique small lot configurations, non-conforming building expansion for units, and ensuring compatibility of the proposal with residential bonus and IZ requirements.
- Councilor Bergman acknowledged the need for more housing in the City. He asked about the timeframe for implementation of this proposal. Director Tuttle said that the Joint Committee wanted the Council’s feedback on this, and that tonight’s action would warn a public hearing for potentially next month, which would allow for more feedback from members of the community and would allow for amendments and a second public hearing by the Council. Councilor Bergman asked why the entire City wasn’t up-zoned. Director Tuttle replied that the initial proposal was to look at how all properties Citywide could be allowed to have up to a four-unit building, and that the determination to rezone certain areas had to do with existing conditions on the ground, such as existing lot coverage, impermeable surface area, and how much available land there is to add units. Planning Commission Chair Montroll added that the Committee was split

on whether to up-zone the entire City to RM, but that they ultimately recommended this proposal because it focuses on opportunities for new housing. Councilor Bergman requested responses from staff about concerns that have been brought forth already, with specific sections of the proposal cited, noting that many relate to stormwater runoff issues in already-dense areas of the City. He also said that consideration should be given to maximizing solar panel opportunities on rooftops.

- Councilor Hightower thanked staff for the work they've done with both the Planning Commission and the Ordinance Committee. She expressed support for up-zoning. She spoke about how certain areas in the East End are already dense to the point of not being able to add additional housing, though she expressed support for up-zoning. She spoke about equity issues as they relate to areas with currently non-conforming lots that aren't able to implement certain of these changes because they'd have to seek approval from the Development Review Board (DRB) to do so, whereas other areas of the City don't have those restrictions. She spoke about the public engagement process, noting that it is often difficult to have meaningful public engagement until there is a product on the table for the public to react to. She said that allowing time for more public input on this issue is important, but thinks this Council can hold those public hearings and make decisions on this.
- Councilor Grant said that this is important for the City, but that she is disappointed regarding the impacts to certain areas of the City, saying that there are blatant equity issues. She said that the entire City should be up-zoned as RM.
- Councilor Doherty thanked staff for their work to bring this proposal forward, along with the Joint Committees. He expressed support for the goals of this endeavor, given the desperate need for more housing. He echoed Councilor Grant's concerns about equity, saying that the dividing line seems to be Main Street. He spoke as a representative of the East District, which for so long has been subject to incredible pressure that arises from the University of Vermont's students seeking off-campus housing. He expressed concern with the current timeframe for this proposal, saying that unintended consequences need to be considered.
- Councilor Magee said that this is an important step forward, and that medium density (RM) should be the floor in any of the City's neighborhoods.
- Planning Commission Chair Montroll spoke briefly about the difference between RM and RL zoning, saying that both of them were significantly changed and both allow for more density than what was under the existing zoning standards. He encouraged Councilors to examine these proposed standards more closely.
- Mayor Weinberger expressed excitement for this proposed neighborhood code. He said that he is sympathetic to sentiments that this is a lot to take in, but said that the formal public hearing process is essential to this. He urged the Council to take the steps that need to be taken so that this passes at the end of March. He said that the unintended consequences of this zoning can be mitigated, as ordinances are amended on a regular basis, and that more housing is not a negative impact.
- Councilor Shannon thanked staff and the Joint Commission for their work throughout this process. She noted that the decision at the beginning of this process was to fast-track it, which she opposed. She noted that the decision to up-zone certain neighborhoods to RM from RL came from the committee, as did the concept of having many more units per building than originally envisioned. She said that the concerns about how this would affect neighborhoods near the University are very real, as the University has added 1,000 students to off-campus housing within the City per year since 2019. She asked if staff could communicate on Front Porch Forum some of the changes to what was originally envisioned by staff and what has come out of the process. She also asked for more information on stormwater runoff and the effects of this zoning on water and sewer infrastructure. She said that she would support warning a public hearing, but also said that she would support working on it more, if public feedback warrants that.

- Councilor Carpenter suggested that a public work session occur to give the public more opportunity to ask questions about the implications of this proposal, so that the public understands this better than they do now.
- Councilor Traverse asked whether the Planning Office has the bandwidth for that kind of public work session that Councilor Carpenter is suggesting. Director Tuttle replied that this could be feasible between now and the warned public hearing. Councilor Traverse suggested warning this for a public hearing on February 26 and conducting a public engagement session prior to that.
- Councilor Doherty said that he is uncomfortable about the timing issue and level of public engagement, and said he will not support moving this forward.
- Councilor Grant said that RM should be the floor for zoning in the City. She also asked about the implications for the UVM MOU, and how it could be improved to address some of these concerns. She said that for the sake of equity, RM should be the floor for all districts.

VOTING (by roll call): Councilor Barlow – aye, Councilor Bergman – aye, Councilor Carpenter – aye, Councilor Dieng – aye, Councilor Doherty – nay, Councilor Grant – aye, Councilor Hightower – aye, Councilor King – aye, Councilor Magee – aye, Councilor Shannon – aye, Councilor Traverse – aye, City Council President Paul – aye (11 ayes, 1 nay); motion carries.

8.2 Resolution: Cambrian Rise – Development Agreement Second Amendment (Councilors Carpenter, Barlow, Dieng)

MOTION by Councilor Carpenter, SECOND by Councilor Dieng, to waive the reading and adopt the resolution.

VOTING (by roll call): Councilor Barlow – aye, Councilor Bergman – aye, Councilor Carpenter – aye, Councilor Dieng – aye, Councilor Doherty – aye, Councilor Grant – aye, Councilor Hightower – aye, Councilor King – aye, Councilor Magee – aye, Councilor Shannon – aye, Councilor Traverse – aye, City Council President Paul – aye (12 ayes, 0 nays); motion carries.

8.3 Resolution: Town Meeting Day 2024 Carbon Pollution Impact Fee Ballot Question (TEUC (Councilors Bergman and King))

MOTION by Councilor Bergman, SECOND by Councilor King, to waive the reading and adopt the resolution.

DISCUSSION:

- Councilor Bergman said that this resolution asks that the voters be allowed to decide whether to authorize the carbon impact fee on all fuel systems that emit carbon dioxide and other greenhouse gases, not just fossil fuel systems. He said that this closes a loophole in the currently-implemented ordinance. He said that this would also align with the state’s clean heat standard that would likely go into effect next year. He said that this does not need to be an all-or-nothing approach.
- Councilor King thanked the young residents who came out to speak about this, saying that the world is in the midst of a climate crisis and that this should not be a controversial item.
- Councilor Barlow spoke about how the current ordinance was passed last November and that it kept renewable biofuels excluded from it, since they are tools to achieving the goal of eliminated the use of fossil fuels. He said that there is no loophole to close and that this was intentional. He said that the stakeholders affected by this ordinance are supportive of it, but that they need regulatory stability and predictability as they do capital planning. He noted their concern about changing compliance terms in the near-term. He said that he will not support this resolution.

- Councilor Magee noted that this doesn't tinker with the ordinance but would allow for the City to have the ability to include those fuels in the ordinance. He said that decades of failed policy have gotten us to this point, and that the voters should now be able to decide whether or not to support this.
- Councilor Grant said that this needs to be moved forward, and climate action cannot be delayed. She said that if anything, this would force large institutions to work faster to implement better climate measures.
- Councilor Carpenter expressed concern about the lack of data on who this would affect and what it would affect if it were implemented. She cited the tight turnaround between this proposal and voting day.
- Councilor Bergman said that the TEUC spent a long time focusing on the ordinance and that there is no surprise that this current item is coming before the Council.
- Councilor Dieng asked whether voters will have the opportunity to weigh in on the amount of fees upon passage of this proposed ordinance, and Councilor Bergman replied in the affirmative.

VOTING (by roll call): Councilor Barlow – nay, Councilor Bergman – aye, Councilor Carpenter – nay, Councilor Dieng – aye, Councilor Doherty – nay, Councilor Grant – aye, Councilor Hightower – aye, Councilor King – aye, Councilor Magee – aye, Councilor Shannon – nay, Councilor Traverse – nay, City Council President Paul – nay (6 ayes, 6 nays); motion fails.

8.4 Resolution: Implementation Of A Carbon Pollution Impact Fee (TEUC (Councilors Bergman and King))

MOTION by Councilor Bergman, SECOND by Councilor King, to waive the reading and adopt the resolution.

DISCUSSION:

- Councilor Bergman said that this resolution is closer to what was originally envisioned by the TEUC, but that it refers it to the TEUC to work through he details of the size of the buildings, the fees, and the fuel types. He said he is committed to trying to find a resolution that garners widespread support.
- Councilor Bergman made a friendly amendment to postpone this item to the February 12, 2024 City Council meeting.
- Councilor Traverse said that the next resolution also relates to this, and that the intention is to review these items, which includes the possibility of at least an expansion of the carbon fee. He said that there is an opportunity to work toward combining this resolution and item 8.5.
- Councilor Barlow acknowledged the willingness of Councilors King and Bergman to collaborate with him and Councilor Traverse on this.

VOTING (by roll call): Councilor Barlow – aye, Councilor Bergman – aye, Councilor Carpenter – aye, Councilor Dieng – aye, Councilor Doherty – aye, Councilor Grant – nay, Councilor Hightower – aye, Councilor King – aye, Councilor Magee – aye, Councilor Shannon – nay, Councilor Traverse – aye, City Council President Paul – aye (10 ayes, 2 nays); motion carries.

8.5 Resolution: Climate Policy Review And Next Steps Fore Existing Commercial And Industrial Buildings Less Than 50,000 Square Feet (Councilors Traverse and Barlow)

MOTION by Councilor Bergman, SECOND by Councilor Magee, to suspend the rules and complete the remainder of the agenda.

VOTING: unanimous; motion carries.

MOTION by Councilor Traverse, SECOND by Councilor Hightower, to postpone this item to the February 12, 2024 City Council meeting.

VOTING (by roll call): Councilor Barlow – aye, Councilor Bergman – aye, Councilor Carpenter – aye, Councilor Dieng – aye, Councilor Doherty – aye, Councilor Grant – nay, Councilor Hightower – aye, Councilor King – aye, Councilor Magee – aye, Councilor Shannon – nay, Councilor Traverse – aye, City Council President Paul – aye (10 ayes, 2 nays); motion carries.

8.6 Resolution: March 5, 2024 Annual City Meeting—Increase In Public Safety Tax Rate For Fire And Police Purposes Authorized (Board of Finance)

Mayor Weinberger began by noting that tonight is the last night that the Council can act to put items on the ballot for Town Meeting Day. He noted that his administration is working to prepare a budget for FY25, though noting that a new Council and a new Mayor will ultimately be the ones to see that through. He said that the City is faced with a larger budget gap than in previous years (\$9 million), and that they have a proposed number of steps to take to close that gap by the time the budget needs to be passed in June. He said that one of those steps is a proposed tax cap increase, which must be approved to go on the ballot for Town Meeting Day (or in a special election between March and June) in order to be in place for the adoption of the SFY25 budget. He noted that special elections cost more now than they had in the past, so his recommendation is to put a 3 cent fire and tax cap increase on the ballot for Town Meeting Day. He said that this would entail a 3-4% increase on the 35% of the tax bill that residents see. He noted that the Board of Finance voted 3-1 that the Council take this action.

Chief Administrative Officer Schad provided a more in depth FY25 General Fund Budget Update presentation. She noted the numerous changing budget pressures since the last voter-approved tax increase in FY20, which were largely dealt with in the past through available federal one-time and emergency funding due to Covid, but that the sunset of this funding has resulted in a projected significant gap in the FY25 budget if no action is taken. She spoke briefly about the challenges the City has overcome since FY20, including responding to the Covid-19 pandemic by creating new public health services, dealing with a 17% inflation, rebuilding the Police Department after losing 40% of officers, creating new public safety resources in the CSOs, CSLs, and Urban Park Rangers, making substantial overdue investments in racial equity and justice, language access, and livable wage increases, launching an equitable economic recovery by providing support to workers and businesses, and opening three new shelters and the Community Resource Center day shelter and initiatives to respond to the more than 500% increase in homelessness after the motel evictions last June. She said that in the midst of these challenges there were also budget challenges, given that a property tax increase was voted down in FY23, that the one-time funding used to shore up the FY24 budget would not be available to do the same in 2025, that inflation has continued and that personnel costs have increased significantly. She spoke about the resulting \$9 million budget gap and the measures that the administration are proposing to take to close that gap for the FY25 budget. She said that these measures include capturing growth in grand list revenues and other taxes, reducing the City's operating costs through efficiencies in non-public safety departments, completing a review and increase of revenue driven by sources other than property taxes, extending the full phase-out of one-time funds by one more year, and requesting voter approval to increase the current Police and Fire Property Tax Cap by \$0.03 on Town Meeting Day.

Chief Administrative Officer Schad spoke about each of the proposed measures for closing the budget gap in more detail. She said that in terms of capturing growth in grand list and other taxes, this pertains to growth that would happen regardless of Council action, and is projected as \$300,000 in new property tax revenue and \$600,000 in increased gross receipts, local option tax, and franchise fees. She said that the City is conducting an operations efficiency study of the largest General Fund departments, with a goal of reducing non-public safety spending by at least \$3 million. She said that another measure to close the budget gap is to raise user fees (campground fees, boat slips, parking, etc), and that the City is engaged in a study to determine the appropriate level of these fees, when to increase them, and how often to increase them. She noted that special attention will be paid to ensure that youth scholarships and access remain available. She said that

they are projecting a 10% increase in user fees to reflect inflation since past updates, leading to an increase in revenue of \$1.3 million per year. She said that they are also increasing the hotel tax by 2%, which would raise approximately \$1 million per year. She noted the use of one-time ARPA funding, saying that careful management of this funding has made it possible to include an additional \$1 million of these funds in the FY25 budget while retaining current Unassigned Fund Balance levels.

Chief Administrative Officer Schad then spoke in more detail about the proposed measure to close the budget gap, which is to lift the Police & Fire Tax Cap. She said that this plan would fully fund the police and fire budgets (including projected increases in the number of officers in the department and a \$250,000 flexible response fund), given that police and fire costs have risen substantially since the last voter approved tax increase in FY20 and that the police and fire tax currently funds only one-third of the total Police and Fire Department costs. She noted that lifting the cap does not commit the Mayor and the City Council to implementing the tax increase but allows them the authority to do so. She said that the full utilization of this 3-cent tax increase would result in a 4% increase on the municipal portion of property taxes. She provided a summary of the increased public safety costs to the General Fund since the last tax increase in FY20, amount to a total increase of \$4.16 million. She noted that an increase on the tax cap would allow the City to fully fund its rebuilding plan by budgeting for 77 officers, continuing recruitment incentives, and continuing to offer competitive compensation for police officers. She said that it would allow for retention of new professional staff, including 11 CSOs, 6+ CSLs, the CAIP Assistant Director, the Urban Park Ranger positions, and the Recruitment Coordinator, Redaction Specialist, and Public Information Officer within the Police Department. She said that it would also allow for a \$250,000 flexible response fund, body camera upgrades, and training for EMS and mental health resources (the latter two within the Fire Department).

Chief Administrative Officer Schad provided a summary of the impact of a proposed public safety tax cap increase on taxpayers. For a \$300,000 appraised value home, the resulting increase would be an additional \$90 per year, for a \$500,000 appraised value home, the increase would result in an additional \$150 pr year, and on a \$700,000 appraised value home, the resulting increase would be an additional \$210 per year.

MOTION by Councilor Barlow, SECOND by Councilor Magee, to waive the reading and adopt the resolution.

DISCUSSION:

- **Councilors Hightower noted that most departments were asked to cut their budgets by 2% and said that she does not have a good understanding of some of this, but does not want to put the next administration in a tough budget spot and will be supporting putting this on the ballot for voters to weigh in (though she noted that this is not an endorsement of the proposal).**
- **Councilor Dieng said that this tax increase is not timely or fair to Burlingtonians or could have been prevented. He said that there are bigger issues, such as that of education. He said that residents are being taxed out of the City. He spoke about the number of positions that have been reclassified and that the City needs to be more conservative and work within its means. He said that he will be supporting this to go to the ballot, but said that he is not supportive of this proposed tax cap increase.**
- **Councilor Bergman said that he supports putting this on the ballot, saying that this will give the City the opportunity to find other sources of revenue and other opportunities. He said that the City must fund its commitments and do so holistically.**
- **Councilor Barlow said he would prefer to have more clarity on where savings can be had, though he acknowledged that that information is not yet available. He said that this would grant the authority to increase the cap up to this proposed level, but said he hopes that they won't need to increase the tax that much.**

- Councilor Magee said he has heard concerns from constituents since he was elected about the affordability issues in Burlington. He said that he will support this tonight because it would be imprudent to remove this as a tool for the next Council and administration to shore up the budget. He said that this continues to call attention to the unsustainable property tax system in the City and state.
- Councilor Carpenter said that built into this is the \$3 million assumption that operational efficiencies will be achieved. She also emphasized the importance of advocacy with the state on the homestead tax credit.
- Councilor Shannon said that the City's taxes are unaffordable and that basic services are required and expected by the City's constituents. She said that this only funds one year of the public safety rebuilding plan and does not get the City to the 87 officers that are needed for staffing a health police department, and requires \$3 million worth of cuts. She said that this will be difficult with 17% inflation and a 4% tax increase since the last increase. She said that this is a reasonable proposal. She agreed with Councilor Dieng that a priority is educating the City's students, but she also said that the parents of those students have cited public safety as one of their top concerns and priorities.
- Councilor Dieng said that the number one priority in the City is affordability, and that this current problem was started in 2020 and now the City is facing the consequences of its action. He said that the focus should be on the future generation.
- Councilor Grant said that affordability is a huge issue and that she is loathe to increase taxes further, given that the school budget will increase taxes as well due to its bonding for a new high school. She also said that the City needs to be careful not to overpromise to the public in terms of the number of officers that this budget supports. She said that the budget includes 77 sworn officers because that is the pace at which they are able to recruit officers, currently. She said that the City is doing innovative things in terms of how it is envisioning community safety and how it addresses mental health issues. She said that the City needs to beef up its harm reduction and other strategies for dealing with the drug crisis. She said that she would vote for this to have the flexibility to continue these innovative activities, and that the voters should be allowed to weigh in on this.

VOTING: unanimous; motion carries.

9. COMMITTEE REPORTS

9.1. Verbal reports

Councilor Bergman noted that there will likely be a Tax Abatement meeting on February 12.

Councilor Hightower said that the Community Development and Neighborhood Revitalization (CDNR) Committee is meeting tomorrow to discuss updates on business and workforce development and youth appoints to the advisory board and shelter and transitional housing programs.

City Council President Paul noted that the Public Safety Committee met on January 24 and scheduled a date for meeting on February 15.

Councilor Magee noted that the Parks, Art, and Culture Committee met last week and heard a full presentation on various elements of the waterfront, including an update on wastewater and drinking water, an update on the Moran Frame, and an update from the Deputy Harbormaster, as well as an update on the April solar eclipse.

10. CITY COUNCIL – GENERAL AFFAIRS

10.1. Verbal reports

Councilor Dieng spoke about the Vermont New American Advisory Council and that it submitted its final report to the City on gun violence and its effects on New American youth, as well as recommendations for supporting New American families. He said that this report was comprehensive and had six concrete recommendations, and he suggested that time be scheduled to hear a presentation on the report at City Council. He also spoke about educational work with the Committee on resident voting in this community.

Councilor Magee said that he has heard from residents in his ward about accommodations at polling sites, given that some residents will be reporting to new polling stations and ward clerks may not be familiar with their individual accommodations and needs. He also noted for residents that people may be living in a new ward and to make sure they're aware of where they are supposed to go.

Councilor Grant noted a question from a community member about whether Burlington has ever had election observers, given some negative behavior at Wards 4 and 7 NPAs by an individual who is an election official and concerns about behavior during elections. City Council President Paul replied that staff from the Clerk/Treasurer's Office will follow up with Councilor Grant on this question.

11. CITY COUNCIL PRESIDENT – COUNCIL UPDATES

11.1. Verbal reports

City Council President Paul noted that the Council will have an opportunity to discuss legislative priorities at the State level on February 12th, as well as an additional work session with the Burlington legislative team in March.

12. MAYOR – GENERAL AFFAIRS

12.1. Verbal reports

Mayor Weinberger spoke about the commencement of construction on the Main Streets Great Streets project, noting that the first major project is related to work on the ravine sewer. He noted that the project overall will span 3 construction seasons, and will rebuild the three blocks of Main Street from Winooski to Pine. He said that the benefits will include investments on those blocks from the private sector in housing and businesses, and will include upgrading the public infrastructure on those blocks. He noted that there will be impacts from this construction, but that the City is making every effort it can to minimize disruptions due to construction activities. He said that the City is focusing construction on the less-busy times of the year and will not be doing construction on weekends.

13. ADJOURNMENT

13.1 Motion to Adjourn

MOTION by Councilor Bergman, SECOND by Councilor Magee, to adjourn the meeting.

VOTING: unanimous; motion carries.

The meeting adjourned at 10:54 PM.

RScty: AACoonrad

To: City of Burlington, Board of Finance
City of Burlington, City Council

From: Nicolas Longo, C.M, Director of Aviation

Date: February 20, 2024

Subject: Request for Authorization to Sign a Janitorial Services Contract with Janitech Services, LLC.

Request:

The Patrick Leahy Burlington International Airport ("Airport") seeks Board of Finance approval and recommendation and City Council approval and authorization to enter into a contract for janitorial services with Janitech Services, LLC (Janitech).

Summary:

The Airport issued a request for proposals (RFP) for janitorial services for the Airport on December 8, 2023. The Airport held a mandatory pre-bid meeting on December 20, 2023 with four interested parties. The Airport received two proposals in response to this request from Janitech and Service Management Systems, Inc. A panel of Airport administration conducted a formal review, and scoring process, with Janitech being the lowest responsive bidder and receiving the highest cumulative score based on the RFP scoring matrix. In addition to cost, the companies were scored on experience, responsibility and responsiveness.

The amount of the contract is \$799,200.00 for the first year of services (Mar 2024-Feb 2025), \$823,175.00 for the second year (Mar 2025 – Feb 2026) and \$282,625.00 for the final few months of the contract (Mar 2026-Jun 2026). In addition, the contract provides for reimbursement to Janitech for their cleaning supplies of up to \$240,575.00 for the duration of the contract. Janitech is responsible for any additional supply costs that exceed that amount.

Janitech was preliminary awarded the contract pending approval from the Board of Finance and City Council. The current janitorial agreement with Janitech expired on June 30, 2023 and has continued on a month-to-month basis. If approved, this contract will go into effect on

March 1, 2024 and will terminate on June 30, 2026. This contract is funded with the Operating and Maintenance (O&M) budget of the airport and is recovered through calculated rates and charges from various tenants including airlines, rental cars, concessionaires, and leaseholders.

Motions:

Board of Finance

1. "To approve and recommend to the City Council approval and that the Director of Aviation be authorized to execute a contract for janitorial services with Janitech Services, LLC in the amount of \$799,200.00 for the first year, \$823,175.00 for the second year and \$282,625.00 for the final few months through June 2026, subject to the final review and approval by the office of the City Attorney."

City Council

1. "To approve and authorize the Director of Aviation to execute a contract for janitorial services with Janitech Services, LLC in the amount of \$799,200.00 for the first year, \$823,175.00 for the second year and \$282,625.00 for the final few months through June 2026, subject to the final review and approval by the office of the City Attorney."

Thank you for your continued support.

Board of Finance and City Council Submission Checklist

Department: Airport Submitter: H. Dusablon

Title/Subject: Airport Janitorial Services with Janitech, LLC

	Approval:	Meeting Date:
☒	Board of Finance	2/20/24
☒	City Council	2/26/24
☐	Concurrent	

This form must be completed by the person submitting the materials, and sent with the final submission. Please do not indicate that a signoff was received until it has actually been obtained.

Signoffs Received

Signoff Needed	Received	Date Received	Note
Department Head	Yes	2/2/2024	N. Longo
Mayor's Office informed and approved memo	Yes	2/12/2024	J. Redell
Board/Commission, if required	Yes	2/7/2024	
City Attorney's Office has approved contract and/or legal documents, -Identify attorney in note	N/A	Click or tap to enter a date.	Click or tap here to enter text.
City Attorney's Office has approved memo and motion(s) or resolution(s) -Identify attorney in note	Yes	2/15/2024	K. Sturtevant
CAO has reviewed budget, financing, and memo	Yes	2/12/2024	K. Schad
Human Resources, if personnel action -Identify HR Manager in note	N/A	Click or tap to enter a date.	Click or tap here to enter text.
CIO, if an IT-related investment/purchase	N/A	Click or tap to enter a date.	Click or tap here to enter text.

Materials Included

	Included?	Note
Final Memo Attached?	Yes	Click or tap here to enter text.
Contract Attached, if applicable?	N/A	Click or tap here to enter text.
Additional Materials, if necessary	N/A	Click or tap here to enter text.
Draft Resolution or Motion?	N/A	Click or tap here to enter text.
If for submission to Council, are sponsors identified?	N/A	Click or tap here to enter text.

TO: Board of Finance and City Council
FROM: Ali Dieng, Ward 7 City Councilor
DATE: February, 14th 2024
RE: City Council Initiatives Fund Reimbursement Request: \$6.700.00

Background:

Since last year, Burlington City Councilor Ali Dieng in collaboration with other New Americans leaders of Burlington have been working with the Vermont National Guard to increase a better understanding of all opportunities available to service members of the Vermont National Guard as well as their mission here in Vermont.

These efforts were also to raise awareness that the Vermont National Guard and the Vermont Air National Guard is just beyond the noise of the F-35 fighter planes.

Councilor Dieng facilitated visits to the National Guard bases in Colchester and at the airport. The last visit at the airport was composed of 19 New American youth and their families. We identified amplifying the scale of those visits by bringing National Guard leaders into the community, to break bread, and to watch videos of New American guard members telling their stories and hear directly from them with the hope of inspiring other youth to explore the opportunities before them.

Councilor Dieng has collaborated with leaders of the Nepali community, Congolese community and Somali community to plan and execute the event titled: Vermont National Guard Meet with the New American Communities:
<https://www.dvidshub.net/news/463794/vermont-national-guard-meet-with-new-american-communities>

Councilor Dieng provided \$2,000 for each of those communities to cover the cost associated with proper outreach, Interpretation services, child care, transportation and catering of ethnic food for each of the 3 communities. In addition, Councilor Dieng paid up to \$400 including insurance to Burlington Parks and Recreation from 4:30 to 7:00 pm, and \$300 for other New Americans who are not members of the 3 targeted communities.

Activity	Cost	Note
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Nepali Community Coordination, food, interpretation, stipend etc..	\$2000	Check to the Nepali Community- Contact- Jeetan Khadka jeetankhadka@gmail.com
Congolese Community Coordination, food, interpretation, stipend etc..	\$2000	Check to the Congolese Community of Vermont - Contact Symphorien Sikyala ssemvua@hotmail.com
Somali Community Coordination, food, interpretation, stipend etc..	\$2000	Check to the Somali Bantu Community Association of Vermont - Contact: Murjan Kassim murjankassim@gmail.com
Venue Rental Fees and other misc	\$400	Contact Candice Holbrook- National Guard member and BPR\$W staff - cholbrook@burlingtonvt.gov
Other Miscs	\$300	For other New Americans not members of the Nepalese. Congolese and Somali communities
Total:	\$6,700	

City Councilor Ali Dieng of Ward 7 is respectfully requesting \$6,700 from the Council Initiative Fund. Such payment to be made to Ali Dieng, 165 James Avenue Burlington, Vermont 05408



**CITY OF BURLINGTON
DEPARTMENT OF PUBLIC WORKS**

645 Pine Street, Suite A
Burlington, VT 05401
802.863.9094 VOICE
802.863.0466 FAX
802.863.0450 TTY
www.burlingtonvt.gov/dpw

MEMORANDUM

To: Board of Finance and City Council
Fr: Chapin Spencer, Director of Public Works
Laura Wheelock, P.E., Senior Public Works Engineer
Olivia Darisse, P.E., Public Works Engineer
Madeline Suender, E.I., Associate Public Works Engineer
CC: Norman Baldwin, P.E., Assistant Director Public Works and City Engineer
Jackie Esperti, Parking Services Operations Manager
Robert Goulding, Public Works Public Information Manager

Re: **Parking Management Sublease Agreement with Unified Parking Partners**
Date: February 20, 2024 (Board of Finance) and February 26, 2024 (City Council)

I. SUMMARY OF REQUEST

The Department of Public Works (DPW) is seeking Board of Finance recommendation and City Council authorization to execute a Parking Management Sublease Agreement with Unified Parking Partners and Courthouse Plaza.

II. BACKGROUND

Great Streets Main Street is a generational reinvestment into one of Burlington's most important corridors – and it will be a multi-year project that will be comprehensively renew water and wastewater utilities, install tree wells that will allow for a robust tree canopy, rebuild the street and sidewalks, add protected bike lanes and improve the overall public realm.

City staff have brought forward the lessons learned from our first two Great Streets projects to minimize overall impacts as much as possible. New efforts include:

- **Pre-characterizing soils within the project area and developing a Soils Management Plan under the guidance of the VT Department of Environmental Conservation.** These steps have allowed the project team and contractor to understand the contaminated material present underground prior to beginning construction, and develop a plan for managing these soils in order to mitigate the risk of costly and disruptive project delays.

- **Including communications responsibilities in resident engineering contract.** In addition to Resident Engineering services, EIV Technical Services is providing a dedicated public outreach consultant to this project, Natalie Boyle, who is serving as the project's first point of contact for businesses and the general public. Since Natalie is able to collaborate directly with the RE services team within the same firm, she is acutely familiar with day-to-day construction activities and accurately communicate information to the public. Those who submit inquiries are guaranteed a timely, well-informed response.
- **Proactively replacing water services and sewer laterals for property owners at no cost.** In the interest of maximizing the integrity of the streetscape, the project team performed inspections of all water and sewer laterals within the project to identify services that warranted replacement within the project area. Not only does this mitigate risk of construction delays, it ensures that underground infrastructure within the project area will not fail and result in costly replacement of the new streetscape materials once completed.
- **Securing a grant through the Department of Business Workforce and Development to support business promotion during the project.** This \$15,000 grant will enable the City to further promote the great local businesses along the corridor during the construction.
- **Leasing adjacent parking to make affordable parking spaces available to the public.** The public will lose access to a varying number of public parking spaces throughout the course of construction. The contractor has occupied the City-owned parking lot on the corner of Main Street and South Winooski Avenue during active construction of the ravine sewer, and on-street parking will be disrupted as the contractor progresses with work on Main Street and Church Street. Business owners and the general public have expressed concern about these impacts, and the project team has taken action to mitigate temporary parking loss.

III. PARKING MITIGATION STRATEGIES

The project team understands that providing proximate parking to the corridor during construction is critical to supporting our great local businesses and has taken the following steps:

- Converting traffic to one-way on South Champlain Street between King Street and College Street, resulting in additional on-street parking on South Champlain Street.
- Limiting the full closure of the Main & Winooski municipal lot to just the initial phase of construction.
- Utilizing the Park Burlington website and project communications to direct the public to alternate parking facilities.
- Providing additional affordable off-street public parking. After a year of discussions and negotiations with Unified Parking Partners and Courthouse Plaza, we are pleased to announce that the City is making the 85 public parking spaces at 199 Main Street available for more hours and at lower rates. This parking, accessed from South Winooski Avenue, had previously been available to the public but at limited times and premium rates (\$5/hour) which limited the utilization. The lease agreement, if approved, will provide:
 - 85 public parking spaces conveniently located to downtown close to shops and businesses.
 - Available from 6am to 3am daily.
 - A more accessible rate to match the City's standard rates, currently \$1.50 per hour.
 - Capability to pay for parking via City payment options such as ParkMobile and pay-on-foot kiosks.

IV. FINANCIAL TERMS

Through the Lease Agreement, the City would lease each space for \$4.60 per day. Under the agreement, the City would lease all 85 spaces for the first year at \$11,892.92 per month or a total of \$142,715.00 for the year. The Traffic Fund will make the first year lease payments. The revenue from public parking sessions will be collected by the Parking Facilities Fund and will offset the cost of this program. With a conservative assumption of an average 60 parkers per day parking for two hours, the net cost would be ~\$76,000/yr. With a more aggressive projection of 90 parkers per day staying for an average of 3 hours, the net cost would be \$43,560/yr. The Traffic Fund has budgeted for this parking support in FY'24 (G/L 264-19-200-450.6500_118) and we will ensure to budget for this in FY'25.

The lease allows the City to keep the full 85 spaces for the second year or reduce the leased spaces as demand necessitates. It also allows for the City to extend the lease for an additional 8 months if needed to complete the Great Streets Main Street construction.

V. TIMELINE

If approved by the City Council on February 26th, we are expecting to have the City signage and kiosks installed and the lower rates implemented by mid-March, 2024. There will be construction signage directing drivers to this parking resource. The new rates and hours will be listed on www.ParkBurlington.com as soon as the lease agreement is executed, listed on the Main Street project website www.GreatStreetsBTV.com, and communicated to contacts on the project's email distribution list.

We are pleased with the cooperative relationship with Courthouse Plaza and Unified Parking Partners to work out this beneficial arrangement. Please reach out with any questions.

VI. MOTIONS

Board of Finance

1. To approve and recommend that the City Council authorize the Director of Public Works to execute Attachment A - Parking Management Sublease Agreement with Unified Parking Partners and Courthouse Plaza, in an amount not to exceed \$142,715 per year.

City Council

2. To authorize the Director of Public Works to execute Attachment A - Parking Management Sublease Agreement with Unified Parking Partners and Courthouse Plaza, in an amount not to exceed \$142,715 per year.

VII. ATTACHMENTS

- A. Parking Management Sublease Agreement

Board of Finance and City Council Submission ChecklistDepartment: Public Works Submitter: Laura Wheelock and Olivia DarisseTitle/Subject: Main Street Parking Management Sublease Agreement

	Approval:	Meeting Date:
☒	Board of Finance	2/20/2024
☒	City Council	2/26/2024
☐	Concurrent	Click or tap to enter a date.

This form must be completed by the person submitting the materials, and sent with the final submission. Please do not indicate that a signoff was received until it has actually been obtained.

Signoffs Received

Signoff Needed	Received	Date Received	Note
Department Head	Yes	2/13/2024	Chapin Spencer
Mayor's Office informed and approved memo	Yes	2/13/2024	Jordan Reddell
Board/Commission, if required	N/A	Click or tap to enter a date.	Click or tap here to enter text.
City Attorney's Office has approved contract and/or legal documents, -Identify attorney in note	N/A	Click or tap to enter a date.	Click or tap here to enter text.
City Attorney's Office has approved memo and motion(s) or resolution(s) -Identify attorney in note	Yes	2/13/2024	Erik Ramakrishnan
CAO has reviewed budget, financing, and memo	Yes	2/13/2024	Katherine Schad
Human Resources, if personnel action -Identify HR Manager in note	N/A	Click or tap to enter a date.	Click or tap here to enter text.
CIO, if an IT-related investment/purchase	N/A	Click or tap to enter a date.	Click or tap here to enter text.

Materials Included

	Included?	Note
Final Memo Attached?	Yes	Click or tap here to enter text.
Contract Attached, if applicable?	Yes	Sublease Agreement
Additional Materials, if necessary	N/A	
Draft Resolution or Motion?	Yes	Motions - Memo
If for submission to Council, are sponsors identified?	Yes	Board of Finance

PARKING MANAGEMENT SUBLEASE AGREEMENT

This Parking Management Agreement (this “Agreement”) is entered among the City of Burlington (the “City”), a Vermont municipality with a principal place of business of 149 Church Street, Burlington, Vermont; Courthouse Plaza LLC, a Vermont limited liability company with a principal place of business of 2822 Saint George Road, Williston, Vermont (“Owner”); and UPP Global, LLC, a Delaware limited liability company registered in the State of Maine to do business as United Parking Partners, with a principal place of business of 496 Congress Street, Suite 3, Portland, Maine (“Lessee”), collectively, the “Parties” and each a “Party”.

WHEREAS Owner is the fee owner of certain real property and other improvements situated in Burlington, Vermont located at 199 Main Street as more particularly depicted in Exhibit A attached to this Agreement (the “Garage Property”); and

WHEREAS Lessee leases the Garage Property from Owner for purposes of carrying on a private, for-profit parking operation; and

WHEREAS the City’s Great Streets Main Street Project will reconstruct several blocks of Main Street, projected to start in early 2024, and to continue for at least two years, and the City is seeking proximate publicly-accessible parking at typical City rates to mitigate temporarily the loss of on-street parking spaces during the construction project; and

WHEREAS the Owner and Lessee are ready, willing, and able to sublease to the City Level 3 (defined below) of the Garage Property to provide such affordable, publicly-accessible parking; and

WHEREAS in consideration of City’s need for publicly-accessible parking and Owner and Lessee’s ability and willingness to meet such need, the Parties desire to enter into this Agreement and to provide publicly available parking for the duration of the City’s need on mutually agreeable terms; and

NOW THEREFORE, in consideration of the matters described above, and of the mutual benefits and obligations set forth in this Agreement, the Parties agree as follows:

1. PURPOSE

This Agreement sets forth the understanding of the Parties with regard to the use, maintenance, operation, improvement, repair and other matters related to the Garage Property. The Parties acknowledge the use, operation, and maintenance of the Parking Garage shall: (a) provide safe, accessible parking for Permitted Users; (b) ensure unobstructed (subject to traffic control) ingress, egress, and location identification, including directional signage within the Parking Garage; and (c) maximize the interests of the City, Owner, and Lessee. Except for the portions of the Garage Property used for valet parking or private, for-profit parking as provided in this Agreement, the Parking Garage shall be operated as a self-park, public parking garage.

2. BACKGROUND

A. Authority. Each Party represents and warrants to the other that the execution and delivery of this Contract and the performance of such Party’s obligations have been duly authorized.

- B. Consideration.** The Parties acknowledge that the mutual promises and covenants contained herein and other good and valuable consideration are sufficient and adequate to support this Contract.

3. DEFINITIONS

- A. “Garage Property”** is defined in the first recital.
- B. “Level 3”** means the tray of 85 parking spaces in the Garage Property directly accessible from South Winooski Avenue.
- C. “Permitted Users”** means persons who use the Parking Garage from time to time with the permission of Owner and/or Lessee.
- D. “Effective Date”** means the date on which this Contract is approved and signed by the City, as shown on the signature page.
- E. “Displacement Period”** means a period of weeks during the term hereof, to be determined by the City, when public works shall occur at the entrances to the first and second levels of the Garage Property, such that those levels will not be available for Long Term Parkers (defined below).

4. EFFECTIVE DATE, TERM, AND TERMINATION

- A. Effective Date.** This Contract shall not be valid or enforceable until the Effective Date. The City shall not be bound by any provision of this Contract before the Effective Date and shall have no obligation to pay the other Parties for any performance or expense incurred before the Effective Date or after the expiration or termination of this Contract.
- B. Term.** This Contract and the Parties’ respective performance shall commence on the Effective Date and expire April 1, 2026, or upon the satisfaction of the City, unless sooner terminated as provided herein. In consideration of Ten Dollars and No Cents (\$10.00), the receipt and sufficiency of which is hereby acknowledged, the City shall have the option to extend the term for up to eight (8) months. This option shall be exercised at least thirty (30) days prior to the end of the term.
- C. Termination.** The Agreement may be terminated in accordance with the following provisions, which are not exclusive:
- i. Termination for Cause. The City may, upon written notice to the Owner or Lessee, terminate the Agreement, as of a date to be specified by the City, if the Owner or Lessee fails to maintain the necessary parking availability or maintenance standards to the satisfaction of the City. The Owner or Lessee shall be compensated on the basis of the parking fees incurred and accepted by the City upon the date of notice by City of termination. In case of other breaches of this Agreement, including, without limitation, failure to obtain and maintain required insurance or failure to honor indemnification and defense obligations hereunder, the City may terminate this Agreement without notice and

without further compensation to Owner or Lessee.

- ii. Termination for Convenience. In addition to its rights and options to terminate this Agreement as provided herein, the City may, at any time during the term of this Agreement, terminate the Agreement by submitting written notice to the Owner and Lessee within not less than thirty (30) days prior to the termination date, via certified or registered mail, of its intention to do so. If the termination is for the City's convenience, payment to the Owner or Lessee will be made promptly for the amount of any fees owed to the date of the notice of termination, less any payments previously made.
- iii. Contract Disputes. In the event of a dispute between the parties to this Agreement each party will continue to perform its obligations unless the Agreement is terminated in accordance with these terms.

5. AGREEMENT DOCUMENTS

The following agreement documents are hereby adopted, incorporated by reference, and made part of this Agreement. The intention of the agreement documents is to establish the necessary terms, conditions, and other items necessary for the proper execution of the duties and responsibilities contained herein.

The following documents constitute the agreement documents:

Attachment A: Map and Description of Garage Property

Attachment B: City of Burlington Ordinances, Chapter 20 and Appendix C, current as of February 1, 2024

Attachment C-1: Owner's Certificate of Insurance

Attachment C-2: Lessee's Certificate of Insurance

Attachment C-3: City's Certificate of Insurance

6. JOINT OPERATION

- A. Dual use.** The Garage Property consists of multiple levels with two primary uses: private arrangements by agreement for ongoing monthly parking access with area business and tenants ("Long Term Parkers"); and, open, public-parking charged on an hourly basis ("Public Parkers"). The scope of this agreement is intended to govern the latter use that will encompass the entirety of garage Level 3 (85 spaces) accessible from South Winooski Avenue.
- B. Operation as Single Property.** The Parties recognize that the Garage Property will be operated as a single garage creating an inventory of *at least* eighty-five (85) parking spaces allocated for Public Parkers.
- C. Designated Premises.** It is agreed among the Parties that that during the term of this Agreement, Level 3 will be available exclusively to Public Parkers, except during the

Displacement Period, when it will be made available first for Long Term Parkers and second for Public Parkers.

7. MAINTENANCE AND OPERATION

A. Generally. Owner and/or Lessee will be responsible for administering, maintaining, operating, improving and repairing the Garage Property, including but not limited to resurfacing, patching, repairing, replacing, sweeping, garbage removal, removing snow and standing water, cleaning, striping, painting and maintain the Garage Property in such a manner as to provide safe public access to the spaces on Level 3. Owner and Lessee shall also ensure that the City has access to power as reasonably necessary, including to operate kiosks or other equipment allowed under this Agreement.

B. Ingress and Egress. The Parties agree, and the Owner and/or Lessee shall ensure, that public means of access including vehicle ramps and pedestrian access is open and passable at all times when the Garage Property is open to the public.

C. Hours of Operation and Availability. Level 3 shall be open for Public Parkers at least twenty-one (21) hours per day from 6 a.m. to 3 a.m., seven (7) days per week, every day of the year, except: (1) during an emergency necessitating closure; (2) for days and times as reasonably necessary when repairs are performed or capital improvements are installed; or (3) as agreed to by all three parties in writing.

D. Maintenance Standards.

- i. During all hours of operation, Owner and Lessee shall ensure the following maintenance standards:
 1. Entrances, exits, and other points for ingress and egress shall be clearly marked and convenient;
 2. Pedestrian paths and corridors to points of exit shall be free from interference by vehicles;
 3. The Garage Property shall comply with all applicable federal, state, and local laws, including, without limitation, the Americans with Disabilities Act and other disability access laws;
 4. Lighting and security services (including security monitoring equipment) shall be consistent both with the requirements of paragraph (E) of this section and the operation of other parking garages in downtown Burlington;
 5. All sidewalks, walkways, stairways, elevators, roadways and parking surfaces inside the Garage Property, including its entrances and exits, shall be kept and maintained in good, safe and clean condition;

6. Snow, ice, surface water and debris shall be promptly treated or removed if inside the Parking Garage, or its entrances and exits.

- ii. Owner and Lessor shall hold harmless, indemnify, and defend the City and its officers, employees, agents, successors, and assigns from and against any and all claims, damages, liens, liabilities, penalties, causes of action, lawsuits, fines, or costs (including attorneys' fees or costs) of any kind or nature whatsoever (collectively, "Claims"), arising from or relating to the failure of the Garage Property to comply with the maintenance standards above, excepting claims arising from the gross negligence or willful misconduct of the City. The foregoing obligations shall survive termination of this Agreement.

E. Required Staff. Subject to paragraph (G), below, the Lessee shall employ persons on an as-needed basis to monitor cameras and security personnel to protect persons and property from harm or damage. The Lessee shall designate an individual who may be contacted by the Parties for the purposes of ensuring that: (a) the Parking Garage is operated and maintained in a first-class condition consistent with this Agreement; (b) vehicles and persons are able to enter and exit the Parking Garage at all times; and (c) inquiries, complaints and emergency conditions receive a prompt response. The Lessee shall either have staff available on site or by phone to respond to operational and emergency issues.

F. Capital Improvements. Owner shall be responsible, at its sole cost and expense, to make all repairs and capital improvements (structural and nonstructural) to the Garage Property for the purpose of maintaining standards for a first-class parking garage in an urban area, and as otherwise agreed between the Parties. Upon notice from the City that repairs or improvements are necessary to preserve the structural integrity of the Garage Property and/or to maintain maintenance standards herein, Owner shall promptly commence to make such repairs, or in the alternative, provide a report that repairs are either unnecessary or are scheduled in accordance with the relative urgency. This paragraph shall not be construed to create a duty of the City to identify or report conditions of the Garage Property.

G. Security. During the Displacement Period, the City shall provide security for Level 3. Otherwise, Owner and Lessee shall be responsible at their own cost and expense to provide security for the entire Garage Property. Nothing in this paragraph shall prevent the City from enforcing payment by Public Parkers at Level 3.

8. PARKING FEES AND CONSIDERATION

A. Fees for Public Parking. The City shall have the sole right during the term of this Agreement to charge parking fees (as determined by it in its sole discretion) to Public Parkers for their use of Level 3. The City may install signs and kiosks to facilitate collection of fees, which the City shall remove at termination of this Agreement. Parking enforcement on Level 3 shall be the City's responsibility, except that the City shall not be responsible to enforce payment by Long Term Parkers on Level 3 during the Displacement Period. City signage may include hours of operation and similar information reasonably determined by the City to be necessary or convenient to its operations.

- B. Hours of Operation.** Parking by Public Parkers shall be allowed on Level 3 at least between the hours of 6 a.m. and 3 a.m. daily.
- C. Payment to Lessee.** During the term of the Agreement, City agrees to pay as compensation to Lessee a monthly sublease payment of Eleven Thousand Seven Hundred Thirty Dollars and No Cents (\$11,892.92) for each month during this Sublease Agreement.
- D.** Prior to April 1, 2025, the parties shall meet and confer in good faith to discuss the City's need for spaces effective from that date to the end of the term of this Agreement, and if agreed by the Parties, this Agreement shall be amended to modify the number of spaces leased by the City on Level 3, and the City's monthly sublease payment shall be adjusted accordingly based upon a rate of Four Dollars and Sixty Cents (\$4.60) per space per day.
- E. Non-Appropriation.** The obligations of the City under this Agreement are subject to annual appropriation by the Burlington City Council. If no funds or insufficient funds are appropriated or budgeted to support continuation of payments due under this Agreement, the Agreement shall terminate automatically on the first day of the fiscal year for which funds have not been appropriated. The Parties understand and agree that the obligations of the City to make payments under this Agreement shall constitute a current expense of the City and shall not be construed to be a debt or a pledge of the credit of the City. The decision whether to budget and appropriate funds during each fiscal year of the City is within the discretion of the Mayor and City Council of the City. The City shall deliver written notice to Owner/Lessee as soon as practicable of any non-appropriation, and Owner/Lessee shall not be entitled to any payment or compensation of any kind for work performed after the City has delivered written notice of non-appropriation.

9. NO NUISANCE OR WASTE.

The Parties shall not use or occupy the Garage Property in any manner which causes damage, nuisance, or waste.

10. REMOVAL OF VEHICLES

If any Party finds that any person or Party is using the Garage Property in a manner which violates any term of this Agreement or any reasonable rule related to the Garage Property, then the Owner or Lessee may require the vehicle or persons to be removed from the Garage Property. Prior to the removal of a vehicle, the Party may give notice by posting a copy of intent to remove on the offending vehicle. After 24 hours' notice, except in the case of emergency, the Party is authorized to remove the vehicle and take such other action as is reasonably necessary, including storage or impoundment. For purposes of Burlington Code of Ordinances Section 20-77, Owner hereby designates Lessee and the City as Owner's agent for the limited purpose of removing offending vehicles.

11. INSURANCE

Generally. The insurance coverages in the amounts set forth below shall be maintained by all Parties unless otherwise agreed in writing. No warranty is made that the coverage and limits listed herein are adequate.

- i. General Liability And Property Damage: Commercial General Liability, on an occurrence form, providing all major divisions of coverage including, but not limited to:

1. Premises Operations
2. Independent Contractors' Protective
3. Products and Completed Operations
4. Personal Injury Liability
5. Medical Expenses
6. Garage-keepers Liability Coverage with a limit of at least \$500,000

Coverage limits shall not be less than:

- | | |
|----------------------------------|-------------|
| 1. General Aggregate | \$2,000,000 |
| 2. Products-Completed/Operations | \$2,000,000 |
| 3. Personal & Advertising Injury | \$1,000,000 |
| 4. Each Occurrence | \$1,000,000 |
| 5. Damage to Rented Premises | \$ 250,000 |
| 6. Med. Expense (Any one person) | \$ 5,000 |

- ii. Automobile: combined single limit of \$1,000,000 for owned, non-owned, and hired vehicles.

- iii. Workers Compensation & Employer Liability: coverage in amounts specified by law but not less than \$500,000 per accident, \$500,000 per policy, and \$500,000 per employee.

- iv. Umbrella/Excess Liability:

1. \$1,000,000 Each Event Limit;
2. \$1,000,000 General Aggregate Limit;
3. Umbrella coverage is excess above the general, automobile, and employer liability.

Endorsements. Owner's and Lessee's policies of insurance shall be endorsed to: (1) name the City and its officers, employees, agents, successors, and assigns as additional insureds on a primary, non-contributory basis on all liability policies referenced above; (2) waive subrogation against the City; and (3) provide the City thirty (30) days' notice of cancellation. If requested by Owner and/or Lessee, the City shall provide substantially similar endorsements.

12. BINDING EFFECT; ASSIGNMENT AND SUBLETTING

This Agreement and all of the provisions of this Agreement will be binding upon and inure to the benefit of the Parties and their respective successors and permitted assigns. However, this Agreement and any of the rights, interests, or obligations under this Agreement may not be assigned, transferred or the parking spaces contemplated herein sublet without the prior written consent of the other Parties to this Agreement. Notwithstanding the foregoing, the Parties' obligations under this Agreement shall inure to any assignee, whether the assignment is authorized.

13. NO WAIVER

Notwithstanding the passage of time, no failure on the part of any Party to insist upon the performance of any covenant, agreement, term or condition or to exercise any right or remedy contained in this Agreement shall constitute a waiver of such breach or of the requirement that such covenant, agreement, term or condition be complied with or performed by the other party. No waiver of any breach shall affect or alter this Agreement, and each covenant, term and condition shall continue to be in full force and effect with respect to any then-existing or subsequent breach or performance obligation.

14. FORCE MAJEURE

No party to this Agreement shall be liable to the other for any failure or delay of performance of any obligation under this Agreement to the extent the failure or delay is caused by acts or events beyond its reasonable control that render performance illegal or impossible ("Force Majeure"). To assert Force Majeure, the nonperforming party must prove that it: (a) made all reasonable efforts to remove, eliminate, or minimize the cause of delay or damage, (b) diligently pursued performance of its obligations, (c) substantially fulfilled all obligations that could be fulfilled, and (d) timely notified the other Parties of the likelihood or actual occurrence of a Force Majeure event.

15. SEVERABILITY

If any provision of this Agreement or the application of such provision to any person or circumstance shall to any extent be invalid or unenforceable, the remainder of this Agreement or the application of such provision to persons or circumstances other than those as to which it is held invalid or unenforceable shall not be affected, and each provision of this Agreement shall be valid and enforceable as necessary to effectuate the original intent of the Parties as closely as possible.

16. CASUALTY & CONDEMNATION

Notwithstanding anything in this Agreement to the contrary, the City will not be liable for damage to the premises not caused by the City or any of its officers, employees, or agents. In case of any casualty that causes all or a substantial portion of Level 3 to become unavailable for Public Parkers for a period of three (3) business days or longer, and in case of any condemnation by an agency other than the City of all or any part of Level 3, the City may, in its reasonable discretion, terminate this Agreement immediately and shall be liable for sublease payments only to the date of termination. The City also shall have the option in such circumstances to sublease only a portion

of Level 3, in which case sublease payments shall be prorated based upon a rate of Four Dollars and Sixty Cents (\$4.60) per space per day.

17. MISCELLANEOUS

This Agreement, including the agreement documents identified in Section 5, contains the entire agreement and understanding of the Parties with respect to the subject matter of this Agreement, and supersedes all prior oral or written understandings, agreements, promises or other undertakings between the Parties. This Agreement may be changed only by a written agreement signed by the Parties. This Agreement may be executed in identical counterparts, each of which shall, collectively, constitute but one document. This Agreement shall be construed according to the laws of the State of Vermont, notwithstanding conflicts of law principles, and venue for any dispute arising from this Agreement shall be proper in Chittenden County, Vermont, notwithstanding any provision of law to the contrary. There are no third-party intended beneficiaries of this Agreement. This Agreement shall not be construed against its drafter.

18. LAWS AND REGULATIONS

All Parties will use the Garage Property in accordance and compliance with all laws of the City of Burlington, State of Vermont, and the United States, including all applicable rules and regulations.

19. RELATIONSHIP OF PARTIES

Notwithstanding anything to the contrary contained in this Agreement, this Agreement shall not be deemed or construed to make the Parties to this Agreement partners or joint venturers, or to render either party liable for any of the debts or obligations of the other.

20. NOTICE

All notices required or permitted to be given under this Agreement shall be in writing, may be given by personal delivery, United States mail (certified, return receipt requested) or overnight delivery by a service retaining evidence of delivery, and shall be deemed delivered when received at the address set forth in the opening paragraph, unless another address is provided by notice.

-signature page(s) to follow-

21. SIGNATURE

The Parties have executed this Agreement at Burlington, Vermont as of the Effective Date. The signatories hereto represent and warrant their authority to bind their respective parties. This Agreement may be executed electronically, and an electronic copy or other facsimile shall be treated as an original.

**City of Burlington
Department of Public Works**

By: _____
Chapin Spencer
Director

Date: _____

Courthouse Plaza, LLC

By: _____
[Name]
[Title]

Date: _____

UPP Global, LLC

By: _____
[Name]
[Title]

Date: _____

Attachment A: Map and Description of Garage Property

**Attachment B: City of Burlington Ordinances, Chapter 20 and Appendix C, current as of
[Date]**

Attachment C-1: Owner's Certificate of Insurance

Attachment C-2: Lessee's Certificate of Insurance

Attachment C-3: City's Certificate of Insurance

MEMO

Date: February 20th, 2024

To: Board of Finance and City Council

From: Sophie Sauvé, Parks Comprehensive Planner,
Cindi Wight, Director, Department of Parks, Recreation & Waterfront

Re: Budget Amendment between Penny for Parks Projects

I. PURPOSE

The Department of Parks, Recreation and Waterfront (BPRW) seeks approval and authorization for a budget amendment from the Calahan Park – Court & Stormwater Design project to the Oakledge Park Lower Pavilion Restroom Renovations project, two Penny for Parks Projects.

II. BACKGROUND

BPRW is requesting to move funds not in use from the Calahan Park – Court & Stormwater Design project, a Penny for Parks (PFP) project with funds allocated in the FY24 budget to the Oakledge Park Lower Pavilion Restroom Renovation Project, which has funds from FY22 and FY24 from Penny for Parks (PFP).

The Oakledge Park Lower Pavilion Restroom Renovations project's intent is to convert unused shower areas in both gendered restrooms into family restrooms equipped with a baby changing station and more importantly, the park's first adult changing station. With the renovations to the Oakledge Universally Accessible Playground completed in fall 2023, these restrooms renovations are needed to accommodate the broadened user group anticipated to visit the park in the coming year/s.

The restroom renovations are included in the Land, Water and Conservation (LWCF) grant funding match that BPRW secured in 2019. However, due to rising costs of construction, BPRW has requested additional funding from the LWCF grant to help offset the cost increase. BPRW is waiting on confirmation of receipt of these funds. In the interim and in the interest of renovating the restrooms before opening season at Oakledge Park, BPRW proposes to utilize Penny for Parks funds for the renovations. If the additional LWCF funding comes through, BPRW will reimburse Penny for Parks, making room for future projects in other parks, including the Calahan Park – Court & Stormwater Design when appropriate.

The allocated budget in PFP for the restrooms is \$89,750. The design fee for the renovations was \$16,640, with \$73,110 remaining for the much-needed renovations. BPRW first bid out the Oakledge Park Lower Pavilion Restroom Renovations project in summer 2023. After a non-mandatory site visit with contractors, it was determined that the existing funding for the renovations are inadequate for the project.

The Calahan Park – Court & Stormwater Design project was budgeted to use Penny for Parks funds in FY24. Since then, BPRW successfully secured a state grant with a 20% match to design and construct an east-west connecting path in the park along Locust Street, which has been a long-



identified missing link to address accessibility and connectivity in the park and to the neighborhood. As such, staff capacity has focused on advancing this multi-year project within the grant timeline and the Calahan Park – Court & Stormwater Design project has not yet started.

In a closer review of BPRW's capital plan, we have determined that we will not have adequate funds for the construction of the project for several years, or without significant grant support. We have also determined that it would be most cost-effective to combine this project with the tennis court renovations, which are scheduled to be addressed in a few years. Due to the high priority need of the restroom renovations at Oakledge Park, BPRW would like to move unused funds into the Oakledge Restroom Renovation projects to use the Penny for Parks as they are intended – year to year. The Calahan Park – Court & Stormwater Design project will be moved to a later FY in BPRW's capital plan and we will continue to identify opportunities for additional funding for construction. BPRW will update the Parks Commission on the timing of projects in April when we present our FY25 Penny for Parks project list for approval.

BPRW will be issuing requests for bids for the Oakledge Restroom Renovation project in the coming weeks and anticipates returning to the Board and Finance and City Council for contract approval in early spring.

DEPARTMENT RECOMMENDATION

Board of Finance Motion:

1. To approve and recommend that the City Council authorize the Chief Administrative Officer, or their designee, to affect the necessary budget amendment and transfer of \$80,000 in funds between the Penny for Parks Projects (Calahan Park Court & Stormwater Design to Oakledge Park – Restrooms) as outlined on the Budget Amendment Request form.

City Council Motion:

1. To approve and authorize the Chief Administrative Officer, or their designee, to affect the necessary budget amendment and transfer of \$80,000 in funds from the Penny for Parks Projects (Calahan Park Court & /Stormwater Design to Oakledge Park-Restrooms) as outlined on the Budget Amendment Request form.

CITY OF BURLINGTON, VT
PROJECT BUDGET AMENDMENT REQUEST

Department: BPRW Requested by: Sophie Sauvé Date: 2/8/2024

Briefly explain the reason for the amendment:
This BA will move much-needed PFP funds into the Oakledge Restrooms Project. The Oakledge Restroom Renovations are needed at the park - they will be used convert unused space into family restrooms. The renovated playground will bring additional families to the park and this much-needed renovation will provide two new family restrooms with one adult change table to the park. The latter has been a community request since the upper pavilion restrooms were renovated more

_____ (under 10k)
Dept. Head Approval

_____ (10k to 24,999)
Chief Administrative Officer Date

_____ (25K - 50K)
Mayor Date

BUDGET AMENDMENT DETAILS

Org Set	GL Account	Account Name	Project/Sub/Detail Name	Increase/ (Decrease)
830-23-700-701	4990_701	Parks, Parks and Recreation, Capital Projects, Pennies for Parks.Interfund Transfer Proceeds - Penny for Parks	830 Parks PFP - Calahan Park Ct -	(80,000)
830-23-700-701	9500_701	Parks, Parks and Recreation, Capital Projects, Pennies for Parks.Capital Outlay - Penny for Parks Exp	830 Parks PFP - Calahan Park Ct -	(80,000)
830-23-700-701	4990_701	Parks, Parks and Recreation, Capital Projects, Pennies for Parks.Interfund Transfer Proceeds - Penny for Parks	830 Parks PFP - Oakledge Park - Restrooms	80,000
830-23-700-701	9500_701	Parks, Parks and Recreation, Capital Projects, Pennies for Parks.Capital Outlay - Penny for Parks Exp	830 Parks PFP - Oakledge Park - Restrooms	80,000

Board of Finance and City Council Submission ChecklistDepartment: Parks, Recreation and Waterfront Submitter: Sophie SauvéTitle/Subject: Budget Amendment PFP from Calahan Basketball to Oakledge Restrooms

	Approval:	Meeting Date:
☒	Board of Finance	2/20/2024
☒	City Council	2/26/2024
☐	Concurrent	6/28/2021

This form must be completed by the person submitting the materials, and sent with the final submission. Please do not indicate that a signoff was received until it has actually been obtained.

Signoffs Received

Signoff Needed	Received	Date Received	Note
Department Head	Yes	2/9/2024	Cindi Wight
Mayor's Office informed and approved memo	Yes	2/14/2024	Jordan Redell
Board/Commission, if required	Choose an item.	Click or tap to enter a date.	Click or tap here to enter text.
City Attorney's Office has approved contract and/or legal documents, -Identify attorney in note	Choose an item.	Click or tap to enter a date.	Click or tap here to enter text.
City Attorney's Office has approved memo and motion(s) or resolution(s) -Identify attorney in note	Yes	2/14/2024	Hayley McClenahan
CAO has reviewed budget, financing, and memo	Yes	2/12/2024	Katherine Schad
Human Resources, if personnel action -Identify HR Manager in note	Choose an item.	Click or tap to enter a date.	Click or tap here to enter text.
CIO, if an IT-related investment/purchase	Choose an item.	Click or tap to enter a date.	Click or tap here to enter text.

Materials Included

	Included?	Note
Final Memo Attached?	Yes	Click or tap here to enter text.
Contract Attached, if applicable?	Choose an item.	Click or tap here to enter text.
Additional Materials, if necessary	Yes	BA form
Draft Resolution or Motion?	Yes	Click or tap here to enter text.
If for submission to Council, are sponsors identified?	Choose an item.	Click or tap here to enter text.



**CITY OF BURLINGTON
DEPARTMENT OF PUBLIC WORKS**

645 Pine Street, Suite A
Post Office Box 849
Burlington, VT 05402-0849
802.863.9094 VOX
802.863.0466 FAX
802.863.0450 TTY
www.burlingtonvt.gov

Chapin Spencer
DIRECTOR OF PUBLIC WORKS

MEMORANDUM

TO: Board of Finance/City Council

FROM: Caleb Manna, Excavation Inspector, Department of Public Works

DATE: February 20, 2024

CC: Norman Baldwin, P.E., Assistant Director of Public Works/City Engineer
Chapin Spencer, Director of Public Works.
Laura Wheelock, P.E., Senior Public Works Engineer

RE: 2024 VTRANS Certificate of Highway Mileage

Background

The Vermont Agency of Transportation (VTRANS) annually reviews and certifies accepted highway mileage in each Vermont municipality to be used towards determining the amount of state and federal aid each municipality is eligible for, and to ensure the Town Highway Map remains accurate.

As part of this process, additions, subtractions, modifications, and reclassifications of streets are reviewed. Any changes in mileage or classification are recorded and updated in the certificate of highway mileage sent annually to each municipality for review and approval. The certificate, once accepted by City Council, is then signed and returned to the state agency. The certificate will be approved as described, and current mileage will be updated by VTRANS in the 2024 Town Highway Map.

Changes

This year, the City of Burlington has no changes to the overall town highway mileage or road classification to report.

In 2023, The Department of Public Works Technical Service staff was able to produce documentation demonstrating ownership of several streets that had been previously excluded from the Town Highway Map. The missing streets, along with completion of the Shelburne Roundabout, added 1.807 previously unrecorded miles to the map.

It is important to note, the Town Highway Map is only reflective of formally accepted streets within the municipality. Unaccepted streets, streets not built to city standards, or streets with missing deed documentation are not eligible for recording or state funding.

Recommendation

The Department of Public Works is recommending that the City Council approve the following the requested motion authorizing Chapin Spencer, Director of Public Works, to sign the 2024 Highway Mileage Certificate on behalf of the City Council as their designee.

Attachments

- A. 2024 City of Burlington Highway Mileage Certificate
- B. 2023 Town Highway Map

Motions

Board of Finance:

1. "To approve and recommend that the City Council accept the recorded mileage for the City of Burlington with the Vermont Agency of Transportation in the 2024 Highway Mileage Certificate, and authorize Chapin Spencer, Director of Public Works, to execute the certificate on behalf of City Council."

City Council:

1. "To accept the recorded mileage for the City of Burlington with the Vermont Agency of Transportation in the 2024 Highway Mileage Certificate, and authorize Chapin Spencer, Director of Public Works, to execute the certificate on behalf of City Council."

District 5
Certcode 0403-0

CERTIFICATE OF HIGHWAY MILEAGE
YEAR ENDING FEBRUARY 10, 2024

EX-A

Fill out form, make and file a copy with the Town Clerk, and submit the Mileage Certificate on or before February 20, 2024 to: Vermont Agency of Transportation, Division of Policy, Planning and Intermodal Development, Mapping Section via email to: aot.mileagecertificates@vermont.gov or if necessary via mail to: VTrans PPAID - Mapping Section, 219 North Main Street, Barre VT 05641.

We, the members of the legislative body of BURLINGTON CITY in CHITTENDEN County on an oath state that the mileage of highways, according to Vermont Statutes Annotated, Title 19, Section 305, added 1985, is as follows:

PART I - CHANGES TOTALS - Please fill in and calculate totals.

Town Highways	Previous Mileage	Added Mileage	Subtracted Mileage	Total	Scenic Highways
Class 1	7.178				
Class 2	21.727				
Class 3	67.06				
State Highway	0.195				
Total	96.160				
* Class 1 Lane	4.161				
* Class 4	1.10				
* Legal Trail	0.00				

* Mileage for Class 1 Lane, Class 4, and Legal Trail classifications are NOT included in total.

PART II - INFORMATION AND DESCRIPTION OF CHANGES SHOWN ABOVE.

1. **NEW HIGHWAYS:** Please attach Selectmen's "Certificate of Completion and Opening".

2. **DISCONTINUED:** Please attach SIGNED copy of proceedings (minutes of meeting).

3. **RECLASSIFIED/REMEASURED:** Please attach SIGNED copy of proceedings (minutes of meeting).

4. **SCENIC HIGHWAYS:** Please attach a copy of order designating/discontinuing Scenic Highways.

IF THERE ARE NO CHANGES IN MILEAGE: Place an X in the box and sign below.

X

PART III - SIGNATURES - PLEASE SIGN.

Signatures of Selectmen/ Aldermen/ Trustees:

Signature of T/C/V Clerk: _____ Date Filed: _____

Please sign ORIGINAL and return it for Transportation signature.

AGENCY OF TRANSPORTATION APPROVAL: Signed copy will be returned to T/C/V Clerk.

APPROVED:

Representative, Agency of Transportation

DATE:

This is a detailed street map of the Colchester area. The map shows a network of residential streets, including Windomer Rd, Colchester, and Windomer Lakes. Key landmarks include Windomer Park, Windomer Lakes, and the Colchester area. The map is oriented with North at the top. The map includes labels for streets such as 'WINDOMER RD', 'COLCHESTER', and 'WINDOMER RD'. It also shows various landmarks like 'WINDOMER PARK' and 'WINDOMER LAKES'. The map is oriented with North at the top.





- HIGHWAYS**
- INTERSTATE OR DIVIDED HIGHWAY
 - STATE - HARD SURFACE OR PAVED
 - TOWN - HARD SURFACE OR PAVED
 - GRAVEL
 - SOIL OR GRADED AND DRAINED EARTH
 - UNIMPROVED OR PRIMITIVE
 - MINIABLE OR UNTRAVELED
 - LEGAL TRAIL
 - DISCONTINUED
 - HIGHWAY CLASS CHANGE
 - RAILROAD
 - RACTIVE RAILROAD
 - PUBLIC LAND - NATIONAL FOREST
 - PUBLIC LAND - STATE/MUNICIPAL
 - NATIONAL FOREST ROAD
 - UNITED STATES GOV. HWY

- POLITICAL SUBDIVISIONS**
- STATE BOUNDARY
 - COUNTY BOUNDARY
 - TOWN BOUNDARY
 - VILLAGE BOUNDARY
 - URBAN COMPACT BOUNDARY
 - WATER BODY
 - STREAM OR BROOK
- BRIDGE OR CULVERT**
- BRIDGE OR CULVERT > 20'
 - BRIDGE OR CULVERT 6' - 20'
 - BIKE PATH STRUCTURE
 - VTCULVERTS BRIDGE
 - VTCULVERTS CULVERT > 6'
 - STATE BRIDGE OR CULVERT IDENTIFIER
 - TOWN BRIDGE OR CULVERT IDENTIFIER

FEDERAL CLASSIFICATION IDENTIFIER
B61 MAJOR ARTERIAL
B62 MAJOR COLLECTOR
B63 MINOR COLLECTOR
B64 LOCAL STREET
B65 PRINCIPAL ARTERIAL

DISCLAIMER:
The unimproved highways (dashed lines), discontinued highways, and legal trails herein are those of which the Agency of Transportation has record; others may exist.
Highway and bridge data by the Agency of Transportation, Town and village boundaries drawn from the VT/CULVERTS (formerly VORCT) online database. All other data from the Vermont Open Geodata Portal. Only named streams shown.

Vermont State Plane Coordinate System
North American Datum of 1983
SPCS Zone Identifier 4803
Geoid Reference System 80
2,000-meter grid, Easting - Northing



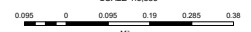
SHEET INDEX

VERMONT
GENERAL HIGHWAY MAP
City of Burlington
Southern Section
CHITTENDEN COUNTY
Transportation District #5

Prepared by the
Vermont Agency of Transportation
Division of Policy, Planning and Intermodal Development
in cooperation with
U.S. Department of Transportation
Federal Highway Administration

Map made on February 10, 2023
Map prepared June 28, 2023

SCALE 1:6,336



Miles
0.1 0.2 0.3 0.4

Kilometers

Board of Finance and City Council Submission Checklist

Department: Department of Public Works Submitter: Caleb Manna

Title/Subject: 2024 VTRANS Highway Mileage Certificate

	Approval:	Meeting Date:
☒	Board of Finance	2/20/2024
☒	City Council	2/26/2024
☐	Concurrent	

This form must be completed by the person submitting the materials, and sent with the final submission. Please do not indicate that a signoff was received until it has actually been obtained.

Signoffs Received

Signoff Needed	Received	Date Received	Note
Department Head	Yes	2/12/2024	Chapin Spencer
Mayor's Office informed and approved memo	Yes	2/12/2024	Jordan Redell
Board/Commission, if required	N/A	Click or tap to enter a date.	Click or tap here to enter text.
City Attorney's Office has approved contract and/or legal documents, -Identify attorney in note	N/A	Click or tap to enter a date.	Click or tap here to enter text.
City Attorney's Office has approved memo and motion(s) or resolution(s) -Identify attorney in note	Yes	2/12/2024	Hayley McClenahan Katherine Schad
CAO has reviewed budget, financing, and memo	N/A	Click or tap to enter a date.	Click or tap here to enter text.
Human Resources, if personnel action -Identify HR Manager in note	N/A	Click or tap to enter a date.	Click or tap here to enter text.
CIO, if an IT-related investment/purchase	N/A	Click or tap to enter a date.	Click or tap here to enter text.

Materials Included

	Included?	Note
Final Memo Attached?	Yes	Checked by C. Spencer
Contract Attached, if applicable?	N/A	Click or tap here to enter text.
Additional Materials, if necessary	Yes	Mileage Certificate, Map
Draft Resolution or Motion?	Yes	In Memo
If for submission to Council, are sponsors identified?	Yes	BOF

Department of Permitting & Inspections

Zoning Division
645 Pine Street
Burlington, VT 05401
Telephone: (802) 865-7188

William Ward, Director
Scott Gustin, AICP, CFM, Principal Planner
Mary O'Neil, AICP, Principal Planner
Garret King, Associate Planner
Joseph Cava, Permit Technician
Ted Miles, Code Compliance Officer
Ted Boylan, Division Administrator



TO: Board of Finance & City Council
FROM: Scott Gustin, Dan Cahill, & Cindi Wight
DATE: February 20 & 26, 2024
RE: Conservation Legacy Fund Grant Awards

Request

Disburse monies from the Conservation Legacy Fund in the amount of \$152,060 for the award of three grants to Vermont Youth Conservation Corps, Vermont Garden Network, and Burlington Wildways for local implementation of nature-based climate solutions.

Background

In 2022, the City Council unanimously adopted an addendum to the city's Open Space Protection Plan focused on nature based climate solutions. That adopted plan includes a matrix with a number of implementation strategies. In July, 2023 the City Council approved a reallocation of Conservation Legacy Fund monies to set aside 30% to support local implementation of nature-based climate solutions to be administered by Parks and DPI via a new local grant program.

A joint committee including Parks Commission and Conservation Board members reviewed all grant applications over the course of two meetings in December, 2023 and recommended awarding grants to Vermont Youth Conservation Corps, Vermont Garden Network, and Burlington Wildways. The full Conservation Board unanimously approved this recommendation at their January 8, 2024 meeting. Approval by the Parks Commission was obtained at their February 13, 2024 meeting.

Attachments

- July, 2023 City Council resolution approving reallocation of 30% Conservation Legacy Fund monies to support local implementation of nature-based climate solutions.

Board of Finance Motion

To approve and recommend that the City Council approve disbursement of \$152,060 in Conservation Legacy Fund monies via grant awards to Vermont Youth Conservation Corps (\$48,500), Vermont Garden Network (\$48,560), and Burlington Wildways (\$55,000) as recommended by the Conservation Board and Parks Commission.

City Council Motion

To approve disbursement of \$152,060 in Conservation Legacy Fund monies via grant awards to Vermont Youth Conservation Corps (\$48,500), Vermont Garden Network (\$48,560), and Burlington Wildways (\$55,000) as recommended by the Conservation Board and Parks Commission.

Board of Finance and City Council Submission Checklist

Department: Permitting & Inspections Submitter: Scott Gustin

Title/Subject: Conservation Legacy Fund Grants

	Approval:	Meeting Date:
☐	Board of Finance	2/20/2024
☐	City Council	2/26/2024
☐	Concurrent	Click or tap to enter a date.

This form must be completed by the person submitting the materials, and sent with the final submission. Please do not indicate that a signoff was received until it has actually been obtained.

Signoffs Received

Signoff Needed	Received	Date Received	Note
Department Head	Yes	2/12/2024	Click or tap here to enter text.
Mayor's Office informed and approved memo	N/A	Click or tap to enter a date.	Informed 2/2/24 & 2/13/2024
Board/Commission, if required	Yes	1/8/2024	Conservation Board 1/8. Parks Commission 2/13/2024.
City Attorney's Office has approved contract and/or legal documents, -Identify attorney in note	N/A	Click or tap to enter a date.	Click or tap here to enter text.
City Attorney's Office has approved memo and motion(s) or resolution(s) -Identify attorney in note	Yes	1/9/2024	Kimberlee Sturtevant
CAO has reviewed budget, financing, and memo	Yes	2/13/2024	Click or tap here to enter text.
Human Resources, if personnel action -Identify HR Manager in note	N/A	Click or tap to enter a date.	Click or tap here to enter text.
CIO, if an IT-related investment/purchase	N/A	Click or tap to enter a date.	Click or tap here to enter text.

Materials Included

	Included?	Note
Final Memo Attached?	Yes	Click or tap here to enter text.
Contract Attached, if applicable?	Choose an item.	Click or tap here to enter text.
Additional Materials, if necessary	Yes	Click or tap here to enter text.
Draft Resolution or Motion?	Yes	Click or tap here to enter text.
If for submission to Council, are sponsors identified?	Choose an item.	Pending

Resolution Relating to

AMENDING THE CONSERVATION LEGACY FUND POLICY DOCUMENT TO PROVIDE FOR NATURE- BASED CLIMATE ADAPTATION

RESOLUTION 6.49

Sponsor(s): PAC Committee

Introduced: 07/24/23

Referred to: _____

Action: adopted

Date: 07/24/23

Signed by Mayor: 07/26/23

CITY OF BURLINGTON

In the year Two Thousand Twenty-Three

Resolved by the City Council of the City of Burlington, as follows:

1 That WHEREAS, the City Council established the Conservation Legacy Fund in September 2004 to facilitate
2 the City's acquisition and stewardship of conservation land and support the ongoing operation of the Burlington
3 Conservation Legacy Program; and

4 WHEREAS, the City Council's resolution establishing the Conservation Legacy Fund incorporated an
5 attached policy document titled "Burlington Conservation Legacy Fund," which outlined the Fund's goals,
6 purpose, structure, capitalization, management, and categories for disbursement; and

7 WHEREAS, section VI of the policy document, "Distribution and Use of the Conservation Legacy
8 Fund," provides for two categories of disbursements: (1) acquisition funds for land, interests in land, and
9 associated costs identified as for permanent protection in the City of Burlington, and (2) capacity funds for land
10 acquisition planning, stewardship, and conservation education; and

11 WHEREAS, the present allocations for these categories are 70 percent for land acquisition and 30
12 percent for stewardship; and

13 WHEREAS, in 2022, the City Council unanimously adopted an addendum to the *2000 Burlington Open*
14 *Space Protection Plan*, which focused on nature-based climate solutions work; and

15 WHEREAS, the Parks, Arts, and Culture Committee and the Parks and Recreation Commission have
16 unanimously supported amending section VI to include an additional purpose for capacity funds—nature based
17 climate adaptation—and adjust the allocation of capacity funds accordingly;

18 NOW, THEREFORE, BE IT RESOLVED that the City Council hereby amends section VI of
19 the Conservation Legacy Fund policy document as follows, with deletion indicated by strikethroughs and
20 additions indicated by underlines:

- 21
- 22 ○ (**Capacity Funds**) During each year, the Conservation Board and the Parks & Recreation
23 Commission shall jointly recommend to the Mayor a disbursement from the Fund to the
24 Burlington Conservation Legacy Program for the purposes of Land Acquisition Planning,

* * * * *

DISTRIBUTION:

I hereby certify that this resolution
has been sent to the following
department(s) on

ORIGINAL

RESOLUTION RELATING TO

.....

.....

.....

Adopted by the City Council

....., 20.....

..... Clerk

Approved....., 20.....

Attest:

..... Mayor

Vol. Page

* * * * *

AMENDING THE CONSERVATION LEGACY FUND POLICY
DOCUMENT TO PROVIDE FOR NATURE-BASED CLIMATE
ADAPTATION

Stewardship, ~~and~~ Conservation Education, and Nature-Based Climate Adaptation for inclusion
in the annual budget resolution.

- No more than 30% of the annual tax revenue generated by the Fund shall be used to
support the Program's annual operations.
- No more than 30% of the annual tax revenue generated by Fund shall be used to support
the community-wide climate adaptation work as outlined by the 2022 Nature-Based
Climate Solutions addendum to the 2000 Open Space Protection Plan.
- The Burlington City Council shall make the final approval of the annual budget, all loans and grants
received, and all disbursements of principal, interest or other assets of the Fund upon the
recommendation of the Mayor. The operations of the Fund shall be subject to all City purchasing
and expenditure rules and procedures, and any staff shall be assigned for human resource
administration purposes to the Parks and Recreation Department.
- At the end of each fiscal year, any funds not spent shall roll over and be available for their specified
purposes in subsequent fiscal years.

* * * * *

DISTRIBUTION:

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has been sent to the following
department(s) on

Scott Gustin, DPI

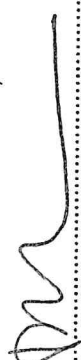
ORIGINAL

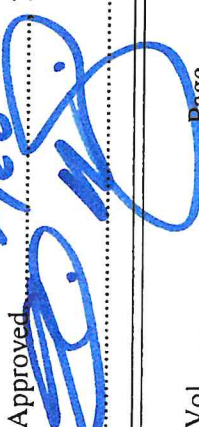
RESOLUTION RELATING TO

Amending The Conservation Legacy Fund Policy Document To Provide
For Nature-Based Climate Adaptation

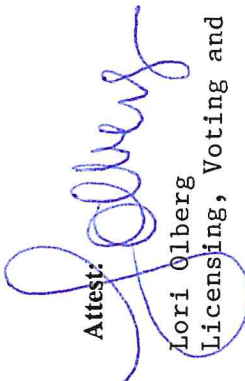
Adopted by the City Council

July 24, 2023

 Clerk

Approved  7/26/23 Mayor

Attest:


Lori Olberg
Licensing, Voting and Records Coordinator

Vol. Page

* * * * *

Lori Olberg

From: Caryn Long <carynlongvt@gmail.com>
Sent: Monday, February 12, 2024 11:31 PM
To: Zoraya Hightower
Subject: Neighborhood Code and more

[WARNING]: This email was sent from someone outside of the City of Burlington.

Dear Councilor,

Neighborhood Code is only being talked about now because people have sounded an alarm. What started as a process to allow infill - 2, 3 and 4 units morphed into 8 - 10 units on almost every city lot. My neighborhood is under constant pressure to become student rentals. If you really think Neighborhoods are the Soul of our City, you will send this back to committee.

Two weeks ago Councilor Shannon said they did not discuss stormwater or infrastructure because that's not a zoning issue.

Last summer the beaches were closed 51 days compared to 32 days in 2022. That's a 59% increase. The Planning Office and the Joint Committee should discuss the lake and water quality, not density at all cost.

Be bold and say No until we get this right.

This administration loves to keep the public out, while claiming there was a public process. The amended development agreement before you replaces 77 City Place housing units with 350 hotel rooms. The development agreement keeps changing, or the project comes to a halt for years because the financing isn't there. The financing should be there from the start.

We are in the middle of a housing crisis and our downtown does not need 50% more hotel rooms. City Place is back on the agenda because the zoning was fast-tracked and rules to safeguard a project like this were broken.

And now the Gateway Block. The council was misled in November and pressured to vote. This no-bid contract for the Gateway project may be illegal. Vermont state law does have something to say about no-bid contracts. We need an opinion from an independent attorney, one not on the city's payroll and who does not have the city as a client.

Best,
Caryn Long
Henry Street

Lori Olberg

From: Jonathan Chapple-Sokol <chapplesokol.npasc@gmail.com>
Sent: Friday, February 16, 2024 6:57 PM
To: Karen Paul; Joan Shannon; Benjamin Traverse; Joseph Magee; Melo Grant; Hannah King; Mark Barlow; Ali Dieng; Gene Bergman; Sarah Carpenter; Zoraya Hightower; tcdohererty@gmail.com; Lori Olberg
Subject: On the Neighborhood Code and Ward 1

[WARNING]: This email was sent from someone outside of the City of Burlington.

Councilors,

You will read this as you will, but I do not write from a 'Not in my Backyard' perspective. I hope you can keep an open mind.

I support the Neighborhood Code. The city needs more housing, and virtually all neighborhoods need more diverse housing stock. We have a responsibility to the City to make it easier to increase housing; given the housing crisis, there is an existential need to do so. And more structurally diverse neighborhoods are healthier neighborhoods.

So about my backyard. Metaphorically speaking, UVM is located there. There is tremendous pressure to house UVM juniors and seniors off campus near the university, and there is little reason to doubt that any opportunity to increase residential stock will result in more transient student housing. This will likely happen regardless, but changing the local zoning from RL to RM expands opportunities significantly. For this reason, Ward 1 is different from other neighborhoods, and from an impact and thus equity standpoint stands to lose more than other parts of town.

I understand and appreciate that the proposal to 'upzone' Ward 1 was a consequence of careful review of properties and the level of non-compliance that currently exists in neighborhoods across town. By upzoning this very out-of-compliance area of the City, opportunity for development here may become more comparable to elsewhere in the city.

While increasing off-campus housing for undergraduates is not a goal of the Code, I don't think anyone naïvely believes that the Neighborhood Code won't increase opportunities across the city to house more undergraduates off campus. It's just that these opportunities are potentially far more detrimental to some neighborhoods than others. Perhaps slower Neighborhood Code development in this part of Ward 1 would be healthier, and in fact more equitable, than trying to create equal opportunities across the city. I believe keeping this neighborhood RL is the healthy, and equitable thing to do.

And this is not about concerns of more students in the neighborhood. It is about the self-defeating prospect of adding housing that has no impact on vacancy rates. And there stands to be a radical change in the residential character of this part of town.

We have been told this is Phase 1 of the Neighborhood Code. Perhaps converting this part of Ward 1 to RM should be held off until Phase 2, when some of the impact of the new Code is better understood.

Thank you for your consideration. Absolutely yes, equitably, in my backyard!

Jonathan
Jonathan Chapple-Sokol
143 No Prospect St
Ward 1
802.777.3521
jchapplesokol@gmail.com

Lori Olberg

From: Sharon Bushor <sfbushor@gmail.com>
Sent: Wednesday, February 21, 2024 11:57 PM
To: Lori Olberg
Subject: Fwd: Neighborhood Code

You don't often get email from sfbushor@gmail.com. [Learn why this is important](#)

[WARNING]: This email was sent from someone outside of the City of Burlington.

Please add to the City Council Packet under Consent or under the Public Hearing on the Neighborhood Code whichever is appropriate . Thank you Lori.

----- Forwarded message -----

From: Sharon Bushor <sfbushor@gmail.com>
Date: Wed, Feb 21, 2024, 11:38 PM
Subject: Neighborhood Code
To: Meagan Tuttle <mtuttle@burlingtonvt.gov>, <smorgan@burlingtonvt.gov>, Karen Paul <kpaul@burlingtonvt.gov>, <amontroll@burlingtonvt.gov>, <btraverse@burlingtonvt.gov>, Gene Bergman <gbergman@burlingtonvt.gov>, Melo Grant <megrant@burlingtonvt.gov>, Zoraya Hightower <zhightower@burlingtonvt.gov>, <imagee@burlingtonvt.gov>, <tdoherty@burlingtonvt.gov>, <adieng@burlingtonvt.gov>, <scarpenter@burlingtonvt.gov>, <hking@burlingtonvt.gov>, <mbarlow@burlingtonvt.gov>, <jshannon@burlingtonvt.gov>

As I review the Zoning Amendments under consideration, I want to take a moment and compare this current process with major rewrites undertaken in the preceding years.

Technology is great and the ability to conduct meetings virtually or in hybrid format has nearly eliminated the cancellation of meetings for lack of a quorum and also greatly expanded the public's opportunity to attend and participate. HOWEVER, SOMETHING HAS BEEN LOST. In prior rewrites the Joint Committee would actually do site visits to examine the area firsthand and then visualize the proposed changes. At no point in this process did this body go to any of the areas under discussion and view the existing situation and then contemplate how the proposed amendments would comply with the mission of addressing the new State mandates, allow growth and infill while respecting the uniqueness of each neighborhood and area. Nor did the members of the body experience the close proximity of some areas to UVM and the constant creep and conversion of single family homes to rentals mainly for students. Therefore this became a "Paper Problem" and allowed detachment from the process and limited the visualization of the real impacts of these amendments.

As a member of the community, I feel this model is flawed and do not want it to be used in the future. Just compare the time and community involvement for the South End Innovation District zoning with this CITY WIDE zoning rewrite and note how this falls short in the time dedicated to these amendments and community outreach and involvement. The process has been made more difficult because of the scope of these amendments and the hurried timeline. To move it forward quickly, it was divided into at least two parts. The residents are unaware of the proposals for larger lots to accommodate " Cottage Courts" or other PUDs = planned unit developments. A unified and total proposal would have answered some of the questions being raised. A unified proposal would have allowed a more comprehensive and thorough package that would have included a revised Tree Ordinance to move forward simultaneously where mature trees would be protected and saved when development occurred. What happened to our climate emergency? Has it been tossed aside? Also a complete package would have allowed more focus and consideration for the impact of increased storm water runoff that comes with added lot coverage and the necessary measures needed to protect the Winooski River and our Lake from it. One may question, is it only a climate emergency when City government recognizes

it as such ? Please do not replicate what has gone on in our Country and around the world, a climate emergency that gets attention only when convenient.

Now to comments about specific aspects of the Neighborhood Code.

1. I support the increased lot coverage proposed for RL and RM. It is consistent with the mission of allowing what is on the ground to be replicated in the future, ensuring the ability to add additional housing units and has been clearly communicated throughout the process.

2. RL and RM properties can have 2 separate structures. Once again a constant and consistent with prior zoning amendments that accommodated ADUs.. Criteria varies but is explained and in keeping with the "Missing Middle " concept.

3. I do not support the minimum width for a property. 30 feet as the minimum width is too narrow and creates problems. A car parked in this lot when attempting to open its door may hit the house next door. This is not hypothetical, this actually happened!

Please revisit this proposal.

4, All properties must now allow duplexes, a State mandate and an appropriate measure to add more housing units. Most neighborhoods already have this integration of housing types. Actually, some of the older structures were built as duplexes. A good change.

5. Upzoning from RL to RM NEEDS MORE ANALYSIS! Selectively applying it to certain sections of the City using a single metric is incomplete. It is not just what allows more infill but how in neighborhoods close to UVM it incentivizes the purchase of homes for sale to be bought up by investors and developers bringing about maximum development on all these lots. The statement of recognizing the value of each neighborhood and adopting zoning that creates opportunities to replicate what is on the ground has been abandoned by the Joint Committee and Department who now embraces little to no regulations putting the survival of family housing and valued neighborhoods in jeopardy. To eliminate all guard rails for development seems like an extreme and reckless step serving just one master... THE DEVELOPER. The current owner will not be able to afford to bring about these changes. It does little to allow residents to age in place. Please rethink and retrace your steps to analyze how you got to this conclusion. AS A MEMBER OF THE PUBLIC, I ATTENDED THE PUBLIC INFORMATION MEETING HELD ON FEBRUARY 20th. THERE WERE TWO AHA MOMENTS, I MUST SHARE WITH YOU. THE FIRST WAS THE TOOL USED TO DETERMINE EXISTING LOT COVERAGE. IT WAS AERIAL PHOTOS. PHOTOS WHOSE CLARITY COULD NOT DISCERN STRUCTURES ON THE GROUND FROM ILLEGAL SURFACE PARKING. THEREFORE CONCLUSIONS WERE DRAWN THAT LOTS EXCEEDED THE NEW RL LOT COVERAGE CRITERIA AND MUST BE UPZONED TO ALLOW ADDITIONAL HOUSING OPPORTUNITIES. MY POINT IS WHEN ZONING IS A PAPER PROBLEM AND NO ONE GOES INTO THE FIELD TO VALIDATE FINDINGS, THE CONCLUSIONS RUN THE RISK OF BEING ERRONEOUS. THE SECOND AHA MOMENT CAME FROM A WELL KNOWN DEVELOPER WHO PUT THESE COMMENTS FORWARD NOT TO CRITICIZE BUT MERELY CONFIRM WHAT COULD BE THE IMPACT IF THE RM ZONING AS PROPOSED WHICH ALLOWS 10 UNITS TO BE BUILT ON ANY LOT THAT CAN ACCOMMODATE TWO STRUCTURES WAS REPLICATED THROUGHOUT. THIS ZONING TRANSLATES TO 100 UNITS PER ACRE. AS HE SAID, " DENSITY THAT WE HAVE NEVER EXPERIENCED IN BURLINGTON." DENSITY THAT IS FAR GREATER THAN WHAT IS ALLOWED IN RH. DENSITY THAT WILL FOREVER CHANGE OUR CITY. RESPONSE FROM THE CITY WAS YES THAT IS TRUE BUT IT WILL NEVER COME TO PASS. REFERENCE WAS MADE TO PORTLAND, OREGON WHERE SIMILAR ZONING HAS BEEN IMPLEMENTED AND THEY HAVE ONLY SEEN A 1% CHANGE. MY RESPONSE IS THAT IS NOT THE POINT. WHY PUT FORWARD ZONING THAT IS SO EXTREME THAT PLANNERS TAKE COMFORT IN KNOWING IT WILL NEVER BE ATTAINED. ZONING SHOULD BE A ROAD MAP TO WHAT WE WOULD LIKE TO SEE OUR CITY BECOME NOT SOMETHING THAT IF REALIZED WOULD BE DETRIMENTAL TO WHAT ONCE WAS KNOWN AS THE MOST LIVABLE CITY. PLEASE RECONSIDER YOUR TIMELINE. THIS REQUIRES MORE ANALYSIS.

6. The number of units allowed in each structure was also arrived at by suggesting numbers without any analysis. Originally the group suggested a high of 10 units in RL and 12 in RM. This was scaled back to 8 for RL and 10 for RM. Why are these the correct numbers? No discussion occurred about potential impacts or the number of proposed units per acre.

I believe a more reasonable number would still add much needed housing units AND reduce the environmental impacts on our City. RL could accommodate 4 units, 2 in each structure. RM could accommodate 6 units with no more than 4 units in the primary structure. Once again, we need analysis to determine if these numbers are correct. A PROCESS WITHOUT ANALYSIS AND EVALUATION IS A FLAWED PROCESS.

7. NOTHING IN THIS ZONING REWRITE ADDRESSES AFFORDABLE HOUSING. People are being misled to believe more housing equals affordable housing. I thought trickle down economics from the Reagan era had been abandoned since

proven to be ineffective. With the cost of building materials, rents will be pricey not affordable. Affordability needs to be factored in with a plan to achieve it. THERE IS NOTHING IN THIS ZONING AMENDMENT THAT ADDRESSES THIS. PLEASE BE HONEST AND INFORM THE PUBLIC.

8. The "Corridors". The idea of allowing greater height and density along public transit corridors makes sense. However once again, not one member of the committee discussed or contemplated the difference between these routes. The North Avenue corridor is flat and 4 lanes.

The width of the road was never referenced.

The Shelburne Street corridor is also flat and 4 lanes and once again no width was ever mentioned.

The Colchester Ave corridor is on a slope/ hill with 2 to 3 lanes. No width was ever mentioned.

Yet one size fits all was the zoning adopted by the Joint Committee. Past decisions have linked the width of the road with the appropriate height of abutting structures. This was not discussed and the height chosen was not analyzed for the pros and cons before it was finalized. Note: At the Ward 1 NPA a resident shared photos of a wildlife corridor that runs along Colchester Ave. Unknown to the Planning Department and Joint Committee, this is a tangible example of a rushed process.

PLEASE do what is right for our City and residents. Evaluate your proposed zoning amendments before finalizing them. Consider revisiting some aspects like the number of units allowed in RL and RM; the value of upzoning some sections of our City and considering the differences in corridors. Advancing these amendments without a Tree Ordinance, without enhanced stormwater legislation, without addressing the lack of creating any affordable housing is not mission accomplished but rather mission off course which needs to be righted.

I submit these comments to expose the GOOD, BAD and UGLY contained within this proposal. I sincerely hope the City Council and City Planners will accept this in the way it is offered... to give feedback about a proposal that needs further consideration. Thank you.

Sharon Bushor who started her journey of living in Burlington first as an out of state UVM student, then as a young professional renting an apartment, then as a member of a family owning a home and raising two children who went to our public schools, a UVMMC employee now retired trying to survive on a fixed income. Every step of the way, my involvement and input has been focused on trying to make Burlington better for everyone and to make sure people are kept informed about significant legislation BEFORE it is acted upon.

Lori Olberg

From: Ashton MacKenzie <802-829-1624@ashtonmackenzie.com>
Sent: Wednesday, February 21, 2024 4:00 PM
To: City Council
Cc: Lori Olberg
Subject: Support for the Neighborhood Code!

SPAM You don't often get email from 802-829-1624@ashtonmackenzie.com. [Learn why this is important](#)

[WARNING]: This email was sent from someone outside of the City of Burlington.

To the offices of the Burlington City Council,

I am writing to express my strong support for the proposed Neighborhood Code changes in Burlington. These changes are critical steps towards addressing the critical issues of climate and tax base resilience, and housing affordability in our city.

It is evident that our urban planning strategies must evolve to meet the needs of our current city population and allow the flexibility to continue evolving to meet future needs. The proposed zoning changes represent a balanced approach towards achieving these goals, contrary to claims that they would reverse years of progress. Based on the Public Information meeting on 2/20, they modestly expand existing limits without uniformly displacing greenspace, particularly in areas like the Old North End where infill will be limited due to design constraints.

Furthermore, I agree denser development in suburban neighborhoods is not only financially beneficial for the city but also essential for improving our stormwater infrastructure over time. With the existing tax base struggling to support additional climate resilience investment, the proposed changes offer a promising solution, especially considering the recent floods of 2023.

Limiting infill development to downtown areas, as some suggest, would only exacerbate economic inequality and hinder housing accessibility for average Vermonters. It is imperative that we embrace a more inclusive approach that allows for small-scale infill developments across the city, empowering citizens to drive change in their own neighborhoods.

Please ignore the political context surrounding development in Burlington. While I appreciate efforts to advocate for shorter buildings and parking considerations, we have got to move on from the long-standing anti-development sentiment in our city. Delaying the implementation of the Neighborhood Code would only serve to perpetuate this sentiment and hinder progress towards addressing our housing crisis.

SEP Two of my dearest friends are considering moving from Burlington to Middlebury because their lease is up and they can't find anywhere to live. And my own immediate family of several adults is a perfect example of why we need more flexibility in building units - we don't quite live in an overcrowding situation (we checked the occupancy code) - but the minimum square footage is still uncomfortably cozy, and if there **were** an available duplex or triplex we could buy and manage as a housing co-op, we could free up our existing condo for a first-time buyer, Champlain Housing Trust, or another path for small families to access homeownership. The only reason why we haven't already done this is because there is nothing available so the odd time something does come up for sale, it is astronomically priced. We, the people who need alternative housing, are stuck. And we're grateful for what we have because too many of our unhoused neighbors don't even have that!

I urge you to show your support for the Neighborhood Code by taking immediate action. Please consider the long-term benefits of these changes for our community and prioritize the well-being of our residents. I strongly encourage you to attend the first public hearing on Feb. 26 and to actively engage with residents to ensure that the Neighborhood Code becomes a reality.

Thank you for your attention to this matter. Let us work together to create a more sustainable and equitable future for Burlington.

Sincerely,
Ashton Mackenzie 
Ward 7

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FOR INFORMATION ONLY

For complete information /
additional list, please
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Vermont League of
Cities and Towns

89 Main Street, Suite 4
Montpelier, VT 05602

VLCT.ORG / EVENTS

1 1 *****AUTO**ALL FOR AADC 054



Burlington City Council
Burlington City
149 Church St
Burlington VT 05401-8429

SELECTBOARD ESSENTIALS

Your Building Blocks for Success

Foundational topics

- Selectboard responsibilities
- Network with counterparts from around the state
- Meet VLCT MAC staff
- Hear about VLCT's legislative advocacy

SAT 3/23
9 AM - 2:30 PM
Lake Morey Resort
Fairlee

FOR INFORMATION ONLY

Lori Olberg

From: NRB.Act250Essex@vermont.gov
Sent: Tuesday, February 13, 2024 2:21 PM
To: lsmith@bsdvt.org; andres@watershedca.com; anna@greenprintpartners.com; nrb.legal@vermont.gov; nrb.act250agenda@vermont.gov; Karen Paul; Andrew Montroll; permitting@ccrpcvt.org; NRB.Act250Essex@vermont.gov; Sarah Montgomery; burlingtontownclerk; Lori Olberg; anr.act250@vermont.gov; barry.murphy@vermont.gov; PSD.VTDPS@vermont.gov; AOT.Act250@vermont.gov; AGR.Act250@vermont.gov; ACCD.ProjectReview@vermont.gov; Stephanie.Monaghan@vermont.gov
Subject: JO 4-391 Jurisdictional Opinion
Attachments: JO 4-391.pdf

You don't often get email from nrb.act250essex@vermont.gov. [Learn why this is important](#)

[WARNING]: This email was sent from someone outside of the City of Burlington.

Hello,

Please find attached Jurisdictional Opinion for Lyman C. Hunt Middle School.

Thank you,

Act 250 District Office - Essex (District 4 Environmental Commission)
111 West Street
Essex Junction, VT 05452

Adriene Katz NRB Technician
Tel.802-879-5614 | NRB.Act250Essex@vermont.gov
<https://nrb.vermont.gov>

FOR INFORMATION ONLY

Lori Olberg

From: Brackin, Stephanie <Stephanie.Brackin@vermont.gov>
Sent: Thursday, February 15, 2024 2:49 PM
Subject: FPR Press Release - Vermont State Parks Celebrates 100th Anniversary in 2024

[WARNING]: This email was sent from someone outside of the City of Burlington.

PRESS RELEASE

For Immediate Release – February 15, 2024

Contact:

Nate McKeen, Director of Vermont State Parks
Department of Forests, Parks, and Recreation
nate.mckeen@vermont.gov or 802-777-0814

FOR INFORMATION ONLY!
Additional List, please
contact the City Clerk's Office

Vermont State Parks Celebrates 100th Anniversary in 2024

A Century of Stories, Conservation, and Recreation

Montpelier, VT – Vermont State Parks is celebrating its 100th anniversary this year, marking a century of conserving and interpreting the state's natural, cultural, and scenic heritage while providing recreational opportunities for residents and visitors alike. The anniversary celebration will kick-off at the Vermont State House on February 15, 2024.

Vermont State Parks' journey began in 1924 when Frances Humphreys donated land for the creation of Mt. Philo State Park in Charlotte, the first state park in Vermont. Over the years, the park system grew through land donations, Civilian Conservation Corps projects, and the efforts of dedicated individuals and organizations. Today, Vermont State Parks encompasses 55 parks, spanning the entire state and connecting people to the outdoors through a diverse range of activities, from camping and hiking to swimming and boating, and nature education.

State parks contribute to the state's overall quality of life, providing a sense of place and pride for Vermonters and enhancing the attractiveness of Vermont as a tourist destination. This vast connection of special places promote physical and mental health, foster environmental stewardship, and create lasting memories.

Vermont State Parks is committed to inclusivity, ensuring that everyone has equal access to the natural wonders and recreational opportunities our parks offer. As we cherish these natural treasures, Forests, Parks and Recreation's Commissioner, Danielle Fitzko, encourages everyone to 'Try Vermont' and experience the unique beauty our state parks have to offer.

According to State Parks Director, Nate McKeen, Vermont State Parks are a key component of Vermont's \$1.9 billion outdoor recreation economy, providing visitors with affordable, high-quality places to stay as they explore surrounding communities and attractions, as well as opportunities to watch wildlife, share a picnic with friends, and enjoy the great outdoors.

McKeen said "State parks are an amazing success story with over one million visitors each year. Our 100th year anniversary marks a reflection point to build on our rich history so future generations can enjoy the beauty and benefits of our state parks."

Lori Olberg

From: NRB.Act250Essex@vermont.gov
Sent: Friday, February 16, 2024 1:55 PM
To: lsmith@bsdvt.org; sarah.a.p.cowan@gmail.com; dmarshall@cea-vt.com; randy@colinlindberg.com; kkimball@diovermont.org; chris@lclt.org; matt@lclt.org; nrb.act250agenda@vermont.gov; Karen Paul; Andrew Montroll; permitting@ccrpcvt.org; NRB.Act250Essex@vermont.gov; burlingtontownclerk; Sarah Montgomery; Lori Olberg; anr.act250@vermont.gov; barry.murphy@vermont.gov; PSD.VTDPS@vermont.gov; AOT.Act250@vermont.gov; AGR.Act250@vermont.gov; ACCD.ProjectReview@vermont.gov; kaitlin.hayes@vermont.gov
Subject: 4C0419-5 Land Use Permit
Attachments: 4C0419-5 LU Permit_Exhibit List_COS.pdf

Some people who received this message don't often get email from nrb.act250essex@vermont.gov. [Learn why this is important](#)

[WARNING]: This email was sent from someone outside of the City of Burlington.

Hello,

Please find attached Land Use Permit, Certificate of Service, and Exhibit List, for Act 250 Application # 4C0419-5.

Thank you,

Act 250 District Office - Essex (District 4 Environmental Commission)
111 West Street
Essex Junction, VT 05452

Adriene Katz NRB Technician
Tel.802-879-5614 | NRB.Act250Essex@vermont.gov
<https://nrb.vermont.gov>

For complete information,
and/or more information,
contact the City Clerk's Office



**CITY OF BURLINGTON
DEPARTMENT OF PUBLIC WORKS**

645 Pine St. Suite A
Burlington, VT 05401
802.865.7200 VOX
802.863.0466 FAX
802.863.0450 TTY

Chapin Spencer
DIRECTOR OF PUBLIC WORKS

Lee Perry
DIVISION DIRECTOR
DPW MAINTENANCE DIVISION

MEMORANDUM

To: City Council

From: Chapin Spencer, Director
Lee Perry, Division Director DPW Maintenance

Date: February 26, 2024

Re: Proposed Ordinance Change Solid Waste Generation Tax

Request

The Department of Public Works, respectfully request:

1. That Council suspend the rules, approve the proposed ordinance amending Chapter 14 of the Burlington Code of Ordinances, and place the amendment in all stages of passage.

Executive Summary

The City of Burlington Solid Waste Generation Tax (SWGT), City Ordinance Chapter 14-14, is a monthly tax assessed to local area waste haulers that are licensed through the City of Burlington, to pick up trash from residential properties in the City of Burlington. The purpose of this tax is to fund the City's Recycling program, which includes all employee salaries, benefits, vehicle purchases, and other associated costs. There are currently five (5), licensed haulers that service residents for trash collection in the City of Burlington, and contribute to the tax on a monthly basis.

The City of Burlington Department of Public Works (DPW) is seeking to amend the language to the following sections, in Chapter 14, Solid Waste, of the Code of Ordinances of the City of Burlington. The following amendments will allow a broader use of the SWGT that will enable DPW, if desired, to use Solid Waste Generation Tax funding to manage/recycle soils from various municipal projects including construction and street sweeping. Specifically, there may be a near term opportunity to purchase property from Chittenden Solid Waste District (CSWD), located on Flynn Avenue, for the purpose of safely storing and recycling soils. This includes excavated material, street sweepings, and other refuse collected from the City right of way, which is recycled and/or repurposed, into topsoil and other usable soils.

An Equal Opportunity Employer

This material is available in alternative formats for persons with disabilities. To request an accommodation, please call 802.863.9094 (voice) or 802.863.0450 (TTY).

The soils are currently being stored at two locations – including 339 Pine Street, which is the former DPW location. The Railyard Enterprise Project will displace the current soil storage area in the next few years, as the proposed path runs through the area where soils are being recycled, and stored.

The proposed amendments will also clarify language as it pertains to haulers, materials, and which haulers are exempt from paying the SWGT.

Proposed Ordinance Change:

The Department of Public Works, working with the City Attorney's Office, has identified portions of the Burlington Code of Ordinances, Chapter 14. ("Solid Waste") that require modification in order to update and provide clarification of solid waste, compost, and recycling requirements.

1. 14-2 Definitions 1-3, "Hauler". Language changed that will include compost, and recycling haulers in the definition. Compost only haulers are currently not listed as a hauler specifically. "Recycling", Language changed that includes, excavated material, street sweepings, and other refuse collected from the City right-of-way which is recycled and/or repurposed into topsoil and other usable soils.
2. 14-4 Collection (b), language changed adding compost, and the requirement of being registered with DPW, and authorized to exclusively collect compost in the City of Burlington.
3. 14-14 Taxes Imposed II (b), language added recognizing compost haulers, but excluding haulers that exclusively collect compost in the City of Burlington from paying the SWGT.
4. 14-14 I (b) Added waste management as a use of the tax.

Attachments

Draft ordinance amendment form

Motions

City Council Motion:

Move to suspend the rules, adopt the amendment to Chapter 14 of the Burlington Code of Ordinances as detailed in the attached ordinance form, and place the amendment in all stages of passage.

If you have any questions please reach out to Lee Perry lperry@burlingtonvt.gov

CITY OF BURLINGTON

In the Year Two Thousand Twenty-Four

An Ordinance in Relation to

SOLID WASTE GENERATION TAX UPDATES

ORDINANCE _____
Sponsor: Department of Public
Works
Public Hearing Dates: _____

First reading: _____
Referred to: _____
Rules suspended and placed in all
stages of passage: _____
Second reading: _____
Action: _____
Date: _____
Signed by Mayor: _____
Published: _____
Effective: _____

It is hereby Ordained by the City Council of the City of Burlington as follows:

That Article I, In General, Chapter 14, Solid Waste, of the Code of Ordinances of the City of Burlington be updated and hereby is amended by amending the following sections thereof to read as follows:

14-1. Purpose.

As written.

14-2 Definitions.

The following definitions shall apply to this article:

Definitions 1-3. As Written.

Hauler. Any person who collects, transfers, or transports solid waste, including persons who exclusively collect compostables and recyclables, as those terms are defined herein, as that generated within Chittenden Solid Waste District borders for compensation, including any operator of a vehicle or trailer, or a container on or attached to such vehicle or trailer, to collect solid waste from self-haulers.

Definitions 5-7. As written.

Recyclable. Solid waste which may be reclaimed or processed so that it may be used in the production of materials or products, including excavated material, street sweepings, and other refuse collected from the City right-of-way which is recycled and/or repurposed into topsoil and other usable soils.

Definitions 9-10. As written.

Compostables. Food residuals, and leaf and yard residuals as those terms are defined in 10 V.S.A 6602.

14-3 Solid waste regulation.

As written.

14-4. Collection.

(a). As written.

(b) All collectors and haulers of solid waste, ~~and~~-recyclables, and/or compostables in the city shall register with the department of public works and such registration shall constitute authorization to collect and dispose of solid waste and recyclables. Registrants may be required to provide information necessary to assure the proper handling of such materials. The public works commission, with city council approval, may establish other requirements, including a registration fee, necessary to carry out these provisions.

(c)-(d). As Written.

14-5 – 14-12.

As Written.

14-13. Effective date.

The November 7, 2022 amendments to this article shall be effective on May 1, 2023. The February 26, 2024 amendments to this article shall be effective in accordance and compliance with procedure as codified in Article 20, Section 49 of the Burlington City Charter.

14-14 Solid waste generation tax.

(I) GENERAL PROVISIONS.

(a) As written.

(b) Purpose and authority. This section is enacted to raise revenue for recycling and waste management purposes under authority of the Charter of the City of Burlington, Act No. 298, Acts of 1949, as amended, Sections 48VI and 49.

(II) TAXES IMPOSED:

(a) There is hereby imposed a tax upon the collection and removal of solid waste, including recyclables but excluding compostables and the disposal of same by persons or agencies registered with the City of Burlington under Section 14-4(b) or licensed by any other government entity to collect or haul solid waste from within Burlington.

(b) The tax shall be imposed upon solid waste haulers, not including those haulers exclusively hauling compostables, and collectors at the rate per month per residential dwelling unit served in Burlington set forth

53 in the city's budget or as established by resolution of the city council. The amounts of tax charged are not
54 refundable.

55 (c) As Written.

56 (III) – (XIV). As Written.

57

58 **14-15—14-18.** As Written.

59 * Material stricken out deleted.

60 ** Material underlined added.

61

62

63 cs/HIM/Ordinances 2024/Solid Waste Generation Tax Updates

64 February 26, 2024

Board of Finance and City Council Submission Checklist

Department: Public Works Submitter: Lee Perry

Title/Subject: Solid Waste Generation Tax Ordinance Change

	Approval:	Meeting Date:
☐	Board of Finance	Click or tap to enter a date.
☒	City Council	2/26/2024
☐	Concurrent	Click or tap to enter a date.

This form must be completed by the person submitting the materials, and sent with the final submission. Please do not indicate that a signoff was received until it has actually been obtained.

Signoffs Received

Signoff Needed	Received	Date Received	Note
Department Head	Yes	2/16/2024	Approved by Chapin Spencer
Mayor's Office informed and approved memo	Yes	2/21/2024	Approved by Jordan Redell
Board/Commission, if required	Choose an item.	Click or tap to enter a date.	Click or tap here to enter text.
City Attorney's Office has approved contract and/or legal documents, -Identify attorney in note	Choose an item.	Click or tap to enter a date.	Click or tap here to enter text.
City Attorney's Office has approved memo and motion(s) or resolution(s) -Identify attorney in note	Yes	2/21/2024	Approved by Erik Ramakrishnan
CAO has reviewed budget, financing, and memo	Yes	2/21/2024	Approved by Katherine Schad
Human Resources, if personnel action -Identify HR Manager in note	Choose an item.	Click or tap to enter a date.	Click or tap here to enter text.
CIO, if an IT-related investment/purchase	Choose an item.	Click or tap to enter a date.	Click or tap here to enter text.

Materials Included

	Included?	Note
Final Memo Attached?	Yes	Final version of ordinance included in memo.
Contract Attached, if applicable?	Choose an item.	Click or tap here to enter text.
Additional Materials, if necessary	Choose an item.	
Draft Resolution or Motion?	Choose an item.	Click or tap here to enter text.
If for submission to Council, are sponsors identified?	Choose an item.	

CITY OF BURLINGTON

In the Year Two Thousand Twenty-Four

An Ordinance in Relation to

SOLID WASTE GENERATION TAX UPDATES

ORDINANCE 8.17.

Sponsor: Department of Public Works

Public Hearing Dates: _____

First reading: _____

Referred to: _____

Rules suspended and placed in all stages of passage: 02/26/24

Second reading: _____

Action: _____

Date: 02/26/24

Signed by Mayor: 03/04/24

Published: 03/06/24

Effective: 03/27/24

It is hereby Ordained by the City Council of the City of Burlington as follows:

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14-3 Solid waste regulation.

As written.

ORIGINAL

AN ORDINANCE
IN RELATION TO

Introduced by

Councilor _____

Read in City Council first time

_____, 20____.

Attest,

_____, Clerk.

Rules suspended, and ordinance placed in all stages of
passage.

_____, 20____.

Attest,

_____, Clerk.

Read in City Council second time

_____, 20____.

Attest,

_____, Clerk.

Passed in City Council at meeting held

_____, 20____.

Attest,

_____, Clerk.

Approved _____, 20____.

_____, Mayor.

I, _____, City Clerk of the City of Burlington
and Clerk of the City Council of said City, do hereby certify that the within written Ordinance has
been duly published according to Law and the Charter of the City, and in compliance with said
Charter this certificate is hereto attached.

And the within Ordinance was ordered published for _____ day,

namely the _____ day of _____, 20____.

Adopted _____ Published _____ Effective _____
_____, City Clerk

Attest:

Distribution

I hereby certify that this Ordinance has
been sent to the following department(s)
on _____

* * * * *

* * * * *

14-4. Collection.

(a). As written.

(b) All collectors and haulers of solid waste, ~~and~~ recyclables, and/or compostables in the city shall register with the department of public works and such registration shall constitute authorization to collect and dispose of solid waste and recyclables. Registrants may be required to provide information necessary to assure the proper handling of such materials. The public works commission, with city council approval, may establish other requirements, including a registration fee, necessary to carry out these provisions.

(c)-(d). As Written.

14-5 – 14-12.

As Written.

14-13. Effective date.

The November 7, 2022 amendments to this article shall be effective on May 1, 2023. The February 26, 2024 amendments to this article shall be effective in accordance and compliance with procedure as codified in Article 20, Section 49 of the Burlington City Charter.

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(b) The tax shall be imposed upon solid waste haulers, not including those haulers exclusively hauling compostables, and collectors at the rate per month per residential dwelling unit served in Burlington set forth

ORIGINAL

AN ORDINANCE
IN RELATION TO

Introduced by

Councilor _____

Read in City Council first time

_____, 20____.

Attest,

_____, Clerk.

Rules suspended, and ordinance placed in all stages of
passage.

_____, 20____.

Attest,

_____, Clerk.

Read in City Council second time

_____, 20____.

Attest,

_____, Clerk.

Passed in City Council at meeting held

_____, 20____.

Attest,

_____, Clerk.

Approved _____, 20____.

_____, Mayor.

I, _____, City Clerk of the City of Burlington
and Clerk of the City Council of said City, do hereby certify that the within written Ordinance has
been duly published according to Law and the Charter of the City, and in compliance with said
Charter this certificate is hereto attached.

And the within Ordinance was ordered published for _____ day,

namely the _____ day of _____, 20____.
Adopted _____ Published _____ Effective _____
_____, City Clerk

Distribution

I hereby certify that this Ordinance has
been sent to the following department(s)
on _____

Attest:

* * * * *

* * * * *

in the city's budget or as established by resolution of the city council. The amounts of tax charged are not refundable.

(c) As Written.

(III) – (XIV). As Written.

~~14-15~~—14-18. As Written.

* Material stricken out deleted.

** Material underlined added.

cs/HIM/Ordinances 2024/Solid Waste Generation Tax Updates
February 26, 2024

ORIGINAL

AN ORDINANCE IN RELATION TO

Solid Waste Generation Tax Updates

Introduced by

Chunghwa Department of Public Works

Read in City Council first time

_____, 20____.

Attest,

_____, Clerk.

Rules suspended, and ordinance placed in all stages of passage.

February 26 _____, 20____ 24.

Attest,

_____, Clerk.

Read in City Council second time

_____, 20____.

Attest,

_____, Clerk.

Passed in City Council at meeting held

_____, 20____.

Attest,

_____, Clerk.

Approved March 4, 2024
_____, Mayor.

I, CAO Schad, City Clerk of the City of Burlington and Clerk of the City Council of said City, do hereby certify that the within written Ordinance has been duly published according to Law and the Charter of the City, and in compliance with said Charter this certificate is hereto attached.

And the within Ordinance was ordered published for _____ Wednesday _____ day,

namely the _____ 6th _____ day of _____ March _____, 20____ 24.

Adopted 02/26/24 Published 03/06/24 Effective 03/27/24

CAO Schad, City Clerk

Distribution

I hereby certify that this Ordinance has been sent to the following department(s) on _____

DPW, Lee Perry

Attest,
Lori Olberg
Licensing and Records Coordinator



MEMORANDUM

To: City Council
From: CAO Katherine Schad
CC: Mayor Miro Weinberger
Date: February 20, 2024
Re: Creation of Mayor Transition Fund

This memo creates a small fund to help provide for the financial needs of an incoming Mayor, specifically during the time of transition between Town Meeting Day and Organization Day.

Mayoral elections are held on Town Meeting Day and if a new Mayor is elected, there is approximately one month before Organization Day for the Mayor-elect to work with the existing Mayor and their team to ensure a smooth handover. The current City budget provides for the existing Mayor and their staff but does not have resources for the incoming Mayor or their transition staff. Creating this transition fund will allow a new Mayor to begin work immediately by paying for staff time, space, and office space. Money in the transition fund is subject to City procurement policies and cannot be used for celebrations or entertainment, including alcohol.

For Town Meeting Day 2024, a budget amendment adding \$25,000 for a Mayor Transition Fund within the Mayor's Office budget is being processed.

Lori Olberg

From: Jackie Mattaliano <jackiemattaliano@gmail.com>
Sent: Thursday, February 22, 2024 4:58 PM
To: City Council
Cc: Lori Olberg
Subject: Supporting the Neighborhood Code as it is Written

Some people who received this message don't often get email from jackiemattaliano@gmail.com. [Learn why this is important](#)

[WARNING]: This email was sent from someone outside of the City of Burlington.

Hi,

My name is Jackie.

I live in ward 8 and I support the neighborhood code as it is written.

Thank you,

Jackie

Lori Olberg

From: Marty Gillies <martygillies1@gmail.com>
Sent: Friday, February 23, 2024 11:02 AM
To: City Council
Cc: Lori Olberg
Subject: public comment for 2/26/2024 council meeting

Some people who received this message don't often get email from martygillies1@gmail.com. [Learn why this is important](#)

[WARNING]: This email was sent from someone outside of the City of Burlington.

Good Morning,

My name is Marty Gillies. I am 25 years old and presently rent a single-family home with several roommates in Ward 5. I love my neighborhood. However, we have an extremely limited supply and variety of housing options in the Five Sisters. One of my neighbors just listed their 95-year-old, 2,000-sf house for \$875k. I'm glad that they will be able to make some money on what was likely the biggest investment of their lives, but I will never be able to afford that house or anything else in my neighborhood. One solution to our City's housing crisis is advancing the Neighborhood Code as proposed, without cheapening it any further. If any tweaks are to be made, I would ask Council to eliminate the "Residential Low" zone and to use "Residential Medium" as the minimum zoning district throughout the city in an effort to simplify the code and more equitably share the burden of new development throughout our various neighborhoods. Thank you for your time and attention to the future livability of our City.

Best,
Marty

Lori Olberg

From: soverby@sover.net
Sent: Friday, February 23, 2024 12:51 PM
To: Karen Paul
Cc: Lori Olberg; Zoraya Hightower; Gene Bergman; Joseph Magee; Sarah Carpenter; Benjamin Traverse; Ali Dieng; Hannah King; Melo Grant; Tim Doherty; Mark Barlow; Joan Shannon
Subject: 2/26 CC Agenda Item 5. Gateway Block RFP- No RFP; no 50 year ground lease commitment from Eric Farrell and Joe Larkin
Attachments: 2024_02_16_EMAILs_Pine_and_Dunn_re_GatewayBlock_50yr_ground_lease.pdf

[WARNING]: This email was sent from someone outside of the City of Burlington.

Council President Paul,

Having not heard back from you or any other City Councilors on my questions below, I followed up with CEDO Director Pine and to seek answers to these questions.

The Farrell/Larkin Gateway Block PreDevelopment Agreement is on the Council Agenda, for Feb. 26, in Item 5, which has the opaque, ambiguous label "Work Session: Memorial Block Update." Were you responsible for not using the "Gateway Block" PreDevelopment Agreement title for this agenda item? Not sure procedurally who names City Council agenda items but I assume as Council President you have input on that. Why hide the Gateway Block topic like this?

Director Pine has made it clear to me he has no intent to follow an RFP process for development of the City's so called "Gateway Block" municipally owned properties. As I have said, not following an RFP process for development of the three municipally-owned Gateway Block properties as was followed for just Adaptive Reuse of Memorial Auditorium eliminates any City negotiating power to arrange terms that would be favorable to the City but not necessarily a developer, any developer.

Director Pine's gave this reason for ending the RFP process on the Gateway Block:

CEDO has:

"...tried several times to generate other proposals for use of these properties. There may be other ideas out there, but that does not make them feasible and able to be realized. The goal with the current process is to attempt to find a path forward that advances multiple public objectives with respect to all of the subject City properties that is aligned with the City's very constrained capital budget."

As I've said many times, without following the RFP process, CEDO will insure the City has no alternatives to making a pre-agreement now or a final agreement by the Mayor's March 29 deadline, nor an endlessly series of updated agreements in the future on whatever terms developers Farrell and Larkin want. As I've also said, Farrell and Larkin are probably nice guys hoping to do good for the City. But they are also business people beholden to banks and investors. This proposed sole-bidder agreement, in reality, gives the City no "off-ramps" from that agreement as Community Works Assistant Director, Samantha Dunn has said Council would have. A sole-bidder agreement means the City has no alternatives. Director Pine claims he's sure there are no other alternatives so no need for the RFP. Without following the RFP process, there is no way for Pine to support that claim for City Councilors.

Regarding my question about Farrell and Larkin's commitment to a long-term land lease provision, Director Pine said that City Councilors are actually in support of signing a PreDevelopment Agreement that does not commit to a long-term 50-year land lease like that which Council recently granted to Beta Technologies at the airport. Pine said City Councilors are willing to sign off on a PreDevelopment Agreement where, according to Assistant Director, Samantha Dunn, the land ownership structure will be determined sometime within the next 9 months if City Council signs off on the predevelopment agreement.

Is this really true?

Dunn said the predevelopment agreement will be for a " legal structure that allows the City to maintain ownership of the land" but not necessarily a 50 year land lease. "We will be working on identifying the correct structure over the next 9 months if this predevelopment agreement is approved by City Council."

Pine concluded his communication with me with this: "If Councilors disagree with this approach, they have not expressed that sentiment. "

Again, I ask is this really true? Please let me know. Otherwise, the inference is that City Councilors are onboard with skipping the Gateway Block RFP process and signing off on a vague PreDevelopment Agreement with unknown terms to be worked out "in good faith" over the next 9 months.

Solveig

P.S. I've attached a pdf of my communications with Director Pine and Assistant Director Dunn regarding the lack of a Farrell/Larkin commitment for a 50 year ground lease so you can verify the accuracy of my summary of their positions on this.

cc to Lori Olberg for filing with communications in the Feb. 26 City Council agenda.

From: "soverby@sover.net" <soverby@sover.net>

Sent: 2/15/24 9:51 AM

To: Sent to each City Councilor individually

Subject: Followup: What are you doing to restore the derailed Gateway Block Request for Proposal process?

Councilor [],

I sent the followup message below to City Council President Paul and I'll ask you the same questions. What are you going to do about this situation? I will be asking each Councilor individually. Since you are hoping to be Mayor, your role in leadership on this matter is of interest to many.

Please let me know your thoughts on how to:

- 1) prevent a vague Farrell/Larkin PreDevelopment or Development deal from being sign-off on in a rush,
- 2) get commitments from fellow Councilors to expeditiously relaunch the Gateway Block RFP process, and
- 3) insure only 50 year land leases are offered in the RFP, not outright sale of these three core, municipally owned downtown properties.

The facts on the ground for the Gateway Block properties are significantly different now than when the less ambitious 2022 RFP solely for the Adaptive Reuse of the Memorial Auditorium building was pursued. The project environment is much more appealing since the City is spending a good portion of the \$30M in borrowed Main St. TIF funds to re-route the sewer lines around the Main St. parking lot ravine sewer problem.

Solveig

=====

Karen,

I'm following up now that you've had some time to think on this serious problem with the derailed Gateway Block RFP process.

What you are proposing to do about it?

As you would agree, City Council and Burlington residents deserve to consider more than just one proposal for development of this hugely impactful downtown core section of Burlington. Farrell and Larkin might be known

quantities and personable people. But a single bidder arrangement like that proposed by their Letter of Intent is not in the best interests of Burlington.

The draft Gateway Block RFP process was well-underway to draw in a variety of options to choose from until it the rug under it got pulled out. Much as City Council wants to seal this deal and move on, please consider the long term consequences to the City of doing this rush job. I'd note that Council risks lawsuits if they proceed with this sole-bidder deal. The City does not benefit by that happening.

Creative ideas will arise from opening the discussion to people beyond the usual parties. Witness the creative variety of proposals that were filed for Adaptive Resuse of solely the Memoierial Auditorium building. The RFP for the Gateway Block which expanded the project beyond just Memorial Auditorium to also include the Main and S. Winooski parking lot and the historic firestation, would bring in equally creative projects for Council to consider. This must be done.

Equally important is to insist that these three valuable municipally owned properties are not sold off. Many states understand that it is fiscally imprudent to sell municipal property. They mandate long-term land leases for commercial projects.

City Attorneys clearly know how to draft long-term land leases. The Gateway Block RFP must state that proposals will only be accepted on the basis of a 50 year land lease something like that granted to Beta Technologies at the airport during Monday's Council meeting.

GROUND LEASE AGREEMENT – NORTH HANGAR

This Ground Lease Agreement ("Agreement" or "Lease") is dated _____, 2024 (the "Effective Date") and is made by and between Beta Technologies, Inc., a Delaware corporation with a place of business in Burlington, Vermont (the "Tenant") and the City of Burlington, a Vermont municipal corporation located in Chittenden County, Vermont (the "Landlord") acting by and through Burlington International Airport.

"Section 2. Commencement Date; Initial Term; Extension Terms.

(a) Landlord and Tenant agree that the initial term of this Agreement ("Initial Term") shall commence upon the Effective Date (the "Commencement Date") and expire at 11:59 p.m. local time on the day prior to the thirtieth (30th) anniversary of the Commencement Date (the "Fixed Expiration Date"), subject to earlier termination in accordance with the terms set forth in this Agreement. For additional clarity, the Initial Term of the Lease shall be for a period of twenty-nine and 364/365ths years."

(b) The Tenant shall have the right to extend the Term of this Lease for two (2) additional terms of ten (10) years each (each, an "Extension Term" and collectively the "Extension Terms"). The Extension Terms and the Initial Term are collectively referred to herein as the "Term....."

I look forward to hearing how you will move forward to implement the Gateway Block RFP process for the benefit of Burlington residents both now and in the future.

Thanks.

Solveig

RE: Gateway Block RFP question - Re: no 50 year ground lease commitment from Eric Farrell and Joe Larkin

2/16/24 12:46 PM

From: "Brian Pine" <bpine@burlingtonvt.gov>

To: "soverby@sover.net" <soverby@sover.net>, Samantha Dunn <sdunn@burlingtonvt.gov>

Hi Solveig,

We disagree with your assertions here. CEDO is not operating alone in a vacuum. We carry out the community and economic development goals of the Mayor AND the City Council. We have tried several times to generate other proposals for use of these properties. There may be other ideas out there, but that does not make them feasible and able to be realized. The goal with the current process is to attempt to find a path forward that advances multiple public objectives with respect to all of the subject City properties that is aligned with the City's very constrained capital budget.

If there are private or public developers waiting around for an RFP to offer other creative ideas, why has none come forward? Other than the local partners, we have not heard from a single developer with the interest and capability to even explore a redevelopment of this scope, complexity and risk.

To suggest that we are denying the Council alternatives misses two key points: previous proposals proved to be infeasible, and these properties have liabilities for which the City does not have the resources to address and an RFP process in and of itself does not bring us closer to a resolution that advances key public policy objectives of this project. Since Farrell and Larkin have site control of the key parcels in the middle of the block, working in this collaborative manner has the greatest potential to deliver multiple public benefits that we've described to the Council. If Councilors disagree with this approach, they have not expressed that sentiment.

Just a heads up that I have meetings for the rest of today and will not be able to reply to any additional emails on this subject until sometime next week.

Thanks,

Brian

Brian Pine
CEDO Director
Community & Economic Development Office
City Hall, 149 Church St., Room 32
Burlington, VT 05401
(802) 578-6953
www.burlingtonvt.gov/cedo

Please note that this communication and any response to it will be maintained as a public record and may be subject to disclosure under the Vermont Public Records Act. CEDO (including the Community Justice Center), as part of the City of Burlington, is bound by the Vermont Public Records Act. There are exemptions to this Act for certain personal and confidential information, and we will take steps to protect your privacy. If you have any questions, please ask us.

From: soverby@sover.net <soverby@sover.net>
Sent: Friday, February 16, 2024 12:20 PM
To: Brian Pine <bpine@burlingtonvt.gov>; Samantha Dunn <sdunn@burlingtonvt.gov>
Subject: RE: Gateway Block RFP question - Re: no 50 year ground lease commitment from Eric Farrell and Joe Larkin

You don't often get email from soverby@sover.net. [Learn why this is important](#)

[WARNING]: This email was sent from someone outside of the City of Burlington.

Brian,
Unfortunately, without following the RFP process, CEDO will insure the City has no alternatives to making a final agreement on whatever terms Farrell and Larkin want.
Do you actually believe the City Council could walk away down one of the "off-ramps" when CEDO has effectively denied Council any alternatives?
Without following the RFP process that makes other options available, CEDO's sole-bidder process would effectively force the City Council to eat whatever is put on their plate in a development agreement, not withstanding the niceties mentioned in a PreDevelopment Agreement.
This is the problem I continue to have.
Solveig

From: "Brian Pine" <bpine@burlingtonvt.gov>
Sent: 2/16/24 11:52 AM
To: "soverby@sover.net" <soverby@sover.net>, Samantha Dunn <sdunn@burlingtonvt.gov>
Subject: RE: Gateway Block RFP question - 50 year ground lease commitment from Eric Farrell and Joe Larkin

The pre-development agreement is essentially a commitment to work in good faith toward a binding agreement on a whole host of business terms. There will be off-ramps built into the agreement if either party decides not to proceed to a final agreement.

From: soverby@sover.net <soverby@sover.net>
Sent: Friday, February 16, 2024 11:38 AM
To: Samantha Dunn <sdunn@burlingtonvt.gov>; Brian Pine <bpine@burlingtonvt.gov>
Subject: RE: Gateway Block RFP question - 50 year ground lease commitment from Eric Farrell and Joe Larkin

You don't often get email from soverby@sover.net. [Learn why this is important](#)

[WARNING]: This email was sent from someone outside of the City of Burlington.

Samantha,

How can City Council vote on an agreement that doesn't have the nature of the "correct structure" they are voting on available until some time later, within the next 9 months?

Solveig

From: "Samantha Dunn" <sdunn@burlingtonvt.gov>
Sent: 2/16/24 10:57 AM
To: "soverby@sover.net" <soverby@sover.net>, Brian Pine <bpine@burlingtonvt.gov>
Subject: RE: Gateway Block RFP question - 50 year ground lease commitment from Eric Farrell and Joe Larkin

Hi Solveig,

We anticipate the draft being ready to share publicly next week and yes, the structure may be something different than a 50 year land lease. We will be working on identifying the correct structure over the next 9 months if this predevelopment agreement is approved by City Council.

Best,
Samantha

Samantha Dunn (she/her)

Assistant Director for Community Works

(802) 829-6385 – Direct Line

Please note that any response or reply to this electronic message may be subject to disclosure as a public record under the Vermont Public Records Act.

From: soverby@sover.net <soverby@sover.net>
Sent: Friday, February 16, 2024 10:55 AM
To: Samantha Dunn <sdunn@burlingtonvt.gov>; Brian Pine <bpine@burlingtonvt.gov>
Subject: RE: Gateway Block RFP question - 50 year ground lease commitment from Eric Farrell and Joe Larkin

You don't often get email from soverby@sover.net. [Learn why this is important](#)

[WARNING]: This email was sent from someone outside of the City of Burlington.

Samantha,

Can you share the wording in the draft agreement that identifies the "legal structure that allows the City to maintain ownership of the land" ? I'm not sure what that might be.

Are you saying it might not be 50 year land leases?

Solveig

From: "Samantha Dunn" <sdunn@burlingtonvt.gov>

Sent: 2/16/24 10:50 AM

To: "soverby@sover.net" <soverby@sover.net>, Brian Pine <bpine@burlingtonvt.gov>

Subject: RE: Gateway Block RFP question - 50 year ground lease commitment from Eric Farrell and Joe Larkin

Hi Solveig,

Eric and Joe have committed to identifying a legal structure that allows the City to maintain ownership of the land.

Best,
Samantha

Samantha Dunn (she/her)

Assistant Director for Community Works

(802) 829-6385 – Direct Line

Please note that any response or reply to this electronic message may be subject to disclosure as a public record under the Vermont Public Records Act.

From: soverby@sover.net <soverby@sover.net>

Sent: Friday, February 16, 2024 10:24 AM

To: Brian Pine <bpine@burlingtonvt.gov>; Samantha Dunn <sdunn@burlingtonvt.gov>

Subject: Gateway Block RFP question - 50 year ground lease commitment from Eric Farrell and Joe Larkin

Some people who received this message don't often get email from soverby@sover.net. [Learn why this is important](#)

[WARNING]: This email was sent from someone outside of the City of Burlington.

Brian and Samantha,

One quick question:

In your email you stated:

"There is broad consensus that we can best advance the public interest by retaining ownership to the land through a long-term (at least 50 years) ground lease. There is no drive to sell off the properties."

Have Eric Farrell and Joe Larkin committed to the 50 year ground leases?

I was asked this question.

Solveig

Please note that this communication and any response to it will be maintained as a public record and may be subject to disclosure under the Vermont Public Records Act. CEDO (including the Community Justice Center), as part of the City of Burlington, is bound by the Vermont Public Records Act. There are exemptions to this Act for certain personal and confidential information, and we will take steps to protect your privacy. If you have any questions, please ask us.

Lori Olberg

From: soverby@sover.net
Sent: Friday, February 23, 2024 1:28 PM
To: Lori Olberg
Subject: "Re: 2/26 City Council -Agenda Item 9.7 - Burlington FY23 Audit Managment Letter missing 2nd Recommendation from FY22 Managment Letter"
Attachments: 2024_02_22_Thirteen_years of annual audit problems with Weinberger administration accounting.pdf

[WARNING]: This email was sent from someone outside of the City of Burlington.

Lori,

Please post my communication below for the Regular City Council meeting on Feb. 26, regarding item 9.7.
Resolution: Acceptance and Approval of the FY 2023 Audit (Board of Finance).

Use the title:

"Re: 2/26 City Council -Agenda Item 9.7 - Burlington FY23 Audit Managment Letter missing 2nd Recommendation from FY22 Managment Letter"

Thanks.

Trying to keep eyes on the ball.

Solveig

From: "soverby@sover.net" <soverby@sover.net>
Sent: 2/23/24 1:17 PM
To: "kschad@burlingtonvt.gov" <kschad@burlingtonvt.gov>
Cc: "Lori Olberg" <lolberg@burlingtonvt.gov>
Subject: Re: 2/26 Board of Finance Special Meeting -Agenda Item 3.1 - Burlington FY23 Audit Managment Letter missing 2nd Recommendation from FY22 Managment Letter

CAO Schad,

Please post my communication below (including the .pdf attachment), on the CivicClerk agenda for the Board of Finance's Special Meeting next Monday, Feb. 26th. I might not have made it clear when I sent this communication directly to all BOF members, that I intended it to be posted on the 2/26 BOF CivicClerk agenda as a communication for the BOF Feb. 26th, 2024 Special Meeting, Agenda item 3.1. Acceptance and Approval of the FY 2023 Audit - CAO and Mayor.

Title of the communication is:

"Re: 2/26 Board of Finance Special Meeting -Agenda Item 3.1 - Burlington FY23 Audit Managment Letter missing 2nd Recommendation from FY22 Managment Letter"

This communication follows up on my communication with the BOF at their 2/20 meeting about the missing status on FY22 Recommendation #2: "Improve Community Economic Development Officer (CEDO) Capital Project Accounting" and your followup clarification EMAIL.

Thank you.

Solveig Overby

From: "soverby@sover.net" <soverby@sover.net>

Sent: 2/22/24 11:04 AM

To: "Katherine Schad" <kschad@burlingtonvt.gov>, "Ali Dieng" <adieng@burlingtonvt.gov>, "Mayor's Office" <mayor@burlingtonvt.gov>, "Mark Barlow" <mbarlow@burlingtonvt.gov>, "Joseph Magee" <jmagee@burlingtonvt.gov>, "Karen Paul" <kpaul@burlingtonvt.gov>

Cc: "zhightower@burlingtonvt.gov" <zhightower@burlingtonvt.gov>, "gbergman@burlingtonvt.gov" <gbergman@burlingtonvt.gov>, "scarpenter@burlingtonvt.gov" <scarpenter@burlingtonvt.gov>, "btraverse@burlingtonvt.gov" <btraverse@burlingtonvt.gov>, "hking@burlingtonvt.gov" <hking@burlingtonvt.gov>, "megrant@burlingtonvt.gov" <megrant@burlingtonvt.gov>, "tdoherty@burlingtonvt.gov" <tdoherty@burlingtonvt.gov>, "jshannon@burlingtonvt.gov" <jshannon@burlingtonvt.gov>, "Lori Olberg" <lolberg@burlingtonvt.gov>

Subject: RE: Board of Finance -Agenda Item 4 - Burlington FY23 Audit Managment Letter missing 2nd Recommendation from FY22 Managment Letter

Katherine,

Thank you for your EMAIL reply addressing my concern.

I stand by my opinion that the status of FY22 Recommendation #2: "Improve Community Economic Development Officer (CEDO) Capital Project Accounting" should have been addressed in the FY23 Management Letter.

City Council has received no information about the status of the City's efforts to "rebuild organizational sets and centralize our grants management" with which to verify that this important work is done. Perhaps you can provide further documentation concerning the work you say the City has completed with consulting firm, CLA, "to rebuild organizational sets and centralize our grants management."

I have updated my summary of the last 13 years of Burlington City Audit problems to include content from the FY21, FY22 and the draft FY23 Management Letters. This lengthy document is attached in .pdf format. I'm sharing the first part of this document in the text of this EMAIL to make it more easilty accessible to all.

The document " 2024_02_22_Thirteen_years of annual audit problems with Weinberger administration accounting.pdf" is attached. .

Solveig

=====

Date: 2/22/2024

Re: 2024 Update: FY23 Marcum Audit Management Letter

Weinberger administration's 13 years of audit problems concerning end of year accounting procedures and capital project accounting

From: Solveig Overby, Ward 2 resident

To: Board of Finance members: Mayor Miro Weinberger, CAO Katherine Schad, Ali Dieng, Mark Barlow, Joe Magee, Karen Paul

And: City Council President Paul, and City Councilors Joan Shannon, Eugene Bergman, Melo Grant, Zoraya Hightower, Joe Magee, Sarah E Carpenter, Ben Traverse, Ali N Dieng, Hannah King, Timothy C. Doherty, Jr., Mark Barlow

This lengthy document was originally provided to City Council in 2021 but has been updated to include the Auditors' Management Letter Recommendations and City's responses for FY21, FY22 and FY23 after the

FY23 Audit Management Letter was posted for Board of Finance review the morning of their meeting on 2/20/2024. The document provides text extracts from each Burlington City Audit Management Letter summarizing the repeated accounting problems noted by Auditors going back to FY2012

The 2/20/2023 draft FY23 Marcum Auditors Management letter (regarding the audit of the City's FY 2023 Annual Finances for the year ended June 30, 2023), makes three Recommendations:

Status of Prior Year Recommendations:

1. Improve General Ledger Monitoring and Adhere to a Formal Closing Schedule.
2. Review City Ordinance Language in Comparison to Collective Bargaining Agreements (CBAs) in Relation to Pension

Current Year Recommendations:

3. Consider Improvements to Information Technology Policies"

As noted in a 2/20/2024 EMAIL sent to Board of Finance members, Auditor Marcum's FY23 Management Letter only provides status updates for two of the three FY22 Melanson Audit Recommendations. Last year's FY22 Audit contained Recommendation #2,

"Improve Community Economic Development Officer (CEDO) Capital Project Accounting." This was omitted from the Prior Year Status updates in Marcum's FY23 Management Letter.

Since Capital Project Accounting has been such a significant auditing problem for Burlington over the last 13 years, this item should have been listed. During the 2/20/2024 BOF meeting, CAO Schad stated that Prior Year Recommendations that are no longer issues, do not get mentioned. Considering that Capital Project Accounting has been such a big problem over the years, one would have expected there would have been a proud announcement and celebration at the Board of Finance meeting that the City has resolved its Capital Project Accounting problems. That was not the case.

CAO Katherine Schad's Reply to the BOF on my 2/20/2024 EMAIL was this:

RE: Board of Finance -Agenda Item 4 - Burlington FY23 Audit Managment Letter missing 2nd Recommendation from FY22 Managment Letter
2/21/24 8:24 AM

From: Katherine Schad kschad@burlingtonvt.gov

Hi all,

Thank you for your thoughtful questions last night. We resolved the issue of late posting by delaying action from last night to next Monday allowing everyone plenty of additional time for review. As mentioned, I will send materials to the entire City Council today as well.

Regarding Solveig's comment that there is a "glaring omission" in the FY23 Auditor's Management Letter, as discussed last night, this is not the case. The reason that the FY22 recommendation "2. Improve Community Economic Development Officer (CEDO) Capital Project Accounting" is not listed in the FY23 letter is because it was resolved. This was affirmed last night verbally by our auditor and of course is good news. To elaborate further, in the FY22 management letter we said we had just started working with consulting firm, CLA, to rebuild organizational sets and centralize our grants management. We have done this work and as a result, the recommendation is not in the FY23 letter.

Best,

Katherine

I stand by my opinion that the status of FY22 Recommendation #2:

"Improve Community Economic Development Officer (CEDO) Capital Project Accounting" should have been addressed in the FY23 Management Letter.

City Council has received no information about the status of the City's efforts to "rebuild organizational sets and centralize our grants management" with which to verify CAO Schad's statement that this important work is done.

A further item of note, the FY23 Management Letter contains the following disclaimer:

"...we considered the City's internal control over financial reporting (internal control) as a basis for designing our auditing procedures for the purpose of expressing our opinions on the financial statements, but not for the purpose of expressing an opinion on the effectiveness of the City's internal control...we do not express an opinion on the effectiveness of the City's internal control over financial reporting."

I would ask: Why does the Auditor not assess the effectiveness of the City's internal control over financial reporting? Doesn't the Board of Finance and City Council want to get this information?

The FY23 Marcum Auditor's Management Letter is available in CivicClerk in the 2/20/2023 Board of Finance Meeting deliberative agenda item 4.4.

<https://burlingtonvt.portal.civicklerk.com/event/6946/files/agenda/10034>

All prior year content from Auditors' Management Letters are available at this site:

<https://www.burlingtonvt.gov/CT/Audit-Reports>

From: "Katherine Schad" <kschad@burlingtonvt.gov>

Sent: 2/21/24 8:23 AM

To: Ali Dieng <adieng@burlingtonvt.gov>, Mayor's Office <mayor@burlingtonvt.gov>, Mark Barlow <mbarlow@burlingtonvt.gov>, Joseph Magee <jmagee@burlingtonvt.gov>, Karen Paul <kpaul@burlingtonvt.gov>, "soverby@sover.net" <soverby@sover.net>

Subject: RE: Board of Finance -Agenda Item 4 - Burlington FY23 Audit Managment Letter missing 2nd Recommendation from FY22 Managment Letter

Hi all,

Thank you for your thoughtful questions last night. We resolved the issue of late posting by delaying action from last night to next Monday allowing everyone plenty of additional time for review. As mentioned, I will send materials to the entire City Council today as well.

Regarding Solveig's comment that there is a "glaring omission" in the FY23 Auditor's Management Letter, as discussed last night, this is not the case. The reason that the FY22 recommendation "2. Improve Community Economic Development Officer (CEDO) Capital Project Accounting" is not listed in the FY23 letter is because it was resolved. This was affirmed last night verbally by our auditor and of course is good news. To elaborate further, in the FY22 management letter we said we had just started working with consulting firm, CLA, to rebuild

organizational sets and centralize our grants management. We have done this work and as a result, the recommendation is not in the FY23 letter.

Best,

Katherine

From: Ali Dieng <adieng@burlingtonvt.gov>
Sent: Tuesday, February 20, 2024 5:40 PM
To: Mayor's Office <mayor@burlingtonvt.gov>; Katherine Schad <kschad@burlingtonvt.gov>; Mark Barlow <mbarlow@burlingtonvt.gov>; Joseph Magee <jmagee@burlingtonvt.gov>; Karen Paul <kpaul@burlingtonvt.gov>; soverby@sover.net
Subject: Re: Board of Finance -Agenda Item 4 - Burlington FY23 Audit Managment Letter missing 2nd Recommendation from FY22 Managment Letter

Thank you so much for offering to follow up in writing, CFO Schad!

Ali

From: soverby@sover.net <soverby@sover.net>
Sent: Tuesday, February 20, 2024 1:01 PM
To: Mayor's Office <mayor@burlingtonvt.gov>; Katherine Schad <kschad@burlingtonvt.gov>; Ali Dieng <adieng@burlingtonvt.gov>; Mark Barlow <mbarlow@burlingtonvt.gov>; Joseph Magee <jmagee@burlingtonvt.gov>; Karen Paul <kpaul@burlingtonvt.gov>
Subject: Board of Finance -Agenda Item 4 - Burlington FY23 Audit Managment Letter missing 2nd Recommendation from FY22 Managment Letter

[WARNING]: This email was sent from someone outside of the City of Burlington.

Board of Finance members:

(Mayor Weinberger, CAO Schad, Council President Paul, Councilors Dieng, McGee and Barlow),

I see that some of Burlington's FY23 Burlington Financial Audit documents have finally been posted this morning for your meeting tonight. I am concerned about the late posting of documents for your agenda that should be provided to the Board of Finance with sufficient time to review them and research any resulting questions. In December, CAO Schad had said the audit was complete but could not be released until after the School District audit was finished. That was posted a few weeks ago.

I will be updating the history of Auditors' Management Letter recommendations over the years which I provided to the BOF at the earlier meeting, to include the recommendations and City's responses in this year's ML.

However, I did note a glaring omission on the FY23 Auditor's Management Letter. There is no mention of the second recommendation in last year's FY22 Management Letter: "2. Improve Community Economic Development Officer (CEDO) Capital Project Accounting"

What happened to that recommendation and what has been done by the City to address it?

See attached, an annotated copy of the FY23 Management Letter posted this morning under BOF Deliberative agenda item 4.4. "Review of the FY23 Audit - C/T" (Burlington VT ML23 - Published_City Response.pdf).

I will attend the BOF meeting tonight, expecting you will can address this problem.

Solveig

Please note that this communication and any response to it will be maintained as a public record and may be subject to disclosure under the Vermont Public Records Act.

Date: 2/22/2024

Re: 2024 Update: FY23 Marcum Audit Management Letter

Weinberger administration's 13 years of audit problems concerning end of year accounting procedures and capital project accounting

From: Solveig Overby, Ward 2 resident

To: Board of Finance members: Mayor Miro Weinberger, CAO Katherine Schad, Ali Dieng, Mark Barlow, Joe Magee, Karen Paul

And: City Council President Paul, and City Councilors Joan Shannon, Eugene Bergman, Melo Grant, Zoraya Hightower, Joe Magee, Sarah E Carpenter, Ben Traverse, Ali N Dieng, Hannah King, Timothy C. Doherty, Jr., Mark Barlow

This lengthy document was originally provided to City Council in 2021 but has been updated to include the Auditors' Management Letter Recommendations and City's responses for FY21, FY22 and FY23 after the FY23 Audit Management Letter was posted for Board of Finance review the morning of their meeting on 2/20/2024. The document provides text extracts from each Burlington City Audit Management Letter summarizing the repeated accounting problems noted by Auditors going back to FY2012

The 2/20/2023 draft FY23 Marcum Auditors Management letter (regarding the audit of the City's FY 2023 Annual Finances for the year ended June 30, 2023), makes three Recommendations:

Status of Prior Year Recommendations:

1. Improve General Ledger Monitoring and Adhere to a Formal Closing Schedule.
2. Review City Ordinance Language in Comparison to Collective Bargaining Agreements (CBAs) in Relation to Pension

Current Year Recommendations:

3. Consider Improvements to Information Technology Policies"

As noted in a 2/20/2024 EMAIL sent to Board of Finance members, Auditor Marcum's FY23 Management Letter only provides status updates for two of the three FY22 Melanson Audit Recommendations. Last year's FY22 Audit contained Recommendation #2, "Improve Community Economic Development Officer (CEDO) Capital Project Accounting." This was omitted from the Prior Year Status updates in Marcum's FY23 Management Letter.

Since Capital Project Accounting has been such a significant auditing problem for Burlington over the last 13 years, this item should have been listed. During the 2/20/2024 BOF meeting, CAO Schad stated that Prior Year Recommendations that are no longer issues, do not get mentioned. Considering that Capital Project Accounting has been such a big problem over the years, one would have expected there would have been a proud announcement and celebration at the Board of Finance meeting that the City has resolved its Capital Project Accounting problems. That was not the case.

CAO Katherine Schad's Reply to the BOF on my 2/20/2024 EMAIL was this:

RE: Board of Finance -Agenda Item 4 - Burlington FY23 Audit Managment Letter missing 2nd Recommendation from FY22 Managment Letter

2/21/24 8:24 AM

From: Katherine Schad kschad@burlingtonvt.gov

Hi all,

Thank you for your thoughtful questions last night. We resolved the issue of late posting by delaying action from last night to next Monday allowing everyone plenty of additional time for review. As mentioned, I will send materials to the entire City Council today as well.

Regarding Solveig's comment that there is a "glaring omission" in the FY23 Auditor's Management Letter, as discussed last night, this is not the case. The reason that the FY22 recommendation "2. Improve Community Economic Development Officer (CEDO) Capital Project Accounting" is not listed in the FY23 letter is because it was resolved. This was affirmed last night verbally by our auditor and of course is good news. To elaborate further, in the FY22 management letter we said we had just started working with consulting firm, CLA, to rebuild organizational sets and centralize our grants management. We have done this work and as a result, the recommendation is not in the FY23 letter.

Best,
Katherine

I stand by my opinion that the status of FY22 Recommendation #2:
"Improve Community Economic Development Officer (CEDO) Capital Project Accounting"
should have been addressed in the FY23 Management Letter.

City Council has received no information about the status of the City's efforts to "rebuild organizational sets and centralize our grants management" with which to verify CAO Schad's statement that this important work is done.

A further item of note, the FY23 Management Letter contains the following disclaimer:

"...we considered the City's internal control over financial reporting (internal control) as a basis for designing our auditing procedures for the purpose of expressing our opinions on the financial statements, but not for the purpose of expressing an opinion on the effectiveness of the City's internal control....we do not express an opinion on the effectiveness of the City's internal control over financial reporting."

I would ask: Why does the Auditor not assess the effectiveness of the City's internal control over financial reporting? Doesn't the Board of Finance and City Council want to get this information?

The FY23 Marcum Auditor's Management Letter is available in CivicClerk in the 2/20/2023 Board of Finance Meeting deliberative agenda item 4.4.

Page 2 of 22

2024_02_22_Thirteen_years of annual audit problems with Weinberger administration accounting.docx

<https://burlingtonvt.portal.civicclerk.com/event/6946/files/agenda/10034>

All prior year content from Auditor's Management Letters are available at this site:
<https://www.burlingtonvt.gov/CT/Audit-Reports>

The information from the FY20 and prior years of audit Management Letters below, was initially provided on 2/15/2021 to City Councilors: Zoraya Hightower, Sarah E Carpenter, Karen Paul, Ali N Dieng, Perri Freeman, and Joan Shannon, and former City Councilors Max Tracy, Brian Pine, William "Chip" Mason, Jane Stromberg, Jack Hanson, and Franklin Paulino

The information from Audit Management Letters FY20 and earlier, listed below was provided to the above City Councilors in connection with 2/16/2021 City Council Agenda Item 6.05
"Resolution: Authorization To Resolve Litigation And Execute Amended And Restated Development Agreement With BTC Mall Associates"
[\[https://go.boarddocs.com/vt/burlingtonvt/Board.nsf/goto?open&id=BY5LQL56E48C\]](https://go.boarddocs.com/vt/burlingtonvt/Board.nsf/goto?open&id=BY5LQL56E48C)

I had asked City Councilors not to approve the proposed replacement CityPlace development agreements until the City's New World accounting system and project management module were properly implemented to insure accountable use of project funds. I urged City Council not to commit the City to the proposed replacement financial arrangements, until the Council could assure itself and taxpayers, that commitments made through the development agreements can be properly managed in the City's accounting system.

Support for the recommendation was based on review of annual City financial Auditors' Management Letters primary source documents (extracts provided below) revealing continuing problems with the City's capital projects accounting procedures, including TIF-funded projects. The extracts below are taken from documents available at:
<https://www.burlingtonvt.gov/CT/Audit-Reports>

Executive Summary: Mayor Weinberger frequently mentions his financial expertise. He states that he leads by using data and expertise. In his January 10, 2020 press release announcing the appointment of new CAO Katherine Schad, he stated:

"One of the highest priorities of this Administration has been to responsibly manage the City's finances," said Mayor Weinberger. "We've made great strides in this over the last eight years, and Katherine is exactly the right person to continue this work and take it to the next level."
[\[https://www.burlingtonvt.gov/Press/mayor-miro-weinberger-appoints-katherine-schad-as-chief-administrative-officer\]](https://www.burlingtonvt.gov/Press/mayor-miro-weinberger-appoints-katherine-schad-as-chief-administrative-officer)

Yet, based upon a review of the City's annual Management Letters by financial auditors, the Weinberger administration has year after year received warnings about problems with capital project accounting procedures which make it difficult to track "life to date" balances for capital projects and bond proceeds. This includes accounting for TIF-financed projects like those related to the CityPlace development.

Every year of the Weinberger administration, from 2012 to 2020, the auditing firm Melanson and Heath has warned the Mayor of problems in the way the City handles capital project accounting. The City needs to “Improve Capital Project Accounting.”

One must ask, why has the Mayor not tightened up the City’s capital projects accounting practices as recommended by the Auditors year after year?

Critical Management Letters issued during Mayor Weinberger’s thirteen years in office

In 2011 the City claimed of its new accounting system that: “We will be able to track the status of a project, track both expense and revenue accounts, provide YTD or LTD information, compare actual to budget, and ensure all projects have a funding source.” Over the eleven years of the Mayor Weinberger’s tenure in office, despite the City having an accounting system with the functionality to do project accounting, the City’s capital project accounting procedures are still a problem. This capital projects accounting problem has appeared year after year in City financial Audits during Mayor Weinberger’s administration:

We can review these serious accounting problems, working backward, year to year, to see the Auditor’s recommendations and the City’s responses.

2/21/2024 Updates adding FY21, FY22 and FY23. As I mention above, one item of note, the FY23 Marcum Auditor Management Letter contains the following disclaimer:

“...we considered the City’s internal control over financial reporting (internal control) as a basis for designing our auditing procedures for the purpose of expressing our opinions on the financial statements, but not for the purpose of expressing an opinion on the effectiveness of the City’s internal control....we do not express an opinion on the effectiveness of the City’s internal control over financial reporting.”

FY23

In the 2/2/2023 draft FY23 Marcum Auditors Management letter (regarding the audit of the City’s FY 2023 Annual Finances for the year ended June 30, 2023) as posted for the Board of Finance on the morning of their 2/20/2024 meeting, three Recommendations were made:

“Status of Prior Year Recommendations:

- I. Improve General Ledger Monitoring and Adhere to a Formal Closing Schedule 32.
Review City Ordinance Language in Comparison to Collective Bargaining Agreements (CBAs) in Relation to Pension 4

Current Year Recommendations:

3. Consider Improvements to Information Technology Policies”

As noted in a 2/20/2024 EMAIL sent to Board of Finance members, Auditor Marcum’s FY23 Management Letter only provides status updates for two of the three FY22 Melanson Audit’s Recommendations. The FY22 Audit Recommendation #2 (“Improve Community Economic

Development Officer (CEDO) Capital Project Accounting”) has been omitted from the Status update in Marcum’s FY23 Management Letter.

FY23 Auditor’s Recommendation #1 from the 2/20/2024 draft:

1. Improve General Ledger Monitoring and Adhere to a Formal Closing Schedule

Prior Year Comment:

“Our audit disclosed that the City continued to make a significant number of material journal entries five to six months after year-end. Accurate and timely statements provide key data to support fiscal monitoring, and monthly review of all funds ' balance sheets and budget vs actual schedules is necessary to ensure accurate reporting.

We recommended that the City perform year end closing more timely. Step one in accomplishing this goal involves designating an individual to monitor and analytically review the general ledger on a monthly basis. Performing analytical procedures include reviewing all funds and balances to identify anomalies (which could be material misstatements) including unexpected deficits in fund balances and unexpected budget vs actual results. Management should monitor the process of reviewing monthly reports to ensure anomalies are identified timely. Step two is to establish a timeline to cure any misstatements within an appropriate timeframe. Implementation of this recommendation should result in earlier identification of the need for additional entries, improved internal reporting, and will streamline the year-end closing process. We further recommended that the individual designated to monitor the general ledger on a regular basis and perform analytical review of all funds and balances has limited other office responsibilities until corrective action is accomplished.

Current Year Status:

Our audit disclosed again that the City continued to make a significant number of material journal entries five to seven months after year-end. The Clerk Treasurer's office (CTO) was not fully staffed. As a result, designating an individual to perform analytical review and then assigning individuals to research the reasons behind unusual or unexpected trends and overspent budgets within an appropriate timeframe was difficult to accomplish.

Further Action Needed:

We continue to recommend that the City perform year-end closing sooner by prioritizing key reports to review earlier, which should include the annual General Fund budget vs. actual results and life-to-date Capital Project Funds budget vs. actual results. This process should allow City more time to research unexpected trends.”

City’s response to FY23 Auditor’s Recommendation #1 in 2/20/2024 draft:

“The City acknowledges that it has not made as much progress as planned on this recommendation due to difficulty hiring and retaining qualified staff in the CTO. Recognizing that it is important to move forward despite this challenge, in FY24 the CTO prioritized and has already begun issuing key monthly reports to analyze the general fund budget vs. actual results and life-to-date capital project funds budget vs. actual results.

The CTO has engaged a consultant who is designated to monitor the general ledger on a regular basis and perform analytical review of general and capital funds and balances. The consultant will work closely with CTO staff to accomplish these task1, and this is the consultant's primary task until corrective action is accomplished.

FY23 Auditor's Recommendation #2 from the 2/20/2024 draft:

2. Review City Ordinance Language in Comparison to Collective Bargaining Agreements (CBAs) in Relation to Pension

"Prior Year Comment:

We became aware of inconsistent language in Collective Bargaining Agreements (CBAs) and the City Ordinance with respect to pension benefit calculations that has resulted in retroactive adjustments to pension benefits.

We recommended that the Legal Department ensure the language in CBAs reference applicable section of the City Ordinance or otherwise provide assurance the language in CBAs matches the City Ordinance.

Current Year Status:

We understand that the recommendation has not yet been implemented.

Further Action Needed:

We continue to recommend that the legal department ensure there that City Ordinance language is consistent with CBA language with respect to pension benefit calculations. Implementation of this recommendation will help ensure that pension benefits are made in accordance with City Ordinance."

City's response to FY23 Auditor's Recommendation #2 in 2/20/2024 draft:

"The City thanks the auditor for this recommendation to ensure that pension benefits are made in accordance with the City Ordinance and the CTO will move implementing this with the legal department. The City would like to note that retroactive adjustments to pension benefits are a rare occurrence and one that has not affected the City in recent years."

FY23 Audit Recommendation #3 in the 2/20/2024 draft is a new one having serious implications for the City's ability to maintain continuity of operations in the event of disasters and to properly manage computer user access to City financial and personnel data systems:

:

CURRENT YEAR RECOMMENDATIONS

3. Consider Improvements to Information Technology Policies

"Maintaining secure, restricted access to the City's IT infrastructure is a critical element for safeguarding the City's personal and financial information. During our audit procedures, we identified instances where the provisioning process included mirroring users for access to New World Systems, but no evidence was attached to the request

identifying the permissions that needed to be granted to the new users along with the appropriate approvals. Several CTO and HR individuals have privileged access that should be restricted further, if possible. It does not appear that user access review control or a formal process to communicate access removals is currently in place. Additionally, there does not appear to be a formal cybersecurity incident response plan or business continuity and disaster recovery plan.

We recommend that the City consider improvements to IT policies related to provisioning, terminations, privileged access, user access review and cybersecurity. This should result in additional safeguards to personal and financial information.”

City’s response to FY23 Auditor’s Recommendation #3 in 2/20/2024 draft:

“The City appreciates this recommendation and plans to implement it in the coming weeks. The IT and CTO departments are partnering on a user access control process formally documented and communicated in place for New World Systems. The IT department is improving policies regarding provisioning and terminations. The department is also continuing to bolster its cybersecurity resources including a new policy and incident response plan.”

FY22

In the 2022 Melanson Auditors Management letter (regarding the audit of the City’s FY 2022 Annual finances for the year ended June 30, 2022), the continuing problems with the City’s accounting practices are noted and specifically General Ledger Monitoring and Capital Project Accounting that has plagued the Weinberger administration from its beginning in 2012.

The Auditor’s made three recommendations:

1. Improve General Ledger Monitoring and Adhere to a Formal Closing Schedule
2. Improve Community Economic Development Officer (CEDO) Capital Project Accounting
3. Review City Ordinance Language in Comparison to Collective Bargaining Agreements (CBAs) in Relation to Pension

The FY 2022 Auditor’s Recommendation #1 in the final draft:

1. Improve General Ledger Monitoring and Adhere to a Formal Closing Schedule (Prior Year Comment)

“Our audit disclosed that the City continues to make a significant number of material journal entries five to six months after year-end. Some of the journal entries were identified by Clerk Treasurer's (CT) Office Staff, while other were identified by analytical procedures performed by Melanson. Specifically, the General Fund trial balance on December 1, 2022 reported an excess of expenditure over revenues of approximately \$7 million. Review of budget and actual comparison schedules disclosed

that ARPA grant amount of \$5 million should have been recognized in the General Fund per budget approved by City Council, but was erroneously reported in a special revenue fund. Multiple other entries over \$1 million each were posted in December 2022 to both General Fund and special revenue funds. Significant auditor and CT identified adjustments were also made in the various capital project funds in December 2022, refer to related comment number two. Another General Fund entry impacted the results of the pension fund, refer to related comment number three. Accurate and timely statements provide key data to support financial monitoring, and monthly review of all funds' balance sheets and budget vs actual schedules is necessary to ensure accurate reporting.

We continue to recommend that the City perform year end closing more timely. Step one in accomplishing this goal involves designating an individual to monitor and analytically review the general ledger on a monthly basis. Performing analytical procedures include reviewing all funds and balances to identify anomalies (which could be material misstatements) including unexpected deficits in fund balances and unexpected budget vs actual results. Management should monitor the process of reviewing monthly reports to ensure anomalies are identified timely. Step two is to establish a timeline to cure any misstatements within an appropriate timeframe. Implementation of this recommendation should result in earlier identification of the need for additional entries, improved internal reporting, and will streamline the year-end closing process.

We further recommend that the individual designated to monitor the general ledger on a regular basis and perform analytical review of all funds and balances should have limited other office responsibilities until corrective action is accomplished.

The City's response to Recommendation #1 in the final draft.

As in the years past, the City admits the problem, and promises to do more training.

“The Clerk Treasurer's office (CTO) agrees that a significant number of material journal entries were made after year-end.

It should be noted the approved \$5 million in ARPA funds was only to be posted by the CTO if needed, and the amount was posted based on actual performance to budget. A review of budget vs. actual demonstrated the need to post the full \$SM budgeted, and the journal entry required was posted incorrectly. It was mutually agreed the error was made, and we agree that additional staff training is required to ensure this does not happen again.”

We acknowledge multiple entries were posted to the capital project funds in December. It was determined that the funding source of these funds could be filled by the use of previous premiums not utilized, and the promise of future donations. The CTO provided insight to the challenges that could impact the results of the pension fund early in the audit. This was due to a Settlement Agreement with IBEW that has not yet been finalized by legal counsel. The collective review demonstrated the need to adjust our books, and

was a unique situation. We appreciate Melanson's guidance on the accounting treatment in this circumstance.

The CTO would like to note a substantial amount of staff turnover that took place in fiscal year 2022 due to retirements, and a major reorganization resulting in the shift of many accounting tasks to existing staff members. This does not excuse late journal entries or mistakes but this staff turnover does explain the particularly chaotic nature of this year's closing. We worked closely with consultant CliftonlarsenAllen (CLA) to add or replace much needed staff to CTO including a Senior Accountant, Cash & Banking Accountant, and Operations Director. We greatly appreciate the Board of Finance and City Council's support and approval of these important changes. As our new team learns their new roles, it will improve the timeliness of audit deadlines, and identifying anomalies. Despite these challenges, the CTO completed the final audit 60 days earlier than fiscal year 2021 and is poised to do so earlier and more correctly in fiscal year 2023.

We appreciate Melanson's recommendations to ensure a more timely closing and the Chief Administrative Officer will work with the team to identify one person, as requested, to absorb the new responsibility to review the general ledger on a monthly basis with support of the Comptroller, and the accounting team. This person will have limited other responsibilities and will focus on monitoring the general ledger on a regular basis and performing analytical review of all funds and balances and sharing them with management on a monthly basis. This person will also be responsible for ensuring that any mistakes are also cured within an appropriate timeframe.”

The FY 2022 Auditor's Recommendation #2 in the final draft:

2. Improve Community Economic Development Officer (CEDO) Capital Project Accounting

“During our audit process, we noted that a capital funding source, grant revenue amount of over \$2 million, was posted to the CEDO special revenue fund instead of Moran Plant capital project fund in error.

Complete and accurate capital project fund accounting is essential throughout the year as accurate and timely statements provide key data to support fiscal monitoring, and without it, monitoring is difficult. Monitoring capital project funds for deficits and ensuring that all transactions were properly posted should be part of the monthly analytical review.”

The City's response to Auditor's FY2022 Recommendation #2 in the final draft:

“The City believes that while significant progress has been made with regards to our capital project fund accounting, acknowledges that there is still room for improvement and our next focus will be on the streamlining of CEDO accounting to ensure timely and accurate reporting. We will begin working with CLA this month, and over the next few months rebuild the organizational sets to ease the tracking of actual vs. budget results for capital project funds, and operating expenditures. The new organizational sets will be set

up and ready for Fiscal Year 2024 budgets. We plan to centralize our federal and state grants to help with the management of our capital projects, help reduce our deficits, and allow for more timely financial data. We have taken the steps to improve the Schedule of Expenditures of Federal Awards reporting by requiring all grants regardless of size to be approved by BOF, and have designated the Grants Director as the manager of this process.

This additional level of accountability will help improve this revenue source to be applied to capital, and improve timelines.”

The FY 2022 Auditor’s Recommendation #3 in the final draft:

3. Review City Ordinance Language in Comparison to Collective Bargaining Agreements (CBAs) in Relation to Pension

“We are aware of inconsistent language in Collective Bargaining Agreements (CBAs) and the City Ordinance with respect to pension benefit calculations that has resulted in retroactive adjustments to pension benefits.

We recommend that the Legal Department ensure the language in CBAs reference applicable section of the City Ordinance or otherwise provide assurance the language in CBAs matches the City Ordinance. Implementation of this recommendation will help ensure that pension benefits are made in accordance with City Ordinance.”

City’s response to the FY 2022 Auditor’s Recommendation #2 in the final draft:

“The CTO agrees with this recommendation, and to help with this initiative is requesting support from pension administrator Hooker & Holcombe (H&H) to help identify the inconsistent language in the CBAs, and the City Ordinance. H&H will provide a list of inconsistencies to help aid the Legal Department's review.”

FY21

In the FY 2021 Melanson Auditors Management letter (regarding the audit of the City’s FY 2022 Annual finances for the year ended June 30, 2021) the Auditors made three recommendations.

The top two Recommendations were once again, problems related to General Accounting procedures and Capital Project Accounting:

1. Improve General Ledger Monitoring and Adhere to a Formal Closing Schedule, and
2. Improve Community Economic Development Officer (CEDO) Capital Project Accounting

The third Recommendation, “3. Evaluate Funding Sources for the Parking Facilities Special Revenue Fund” did have a significant impact on the City’s finances: forced repayment of the entire \$3,752,060 in long-term debt held by in DPW’s Parking Facility Special Revenue Fund. It

was largely a consequence of lost parking revenue due to the COVID-19 pandemic.

FY 2021 Auditor's Recommendation number 1:

1. Improve Controls Over Journal Entries and Adhere to a Formal Closing Schedule (Prior Year Comment)

“During our audit, we observed improvements over journal entries related to year-end closing. Although enhancements have been made, we continue to see untimely entries. Accurate and timely statements provide key data to support fiscal monitoring. A significant tax revenue adjusting entry was provided in January 2022 that affected the results of operations for General Fund for the year ending June 30, 2021 (fiscal year 2021). Further, some of the City's Enterprise funds have reporting requirements under General Bond Resolutions that require annual audits to be completed between 150 days after the end of the fiscal year. For the City to comply with these reporting requirements, the City must adhere to a formal closing schedule; specifically, as it relates to capital asset reporting. The capital assets reports for fiscal year 2021 were not provided until January 2022.

We continue to recommend that the City perform year end closing more timely. Implementation of this recommendation should result in earlier identification of the need for additional entries, improved internal reporting, and will streamline the year-end closing process.”

City's Response to FY 2021 Auditor's Recommendation number 1:

“The Clerk/Treasurer's Office agrees with the recommendations above and acknowledges that all entries must be completed in a timely manner this fiscal year. We continue to work with CLA, an outside consultant, to improve on our new capital asset methodology, which reduces in half the time to process capital assets. In addition, we will provide existing staff the training required to ensure our tax revenues are booked in a timely fashion.”

Auditor's FY 2021 Recommendation number 2:

2. Improve Capital Project Accounting

“During the year, the City has made substantial improvements in the general ledger for the reporting of the capital projects, particularly expanding the number of general ledger funds. From July 1, 2020, the City began using a new project and general ledger account structure that allows the City to track the balances spent against each project, the source of funds, and deficit or excess balances. This enables the City to have an easier access to life to date activity of the individual capital projects. However, the initial analytical review of the City's various Capital Project funds for deficits was not timely performed and journal entries were processed by the City six months after year end. The City should monitor all funds for deficits timely and ensure that all funds have proper funding sources. We recommend that the

City consider a capital project accountant position as well as a grant accountant position.”

City's Response to FY 2021 Auditor's Recommendation number 2:

“The Clerk/ Treasurer's Office thanks our auditors for acknowledging our improvements on capital projects. Further, we would like to thank the Board of Finance and City Councilor for their support of consultant services that helped CT office to develop the new system. In addition, per the auditor's recommendation, the City is considering the addition of a Capital Project/ Grant Accountant position.”

[The balance of this document was provided on 2/15/2021 to the City Councilors listed above.]

FY20

In the 2020 Auditors Management Letter (regarding the audit of the City's FY 2020 Annual finances for the year ended June 30, 2020) they noted the following problem that has re-occurred year after year:

Improve Capital Project Accounting (Prior Year Comment)

“The City's general ledger for capital projects is operating on a limited number of general ledger funds, with detail being accounted for through a project accounting module. Project accounting life to date income statements from the system do not fully reconcile to their share of fund balance in the general ledger. This resulted in additional manual reconciliations through Excel spreadsheets, which are not reconciled timely. As a result:

1. The status of individual projects is not readily available.
2. A significant amount of journal entries are processed by the City.
3. Allocating issuance of debt by project and determining unspent issuance of debt by project is a difficult and a complicated process.

Enhancing the capital project accounting will assist with the City's review of deficit fund balances. During our initial review of the City's various Capital Project funds we noted several funds were in deficits. The City should monitor all funds for deficit fund balances and ensure all funds have proper funding sources.

We continue to recommend that the City perform an in-depth analysis of the project accounting records to be able to produce the life-to-date reports for each individual project that are meaningful and reconcile to the general ledger. Implementation of this recommendation will provide the City with the necessary framework for more complete capital project financial reporting.

We understand that the City has hired a consultant to assist with implementing this recommendation. The project is underway, and the consultant is working with the City to define and implement Best Practices.”

The City's response this year, FY 2020, as it has been routinely over the years when advised of

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these continuing accounting problems, is that a new consultant has been hired to work on them.

“The City has hired CLA, LLP, to implement a new project accounting process and tracking procedure, and they started work in April 2020. CLA, LLP has recently completed the reconciliation of project costs incurred through June 30, 2020 against the various financing sources, as recommended by our auditors. Beginning in FY21, the City is using a new project and General Ledger (GL) account structure that allows the City to track the balances spent against each project, the source of funds, and where excess funds should be returned. The new procedures are also set up to track these projects on a life-to-date basis, which will enable the City to have a much better view of the true cost of major capital projects. Finally, this new process will also track the bond proceeds at a very detailed level. The City will be able to trace bond proceeds to specific projects, and also know the unallocated portion of each issuance, at any given time. Unspent proceeds will be returned to the bonds for re-allocation upon the completion of a given project.”

[\[https://www.burlingtonvt.gov/sites/default/files/1_Memo%20%20Management%20Letter%20%20Responses.docx\]](https://www.burlingtonvt.gov/sites/default/files/1_Memo%20%20Management%20Letter%20%20Responses.docx)

In 2011, the year prior to Mayor Weinberger’s first term, the City was in the process of implementing a new accounting system, New World. This new accounting system was implemented to improve the City’s ability to efficiently and accurately manage its finances, including expenditure of capital project funds and bond proceeds expenditures. The 2011 Auditor’s Management Letter, for the audit of City finances for FY 2011, (the year ended June 30, 2011), warned that the “City has not adequately monitored the activity of the various capital projects funds.” The City’s response in 2011 was:

“The acquisition and implementation of the new financial management system has a Project Accounting Module (PAM) to help manage multiple projects, ensuring jobs are completed on time and within budget. The PAM software module will be used to track and account for all transactions related to special projects or programs. Authorized personnel will be able to view all levels of detail and actual monies spent on each project. We will be able to track the status of a project, track both expense and revenue accounts, provide YTD or LTD information, compare actual to budget, and ensure all projects have a funding source.”

[\[https://www.burlingtonvt.gov/sites/default/files/CT/AuditReports/2011%20Management%20Letter.pdf\]](https://www.burlingtonvt.gov/sites/default/files/CT/AuditReports/2011%20Management%20Letter.pdf)

Looking back each year of Mayor Weinberger’s 9 years in office, from 2012 to date, the Auditors have repeatedly noted the problems with the City’s capital projects accounting and the reliance on spreadsheets and journal entries made after the fact. This is how the Administration manages the finances for million-dollar capital projects, including the CityPlace development and its TIF-funded expenditures,

For those interested, the rest of this document walks backward through each year, where the Auditor's Management Letters warnings are repeated, year after year.

In the 2019 Auditor's Management Letter concerning the audit of the City's FY 2019 Annual financial reports (the year ended June 30, 2019), the auditors had issued the same warning about the need to improve capital project accounting procedures that obfuscate the ability of the City to calculate "life to date" or running balances for fund expenditures.

"The City's general ledger for capital projects is very summarized, especially when compared to the City's 10-Year Capital Plan. For example, the 10-Year Capital Plan identifies multiple parks' projects, however, all parks' "Special Projects" (the fund's name) are accounted for in one general ledger fund. A similar situation exists where all "Infrastructure Projects" are in only one fund. Additionally, personnel in the Clerk/Treasurer's Office do not have comprehensive engineer-prepared project cost estimates. Further, the purpose of the City's annual borrowing is generic and usually reads for "financing certain capital improvement for the City".

"As a result:

- The status of individual projects is not maintained in the general ledger.
- Individual project budget and actual is not maintained in the general ledger.
- Life-to-date revenue and expenditure reports are not prepared.
- A significant amount of journal entries are processed by the City.
- Determining if costs are project eligible is difficult and often results in significant journal entries.
- Determining unspent bond proceeds by project is not maintained in the general ledger.

We recommend that the City re-design how activity related to the City's 10-Year Capital Plan is maintained in the general ledger. In doing so, the City should address the six items noted above and perform an in-depth analysis of the summarized accounting to produce the life-to-date reports for each individual project. Implementation of this recommendation will provide the City with the necessary framework for more complete capital project financial reporting. We understand that the City has hired a consultant to assist with implementing this recommendation. The project is underway and the consultant is working with the City to define and implement Best Practices.

In 2019, the City's Response to the Auditors' warning: a consultant has been hired to fix the problems:

"The City has retained Berry Dunn, the local government consulting group, to lead a business process review of its capital project accounting practices. The review will be collaborative, with participation from a number of City divisions. The first phase of the project will focus on understanding challenges and areas for improvement in the current

environment, followed by a second phase to develop an implementation plan of solutions, potentially involving process, policy, or technology changes. The key objective is to address the above recommendations.

[<https://www.burlingtonvt.gov/sites/default/files/Management%20Letter.pdf>]

In the 2018 Management Letter concerning the audit of the City's FY 2018 Annual financial reports (the year ended June 30, 2018), the Auditors had warned the City about the same problem accounting procedures:

"The City's general ledger for capital projects is very summarized, especially when compared to the City's 10-Year Capital Plan. For example, the 10-Year Capital Plan identifies multiple parks' projects, however, all parks' "Special Projects" (the fund's name) are accounted for in one general ledger fund. A similar situation exists where all "Infrastructure Projects" are in only one fund. Additionally, personnel in the Clerk/Treasurer's Office do not have comprehensive engineer-prepared project cost estimates.

As a result:

- The status of individual projects is not maintained in the general ledger.
- Individual project budget and actual is not maintained in the general ledger.
- Life-to-date revenue and expenditure reports are not prepared.
- Determining if costs are project eligible is difficult and often results in significant journal entries.
- Determining unspent bond proceeds by project is not maintained in the general ledger.

We recommend that the City re-design how activity related to the City's 10-Year Capital Plan is maintained in the general ledger. In doing so, the City should address the five items noted above and perform an in-depth analysis of the summarized accounting to produce the life-to-date reports for each individual project. Implementation of this recommendation will provide the City with the necessary framework for more complete capital project financial reporting.

We understand that the City has hired a consultant to assist with implementing this recommendation. The project is underway and the consultant is working with the City to define and implement Best Practices.

The City's Response in 2018: hire a consultant to fix the problems:

"The City has retained the consulting group of Berry Dunn to lead a business process review of its capital project accounting practices. The review will be collaborative, with participation from a number of City divisions, including DPW, Parks, Airport, CEDO, and C/T. The first phase of the project will focus on understanding challenges and areas for improvement in the current environment followed by a second phase to develop an implementation plan of solutions potentially involving process, policy, or technology changes. A key objective of the project is to mitigate prior audit Management Letter

findings.”

[\[https://www.burlingtonvt.gov/sites/default/files/Burlington%2C%20VT%20ML18%20Final.pdf\]](https://www.burlingtonvt.gov/sites/default/files/Burlington%2C%20VT%20ML18%20Final.pdf)

In the 2017 Auditors’ Management letter concerning the audit of the City’s FY 2017 Annual financial reports (the year ended June 30, 2017), they had issued the same warning about the problem accounting procedures for capital projects.

“Improve Capital Project Accounting The City’s general ledger for capital projects is very summarized, especially when compared to the City’s 10-Year Capital Plan. For example, the 10-Year Capital Plan identifies multiple parks’ projects, however, all parks’ “Special Projects” (the fund’s name) are accounted for in one general ledger fund. A similar situation exists where all “Infrastructure Projects” are in only one fund. Additionally, personnel in the Clerk/Treasurer’s Office do not have comprehensive engineer-prepared project cost estimates.

As a result:

- The status of individual projects is not maintained in the general ledger.
- Individual project budget and actual is not maintained in the general ledger. -
- Life-to-date revenue and expenditure reports are not prepared.
- Determining if costs are project eligible is difficult and often results in significant journal entries.
- Determining unspent bond proceeds by project is not maintained in the general ledger.

We recommend that the City re-design how activity related to the City’s 10-Year Capital Plan is maintained in the general ledger. In doing so, the City should address the five items noted above and perform an in-depth analysis of the summarized accounting to produce the life-to-date reports for each individual project. Implementation of this recommendation will provide the City with the necessary framework for more complete capital project financial reporting. “

In 2017, the Auditors also criticized the lack of informative detail provided by the City’s Financial Statements:

“The financial reports published by the City provide only year-to-date revenues and expenditures by each fund. While this provides valuable information for the general, water, and waste water funds, the current reporting structure does not provide management with the current balances available in numerous special revenue and capital project funds. (Examples include individual CEDO grants, Pennies for Parks, Waterfront Access North, Impact Fees, and the Tax Increment Financing District.)

We recommend that the City redesign the formal financial report to include project-level balances. Implementation of this recommendation will enable management to more easily identify areas that need additional analysis and adjustments.

Finally, we recommend that the City's regular reporting package include reports designed to provide users with the financial position of the Impact Fees and the Tax Increment Financing District funds including the disclosure of amounts committed for future debt service and future project financing."

[<https://www.burlingtonvt.gov/sites/default/files/Burlington%20VT%20ML17%20Final.pdf>]

In the 2016 Auditors' Management letter concerning the audit of the City's FY 2016 Annual financial reports (the year ended June 30, 2016), the Auditors repeated their 2015 recommendation that monthly accounting procedures be improved to provide separate funds for tracking project and bond fund balances and expenditures.

"In the prior year, we recommended that the City continue the process of improving the general ledger reconciliation to ensure a more timely closing process. Implementation of this recommendation will increase the reliability of interim financial reports and help to minimize the risk of undetected errors and or irregularities. We also recommended that the City fully implement "Project Accounting" or expand the number of funds used.

Current Year Status: In fiscal year 2016, the City continued to make significant improvements in the monthly general ledger reconciliations process. However, during the 2016 audit process (October 2016), the City was still posting significant journal entries and/or evaluating fiscal year 2016 operating results in the following funds:

- Capital project fund accounting
- Tax increment financing
- Interfund activity

-Also, recent long-term bond refunding activity has increased the complexity of the accounting and financial reporting of bonds payable and their related premiums, net of discounts, and the gain or loss on the refunding. As a result, the City was making adjustments to the June 30, 2016 year-end schedule as late as December 2016. Further, in fiscal year 2016 the City created a life-to-date revenue and expenditure statement for the Waterfront Access North Capital Project fund using the "Project Accounting" module within the new financial management system. The preparation of life-to-date reports for other projects has been difficult given the structure of the fund numbers originally created in 2013.

Further Action Needed: We recommend the City continue efforts to streamline the general ledger reconciliation improvements made during the past few fiscal years. We also recommend that the City establish new general ledger funds for each new capital project that are either specifically identified or as a component of the annual borrowing. The new funds will permit the preparation of needed life-to-date revenue and expenditure statements. Finally, the year-end closing process of capital funds should be expanded to include a review of individual fund balances associated with each fund.

We also recommend that the City improve the preparation of the long-term debt activity schedule and their related premiums, net of discounts, and the gain or loss on the refunding. We further recommend that the City consider preparing the report on a quarterly rather than annual basis. The quarterly preparation of the report will permit for the earlier identification of general ledger adjustments and will shift the time required to analyze the refundings to earlier in the City's normal general ledger closing process.

The City's Response in 2016:

The Clerk Treasurer Office acknowledges the importance of building on the improvements already made in our general ledger reconciliation to ensure a more timely closing process. In addition, we accept the recommendation to expand the number of funds used. We acknowledge that fund accounting is unique to nonprofit organizations, and the preparation of life-to-date report for projects is difficult based upon the fund numbers created in fiscal year 2013. To ease the overall tracking of major projects that were multi-year and sizeable in nature, we should have created separate funds. The creation of separate funds would make overall reporting easier and allow for carryover of funds.

We will create a separate category of capital asset of funds that are multi-year, and typically in excess of \$1 million. The purpose of using fund accounting is it will allow the City of Burlington to manage the diverse streams of revenue that we receive and to monitor the restrictions often attached to that revenue. A separate fund will have its own revenue and expense report, and its own balance sheet. We will work with our auditors, and then our departments, to ensure funds created meet the criteria of being multi-year, are sizable in nature, and will allow for overall ease of monthly reconciliations. Additionally, this methodology will assist us with TIF audits and overall ensure that projects are staying within approved overall budgets. On a similar note, we accept the recommendation that the Clerk Treasurer Office improve the preparation of the long-term debt activity schedule and related premiums, net discounts, and the gain or loss on the refunding. The City's financing activity and refinancing activity, debt compliance, financial reporting, forecasting, and management of City debt payments are sizeable, and the greatest in over a decade. The previous methods used to reconcile accounts need to be improved to better manage current debt load, and the higher expectation of financial reporting.

To correct and streamline the challenges, the Clerk Treasury Office has built a Debt Management Database (DB). We worked with and received input from our escrow agent and financial advisor to utilize tools used from Digital Assurance Certification (DAC) and Electronic Municipal Market Access (EMMA). We used this information to create and build a DB that will significantly eliminate redundancies of various reporting formats, and streamline the monthly tracking and reporting of the debt.

Lastly, with the restructuring of the Clerk/Treasurer's Office, and specifically the change in job descriptions for the accounting staff, we now have a key point person who has a clear responsibility to oversee the areas of issues identified in this finding. This more targeted structure will allow us both to continue to focus in on these issues, and more quickly respond to concerns or areas to improve.

[\[https://www.burlingtonvt.gov/sites/default/files/CT/AuditReports/Burlington%2C%20VT%20ML16%20Final.pdf\]](https://www.burlingtonvt.gov/sites/default/files/CT/AuditReports/Burlington%2C%20VT%20ML16%20Final.pdf)

In the 2015 Auditors' Management letter concerning the audit of the City's FY 2015 Annual financial reports (the year ended June 30, 2015), Melanson Heath Auditors warned the City:

"In the prior year, we recommended that the City continue the process of improving the general ledger reconciliation to ensure a more timely closing process. Implementation of this recommendation will increase the reliability of interim financial reports and help to minimize the risk of undetected errors and or irregularities.

Current Year Status: In fiscal year 2015, the City continued to make significant improvements in monthly general ledger reconciliations process. However, during the 2015 audit process (November 2015), the City was still posting significant journal entries and/or evaluating fiscal year 2015 operating results in the following funds:

- Capital project fund accounting
- Storm-water fund accounting
- Tax Increment Financing
- CEDO
- Pension fund
- Interfund activity

Additionally, a few areas from the fiscal year 2013 conversion to the new financial management system remain unresolved including:

- Fully implement "Project Accounting" module within the new financial management system (or continue to expand the number of funds).
- Monitor impact fees to ensure funds are spent timely or otherwise returned.
- Create the ability to produce a Schedule of Expenditures of Federal Awards directly from the financial management system.
- Improve the distinction between the expendable and non-expendable portion of Cemetery Perpetual Care funds.
- Identify the allowable expenditure purposes associated with Permanent Funds (other than Cemetery Perpetual Care) and Private Purpose Funds.

Further Action Needed: We recommend the City continue with the general ledger reconciliation improvements made during fiscal year 2015, and specifically address the above noted areas in fiscal year 2016.

The City's Response in 2015, (four years into using the new accounting system, New World, and five years ago): "we will provide more training":

"The City has made progress in performing reconciliations in a timely manner. The City acknowledges the "Project Accounting" module needs to be fully implemented. We

will review and streamline the monitoring of impact fees to ensure funds are spent timely or otherwise returned. We will provide additional training on the project accounting and miscellaneous billing modules, and will utilize the New World (NW) accounting system's Grant Module. The Grant Module is a new module installed in December 2015. This module is designed to automate fully the Schedule of Federal Awards. The earlier versions of NW required manually tracking of grant sources and fell short of our billing management requirements. Lastly, we have successfully improved the distinction between expendable and non-expendable portions of the Cemetery Perpetual Care Funds and have identified the allowable expenditure within the Permanent Funds and Private Purpose Funds.

[\[https://www.burlingtonvt.gov/sites/default/files/CT/AuditReports/Burlington%20VT%20ML15%20Final.pdf\]](https://www.burlingtonvt.gov/sites/default/files/CT/AuditReports/Burlington%20VT%20ML15%20Final.pdf)

In the 2014 Auditors' Management letter concerning the audit of the City's FY 2014 Annual financial reports (the year ended June 30, 2014), Melanson Heath Auditors warned the City of continued problems with performing monthly financial reconciliations in general ledger accounts to minimize the risk of irregularities.

"In the prior year, we recommended that the City re-establish the process of reconciling all key general ledger accounts on a monthly basis. Implementation of this recommendation will increase the reliability of interim financial reports and help to minimize the risk of undetected errors and or irregularities.

Current Year Status: In fiscal year 2014, the City made significant improvements in monthly general ledger reconciliations process. As a result, the process of closing the year was approximately two months earlier than fiscal year 2013. However, during the 2014 audit process (November 2013), the City was still posting journal entries and/or evaluating fiscal year 2014 operating results in the following areas:

- Capital project fund accounting
- Inter-departmental charges
- Amounts due from BED
- Overall general fund budgetary results

Further Action Needed: We recommend the City continue with the general ledger reconciliation improvements made during fiscal year 2014, and specifically address the above noted areas in fiscal year 2015.

The City's Response in 2014: "The Office of Clerk Treasurer agrees with this finding and will specifically address the above-noted areas in fiscal year 2015. "

In 2014, the Auditors also noted: "During fiscal year 2014, however, there were certain areas where on-going controls and system capabilities were still not fully implemented or operational. The following items represent areas where improved monitoring of accounts and major accounting tasks that still need completion:

- Implement “Project Accounting” module within the new financial management system for capital projects and grant accounting.
 - Analyze all capital projects for appropriate matching of revenue and expenditures.
 - Post budgets to all individual capital projects.
 - Analyze the expenditure charges to recent general bond issues to ensure funds were expended consistent with original authorizations.
 - Ensure all funds have balanced budgets in the monthly financial statements.
 - Monitor impact fees to ensure funds are spent timely or otherwise returned.
 - Create the ability to produce a Schedule of Expenditures of Federal Awards directly from the financial management system.
 - Monitor specific eligibility criteria for grant and bond funded projects expenditures.
 - Improve the distinction between the expendable and non-expendable portion of Cemetery Perpetual Care funds.
 - Identify the allowable expenditure purposes associated with Permanent Funds (other than Cemetery Perpetual Care) and Private Purpose Funds.
 - Monitor accounting and reporting of compensated absences.
 - Increase timeliness of Pension Fund reconciliations.
- [\[https://www.burlingtonvt.gov/sites/default/files/CT/AuditReports/Burlington%20Final%20%20MI14.pdf\]](https://www.burlingtonvt.gov/sites/default/files/CT/AuditReports/Burlington%20Final%20%20MI14.pdf)

In the 2013 Auditor’s Management Letter accompanying the audit of City finances for FY 2013, (the year ended June 30, 2013), Mayor Weinberger’s first year in office, there is noted the continued lack of monthly reconciliation of general ledger accounts, with a consequent increased risk of undetected errors and or irregularities.

“In Fiscal Year 2013, monthly reconciliations of key general ledger accounts were not performed on a timely basis. As a result, the process of closing the year was delayed and substantial journal entries were being posted by the City through January 2014.

Key reconciliations that were not performed on a regular and timely basis include:

- Bank account balance to the general ledger
- Tax receivable accounts to detail balance due reports
- Approved budget amounts to the general ledger
- Grant and capital project receivables to award notices
- Accounts payable and payroll withholding accounts to detail records

A complete analysis of capital project activity was not performed until December 2013. When reconciliations of key accounts are not performed on a regular and timely basis, it increases the risk that errors and or irregularities could occur and go undetected as well as decreases the reliability of interim financial reports. We recommend that the City re-establish the process of reconciling all key accounts on a monthly basis. Implementation of this recommendation will increase the reliability of interim financial reports and help to minimize the risk of undetected errors and or irregularities.

City's Response: "The Clerk/Treasurer's Office agrees that there is a need for monthly reconciliation. However, historically, the City has not reconciled all accounts on a monthly basis; instead reconciling on a varying schedule depending on the amount of activity of the account. Because of the change in accounting systems, most of the accounts and operations included in this finding had not been reconciled due to the lack of time and unfamiliarity of staff with the accounting system and its relational account construction. During Fiscal Year 2014, the financial assistants and senior accountants have been reconciling accounts and activities on a monthly basis and review all other accounts and activities to ensure that they are reconciled in an appropriate timeframe. "
[\[https://www.burlingtonvt.gov/sites/default/files/CT/AuditReports/Burlington%2C%20VT%20ML13%20Final.pdf\]](https://www.burlingtonvt.gov/sites/default/files/CT/AuditReports/Burlington%2C%20VT%20ML13%20Final.pdf)

In the 2012 Auditor's 2012 Management Letter for the audit of City finances for FY 2012, (the year ended June 30, 2012), newly elected Mayor Weinberger was warned of the need to improve monitoring of capital projects, among a list other concern.

"In the prior year, we recommended that the City identify causes for all negative cash balances in capital project funds and that the City use the general ledger (not spreadsheets) to maintain a complete accounting of all capital projects.

Current Year Status: In fiscal year 2012, many requests for reimbursements were filed with the State of Vermont and many of the negative cash positions have improved, however, most projects were not completely monitored.

Further Action Needed: We continue to recommend that the City utilize the general ledger to maintain complete accounting of all capital projects.

City's Response: "In the New World financial management system, capital projects funds are established to enable the tracking of expenditures to assure, among other things, that the bond proceeds are used for their intended purpose. In the future, a separate capital projects fund will be established for each bond issued for capital purposes. "
[\[https://www.burlingtonvt.gov/sites/default/files/CT/AuditReports/2012%20Management%20Letter.pdf\]](https://www.burlingtonvt.gov/sites/default/files/CT/AuditReports/2012%20Management%20Letter.pdf)

Lori Olberg

From: Grace Palmer <gmpalmer513@gmail.com>
Sent: Sunday, February 25, 2024 6:49 PM
To: City Council
Cc: Lori Olberg
Subject: Please support Neighborhood Code

Some people who received this message don't often get email from gmpalmer513@gmail.com. [Learn why this is important](#)

[WARNING]: This email was sent from someone outside of the City of Burlington.

Hello,

I am a resident of Burlington's Ward 2 and am writing to express support for the Neighborhood Code. Please support the availability and affordability of housing by passing the Neighborhood Code without weakening it.

Thank you,
Grace Palmer

Lori Olberg

From: Benjamin Cooley <benjamincooley94@gmail.com>
Sent: Monday, February 26, 2024 12:45 PM
To: City Council
Cc: Lori Olberg
Subject: Support for Neighborhood Code

Some people who received this message don't often get email from benjamincooley94@gmail.com. [Learn why this is important](#)

[WARNING]: This email was sent from someone outside of the City of Burlington.

Hello,

I am writing to express my support of the Burlington Neighborhood Code changes. I saw there's a meeting tonight about it, but I cannot attend in person, so wanted to express my support via email.

I should note that I am not a Burlington resident, but I feel that my experience navigating the Burlington housing crisis has led me to think deeper about housing availability and demand in the area. A year ago, my wife and I moved to Vermont and we started looking at houses in Burlington. We moved from the Boston/Cambridge area, a place with notoriously high rent, cost of living, and a cutthroat house buying market. Given the size of Burlington, we were shocked to find almost the same, if not more competitive, market here.

After searching for months in Burlington for a house, we expanded our scope to include Milton, Williston, South Burlington, and Essex (where we now live). The houses in these cities were typically much larger than we were looking for (we are a two-person household), but they were also cheaper than Burlington. In the end we decided to move further out from the city due to lack of supply of smaller, affordable housing.

Here's the short version: **I am an active participant in Burlington's community, and wanted to live in the city, but could not due to lack of supply.** I am part of a Burlington art collective, I spend most weekends in the city, and I support many local businesses on Church Street. The Neighborhood Code will offer a starting point for infilling more density. In particular, I strongly support:

- removing minimum lot size
- removing maximum allowed density
- more encouragement for ADU building and secondary structures on existing lots

We need more housing, and crucially, different *types* of housing: duplexes, quadraplexes, condos, ADUs, etc. The Neighborhood Code provides a good starting point for making these changes and encouraging this development. Please, do not water down or alter the Neighborhood Code in any way that would place restrictions on the types of housing we can add in the city.

Thank you for your time,
Ben Dexter Cooley

<https://bdextercooley.com/>

Lori Olberg

From: Todd DeLuca <todddeluca@gmail.com>
Sent: Monday, February 26, 2024 1:07 PM
To: Zoraya Hightower; Gene Bergman; Joseph Magee; Sarah Carpenter; Benjamin Traverse; Karen Paul; Ali Dieng; Hannah King; Melo Grant; Tim Doherty; Mark Barlow; Joan Shannon
Cc: Lori Olberg
Subject: Neighborhood Code and Inclusionary Zoning public comment

[WARNING]: This email was sent from someone outside of the City of Burlington.

Dear City Councilors,

I hope y'all are doing well. I am writing to express my support for Neighborhood Code. The change from density-based to form-based zoning (among so many other great changes) lays a solid foundation for future growth. In 1947, Burlington passed its first zoning ordinance, which allowed housing up to 6 stories and 75' in any residential zone. Neighborhood Code gives back to the people some of their freedom to build. Thank you.

Regarding item "9.8. Resolution: Updating Inclusionary Zoning Payment In Lieu," I would like to share with you some additional information on the (estimated) cost of Inclusionary Zoning in Burlington. In brief,

- The cost of IZ (in terms of loss of revenue) is equivalent to the city levying an 11% tax on new housing revenues.
- For comparison, when the City sought to end condominium conversions in 1987 it used a 4% tax.
- This IZ tax on new housing has reduced housing production by over 50% in Burlington according to the 2017 study commissioned by the city.
- If the city were to pay upfront for the subsidies on the 70 Inclusionary Zoning units at CityPlace, it would cost 14% of the FY24 city budget.

All this information is derived from public sources. Please reach out for details on methods and sources.

Win-win solutions exist for abundance and affordability in Burlington and I believe Neighborhood Code is one of those. Thank you.

Best regards,
Todd DeLuca
Ward 4

Sources:

2017 Burlington Inclusionary Zoning Evaluation:

https://www.burlingtonvt.gov/sites/default/files/BurlingtonIZEvaluationFinalDraftJanuary2017_2.pdf

1987 4% Condominium Conversion Fee:

<https://twitter.com/todddeluca/status/1731442290814591054>

The 11% CityPlace IZ Tax on New Housing:

<https://twitter.com/todddeluca/status/1761010042122199356>

1947 Burlington Zoning Ordinance:

Lori Olberg

From: Caryn Long <carynlongvt@gmail.com>
Sent: Sunday, February 25, 2024 9:56 AM
To: Zoraya Hightower; Benjamin Traverse; Sarah Carpenter; Gene Bergman; Melo Grant; Joan Shannon; Karen Paul; Ali Dieng; Mark Barlow; Joseph Magee; Hannah King; Tim Doherty; Lori Olberg
Cc: Sandy Wynne; Paul Bierman (he/him); Caryn Long
Subject: 11 Weston Street

[WARNING]: This email was sent from someone outside of the City of Burlington.

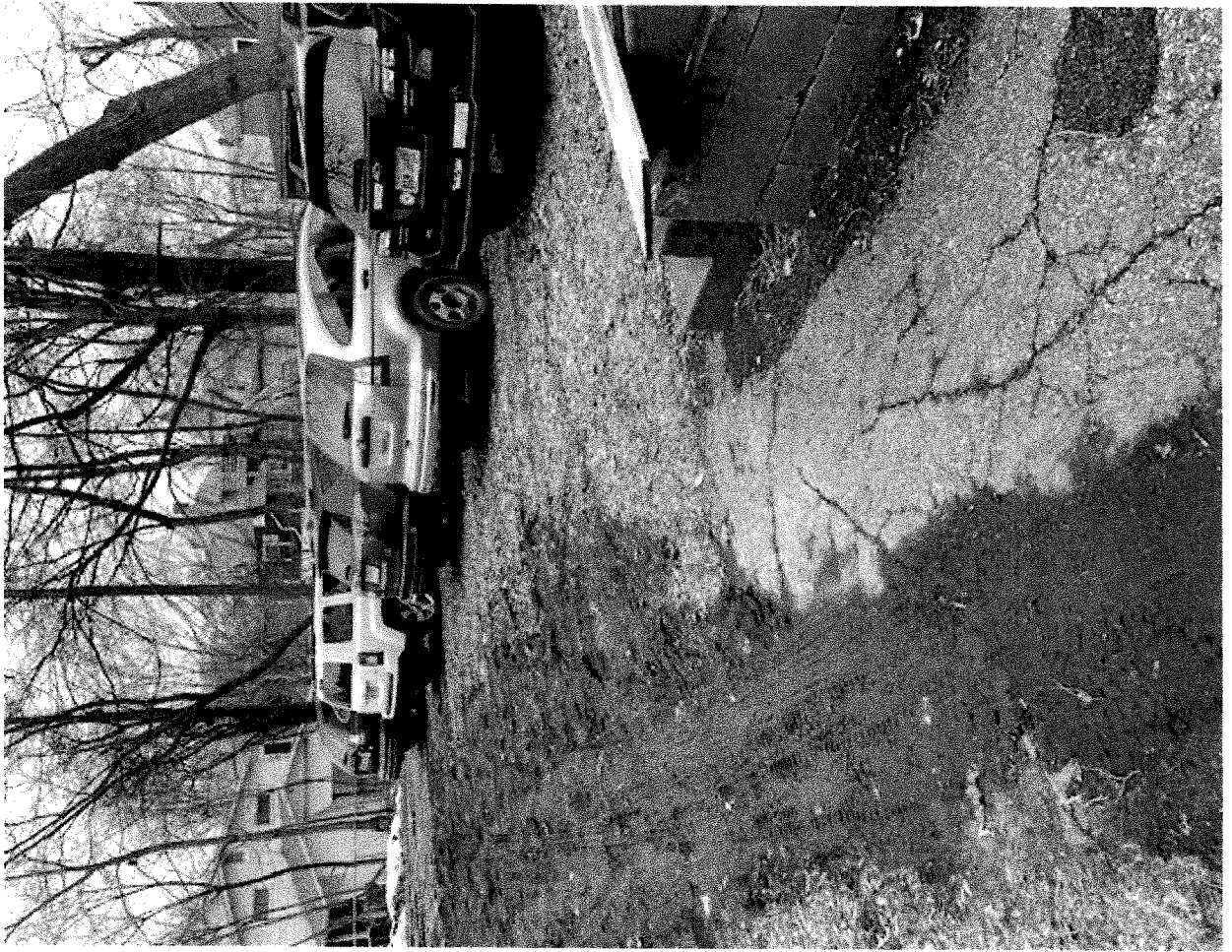
Dear Councilors,

I have heard it over and over again that most students don't have cars. Every winter this back yard becomes a parking lot. UVM students on the XC running team live here this year.

Joan Shannon from the Joint Committee (City Council meeting 1/29) is on tape saying the committee developed Neighborhood Code without considering stormwater runoff or the capacity of our infrastructure to supply services to the new development. She said this is not Zoning. Neighborhood Code must be revised to include stormwater remediation and infrastructure build out before it is passed.

Code can not keep up with our current number of rental units. We need increased Code Enforcement and a body to enforce Zoning (lot coverage) before Neighborhood Code is passed.

Best,
Caryn





Sent from my iPhone

Lori Olberg

From: Taylor Adams <taadams28@gmail.com>
Sent: Sunday, February 25, 2024 3:14 PM
To: City Council
Cc: Lori Olberg
Subject: Neighborhood Code Comment

Some people who received this message don't often get email from taadams28@gmail.com. [Learn why this is important](#)

[WARNING]: This email was sent from someone outside of the City of Burlington.

To Whom it May Concern,

My name is Taylor Adams and I am a Burlington resident. My husband and I are expecting our first child in a few days and we currently rent a small apartment in Ward 2.

I support the Neighborhood Code, I believe it will lead to a more vibrant, equitable, safe, and prosperous Burlington. More young people and families would be able to move to Burlington to settle down and make roots in the community without having to move away to find housing. Please pass it without weakening it.

Thank you kindly,

Taylor Adams

Taylor Adams
She/Her/Hers
832.651.6900

Lori Olberg

From: Sequoia Young <sequoia.p.y@gmail.com>
Sent: Sunday, February 25, 2024 3:17 PM
To: City Council; Lori Olberg
Subject: Neighborhood code

Some people who received this message don't often get email from sequoia.p.y@gmail.com. [Learn why this is important](#)

[WARNING]: This email was sent from someone outside of the City of Burlington.

Hello!

I am writing to support the new zoning under the proposed neighborhood code. As a life-long Burlingtonian and recent home owner, it is incredibly hard to find affordable housing here for sale or rent and the regulations preventing density in our city are only contributing to urban sprawl and folks leaving Burlington. If you are interested in a vital city and thriving population, please vote to increase the livability of Burlington! Please do not allow wealthier residents with an interest in their own property values to keep Burlington unlivable for the rest of us.

Thank you,
Sequoia Young

Lori Olberg

From: Paul Bierman (he/him) <pbierman@uvm.edu>
Sent: Sunday, February 25, 2024 4:16 PM
To: Zoraya Hightower; Benjamin Traverse; Sarah Carpenter; Gene Bergman; Melo Grant; Joan Shannon; Karen Paul; Ali Dieng; Mark Barlow; Joseph Magee; Hannah King; Tim Doherty; Lori Olberg
Cc: Sandy Wynne; Caryn Long; Caryn Long
Subject: Re: Can you tell when UVM was in session?

Hi All,

I just sent this to FPF in response to Zoraya's post yesterday. I very much respect her considered thought on the matter and urge all of you to support her idea to slow the process and improve the current proposal. As she wrote, it's got a lot right but there's room for improvement. We must make the time to get this right - it's going to affect the community for decades to come.

Thank you all for your service and for listening.

p

Pending Publication

Re: Neighborhood Code: Update for Monday's Council Meeting

ONE East – No. 5968 • Paul Bierman • Brookes Ave, Burlington

Posted to: ONE East

Feb 25, 2024

Election

I want to publicly thank Zoraya both for her service to our ward and for her willingness to consider the voices that have made suggestions to improve the proposed Neighborhood Code. I hope that her idea of meaningful change and additional consideration of tightly linked needs (equity, stormwater, conservation) is vigorously debated and considered over the next months so that we can eventually have a improved code that increases housing options and protects our environment while sharing the impacts of increased density across ALL of Burlington - not just areas with higher density that are for the most part, lower income.

I urge all the councilors to SLOW the process so more voices can be heard and that the amendments Zoraya proposes be carefully evaluated on their merits using data and not beliefs - such a process, although it will take longer, will make sure that the result is an equitable compromise that is most likely to make housing more accessible, affordable, increase Burlington's tax base, and protect our environment. For those of us living in Ward 1, changes are intimately tied to presence of UVM and the final shape of the MOU in relation to student housing (graduate and undergraduate). These must be considered together.

If we want to maintain diverse neighborhoods in which families, single folks, and young and older people live together, we cannot inadvertently create more Buell, Isham, and Greene Streets where there are now mostly owner-occupants, families, and long-term residents. As Zoraya wrote, there's a lot right about the Neighborhood Code proposal. There's also a lot we can improve. Let's work together to make sure that improvement happens over the next few months with a new mayor and a newly elected council. Getting Neighborhood Code right matters!

On Feb 25, 2024, at 3:28 PM, Sandy Wynne <sandywynne@comcast.net> wrote:

Here are 2 photos of when I lived on N Willard.

Trick question: Which one was taken when UVM was in session and which one when it was not in session?

Sandy Wynne

From: Caryn Long <carynlongvt@gmail.com>

Sent: Sunday, February 25, 2024 9:56 AM

To: Zoraya Hightower <zhightower@burlingtonvt.gov>; Benjamin Traverse <btraverse@burlingtonvt.gov>; Sarah Carpenter

<scarpenter@burlingtonvt.gov>; gbergman@burlingtonvt.gov; megrant@burlingtonvt.gov; Joan Shannon <jshannon@burlingtontelecom.net>; Karen Paul <kpaul@burlingtonvt.gov>; adieng@burlingtonvt.gov; Mark Barlow <mbarlow@burlingtonvt.gov>; Joseph Magee <jmagee@burlingtonvt.gov>; Hannah King <hking@burlingtonvt.gov>; Tim Doherty <tdoherty@burlingtonvt.gov>; Lori Olberg <lolberg@burlingtonvt.gov>
Cc: Sandy Wynne <sandywynne@comcast.net>; Paul Bierman (he/him) <pbierman@uvm.edu>; Caryn Long <mjlongvt@gmail.com>
Subject: 11 Weston Street

Dear Councilors,

I have heard it over and over again that most students don't have cars. Every winter this back yard becomes a parking lot. UVM students on the XC running team live here this year.

Joan Shannon from the Joint Committee (City Council meeting 1/29) is on tape saying the committee developed Neighborhood Code without considering stormwater runoff or the capacity of our infrastructure to supply services to the new development. She said this is not Zoning. Neighborhood Code must be revised to include stormwater remediation and infrastructure build out before it is passed.

Code can not keep up with our current number of rental units. We need increased Code Enforcement and a body to enforce Zoning (lot coverage) before Neighborhood Code is passed.

Best,
Caryn

<image001.jpg>

<image002.jpg>

Sent from my iPhone

<Can you tell when UVM was on vacation N Willard early 2000s.jpg>

Paul Bierman, Professor

(he, him, his)
Fellow, Gund Institute for Environment
Rubenstein School of the Environment and Natural Resources
University of Vermont
Delehanty Hall, 180 Colchester Ave
Burlington, VT 05405
pbierman@uvm.edu
8022386826 (cell)
8026564411 (office)
www.uvm.edu/cosmolab
www.campcentury.org/
www.paulbierman.net

Author of

When the Ice is Gone (Norton, 2024)

Lori Olberg

From: Nicholas Persampieri <nickpersamp@yahoo.com>
Sent: Monday, February 26, 2024 9:14 AM
To: Gene Bergman; Joseph Magee; Joan Shannon; Zoraya Hightower; Mark Barlow; Melo Grant; Sarah Carpenter; Ali Dieng; Hannah King; Karen Paul; Tim Doherty; Benjamin Traverse
Cc: Lori Olberg; Mayor's Office
Subject: City Council Meeting 2/26/24; Agenda Items 9.2 & 9.3 (Neighborhood Code) and 9.4 (Climate Policy Review)

[WARNING]: This email was sent from someone outside of the City of Burlington.

Dear Councilors:

I write to request that you vote to: (1) approve the proposed Neighborhood Code, without amendments which would weaken it; and (2) reject, as written, the proposed Climate Policy Review And Next Steps For Existing Commercial And Industrial Buildings Less Than 50,000 Square Feet.

Neighborhood Code

It is important that the Council approve the Neighborhood Code for a number of reasons, including:

1. It is a needed first step toward addressing our serious housing shortage, and, in particular, the scarcity of affordable housing. There is no question that we need more housing. The bulk of it must be in multi-unit buildings. With a median sales price of \$460,000, single family homes are largely out of reach of the median Burlington household with an income of \$65,000;
2. More housing means more residents to support struggling local businesses and arts organizations, and increases the vibrancy of our City; and
3. Increasing density is key to addressing the climate crisis, and protecting the lands surrounding Burlington from the ravages of rampant, suburban sprawl. Transportation is our largest source of greenhouse gas emissions. Increased density allows more people to live in compact City neighborhoods and rely more on walking, cycling, and public transportation, rather than travel many miles to work and services in greenhouse gas emitting, personal vehicles from far flung locations that should remain as forest and agricultural land.

Climate Policy Review

The proposed resolution would require Burlington Electric and the Department of Permitting and Inspections to review and issue a final report by November on policies for reducing greenhouse gas emissions from existing commercial and industrial buildings of less than 50,000 square feet, including consideration of whether to extend the existing carbon pollution impact fee to such buildings.

It is pure folly to entrust development of Burlington's climate policy to the operator of the largest stationary source of greenhouse gas emissions in Vermont. In recent years, Burlington Electric has been responsible for development of the flawed Net Zero Energy Roadmap, which ignores entire sectors as well as non-fossil fuel sources of greenhouse gas emissions; a ballot initiative which asked voters to authorize the City to impose a fee on fossil fuel thermal energy systems but not on renewable systems, which did not describe the high carbon renewables that would not be within the fee authorization; and the carbon pollution impact fee ordinance which incentivizes use of high greenhouse gas emitting "renewable" gas, liquid biofuels and "advanced" wood heat in new construction and existing commercial and industrial buildings of 50,000 square feet or more. (Incentivizing "advanced" wood heating is also terrible from an air pollution and public health standpoint). Furthermore, in November, Burlington Electric filed a 20-year plan with the Public Utility Commission, which contains no provision for or meaningful assessment of the possibility of transitioning away from McNeil. Despite the science presented by the public throughout the course of the community debate over McNeil, the

plan asserts that McNeil is carbon neutral. We cannot entrust development of our climate policy to a Department that denies basic science.

A City department or official independent of Burlington Electric should be tasked with further development of the City's climate policies. Until such time, any study should be performed by an independent contractor, selected following input from the public and overseen by the City Council's Transportation, Energy and Utilities Committee. Further, there should be no review of the possibility of extending the flawed carbon pollution impact fee to additional buildings until the existing fee structure is fixed by extending it to all thermal energy systems and fuels that emit greenhouse gases.

Thank you for considering my views and for your service to the City.

Nick Persampieri
Ward 3
(802) 552-8410

Lori Olberg

From: rosedumas@posteo.net
Sent: Monday, February 26, 2024 2:06 PM
To: City Council
Cc: Lori Olberg
Subject: Vote for the Neighborhood Code!

[You don't often get email from rosedumas@posteo.net. Learn why this is important at <https://aka.ms/LearnAboutSenderIdentification>]

[WARNING]: This email was sent from someone outside of the City of Burlington.

Hi City Council,

It is essential that we start addressing the stark and inequitable affordable housing situation here in Burlington--please vote for the Neighborhood Code and do not dilute it into something that ends up having no real impact. Well designed, denser neighborhoods can bring diversity and resiliency to our community. As a non-car owning dweller in the Five Sisters neighborhood, I am an example of both economic and climate resiliency.

25 years ago I gave up my car after a sobering career in climate change mitigation. Since then I rely on biking, car pooling and and public transport. I chose Burlington specifically because it is trying to become a bike friendly city (shout out to Local Motion!), and because I love the vibrancy of the culture and the easy access to incredible nature. Please vote to keep this community open and friendly to all, regardless of our socio-economic status or access to cars, by supporting denser neighborhoods and corridors. It's a huge detriment to the future of Burlington to pander to the elite of single home dwellers and multiple car owners.

Thanks for hearing me out!

Rose Dumas
511 Saint Paul Street

Lori Olberg

From: Evan Gould <evanjohngould@gmail.com>
Sent: Saturday, February 24, 2024 8:15 AM
To: City Council; Lori Olberg
Subject: Parking Management Sublease Agreement with Unified Parking Partners

[WARNING]: This email was sent from someone outside of the City of Burlington.

Councilors,
Would you all consider removing this item from the consent agenda.

I think a 75k a year subsidy for parking should have some more discussion. If we don't think the demand will pay for the lease, then we should lease less spaces, or charge more. It seems like the city and public get a lot of benefit from this being parkmobile enabled, and we could still charge \$3 hr(which is cheaper than UPP and would result in 0 cost if the projections are correct).

Thanks,
Evan

Lori Olberg

From: Peter Wyman <peter.wyman@gmail.com>
Sent: Monday, February 26, 2024 2:52 PM
To: City Council
Cc: Lori Olberg
Subject: Neighborhood Code

Some people who received this message don't often get email from peter.wyman@gmail.com. [Learn why this is important](#)

[WARNING]: This email was sent from someone outside of the City of Burlington.

Dear City Council,

I'm a resident of Burlington (Ward 3), and I strongly support the Neighborhood Code. Please pass it without delay.

Sincerely,
Peter Wyman

Lori Olberg

From: Julia Randall <julia.grace.randall@gmail.com>
Sent: Monday, February 26, 2024 2:45 PM
To: City Council; Lori Olberg; Mayor's Office
Subject: Comment on Wildlife Corridors & Neighborhood Code

Some people who received this message don't often get email from julia.grace.randall@gmail.com. [Learn why this is important](#)

[WARNING]: This email was sent from someone outside of the City of Burlington.

Dear Councilors and Mr. Mayor,

As a City Planning Commissioner and member of the Joint Committee, and I have had ample opportunities to comment on this issue already, so I will keep my comments very brief:

On the topic of wildlife corridors on the East End of Colchester Ave -- I appreciate the attention to this issue, but I strongly believe that the watering down the Neighborhood Code is not the correct policy solution to apply to this problem. Design standards are the correct policy to use to address wildlife corridors -- these standards could include fencing or other permeability standards that aim to help wildlife cross properties.

Allowing more units on a lot is not necessarily a threat to wildlife crossing (think about conservation design and clustering), but high traffic absolutely is. More dense housing -- if done right -- can reduce the need for single-occupancy vehicles and reduce the number of cars on the road, making them safer for both humans and animals to navigate.

For these reasons, I am not convinced that this proposed change to the NCode will functionally protect wildlife. I urge the Council to adopt the Neighborhood Code proposal without amendments and look to use design standards for the City's streets and lots to address this important issue.

--

Julia Randall (she/her)

518-231-3666

[Julia G. Randall](#) on LinkedIn

Lori Olberg

From: Jak Tiano <jaktiano@me.com>
Sent: Monday, February 26, 2024 3:21 PM
To: City Council
Cc: Lori Olberg
Subject: Inclusionary Zoning Resolution

[You don't often get email from jaktiano@me.com. Learn why this is important at <https://aka.ms/LearnAboutSenderIdentification>]

[WARNING]: This email was sent from someone outside of the City of Burlington.

Hi Lori,

Please also add this separate communication on the Inclusionary Zoning Resolution to the public communications for tonight's meeting.

Thanks

=====

Councilors,

I wanted to make a brief recommendation on the Inclusionary Zoning Resolution that will be in front of the council tonight.

The resolution as-written I think is conflating outcomes with processes. Its goal is to increase the availability of affordable housing, but it is prescriptive in its approach of doing so by increasing PILOT fees for IZ units.

My worry is that research continues to show that IZ may actually be a net-negative policy for housing affordability when assessed holistically, and in my conversations with local middle-income developers, the existing IZ policy can be incredibly difficult to make new construction work in our current regulatory and financial environment (and even before). Dramatically increasing the IZ PILOT fees may have the unintended consequence of further cooling our pace of new housing construction (and further inflating market rate housing costs) when we need to be rapidly increasing our pace of development (see my much longer email on Neighborhood Code and the Housing Crisis for details).

The underlying goal of the resolution—of increasing the availability of affordable housing—is a goal we fundamentally share. All of my advocacy work is in service of that goal. I would ask that the resolution be re-worded to focus on that outcome of the policy assessment, and not to be prescriptive in how we get there. I think this would be a more impactful use of the Planning Commission's attention, because as written I think that they may find that the proposed solution doesn't work, and won't have any better solutions to show for their time.

-Jak Tiano, Ward 5

CITY OF BURLINGTON WARNING
March 5, 2024 ANNUAL CITY ELECTION
PUBLIC INFORMATION HEARING

A **Public Information Hearing on the Public Questions to be voted on** at the Annual City Election will be held on **Monday, February 26th, 2024** during a regularly scheduled City Council meeting that will begin at 5:00pm. The hearing will be held in Contois Auditorium, in City Hall, in Burlington, Vermont and will also be streamed via Zoom.

Please click the link below to join the webinar:

<https://zoom.us/j/99756965793>

Or Telephone: +1 646 931 3860 US

+1 929 205 6099 US (New York)

Webinar ID: 997 5696 5793

Members of the public wishing to speak remotely may sign up in advance here:

<https://www.burlingtonvt.gov/citycouncil/publicforum>.

The hearing will provide information on the following three public questions that have been placed on the ballot, the full text of which can be found posted in the City Clerk's Office and on the City's webpage <https://www.burlingtonvt.gov/CT/Copies-of-Sample-Ballots-Warnings-and-Notices>:

1. APPROVAL OF SCHOOL BUDGET FOR FISCAL YEAR 2025
2. INCREASE IN PUBLIC SAFETY TAX RATE FOR FIRE AND POLICE PURPOSES
3. CHARTER CHANGE RE: ELECTRIC DEPARTMENT

For more information, contact the Burlington Clerk/Treasurer's Office, 802-865-7000 or <http://www.burlingtonvt.gov/ContactUs>

PUBLIC HEARING NOTICE

Burlington Comprehensive Development Ordinance

Pursuant to 24 V.S.A. §4442 and §4444, notice is hereby given of a public hearing by the Burlington City Council to hear comments on the following proposed amendments to the City of Burlington's *Comprehensive Development Ordinance* (CDO):

ZA-24-02 Neighborhood Code

The public hearing will take place on **Monday, February 26, 2024 during the Regular City Council Meeting which begins at 6:00 pm in Contois Auditorium, Burlington City Hall, 149 Church Street, Burlington, VT or you may access the hearing/meeting as follows:**

On-line: <https://zoom.us/j/99756965793>

By telephone: +1 929 205 6099

Webinar ID: 997 5696 5793

Pursuant to the requirements of 24 V.S.A. §4444(b):

Statement of purpose:

The purpose of the proposed amendment is as follows:

- This amendment creates a new framework for the city's residential zoning districts that enables a range of housing types, including single-family, ADUs, duplex through four-unit developments, as well as townhouses and small multi-unit buildings in some locations. These amendments enable greater flexibility for existing homes as well as a range of housing options within neighborhoods, create new zoning standards along transportation corridors identified in *planBTV*, and comply with Act 47 of 2023 of the VT Legislature.

Geographic areas affected:

These amendments apply to the following areas of the city:

- All current residential zoning districts (RL, RL-W, RM, RM-W, and RH) within the city with additional changes to expand the residential districts into the following adjacent parcels:
 - 60 Austin Drive (057-2-112-000)
 - 2076 North Avenue (021-2-052-000)

List of section headings affected:

The proposed amendments modify the following sections of the *Burlington Comprehensive Development Ordinance*:

- Sec. 4.3.1 Base Districts Established, Map 4.3.1-1 Base Zoning Districts;
- Sec. 4.3.2 Overlay Districts Established;
- Sec. 4.4.3, Enterprise Districts, Map 4.4.3-1 Enterprise Districts;
- Sec. 4.4.5 Residential Districts; Map 4.4.5-1 Residential Zoning Districts; Tables 4.4.5-1, Minimum Lot Size and Frontage: RL, RL-W, RM and RM-W; Table 4.4.5-2, Base Residential Density; 4.4.5-3, Residential District Dimensional Standards; 4.4.5-5, Senior

Housing Bonus; 4.4.5-7, Residential Conversion Bonus; 4.4.5-8, Maximum Density, Lot Coverage and Building Heights with Bonuses;

- Map 4.4.6-1, Recreation, Conservation and Open Space Districts;
- Sec. 4.5.1, Design Review Overlay District; Map 4.5.1-1; Design Review Overlay;
- Sec. 4.5.3, RH Density Bonus Overlay District and Map 4.5.3-1: RH Density Bonus Overlay
- Sec. 4.5.4, Natural Resource Protection Overlay (NR) District; Map 4.5.4-1 Natural Resource Overlay District;
- Map 4.5.5-1, RL Larger Lot Overlay;
- Sec. 4.5.6, Mouth of the River Overlay District and Map 4.5.6-1, Mouth of River Overlay;
- Sec. 4.5.7, Centennial Woods Overlay District and Map 4.5.7-1, Centennial Woods Overlay;
- Sec. 4.5.8, South End Innovation District Overlay, including Tables 4.5.8-1, 2 & 3, and Maps 4.5.8-1 and 4.5.8-2.
- Sec. 5.2.1, Existing Small Lots;
- Sec. 5.2.4 (a) Buildable Area Calculation;
- Sec. 5.2.5 (b), Exceptions to Yard Setbacks Requirements;
- Sec. 5.3.4, Nonconforming Uses;
- Sec. 5.4.8, Historic Buildings and Sites;
- Sec 5.4.12, Mobile Home Parks;
- 6.2.2 (h) Design Review- Building Location and Orientation;
- Sec. 6.3.2 (a), Relate development to its environment, and 6.3.2(a) 1. Architectural Review- Massing, Height and Scale;
- Sec. 11.1.3 (PUD) General Requirements and Applicability and 11.1.4 (PUD) Modification of Requirements.;
- Article 13- Definitions;
- Appendix A- Use Table

The full text of the *Burlington Comprehensive Development Ordinance* is available online at www.burlingtonvt.gov/DPI/CDO. Upon request, a hard copy of the proposed amendments can be viewed at the Clerk's Office located on the second floor of City Hall, 149 Church Street, Burlington, Monday through Friday 8:00 a.m. to 4:30 p.m. or online at <https://www.burlingtonvt.gov/DPI/CDO/Amendments>.

CITY OF BURLINGTON

ORDINANCE

Sponsor: Office of City Planning,
Planning Commission, Council
Ordinance Committee

In the Year Two Thousand Twenty-Four

An Ordinance in Relation to

COMPREHENSIVE DEVELOPMENT ORDINANCE
ZA-24-02 Neighborhood Code, Part 1

Public Hearing Dates: _____

First reading: 1/29/24

Referred to: _____

Rules suspended and placed in all
stages of passage: _____

Second reading: _____

Action: _____

Date: _____

Signed by Mayor: _____

Published: _____

Effective: _____

It is hereby Ordained by the City Council of the City of Burlington as follows:

1 That Appendix A, Burlington Comprehensive Development Ordinance, of the Code of Ordinances of the
2 City of Burlington be and hereby is amended by amending Sec. 4.3.1 Base Districts Established; Map 4.3.1-1
3 Base Zoning Districts; Sec. 4.3.2 Overlay Districts Established; Map 4.4.3-1 Enterprise Districts; replaces
4 the entirety of Sec. 4.4.5 Residential Districts; Map 4.4.5-1 Residential Zoning Districts; replaces Tables
5 4.4.5-1, 4.4.5-2, 4.4.5-3, 4.4.5-5, 4.4.5-7, and 4.4.5-8 with new Tables 4.4.5-1 through 4.4.5-6; Map 4.4.6-1
6 Recreation, Conservation and Open Space Districts; Sec. 4.5.1 (b) Design Review Areas Covered; deletes
7 Sec. 4.5.3 RH Density Bonus Overlay District and Map 4.5.3-1; deletes Sec. 4.5.5 RL Larger Lot Overlay
8 District and Map 4.5.5-1; rennumbers Sec. 4.5.4 Natural Resource Protection Overlay (NR) District and Map
9 4.5.4-1 and updates internal references within this and other Sections with new numbering; rennumbers Sec.
10 4.5.6 Mouth of the River Overlay District and Map 4.5.6-1 and updates internal references within this and
11 other Sections with new numbering; rennumbers Sec. 4.5.7 Centennial Woods Overlay District and Map
12 4.5.7-1 and updates internal references within this and other Sections with new numbering; and rennumbers
13 Sec. 4.5.8 South End Innovation District and Maps 4.5.8-1 and 4.5.8-2 and updates internal references within
14 this and other Sections with new numbering; deletes standards associated with Sec. 5.2.1 Existing Small
15 Lots, and replaces it with a reserved section header; amends Sec. 5.2.4 (a) Buildable Area Calculation;
16 amends Sec. 5.2.5 (b) 7.; amends internal references to Sec. 4.4.5 and Article 4, Part 5 within Sec. 5.3.4, Sec.
17 5.4.8, and Sec 5.4.12 to be consistent with new section numbering; amends Sec. 6.2.2 (h) Design Review-
18 Building Location and Orientation; amends Sec. 6.3.2 (a) 1. Architectural Review- Massing, Height and
19 Scale; amends Sec. 11.1.3 and 11.1.4 regarding standards for Planned Unit Development; amends Article 13-
20 Definitions; and amends Appendix A- Use Table thereof to read as follows:

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Article 4: Zoning Maps and Districts**PART 3: ZONING DISTRICTS ESTABLISHED****Sec. 4.3.1 Base Districts Established**

The following zoning districts are hereby established as illustrated in Map 4.3.1-1 and further described in Part 4 below.

(a) - (d) *As Written.*

(e) A series of ~~five (5)~~four (4) **Residential** districts: (*see Sec. 4.4.5*)

- Residential Corridor (RC);
- Residential High ~~Density~~ Intensity Residential (RH);
- Residential Medium ~~Density~~ Intensity Residential (RM); and
- ~~Medium Density Residential Waterfront (RM-W);~~
- Residential Low ~~Density~~ Intensity (RL); and;
- ~~Residential Low Density Waterfront (RL-W);~~

(f) - (g) *As Written.*

Sec. 4.3.2 Overlay Districts Established

Overlay districts are overlaid upon the base districts established above, and modify certain specified development requirements and standards of the underlying base district. Properties within an Overlay District may be used and developed in a manner permitted in the underlying district only if and to the extent such use or alteration is permitted as may be modified by the applicable overlay district. The following districts are established as overlay districts as further described in Part 5 below:

(a) - (b) *As Written.*

~~(c) An RH Density Bonus Overlay (RHDB) district;~~

(c) (d)—A series of four (4) **Natural Resource Protection Overlay (NR)** districts, as follows:

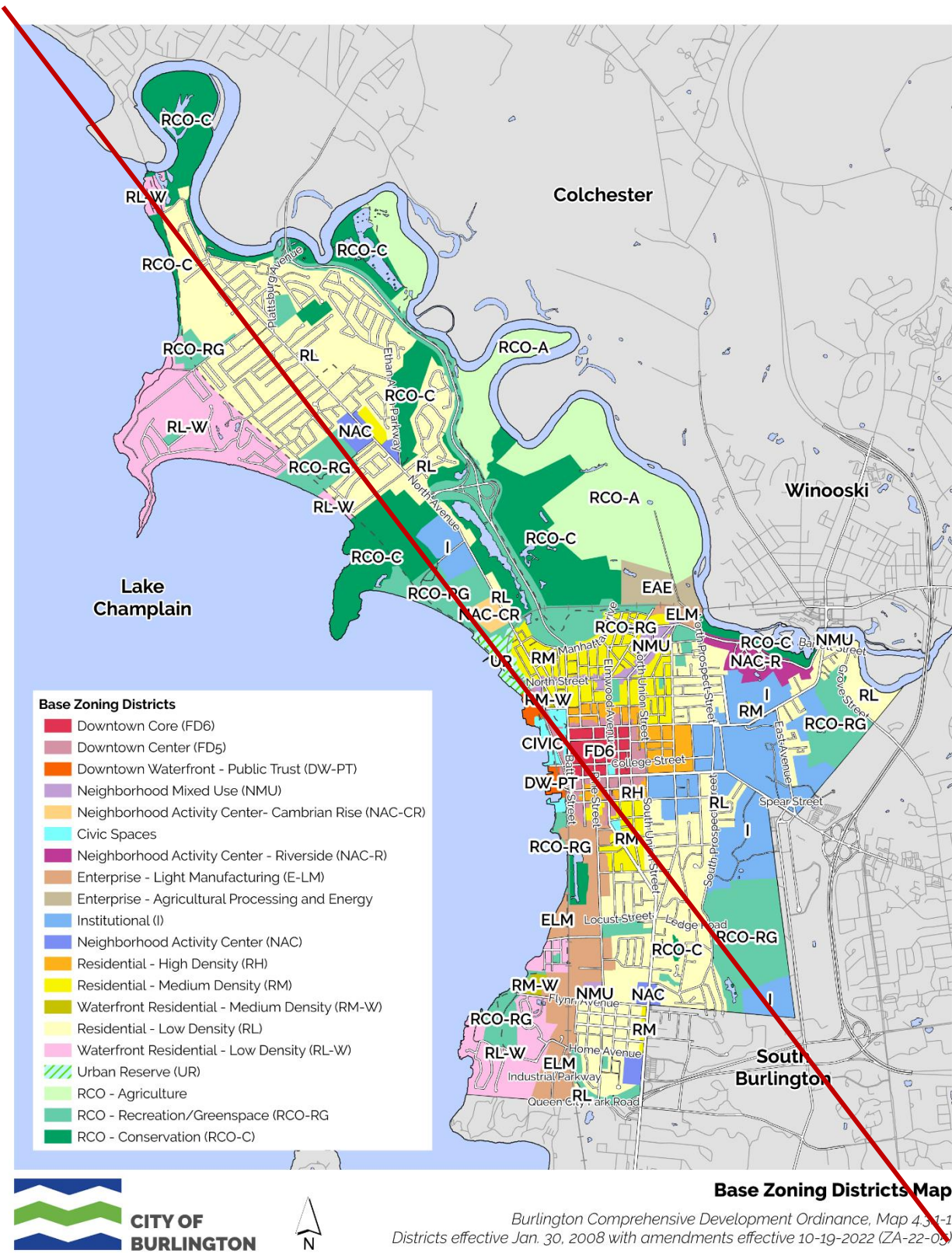
- Riparian and Littoral Conservation Zone;
- Wetland Protection Zone;
- Natural Areas Zone; and
- Special Flood Hazard Area;

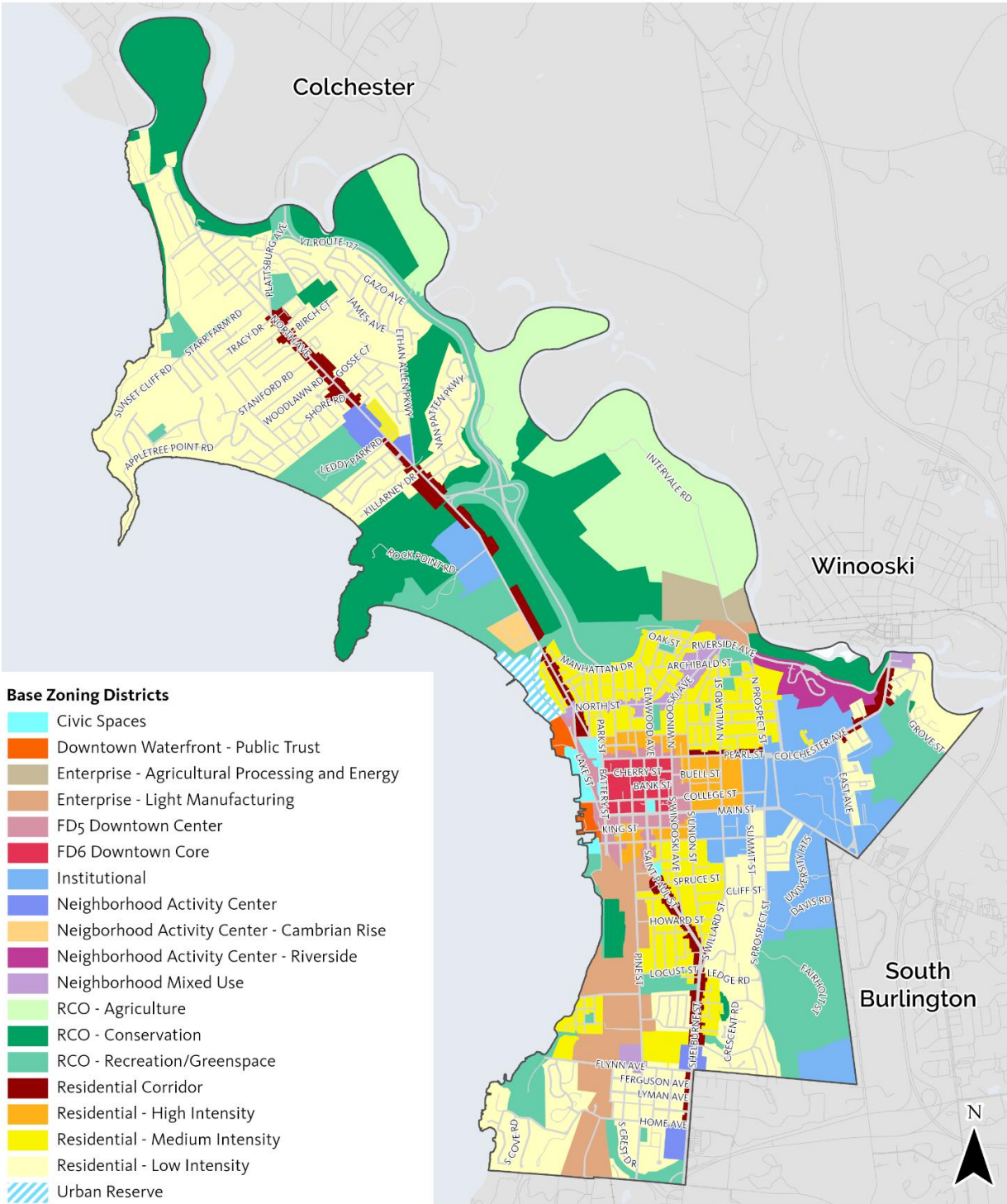
~~(e) A RL Larger Lot Overlay (RLLL) district;~~

(d) (f)—A **Mouth of the River Overlay (MOR)** district; ~~and;~~

(e) (g)—A **Centennial Woods Overlay (CWO)** district; and.

(f) A South End Innovation District Overlay.





Map 4.3.1-1 Base Zoning Districts

*Burlington Comprehensive Development Ordinance
Districts effective Jan. 30, 2008*

Map 4.3.1-1 Base Zoning Districts

PART 4: BASE ZONING DISTRICT REGULATIONS

Sec. 4.4.3 Enterprise Districts

(a) As Written.

(b) Dimensional Standards and Density As Written.

Table 4.4.3 -1 Dimensional Standards and Density

Districts	Max. Intensity (floor area ratio ^{1, 4})	Max. Lot Coverage ^{1, 4}	Minimum Building Setbacks ^{1, 4} (feet)			Max. Height ^{1, 4} (feet)
			Front	Side	Rear ³	
Light Manufacturing	2.0 FAR	80%	5 min	0 ²	10% ²	45'
Agricultural Processing and Energy	0.75 FAR	60%	10 min	10 min	10 min	45'

1 – 3 As written.

4 – Maximum intensity, lot coverage, setbacks and building height in portions of the E-LM district are modified by provisions of the South End Innovation District overlay (~~E~~-SEID) in Sec. 4.5.~~68~~.

(c) Permitted and Conditional Uses:

1. - 2. As Written.
3. Uses that may be permitted, or conditionally permitted within the South End Innovation District overlay (SEID) are identified on Table ~~4.5.8-3~~ 4.5.6-3.

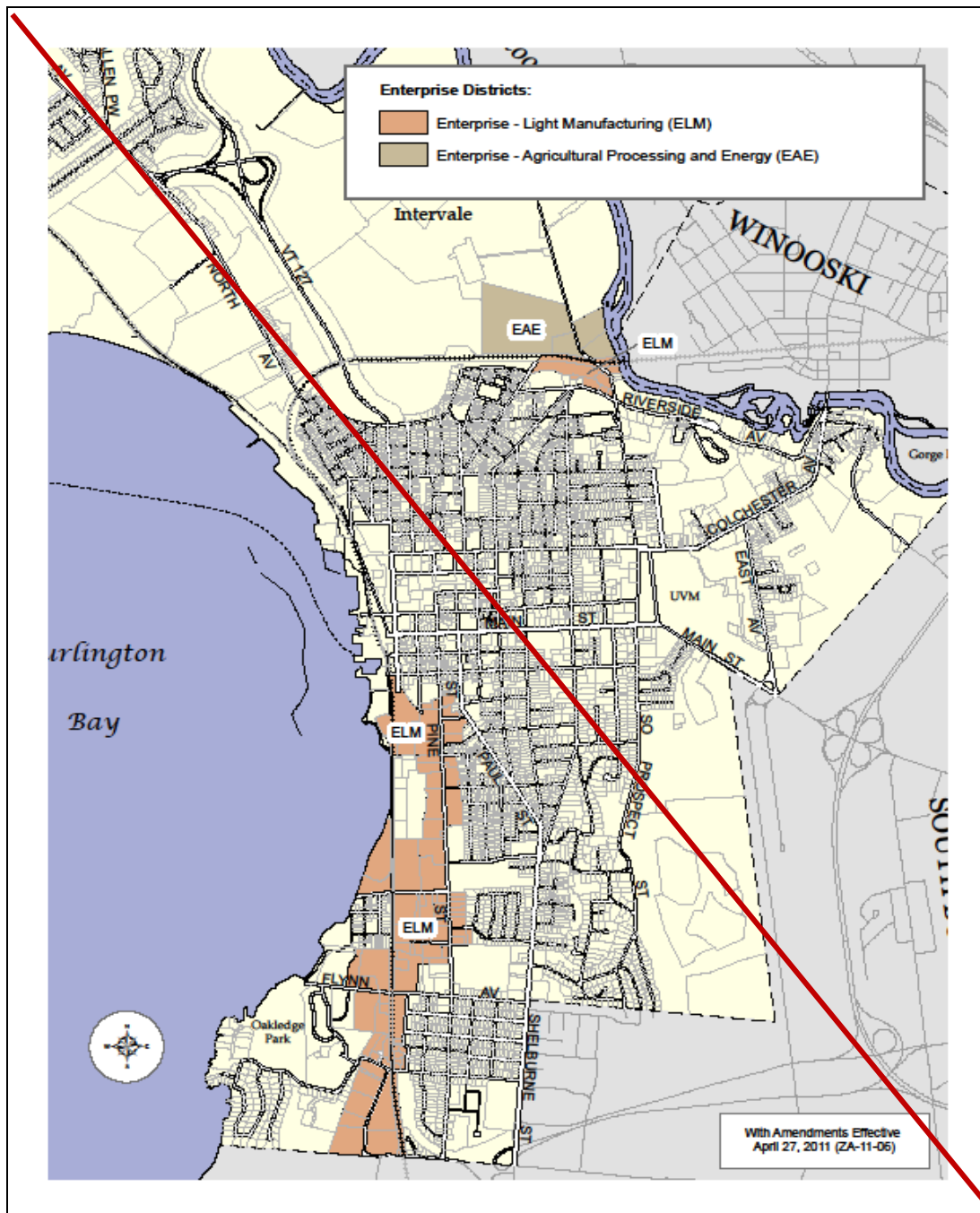
(d) District Specific Regulations

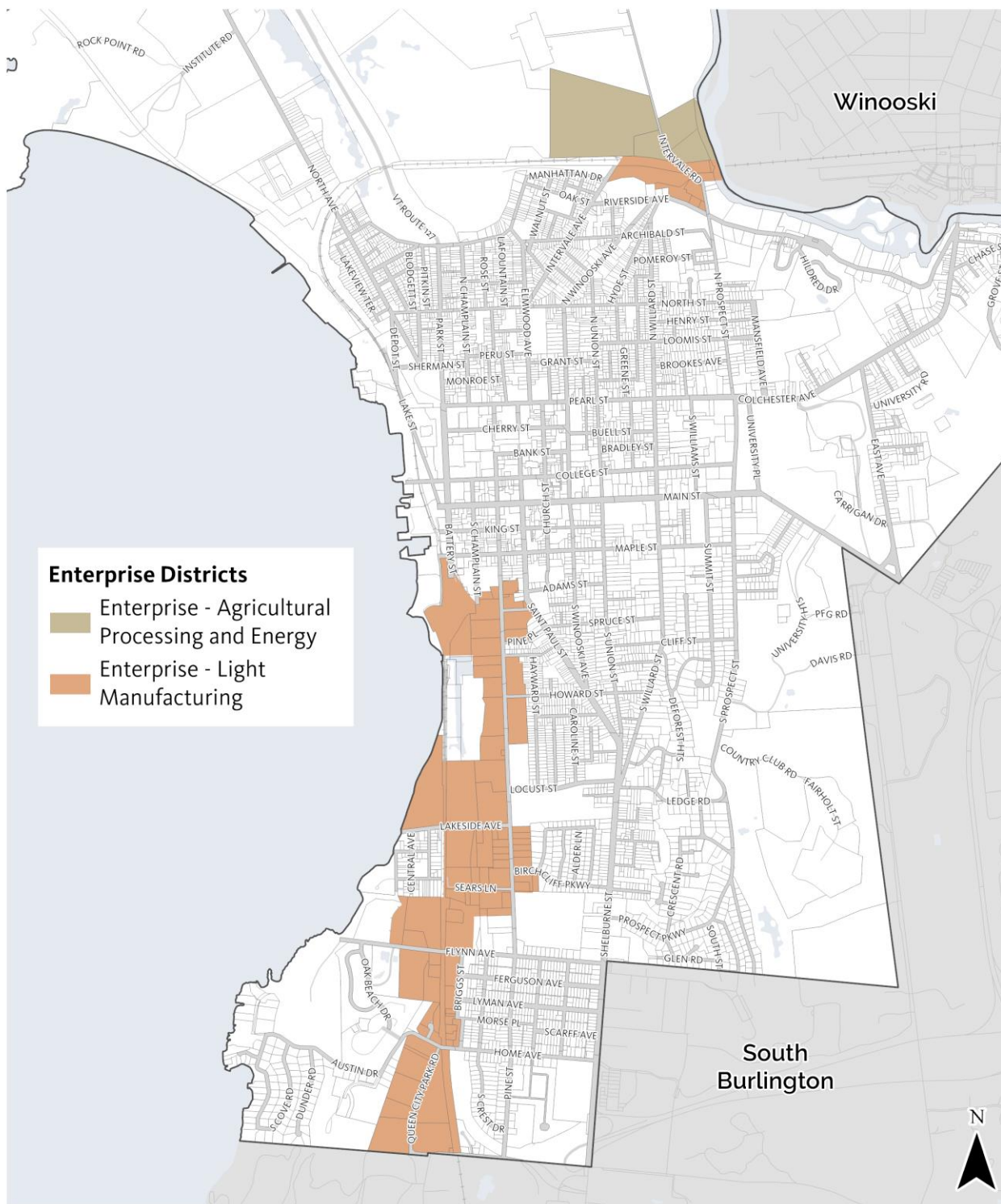
1. Convenience Stores

The following shall apply to the review and approval of convenience stores in the E-LM district, except as regulated in Sec. 4.5.~~68~~: South End Innovation District, in addition to the provisions for the review of Conditional Uses under Art. 3 and General Regulations for convenience stores under Art 5:

A. - E. As Written

2. Drive Thrus are not permitted.





Map 4.4.3-1 Enterprise Districts

*Burlington Comprehensive Development Ordinance
Districts effective Jan. 30, 2008*

Map 4.4.3-1 Enterprise Districts

Sec. 4.4.5 Residential Districts

(a) Purpose:

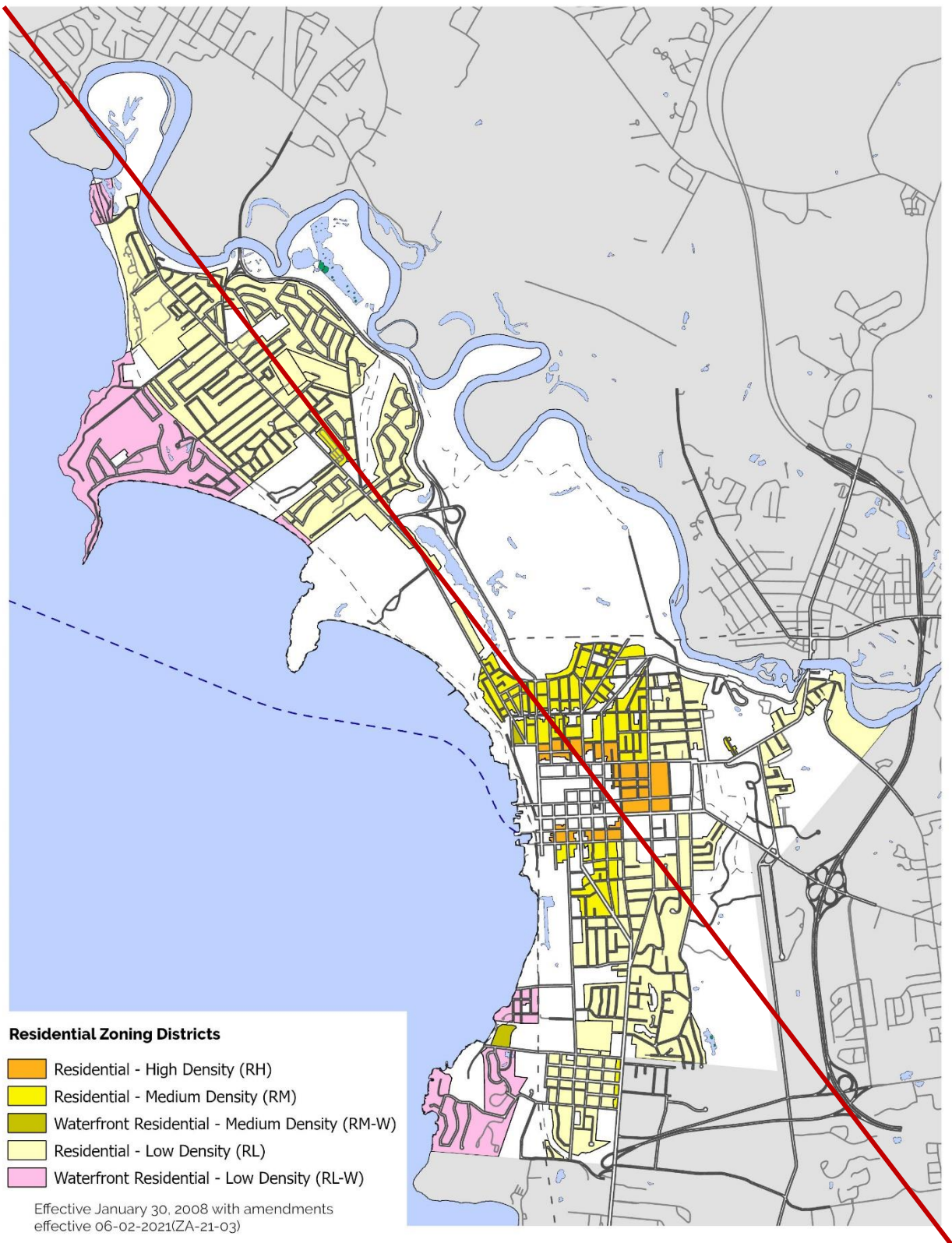
The Residential Districts are intended to control development in residential districts in order to create a safe, livable, and pedestrian friendly environment, while enabling neighborhoods to evolve to meet the changing needs of households and the economy, and as a result of the climate emergency. They are also intended to create an inviting streetscape for residents and visitors. Development that places emphasis on architectural details and form is encouraged, where primary buildings and entrances are oriented to the sidewalk, and new buildings are interspersed within a wide range of historic development patterns are reinforced across the city. Parking shall be placed either behind, within, or to the side of structures, as is consistent with the district and/or the neighborhood and b. Building facades designed for parking shall be secondary to the residential aspect of a structure.

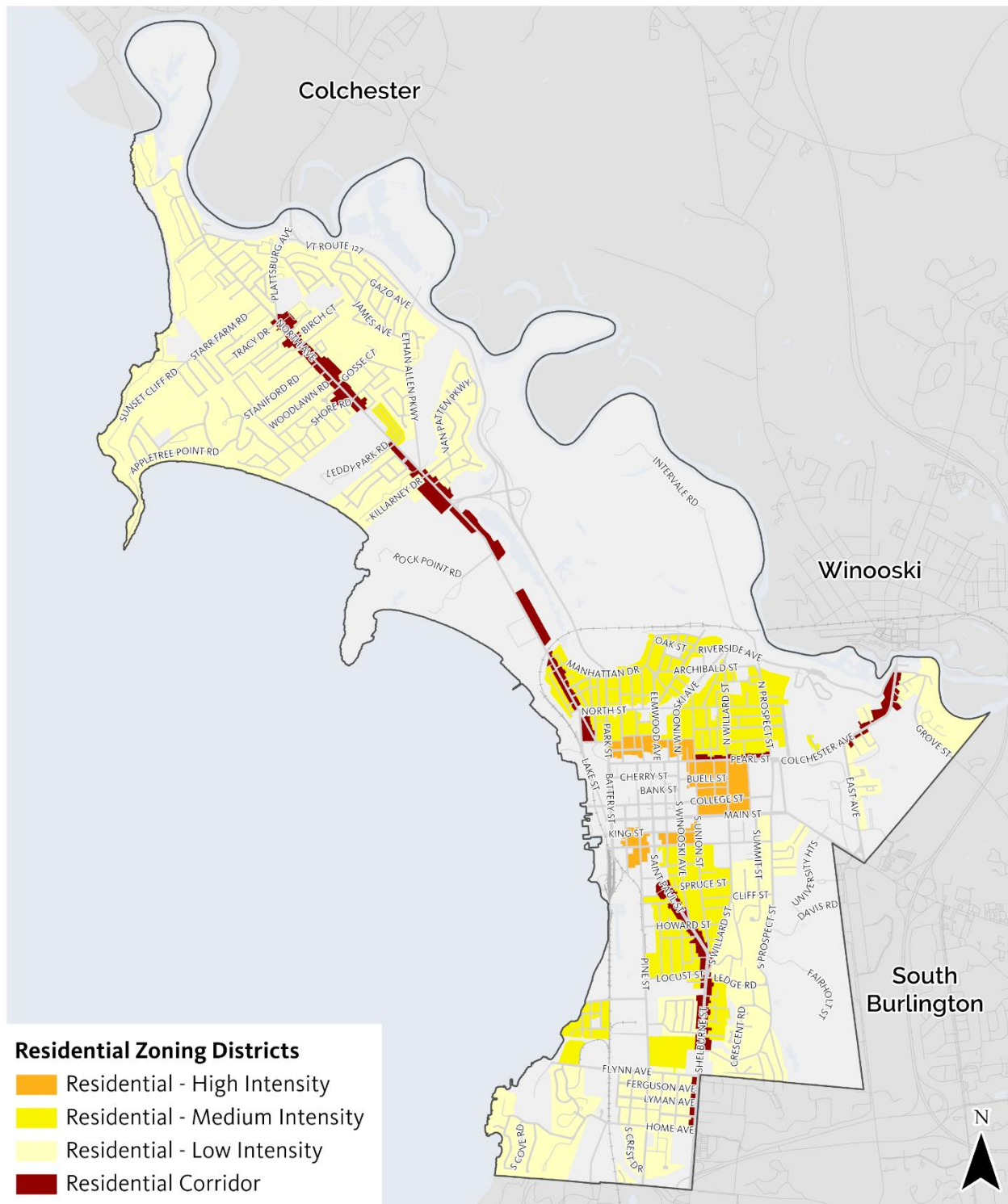
The ~~5~~ Residential districts as illustrated in Map 4.4.5-1 are further described as follows:

1. The **Residential Lower Density Intensity (Residential Low, RL)** district is intended primarily for ~~low density~~ residential development that includes a mix of housing types such as in the form of single detached dwellings, with or without accessory dwelling units, and duplexes, triplexes and quadplex. ~~This district is typically characterized by a~~ organized in a compact and cohesive neighborhood-scale that complements residential development pattern reflective of the respective neighborhoods' development and open space history patterns. Building heights typically vary from one to two and half stories, and development generally results in lower lot coverage than in other residential districts. Limited commercial uses take the form of home-based businesses and the adaptive reuse of historic buildings as neighborhood-serving uses.
2. The ~~Waterfront Residential Low Density (RL-W)~~ district is intended primarily for low density residential development in the form of single detached dwellings and duplexes. This district is typically characterized by a ~~compact and cohesive residential development pattern reflective of the respective neighborhoods' development history.~~ This district is distinguished from the Residential Low Density district by its proximity to Lake Champlain, and a greater consideration needed for views from the lake and stormwater runoff.
- 3.2. The **Residential Medium Density Intensity (Residential Medium, RM)** district is intended ~~primarily~~ for ~~medium density~~ residential development that includes a mix of housing types such as in the form of single-family detached dwellings, with or without accessory dwelling units, duplex, triplex, quadplex, and attached multi-family unit apartments buildings in compact, walkable neighborhoods. Building heights typically range from two to three stories, and development generally results in moderately higher lot coverage as compared to the RL district. Neighborhoods within this district are typically walkable to downtown or other mixed-use areas of the city, and commercial uses within the district take the form of home-based businesses and the adaptive reuse of historic buildings for neighborhood-serving uses.
4. The ~~Waterfront Residential Medium Density (RM-W)~~ district is intended primarily for medium density residential development in the form of single family detached dwellings and attached multi-family apartments. This district is distinguished from the Residential Medium Density district by its proximity to Lake Champlain, and a greater consideration needed for views from the lake and stormwater runoff.
3. The **Residential High Density Intensity (Residential High, RH)** district is intended ~~primarily~~ for residential development that includes a mix of housing types such as duplex, triplex, quadplex, townhouse, and mid-sized and larger high density attached multi-family unit buildings residential development. Single-family detached dwellings are limited to buildings originally built for such purpose. Development is intended to be more intense than other residential areas, with building heights ranging from two to three and a half stories, high lot coverage, large buildings, and buildings placed close to the street and each other together on small lots. ~~Parking is intended to be hidden either behind or underneath structures.~~ Neighborhoods within this district are typically immediately adjacent to downtown and the institutions, and commercial uses within the district take the form of home-based businesses and the adaptive reuse of historic buildings for neighborhood-serving uses.

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5.4. The **Residential Corridor (RC)** district is intended for residential development that includes a mix of housing types such as duplex, triplex, quadplex, townhouse, and mid-sized, multi-unit and mixed-use buildings along major multi-modal transportation corridors that are adjacent to low intensity districts. Single-family detached dwellings are limited to buildings originally built for such purpose. New and infill development may be located closer to the street than historic development patterns, with building heights ranging from two to three and a half stories and high lot coverage. Neighborhood-serving commercial uses may be incorporated in existing or new buildings.





Map 4.4.5-1 Residential Zoning Districts

*Burlington Comprehensive Development Ordinance, Map 4.4.5-1
Districts effective Jan. 30, 2008*

Map 4.4.5-1 Residential Zoning Districts

(b) **Dimensional Standards and Density**

The ~~density and~~ intensity of development, dimensions of building lots, the heights of buildings and their setbacks from property boundary lines, and the limits on lot coverage shall be governed by the following standards:

Table 4.4.5-1: Minimum Lot Size and Frontage: RL, RL-W, RM and RM-W²

	Lot Frontage ¹		Lot Size	
Use	(linear feet)		(square feet)	
	RL,WRL	RM,WRM	RL, WRL ³	RM, WRM
Single detached dwelling	Min: 60 ²	Min: 30 ²	Min: 6,000	NA
Duplex and above			Min: 10,000	
1.— The DRB may adjust the frontage requirements for lots fronting on cul-de sacs, multiple streets, or corner lots reflecting the existing neighborhood pattern on each respective street. 2.— There are no minimum lot size or frontage requirements in the RH District. 3.— Exception: Larger minimum lot size in RL and WRL larger lot overlay district; refer to Section 4.5.5 & Table 5.5-1.				

Table 4.4.5-2: Base Residential Density

District	Maximum dwelling units per acre ¹
Low Density: RL, RL-W	7 units/acre
Medium Density: RM, RM-W	20 units/acre
High Density: RH	40 units/acre
Inclusive of new streets but exclusive of existing streets, and without bonuses or any Inclusionary Zoning allowances.	

Table 4.4.5-3: Residential District Dimensional Standards

Zoning District	Max. Lot Coverage ¹	Setbacks ^{1, 3, 4, 5, 6}				Max. Height ¹
		Front ²	Side ³	Rear	Waterfront	
RL; WRL	35%	Min/Max: Ave. of 2 adjacent lots on both sides ± 5 feet	Min: 10% of lot width Or ave. of side yard setback of 2 adjacent lots on both sides Max required: 20 feet	Min: 25% of lot depth but in no event less than 20 ² Max required: 75 feet	Min: 75' feet from the ordinary high water mark of Lake Champlain and the Winooski River	35 feet

Table 4.4.5-3: Residential District Dimensional Standards

Zoning District	Max. Lot Coverage ¹	Setbacks ^{1, 3, 4, 5, 6}				Max. Height ¹
		Front ²	Side ³	Rear	Waterfront	
RM	40%	Min/Max: Ave of 2 adjacent lots on both sides +/- 5 feet	Min: 10% of lot width Or ave. of side yard setback of 2 adjacent lots on both sides Max required: 20 feet	Min: 25% of lot depth but in no event less than 20' Max required: 75 feet	NA	35 feet
WRM	60%	Min/Max: Ave of 2 adjacent lots on both sides +/- 5 feet	Min: 10% of lot width Or ave. of side yard setback of 2 adjacent lots on both sides Max required: 20 feet	Min: 25% of lot depth but in no event less than 20' Max required: 75 feet	Min: 75' feet from the ordinary high water mark of Lake Champlain and the Winooski River	35 feet
RH	80%	Min/Max: Ave of 2 adjacent lots on both sides +/- 5 feet	Min: 10% of lot width Or ave. of side yard setback of 2 adjacent lots on both sides Max required: 20 feet	Min: 25% of lot depth but in no event less than 20' Max required: 75 feet	NA	35 feet
1. An additional ten per cent (10%) lot coverage may be permitted for accessory residential features per (d)3A below. Measurement of and exceptions to coverage, setback, and height standards are found in Art 5. 2. Average front yard setback of the principal structures on the 2 adjacent lots on both sides within the same block having the same street frontage. See Sec. 5.2.4. 3. In no event shall the side yard setback be required to exceed 20 feet, or the rear yard setback be required to exceed 75 feet. 4. Additional setbacks from the lakeshore and other water features may be applicable per the requirements of the Sec 4.5.4 Riparian and Littoral Conservation Overlay Zone. 5. The side yard setback shall be calculated based on the 4 adjacent properties (2 on each side of the subject property). The right side yard setback is the average of the right side yard setback of the principal structures on these 4 properties. The left yard setback is the average of the left side yard setback of the principal structures on these 4 properties. The adjacent properties shall be within the same block having the same street frontage as the subject property. See Sec. 5.2.5. 6. Where there are fewer than 2 adjacent lots on both sides within the same block having the same street frontage, the average side yard setback shall be calculated from the fewer number of lots. Where there are no adjacent lots, the setback shall be 10% of the lot width. 7. For properties in the WRL and WRM zones with frontage along Lake Champlain or the Winooski River, the front yard setback shall not be required to exceed 50 feet in any event.						

Table 4.4.5-1 Lot Size, Frontage, Setback, and Lot Coverage Standards in Residential Districts

<u>District</u>	<u>Min. Lot Frontage^{2,3,4} (linear feet)</u>	<u>Setbacks^{1,6,7,8,9}</u>			<u>Lot Coverage^{1,10}</u>
		<u>Front</u>	<u>Side</u>	<u>Rear</u>	
<u>Residential Low (RL)</u>	<u>30'</u>	<u>Min: Avg. of front setback 2 adjacent lots on both sides +/- 5 feet</u> <u>Max required: 25 ft</u>	<u>Min: 10% of lot width or avg. of side setback of 2 adjacent lots on both sides</u> <u>Max required: 20 ft</u>	<u>20 ft.</u>	<u>45%</u>
<u>Residential Medium (RM)</u>				<u>15 ft.</u>	<u>60%</u>
<u>Residential High (RH)</u>	<u>N/A</u>				<u>80%</u>
<u>Residential Corridor (RC)</u>	<u>N/A</u>	<u>Min required: 5 ft</u> <u>Max permitted: 20 ft</u>			<u>80%</u>

1. Details regarding the measurement of and exceptions to coverage and setback standards are found in Art 5.
2. The DRB may reduce the frontage requirements for lots fronting on cul-de-sacs, multiple streets, or corner lots to more closely reflect an existing neighborhood pattern.
3. Exceptions to frontage requirements for flag lots and small lot subdivisions are found in Sec. 5.2.2
4. For lots in RL or RM with more than two primary buildings, the minimum lot frontage shall be 45'.
5. Average setback for front and side setbacks are calculated based on 4 adjacent lots, two on each side within the same block and on lots with the same frontage requirements. For the purposes of determining the required front setback only, among the comparative sample of four neighboring properties, one may be removed from the averaging calculation.
6. Where there are fewer than 2 adjacent lots on both sides within the same block having the same street frontage, the average side yard setback shall be calculated from the fewer number of lots. Where there are no adjacent lots, the side setback shall be 10% of the lot width. Refer to Sec. 5.2.5 for additional details.
7. A 75 ft setback shall be required from the ordinary high water mark of Lake Champlain and the Winooski River. Additional setbacks from the lakeshore and other water features may be applicable per the requirements of Sec 4.5.3 Riparian and Littoral Conservation Overlay Zone.
8. For properties in the RL and RM zones with frontage along Lake Champlain or the Winooski River, the front yard setback shall not be required to exceed 50 feet.
9. An additional ten per cent (10%) lot coverage may be permitted for accessory residential features per (d) 3A below.

Table 4.4.5-2 Principal & Secondary Structures Massing and Placement Standards in Residential Districts

<u>District</u>	<u>Max Height & Stories^{1,3}</u>	<u>Max Dwelling Units per Structure^{2,3,4}</u>	<u>Max. Principal Structure Footprint³</u>	<u>Max. Secondary Structure Footprint³</u>	<u>Max Building face before providing offset⁵</u>	<u>Min. Distance between Structures on same lot</u>
<u>Residential Low (RL)</u>	<u>35'</u> <u>3 stories</u>	<u>4</u>	<u>1,800 sq.ft</u>	<u>1,100 sq.ft.</u>	<u>50'</u>	<u>15'</u>
<u>Residential Medium (RM)</u>	<u>35'</u> <u>3 stories</u>	<u>6</u>	<u>1,800 sq.ft.</u>	<u>900 sq.ft.</u>		
<u>Residential High (RH)</u>	<u>50'</u> <u>4 stories</u>	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>		

<u>Residential Corridor (RC)</u>			<u>3,600 sq.ft.</u>	<u>N/A</u>		
<u>1. Details regarding the measurement of and exceptions to height limits are found in Art 5.</u> <u>2. Minimum dwelling unit size is 350 sq.ft.</u> <u>3. Within RL and RM zones, lots may have up to one (1) Principal and one (1) Secondary structure per lot, except as may otherwise be allowed by Article 11.</u> <u>4. Within the RM district, a maximum of six (6) dwelling units are permitted in a Principal structure, and a maximum of four (4) units are permitted in a Secondary structure.</u> <u>5. Required on all building faces. Minimum offset is 5 ft measured perpendicular to the building face in excess of 50 ft.</u>						

(c) Permitted and Conditional Uses:

The principal land uses that may be permitted, or conditionally permitted pursuant to the requirements of Article 3, within the Residential districts shall be as defined in Appendix A – Use Table and as may be modified by district specific regulations in Sec. 4.4.5 (d).

(d) District Specific Regulations:

The following regulations are district-specific exceptions, bonuses, and standards unique to the residential districts. They are in addition to, or may modify, city-wide standards as provided in Article 5 of this ordinance and district standards as provided above.

1. Additional Residential Development -Permitted

In addition to any applicable development permitted according to Article 11- Planned Unit Development, the following additional development types and intensities shall be allowed within the Residential Districts, subject to the following standards.

A. Reserved**Table 4.4.5-3 Reserved****B. Residential Development Bonuses**

The following exceptions to maximum allowable residential standards in Tables 4.4.5-1 and 4.4.5-2 may be approved in any combination subject to the maximum limits set forth in Table 4.4.5-6 at the discretion of the DRB. Any bonuses that are given pursuant to this ordinance now or in the future shall be regarded as an exception to the limits otherwise applicable.

(i) Senior Housing Bonus

Residential development in excess of the limits set forth in Tables 4.4.5-1 and 4.4.5-2 may be permitted by the DRB for senior housing provided the following conditions are met:

- a) No less than twenty-five (25) per cent of the total number of units shall be reserved for low-moderate income households as defined by state or federal guidelines, including no less than ten (10) percent reserved for low-income households. (Projects taking advantage of this bonus are exempt from the Inclusionary Zoning requirements of Article 9, Part 1.);
- b) The proposal shall be subject to the design review provisions of Art. 6;
- c) A maximum of an additional 10-feet of building height may be permitted in the RH District; and,
- d) Lot coverage and residential densities shall not exceed the following:

Table 4.4.5-4: Senior Housing Bonus

<u>District</u>	<u>Maximum Coverage</u>	<u>Maximum Density</u>
<u>RL</u>	<u>44%</u>	<u>20 du/ac</u>
<u>RM</u>	<u>48%</u>	<u>40 du/ac</u>
<u>RH</u>	<u>92%</u>	<u>80 du/ac</u>

(ii) Residential Conversion Bonus

Development in excess of the limits set forth in Tables 4.4.5-1 and 4.4.5-2 may be permitted by the DRB subject to conditional use review for the conversion of an existing non-conforming nonresidential principal use to a conforming residential use subject to all of the following conditions:

a) Lot coverage and residential densities shall not exceed the following:

Table 4.4.5-5: Residential Conversion Bonus

<u>District</u>	<u>Maximum Coverage</u>	<u>Maximum Density</u>
<u>RL</u>	<u>50%</u> <u>(62% with</u> <u>inclusionary</u> <u>allowance)</u>	<u>8 du/ac</u> <u>(8.75 with inclusionary</u> <u>allowance)</u>
<u>RM</u>	<u>60%</u> <u>(72% with</u> <u>inclusionary</u> <u>allowance)</u>	<u>30 du/ac</u> <u>(37.5 with inclusionary</u> <u>allowance)</u>
<u>RH</u>	<u>80%</u> <u>(92% with</u> <u>inclusionary</u> <u>allowance)</u>	<u>60 du/ac</u> <u>(69 with inclusionary</u> <u>allowance)</u>

(iii) Limitations on Residential Development Bonuses:

For projects where the conditions of more than one applicable bonus listed above and under Sec.5.4.8 (e) are met, the applicant may use the most permissive exemption to the underlying lot coverage or residential intensities applicable.

In no case shall any development bonuses and allowances granted, either individually or in combination, enable a building to exceed the maximum density, lot coverage and building height permitted in any district as defined below:

Table 4.4.5-6: Maximum Intensity, Lot Coverage and Building Heights with Bonuses

<u>District</u>	<u>Maximum Density*</u>	<u>Maximum Height</u>	<u>Maximum Lot Coverage*</u>
<u>RH</u>	<u>80 du/ac</u>	<u>45-feet</u>	<u>92%</u>
<u>RM</u>	<u>40 du/ac</u>	<u>35-feet</u>	<u>72%</u>
<u>RL</u>	<u>20 du/ac</u>	<u>35-feet</u>	<u>62%</u>

*- or 125% of the pre-application gross floor area or coverage of the qualifying principal building as may be applicable per Table 5.4.8-1 Historic Building Rehabilitation Bonus

2. Exceptions to Dimensional Standards**A. Encroachment into Side Setback for Residential Driveways**

For purposes of enabling narrow or flag lots to create a driveway to provide a maximum of two tandem parking spaces, or to access a parking area behind a principal structure, driveways may encroach into a required side setback

up to the property line. The maximum waiver from the side setback shall be the minimum necessary for the purposes of creating such a driveway or access to parking spaces. Applications for such waiver shall demonstrate that there will be no undue adverse impact on drainage, safety, light, and air, nor encroachment into a neighboring side yard. With such approval, the lot shall not be considered nonconforming due to the decreased setback.

B. Encroachment into the Waterfront Setback.

The following exceptions to the required waterfront setback for Lake Champlain and the Winooski River established under Sec. 4.5.4:

(i) Replacement of Existing Structure

Replacement of a conforming principle structure existing as of the effective date hereof, may encroach into the required setback provided the replacement does not increase the area or extent of the encroachment more than the existing structure.

(ii) Averaging of Setbacks of Existing Structures

If the setback from the waterfront of existing principal structures within one hundred fifty (150) feet on either or both sides of a subject lot is less than the minimum required setback, the setback for the subject lot may be reduced to the average setback of such neighboring structures.

C. Exceptions to Lot Coverage for Accessory Residential Features

In addition to lot coverage exemptions in Sec. 5.2.3(b), within the RL and RM districts, an additional ten (10) per cent of lot coverage above the otherwise applicable limit may be permitted for the following amenity features accessory to residential uses provided that such features shall at no time be enclosed:

(i) Decks;

(ii) Patios;

(iii) Porches;

(iv) Terraces;

(v) Tennis or other outdoor game courts;

(vi) Swimming pool aprons;

(vii) Walkways;

(viii) Window Wells; and/or

(ix) Pervious pavement designed and maintained to infiltrate the 1-year/24-hour storm event onsite, subject to review and approval by the Stormwater Administrator.

With the exception of the additional lot coverage allowances provided for under Article 9: Inclusionary and Replacement Housing, requirements for such additional lot coverage shall not be permitted for any development where other bonus provisions of this ordinance are applicable.

3. Exception for Neighborhood Commercial Uses

Neighborhood commercial uses as defined in Article 13 and intended to primarily serve the nearby residential area shall be considered permitted uses in RL, RM, RH and Institutional districts subject to the following:

(i) This exemption shall only apply to:

a. Historic buildings that are listed or eligible for listing on the state or national register; or,

b. A street level neighborhood commercial use as defined in Article 13 in lawful existence as of January 1, 2007.

(ii) Neighborhood commercial uses shall be limited to a single story on the street level of any structure.

- (iii) Neighborhood commercial uses less than 2,000 sqft shall be treated as a permitted use. Neighborhood commercial uses greater than or equal to 2,000 sqft but less than 4,000 sqft shall be treated as a conditional use. Neighborhood commercial uses occupying 4,000 sqft or more shall not be permitted.
- (iv) The neighborhood commercial use shall not be counted against the property's allowable residential density.
- (v) The sale of fuel for motor vehicles, or new or expanded gas station canopies, shall be prohibited.
- (vi) Hours of operation shall be limited to 6:00am to 11:00pm seven days per week. Any expansion in the hours of operation of an existing neighborhood commercial use shall require conditional use review by the DRB.
- (vii) All building height and setback requirements for the underlying residential district shall apply, and the lot coverage shall not exceed 60%.
- (viii) Any exterior changes to the building(s) or changes to the site plan shall be subject to the design review requirements of Article 6.
- (ix) To the extent that additional parking is necessary, the parking standards for Shared-Use Districts shall apply pursuant to Article 8.
- (x) The conversion of a residential use to a neighborhood commercial use within a historic neighborhood commercial building more than 50 years old and originally designed and constructed for such purpose shall be exempt from the housing replacement requirements of Article 9, Part 2.
- (xi) Home occupations as defined and regulated under this article are not restricted by the provisions of this section.
- (xii) Any aspect of a neighborhood commercial use in lawful existence as of January 1, 2007 not in strict conformance with any of the above standards shall be considered non-conforming and be subject to the provisions of Article 5, Part 3.

4. Miscellaneous Standards

A. Additions to Existing Residential Structures.

No request for an addition to an existing structure shall be considered or imply approval of an additional unit, unless requested specifically on the zoning permit application form.

B. Accessory Residential Structures, Buildings, and Uses

An accessory structure, building, and/or use as defined in Article 13 and provided under Sec. 5.1.1 and 5.1.2 customarily incidental and subordinate to a principal residential structure, building and/or use, including but not limited to private garages, carriage houses which do not contain residential units, barns, storage sheds, tennis courts, swimming pools, cabanas for swimming pools and detached fireplaces may be permitted as follows:

- (i) Accessory structures or buildings shall meet the dimensional requirement set forth in the district in which they are located pursuant to Sec. 4.4.5 (b) of this Article and related requirements in Art 5, Parts 1 and 2;
- (ii) Any accessory structure or building that is seventy-five percent (75%) or greater of the ground floor area of the principal structure or building shall be subject to the site plan and design review provisions of Art. 3, Part 4 and the applicable standards of Art 6;
- (iii) Private garages shall be limited to as many stalls as there are bedrooms in the dwelling to which it is accessory, provided that the ground floor area is less than seventy-five percent (75%) of the ground floor area of the principal structure or building; and
- (iv) The outdoor overnight storage of commercial vehicles not otherwise associated with an approved home occupation or made available for the exclusive use of the residential occupants, or the outdoor storage of more than one unregistered vehicle, shall be prohibited. Any and all vehicles shall be stored in an approved parking space.

C. Residential Occupancy Limits.

In all residential districts, the occupancy of any dwelling unit is limited to members of a family as defined in Article 13. Notwithstanding the following, the minimum square footage requirements shall be reduced by ten (10%) percent in situations where the residential premises are owner occupied.

Subject to Conditional Use approval by the DRB, a dwelling unit may be occupied by more than four (4) unrelated adults if it contains at least twenty-five hundred (2,500) square feet excluding its attic and basement pursuant to the following:

(i) If in a RL district, the dwelling unit also contains at least an additional two hundred fifty (250) square feet and two (2) onsite parking spaces, plus one (1) additional parking space per adult occupant in excess of four (4); or,

(ii) If in a RM district, the dwelling unit also contains at least an additional two hundred (200) square feet and two (2) onsite parking spaces, plus one (1) additional parking space per adult occupant in excess of four (4).

(iii) If in a RH district, the dwelling unit also contains at least an additional 150 square feet and two (2) onsite parking spaces, plus 1 additional parking space per adult occupant in excess of four (4).

In considering a request relating to permitting a greater number of unrelated individuals residing in a dwelling unit within a residential zoning district, no conditional use permit may be granted unless all facilities within the dwelling unit, including bathroom and kitchen facilities are accessible to the occupants without passing through any bedroom. Each room proposed to be occupied as a bedroom must contain at least one hundred twenty (120) square feet.

1. Setbacks

A. Encroachment for Residential Driveways

For purposes of allowing existing, developed, nonconforming lots containing single family homes to create a driveway and provide a maximum of two tandem parking spaces, driveways may encroach into a required sideyard setback up to the property line with DRB approval.

Such approval shall be based on demonstrated necessity on the part of the property owner as well as unique physical circumstances of the lot, conditional use criteria, and findings that there shall be no undue adverse impact on all of the following items of concern: drainage, safety, protection of neighboring side yard, light and air. In addition, the lot shall be found to have dimensions that are smaller than the existing standards for lot size or frontage. The maximum relief from the 5' minimum setback shall be the minimum necessary for the purposes of creating such a driveway and parking spaces and shall be allowed only after a finding that driveway and parking configuration cannot be otherwise located on the lot. With such approval by the DRB, the lot shall not be considered nonconforming due to the decreased setback for the creation of the driveway and parking spaces.

B. Encroachment into the Waterfront Setback:

The following exceptions to the required waterfront setback for Lake Champlain and the Winooski River established under Sec. 4.5.4:

(i) Replacement of Existing Structure.

Replacement of a conforming principle structure existing as of the effective date hereof, may encroach into the required setback provided the replacement does not increase the area or extent of the encroachment more than the existing structure.

(ii) Averaging of Setbacks of Existing Structures.

If the waterfront setback of existing principal structures within a distance of one hundred fifty (150) feet on either or both sides of a lot is less than the required setback, the setback may be reduced to the average alignment of such structures.

2. Lot Coverage

A. Exceptions for Accessory Residential Features.

In addition to lot coverage exemptions in Sec. 5.2.3(b), within the RL and RL-W, RM and RM-W districts, an additional ten (10) per cent of lot coverage above the otherwise applicable limit may be permitted for the following amenity features accessory to residential uses provided that such features shall at no time be enclosed or be used for parking:

(i) Decks;

~~(ii) Patios;~~

~~(iii) Porches;~~

~~(iv) Terraces;~~

~~(v) Tennis or other outdoor game courts;~~

~~(vi) Swimming pools and swimming pool aprons;~~

~~(vii) Walkways;~~

~~(viii) Window Wells; and/or~~

~~(ix) Pervious pavement designed and maintained to infiltrate the 1 year/24 hour storm event onsite, subject to review and approval by the Stormwater Administrator.~~

~~With the exception of the additional lot coverage allowances provided for under Inclusionary Zoning Article 9: Inclusionary and Replacement Housing, requirements for such additional lot coverage shall not be permitted for any development where other bonus provisions of this ordinance are applicable.~~

3. Accessory Residential Structures, Buildings, and Uses

~~An accessory structure, building, and/or use as defined in Article 13 and provided under Sec. 5.1.1 and 5.1.2 customarily incidental and subordinate to a principal residential structure, building and/or use, including but not limited to private garages, carriage houses, barns, storage sheds, tennis courts, swimming pools, cabanas for swimming pools and detached fireplaces may be permitted as follows:~~

~~A. Accessory structures or buildings shall meet the dimensional requirement set forth in the district in which they are located pursuant to Sec. 4.4.5 (b) of this Article and related requirements in Art 5, Parts 1 and 2;~~

~~B. Any accessory structure or building that is seventy five percent (75%) or greater of the ground floor area of the principal structure or building shall be subject to the site plan and design review provisions of Art. 3, Part 4 and the applicable standards of Art 6;~~

~~C. Private garages shall be limited to as many stalls as there are bedrooms in the dwelling to which it is accessory, provided that the ground floor area is less than seventy five percent (75%) of the ground floor area of the principal structure or building; and~~

~~D. The outdoor overnight storage of commercial vehicles not otherwise associated with an approved home occupation or made available for the exclusive use of the residential occupants, or the outdoor storage of more than one unregistered vehicle, shall be prohibited. Any and all vehicles shall be stored in an approved parking space.~~

4. Residential Density

A. Additional Unit to Multi-Family.

~~One additional unit may be added to structures located in the RL district which legally contained two or more units as of January 1, 2007, if approved in advance as a conditional use, by the DRB.~~

B. Additions to Existing Residential Structures.

~~No request for an addition to an existing structure shall be considered or imply approval of an additional unit, unless requested specifically on the zoning permit application form.~~

C. Residential Occupancy Limits.

~~In all residential districts, the occupancy of any dwelling unit is limited to members of a family as defined in Article 13. Notwithstanding the following, the minimum square footage requirements shall be reduced by ten (10%) percent in situations where the residential premises are owner occupied.~~

~~Subject to Conditional Use approval by the DRB, a dwelling unit may be occupied by more than four (4) unrelated adults if it contains at least twenty five hundred (2,500) square feet excluding its attic and basement pursuant to the following:~~

If in a RL district, the dwelling unit also contains at least an additional two hundred fifty (250) square feet and two (2) onsite parking spaces, plus one (1) additional parking space per adult occupant in excess of four (4); or,

If in a RM district, the dwelling unit also contains at least an additional two hundred (200) square feet and two (2) onsite parking spaces, plus one (1) additional parking space per adult occupant in excess of four (4).

If in a RH district, the dwelling unit also contains at least an additional 150 square feet and two (2) onsite parking spaces, plus 1 additional parking space per adult occupant in excess of four (4).

In considering a request relating to permitting a greater number of unrelated individuals residing in a dwelling unit within a residential zoning district, no conditional use permit may be granted unless all facilities within the dwelling unit, including bathroom and kitchen facilities are accessible to the occupants without passing through any bedroom. Each room proposed to be occupied as a bedroom must contain at least one hundred twenty (120) square feet.

5. Uses

A. Exception for Neighborhood Commercial Uses.

Neighborhood commercial uses as defined in Article 13 and intended to primarily serve the nearby residential area shall be considered permitted uses in all Residential and Institutional districts subject to the following:

(i) This exemption shall only apply to:

1) Historic buildings that are listed or eligible for listing on the state or national register; or,

2) A street level neighborhood commercial use as defined in Article 13 in lawful existence as of January 1, 2007.

(ii) Neighborhood commercial uses shall be limited to a single story on the street level of any structure.

(iii) Neighborhood commercial uses less than 2,000 sqft shall be treated as a permitted use. Neighborhood commercial uses greater than or equal to 2,000 sqft but less than 4,000 sqft shall be treated as a conditional use.

Neighborhood commercial uses occupying 4,000 sqft or more shall not be permitted.

(iv) The neighborhood commercial use shall not be counted against the property's allowable residential density.

(v) The sale of fuel for motor vehicles, or new or expanded gas station canopies, shall be prohibited.

(vi) Hours of operation shall be limited to 6:00am to 11:00pm seven days per week. Any expansion in the hours of operation of an existing neighborhood commercial use shall require conditional use review by the DRB.

(vii) All building height and setback requirements for the underlying residential district shall apply, and the lot coverage shall not exceed 60%.

(viii) Any exterior changes to the building(s) or changes to the site plan shall be subject to the design review requirements of Article 6.

(ix) To the extent that additional parking is necessary, the parking standards for Shared Use Districts shall apply pursuant to Article 8.

(x) The conversion of a residential use to a neighborhood commercial use within a historic neighborhood commercial building more than 50 years old and originally designed and constructed for such purpose shall be exempt from the housing replacement requirements of Article 9, Part 2.

(xi) Home occupations as defined and regulated under this article are not restricted by the provisions of this section.

(xii) Any aspect of a neighborhood commercial use in lawful existence as of January 1, 2007 not in strict conformance with any of the above standards shall be considered non-conforming and be subject to the provisions of Article 5, Part 3.

6. Residential Development Bonuses

The following exceptions to maximum allowable residential density and dimensional standards in Tables 4.4.5-2 and 4.4.5-3 may be approved in any combination subject to the maximum limits set forth in Table 4.4.5-8 at the discretion of the DRB. Any bonuses that are given pursuant to this ordinance now or in the future shall be regarded as an exception to the limits otherwise applicable.

A. Senior Housing Bonus

Residential development in excess of the density, lot coverage and building height limits specified in Tables 4.4.5-2 and 4.4.5-3 may be permitted by the DRB for senior housing provided the following conditions are met:

a) — No less than twenty five (25) per cent of the total number of units shall be reserved for low/moderate income

households as defined by state or federal guidelines, including no less than ten (10) per cent reserved for low-income households. (Projects taking advantage of this bonus are exempt from the Inclusionary Zoning requirements of Article 9, Part 1.);

b) The proposal shall be subject to the design review provisions of Art. 6;

c) A maximum of an additional 10 feet of building height may be permitted in the RH District; and,

d) Lot coverage and residential densities shall not exceed the following:

Table 4.4.5-5: Senior Housing Bonus

District	Maximum Coverage	Maximum Density	
RL/RL-W	44%	20 du/ac	
RM	48%	40 du/ac	
RM-W	72%	40 du/ac	
RH	92%	80 du/ac	

B. Residential Conversion Bonus

Development in excess of the limits set forth in Tables 4.4.5-2 and 4.4.5-3 may be permitted by the DRB subject to conditional use review for the conversion of an existing non-conforming nonresidential principal use to a conforming residential use subject to all of the following conditions:

(i) Lot coverage and residential density shall not exceed:

Table 4.4.5-7: Residential Conversion Bonus

District	Maximum Lot Coverage	Maximum Density (dwelling unit/acre)
RL, RL-W	50% (62% with inclusionary allowance)	8 du/ac (8.75 with inclusionary allowance)
RM, RM-W	60% (72% with inclusionary allowance)	30 du/ac (37.5 with inclusionary allowance)
RH	80% (92% with inclusionary allowance)	60 du/ac (69 with inclusionary allowance)

C. Limitations on Residential Development Bonuses:

For projects where the conditions of more than one applicable bonus listed above and under Sec.5.4.8 (c) are met, the applicant may use the most permissive exemption to the underlying lot coverage or residential densities applicable.

In no case shall any development bonuses and allowances granted, either individually or in combination, enable a building to exceed the maximum density, lot coverage and building height permitted in any district as defined below:

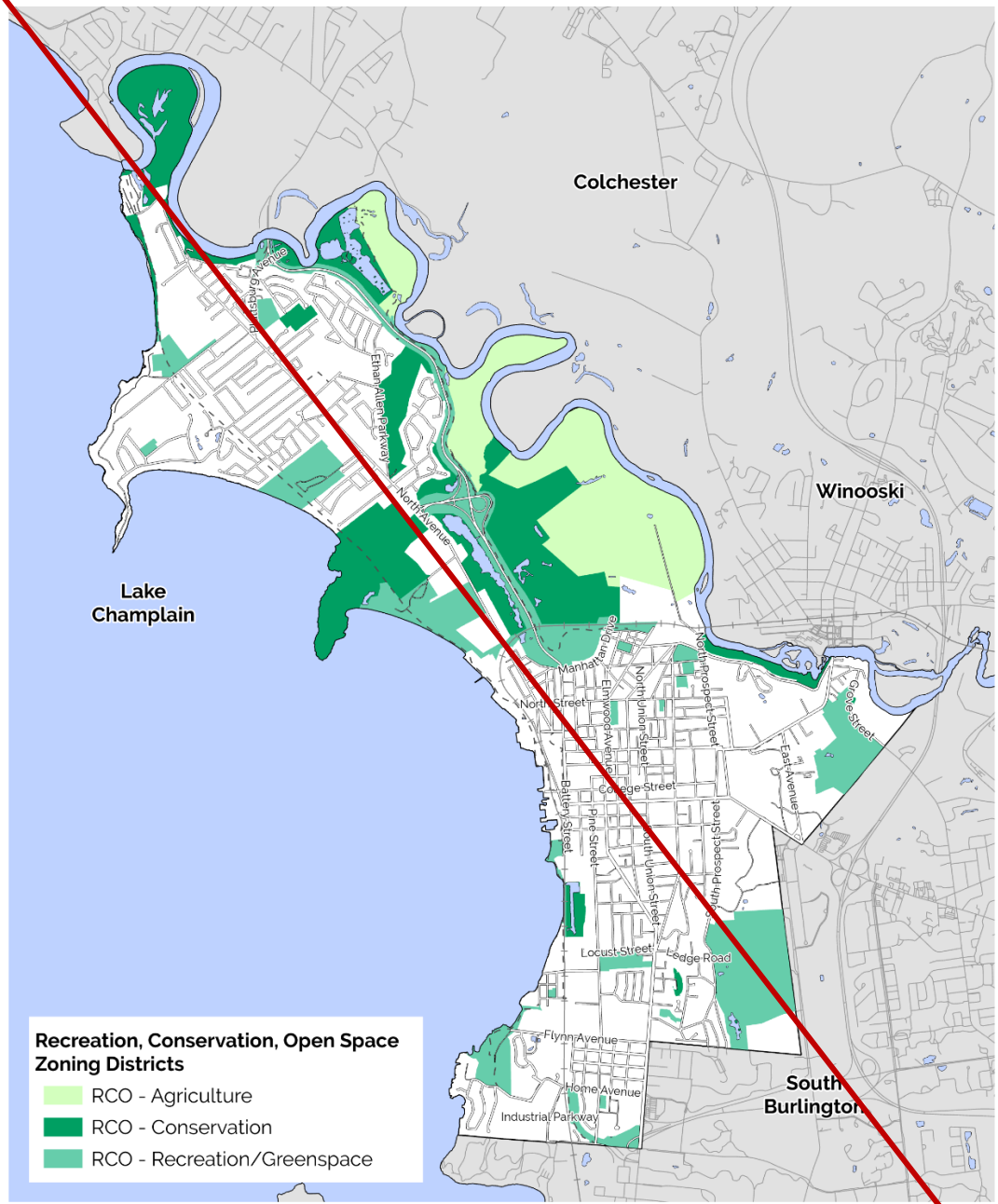
Table 4.4.5-8: Maximum Density, Lot Coverage and Building Heights with Bonuses

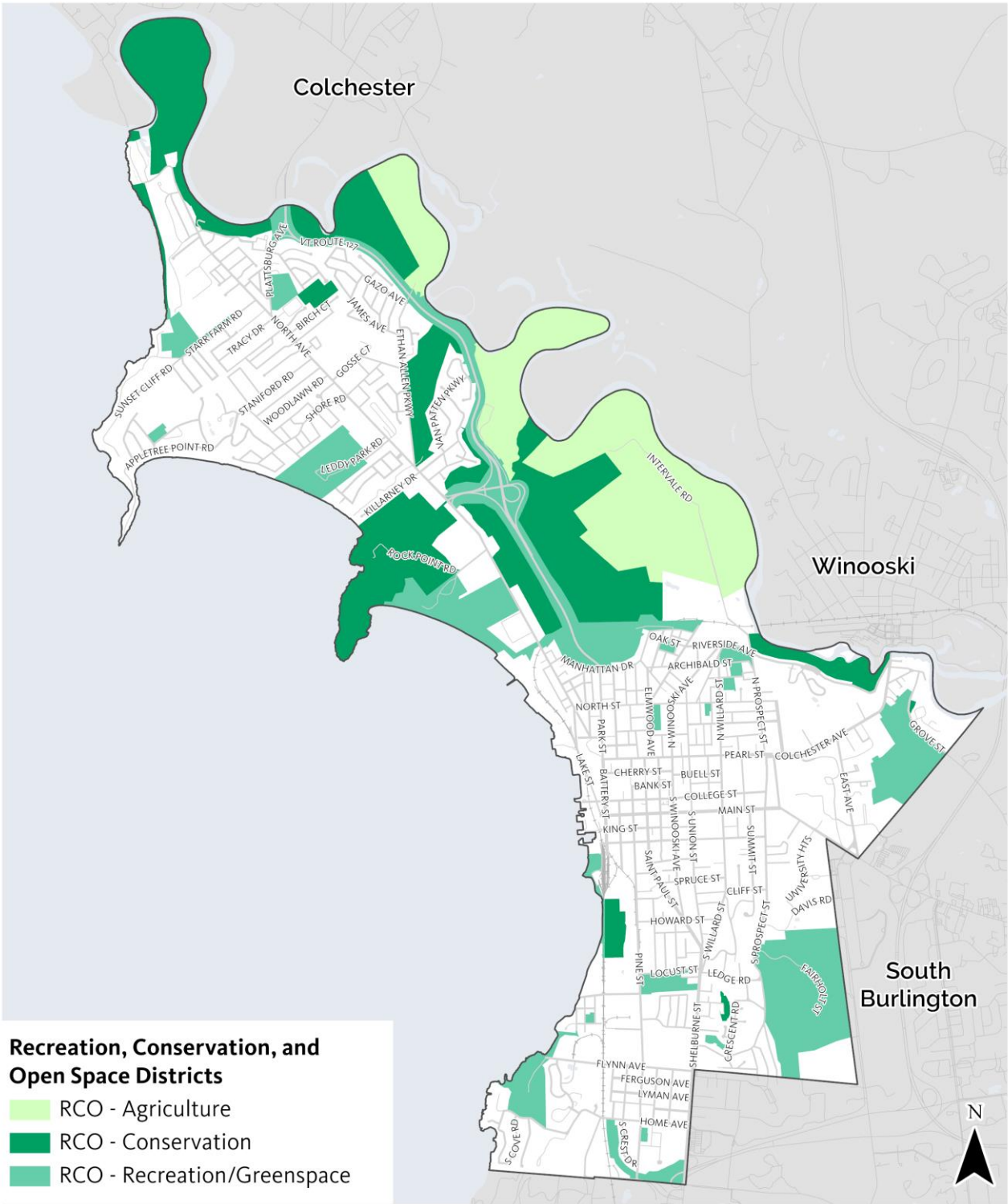
District	Maximum Density*	Maximum Height	Maximum Lot Coverage*
RH	80 du/ac	45-feet (68 ft in RH Overlay)	92%
RM-W	40 du/ac	60-feet	72%
RM	40 du/ac	35-feet	72%
RL, RL-W	20 du/ac	35-feet	62%

* or 125% of the pre-application gross floor area or coverage of the qualifying principal building as may be applicable per Table 5.4.8-1 Historic Building Rehabilitation Bonus

Sec. 4.4.6 Recreation, Conservation, and Open Space Districts

(a) - (d) – As Written.





*Map 4.4.6-1 Recreation, Conservation, Open Space Districts***PART 5: OVERLAY ZONING DISTRICT REGULATIONS****Sec. 4.5.1 Design Review Overlay District****(a) Purpose:**

The Design Review Overlay District (DR) is intended to provide detailed individual review of certain uses and structures in those areas of the city which contain structures of historical, architectural, or cultural merit, and where the community has a particular interest in the design of future development in order to address specific land development objectives.

(b) Areas Covered:

The geographic¹ areas subject to the Design Review Overlay shall be as delineated on Map 4.5.1 – 1: Design Review Overlay, that include the following:

(1) The following zoning districts:

- A. The Downtown Waterfront – Public Trust district and all Neighborhood Mixed Use, Enterprise, Institutional, Urban Reserve, and Recreation, Conservation and Open Space districts; and,
- B. ~~Portions of the Residential Districts as identified in Map 4.5.1-1 and described below. The High Density Residential (RH), Medium Density Residential (RM), Medium Density Residential – Waterfront (RM-W), and Residential Low Density – Waterfront (RL-W) districts.~~

(2) The following areas within ~~the~~ Residential ~~– Low Density~~ Districts:

- A. – G. As Written.

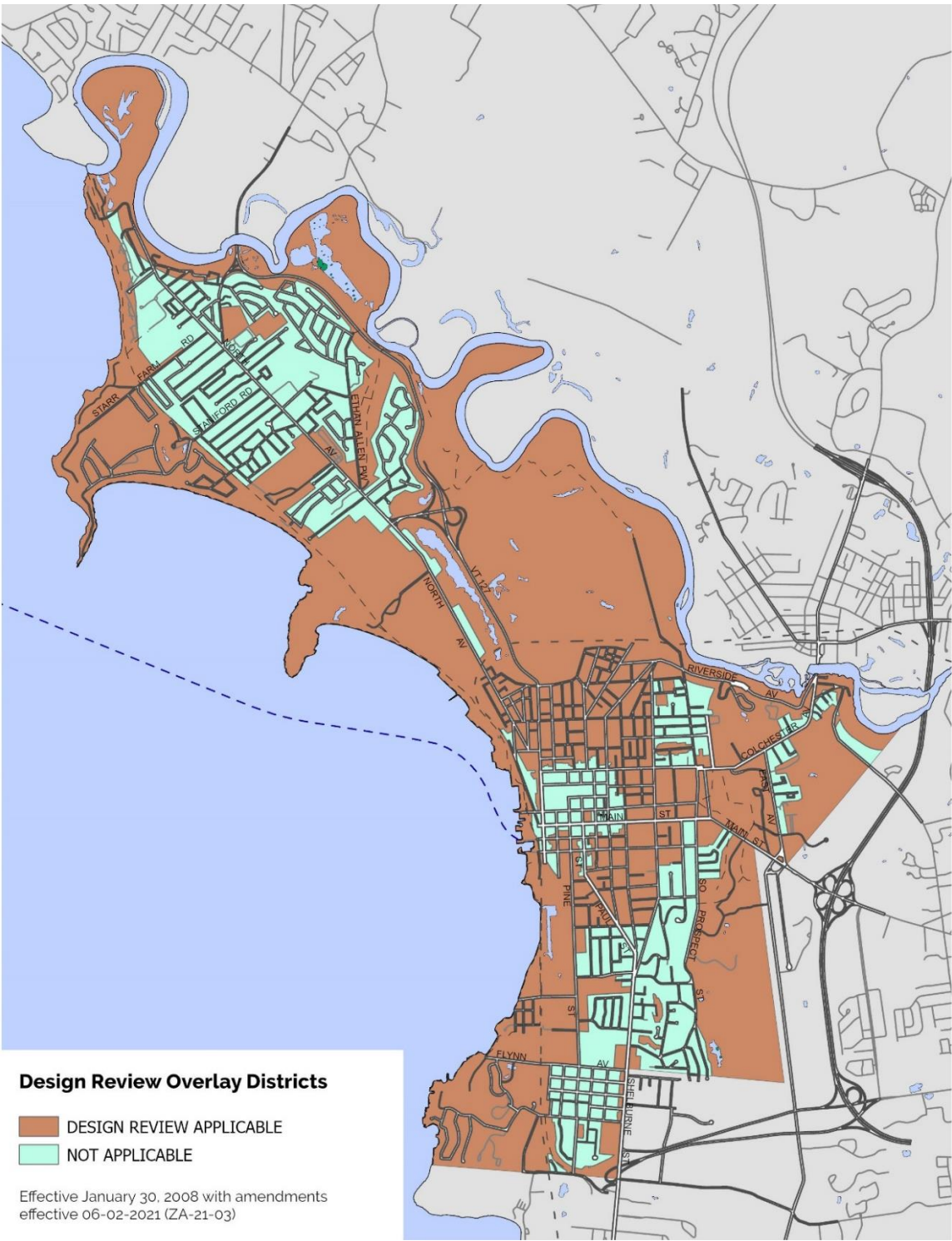
(3) The following uses, buildings, and properties within ~~the~~ Residential ~~– Low~~ Districts:

- A. As Written.

(c) District Specific Regulations: Design Review Overlay District:

Within this overlay district, no structure may be erected, reconstructed, substantially altered, restored, moved, or demolished or any site improvement or modification made without approval subject to the provisions of Article 3, Part 4 pertaining to Design Review and the review criteria described in Art 6.

¹ This Section only defines the geographic areas of the city that are subject to Design Review. Other types of development are also subject to Design Review pursuant to the requirements of Article 3, Part 4.



Map 4.5.1-1: Design Review Overlay

Sec. 4.5.2 Institutional Core Campus Overlay Districts

(a) - (h) – As Written.

Sec. 4.5.3 RH Density Bonus Overlay District

(a) Purpose:

The RH Density Bonus Overlay District is intended to provide an incentive for the conversion of non-residential uses to residential uses within the RH Zoning District to reduce the number of non-conforming uses and increase the supply of housing near the downtown area.

(b) Areas Covered:

The RH Density Bonus Overlay District includes that portion of the RH Zoning District bordered on the north by Main Street, on the south by Maple Street, on the west by Pine Street and on the east by South Union Street as delineated on Map 4.5.3-1 RH Density Bonus Overlay District. Eligible properties shall be limited to only those existing non-residential single lots of record as of February 8, 2001 of at least one-half acre in size (21,780 sqft). Contiguous lots shall not be combined to meet this minimum lot size standard with the following exception: a half-acre lot may be combined with any contiguous surface parking lot(s) of any size in order to receive the benefits as set forth in this overlay.



Map 4.5.3-1: RH Density Bonus Overlay

~~(c) — District Specific Regulations: RH Density Bonus Overlay:~~

~~1. — Conditional Use Review~~

~~Any redevelopment undertaken pursuant to the provisions of this overlay district shall be subject to conditional use review pursuant to Article 3.~~

~~2. — Maximum Residential Density:~~

~~An existing non-residential property may be redeveloped for a residential use at a density not to exceed 92 units per acre inclusive of any applicable inclusionary allowances pursuant to Article 9 or development bonuses pursuant to Sec. 4.4.5.~~

~~3. — Building Height:~~

~~For the purposes of regulating building height, this overlay district is divided into the following two (2) areas:~~

~~A. — In that portion of this overlay between South Union and Church Street, in no event shall the height of any structure exceed sixty eight (68) feet.~~

~~B. — In that portion of this overlay between Church and Pine Street, in no event shall the height of any structure exceed fifty five (55) feet.~~

~~Subject to such maximum building heights, the following shall also apply:~~

~~C. — The height of any proposed building or addition shall not be more than fifteen (15) feet greater than the average height of existing buildings within the same block having frontage on the same street as the proposed;~~

~~D. — A height greater than that allowed in (C) above may be permitted if such additional height is set back from the front property line a minimum of twenty five percent (25%) of the width of the street right of way, and in no event less than fifteen (15) feet from the front property line.~~

~~E. — The height allowance for frontage on one street shall not adversely impact the streetscape of an adjacent street, in the judgment of the development review board~~

~~F. — That portion of any building which is constructed to a height in excess of the height allowed per the underlying zoning district as provided above, must maintain a setback equal to fifty percent (50%) of that portion's height from the property line shared with any adjacent residential structure. The distance of such a setback will be maintained only for that portion of the building immediately adjacent to an existing residential property.~~

~~4. — Setbacks:~~

~~Front yard setbacks shall be as required in the underlying zoning district, subject to the following exceptions:~~

~~A. — Up to twenty five percent (25%) of the building façade above the ground level story may project into the front yard setback by not more than fifty percent (50%) for the purpose of creating architectural variation and avoiding large expanses of undifferentiated building wall.~~

~~B. — At the ground level, patios, paved courtyards, and sitting areas may be allowed within the front setback. Such allowances are subject to approval by the development review board under the design review criteria of Article 6. If the board deems it necessary, it may impose a greater setback in order to achieve the streetscape objectives found in Article 6.~~

5. Construction Materials:

Any new structure utilizing the height bonus provisions as specified under this subsection shall be constructed of quality masonry materials or other comparable materials of similar durability on all elevations. The exterior material and windows shall also be of a type that the DRB deems effective for sound buffering.

6. Parking Standards:

In addition to the parking standards found in Article 8, the following shall also apply within this Overlay:

At least seventy-five (75%) of the parking spaces shall be provided onsite as structured parking spaces. Any structured parking shall be concealed by the structure or the building so that it is not visible from the street (the entrance and exit may be visible).

7. Permitted Non-Residential Uses:

The following nonresidential uses may be permitted by the DRB on the ground floor of the structure: art gallery, bakery, bank/credit union, beauty/barber shop, daycare, food store, health club, laundromat, office (general), office (medical or dental), open air market, photo studio, restaurant, retail, tailor shop, and theatre.

8. Residential Occupancy:

Each unit of any structure erected pursuant to this subsection shall be occupied by a "family" as defined in Article 13.

9. Character of the Area Affected:

When the DRB reviews a project under the provisions of Article 3 Conditional Use Review, it shall take into consideration that developments utilizing this bonus are located in an area adjacent to the Downtown. In making its determinations and setting conditions under the standard "Character of the area affected," the DRB shall consider that it is the public policy of the City of Burlington that where there are conflicts between public uses and activities and the quiet enjoyment of residents in developments utilizing the bonuses permitted in the underlying district, the public uses and activities shall take precedence and the development shall be designed in a manner that mitigates the conflicts.

Sec. ~~4.5.4~~ 4.5.3 Natural Resource Protection Overlay (NR) District

(a) As Written.

(b) Areas Affected

This overlay district consists of all areas delineated on Map ~~4.5.4-1~~ 4.5.3-1 Natural Resources Protection Overlay (NR) District and is divided into four (4) subparts:

1. As Written.
2. A Wetland Conservation Zone which consists of wetlands and corresponding upland buffer area for the following areas:
 - A. Uplands within 100 feet of all wetlands depicted in Map ~~4.5.4-1~~ 4.5.3-1 Natural Resource Protection Overlay District except in cases where the State of Vermont has established a greater buffer zone width; and,
 - B. As Written.
3. - 4. As Written.

(c) - (e) As Written.

(f) District Specific Regulations: Special Flood Hazard Area:

1. - 2. As Written.

3. **Permitted Uses in Special Flood Hazard Areas (including Floodway areas)**

- A. All those permitted open space uses as listed in Section ~~4.5.4~~ 4.5.3.(f)2 above shall be permitted in the Special Flood Hazard Areas.
- B. All other uses permitted in the underlying zoning district are permitted only upon review and approval per subpart 7 below.

4. - 7. As Written.

8. Approval Conditions
As Written.

A. - G. As Written.

B. Recreational Vehicles:

Recreational Vehicles placed on sites with special flood hazard areas shall either:

A. Be on the site for fewer than 180 consecutive Days, or

B. Be fully licensed and ready for highway use, or

C. Be permitted in accordance with the elevation and anchoring requirements for “manufactured homes” in Sec. 4.5.4 4.5.3(f)8D.

9. - 11. As Written.

Sec. 4.5.5 RL Larger Lot Overlay District

(a) Purpose:

The RL Larger Lot Overlay District is intended to maintain the existing residential development pattern of larger residential lots reflective of the respective neighborhoods’ development history.

(b) Areas Covered:

The RL Larger Lot Overlay District includes those portions of the RL Zoning District as delineated on Map 4.5.5-1 RL Larger Lot Overlay District.

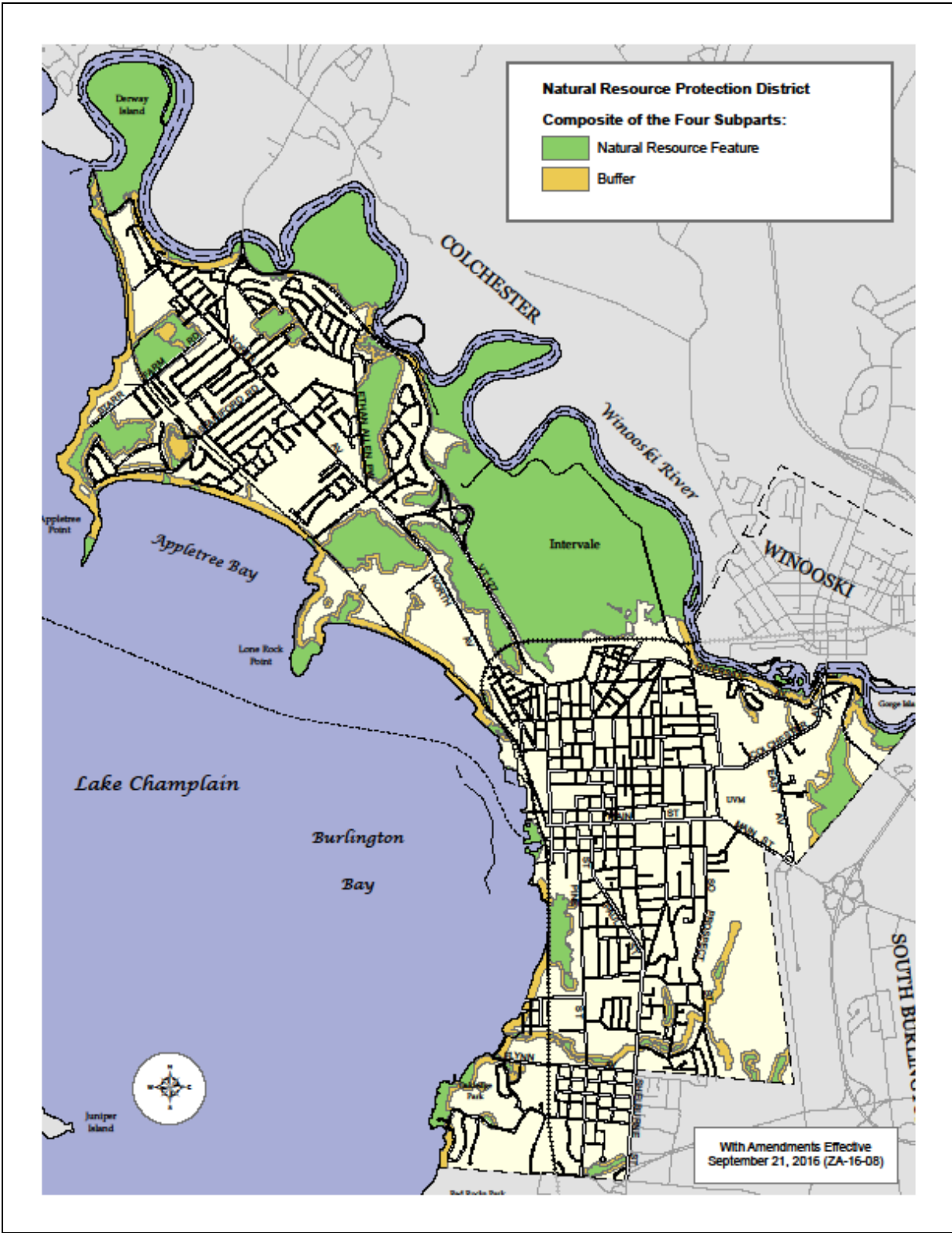
(c) District Specific Regulations: RL Larger Lot Overlay

1. Minimum Lot Size and Density

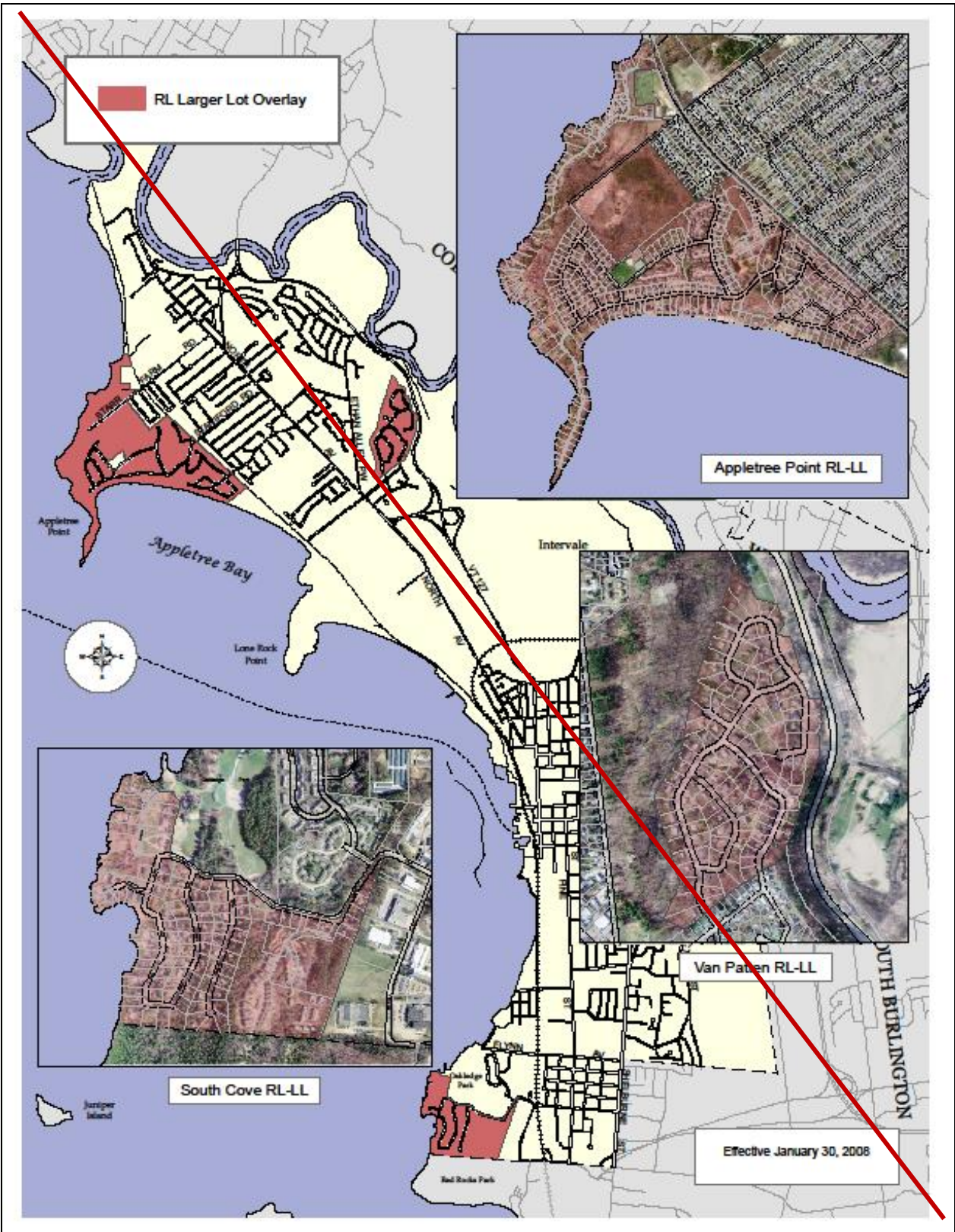
The density and intensity of development and dimensions of building lots in the RL Larger Lot Overlay shall be modified from the underlying RL or RL-W standards of Table 4.4.5 and 4.4.5-2 as follows:

Table 4.5.5-1: Residential Density, Minimum Lot Size and Frontage: RL Larger Lot Overlay

	Minimum Lot Frontage¹ (In linear feet)	Minimum Lot Size (In square feet)	Maximum dwelling units per acre² (without bonuses or any Inclusionary Zoning allowances)
Single detached dwelling	75-feet	9,900sqft	4.4 units/acre
Duplex and above	100 feet	15,840 sqft	5.5 units/acre
The DRB may adjust the frontage requirements for lots fronting on cul-de-sacs, multiple streets, or corner lots reflecting the existing neighborhood pattern on each respective street. Inclusive of new streets but exclusive of existing streets.			



Map 5.4-14.5.3-1: Natural Resource Overlay District



Map ~~4.5.5-1~~: RL Larger Lot Overlay

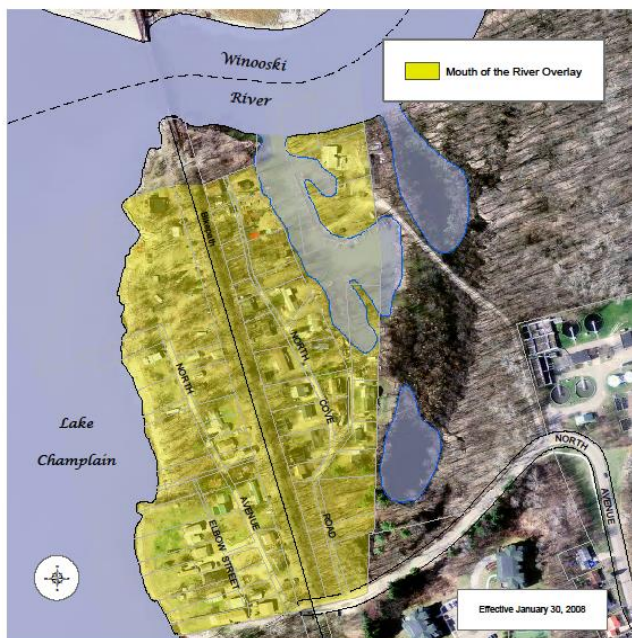
Sec. ~~4.5.6~~ 4.5.4 Mouth of the River Overlay District

(a) As Written.

(b) Areas Covered.

The Mouth of the River Overlay District includes those portions of the RL Zoning District as delineated on Map ~~4.5.6-1~~ 4.5.4-1.

(c) As Written.



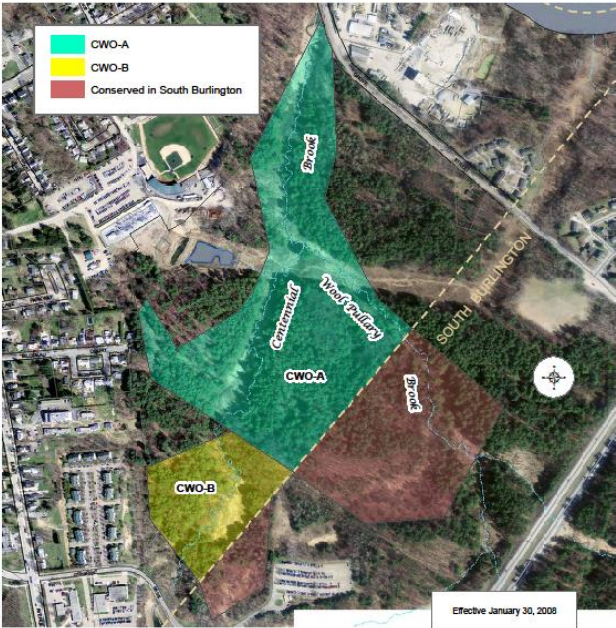
Map ~~4.5.6-1~~ 4.5.4-1: Mouth of the River Overlay

Sec. ~~4.5.7~~ 4.5.5 Centennial Woods Overlay District

(a) As Written.

(b) Areas Covered.

The Centennial Woods Overlay District includes those portions of the Institutional (I) and RCO-Recreation/Greenspace (RCO-RG) zoning districts as delineated on Map ~~4.5.7-1~~ 4.5.5-1.



Map ~~4.5.7-1~~ 4.5.5-1: Centennial Woods Overlay

(c) As Written.

Sec. ~~4.5.8~~ 4.5.6 South End Innovation District Overlay ~~District~~

(a) Purpose: As Written.

(b) Areas Covered:

The South End Innovation District includes those portions of the E-LM Zoning District as delineated on Map ~~4.5.8-1~~ 4.5-6-1.

(c) District Specific Regulations

~~The South End Innovation District includes those portions of the E-LM Zoning District as delineated on Map 4.5.8-1.~~

Table 4.5.~~68~~-1: SEID Dimensional Standards & Density

Block Perimeter ¹	Max. Intensity (floor area ratio ^{2,3})	Max Building Size per Floorplate ^{4,5}	Max. Lot Coverage & Pervious Surface Required ⁶	Minimum Building Setbacks ⁷			Max. Height ⁸
				Front	Side	Rear	
1,600' max	2.5 FAR	Floors 1-6: 15,000 sq. ft. Floors 7-8: 10,000 sq. ft. <i>Except as</i>	80% max impervious 25% min of pervious area	0' min 20' max ⁵	0' min 20' max ⁵	0' min 20' max ⁶	85'

		<i>permitted by Sec.4.5.8-6(c) 1</i>	must utilize GSI				
--	--	---	---------------------	--	--	--	--

1. Blocks may be enclosed by any combination of streets within public Rights-of-Way or Public Paths. Where a property abuts a railroad or area identified as Wetland, Conservation or Natural Area on Map ~~4.5.4-1~~ 4.5.3-1 Natural Resource Protection Overlay District, such boundaries may serve as enclosing block boundaries.
2. – 7. *As written.*
8. Maximum building height in the E-SEID shall be further limited by Map ~~4.5.8-2~~ 4.5.6-2: SEID Specific Height Area Map.

1. Dimensional Standards & Density

Within the SEID the standards set forth in *Table* ~~4.5.8-1~~ 4.5.6-1 shall apply to new development and redevelopment, except:

~~A. Exception for Educational Uses:~~

~~a.~~ Floors 7-8 may increase maximum size to 15,000 sq.ft. per floorplate for buildings constructed of Mass Timber consistent with currently adopted Building Code as contained under Chapter 8 of the City Code of Ordinances.

~~b.~~ The maximum lot coverage may be increased by 10%, to a maximum of 90%, if the site is certified as Gold or Platinum under the SITES system, as administered by Green Business Certification, Inc. (GBCI) or if all of the pervious area on the lot is constructed from one or more of the following Green Stormwater Management (GSI) techniques: constructed wetland, suspended pavement planted with one shade tree per 250 square feet of area, or pervious pavement. No more than 50% of the GSI area may utilize pervious pavement.

Table 4.5.~~86~~-2: Frontage and Activation Standards *As written.*

2. *Frontage and Ground Floor Activation Standards*

As Written

3. *Parking*

As Written

4. *Uses*

Within the ~~E~~-SEID, only the following uses shall be permitted.

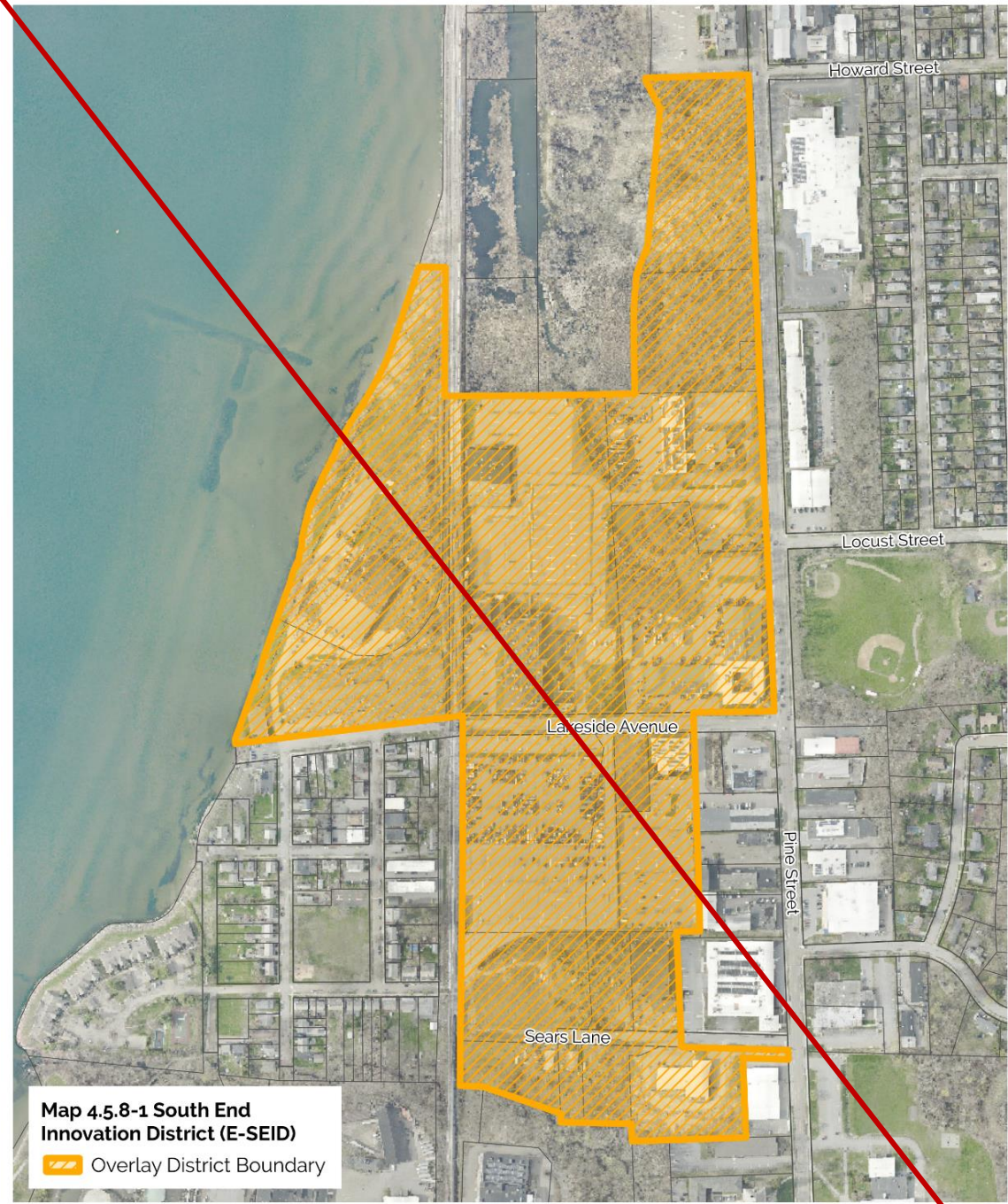
Table 4.5.~~68~~-3 Uses Permitted & Limited within the SEID

Permitted Uses:	
Residential ¹	

Non-Residential	
***	***

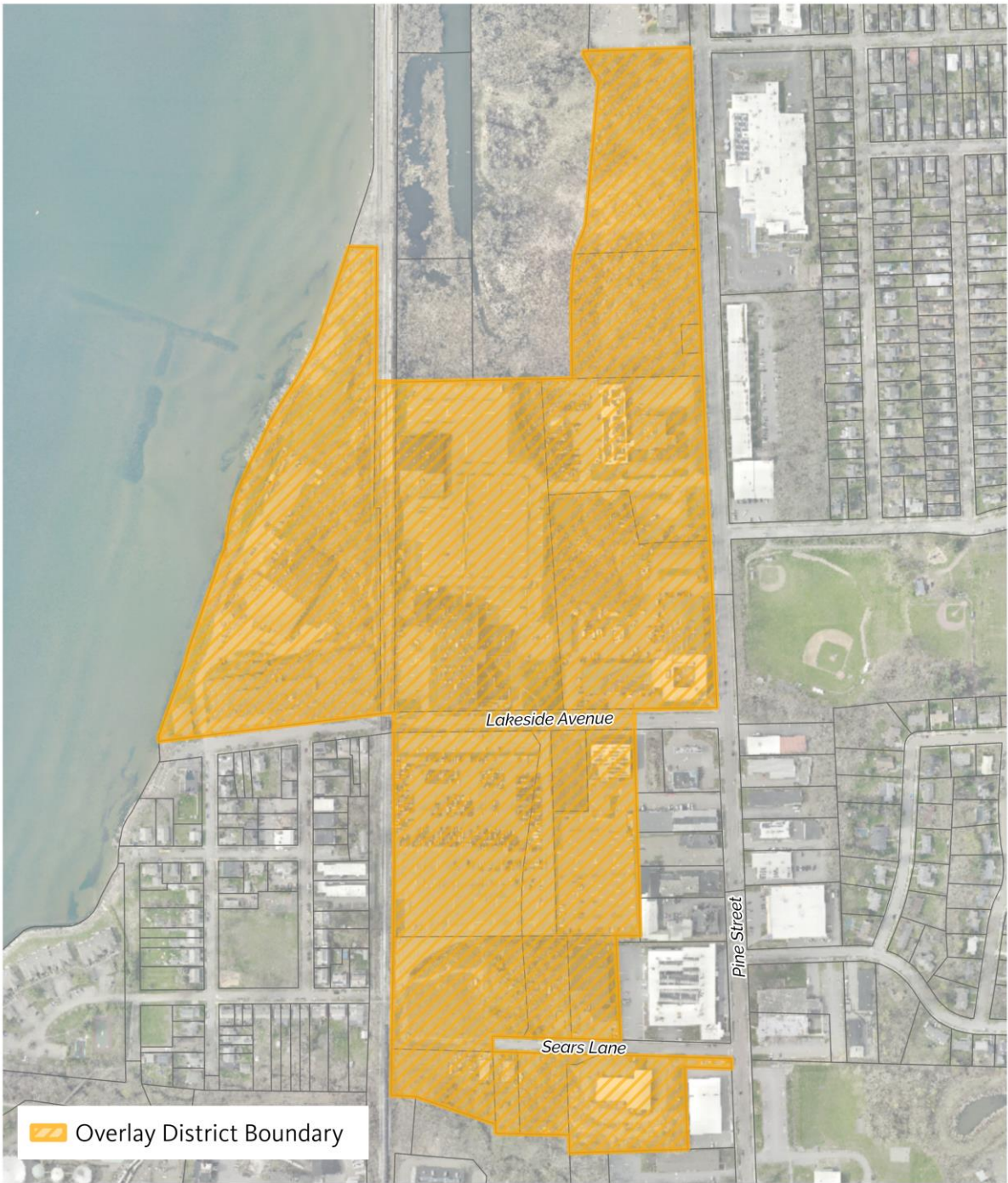
1. Residential uses are permitted only in new buildings, or in additions to existing buildings, built after January 1, 2023.
2. Parking Structure and Parking Lot uses are regulated by Sec. 4.5.~~68~~(c) 3 Parking and Table 4.5.~~68~~-1 SEID Dimensional Standards & Density.

712
713
714

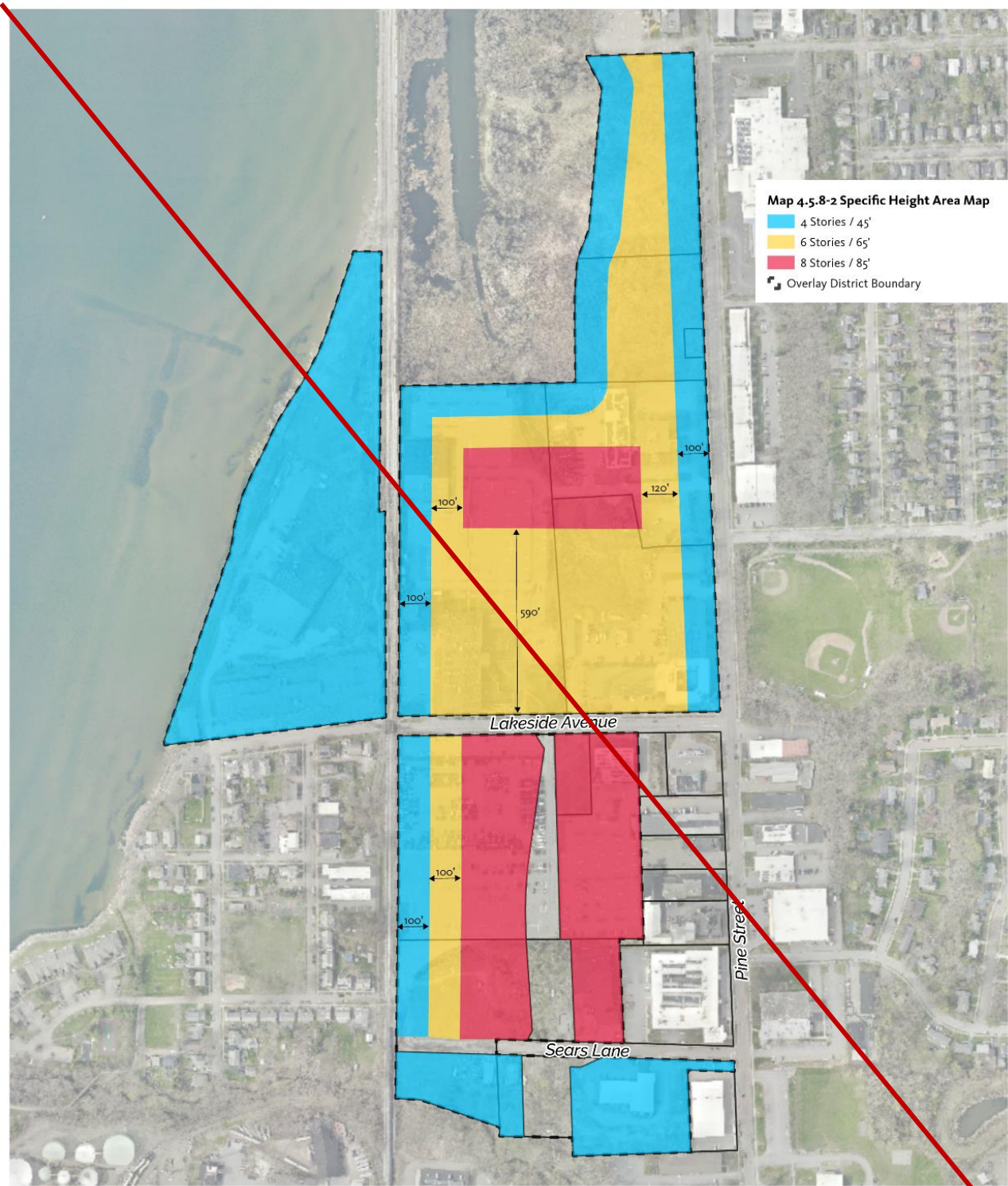


South End Innovation District (E-SEID) Overlay Boundary

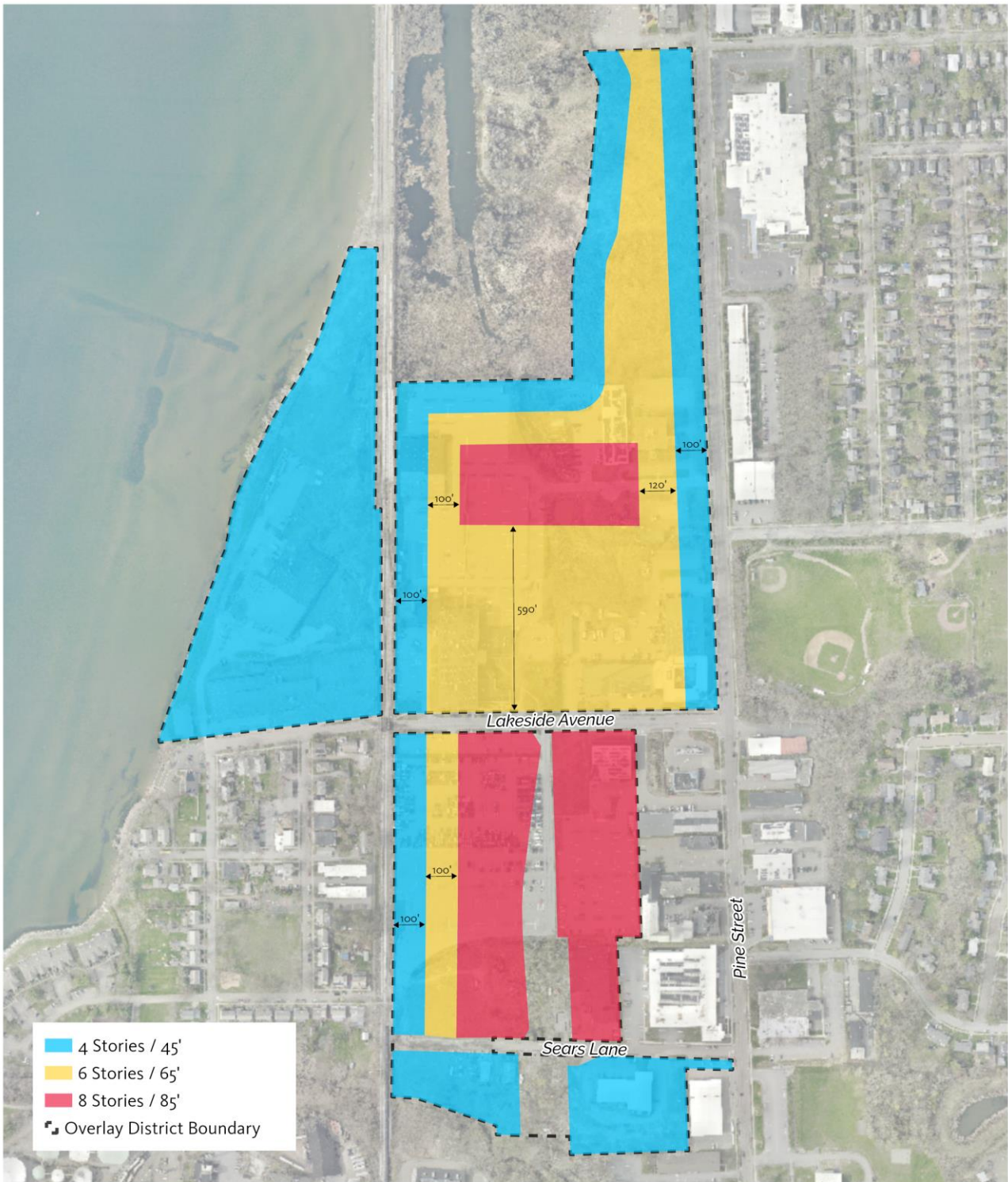
715
716



**Map 4.5.6-1 South End Innovation District (E-SEID)
Overlay Boundary**



South End Innovation District (E-SEID) Specific Height Area Map



Article 5: Citywide General Regulations**PART 1: USES AND STRUCTURES**

Sec. 5.1.2 Structures

Except as otherwise provided by law or by this ordinance, no structure in any district shall be created, removed or altered except in conformance with the provisions of this Article and the requirements of the district in which such land or structure is located.

(a) - (b) *As written.*

(c) Principal Structures:

~~Only one principal structure shall be permitted on any lot~~ More than one principal structure is permitted on in any a lot within a residential zoning district defined pursuant to subject to the limits of Article 4 – Zoning Districts Sec. 4.4.5 Residential Districts, or as ~~unless~~ otherwise authorized pursuant to the requirements of Article 11 – Planned Development. In all other districts, more than one principal structure may be permitted on any single lot.

(d) Accessory Residential Structures or Buildings:

An accessory structure or building customarily incidental and subordinate to a principal residential use, structure, or building shall also be governed by the provisions of Sec. 4.4.5(d) ~~34. (B).~~

(e) - (f) *As written.*

PART 2: DIMENSIONAL REQUIREMENTS**Sec. 5.2.1 ~~Reserved.~~ Existing Small Lots**

~~Any small lot of record existing as of April 26, 1973 may be developed for the purposes permitted in the district in which it is located even though not conforming to minimum lot size requirements if the lot:~~

- ~~• can be served by municipal water and sewer service; and,~~
- ~~• is at least four thousand (4,000) square feet in area; and,~~
- ~~• has a minimum width and depth dimension of forty (40) feet or more.~~

~~Any such development shall require a permit pursuant to standards of Article 4 and, where design review is applicable, the design review provisions of Article 3 and the development standards of Article 6.~~

Sec. 5.2.2 Required Frontage or Access

As Written.

Sec. 5.2.3 Lot Coverage Requirements

As Written.

Sec. 5.2.4 Buildable Area Calculation & Steep Slopes Overlay District

As Written.

(a) Buildable Area Calculation

For any properties two (2) or more acres in size within any RCO, ~~WRM~~, RM, ~~WRL~~, or RL zoning district, the maximum building density or lot coverage shall be calculated using the buildable area only. Buildable area shall be deemed to include only those portions of a property that are not inundated at least six months per year by water including streams, ponds, lakes, wetlands and other bodies of water; and lands with a slope in excess of 30%.

The DRB may under conditional use criteria allow up to 50% of the maximum building density or lot coverage to be calculated on lands with a slope between 15-30% if the applicant can demonstrate that the additional density or lot

coverage will be compatible within the existing scale and intensity of the surrounding neighborhood, and not have an undue negative impact on sensitive natural features.

(d) Steep Slopes Overlay District

As Written.

Sec. 5.2.5 Setbacks

Setbacks between structures and property lines where required are intended to provide access to light and air, provide fire separation and access, and maintain the existing neighborhood pattern of structures and open spaces between them and to the street.

(a) Setbacks Required:

As Written.

(b) Exceptions to Yard Setback Requirements:

The following projections into required yard setbacks may be permitted subject to the standards of Article 6 to ensure compatibility with neighboring properties:

1. *through 6. As Written*
7. Shared-Driveways. Common or shared driveways and walkways along shared property lines and associated parking areas, including those to serve residential lots and developments per Sec. 4.4.5 (d) 4.A and Sec. 5.2.2, do not have to meet setback requirements along the shared property line. Other driveway encroachments may be permitted subject to Sec. 4.4.5 (d) 1.A.
8. Additional exceptions for nonconforming structures under Sec. 5.3.5.

Sec. 5.2.6 Building Height Limits

As Written.

Sec. 5.2.7 Density Calculations

As Written.

PART 3: NON-CONFORMITIES

Sec. 5.3.1 – 5.3.3 *As Written.*

Sec. 5.3.4 Nonconforming Uses

(a) Changes and Modifications

As Written

1. Nonconforming Non-Residential Use:

A nonconforming non-residential use shall not be expanded or altered in any way, other than to full conformity under this Ordinance, except as follows:

A. Exception for residential conversion.

A non-residential nonconforming use may be converted to a residential non-conforming use pursuant to the applicable residential conversion provisions of Sec. 4.4.5 (d)6(1).

B. Existing Neighborhood Commercial Uses.

Existing non-residential uses intended to primarily serve the nearby residential area shall not be considered non-conforming to the extent they comply with the provisions of Sec. 4.4.5(d)(35).

2. Nonconforming Residential Use:

A change or expansion of a non-conforming residential use may be allowed subject to conditional use approval pursuant

to the provisions of Article 3, Part 5 by the DRB provided:

- A. Such expansion does not add any additional dwelling units except as may be permitted for residential conversion bonuses approved per the provisions of Sec. 4.4.5(d)(~~16~~), this Historic Building Rehabilitation Bonus under Sec. 5.4.8 (e) and for Accessory Dwelling Units per the provisions of Sec. 5.4.5.;
- B. Such expansion does not increase the degree of non-conformity of any non-conforming structure; and,
- C. In such cases where the non-conforming residential use is located in a zoning district where residential uses are generally permitted, expansion of a non-conforming residential use into an existing and previously uninhabited attic or basement within the principle structure may be permitted subject to administrative review provided no additional dwelling units are created, except for Accessory Dwelling Units per Sec. 5.4.5.

(b) Discontinuance

As Written.

PART 4: SPECIAL USE REGULATIONS

Sec. 5.4.1 - Sec. 5.4.7 *As Written.*

Sec. 5.4.8 Historic Buildings and Sites

As Written.

(a) - (d) *As written.*

(e) Historic Building Rehabilitation Bonus

In order to facilitate the rehabilitation and reuse of historic buildings in Residential and Institutional districts, development in excess of the limits set forth in Tables 4.4.1-1, 4.4.5-~~2-1~~ and 4.4.5-~~2-3~~ may be permitted by the DRB subject to all of the following conditions:

i. - iii. *As Written.*

iv. Neighborhood commercial uses may be permitted by the DRB subject to the applicable requirements of Sec. 4.4.5(d)(~~35~~)(A); and,

v. *As Written.*

Sec. 5.4.9 - Sec. 5.4.11 *As Written.*

Sec. 5.4.12 Mobile Home Parks

As Written.

a) Mobile Home Parks

Regarding the establishment and operation of a Mobile Home Park:

1. The required minimum ~~lot size, lot frontage, and waterfront setback, and required maximum density and building height~~ lot and building dimensions, development intensities, and setbacks shall be as required per the applicable Zoning District standards found in Tables 4.4.5-1 and, 4.4.5-2, and 4.4.5-3.
2. - 8. *As Written.*

b) Non-Conforming Mobile Home Parks

As Written.

Article 6: Development Review Standards**PART 2: SITE PLAN DESIGN STANDARDS****Sec. 6.2.1** *As written.***Sec. 6.2.2** *Review Standards*(a) - (g) *As Written.***(h) Building Location and Orientation:**

The introduction of new buildings and additions shall ~~be consistent with the intent of the district, maintain the existing development pattern and rhythm of structures along the existing streetscape.~~ New buildings and additions should be aligned with the front façade of neighboring buildings to reinforce the existing “street-edge,” or where necessary, located in such a way that complements existing natural features and landscapes. Buildings placed in mixed-use areas where high volumes of pedestrian traffic are desired should seek to provide sufficient space (optimally 12-15 feet) between the curbline and the building face to facilitate the flow of pedestrian traffic. In such areas, architectural recesses and articulations at the street-level are particularly important, and can be used as an alternative to a complete building setback in order to maintain the existing street wall.

**Remainder of section As Written.*

PART 3: ARCHITECTURAL DESIGN STANDARDS**Sec. 6.3.1** *Applicability*

These standards are enacted and shall be satisfied for the approval of all development subject to the provisions of this ordinance found in Article 3, Section 3.4.2(b) – Design Review.

Sec. 6.3.2 *Review Standards***(a) Relate development to its environment:**

Proposed buildings and additions shall be appropriately scaled and proportioned for their function and with respect to ~~their context~~ the purpose of the zoning district. They ~~shall~~ should integrate harmoniously into the topography, and to the use, scale, and architectural details of existing buildings in the vicinity; however, such consideration shall not require building height to be more limited than otherwise allowed within an applicable zoning district or overlay zone per Article 4.

The following shall be considered:

1. Massing, Height and Scale:

While architectural styles or materials may vary within a streetscape, proposed development ~~shall~~ should maintain an overall scale similar to that of surrounding buildings, or provide a sensitive transition, where appropriate, to development of a dissimilar scale.

In low and medium ~~density~~ residential districts, the height and massing of existing residential buildings ~~is the most important consideration~~ should be carefully considered when evaluating the compatibility of additions and infill development; however, no modifications by the DRB shall be made to projects which otherwise limit the allowable Principal Structure footprint, height and number of units per building otherwise permitted by Tables 4.4.5-1 and 4.4.5-2.

**Remainder of section As Written.*

2. – 3. As Written.

(b) - (i) As Written.

Article 11: Planned Development

PART 1: PLANNED UNIT DEVELOPMENT

Sec. 11.1.1 – Sec. 11.1.2 – As Written.

Sec. 11.1.3 General Requirements and Applicability

With the exception of development subject to the requirements of Art 14, any development involving multiple lots, tracts or parcels of land to be developed as a single entity, or seeking to place multiple structures and/or uses on a single lot where not otherwise permitted, may be permitted as a PUD subject to the provisions of this Article.

A planned unit development may be permitted subject to minimum project size as follows in the following districts:

Districts	Minimum Project Size
RH, RM, RM-W , Downtown Waterfront – Public Trust District and Neighborhood Mixed Use, Institutional, E-LM	No minimum project size.
RL, RL-W , RCO-R/G	2 acres or more

Sec.11.1.4 Modification of Regulations.

With the approval of the DRB after a public hearing, the following modifications of the requirements of the underlying zoning may be altered within a planned unit development:

- ~~density, minimum lot size~~, frontage, lot coverage, and setback requirements may be met as calculated across the entire project rather than on an individual lot-by-lot basis;
- required setbacks may apply only to the periphery of the project rather than on an individual lot-by-lot basis;
- ~~more than one principal use and more than one principal structure may be permitted on a single lot;~~
- ~~one or more residential uses not otherwise permitted may be permitted;~~ and,
- buildings may be of varied types including single detached, attached, duplex or apartment construction.

Any proposed modifications of regulations shall be listed in a statement accompanying the application submission and such modifications shall be subject to the provisions of Sec. 11.1.5 and Sec. 11.1.6.

Article 13: Definitions

Sec. 13.1.2 Definitions

Building Height: The vertical measurement of a building. See Sec. ~~2-75.2.6~~ for specific calculation provisions.

Appendix A- Use Table – All Zoning Districts ***See attached markups.*

- * Material stricken out deleted.
 - ** Material underlined added.
- MET/Ordinances 2024/ZA-24-02 Neighborhood Code
1/26/24 for City Council First Read 01/29/24

ZA-24-02: Appendix A-Use Table – All Zoning Districts

	Urban Reserve	Recreation, Conservation & Open Space			Institutional	Residential				Downtown Mixed Use ⁱ	Neighborhood Mixed Use				Enterprise	
USES	UR	RCO - A	RCO - RG	RCO - C	I	RL AW	RM AW	RH	<u>RC</u>	DW-PT ¹⁶	NMU	NAC	NAC-RC	NAC-CR	E-AE	E-LM ³⁴
RESIDENTIAL USES	UR	RCO - A ¹	RCO - RG	RCO - C	I	RL AW	RM AW	RH	<u>RC</u>	DW-PT ¹⁶	NMU	NAC	NAC-RC	NAC-CR	E-AE	E-LM
Single Detached Dwelling	N	N ¹	N	N	Y	Y 2	Y 2	N ³⁰	<u>N³⁰</u>	N	N ³⁰	N ³⁰	N ³⁰	N	N	N
Attached Dwellings - Duplex	N	N ¹	N	N	Y	Y ²	Y 2	Y	<u>Y</u>	N	Y ³	N	Y	N	N	N
Attached Dwellings - Multi-Family (3 or more)	N	N ¹	N	N	Y	NY ²	Y ²	Y	<u>Y</u>	N	Y	Y	Y	Y	N	N
RESIDENTIAL SPECIAL USES	UR	RCO – A	RCO - RG	RCO - C	I	RL AW	RM AW	RH	<u>RC</u>	DW-PT ¹⁶	NMU	NAC	NAC-RC	NAC-CR	E-AE	E-LM
Assisted Living	N	N	N	N	CU	CU	Y	Y	<u>Y</u>	N	Y	Y	Y	Y	N	N
Boarding House ⁶ (4 persons or less)	N	N	N	N	CU	CU	Y	Y	<u>Y</u>	N	Y	Y	Y	N	N	N
Boarding House ⁶ (5 persons or more)	N	N	N	N	CU	CU	CU	CU	<u>Y</u>	N	CU	CU	CU	N	N	N
Community House (See Sec.5.4.4)	N	N	N	N	CU	CU	CU	CU	<u>CU</u>	N	CU	CU	CU	CU	N	N
Convalescent /Nursing Home	N	N	N	N	CU	CU	Y	Y	<u>Y</u>	N	Y	Y	Y	Y	N	N
Dormitory ⁵	N	N	N	N	CU	N	N	N	<u>N</u>	N	N ²⁵	CU	CU	N	N	N
Emergency Shelter ³¹	N	N	N	N	N	CU	CU	CU	<u>CU</u>	N	CU	CU	CU	CU	N	N
Group Home	N	N	N	N	Y	Y	Y	Y	<u>Y</u>	N	Y	Y	Y	Y	N	N
Historic Inn (See Sec.5.4.2)	N	N	N	N	CU	CU	CU	CU	<u>CU</u>	N	CU	Y	Y	Y	N	N
Mobile Home Park	N	N	N	N	N	CU	CU	N	<u>N</u>	N	N	N	N	N	N	N
Sorority/Fraternity ⁵	N	N	N	N	CU	N	N	N	<u>N</u>	N	N	N	N	N	N	N
Short Term Rental ³³	N	N	N	N	Y	Y	Y	Y	<u>Y</u>	N	Y	Y	Y	Y	N	N
NON-RESIDENTIAL USES	UR ²¹	RCO - A	RCO - RG	RCO - C	I	RL AW	RM	RH	<u>RC</u>	DW-PT ¹⁶	NMU	NAC	NAC-RC	NAC-CR	E-AE	E-LM
Adult Day Care	N	N	N	N	CU	N	N	N	<u>N</u>	N	Y	Y	Y	Y	N	N
Agricultural Use ²⁰	N	Y	Y	CU	Y	N	N	N	<u>N</u>	N	N	N	N	N	Y	N
Amusement Arcade	N	N	N	N	N	N	N	N	<u>N</u>	N	N	CU	CU	CU	N	N
Animal Boarding/Kennel/Shelter	N	CU	N	N	N	N	N	N	<u>N</u>	N	N	CU	CU	CU	CU	CU ²⁷
Animal Grooming	N	N	N	N	N	N	N	N	<u>Y</u>	N	Y	Y	Y	Y	CU	CU ²⁷
Animal Hospitals/Veterinarian Office	N	CU	N	N	CU	N	N	N	<u>N</u>	N	CU	CU	CU	CU	Y	Y ²⁷
Appliance Sales/Service	N	N	N	N	N	N	N	N	<u>Y</u>	N	Y ²⁴	Y	Y	Y ²⁴	N	Y ²⁷
Aquarium	N	N	CU	N	CU	N	N	N	<u>N</u>	(See Sec.4.4.1(d) 1)	N	N	N	N	N	N
Art Gallery/Studio	N	N	N	N	Y	N	N	CU ¹³	<u>N</u>	(See Sec.4.4.1(d) 1)	Y	Y	Y	Y	Y	Y
Auction House	N	N	N	N	N	N	N	N	<u>N</u>	N	N	Y	Y	N	N	CU ²⁷
Automobile Body Shop	N	N	N	N	N	N	N	N	<u>N</u>	N	N	N	Y	N	N	Y ²⁷

ZA-24-02: Appendix A-Use Table – All Zoning Districts

Automobile & Marine Parts Sales	N	N	N	N	N	N	N	N	<u>N</u>	(See Sec.4.4.1(d) 1)	CU	Y	Y	Y	N	Y ²⁷
Automobile/Vehicle Repair	N	N	N	N	N	N	N	N	<u>N</u>	N	CU ^{9, 12, 14}	CU ^{9, 12, 14}	CU ¹⁴	N	N	Y ²⁷
Automobile Sales – New & Used	N	N	N	N	N	N	N	N	<u>N</u>	N	N	Y	Y	N	N	CU ²⁷
Automobile/Vehicle Salvage Yard	N	N	N	N	N	N	N	N	<u>N</u>	N	N	N	N	N	N	N
Bakery	N	N	N	N	N	N ²²	N ²²	CU ¹³	<u>Y</u>	N	Y	Y	Y	Y	Y	Y ²⁷
Bank, Credit Union	N	N	N	N	CU	N ²²	N ²²	N ²²	<u>Y</u>	N	Y	Y	Y	Y	N	Y
Bar, Tavern	N	N	N	N	N	N	N	N	<u>Y</u>	N	CU	CU	CU	CU	N	N
Beauty/ Barber Shop	N	N	N	N	CU	N ²²	N ²²	CU ¹³	<u>Y</u>	N	Y	Y	CU	Y	N	N
Bicycle Sales/Repair	N	N	N	N	CU	N	N	N	<u>Y</u>	N	Y	Y	Y	Y	N	Y ²⁷
Billiard Parlor	N	N	N	N	N	N	N	N	<u>N</u>	N	CU	Y	CU	Y	N	N
Boat Repair/Service	N	N	CU	N	N	N	N	N	<u>N</u>	(See Sec.4.4.1(d) 1)	N	CU	CU	N	N	Y ²⁷
Boat Sales/Rentals	N	N	CU	N	N	N	N	N	<u>N</u>	(See Sec.4.4.1(d) 1)	N	Y	Y	N	N	Y ²⁷
Boat Storage	N	N	CU	N	N	N	N	N	<u>N</u>	N	N	CU	CU	N	N	Y ²⁷
Bowling Alley	N	N	N	N	N	N	N	N	<u>N</u>	N	CU	Y	Y	Y	N	Y
Building Material Sales	N	N	N	N	N	N	N	N	<u>N</u>	N	N	Y ¹⁰	Y	N	N	Y ²⁷
Café	N	CU ¹⁷	CU	N	CU	N ²²	N ²²	CU ¹³	<u>Y</u>	(See Sec.4.4.1(d) 1)	Y	Y	Y	Y	CU	CU ²⁷
Camp Ground	N	Y	Y	N	N	N	N	N	<u>N</u>	(See Sec.4.4.1(d) 1)	N	N	N	N	N	N
Car Wash	N	N	N	N	N	N	N	N	<u>N</u>	N	N	CU	Y	CU	N	CU ²⁷
Cemetery	N	N	Y	N	N	N	N	N	<u>N</u>	N	N	N	N	N	N	N
Cinema	N	N	N	N	Y	N	N	CU	<u>N</u>	N	CU ¹⁴	Y	N	Y ¹⁴	N	N
Club, Membership	N	N	Y	N	CU	N	Y	Y	<u>Y</u>	N	CU	CU	N	CU	N	N
Community Center	N	N	CU	N	CU	CU ¹³	CU ¹³	Y ¹³	<u>Y</u>	N	Y	Y	Y	Y	N	CU ²⁷
Community Garden	N	Y	Y	N	Y	Y	Y	Y	<u>Y</u>	N	Y	Y	Y	Y	Y	Y ²⁷
Conference Center	N	N	N	N	CU	N	N	N	<u>N</u>	N	N	N	N	N	N	N
Composting	N	CU	N	N	N	N	N	N	<u>N</u>	N	N	N	N	N	N	N
Contractor Yard	N	N	N	N	N	N	N	N	<u>N</u>	N	N	N	Y ¹⁰	N	N	Y
Convenience Store (See Sec.5.4.3)	N	N	N	N	N	N	N	CU ¹²	<u>Y¹²</u>	N	Y ¹²	Y	Y	Y ¹²	N	Y ²⁷
Convention Center	N	N	N	N	N	N	N	N	<u>N</u>	N	N	N	N	N	N	N
Courthouse	N	N	N	N	Y	N	N	CU	<u>N</u>	N	N	N	N	N	N	N
Crematory	N	N	N	N	N	N	N	N	<u>N</u>	N	N	N	CU	N	N	N
Crisis Counseling Center	N	N	N	N	CU	CU	CU	CU	<u>Y</u>	N	Y	Y	Y	Y	N	N
Daycare (See Sec.5.4.1)	N	CU ⁸	CU ⁸	CU ⁸	CU	CU ¹³	CU ¹³	CU ¹³	<u>Y</u>	N	Y	Y	Y	Y	CU	CU ^{17,27}
Daycare – Family Home	N	N	N	N	Y	Y	Y	Y	<u>Y</u>	N	Y	Y	Y	Y	N	N
Dental Lab	N	N	N	N	CU	N	N	N	<u>N</u>	N	Y	Y	Y	Y	N	Y
Distribution Center	N	N	N	N	N	N	N	N	<u>N</u>	N	N	N	CU	N	N	CU

ZA-24-02: Appendix A-Use Table – All Zoning Districts

Dry Cleaning Plant	N	N	N	N	N	N	N	N	<u>N</u>	N	N	N	CU	N	N	CU
Dry Cleaning Service	N	N	N	N	CU	N ²²	N ²²	N ²²	<u>Y</u>	N	Y ²⁴	Y	Y	Y ²⁴	N	CU ²⁷
Film Studio	N	N	N	N	Y	N	N	N	<u>N</u>	N	N	CU	Y	CU	N	CU
Fire Station	N	N	Y	N	Y	CU	CU	CU	<u>Y</u>	N	Y	Y	Y	Y	Y	Y
Food & Beverage Processing	N	N	N	N	N	N	N	N	<u>N</u>	N	CU ¹⁴	CU ¹⁴	CU	CU ¹⁴	Y	Y
Fuel Service Station ⁹	N	N	N	N	N	N	N	N	<u>N</u>	N	CU ¹¹	Y ¹¹	Y	N	N	N
Funeral Home	N	N	N	N	N	CU ⁷	CU ⁷	CU ⁷	<u>Y</u>	N	CU	Y	Y	N	N	N
Garden Supply Store	N	N	N	N	CU	N	N	N	<u>Y</u>	N	CU ²⁴	Y	Y	N	Y	Y ²⁷
General Merchandise/Retail – Small <4,000sqft	N	N	N	N	CU	N ²²	N ²²	N ²²	<u>Y</u>	(See Sec.4.4.1(d) 1)	Y	Y	Y	Y	N	Y ²⁷
General Merchandise/Retail – Large ≥4,000sqft	N	N	N	N	N	N	N	N	<u>N</u>	(See Sec.4.4.1(d) 1)	N	CU ¹⁸	CU	CU	N	CU ^{17,27}
Grocery Store – Small ≤10,000sqft	N	N	N	N	N	N	N	CU	<u>Y</u>	N	Y	Y	Y	Y	CU	CU ²⁸
Grocery Store – Large >10,000sqft	N	N	N	N	N	N	N	N	<u>N</u>	N	N	Y	Y	N	N	CU ²⁸
Hazardous Waste Collection/Disposal	N	N	N	N	N	N	N	N	<u>N</u>	N	N	N	N	N	N	CU
Health Club	N	N	N	N	Y	N	N	CU	<u>N</u>	N	CU	Y	Y	Y	N	CU ²⁷
Health Studio	N	N	N	N	Y	N ²²	N ²²	CU	<u>Y</u>	N	Y	Y	Y	Y	N	Y ²⁷
Hospitals	N	N	N	N	CU	N	N	CU	<u>N</u>	N	N	N	N	N	N	N
Lodging	N	N	N	N	CU	N	N	N	<u>N</u>	(See Sec.4.4.1(d) 1)	N	Y	N	Y	N	N
Junkyard	N	N	N	N	N	N	N	N	<u>N</u>	N	N	N	N	N	N	N
Laundromat	N	N	N	N	CU	N ²²	N ²²	CU ¹³	<u>Y</u>	N	Y ¹³	Y	Y	Y	N	Y ²⁷
Library	N	N	N	N	Y	CU	CU	Y	<u>Y</u>	N	Y	Y	Y	Y	N	N
Lumber Yard	N	N	N	N	N	N	N	N	<u>N</u>	N	N	CU ¹⁰	Y	N	N	Y
Manufacturing-Light	N	N	N	N	N	N	N	N	<u>N</u>	N	CU ¹⁴	CU ¹⁴	CU	CU ¹⁴	CU	Y
Manufacturing	N	N	N	N	N	N	N	N	<u>N</u>	N	N	N	CU	N	CU	Y
Marina	N	N	Y	N	N	N	N	N	<u>N</u>	(See Sec.4.4.1(d) 1)	N	N	N	N	N	N
Medical Lab	N	N	N	N	CU	N	N	N	<u>N</u>	N	CU	Y	Y	N	CU	CU
Mental Health Crisis Center	N	N	N	N	N	N	CU (See §5.4.11)	N	<u>N</u>	N	N	N	N	N	N	N
Museum–Small < 10,000 sqft	N	CU	CU	CU	Y	CU ¹³	CU ¹³	CU ^{8,13}	<u>N</u>	(See Sec.4.4.1(d) 1)	Y	Y	Y	Y	CU	Y ²³
Museum-Large >10,000 sqft	N	N	N	N	CU	N	N	N	<u>N</u>	(See Sec.4.4.1(d) 1)	N	CU	CU	N	CU	CU ²³
Office - General	N	N	N	N	N	N	N	N	<u>N</u>	N	Y	Y	Y	Y	CU	Y ²⁷
Office - Medical, Dental	N	N	N	N	CU	N ²²	N ²²	N ²²	<u>Y</u>	N	Y	Y	Y	Y	N	Y ²⁷

ZA-24-02: Appendix A-Use Table – All Zoning Districts

Office-Technical	N	N	N	N	N	N	N	N	<u>N</u>	N	Y	Y	Y	Y	CU	Y
Open Air Markets	N	Y	Y	N	Y	CU	CU	CU	<u>N</u>	(See Sec.4.4.1(d) 1)	Y	Y	Y	Y	Y	Y ²⁷
Operations Center – Taxi/Bus ⁹	N	N	N	N	N	N	N	N	<u>N</u>	N	N	N	CU ¹¹	N	N	Y
Operations Center - Trucking ⁹	N	N	N	N	N	N	N	N	<u>N</u>	N	N	N	Y ¹¹	N	CU ¹¹	CU
Park	N	Y	Y	Y	Y	Y	Y	Y	<u>Y</u>	(See Sec.4.4.1(d) 1)	Y	Y	Y	Y	CU	CU ²⁷
Parking Garage ⁹	N	N	N	N	Y	N	N	CU	<u>N</u>	N	CU	Y	N	CU	N	CU
Parking Lot ⁹	N	N	N	N	N	N	N	N	<u>N</u>	N	N	CU	N	N	N	CU
Performing Arts Center	N	N	N	N	Y	N	N	N	<u>N</u>	(See Sec.4.4.1(d) 1)	CU	Y	N	CU	N	CU ^{27,32}
Performing Arts Studio	N	N	N	N	Y	N	N	CU ¹³	<u>N</u>	(See Sec.4.4.1(d) 1)	CU	CU	CU	Y	N	Y ²⁷
Pet Store ¹⁰	N	N	N	N	N	N	N	N	<u>N</u>	N	CU	Y	Y	Y	N	N
Pharmacy	N	N	N	N	CU	N ²²	N ²²	N ²²	<u>Y</u>	N	Y	Y	Y	Y	N	N
Photo Studio	N	N	N	N	N	N ²²	N ²²	N	<u>N</u>	N	Y	Y	Y	Y	N	Y
Photography Lab	N	N	N	N	N	N	N	N	<u>N</u>	N	CU	Y	Y	Y	CU	Y
Police Station - Central	N	N	N	N	CU	N	N	N	<u>N</u>	N	Y	Y	Y	N	N	N
Police Station - Local	N	N	CU	N	Y	CU	CU	CU	<u>Y</u>	N	Y	Y	Y	Y	Y	Y
Post Office – Central Distribution Center	N	N	N	N	N	N	N	N	<u>N</u>	N	N	Y	Y	N	N	Y
Post Office - Local	N	N	N	N	Y	N ²²	N ²²	N ²²	<u>Y</u>	N	Y	Y	Y	Y	N	N
Printing Plant	N	N	N	N	N	N	N	N	<u>N</u>	N	N	N	CU	N	N	Y
Printing Shop	N	N	N	N	CU	N ²²	N ²²	N	<u>N</u>	N	CU	Y	Y	Y	N	Y
Public Transit Terminal	N	N	N	N	Y	N	N	N	<u>N</u>	(See Sec.4.4.1(d) 1)	N	CU	CU	Y	CU	Y
Public Works Yard/Garage ⁹	N	N	N	N	CU ¹¹	N	N	N	<u>N</u>	N	N	CU ¹¹	Y ¹¹	N	CU	Y
Radio & TV Studio	N	N	N	N	N	N	N	N	<u>N</u>	N	N	Y	Y	Y	N	Y
Rail Equip. Storage & Repair	N	N	N	N	N	N	N	N	<u>N</u>	(See Sec.4.4.1(d) 1)	N	N	N	N	CU	CU ²⁷
Recording Studio	N	N	N	N	N	N	N	CU	<u>N</u>	N	CU	CU	Y	Y	N	Y
Recreational Facility - Indoor	N	N	CU	N	CU	N	CU	CU	<u>N</u>	(See Sec.4.4.1(d) 1)	N	Y	CU	N	N	CU ²⁷¹
Recreational Facility - Outdoor Commercial	N	N	CU	N	CU	N	N	N	<u>N</u>	(See Sec.4.4.1(d) 1)	N	N	CU	N	N	N
Recreational Facility - Outdoor	N	N	Y	N	Y	N	N	N	<u>N</u>	(See Sec.4.4.1(d) 1)	N	Y	Y	CU	N	N
Recreational Vehicle Sales – New and Used	N	N	N	N	N	N	N	N	<u>N</u>	N	N	CU	CU	N	N	Y ²⁷

ZA-24-02: Appendix A-Use Table – All Zoning Districts

Recycling Center – Large ¹⁰ (above 2,000 sf)	N	N	N	N	N	N	N	N	<u>N</u>	N	N	N	N	N	CU	CU
Recycling Center - Small ¹⁰ (2,000 sf or less)	N	N	N	N	CU	N	N	N	<u>N</u>	N	CU	CU	CU	CU	CU	Y
Research and Development Facility	N	N	N	N	CU	N	N	N	<u>N</u>	N	CU	CU	CU	CU	CU	Y
Research Lab	N	CU	N	N	CU	N	N	N	<u>N</u>	(See Sec.4.4.1(d) 1)	N	CU	CU	CU ²⁴	CU	Y
Restaurant	N	N	N	N	N	N ²²	N ²²	CU ^{8, 13}	<u>Y</u>	(See Sec.4.4.1(d) 2)	Y ¹³	Y	Y	Y ¹³	N	N
Restaurant – Take Out	N	N	N	N	CU ¹³	N ²²	N ²²	N	<u>Y</u>	(See Sec.4.4.1(d) 1)	Y ¹³	Y	Y	Y ¹³	N	Y ^{13,27}
Salon/Spa	N	N	N	N	CU	N ²²	N ²²	N	<u>Y</u>	N	Y	Y	Y	Y	N	N
School - Post-Secondary &Community College	N	N	Y	N	CU	N	CU	CU	<u>CU</u>	N	CU	CU	CU	CU	N	N
School – Preschool (see Sec. 5.4.1)	N	CU ⁸	CU ⁸	CU ⁸	CU	CU ¹³	CU ¹³	CU ¹³	<u>Y</u>	N	Y	Y	Y	Y	CU	CU ^{17,27}
School - Primary	N	N	N	N	CU	CU	CU	CU	<u>CU</u>	N	CU	CU	CU	CU	N	N
School - Secondary	N	N	N	N	CU	CU	CU	CU	<u>CU</u>	N	CU	CU	CU	CU	N	N
School, -Trade, or Professional	N	N	N	N	CU	N	N	N	<u>N</u>	N	CU	N	N	CU	N	CU ²⁷
Solid Waste Facility - Incinerator, Landfill, Transfer Station	N	N	N	N	N	N	N	N	<u>N</u>	N	N	N	N	N	CU	CU
Tailor Shop	N	N	N	N	N	N ²²	N ²²	CU	<u>Y</u>	N	Y	Y	Y	Y	N	N
Warehouse	N	CU	N	N	CU	N	N	N	<u>N</u>	(See Sec.4.4.1(d) 1)	N	N	Y ¹⁵	N	Y	Y
Warehouse, Retail ⁹	N	N	N	N	N	N	N	N	<u>N</u>	N	N	CU ¹⁵	CU ¹⁵	N	CU	CU
Warehouse, Self-Storage ⁹	N	N	N	N	N	N	N	N	<u>N</u>	N	N	N	Y ¹⁵	N	N	CU
Wholesale Sales ⁹	N	CU	N	N	N	N	N	N	<u>N</u>	N	N	N	Y ¹⁵	N	Y	Y
Worship, Place of	N	N	N	N	CU	CU	CU	Y	<u>CU</u>	N	Y	CU	CU	CU	N	N

1. Residential uses are not permitted except only as an accessory use to an agricultural use.

Legend:	
Y	Permitted Use in this district
CU	Conditional Use in this district
N	Use not permitted in this district
Abbreviation	Zoning District
RCO – A	RCO - Agriculture
RCO – RG	RCO – Recreation/Greenspace
RCO – C	RCO - Conservation
I	Institutional
RL AW	Residential Low Density, Waterfront Residential Low Density <u>Intensity</u>
RM AW	Residential Medium Density, Waterfront Residential Medium Density <u>Intensity</u>
RH	Residential High Density <u>Intensity</u>
RC	Residential Corridors
DW-PT	Downtown Waterfront-Public Trust
NMU	Neighborhood Mixed Use
NAC	Neighborhood Activity Center

ZA-24-02: Appendix A-Use Table – All Zoning Districts

2. ~~Duplexes may be constructed on lots which meet the minimum lot size specified in Table 4.4.5-1. Subject to applicable limits on the number of units per structure in Table 4.4.5-2.~~

3. Duplexes shall only be allowed as a result of a conversion of an existing single family home. New duplexes are prohibited.

4. Reserved.

5. An existing fraternity, sorority, or other institutional use may be converted to dormitory use subject to conditional use approval by the DRB.

6. Must be owner-occupied.

7. Must be located on a major street.

8. Daycare centers and preschools in the RCO zones shall only be allowed when a small museum is the principal use.

9. Automobile sales not permitted other than as a separate principal use subject to obtaining a separate zoning permit.

10. Exterior storage and display not permitted.

11. All repairs must be contained within an enclosed structure.

12. No fuel pumps shall be allowed other than as a separate principal use subject to obtaining a separate zoning permit.

13. Permitted hours of operation 5:30 a.m. to 11:00 p.m.

14. Such uses not to exceed ten thousand (10,000) square feet per establishment.

15. Excludes storage of uncured hides, explosives, and oil and gas products.

16. See Sec.4.4.1(d) 2 for more explicit language regarding permitted and conditional uses in the Downtown Waterfront – Public Trust District.

17. Allowed only as an accessory use.

18. A permitted use in the Shelburne Rd Plaza and Ethan Allen Shopping Center.

19. [Reserved].

20. Accepted agricultural and silvicultural practices, including the construction of farm structures, as those practices are defined by the secretary of agriculture, food and markets or the commissioner of forests, parks and recreation, respectively, under 10 VSA §1021(f) and 1259(f) and 6 VSA §4810 are exempt from regulation under local zoning.

21. See Sec. 4.4.7 (c) for specific allowances and restrictions regarding uses in the Urban Reserve District.

22. See Sec. 4.4.5 (d) ~~36~~ for specific allowances and restrictions regarding Neighborhood Commercial Uses in Residential districts.

23. Allowed only on properties with frontage on Pine Street.

24. Such uses shall not exceed 4,000 square feet in size.

25. Dormitories are only allowed on properties contiguous to a school existing as of January 1, 2010.

26. The mixed uses shall be limited to those that are either permitted, conditional, or pre-existing nonconforming in the zoning district.

27. For lots south of Home Avenue, this use is only permitted or conditionally permitted when one or more Industrial or Arts Production use(s) exists on the lot, and when the combined Gross Floor Area of all uses unrelated to Industrial or Arts production and with this footnote does not exceed 49 percent of the Gross Floor Area. For lots north of Home Avenue within the EL-M district, this footnote does not apply. Grocery Stores up to but not to exceed 35,000 square feet may be permitted subject to conditional use approval by the DRB in that portion of the Enterprise-Light Manufacturing District between Flynn and Home Avenue.

28. Grocery Stores up to but not to exceed 35,000 square feet may be permitted subject to conditional use approval by the DRB in that portion of the Enterprise-Light Manufacturing District between Flynn and Home Avenue.

29. Must be fully enclosed within a building.

30. New single detached dwellings are not permitted. However, a pre-existing single detached dwelling may be reverted to a single family use regardless of its present use if the building was originally designed and constructed for that purpose.

31. See special use standards of Sec. 5.4.13, Emergency Shelters.

32. Performing Arts Centers in the ELM zone shall be limited to properties with frontage on Pine Street up to 5,000 square feet in size, and to properties with frontage on Industrial Parkway up to 15,000 square feet in size. Performing Arts Centers may contain accessory space for preparation and serving food and beverages, including alcohol, provided this accessory space comprises less than 50% of the entire establishment.

33. Short term rentals are permitted by right, subject to per building limitations and rental registration requirements pursuant to Chapter 18: Minimum Housing Standards of the City Code of Ordinances.

34. See Sec. 4.5.~~68~~(c) 5 for permitted uses in the Enterprise – Innovation District (~~E~~-SEID) Overlay
- | | |
|--------|---|
| NAC-RC | NAC – Riverside Corridor |
| NAC-CR | NAC – Cambrian Rise |
| E-AE | Enterprise – Agricultural Processing and Energy |
| E-LM | Enterprise – Light Manufacturing |

ⁱ For permitted and conditional uses within the Downtown and Waterfront Form Districts, refer to Article 14.



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TO: Burlington City Council
Mayor Miro Weinberger
FROM: Meagan Tuttle, AICP Director, Office of City Planning
Sarah Morgan, Planner
Charles Dillard, AICP, Principal Planner
DATE: February 21, 2024
RE: Proposed CDO Amendment – ZA-24-02 Neighborhood Code Part 1

Overview

The Neighborhood Code is a series of zoning amendments that will enable more neighborhood-scale housing types citywide, including duplex, triplex, and four-unit buildings, as well as townhomes and other small multi-unit building types in some locations. Specifically, the code aims to:

- Re-legalize historic neighborhood development patterns and identify solutions to common barriers to small and middle housing types
- Find opportunities to build on neighborhood patterns through more context-sensitive zoning tools for residential areas
- Recommend new approaches to the type of development allowed in low-density zoned areas along major streets served by transit and connecting neighborhoods to the downtown
- Comply with, and exceed, the minimum standards for residential density and residential uses required by the VT Legislature's Act 47 of 2023.

Background on Process

The department launched this work in 2022 with support from an inaugural Bylaw Modernization Grant from the VT Department of Housing & Community Development, and in collaboration with in-kind support from AARP-VT's Livable Communities program. Outreach and engagement occurred in two phases in the summer/fall of 2022 and summer/fall of 2023, and interim presentations to Council and the Planning Commission preceded the formation of a Joint Committee of the Planning Commission and City Council Ordinance committees to review and refine the neighborhood Code recommendations.

This Committee held 9 meetings between Oct 4 and January 9 to review the major recommendations of the Neighborhood Code, hear public input, and make modifications to the recommendations from those originally presented by staff. The committee concluded their work following a public hearing on January 9. While not all individual decisions on certain aspects of the draft code were unanimous, the Joint Committee members did unanimously refer the Neighborhood Code to the City Council with recommendation at their final meeting.

The draft code was introduced to the Council on January 29, and warned for a public hearing on February 26. Additionally, staff attended the Ward 1 NPA meeting on February 14, and hosted a Q&A session on February 20 with approximately 60 people in attendance. Questions were also invited via a link on the department's website, and video summaries of the proposed code and additional FAQ's were posted.

At the February 26 Public Hearing, you will hear feedback on January 29 version of ZA-24-02. During the deliberative item for this amendment, Council can discuss whether it would like to take action on the ordinance as it stands or make changes. If the Council wishes to make changes, it should direct the department and City Attorney on what those changes are, and then vote to warn another public hearing at its March 25 meeting.

Neighborhood Code Part 1- Core Recommendations

The Joint Committee's work focused on the major recommendations to advance the Neighborhood Code purpose, and a number of related standards to ensure these recommendations can be implemented. This is referred to as Part 1, and includes substantive changes primarily to Article 4 and Appendix A, as described below. These changes evolve the residential zoning district standards, allowable uses, and district boundaries in the following ways. These are further outlined in the charts on p.3 and in the Proposed Changes section of this memo.

- Updates purpose statements for the residential districts generally and for each district specifically, and updated references to districts throughout the *CDO*
- Updates *Map 4.4.5-1 Residential Districts* to reflect proposed changes to district boundaries
- Wholesale replacement of existing Tables 4.4.5-1, 4.4.5-2, and 4.4.5-3 with new tables 4.4.5-1 regarding lot dimensions and coverage, and 4.4.5-2 regarding building massing and allowable units rather than regulation density in dwelling units per acre
- Adds the proposed Residential Corridor district to *Appendix A*, and updates where typical residential uses are permitted in other residential districts and under what circumstances
- Adds allowable neighborhood-serving commercial uses permitted in the proposed Residential Corridor district to *Appendix A*
- Eliminates the *RL-Larger Lot Overlay* and the *RH Density Bonus Overlay* and renumbers remaining overlays in *Sec. 4.3.2*
- Deletes provisions for developing existing lots smaller than the minimum required size and provisions to add an additional unit to properties in RL, both of which become irrelevant with the changes to core recommendations above
- Enables more than one free-standing structure on a lot, where currently prohibited
- Provides flexibility for residential driveways to encroach into side setbacks
- Adjusts some Design Review considerations, particularly related to the overall height of buildings permitted in residential areas, consistent with Act 47
- Expressly enables PUDs to make adjustments to minimum lot sizes and allowed residential uses (where previously implied)

Neighborhood Code Part 2

A forthcoming companion will cover many of the technical details and related standards the Committee has not yet discussed. The Planning Commission will continue to develop this necessary and complementary package of technical recommendations to follow this spring, using the general direction from past discussions of this Joint Committee. These will include issues such as:

- Standards related to lot frontage and access, and the arrangement of lots, in order to enable Flag Lots, free-standing lots under homes within a Cottage Court development, and other unique small-lot configurations
- Internal consistency between Secondary Buildings allowed in the residential standards, and citywide provisions for ADUs.
- Updates to applicable lot coverage, height, and development intensity bonuses for residential developments in both Article 4 and *Sec. 9.1.12 Additional Density and Other Development Allowances* (for projects with Inclusionary Zoning units)
- Consideration for allowing existing non-conforming and non-residential buildings that are encroaching in setbacks to be converted and/or vertically expanded (i.e. additional height)
- Consider the threshold for lot/project size that is enabled to use the *Article 11- Planned Unit Development* standards, particularly regarding flexibility for very large lots that have been discussed throughout this process
- Coordinate the applicability for Design Review and the Design Review Overlay zone into one section that provides more clear expectation of what is subject to review
- Potential additional flexibility for stacked parking for residential developments
- Potential miscellaneous definitions to clarify and support consistent implementation of new standards

Existing Residential District Standards

	Residential Waterfront Low Density (WRL)*	Residential Low (RL)*	Residential Waterfront Medium Density (WRM)	Residential Medium (RM)	Residential High (RH)
Min. Lot Size	6,000 ft² for single family 10,000 ft² for duplex		No Minimum		
Min. Lot Width	60 ft		30 ft		No Minimum
Lot Coverage Limit	35%		40%		80%
Front Setback	Average of adjacent properties +/- 5 ft				
Side Setback	10% lot width or Avg. of adjacent properties				
Rear Setback	25% lot depth but at least 20 ft				
Primary Building Max. Footprint	Limited by lot coverage				
Secondary Building Max. Footprint	Not Permitted				
Max. Stories	35' height				
Max. Units per Building	2 Units, if lot size permits		Depends on Lot Size		
Maximum Density	7 units/acre, but 3+ units not permitted		20 units/acre		40 units/acre

*Larger minimum lot size and frontage, and lower permitted densities apply to parcels within the RL-Larger Lot Overlay zone.

Proposed Residential District Standards

	Residential Low (RL)	Residential Medium (RM)	Residential High (RH)	Residential Corridor (RC)
Min. Lot Width	30 ft		No Minimum	
Lot Coverage Limit	45%	60%	80%	80%
Front Setback	Average of adjacent properties +/- 5 ft			Min of 5 ft, Max of 20 ft
Side Setback	10% lot width or Avg. of adjacent properties			0 ft
Rear Setback	20 ft	15 ft		
Primary Building Max. Footprint	1,800 ft²		Limited by lot coverage	3,600 ft²
Secondary Building Max. Footprint	1,100 ft²	900 ft²	Limited by lot coverage	Not Permitted
Max. Stories	3 Stories		4 Stories	
Max. Units per Building*	4 Units	6 units	No Limit	

*RM allows up to 6 units in a Primary Building, and up to 4 units in a Secondary Building.

"The Construction Zone"

Throughout the Committee discussion, a number of questions and related issues have been raised that are not within the core focus of the Neighborhood Code. Some of these issues relate to other plans and studies underway or on the near-term horizon for the Planning staff and the Commission. Others have been requested by one or more members of the Joint Committee for future discussion. These issues include:

- Beyond the creation of the Residential Corridor zone, consider other opportunities for redevelopment of larger sites, overall scale of development, and mix of uses along the north Avenue Corridor (part of upcoming *planBTV: New North End*)
- Potentially expand the factors that warrant Residential Corridor zone designation, and identify other applicable locations for this district
- Consider the transition of heights/intensities of development and mixed-use allowances of existing mixed-use districts adjacent to new Residential Corridor district (i.e. neighborhood mixed use and neighborhood activity center districts)
- Consider the impact on implementation resulting from existing regulations for historic properties (preservation plan is upcoming on department work plan)
- Work with other departments to consider whether changes to Chapter 26 (stormwater) or other incentives/programs may be needed to address and accelerate residential-scale green stormwater infrastructure solutions
- Consider whether building/fire code exceptions/alternative approaches have applicability for implementing middle housing types (i.e. sprinklers, stairs, etc)
- Develop incentives for more owner-occupancy in newly allowed housing types (i.e. funding, other policies outside zoning)
- Technical and financial assistance for "small" developers/homeowner developers to help build new homes at this scale

Proposed Amendment

Amendment Type

Text Amendment	Map Amendment	Text & Map Amendment
----------------	---------------	---------------------------------

Purpose Statement

This amendment creates a new framework for the city's residential zoning districts that enables a range of housing types, including single-family, ADUs, duplex through four-unit developments, and townhouses and small multi-unit buildings. These amendments enable greater flexibility for existing homes as well as a range of housing options within neighborhoods, create new zoning standards along transportation corridors identified in *planBTV*, and comply with Act 47 of 2023 of the VT Legislature.

Proposed Amendments

The following amendments to the *Burlington Comprehensive Development Ordinance* are included in this proposal:

- 1) **Amends Article 4 – Zoning Maps and Districts to create new residential district framework and eliminate several overlay districts**
 - Modifies the purpose statement for each residential district to reflect the goals of the amendment, which are to enable additional housing options, greater intensity of residential uses, and support City equity and climate objectives
 - Modifies the residential district names to replace the word "density" with "intensity," as the amendment replaces density standards with tools to regulate building massing and unit per building. Additionally, modifies language throughout the CDO to reflect these new district names.

- Proposes a new *Map 4.4.5-1 Residential Districts*, which modifies residential district boundaries in the following ways:
 - Streamlines residential zones by removing the Waterfront Residential Low Density (RL-W) and Waterfront Residential Medium Density (RM-W) districts, and combines these districts with the underlying RL and RM zones
 - Rezones several areas from Residential Low to Residential medium
 - Rezones an area immediately adjacent to downtown, surrounded by the downtown form code, from RM to RH
 - Rezones two parcels, currently located on the edge of the RL zone, to RL
 - Creates a new Residential Corridor (RC) district, that regulates residential and some commercial uses along major street corridors adjacent to low intensity zones
- Deletes the RH Density Bonus Overlay district, which has no remaining utility, and deletes the RL Larger Lot Overlay District, which is inconsistent with Act 47 and the underlying RL recommendations

2) Replaces and reorganizes residential district standards in Sec. 4.4.5 to replace density limits with standards for massing and units per building, update lot coverage and setback standards, and allow multiple units per building in all districts.

- Replaces *Table 4.4.5-1 Minimum Lot Size and Frontage*, *Table 4.4.5-2 Base Residential Density*, and *Table 4.4.5-3 Residential District Dimensional Standards* with a new *Table 4.4.5-1 Lot Size, Frontage, Setback, and Lot Coverage Standards in Residential Districts* and a new *Table 4.4.5-2 Principal & Secondary Structures Massing and Placement Standards in Residential Districts*
- Allows up to 4 units per building with a max of two buildings in RL zones, up to 6 units in one building and up to 4 units in another building in RM zones, and does not limit the number of units per building in RH and RC zones. Allows only one building in RC zones.
- Modestly increases the allowable lot coverage in RL and RM zones, and establishes lot coverage limits for the RC zone; increases the allowable height in RH zones to 4 stories (from 3) and establishes a 4 story height limit for the RC zone; standardizes rear setbacks at 20 ft for RL zones, and 15 ft in all other zones; establishes a 5 ft min and 20 ft max setback for the RC zone.
- Modifies Appendix A- Use table, to include additional footnotes regarding the new standards of Sec. 4.4.5 and to enable neighborhood-serving commercial uses in the RC district
- Maintains, but reorganizes and consolidates other residential district standards, including for residential development bonuses, exceptions to dimensional standards, exceptions for neighborhood commercial uses, allowances for accessory (uninhabited) accessory structures, and residential occupancy limits.

3) Amends specific standards to facilitate the implementation of new housing types enabled in residential districts

- Modifies *Sec. 5.1.2(c)* to allow more than one principal structure on a lot. This modification allows for the incremental introduction of new housing choices in buildings sized consistent with residential neighborhoods.
- Modifies *Sec. 5.2.5 Setbacks* to allow driveways and walkways shared along property lines and serving residential uses to be exempt from setbacks requirements.

- Modifies *Sec. 6.2.2 Review Standards* (Site Plan Design Standards) to replace language calling for the maintenance of existing development patterns with a prioritization of development that is complementary to existing patterns. This change reflects the amendment's facilitation of housing type and choice that have been illegal in Burlington's residential districts.
- Modifies *6.3.2 Review Standards* (Architectural Design Standards language to prioritize the careful consideration of a housing development's contextual height and massing, rather than the existing focus that dictates that compatibility with such context is *the most important* consideration. This modification also creates CDO conformance with the *HOME Act's* prohibition on limitations of building massing and footprint size below the ordinance's standards.
- Expressly enables modification to lot size and residential uses not otherwise allowed for developments utilized the *Article 11- Planned Unit Development* standards

4) Addresses internal consistency per the following above changes, by updating section numbers, map numbers, and other organizational details

- Deletes *Sec. 5.2.1 Existing Small Lots* as this section is no longer applicable without a required minimum lot size in RL areas
- Amends section numbers and map numbers associate with the Natural Resource Overlay District, Mouth of the River Overlay District, Centennial Woods Overlay District, and South End Innovation District Overlay
- Across a number of sections, reflects deletion of RL-W and RM-W zones, and adds references to new RC district where applicable
- Corrects an out of date cross-reference with the definition of "Building Height"

Relationship to planBTV

This following discussion of conformance with the goals and policies of planBTV is prepared in accordance with the provisions of 24 V.S.A. §4441(c).

Theme:	Dynamic	Distinctive	Inclusive	Connected
Land Use:	Conserve	Sustain		Grow

Compatibility with Proposed Future Land Use & Density

The proposed amendment is consistent in many respects with the Land Use and Density-related policies of *planBTV*. Generally, the slow pace of housing construction and rising housing costs are noted as one of the biggest challenges facing Burlington. Since the Plan's adoption, these challenges have become more pronounced. The foundational policy response to this challenge is the Plan's call to "identify and address unintended or unnecessary barriers to creating new housing and commercial spaces within parts of the city that are suitable to accommodate additional development."

The "Sustain" theme intends to "anticipate small and incremental change that is consistent with existing development patterns, building scale and neighborhood character." Importantly, the Plan notes that the city's residential neighborhoods are not "locked in time" and that "small and subtle change is needed to meet the evolving needs of current and future families and households." The "Grow" theme highlights the city's major transportation corridors as those areas among the most suitable for growth. The amendment helps implement such policies by creating new opportunities for housing construction and choice along these corridors. Specific policy goals and objectives, and their nexus with the amendment, are provided below:

- A primary and foundational change proposed in the amendment is to replace existing density-based standards in residential neighborhoods in favor of one that regulates massing, intensity and lot characteristics. This change is supported by Objective 2.2.
- An additional foundational policy objective that is achieved through this amendment is 3.2, which directs the community to, "Re-evaluate the zoning regulations and development standards for low and medium density residential districts to ensure standards allow for existing development patterns, design character, scale and mass that are desired to be maintained, while also enabling some evolution of these properties to meet the changing needs of households."
- Regarding the amendment's introduction of limited commercial uses in the Residential Corridor zone, the Plan calls for the evaluation of neighborhood mixed-use areas to better understand the capacity of these areas to accommodate additional development." This change is supported by Objective 2.1. and Objective 8.5, which calls for the expansion of higher-density mixed-use development along major thoroughfares
- Objective 8.1 directs the community to "enable the development of additional housing at all income levels...by reducing regulatory barriers and disincentives to development, and encouraging infill and redevelopment of underutilized sites."

Impact on Safe & Affordable Housing

The amendment addresses safe and affordable housing in the following ways:

- In creating additional opportunities in some areas for developments where five or more homes are constructed, the amendment will help produce more purpose-built affordable homes through the Article 9 Inclusionary Zoning standards.
- In removing barriers to housing construction for all developers, including affordable housing developers, the amendment significantly expands the areas where such developers may operate and provide homes at scale.
- In facilitating the creation of more homes throughout the city, the amendment should help to slow the growth in housing costs as they relate to an undersupply.
- In facilitating greater choice in the housing market, the amendment will create expanded opportunities for aging-in-place, homes for individuals with disabilities who may require on-site assistance, and other types of supportive housing.

Planned Community Facilities

This amendment has no direct impact on planned community facilities, aside from facilitating growth within the city's neighborhoods and thereby expanding the population of individuals with proximate access to such facilities.

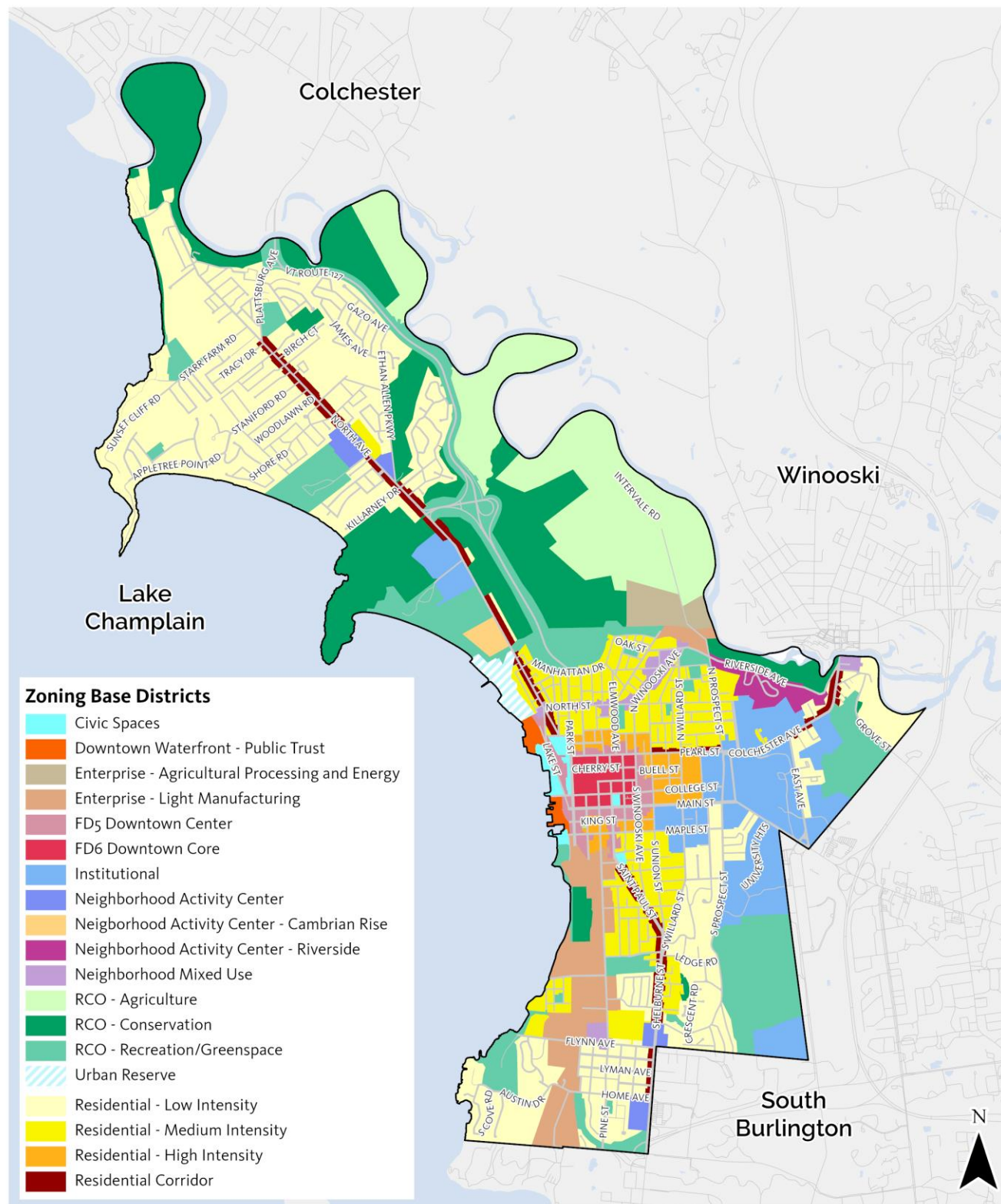
Process Overview

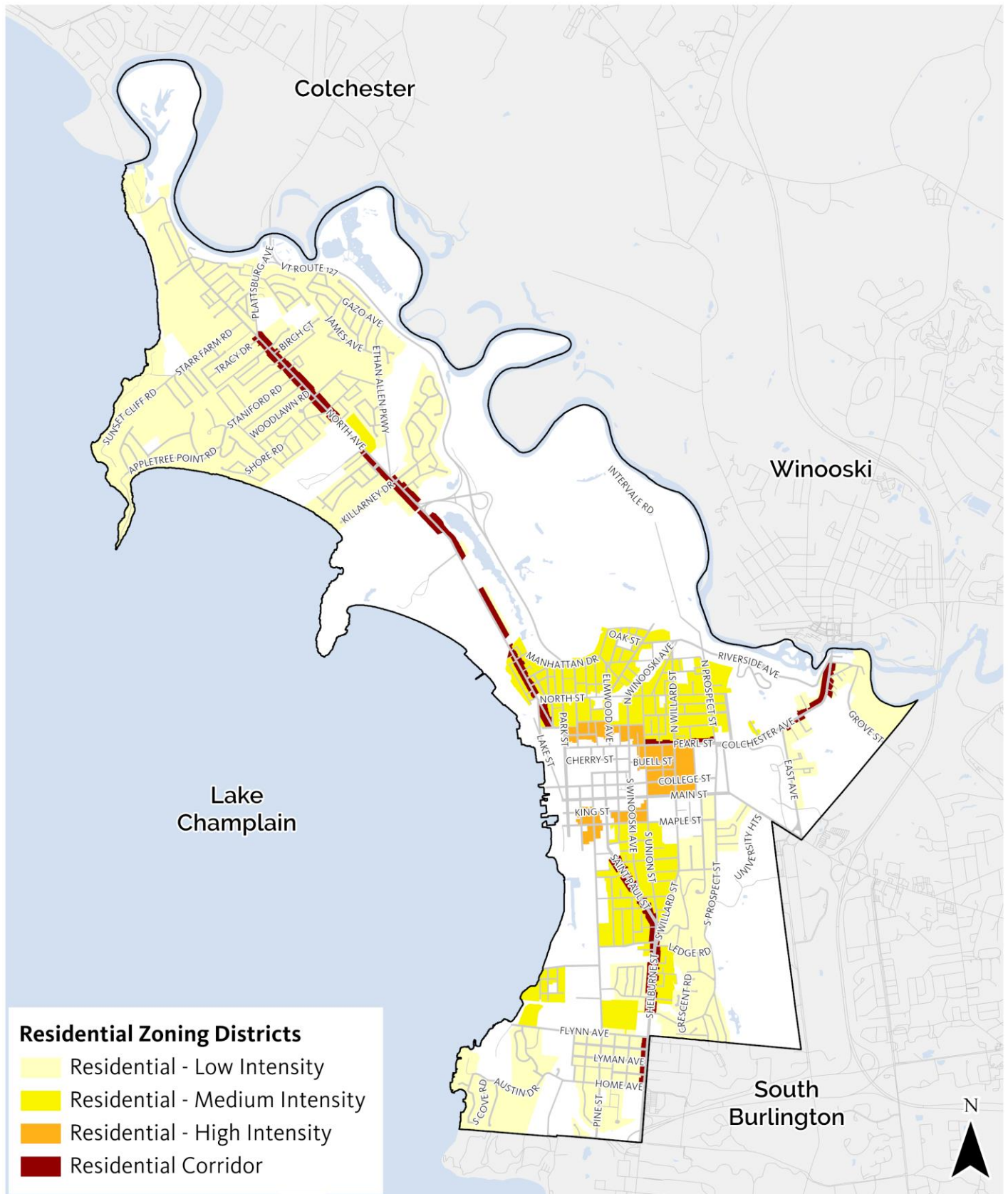
The following chart summarizes the current stage in the zoning amendment process, and identifies any recommended actions:

Planning Commission Process				
Draft Amendment prepared by: Staff	Presentation to & discussion by Commission Various Dates*	Approved for Public Hearing 12/19/23	Public Hearing 1/9/24	Approved & forwarded to Council 1/9/24
City Council Process				
First Read & Warn Public Hearing 1/29/24	Ordinance Cmte discussion Various Dates*	Ordinance Cmte recommend 1/9/24	Second Read & Public Hearing 2/26/24	Council Approval & Adoption

* The Planning Commission and City Council Ordinance Committee formed a joint Neighborhood Code Committee to conduct this review including for the Planning Commission's required public hearing. The committee met on the following dates within 2023: 10/4, 10/17, 11/2, 11/28, 12/5, 12/12, 12/19 and on 1/9/24.

As requested by the Office of City Planning, update proposed maps 4.3.1-1 *Base Zoning Districts* and 4.4.5-1 *Residential Zoning Districts* to advance a technical correction to apply the proposed Residential Corridor District boundary to a maximum depth of 200 ft for properties with street frontage on the applicable thoroughfares, to be consistent with depth of the existing Multi Modal Mixed Use Parking District boundary.





Additionally, as requested by the Office of City Planning, update an incorrect cross reference in Footnote 9 of *Table 4.4.5-1 Lot Size, Frontage, Setback and Lot Coverage Standards in Residential Districts* to refer to *Sec. 4.4.5 (d) 2. C*.

Table 4.4.5-1 Lot Size, Frontage, Setback, and Lot Coverage Standards in Residential Districts

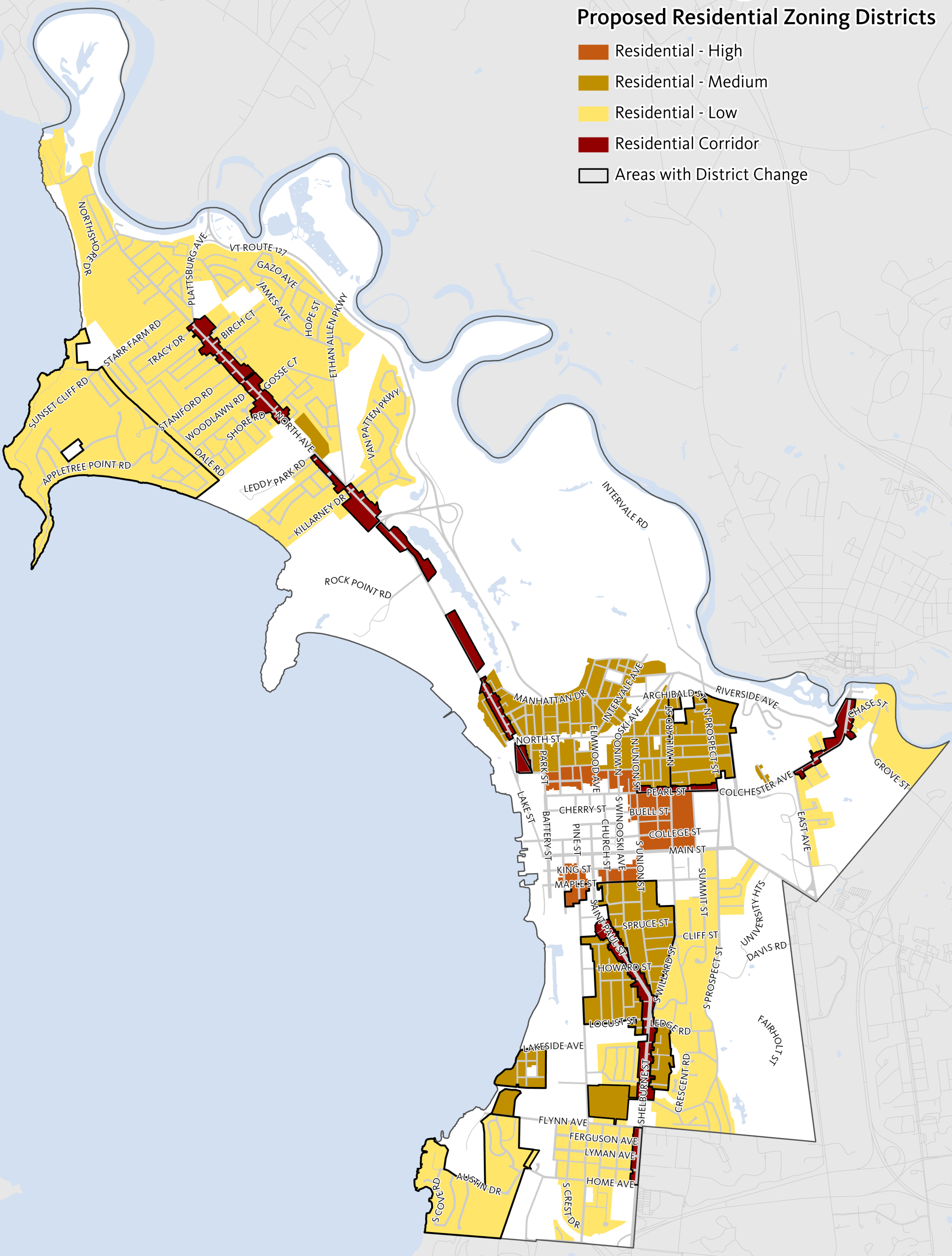
<u>District</u>	<u>Min. Lot Frontage^{2,3,4,5} (linear feet)</u>	<u>Setbacks^{1,6,7,8,9}</u>			<u>Lot Coverage^{1,10}</u>
		<u>Front</u>	<u>Side</u>	<u>Rear</u>	
<u>Residential Low (RL)</u>	<u>30'</u>	<u>Min: Avg. of front setback 2 adjacent lots on both sides +/- 5 feet</u> <u>Max required: 25 ft</u>	<u>Min: 10% of lot width or avg. of side setback of 2 adjacent lots on both sides</u> <u>Max required: 20 ft</u>	<u>20 ft.</u>	<u>45%</u>
<u>Residential Medium (RM)</u>				<u>15 ft.</u>	<u>60%</u>
<u>Residential High (RH)</u>	<u>N/A</u>				<u>80%</u>
<u>Residential Corridor (RC)</u>	<u>N/A</u>	<u>Min required: 5 ft</u> <u>Max permitted: 20 ft</u>			<u>80%</u>

1. Details regarding the measurement of and exceptions to coverage and setback standards are found in Art 5.
2. The DRB may reduce the frontage requirements for lots fronting on cul-de-sacs, multiple streets, or corner lots to more closely reflect an existing neighborhood pattern.
3. Exceptions to frontage requirements for flag lots and small lot subdivisions are found in Sec. 5.2.2
4. For lots in RL or RM with more than two primary buildings, the minimum lot frontage shall be 45'.
5. Average setback for front and side setbacks are calculated based on 4 adjacent lots, two on each side within the same block and on lots with the same frontage requirements. For the purposes of determining the required front setback only, among the comparative sample of four neighboring properties, one may be removed from the averaging calculation.
6. Where there are fewer than 2 adjacent lots on both sides within the same block having the same street frontage, the average side yard setback shall be calculated from the fewer number of lots. Where there are no adjacent lots, the side setback shall be 10% of the lot width. Refer to Sec. 5.2.5 for additional details.
7. A 75 ft setback shall be required from the ordinary high water mark of Lake Champlain and the Winooski River. Additional setbacks from the lakeshore and other water features may be applicable per the requirements of Sec 4.5.3 Riparian and Littoral Conservation Overlay Zone.
8. For properties in the RL and RM zones with frontage along Lake Champlain or the Winooski River, the front yard setback shall not be required to exceed 50 feet.
9. An additional ten per cent (10%) lot coverage may be permitted for accessory residential features per (d) 3A 2C below.

Proposed Neighborhood Code Residential Zoning Districts

Proposed Residential Zoning Districts

- Residential - High
- Residential - Medium
- Residential - Low
- Residential Corridor
- Areas with District Change



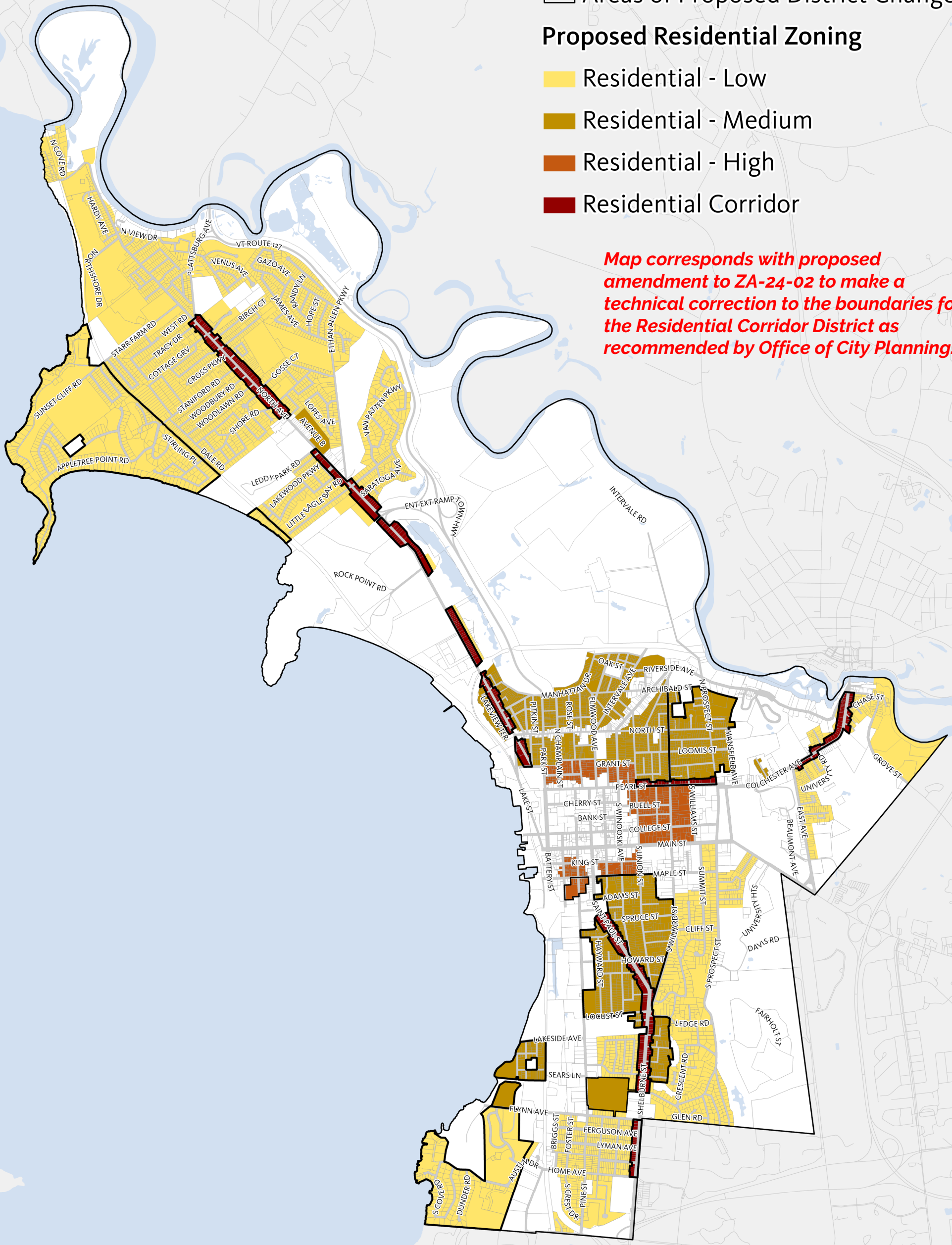
Proposed Neighborhood Code Residential Zoning Districts: Alternative 1

Areas of Proposed District Change

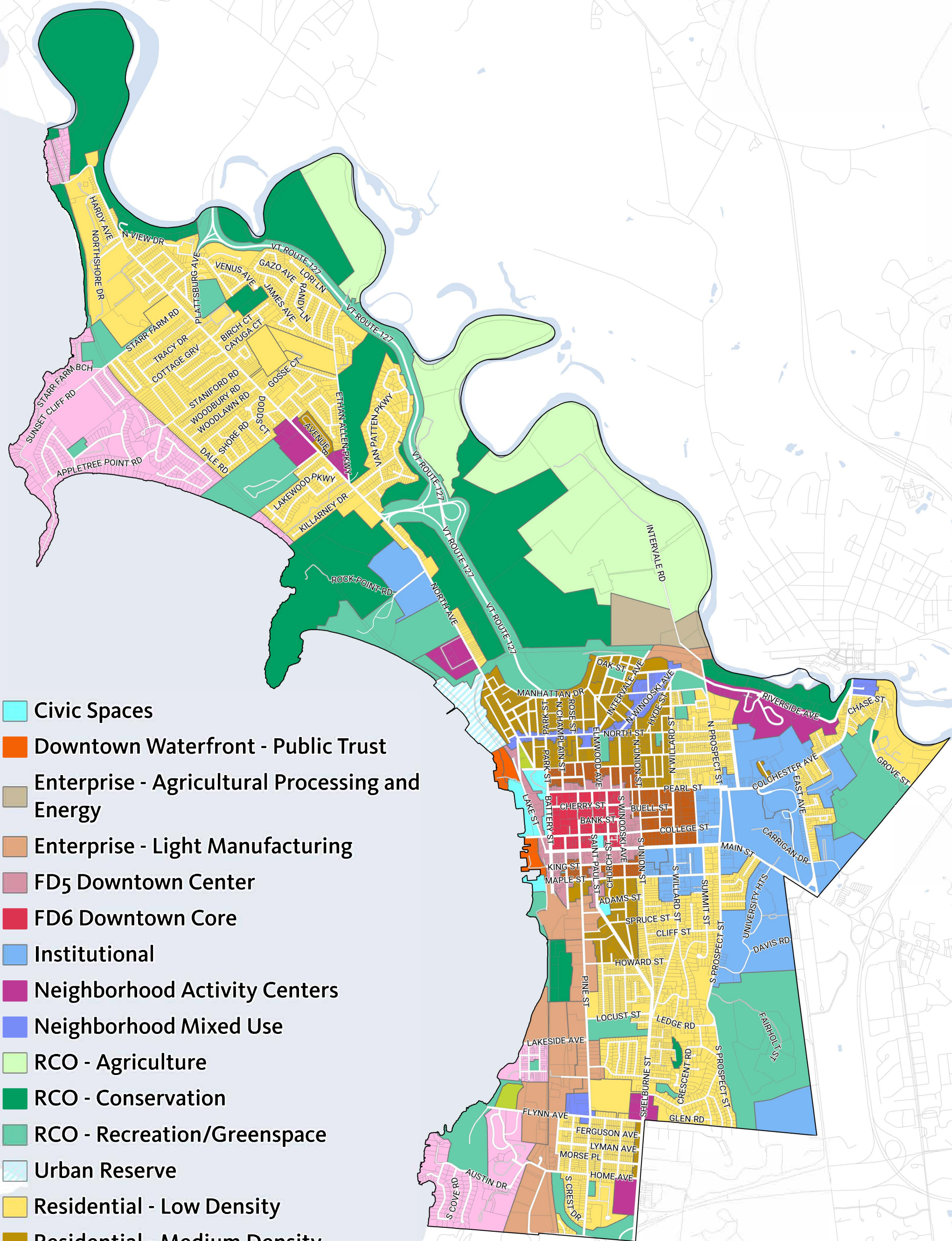
Proposed Residential Zoning

- Residential - Low
- Residential - Medium
- Residential - High
- Residential Corridor

Map corresponds with proposed amendment to ZA-24-02 to make a technical correction to the boundaries for the Residential Corridor District as recommended by Office of City Planning.



Existing Zoning Districts



Board of Finance and City Council Submission ChecklistDepartment: Planning Submitter: Meagan TuttleTitle/Subject: ZA-24-02 Neighborhood Code Part 1- 2nd Read & Public Hearing

	Approval:	Meeting Date:
☐	Board of Finance	Click or tap to enter a date.
☒	City Council	2/26/2024
☐	Concurrent	Click or tap to enter a date.

This form must be completed by the person submitting the materials, and sent with the final submission. Please do not indicate that a signoff was received until it has actually been obtained.

Signoffs Received

Signoff Needed	Received	Date Received	Note
Department Head	Yes	Click or tap to enter a date.	Click or tap here to enter text.
Mayor's Office informed and approved memo	Choose an item.	Click or tap to enter a date.	Click or tap here to enter text.
Board/Commission, if required	N/A	1/29/2024	City Council vote to warn public hearing
City Attorney's Office has approved contract and/or legal documents, -Identify attorney in note	N/A	Click or tap to enter a date.	Click or tap here to enter text.
City Attorney's Office has approved memo and motion(s) or resolution(s) -Identify attorney in note	Choose an item.	1/9/2024	Kim Sturtevant
CAO has reviewed budget, financing, and memo	N/A	Click or tap to enter a date.	Click or tap here to enter text.
Human Resources, if personnel action -Identify HR Manager in note	N/A	Click or tap to enter a date.	Click or tap here to enter text.
CIO, if an IT-related investment/purchase	N/A	Click or tap to enter a date.	Click or tap here to enter text.

Materials Included

	Included?	Note
Final Memo Attached?	Yes	Click or tap here to enter text.
Contract Attached, if applicable?	N/A	Click or tap here to enter text.
Additional Materials, if necessary	Yes	Neighborhood Code Maps, Proposed Amendments
Draft Resolution or Motion?	Yes	City Atty office will submit final ordinance language and motion
If for submission to Council, are sponsors identified?	Yes	Click or tap here to enter text.

As requested by Councilor Hightower, further amend *Table 4.4.5-1 Lot Size, Frontage, Setback and Lot Coverage Standards in Residential Districts* on page 14, line 158 to reduce the allowable lot coverage in RM to X%, and further amend *Table 4.4.5-2 Principal & Secondary Structures Massing and Placement Standards in Residential Districts* on page 14, line 161 to reduce the allowable units per building in RM to 4 units:

Table 4.4.5-1 Lot Size, Frontage, Setback, and Lot Coverage Standards in Residential Districts

<u>District</u>	<u>Min. Lot Frontage^{2,3,4,5} (linear feet)</u>	<u>Setbacks^{1,6,7,8,9}</u>			<u>Lot Coverage^{1,10}</u>
		<u>Front</u>	<u>Side</u>	<u>Rear</u>	
<u>Residential Low (RL)</u>	<u>30'</u>	<u>Min: Avg. of front setback 2 adjacent lots on both sides +/- 5 feet</u> <u>Max required: 25 ft</u>	<u>Min: 10% of lot width or avg. of side setback of 2 adjacent lots on both sides</u> <u>Max required: 20 ft</u>	<u>20 ft.</u>	<u>45%</u>
<u>Residential Medium (RM)</u>				<u>15 ft.</u>	<u>60% 55%</u>
<u>Residential High (RH)</u>	<u>N/A</u>	<u>80%</u>			
<u>Residential Corridor (RC)</u>	<u>N/A</u>	<u>Min required: 5 ft</u> <u>Max permitted: 20 ft</u>			<u>80%</u>
<u>1. Details regarding the measurement of and exceptions to coverage and setback standards are found in Art 5.</u> <u>2. The DRB may reduce the frontage requirements for lots fronting on cul-de-sacs, multiple streets, or corner lots to more closely reflect an existing neighborhood pattern.</u> <u>3. Exceptions to frontage requirements for flag lots and small lot subdivisions are found in Sec. 5.2.2</u> <u>4. For lots in RL or RM with more than two primary buildings, the minimum lot frontage shall be 45'.</u> <u>5. Average setback for front and side setbacks are calculated based on 4 adjacent lots, two on each side within the same block and on lots with the same frontage requirements. For the purposes of determining the required front setback only, among the comparative sample of four neighboring properties, one may be removed from the averaging calculation.</u> <u>6. Where there are fewer than 2 adjacent lots on both sides within the same block having the same street frontage, the average side yard setback shall be calculated from the fewer number of lots. Where there are no adjacent lots, the side setback shall be 10% of the lot width. Refer to Sec. 5.2.5 for additional details.</u> <u>4-7. A 75 ft setback shall be required from the ordinary high water mark of Lake Champlain and the Winooski River. Additional setbacks from the lakeshore and other water features may be applicable per the requirements of Sec 4.5.3 Riparian and Littoral Conservation Overlay Zone.</u> <u>2-8. For properties in the RL and RM zones with frontage along Lake Champlain or the Winooski River, the front yard setback shall not be required to exceed 50 feet.</u> <u>9. An additional ten per cent (10%) lot coverage may be permitted for accessory residential features per (d) 3A below.</u>					

Table 4.4.5-2 Principal & Secondary Structures Massing and Placement Standards in Residential Districts

<u>District</u>	<u>Max Height & Stories^{1,3}</u>	<u>Max Dwelling Units per Structure^{2,3,4}</u>	<u>Max. Principal Structure Footprint³</u>	<u>Max. Secondary Structure Footprint³</u>	<u>Max Building face before providing offset⁵</u>	<u>Min. Distance between Structures on same lot</u>
<u>Residential Low (RL)</u>	<u>35'</u> <u>3 stories</u>	<u>4</u>	<u>1,800 sq.ft</u>	<u>1,100 sq.ft.</u>	<u>50'</u>	<u>15'</u>
<u>Residential Medium (RM)</u>	<u>35'</u> <u>3 stories</u>	<u>6 4</u>	<u>1,800 sq.ft.</u>	<u>900 sq.ft.</u>		
<u>Residential High (RH)</u>	<u>50'</u> <u>4 stories</u>	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>		
<u>Residential Corridor (RC)</u>			<u>3,600 sq.ft.</u>	<u>N/A</u>		
<u>1. Details regarding the measurement of and exceptions to height limits are found in Art 5.</u> <u>2. Minimum dwelling unit size is 350 sq.ft.</u> <u>3. Within RL and RM zones, lots may have up to one (1) Principal and one (1) Secondary structure per lot, except as may otherwise be allowed by Article 11.</u> <u>4. Within the RM district, a maximum of six (6) dwelling units are permitted in a Principal structure, and a maximum of four (4) units are permitted in a Secondary structure.</u> <u>5. Required on all building faces. Minimum offset is 5 ft measured perpendicular to the building face in excess of 50 ft.</u>						

Lot Cover of Residential Parcels

	Median Lot Cover	% Parcels with Lot Cover:			
		> 45%	> 50%	> 55%	> 60%
Appletree Point	25%	3%	2%	1%	1%
Birchcliff	39%	27%	15%	10%	5%
East of Downtown	70%	92%	83%	75%	66%
The Addition/Five Aves	34%	24%	17%	11%	8%
Five Sisters	46%	51%	39%	30%	23%
Hoover/Clymer	43%	46%	37%	24%	19%
Hill Section	32%	19%	12%	8%	5%
Lakeside	44%	48%	37%	35%	32%
Lakewood + Village Green	31%	36%	20%	10%	7%
New North End - East	33%	18%	12%	6%	3%
New North End - Far North	37%	28%	20%	15%	7%
New North End - West	31%	16%	10%	6%	2%
Oakledge	24%	8%	4%	1%	1%
Old East End	39%	38%	30%	22%	17%
ONE East ("North Hill")	53%	69%	56%	45%	37%
Old North End - West	62%	78%	71%	63%	54%
South of Downtown	49%	58%	48%	42%	34%
Van Patten	21%	0%	0%	0%	0%

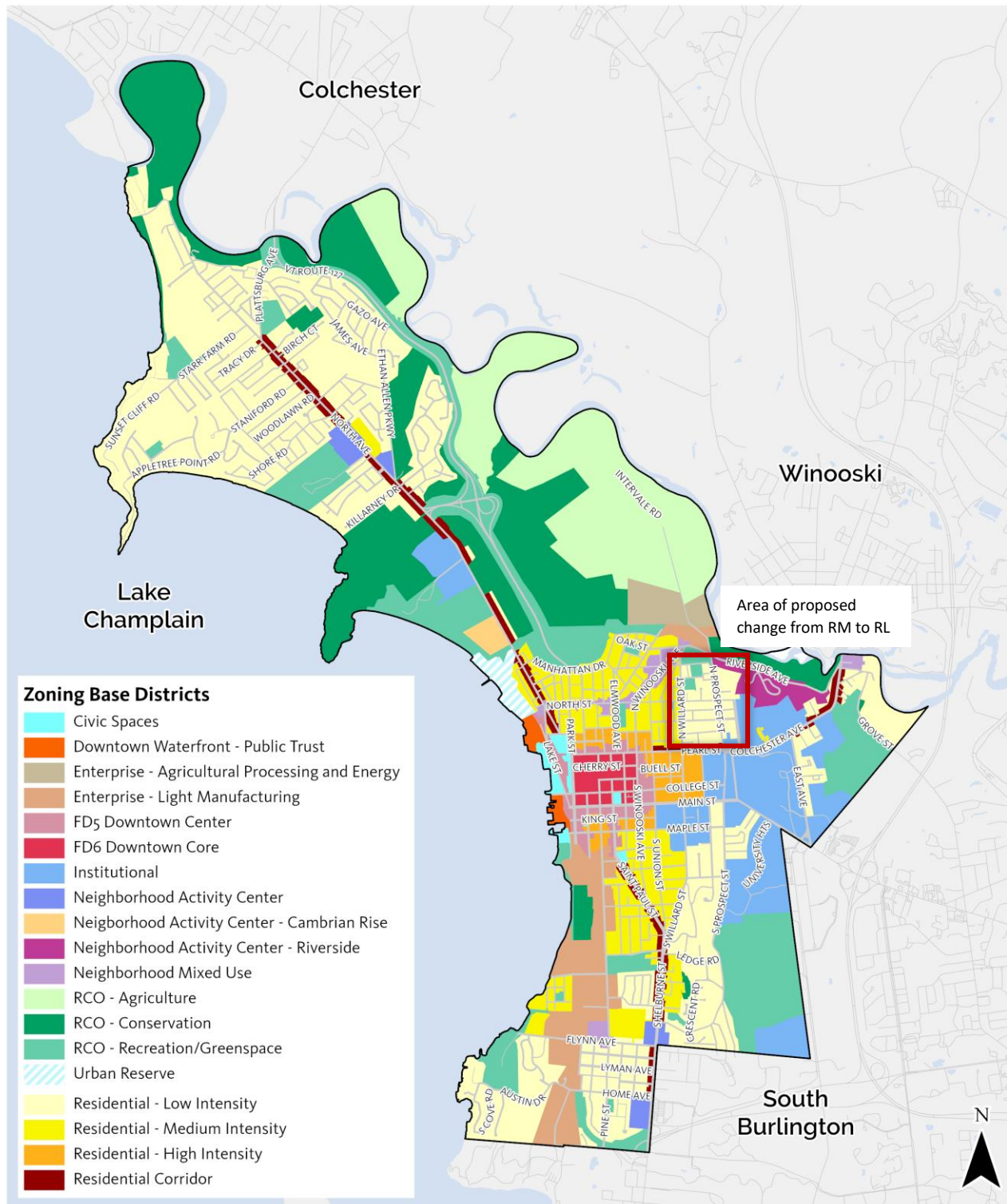
*East of Downtown is already zoned RH, no recommended change

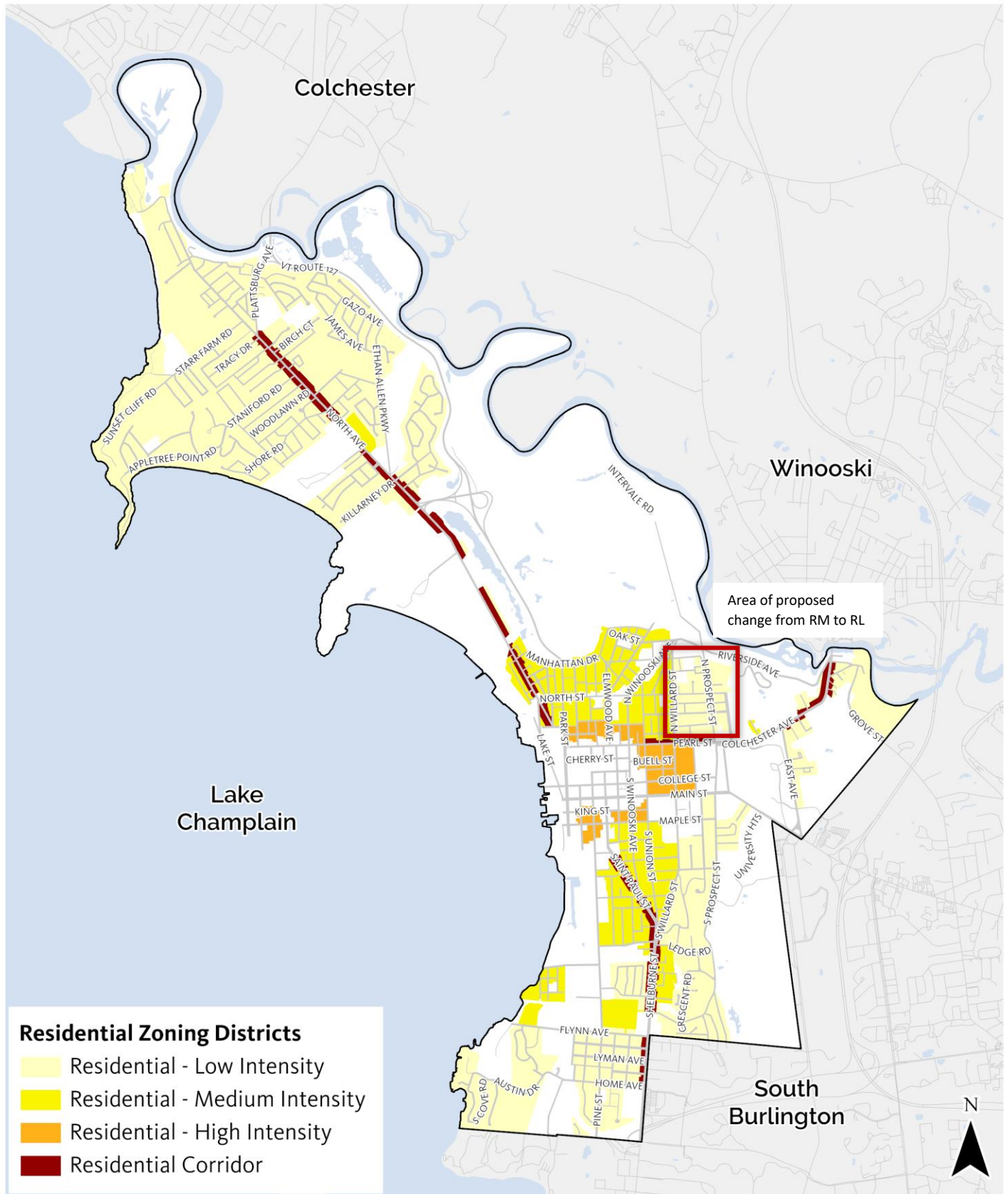
**ONE West already zoned RM, no recommended change

***South of Downtown is zoned RL/RM/RH, depending on location

****Analysis reviews all R1 – R4 parcels

As requested by **Councilor Dougherty**, update proposed maps 4.3.1-1 *Base Zoning Districts* and 4.4.5-1 *Residential Zoning Districts* to apply the Residential Low District to residentially-zoned parcels generally bounded by N. Willard St., Mansfield Avenue, Archibald St., and Pearl St, except for the first 200 ft. depth of the properties with street frontage on Pearl Street between N. Willard and N. Prospect which are in the proposed Residential Corridor District. **Note: this map also incorporates the proposed technical amendments to the Residential Corridor District boundary proposed by the Office of City Planning.**





Resolution Relating to

CLIMATE POLICY REVIEW AND NEXT STEPS FOR
EXISTING COMMERCIAL AND INDUSTRIAL
BUILDINGS LESS THAN 50,000 SQUARE FEET

RESOLUTION_____

Sponsor(s): Councilors Traverse,
Barlow
Introduced: _____
Referred to: _____

Action: _____
Date: _____
Signed by Mayor: _____

CITY OF BURLINGTON

In the year Two Thousand Twenty-Four.....
Resolved by the City Council of the City of Burlington, as follows:

- 1 That WHEREAS, the City of Burlington has declared a climate emergency exists and, in 2019, the City and
- 2 Burlington Electric Department (BED) issued a Net Zero Energy Roadmap ("the Roadmap") to guide progress
- 3 in reducing greenhouse gas emissions in buildings and ground transportation; and
- 4 WHEREAS, the Roadmap identified emissions from buildings as the second largest source of
- 5 greenhouse gas emissions in the City; and
- 6 WHEREAS, the City enacted new ordinances in 2021 to address rental weatherization standards and
- 7 require primary renewable heating systems in new construction; and
- 8 WHEREAS, in 2022, Burlington's neighboring community, the City of South Burlington, adopted a
- 9 similar primary renewable heating system ordinance and also include requirements for renewable domestic
- 10 water heating, aligning the two cities in both requiring the use of renewable systems and fuels for new
- 11 construction; and
- 12 WHEREAS, on March 2, 2021, Burlington voters approved a proposed change to the City charter that
- 13 would allow the City to create policies to regulate greenhouse gas emissions in buildings, and an advisory
- 14 ballot question focused on providing equity in the development of such policies; and
- 15 WHEREAS, on March 7, 2023, the voters of Burlington approved, with over 67% voting in favor, a
- 16 ballot item allowing the City Council to implement a carbon pollution impact fee of up to \$150 per ton for
- 17 new construction and existing commercial and industrial buildings 50,000 square feet or larger that install new
- 18 fossil fuel systems; and
- 19 WHEREAS, on November 20, 2023, the City Council approved an ordinance requiring, beginning
- 20 January 1, 2024, newly constructed buildings either install non-fossil fueled thermal energy systems or pay a
- 21 fee of \$150 per ton and requiring existing commercial and industrial buildings 50,000 square feet or larger that
- 22 are seeking a permit for a new thermal energy system to either install a non-fossil fueled thermal energy
- 23 system or pay a fee of \$150 per ton; and

WHEREAS, the carbon pollution impact fee does not apply to existing commercial and industrial buildings less than 50,000 square feet, and meeting the City's Net Zero commitments will necessitate the adoption of stronger incentives to reduce greenhouse gas emissions from these buildings;

NOW, THEREFORE, BE IT RESOLVED that the City Council hereby requests BED and the Department of Permitting and Inspections (DPI) conduct a review of how to best improve climate policy to reduce greenhouse gas emissions from existing commercial and industrial buildings less than 50,000 square feet; and

BE IT FURTHER RESOLVED that this review shall include, but not be limited to, a review of Burlington's carbon pollution impact fee and the extent to which it should extend to existing commercial and industrial buildings less than 50,000 square feet, an update on applicable climate policies under Vermont or federal law that have been recently enacted or are nearing enactment, an update on relevant climate policies established by Burlington's surrounding communities, and a review of the extent to which incentives, rather than fees or taxes, may be effective in meeting Burlington's Net Zero goals; and

BE IT FURTHER RESOLVED that BED and DPI shall provide an interim report on this topic to the Council no later than August 1, 2024, and a final report with policy recommendations no later than November 1, 2024; and

BE IT FURTHER RESOLVED that subsequent to receiving this final report, the City Council's intention is to request a similar policy review on how to further incentivize the reduction of greenhouse gas emissions in other buildings that are currently not included in the carbon pollution impact fee ordinance.

Resolution Relating to

CLIMATE POLICY REVIEW AND NEXT STEPS FOR
EXISTING COMMERCIAL AND INDUSTRIAL
BUILDINGS LESS THAN 50,000 SQUARE FEET

RESOLUTION _____

Sponsor(s): _____
Introduced: _____
Referred to: _____
Action: _____
Date: _____
Signed by Mayor: _____

CITY OF BURLINGTON

In the year Two Thousand Twenty-Four.....

Resolved by the City Council of the City of Burlington, as follows:

1 That WHEREAS, the City of Burlington has declared a climate emergency exists and, in 2019, the City and
2 Burlington Electric Department (BED) issued a Net Zero Energy Roadmap ("theRoadmap") to guide progress
3 in reducing greenhouse gas emissions in buildings and ground transportation; and

4 WHEREAS, the Roadmap identified emissions from buildings as the second largest source of
5 greenhouse gas emissions in the City; and

6 WHEREAS, the City enacted new ordinances in 2021 to address rental weatherization standards and
7 require primary renewable heating systems in new construction; and

8 WHEREAS, in 2022, Burlington's neighboring community, the City of South Burlington, adopted a
9 similar primary renewable heating system ordinance and also include requirements for renewable domestic
10 water heating, aligning the two cities in both requiring the use of renewable systems and fuels for new
11 construction; and

12 WHEREAS, on March 2, 2021, Burlington voters approved a proposed change to the City charter that
13 would allow the City to create policies to regulate greenhouse gas emissions in buildings, and an advisory
14 ballot question focused on providing equity in the development of such policies; and

15 WHEREAS, on March 7, 2023, the voters of Burlington approved, with over 67% voting in favor, a
16 ballot item allowing the City Council to implement a carbon pollution impact fee of up to \$150 per ton for
17 new construction and existing commercial and industrial buildings 50,000 square feet or larger that install new
18 fossil fuel systems; and

19 WHEREAS, on November 20, 2023, the City Council approved an ordinance requiring, beginning
20 January 1, 2024, newly constructed buildings either install non-fossil fueled thermal energy systems or pay a
21 fee of \$150 per ton and requiring existing commercial and industrial buildings 50,000 square feet or larger that
22 are seeking a permit for a new thermal energy system to either install a non-fossil fueled thermal energy
23 system or pay a fee of \$150 per ton; and

WHEREAS, the carbon pollution impact fee does not apply to existing commercial and industrial buildings less than 50,000 square feet, and meeting the City's Net Zero commitments will necessitate the adoption of stronger incentives to reduce greenhouse gas emissions from these buildings; and

NOW, THEREFORE, BE IT RESOLVED that the City Council hereby requests BED and the Department of Permitting and Inspections (DPI) conduct a review of how to best improve climate policy to reduce greenhouse gas emissions from existing commercial and industrial buildings less than 50,000 square feet; and

BE IT FURTHER RESOLVED, that this review shall include, but not be limited to, a review of Burlington's carbon pollution impact fee and the extent to which it should extend to existing commercial and industrial buildings less than 50,000 square feet, an update on applicable climate policies under Vermont or federal law that have been recently enacted or are nearing enactment, an update on relevant climate policies established by Burlington's surrounding communities, and a review of the extent to which incentives, rather than fees or taxes, may be effective in meeting Burlington's Net Zero goals; and

BE IT FURTHER RESOLVED, that BED and DPI shall provide an interim report on this topic to the Council no later than August 1, 2024, except that any recommendation that would require voter authorization shall be made to the Council no later than July 1, 2024, and a final report with policy recommendations shall be provided no later than November 1, 2024; and

BE IT FURTHER RESOLVED, that while BED and DPI are conducting their review and analysis, the City Council requests that the TEUC receive regular updates regarding BED and DPI's progress, and that the TEUC host with the Mayor's Administration two forums or meetings to receive public input on how to best advance additional climate policy for existing commercial and industrial buildings not included in the carbon pollution impact fee ordinance; and

BE IT FURTHER RESOLVED, that at least one of the TEUC public forums or meetings shall include testimony from a State of Vermont official or officials who are responsible for developing the Clean Heat Standard and the State's analyses of greenhouse gas emissions from various fuel sources and determining how these analyses could impact the issuance of clean heat credits under the Vermont Affordable Heat Act, and this testimony shall further include information on how the issuance of clean heat credits could impact consumer prices for various fuel sources and help the State meet its greenhouse gas emissions reduction targets.

~~BE IT FURTHER RESOLVED, that subsequent to receiving this final report, the City Council's intention is to request a similar policy review on how to further incentivize the reduction of greenhouse gas~~

55 ~~emissions in other buildings that are currently not included in the carbon pollution impact fee ordinance.~~

56

57 BT/Resolutions 2024/*Climate Policy Review and Next Steps for Burlington Buildings*

58 *January 23, 2024*

Resolution Relating to

URGING VERMONT STATE OFFICIALS TO WORK WITH THE USDA THROUGH 2024 TO ENSURE REPORTING AND OTHER CAPABILITY FOR COMPLIANCE AND SUMMER GROCERY BENEFITS PROGRAM ELIGIBILITY IN 2025

RESOLUTION_____

Sponsor(s): Councilors Carpenter, Bergman, Shannon, Grant, Paul, Magee, King, Traverse
Introduced: _____
Referred to: _____

Action: _____
Date: _____
Signed by Mayor: _____

CITY OF BURLINGTON

In the year Two Thousand Twenty-Four

Resolved by the City Council of the City of Burlington, as follows:

That WHEREAS, on January 10, 2024, the U.S. Department of Agriculture (USDA) announced that 35 states, all five U.S. territories, and four Tribes will benefit from new, permanent summer grocery benefits program for children; and

WHEREAS, the program is known as Summer Electronic Benefit Transfer and is slated to launch in the summer of 2024; and

WHEREAS, following the USDA announcement, the State of Vermont announced it would not participate in the program due to the administrative costs and lack of availability of required information technology and data compliance; and

WHEREAS, thousands of Vermont children will not receive meal benefits in 2024 from this program; and

WHEREAS, according to the USDA, “[T]hrough this new program, states will provide families with \$120 per eligible child for the summer to buy food at grocery stores, farmers markets or other authorized retailers – similar to how SNAP benefits are used, Vermont has an opportunity to opt into these benefits in future years;

NOW, THEREFORE, BE IT RESOLVED that the City Council and the Administration urge Vermont State officials, along with Vermont’s Congressional Delegation to work with the USDA through 2024 to ensure reporting and other capability for compliance and Summer EBT eligibility in 2025; and

BE IT FURTHER RESOLVED that key State agencies develop and implement the necessary information technology to best provide a coordinated and efficient information gathering and reporting platform to meet the needs of this program.

SC/Resolutions 2024/Urging Vermont State Officials to Work With the USDA Through 2024 to Ensure Reporting and Other Capability For Compliance and Summer Grocery Benefits Program Eligibility in 2025
2/16/2024

12/13/23

City of Burlington, VT

2021-2023 Dog Task Force

Executive Summary

The Dog Task Force was created in 2021 by a City Council resolution to address the growing number of dogs in Burlington and a perceived increase in conflicts. The Task Force included a broad representation of stakeholders. It met from 2022-2023 to carry out the tasks outlined in the resolution. This report includes details of the work of the Task Force, recommendations and rationale.



Key recommendations:

- 1) Modernize and update the city ordinances that relate to animals.
- 2) Improve the licensing process and dramatically increase the number of animals licensed in the city. Allocate a portion of the license revenues for programs and activities that support healthy and happy dogs and cats within the City.
- 3) Require cats to be licensed and prohibit at-large cats, with certain exceptions
- 4) Improve the reporting, compliance and enforcement of animal-related ordinances by creating the position of Animal Control Officer at the Police Department and adding professional experts to the Animal Control Committee.
- 5) Establish a policy for off-leash dogs that includes the management and creation of fenced and unfenced off-leash dog areas at a limited number of locations; and recommend BPRW conduct a pilot project to test unfenced off-leash areas for dogs.

-
- 6) Create and expand an annual calendar of education outreach, activities and parks-based events to reduce issues and conflicts around domestic animals while celebrating the joy they bring to Burlington’s residents.

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Fig. 1. A map showing that dog registrations appear to be evenly spread across the city, indicating both that dogs are located all over the city and that the low licensing numbers are pervasive and not restricted to any specific areas.

Findings and Recommendations

Ordinance Updates

Recommendation: Modernize and update the city ordinances that relate to animals

The City of Burlington ordinances related to animals (Chapter 5 “Animals and Fowl”) have not been updated on a regular basis, in some cases for 26 years. As a result, many of the ordinances are outdated with regard to current terminology and regulatory practices. The Task Force ordinance subcommittee conducted a comprehensive review of the ordinances and compiled a list of recommendations.

The recommendations, as follow, fall primarily into four categories: updates to language, improvements to animal shelter policy, licenses and other recommendations to improve the welfare of dogs and cats, and measures to strengthen enforcement. Please note that in the course of the review of Chapter 5, the Task Force has made recommendations that fall outside the four corners of the Resolution, such as revisions to the regulation of exotic animals, and these recommendations, while not noted below, are included in Appendix C. The Task Force requests that the City consider these additional recommendations as well in order to ensure that the ordinances better reflect current societal views of animals.

Language:

- Retitle Chapter 5 “Animals”
- Retitle Article II “Dogs and Cats”
- Replace the term “pound” with “animal shelter” throughout
- Replace the term “owner” with “guardian” throughout
- Replace the term “pet” with “companion animal” throughout
- Replace the term “vicious” with “dangerous” throughout
- Replace “it” with “they” when used in reference to an animal throughout

Animal shelter:

- Provide an animal shelter for all species of companion animals in need
- Remove option for animal shelter to sell or give away unredeemed animals, and restrict options to offer for adoption or transfer to cooperating animal shelter

Dogs and cats:

- Require that dogs and cats wear identification
- Require that cats be licensed
- Increase license fees and review the fee structure at least every 5 years
- Dedicate license fees to education and other services pertinent to improved welfare of resident dogs and cats
- Prohibit at-large cats

Enforcement:

- Provide a dedicated, certified animal control officer with investigative resources
- Increase fine for violations of Chapter 5 and include restorative justice as a supplemental option for offenders
- Require impoundment of any animal suspected of being a stray
- Increase impoundment fee
- Require boarding fee to reflect actual expenses
- Increase fine for cruelty to animals
- Add a licensed veterinarian and a certified animal behavior professional to the animal control committee
- Allow any person to use reasonable force to remove an animal whose health or safety is at risk from a motor vehicle if designated officials are unavailable
- Prohibit any person from leaving the scene of an accident for which they have reason to believe that they have caused the injury or death of an animal

Appendix C includes a copy of Articles I, II, and III of Chapter 5 and Section 22-13 of Chapter 22 as well as a detailed discussion of the bases for the recommendations.

Licensing Programs and Policy Updates

Recommendation: Improve the licensing process and dramatically increase the number of animals licensed in the city. Allocate a portion of the license revenues for programs and activities that support healthy and happy dogs and cats within the City.

The Task Force found that Burlington was under licensing dogs compared to neighboring communities. Licensing is an important means of monitoring the overall health of the City's dogs with respect to rabies, and thus reducing transmission of this virus. Rabies, once symptoms appear, is fatal to humans and animals. In addition, treatment is expensive, painful and occurs over multiple visits. Further, licensing facilitates returning animals to their guardians quickly and efficiently, which reduces stress on the animals and saves City resources for other needs.

The Task Force performed a detailed review of licensing data and trends and found that licensing rates in Burlington are very low compared to neighboring cities with smaller populations. The 2022 rate of licensing in Burlington is estimated at 11%. The practices of the neighboring community of South Burlington, which has an estimated 35% licensing rate for dogs, were compared with Burlington's practices.

In the course of the Task Forces research, it was apparent that there are no dedicated funds for the development of parks resources for animals and their guardians. With some effort to improve licensing numbers, revenue increases for the city could be significant enough to fund additional programs and activities that support healthy and happy dogs and cats within the City. Examples of these programs are listed below.

The Task Force overwhelmingly recognized the importance of improving and expanding licensing within Burlington. The Task Force recommends that the City's licensing programs be strengthened and expanded as follows:

Improve licensing compliance

- Expand outreach and awareness to increase the number of animals licensed
- Educate the community about how the licensing funds are used, and the benefits of licensing (e.g. community health - rabies vaccination ensured)
 - This information should be provided when an animal is licensed
- Require cats to be licensed (see next recommendation)
- Expand the consequences for not licensing dogs and cats
 - Increase penalties (see Appendix C, Chapter 5 Article III)

-
- Work with landlords and housing associations to encourage licensing requirements in lease/HOA agreements. Less funding for resident companion animal programs
 - Require at-large animals be licensed before they are returned to their guardian
 - Require animal control officers to verify licenses when responding to incidents and record that information in the incident report
 - Grant the police real-time access to licensing information to increase the ease of rabies verification in the event of a bite.

Use the resulting increase in licensing revenues to create a special fund

The fund would support:

- Annual licensing efforts
- Development of a streamlined process to share licensing data
- Improved incident reporting and data tracking and improved responsiveness from police
- Additional companion animal programs and education
- Low-cost spay/neuter services
- Additional park facilities for animals

Appendix D includes detailed research and discussion of the bases for these recommendations.

Cats: Licensing and Prohibition of At-Large Cats

Recommendation: Require cats to be licensed and prohibit at-large cats.

The Task Force recommends that the City of Burlington require cats be licensed for their own welfare and that of other animals, to aid in identification for animal control purposes, and to better ensure public safety.

Burlington would not be the first to do so, as both South Burlington and Shelburne require cats to be licensed. The many benefits of licensing are enumerated in Appendix C under the [discussion of Article II, sections 5-16 and 5-14](#), and include improving the health of cats

and reducing the number of cats who are lost with no way to identify the guardian. Increased revenues from licensing could also help support better responsiveness to cat-related incidents, as well as support affordable spay/neuter options for low-income residents.

The Task Force also recommends that the City prohibit at-large cats, that is cats that are off-premise and not restrained by their guardian. Free roaming cats are more likely to experience disease and both accidental and intentional injuries as well as fatalities, and thus have shorter life spans (this is reflected in City data where 50 percent of reports about cats pertained to cats who had been found deceased, and of those, 75% were found in roadways). Cats permitted to roam off-premises can easily become nuisances on both public and private property and are classified as such in some neighboring municipal ordinances. Further, free-roaming cats are well documented in the scientific literature as immensely destructive to wildlife, particularly birds.

- Implement ordinance recommendation regarding licensing cats and prohibiting at-large cats as per the Ordinance Update recommendation

For a more detailed discussion, see Appendix C, Article II, Discussion.

Reporting, Enforcement & Compliance

Recommendation: Improve the reporting, compliance and enforcement of animal-related ordinances by creating the position of Animal Control Officer at the Police Department and adding professional experts to the Animal Control Committee.

The Task Force reviewed reporting, compliance and enforcement of dog related ordinances.

This included reviewing reporting mechanisms, social media, Front Porch Forum, and police department data for incidents such as off-leash dogs, aggressive dogs, attacks by dogs, as well as responses by the Burlington Police Department (BPD). Data obtained from the BPD likely reflects only a small portion of the actual incidents that involve animals in the community. Because residents may be aware of the narrow scope of the Department's

work on these issues, as detailed below, it can be assumed that many residents do not bother to report animal incidents and thus there is no record created.

Currently the City's Community Service Officers (CSO) respond to dog and rabies vector related calls for service. Incidents that are called in are responded to and are documented in incident reports. Depending upon the follow-up required, incidents may be responded to over several shifts. CSOs have many other responsibilities besides responding to animal incidents. If there is a higher priority incident such as a car accident, their attention may be focused on those. Additionally CSOs' responsibilities are limited to responding to dog-related reports and to reports about rabies vectors. Therefore concerns about cats or other animal types besides dogs are referred to other organizations such as the Humane Society of Chittenden County or to a wildlife removal service.

The Task Force recognizes the work that the CSOs perform everyday, but strongly recommends that a part- to full time animal control officer be hired by the City.

An animal control officer (ACO) also responds to incidents, but in addition proactively enforces ordinances (such as leash laws) and oversees the overall health and safety of animals within the City. An ACO would have specific and ongoing training and certification in the handling and welfare of animals, be able to perform inspections on and monitor facilities that shelter animals, educate the public on how to care for animals, and investigate trends and repeat problems or animals, conduct in-depth investigations and overall be a point person and resource for the Burlington community.

To improve compliance and enforcement of ordinances, the Task Force recommends the following:

- Create a position at the Police Department of Animal Control Officer
- Ensure personnel that are involved in animal welfare & enforcement of the Animals Ordinances have proper training and access to updated licensing information
- Increase education to improve community awareness on how to report incidents effectively
- Expand online incident reporting categories to include animal issues and ensure issues are assigned to responsive entities within City operations

-
- Recommend adding licensed veterinarian and certified animal behavior professional to animal control committee
 - Improve organization and categorization of data as it relates to incident reporting/tracking

See [Appendix I](#) for a summary of animal incidents reported to police and how they were typically addressed/resolved, per the report data available.

Off Leash Areas

Recommendation: Establish a policy for off-leash dogs that includes the management and creation of fenced and unfenced off-leash dog areas at a limited number of locations; and recommend BPRW conduct a pilot project to test unfenced off-leash areas for dogs.

Currently, it is against City ordinances to allow a dog off leash anywhere in the city, except in two fenced-in dog parks and one unfenced beach area. Areas in which dogs may be off-leash comprise a total of 3.5 out of the 520 acres of City Parks (less than 1% of all park land). Many Burlington dog guardians allow their dogs off leash indiscriminately on Burlington's trails and in parks and the City's enforcement of current leash laws is weak to non-existent. The committee researched potential locations, looked at programs in jurisdictions throughout the US for best practices and conducted a City-wide survey. There is a strong desire from dog guardians to have easy access to off-leash areas.

Our parks are a limited resource, and while more areas could be fenced in for dogs, this would exclude regular park goers from this valuable space.

The Off-Leash Areas recommendations, as follow, satisfy the need to create space in our urban environments where dogs may play freely and the desire not to fence off all of our parks for dogs, while providing a mechanism to better regulate and manage spaces where dogs are off-leash. By providing sufficient sanctioned off-leash spaces for dogs to play, explore, and run, the City may focus on the enforcement of regulations requiring dogs be on a leash otherwise within the City's system of parks and recreation paths, protecting all users and our urban wildlife.

The Task Force recommends increasing designated off-leash spaces while simultaneously increasing the enforcement of leash laws in the rest of the city. The goal is to ensure healthy and safe access to appropriate outdoor space for dogs across the City and to support enforcement of inappropriate spaces where dogs should not be off leash.

- Update the City ordinances with a new [Section 7 of Appendix D](#) which will add one fenced off-leash dog area to Oakledge, formalize the two existing off-leash fenced dog areas, and provide the parks department with regulations and the ability to enforce these regulations.
- Establish an [Off-Leash Dog Policy](#) with oversight by the Parks Commission
- Create a pilot program of off-leash dog areas, as drafted in the [Off-Leash Dog Policy](#) in Appendix F

The list of pilot areas in the [Off-Leash Dog Policy](#) came from a review of prior committee work (see Appendix K), current parks programming and usage, and survey results (Appendix I). Considerable thought was given to how to avoid clashes, including the following:

- Clear signage indicating designated off-leash areas & rules for using these spaces.
- A landing page on Burlington Parks Recreation Waterfront (BPRW) website showing where dogs can and can't go, and where they must be kept on-leash.

Education Campaign

Recommendation: Create and expand an annual calendar of education outreach, activities and parks-based events to reduce issues and conflicts around domestic animals while celebrating the joy they bring to Burlington's residents.

The Burlington Dog Task Force worked with the Parks & Recreation Department to support the education campaigns and events, including:

- ❖ Barking contribution to noise pollution, and solutions to unwanted barking, posted on 2/16/2023
- ❖ On leash in natural areas, posted on 5/18/22

- ❖ Scoop the Poop campaign, posted on 4/1/22
- ❖ Dog License education, posted 3/22/23
- ❖ Wag the Waterfront event

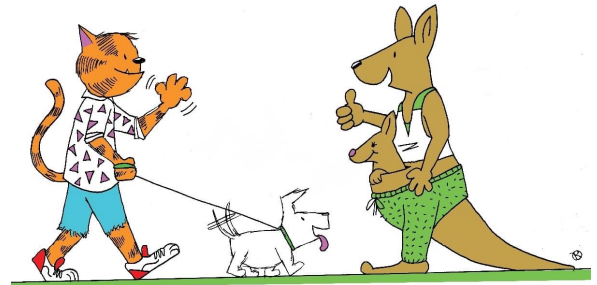
The Burlington Dog Task Force has created a draft calendar with suggested educational posts for social media and Front Porch Forum, as well as sample campaigns, as included in [Appendix H](#). Additional educational ideas included the following:

- ❖ “Having a dog in Burlington” literature handed out when a license is first issued
- ❖ More signage similar to what BPRW posted on the bike path during the summer of 2023 (see image on the right).
- ❖ Recommend that a web page on the city’s website is developed that goes over everything to do with dogs and cats: rules, how and why to license, off leash rules, off leash areas. Then this site can be referenced and linked to. (signs have QR codes leading to this page)
- ❖ How/when to report issues
- ❖ Impact of outdoor cats on wildlife
- ❖ Low cost spay/neuter options

The Task Force recommends the following educational steps be taken by the City:

- Follow an annual calendar of automatic social media posts/news releases (see appendix for content subjects)
- Hold annual programs in parks such as the recent “Wag the Waterfront”.
- Provide behavioral learning opportunities to animals and their companions

Be Friendly Keep Dogs on a Short Leash



-
- Provide resources for new arrivals (either new residents of Burlington who have dogs, or current residents who get a new dog) on on and off leash areas, regulations, general “good neighbor” guidelines and wellness resources
 - Install signage on guidelines for behavior of dogs in designated off-leash areas
 - Distribute education/information/tips annually on the cards that accompany dog license tags
 - Develop a curriculum for the community justice center, should a restorative justice approach be adopted for resolving violations of dog policies & ordinances

Appendices

Appendix A: Council Resolution

On March 30, 2021 the New North End City Councilors (Barlow, Carpenter, and Dieng), South End City Councilor Shannon, and Parks, Recreation and Waterfront Director Wight hosted an informative and constructive meeting with city residents to better understand pet issues beyond complaints shared on social media. This led to a Burlington City Council resolution on June 28 to create a Burlington Dog Task Force to address these issues. Dog Task Force members were officially appointed on November 17, 2021 by the PAC and the first meeting of the Task Force convened on January 27, 2022. The original resolution is copied below.

The scope of work included a mix of actions for implementation and policy recommendations.

HRB/Resolutions 2021/BURLINGTON PARKS ARTS AND CULTURE COMMITTEE TO CREATE A DOG TASK FORCE 7/8/2021

CITY OF BURLINGTON

In the year Two Thousand Twenty-one

Resolved by the City Council of the City of Burlington, as follows:

BURLINGTON PARKS ARTS AND CULTURE COMMITTEE TO CREATE A DOG TASK FORCE

That WHEREAS, According to the City Charter, a dog is defined as the following: Dogs shall include both male and female of the canine species. Dog shall also mean any animal which is considered to be a wolf-hybrid as defined in 20 V.S.A. § 3541(6).

WHEREAS, Dogs are considered an integral part of our society, playing different roles and providing services in the daily lives of humans, such as for accessibility, companionship, exercise, security and more.

WHEREAS, Under the Americans with Disabilities Act (ADA), a service animal is a dog that has been individually trained to do work or perform tasks for an individual with a disability, including a physical, sensory, psychiatric, intellectual, or other mental disability.

WHEREAS, According to the American Society for the Prevention of Animal Cruelty (ASPCA), dog adoptions are up 700% nationally during the pandemic.

WHEREAS, According to the City of Burlington Parks, Recreation and Waterfront website, "The State of Vermont has one of the highest rates of pet ownership around the nation, the City of Burlington has made possible for community members to share their experiences in many different locations in the greater Burlington Area."

WHEREAS, The City of Burlington issued 755 dog licenses and collected over \$23,000 in dog license revenue for the 2020 fiscal year.

WHEREAS, The City of Burlington via the Department of Parks, Recreation and Waterfront has made a substantial investment in the renovation of the Starr Farm Dog Park located in the New North End.

WHEREAS, Over the past few months, residents of the New North End alongside other residents of the city have shared via social media (Front Porch Forum, Facebook) a growing number of incidents involving dogs or dog owners. The incidents were reported by both dog owners, former dog owners or nondog owners.

WHEREAS, Most of those incidents are similar in nature; some are unique incidents that resulted in a decreased quality of life and have caused tensions between neighbors. Those incidents include but are not limited to the following:

- Off leash dogs in city parks, natural areas or beaches
- Dogs attacking people or other dogs
- Dog feces not being picked up
- Policies not being enforced
- Unlicensed dogs
- Dog barking contributing to noise pollution

WHEREAS, Several other issues involving other types of pets in the city were also shared by community members.

WHEREAS, On Tuesday, March 30th the New North End City Councilors, Barlow, Carpenter and Dieng, hosted an informative and constructive community meeting alongside South End District City Councilor Shannon and Parks, Recreation and Waterfront Director Wight in order to better understand the pet issue beyond the complaints shared on social media.

WHEREAS, The Community meeting was well attended and received by the community. The attendance ranged from people of the South End, Old North End and New North End. Most attendees were dog owners or former dog owners as well as non-dog owners, nature lovers, dog park volunteers and professionals working with pets.

WHEREAS, Residents who attended the community meeting brainstormed ideas and best practices related to these issues and are willing to formally help the city in an ongoing way.

WHEREAS, The Burlington City Council, via a resolution, respectfully tasked the Parks, Arts and Culture Committee to make a recommendation via a resolution by June 28th to the Council regarding the creation of a Burlington Dog Task Force to address the issues raised in this resolution and possibly other issues.

WHEREAS, The Parks, Arts and Culture Committee, in consultation with the Director of Parks, Recreation and Waterfront and the Starr Farm Dog Park Volunteer Coordinator, developed the following recommendations for a nine (9) member task force and their scope of work.

NOW THEREFORE BE IT RESOLVED, The nine-member Dog Task Force shall be composed of the following members:

- 1) Starr Farm Dog Park Volunteer Coordinator
- 2) Representative of a dog shelter, dog rescue group or other dog group to be appointed by PACC
- 3) Dog trainer to be appointed by PACC
- 4) Veterinarian or animal health professional to be appointed by PACC

-
- 5) Burlington Police Department Community Resource Office representative to be designated by the Chief of Police
 - 6) Burlington Parks, Recreation and Waterfront representative (staff with land use or event planning expertise) to be designated by the BPRW director
 - 7) At large Burlington community member who is a non-dog owner to be appointed by PACC
 - 8) At large Burlington community member who is a dog owner to be appointed by PACC
 - 9) A representative of the Parks Commission to be appointed by the Parks Commission Chair

BE IT FURTHER RESOLVED, Parks Director will create an application for task force membership.

Applications will be received by the Clerk/Treasurer's Office until August 31, 2021. PACC appointed members shall be selected by the Parks, Arts and Culture Committee at their September meeting

BE IT FURTHER RESOLVED, The Parks, Art and Culture Committee recommends the following:

- A. That the Dog Task Force members elect a Chair as their first order of business in their first meeting; and the Director of Burlington Parks and Recreations and Waterfront to identify an administrative staff to the taskforce
- B. That the following be within the Dog Task Force's scope of work:
 - 1) Review current city programs and policies including other dog task force work.
 - 2) Conduct an Education Campaign:
 - a) Off leash dogs in city parks, natural areas or beaches
 - b) Dogs attacking people or other dogs
 - c) Dog feces not being picked up
 - d) Dog barking contributing to noise pollution
 - 3) Review licensing rules and make recommendations
 - a) Review licensing fees and make recommendations
 - b) Explore modernizing license fee applications

-
- c) Consider the question of licensing of outdoor cats
 - 4) Review compliance and policy enforcement and make recommendations
 - 5) Plan Pet/Dog Events, Activities and Celebrations, i.e., National Pet Day or National Dog Day Celebration
 - 6) Review current funding allocated to our municipal dog/pet resources and make recommendations
 - 7) Provide quarterly updates to the Parks, Arts, and Culture Committee
 - 8) Generate a final report to be presented to the City Council by April 29, 2022

Appendix B: Committee Members & Staff Participants

The full Task Force met monthly, with subcommittees and working groups collaborating in additional meetings as-needed.

Table 1. Appointed Members and City Staff

Appointed Members	City Staff
Jake Schumann, Chair through 10/24/2022 (Position 1)	Cindi Wight, BPRW Director
Lori Kettler (Position 2)	Meghan O'Daniel, BPRW Staff
Maria Karunungan, Chair 10/24/2022 forward (Position 3)	
Nina Hurley (Position 4)	
Dominic Tenan (Position 5, Reassigned) Yusuf Abdi (Position 5, Reassigned) Thomas Young (Position 5)	
Alec Kaeding (Position 6)	
Ilona Blanchard (Position 7)	
Ute Montensen (Resigned, Position 8) Joanne Kalisz (Replaced, Position 8)	
Abbey Duke (Position 9)	

Appendix C: Proposed Amendments to City Ordinances

Proposed Amendments to Article I of Chapter 5

The Task Force's recommended amendments are inserted and underlined, and text that would be eliminated is indicated by strikethroughs.

ARTICLE I. IN GENERAL

5-1 ~~Pound established~~ Animal shelter provided.

There shall be ~~established~~ provided by the city council ~~a pound an animal shelter for the impounding of all beasts~~ all domestic and exotic animals in need ~~liable to be impounded.~~

(Ord. of 6-23-97)

5-2 Appointment of ~~poundkeepers; compensation~~ animal shelter personnel.

It shall be the duty of the mayor to appoint such ~~poundkeepers~~ persons as may be required to ~~take care of and keep such pound as may be~~ manage and maintain the animal shelter that is established pursuant to section 5-1. Their compensation shall be the same as provided by the laws of this state for ~~poundkeepers in towns.~~

(Ord. of 6-23-97)

Cross reference—Duties of officers of the city, § [2-4](#).

5-2a Appointment of animal control officer

It shall be the duty of the mayor to appoint an enforcement officer(s), in accordance with section 122 of the city charter, who shall be a member of the Burlington Police Department. Such enforcement officer(s) shall be a certified animal control officer.

5-3 Animal bites.

It shall be the duty of every person bitten, or his or her parent or guardian, and the attending physicians to report to the ~~city health officer~~ animal control officer, who shall report to the city health officer, within twenty-four (24) hours the name, address and telephone number of the ~~owner~~ guardian or keeper of the animal ~~which~~ who bit the person and the complete circumstances, to the extent known.

5-4 Nuisance animals.

(a) No ~~owner guardian~~, keeper or other person having control shall permit an animal to be a nuisance animal. For the purposes of this section, nuisance animal means any animal or animals ~~which~~ who:

- (1) ~~Molests Attacks~~ or harasses passersby or passing vehicles, or otherwise creates a public safety hazard;
- (2) Attacks other animals, including but not limited to wildlife;
- (3) Damages property other than that of their ~~its owner guardian~~;
- (4) Defecates off the premises of the animal's ~~owner guardian~~, and the ~~owner guardian~~, or other individual in control of the animal, fails to remove such deposit immediately;
- (5) Roams off the premises of the guardian while not under control of the guardian, or the guardian's agent, by leash or other similar means of physical restraint at all times; or
- (5 ~~6~~) Barks, whines, howls, cries, or makes a noise commonly made by such animals in an excessive and continuous fashion so as to disturb the peace and quiet of any other person.

(b) Any dog or cat found to be a nuisance animal by an animal control officer shall be impounded if the guardian, or the guardian's agent, is not present and cannot be located immediately.

(Ord. of 6-23-97; Ord. of 10-23-06, eff. 11-22-06)

5-5 Exotic animals.

~~(a) Purpose and findings: The purpose of this section is to enhance the public safety of persons who are present on the district known as the Church Street Marketplace (the Marketplace) and in the city's parks by regulating the presence of "exotic" animals on the Marketplace and in the city's parks. The council finds that such pets can pose a threat to the public health, safety, and welfare if present on the Marketplace and in city parks. Such pets are unlicensed and are not typically leashed, as is required of domestic dogs.~~

~~(b) Definitions: "Exotic pet" means all animals except domestic dogs, domestic cats and the European ferret (*Mustela putorius furo*).~~

~~(c) General prohibition: No person shall have an exotic pet or permit their exotic pet to be on or about the Marketplace or within a city park unless expressly approved by the Marketplace Director or Parks Department respectively or exempted under the terms of this section.~~

(d) Exemptions: A person may have or permit an exotic pet to be on or about the Marketplace or within a city park when done to transport the pet directly from a pet store in the vicinity of the Marketplace or city park after purchase of such pet or to return such pet to said pet store. The person must retain a receipt for the purchase of such pet and shall display the receipt upon demand from any animal control officer, law enforcement officer, or other person duly authorized to enforce animal control ordinances.

(a) Purpose and findings: The city recognizes that the keeping of exotic animals raises animal welfare concerns and public health and safety concerns not commonly associated with domesticated animals. This section is intended to prevent mistreatment of exotic animals, reduce the risk of harm to the public from contact with exotic animals as well as accidents and other incidents involving such animals, and reduce the public health risk associated with diseases and pathogens carried by such animals.

(b) Definitions: "Exotic animal" means all animals except domestic dogs, domestic cats, domestic mice, domestic rats, domestic rabbits, gerbils, hamsters, guinea pigs, the European ferret, and livestock as defined by Title 6, section 791 of the Vermont Statutes.

(c) Prohibition: The offer for sale, sale, purchase, possession, or public display of any exotic animal within the corporate limits of the city is prohibited.

(d) Exemptions: Any exotic animal possessed on the date of the enactment of this ordinance is exempted from the prohibition on possession set forth in subsection (c) upon registration of the animal with the Board of Health. The exemption applies only to the individual animal so registered, and does not apply to any animal of the same species subsequently acquired. The prohibition set forth in subsection (c) shall not apply to registered 501(c)(3) organizations whose primary purpose is education, animal rescue, or animal rehabilitation.

(Ord. of 10-27-03, eff. 12-3-03)

5-6 Use of non-domesticated animals for public display prohibited.

(a) Purpose. This section is intended to assist in the prevention of the mistreatment of non-domesticated animals used in any public display, to reduce risk of harm to the public from accidents and incidents involving such animals, and to reduce the public health risk associated with diseases and pathogens carried by such animals.

(b) Definitions:

(1) Non-domesticated animals are defined as *Felidae* (all wild cats and hybrids thereof), *Ursidae* (all bears), *Proboscideae* (all elephants), and Non-human Primates and *Prosimians*.

(2) Public display shall mean the exhibition, presentation or showing of live non-domesticated animals to the general public regardless of whether for profit, on a not for profit basis or without charge.

~~(c) — *Prohibition.* The public display of live non-domesticated animals within the corporate limits of the city is prohibited.~~

(Ord. of 9-7-04; eff. 10-13-04)

5-7 6—5-12 Reserved.

Discussion

Section 5-1

The current language of section 5-1 requires the city to provide an animal shelter that accepts “all beasts liable to be impounded.” It is the Task Force’s understanding that the city has previously contracted only for the impoundment of dogs in need. The Task Force recommends that the city provide a shelter for all domesticated and exotic animal residents in need.

Section 5-2a

Section 5-2a is a new section that requires the appointment of a dedicated, certified animal control officer, or officers, within the Burlington Police Department (“BPD”).

Currently, limited animal control functions are performed by the community service officers at the BPD. Community service officers are not required to have experience or training specific to animal control functions, such as animal handling, care, and welfare.¹ The Task Force recommends that the city retain an officer, or officers, whose sole duty is to respond to animal-related issues and to expand the program so that the city’s animals and citizens are better served in this regard. To achieve that goal, the Task Force recommends that animal control officers obtain certification in animal control and be required to participate in continuing education courses, through a national professional training program.

¹ See City of Burlington, Community Service Officer Job Description, <https://www.governmentjobs.com/careers/burlingtonvt/jobs/3045625/community-service-officer..>

The National Animal Care and Control Association (“NACA”) recognizes the difficulty in determining the optimum number of animal control officers for any particular locality.² The calculation is affected by a number of factors such as the number of calls for service, officer safety, citizen safety, types of services provided, population density and diversity, and coverage area.³

Assessment of the number of officers required to address the animal control needs in Burlington is further complicated by the fact that calls for service may not accurately reflect the need for an animal control officer. For example, residents may be aware that the BPD does not respond to calls regarding free-roaming cats and, as a result, they do not place such calls for service.

Studies and other evidence suggest that most cities with a population similar to that of Burlington (approximately 44,000 residents) employ or contract with at least one animal control officer.⁴

In Vermont, an online search reveals that many smaller and less diverse municipalities have at least one animal control officer who may be part- or full-time, employed, contracted, or in a few instances a volunteer. A partial list includes Barre, Bolton, Brattleboro, Castleton, East Montpelier (2 officers), Fairfax, Guilford, Hartland, Highgate, Hyde Park (2 officers), Newfane, Putney, Randolph, Readsboro, Rockingham, Sharon, Shelburne, Shaftsbury, Waterbury, and Windham.

Section 5-4

Section 5-4 expands the definition of “nuisance animals” to include free-roaming animals. It also authorizes law enforcement to impound a “nuisance animal” if the animal’s guardian, or the guardian’s agent, is not present or readily located, and it requires impoundment of free-roaming animals under such conditions.

²National Animal Care and Control Association, “Determining Field Staffing Needs,” <https://www.nacanet.org/determining-field-staffing-needs/>.

³ *Id.*

⁴ For example, a study conducted by NACA found the average ratio of field animal control officers to citizens was one officer for every 16,000 to 18,000 persons. https://www.sheltertrak.com/downloads/kern/kcac_audit/4.pdf. Private online discussion groups for animal control officers across the country suggest similar statistics. Printouts on file with the author.

Section 5-5

Section 5-5 replaces the ban on exotic animals on Church Street Marketplace and in city parks with a city-wide ban on the offer for sale, sale, purchase, possession, or public display of exotic animals, with a grandfather clause for animals currently possessed, and exceptions for certain 501(c)(3) organizations.

The Task Force recognizes that the proposed amendment falls outside the scope of its mandate but wishes to take this opportunity to point out that societal views on the keeping of exotic animals have changed markedly in the last decade as we have learned more about these animals. It is now well accepted that the complex needs of exotic animals cannot be met in captivity, even by the most well-meaning guardians,⁵ and that the exotic animal trade itself is a source of much suffering.⁶

The environmental impact of the exotic pet trade can be severe as well, often having a devastating effect on wild populations of the species traded. For example, it is estimated that every year 21% of the wild population of African Grey parrots, a popular “pet” and an endangered species, are poached.⁷

Exotic pets released into the wild when their novelty wears off, or when they become too expensive or too difficult to handle, can wreak havoc on native flora and fauna. Perhaps the most well-known examples of this problem are the Burmese pythons and green iguanas in Florida.⁸ Vermont is not immune to invasive species, and it is projected that as the climate continues to warm some invasive species, such as red-eared slider turtles commonly sold in local pet stores, will survive and establish breeding populations in the state.⁹

⁵Exotic animals, even those bred in captivity, still possess innate social and physical needs, and require mental stimulation that cannot be provided in private homes. See, Progressive Animal Welfare Society, “Exotic Pets,” <https://www.paws.org/resources/exotic-animals/>.

⁶ E.g., World Animal Protection, “7 Reasons Why You Shouldn’t Keep Wild Animals as Exotic Pets,” <https://www.worldanimalprotection.ca/news/7-reasons-why-you-shouldnt-keep-wildlife-pets>; Born Free U.S., “The Dangers of Keeping Exotic Pets,” <https://www.bornfreeusa.org/campaigns/animals-in-captivity/the-dangers-of-keeping-exotic-pets/>.

⁷ *Id.*, World Animal Protection.

⁸ Florida Fish and Wildlife Commission, “Burmese Python,” <https://myfwc.com/wildlifehabitats/profiles/reptiles/snakes/burmese-python/>; Florida Fish and Wildlife Commission, “Green Iguana,” <https://myfwc.com/wildlifehabitats/profiles/reptiles/green-iguana/>.

⁹ Vermont Reptile & Amphibian Atlas, “Pond Slider,” <https://www.vtherpatlas.org/herp-species-in-vermont/trachemys-scripta/>.

Aside from the animal welfare and environmental concerns, many species of exotic animals carry zoonotic diseases, and there are frequent reports of injuries and deaths from exotic animals kept as “pets,” who can retain their wild instincts even after decades of captive breeding.¹⁰

All states prohibit or restrict the possession of certain exotic animals, and the latter often involves a permit, license, or registration requirement.¹¹ Vermont allows unrestricted possession of many exotic animals, such as certain species of pythons and boas, but requires a permit to possess other species, such as anacondas and black widow spiders.¹²

As the private “ownership” of exotic animals has increased, a growing number of counties and municipalities across the nation have enacted ordinances to prohibit or further restrict the presence of exotic animals in their communities, for the safety of residents and the welfare of the animals.¹³ For example, Rainsville Alabama’s Responsible Pet Ownership Ordinance prohibits the keeping of any non-domesticated, wild animal.¹⁴ Richmond Virginia has a comprehensive ban on the ownership, breeding, purchase, sale, offer for purchase or sale, keeping or maintenance of all exotic or wild warm-blood animals, venomous reptiles and amphibians, and members of the crocodilian family, with exceptions for a limited number of identified species who are in captivity and have never seen the wild, or who have been domestically bred or legally imported.¹⁵

⁹ *E.g.*, Bruno B. Chomel, Albino Belotto, and François-Xavier Meslin, “Wildlife, Exotic Pets, and Emerging Zoonoses,” *Emerg Infect Dis*, v.13(1); 2007 Jan., available at <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC2725831/>, last accessed Sept. 23, 2023.

¹⁰ *E.g.*, People for the Ethical Treatment of Animals, “Reptile Incidents,” <https://www.peta.org/wp-content/uploads/2022/06/reptile-incidents-factsheet.pdf>.

¹¹ Findlaw, “Exotic Animal Laws by State,” <https://www.findlaw.com/injury/torts-and-personal-injuries/exotic-animal-laws-by-state.html>.

¹² Vermont Fish and Wildlife Department, “Unrestricted Wild Animal List” and “Restricted Wild Animal List,” https://vtfishandwildlife.com/sites/fishandwildlife/files/documents/Learn%20More/Living%20with%20Wildlife/Importation/Unrestricted_Wild_Animal_List.pdf.

¹³ See Humane Society of the United States, “Where the Wild Things Shouldn’t Be,” <https://humanepro.org/magazine/articles/where-wild-things-shouldnt-be>.

¹⁴ City Of Rainsville, Alabama, “Non-Domesticated, Wild Animals,” Ord. No. 5-23-13-A, sec. 10, <http://www.rainsvillealabama.com/ordinances/Ordinance-5-23-13-A-amendment.pdf>.

¹⁵ City of Richmond, Virginia, Ord. No. 2023-130 - Amended 20230626, https://library.municode.com/va/richmond/ordinances/code_of_ordinances?nodeId=1228386.

The Task Force recommends that the city consider the proposed revisions to section 5-5 for the reasons stated herein.

Section 5-6

Section 5-5, if adopted, makes the prohibition on public display of certain non-domesticated animals in section 5-6 duplicative and thus unnecessary.

Proposed Amendments to Article II of Chapter 5

The Task Force's recommended amendments are inserted and underlined, and text that would be eliminated is indicated by strikethroughs.

ARTICLE II. DOGS AND CATS¹

5-13 Definitions.

The following definitions shall apply to this article:

"At-large" shall mean not under the control of the ~~owner~~ guardian, a member of the guardian's immediate family, or the guardian's agent or another individual either by leash, ~~cord, chain~~ or other similar means of physical restraint.

"Dog" shall include both male and female of the canine species. Dog shall also mean any animal ~~which~~ who is considered to be a wolf-hybrid as defined in 20 V.S.A. § 3541(6).

"Cat" shall include both male and female of the feline species.

"Enforcement official" when used herein shall mean any animal control officer, police officer, ~~poundkeeper~~ shelter manager, urban park ranger or other individual specifically designated by the city council to enforce the provisions of this chapter.

~~"Owner~~ Guardian" shall include any person or persons, firm, association or corporation owning, keeping or harboring a dog or cat.

~~"Vicious Dangerous dog"~~ shall mean a dog ~~which that~~ attacks or bites a person or other ~~domestic pet~~ companion animal while the dog is off the premises of the ~~owner~~ guardian or keeper, and the person or ~~pet~~ companion animal attacked or bitten requires medical attention. ~~Vicious Dangerous dog~~ complaints shall be investigated pursuant to section 5-27(b).

(Ord. of 6-23-97; Ord. of 4-17-00; Ord. of 4-17-23(1))

5-14 Identification required.

Identification that includes the name and contact information for the guardian of the dog or cat shall be securely attached to a collar or harness and worn at all times.

5-14 15 At-large prohibited.

(a) *Prohibition.* Except as exempted below, no person shall permit a dog or cat for whom they are the guardian ~~him or her~~ or who is ~~under his or her~~ their control to be at-large as defined in section 5-13 or to trespass upon the property of another, public or private.

(b) *Public Safety.* Should an at-large dog or cat be deemed to pose an imminent public safety risk, said animal may be killed by the Police Department or their designee. Such an act shall occur where other reasonable means to control the animal have been unsuccessful or deemed not practicable under the circumstances.

(c) *Exemptions.* A dog or cat ~~may be~~ is not at-large if ~~it is~~ they are:

- (1) On the premises of the dog's or cat's ~~owner~~ guardian;
- (2) On the premises of the person under whose control the dog or cat is under; or
- (3) On the premises of another person as long as that person has given permission for the dog or cat to be at-large;
- (4) A dog is not at-large if they are in a designated off-leash dog area managed and regulated by the board of parks and recreation commissioners.

(Ord. of 6-23-97; Ord. of 4-17-00; Ord. of 9-10-12(1))

5-1516 License and rabies vaccination required.

(a) *Licensing.* Every ~~owner or keeper~~ guardian of a dog or cat more than six (6) months old who has resided in the city for more than 90 days, shall be required to ~~annually~~ register and license the animal, in the manner prescribed by the city, with the city clerk's office and to do so annually provided that no guardian shall be required to register a dog or cat more than once in any calendar year. The license shall expire on the first day of April next after its issuance. Upon issuance of such license and payment of the license fee as required in section [5-17](#) of this chapter, each ~~dog owner~~ guardian shall receive a ~~dog~~ license tag.

(b) *Rabies vaccination.* Proof of a current rabies vaccination, as required by state law, shall be required for the licensing of any animal.

(c) *Fixture of tag.* The ~~dog~~ license tag issued to any person as provided herein shall be securely attached to a collar or harness on such licensed dog or cat and worn at all times.

(Ord. of 6-23-97; Ord. of 8-14-00; Ord. of 6-4-07, eff. 7-4-07)

State law reference—Control of rabies [20](#) V.S.A. § [3801](#) et seq.; immunization required, [20](#) V.S.A. § 4003.

5-1617 License fees.

(a) In addition to the license fee and any penalty fee required by state law, the municipal fee for each license required by this article shall be ~~twenty dollars (\$20.00) for each neutered/spayed dog and forty dollars (\$40.00) for each non-neutered/non-spayed dog~~ recommended by the city clerk's office and approved by the city council, provided that the fee for an intact dog or cat shall be greater than that for a neutered or spayed dog or cat. The fees established under this section shall be reviewed not less than every five years.

(b) The municipal fees collected under this section shall be used for education and other services pertinent to the improved welfare of dogs and cats who reside in the city.

~~(b)~~ (c) The ~~owner or keeper~~ guardian of a neutered/spayed dog that serves as the person's service animal under the Americans with Disabilities Act may request waiver of the municipal license fee (but not the state fee) by providing to the city clerk's office adequate responses to the following questions in writing:

- Is the dog a service animal required because of a disability?
- What work or task has the dog been trained to perform?

(Ord. of 6-23-97; Ord. of 6-25-01; Ord. of 6-4-07, eff. 7-4-07; Ord. of 2-16-21)

State law reference—Similar provisions, 20 V.S.A. § 3581.

5-1718 Removal of dog waste required.

The ~~owner, keeper~~ guardian or person in control of any dog or cat shall be responsible for the removal of any defecation deposited by such dog or cat on any public or private property.

(Ord. of 6-23-97)

5-1819—5-23 Reserved.

Discussion

The title of Article II is revised to reflect the recommended addition of cats to specified sections of the Article.

Section 5-13

Section 5-13 adds a definition of “cat” and updates the definition of “guardian” accordingly.

Section 5-14

Section 5-14 is a new section that requires dogs and cats to wear identification that includes the name and contact information for the guardian. This requirement serves to protect companion animals, and benefits animal control efforts and public safety as well.

Rhode Island summarizes the benefits of such an ordinance in the preamble to a state law that requires identification for cats.¹⁶ Specifically, the Rhode Island legislature determined that:

- (1) Cat identification would provide cats protection under the law, equal to that afforded dogs, by establishing ownership which, in turn, would encourage cat owners to take full responsibility for their pets' welfare.
- (2) [Already required in Vermont] Cat identification would protect cats, as dogs are now protected, by establishing minimum holding periods for cats released to and/or impounded by municipal animal control facilities and private animal shelters.
- (3) A program to require cat identification should facilitate the return of lost, owned cats.
- (4) Cat identification would provide a method to help distinguish between owned and unowned cat populations thus assisting animal control officers and animal shelters in carrying out their mission.
- (5) Cat identification would advance the reduction of the untold suffering of cats at-large in our state by helping to insure the quick return of injured and sick animals to their owners.
- (6) Passage of this bill would reduce the number of unowned cats and increase education to owners as to the need for sterilization of cats, thereby reducing unwanted litters, eliminating cat over-population problems, and reducing the costs to cities and towns for euthanizing at-large or unowned cats.
- (7) Cat identification would help support public health and safety in the control of rabies.¹⁷

These same public purposes are advanced when dogs are required to wear identification.

Section 5-15

Section 5-15 as currently written prohibits at-large dogs. The proposed amendment includes cats in this prohibition. The Task Force recognizes that this recommendation falls outside the scope of its mandate but considers the amendment necessary for the welfare of cats, the protection of wildlife, and public safety. The American Veterinary Medical Association ("AVMA") provides a Model Dog and Cat Control Ordinance that requires all dogs and cats "be kept under restraint" for these very reasons.¹⁸ A number of municipalities

¹⁶ R.I. Gen. Laws § 4-22-1.

¹⁷ *Id.*

¹⁸ American Veterinary Medical Association, "Model Dog and Cat Control Ordinance," sec. V(a), <https://www.avma.org/sites/default/files/resources/Model-Dog-Cat-Control-Ord-Policy.pdf>; American Veterinary Medical Association, "Free-roaming, owned cats," <https://www.avma.org/resources-tools/avma-policies/free-roaming-owned-cats>.

in Vermont, for example South Burlington, Shelburne, and Stowe, have followed the AVMA's lead and prohibit at-large cats and/or include at-large cats in the definition of "nuisance animal," and impose fines and/or permit their impoundment.¹⁹

The Welfare of Cats: As the AVMA and other authorities recognize, free-roaming cats are likely to have a reduced life span and may be exposed to injury, suffering, and death from vehicles, attacks from other animals, disease, cruel acts by humans, poisons, traps, and weather extremes.²⁰ Burlington's resident cats have not escaped these harms.²¹

The Protection of Wildlife: The American Bird Conservancy succinctly summarizes the detrimental and deadly impact of free-roaming cats on native species of wildlife:

Outdoor domestic cats are a recognized threat to global biodiversity. Cats have contributed to the extinction of 63 species of birds, mammals, and reptiles in the wild and continue to adversely impact a wide variety of other species, including those at risk of extinction, such as Piping Plover ...The ecological dangers are so critical that the International Union for Conservation of Nature (IUCN) lists domestic cats as one of the world's worst non-native invasive species.²²

In the United States, it is estimated that outdoor cats kill approximately 2.4 billion birds every year, earning the distinction of the number-one direct, human-caused threat to birds.²³ Between 6.9 to 20.7 billion small mammals are killed by cats each year, and researchers

¹⁹ South Burlington, Vermont, "Care & Control of Dogs & Cats Ordinance," Town Ordinance, Vol. 1, pg. 159-165, sec. 3, https://cms6.revize.com/revize/southburlington/document_center/city%20regulations/Care_and_Control_of_Dogs_and_Cats_Ordinance.pdf; Town of Shelburne, "An Ordinance for the Care and Control of Animals," Town Ordinance, Vol. 1, pg. 3-32, sec. 2(g) and sec. 4(a), <https://www.shelburnevt.org/DocumentCenter/View/103/Animal-Control-Ordinance>; Town of Stowe, Vermont, "Animal Control Ordinance," Municipal Code, Chapter 2, Article III, https://www.townofstowevt.org/vertical/Sites/%7B97FA91EA-60A3-4AC6-8466-F386C5AE9012%7D/uploads/Animal_Control_Ordinance_Final_2015_SIGNED.pdf.

²⁰ E.g. AVMA, "Free-roaming, owned cats," *supra*, n. 1.

²¹ E.g., New England Cable News, "Boy Cited After Allegedly Hanging Cat From Tree in Burlington, Vermont," Nov. 17, 2016, <https://www.necn.com/news/local/vermont/boy-cited-after-allegedly-hanging-cat-from-tree-in-burlington-vermont/41056/>; Burlington Vermont Police Department Incident Reports document an instance in which a cat was injured in a leghold trap and left to stagger off and suffer after their release.

²² American Bird Conservancy, "Indoor Cats," <https://abcbirds.org/program/cats-indoors/cats-and-birds/> (also providing links to scientific literature on the issue); see also, Wildlife Center of Virginia, "Untamed - The Case for Indoor Cats," <https://vermont.pbslearningmedia.org/resource/case-for-indoor-cats-video/untamed-the-wildlife-center-of-virginia/> (also addressing the welfare of cats, zoonotic diseases, and ways to transition free-roaming cats to the indoors).

²³ *Id.*, American Bird Conservancy.

believe that between 258 to 822 million reptiles and 95 to 299 million amphibians may suffer the same fate.²⁴

Burlington is an environmentally conscious community, and the Task Force suggests that a prohibition on free-roaming cats is simply good environmental stewardship.

Public Safety: The scientific literature documents that free-roaming cats pose a significant threat to public health because they can carry and transmit a number of zoonotic viruses, bacteria, and parasites, such as rabies and toxoplasmosis.²⁵ Notably, according to Peter Marra, a professor of biology and the environment at Georgetown University, “[d]ogs used to be the primary way humans picked up rabies from domestic animals ... [b]ut we started licensing dogs and requiring leash laws and rabies vaccines. Now, dogs are not the problem at all—it’s primarily cats.”²⁶

The Task Force recommends that the city prohibit free-roaming cats for the reasons stated herein.

Section 5-16

Section 5-16 extends the requirement for a license to cats. Such requirements have been shown to improve the welfare of cats, increase public safety, and enhance the quality of life in their communities, much like the identification requirements discussed above.

Municipalities across the country have implemented cat-licensing requirements, including jurisdictions in Vermont such as South Burlington and Shelburne.²⁷

The Task Force recommends that the city require licenses for cats for the reasons stated herein.

Section 5-17

²⁴ Smithsonian Magazine, “Feral Cats Kill Billions of Small Critters Each Year,” Jan. 29, 2013, <https://www.smithsonianmag.com/science-nature/feral-cats-kill-billions-of-small-critters-each-year-7814590/#:~:text=Based%20upon%20data%20taken%20from,needed%20to%20verify%20those%20extrapolations>

²⁵ E.g., R. W. Gerhold and D. A. Jessup, “Zoonotic Diseases Associated with Free-Roaming Cats,” *Zoonosis and Public Health*, 2012, <https://abcbirds.org/wp-content/uploads/2015/07/Gerhold-and-Jessup-2012-Zoonotic-diseases-and-free-roaming-cats.pdf>.

²⁶ Kristine Liao, “Outdoor cats are deadly—and not just for birds and squirrels,” *Popular Science*, May 31, 2022, <https://www.popsci.com/environment/outdoor-cats-spread-diseases/>.

²⁷ South Burlington Town Ordinance, *supra* n. 4, sec. 4(A); Town of Shelburne Ordinance, *supra* n. 4, sec. 12(a).

Section 5-17 requires fees for dog and cat licenses to be reviewed no less frequently than every five years, and for the revenue to be used for education and other services pertinent to the improved welfare of dogs and cats who reside in the city. Anecdotal evidence suggests that more residents will comply with the licensing requirement if the fees are used to provide companion animal-related services.

Adequate low-cost spay/neuter options

There is consensus among those knowledgeable about companion animal overpopulation that communities must take the important step to provide adequate safe, affordable, voluntary spay/neuter programs that are readily accessible to the community, and that focus on education and incentives to encourage participation by those sectors of the community most in need of the service.²⁸

The Humane Society of Chittenden County's (HSCC) Community Pet Clinic provides a low-cost spay and neuter service and administers a fund to assist residents who cannot afford the service.²⁹ Task Force member Nina Hurley, who serves on the HSCC's Board of Directors, advises that the clinic is at capacity. The Task Force recommends that the City consult with the HSCC to assess whether the City should provide support to the clinic and/or establish an additional, independent spay/neuter program.

²⁸ See, e.g., American Society for the Prevention of Cruelty to Animals, "Position Statement on Mandatory Spay/Neuter Laws," <https://www.asPCA.org/about-us/asPCA-policy-and-position-statements/position-statement-mandatory-spayneuter-laws#:~:text=ASPCA%20Position,means%20to%20reduce%20shelter%20intake>.

²⁹ Humane Society of Chittenden County, "Spay-Neuter at the Community Pet Clinic," <https://www.hscvt.org/SNClinic>.

Proposed Amendments to Article III of Chapter 5

The Task Force's recommended amendments are inserted and underlined, and text that would be eliminated is indicated by strikethroughs.

ARTICLE III. ENFORCEMENT AND IMPOUNDMENT

5-24 Penalties.

An offense of any provision of this chapter by any person shall be deemed a civil ordinance violation and shall be punishable by the following penalties:

- (1) *First offense.* A first offense of any provision of this chapter in any twelve-month period shall be punishable by a fine of no less than ~~one~~ two hundred dollars (\$~~1~~ 200.00) and no more than ~~one~~ two hundred fifty dollars (\$~~1~~ 250.00). The waiver fine shall be ~~one~~ two hundred dollars (\$~~1~~ 200.00).
- (2) *Second offense.* A second offense of any provision of this chapter in any twelve-month period shall be punishable by a fine of no less than ~~one~~ two hundred fifty dollars (\$~~1~~ 250.00) and no more than ~~two~~ three hundred fifty dollars (\$~~2~~ 350.00). The waiver fine shall be ~~one~~ two hundred fifty dollars (\$~~1~~ 250.00).
- (3) *Third and subsequent offenses.* A third or subsequent offense of any provision of this chapter in any twelve-month period shall be punishable by a fine of no less than ~~two~~ three hundred fifty dollars (\$~~2~~ 350.00) and no more than ~~five~~ six hundred dollars (\$~~5~~ 600.00). The waiver fine shall be ~~two~~ three hundred fifty dollars (\$~~2~~ 50.00).

In addition to the penalties provided in this section,;

- (1) Any person found in violation of this chapter may be subject to a restorative justice process with the Burlington Community Justice Center at the discretion of the animal control committee.
- (2) ~~a~~Any animal found in violation of this chapter may be impounded as provided in section 5-25 of this chapter.

(Ord. of 6-23-97; Ord. of 6-4-07, eff. 7-4-07)

5-25 Impoundment.

(a) *Authority to impound.* ~~Dogs~~ Any animal in violation of any provision of this chapter or suspected of being diseased or injured may be taken by the enforcement officer and impounded in the city ~~pound~~ animal shelter and there confined in a humane manner, ~~except that any animal suspected of being a stray shall be impounded.~~ The enforcement officer may, in lieu of boarding and when in the public interest and consistent with the public safety, allow an impounded dog to remain confined in the custody of its owner on the owner's recognizance that the dog shall remain confined to the owner's property, follow the terms of impoundment set by the enforcement officer and shall not be in violation of any provision of this chapter.

Confinement in lieu of boarding shall continue until such time as the violation or condition authorizing impoundment has been abated.

(b) *Impoundment fees.* Any ~~dog~~ animal impounded under the provisions of this chapter shall be released only on payment of a ~~seventy-five~~ one hundred dollars (\$~~75~~100.00) impoundment fee.

(c) *Boarding fee.* In addition to the impoundment fee charged herein there shall be an additional charge of ~~ten dollars (\$10.00)~~ actual expenses per day for board for each day the period that the ~~dog~~ animal is impounded, except that if an animal is claimed up to three (3) hours after impoundment, the owner will be responsible for one half (1/2) day's boarding fee. If an animal is claimed within two (2) hours of opening business hours on the following business day, the owner will not be charged for that day's boarding fee.

(d) *City clerk to collect fees before releasing ~~dog~~ animal.* It shall be the duty of the city clerk to collect all impound and boarding fees before releasing an ~~dog~~ animal.

(e) *Unlicensed dogs and cats to be licensed before release.* If an impounded dog or cat is unlicensed, in addition to the impoundment and boarding fees set forth herein, the dog or cat shall not be released without the payment of the license fee required by section 5-17, except that if the impounded dog or cat has not had its proper vaccinations to be registered a ~~forty-five~~ one hundred dollar (\$~~45~~100.00) cash deposit shall be posted with the city clerk or ~~his~~ or her their designated agent(s) until proof of registration is presented. A dog or cat released under cash deposit shall be registered within two (2) working days after its release. If the dog or cat is not registered within the time period set forth herein, the cash deposit shall be forfeited and the ~~owner~~ guardian of the animal shall be subject to additional penalties under the provisions of 20 V.S.A. Chapter 193

(f) *Disposition of unredeemed ~~dogs~~ animals.* If any impounded ~~dog~~ animal with a current and effective license established by proof of a dog license tag, is not redeemed within (7) days of its impoundment, ~~it~~ the animal shall be ~~sold or given away~~ offered for adoption at the city animal shelter or transferred to a cooperating animal shelter as defined in 20 V.S.A. § 3901. If any impounded dog without a current and effective license established by proof of a dog license tag, is not redeemed within (5) days of its impoundment, it shall be sold or given away. Any proceeds from the sale of any impounded dog shall first be allocated to taxes, fees and other charges related to the impoundment. Any balance then remaining shall be paid to the owner if any is found. If proceeds from the sale of the unredeemed dog do not cover the costs associated with the impoundment, the balance of sums owed under this chapter may be collected in a civil action brought under this section. If any unredeemed ~~dog~~ animal is not sold or given away adopted because of disease, temperament or other cause, it shall be destroyed in a humane way euthanized. The impoundment period may be waived by the poundkeeper director of the animal shelter in the case of a severely injured animal whose ~~owner~~ guardian cannot be located or is unwilling to claim the animal.

(g) *Interference with impoundment.* Any person who interferes with the impounding of an ~~dog~~ animal under provisions of this article or releases, or who attempts to release, an impounded ~~dog~~ animal contrary to this article shall be in violation of this chapter.

(h) *Notice of impoundment.* Within twenty-four (24) hours of the impoundment of any ~~dog animal~~ under this chapter, the enforcement officer shall make every reasonable attempt to notify the ~~owner guardian~~ of the impounded ~~dog animal~~ of such impoundment. Such notice shall include either personal contact with the ~~owner guardian~~ or a written notice posted at the dwelling house of the ~~owner guardian~~.

(Ord. of 6-23-97; Ord. of 6-4-07, eff. 7-4-07)

State law reference—Notice by impounder, [20 V.S.A. § 3413](#).

5-26 Cruelty.

Any person who shall torture, torment or cruelly neglect to provide with necessary sustenance or shelter, or shall cruelly beat or needlessly mutilate or illegally kill any animal, or any person who shall cause any animal to be tortured, tormented, or fight with other animals, or deprived of necessary sustenance or to be cruelly beaten or needlessly mutilated or illegally killed shall be guilty of a misdemeanor offense and shall be punishable by a fine of from ~~one three~~ hundred dollars (\$~~1300.00~~) to ~~five six~~ hundred dollars (\$~~5600.00~~).

(Ord. of 6-23-97)

5-27 Animal control committee.

(a) *Animal control committee established.* For purposes of this section, an animal control committee is established. The animal control committee will be a subcommittee of the Burlington Police Commission and shall consist of three (3) commission members, one (1) licensed veterinarian, and (1) certified animal behavior professional to be appointed on an as needed basis by the chair of the Burlington Police Commission. The designated animal control officer shall be the prosecuting officer for any violation brought before the committee.

(b) *~~Vicious Dangerous dogs.~~* Upon written complaint by a city resident that a dog is alleged to be ~~vicious dangerous~~ as defined in section [5-13\(e\)](#), the animal control committee may hold a hearing on the facts of the complaint and, if the dog is found to be ~~vicious dangerous~~, make such order as necessary to protect the public. Such order may include, but is not limited to, any of the following: confinement in a secure enclosure or other similar restriction, muzzling adoption, or ~~destruction in a humane manner~~ euthanasia. In addition, the animal control committee may revoke the privilege of any ~~owner guardian~~ to keep, harbor or have custody of any animals while in the city and that no new privileges be granted.

(c) *Repeated impoundment.* In the event that any dog shall be impounded three (3) or more times in a twelve-month period, the animal control committee may, at the request of an enforcement officer, or in their discretion, hold a hearing after which they may make such order as is necessary to protect the public. Such order may include, but is not limited to, any of the following: confinement in a secure enclosure or other similar restriction, muzzling adoption, or ~~destruction in a humane manner~~ euthanasia. In addition, the animal control committee may revoke the privilege of any ~~owner guardian~~ to keep, harbor or have custody of any animals while in the city and that no new privileges be granted.

(d) *Penalty for violation of orders.* Any person who violates any provision of any order of the animal control committee shall be guilty of a misdemeanor offense and shall be punishable by a fine of from ~~one~~ three hundred dollars (\$~~1300.00~~) to ~~five~~ six hundred dollars (\$~~500.00~~).

(Ord. of 6-23-97; Ord. of 8-14-00)

5-28 Confinement of animals in vehicles.

(a) A person shall not leave an animal unattended in a standing or parked motor vehicle in a manner that would endanger the health or safety of the animal.

(b) Any ~~humane~~ animal control officer, law enforcement officer, or member of a fire and rescue service may use reasonable force to remove any such animal from a motor vehicle. The officer may not be subject to criminal or civil liability for any damage resulting from actions taken under subsection (a) of this section. If the aforementioned officers are unavailable, a person who forcibly enters a motor vehicle for actions taken under subsection (a) of this section shall not be subject to criminal or civil liability for damage resulting from the forcible entry if the person: (1) determines the motor vehicle is locked or there is otherwise no reasonable method for the animal to exit the vehicle; (2) reasonably and in good faith believes that forcible entry into the motor vehicle is necessary because the animal is in imminent danger of harm; (3) notifies a humane officer, law enforcement officer, or member of a fire and rescue service prior to forcibly entering the vehicle; (4) remains with the animal in a safe location reasonably close to the motor vehicle until a humane officer, law enforcement officer, or member of a fire and rescue service arrives; (5) places a notice on the vehicle that the authorities have been notified and specifying the location of the animal; and (6) uses no more force to enter the vehicle and remove the animal than necessary under the circumstances. ~~The~~ An officer shall deliver the animal to a humane society, veterinarian or ~~the city town or municipal pound~~ animal shelter. If the ~~owner~~ guardian of the animal cannot be found, the officer shall place a written notice in the vehicle, bearing the name of the officer and the ~~department and~~ address where the animal may be claimed. The ~~owner~~ guardian shall be liable for reasonable expenses associated with the removal, delivery, boarding and disposition of the animal and a lien may be placed on the animal for these expenses. (c) A violation of this section shall be a civil violation subject to the penalties imposed by Section [5-24](#).

5-29 Abandonment of injured animal

(a) A person shall not leave the scene of an accident in which such person has reason to believe that they have caused the injury or death of a domestic animal. Such person shall immediately contact an enforcement officer, and make a reasonable effort to immediately contact the guardian of the animal. If the animal is injured wildlife, the person shall contact a humane officer or a licensed wildlife rehabilitator for assistance.

(b) A violation of this section shall be a civil violation subject to the penalties imposed by Section 5-24.

Discussion

Section 5-24

Section 5-24 increases penalties for civil violations of the Chapter 5 and adds restorative justice measures as permissible additional penalties.

Section 5-25

Section 5-25(a) extends the authority to impound to any animal in violation of the chapter or suspected of being diseased or injured, and requires impoundment of any animal suspected of being a stray.

Section 5-25(b) increases the impoundment fee.

Section 5-25(c) replaces the specified boarding fee with the requirement that the fee reflect actual expenses.

Section 5-25(d) extends the city clerk's authority to collect impoundment and boarding fees regardless of the species involved.

Section 5-25(e) requires unlicensed cats, as well as dogs, to be licensed before release.

Section 5-25(f) removes the authority to sell or give away unredeemed animals and replaces it with the authority to offer these animals for adoption through a shelter.

Sections 5-25(g) and (h) extend the prohibition on interference with impoundment and the requirement for notice of impoundment to all animals regardless of species.

Section 5-26

Section 5-26 increases the fines for cruelty to animals.

Section 5-27

Section 5-27(a) adds a licensed veterinarian and a certified animal behavior professional to the animal control committee to be appointed to serve on an as-needed basis. This will ensure that the committee has access to the expertise needed to properly resolve the cases that come before it, such as dangerous dog hearings.

Section 5-27(d) increases the penalty for violations of an order of the animal control committee.

Section 5-28

Section 5-28 authorizes any person to use reasonable force to remove an animal from a vehicle when the health and safety of the animal is at risk, but only when a humane officer, law enforcement officer, or member of a fire and rescue service is unavailable. The Task Force views this amendment as necessary to address situations in which the animal may be in distress and officials are not immediately available. The language of the amendment tracks the language of the similar state law.

Section 5-29

Section 5-29 is a new section that requires a person who has injured or caused the death of an animal to remain at the scene and to contact an enforcement officer. It further requires such person to make a reasonable effort to contact the animal's guardian should it appear that the animal has a guardian, and to contact a humane officer or wildlife rehabilitator if the animal is injured wildlife.

Proposed Amendments to Section 22-13 of Chapter 22

The Task Force's recommended amendments are inserted and underlined, and text that would be eliminated is indicated by strikethroughs.

Chapter 22 - Sec. 22-13. - Animals prohibited; exception

No domestic animals, except dogs and cats, shall be permitted in any park. Dogs shall be leashed or controlled by other similar means of physical restraint at all times, except in off-leash areas designated in the Off-Leash Dog Policy. Cats shall be leashed or confined in a carrier at all times.

Discussion

Section 22-13

If Chapter 5, Article II, section 5-15 is amended to prohibit at-large cats, as recommended, section 22-13 would provide an alternative means for guardians to provide an outdoor experience for the cats under their care.

Appendix D: Detailed Licensing Information

Licensing Program: The Task Force performed a detailed review of licensing data and trends and found that licensing rates in Burlington are low compared to neighboring cities with smaller populations. In 2022, for example, Shelburne was estimated to have a population of 7871, with 763 licensed dogs (9.68%) in FY2022. Burlington, by comparison, was estimated to have a population of 44,595 and 912 licensed dogs (2.04%) — a difference of 7.64%.

The Task Force also compared licensing trends over time in Burlington. In 2012, Burlington had 1255 dogs licensed, while in 2022 it was only 826 despite the fact that the population in Burlington has increased over that time, from 42671 to 44595³⁰.

The American Veterinary Medical Association (AVMA) tracks dog guardianship trends³¹ and estimates that 45% of US households have at least 1 dog, and the percentage owning at least one dog increased from 38% to 45% between 2016 and 2020 (and leveled off by 2022). Home ownership and household income impact the rate of dog guardianship and dog populations are essentially being influenced by the overall economy. With 17,174 households in Burlington between 2017-2021³², the number of dogs in Burlington may be estimated at 7728 using the national rate of 45%. This is likely to be a conservative estimate, as many Burlington homes have more than one dog.

The AVMA also indicates that cat guardianship is on the rise as well: “The percentage of households that own at least one cat increased slightly between 2016 and 2020, from 25% to 26%, and then increased to 29% in 2022.” Based on this, we estimate that there may be at least 4980 companion cats in Burlington (not including feral cat colonies).

If all estimated cats and dogs in Burlington were licensed, the revenues at current licensing fee of \$27 per dog would be \$276,996.51 per fiscal year. Assuming 100% is unattainable, we looked at how much could be raised if we made an effort to increase licensing numbers similar to area communities such as South Burlington.

³⁰ 2012 and 2022 population estimates for the City of Burlington, VT came from census.gov

³¹ <https://www.avma.org/news/pet-ownership-rate-stabilizes-spending-increases>

³² <https://www.census.gov/quickfacts/fact/table/burlingtoncityvermont/HSD410221#HSD410221>

Table 2. Comparison of FY2022 Actual Licensing Revenues in Burlington to Projected increased revenues from increasing licensing numbers, based on the estimated numbers of dogs and cats in Burlington.

	Projected revenues from successfully licensing 100% dogs and cats	Projected revenues from licensing 35% dogs 15% cats ("realistic")*	FY 2022 Revenues from Dog Licenses (11.8% dogs and 0% cats)	Projected Revenue increase ("realistic")
Dogs (7728)	\$ 208,664.10	\$ 74,180.09	\$ 24,624.00	\$ 49,556.09
Cats (3927)	\$ 68,332.41	\$ 20,614.62	\$ 0.00	\$ 20,614.6
Total \$	\$ 276,996.51	\$ 94,794.71	\$ 24,624.00	\$ 70,170.71

*South Burlington has an estimated 35% licensing rate for dogs and 15% licensing rate for cats

Below is more detailed information on licensing trends in neighboring cities from FY2018 – FY2022, showing how Burlington's numbers have decreased compared to those of neighboring cities. We also show licensing numbers in comparison to population estimates and estimated numbers of dogs and cats, as well as detailed information on neighboring communities' efforts to increase education/outreach concerning dog and cat licensing.

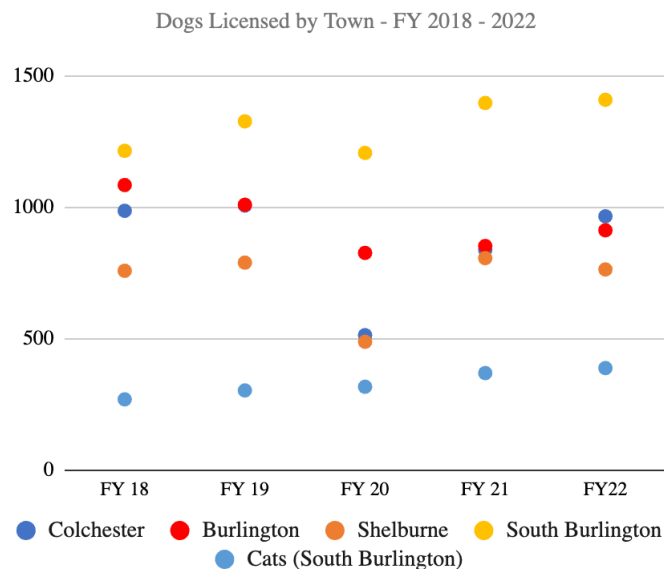


Fig. 2 Burlington's licensing numbers have fallen while its population has increased.

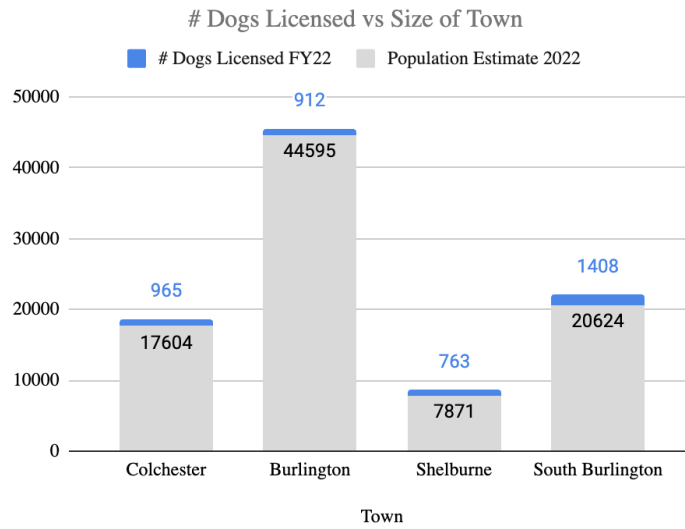


Fig. 3 Comparison of Licensing Numbers to Town Size. In FY 2022 Burlington had the lowest proportion of licenses (912) to its population (44,595), compared to neighboring towns. Shelburne had the highest (9.69%), followed by South Burlington (6.83%) and Colchester (5.48%).

Appendix E: Compliance, Reporting, and Enforcement Challenges

The Task Force recommends the City appoint a dedicated, certified animal control officer, or officers, within the Burlington Police Department (“BPD”). Burlington has not had an Animal Control Officer since 2008³³. Currently, limited animal control functions are performed by the community service officers (CSOs) at the BPD. CSOs are not required to have experience or training specific to animal control functions, such as animal handling, care, and welfare.³⁴ They are not tasked with handling cat-related incidents (except for removing deceased cats and checking for rabies vectors), and are not adequately able to address the increasing number of dog incidents. For example, residents who are bitten by an unfamiliar dog bear the burden of identifying the guardian of that dog in order to get any action from the police, even if that person fled the scene. Without investigative resources and training, CSOs are not positioned to be a resource to help those residents.

Another issue the Task Force found was in both a lack of accessibility to effective reporting, and an understanding of how and what to report:

- *Inaccessibility of reporting.*
 - *Phone limitation for in-progress incidents.* Reports are typically called into the Police Department. If any other means of reporting is used (contacting CSO email address (csobpdvt.org), See Click Fix, Burlington Police website’s online incident report form), the CSOs might not see these as quickly as they would if they are managed by Dispatch responding to a phone call. Thus reporting an emergent animal issue or incident is inaccessible to anyone who cannot use a phone (hearing impaired, Deaf, doesn’t have a phone, etc).
 - No clear category for animal-related incidents exists on the BPD website
 - No clear category for animal-related incidents exists on See Click Fix, which is commonly used by residents to enable other city departments to quickly resolve issues.
- *Reports not made by residents because*
 - Fear of getting neighbors in trouble

³³ Source: Shannon Trammell, executive manager, Burlington Police Dept

³⁴ See City of Burlington, Community Service Officer Job Description, <https://www.governmentjobs.com/careers/burlingtonvt/jobs/3045625/community-service-officer..>

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- Distrust that the police can help or can be a resource to help
 - Lack of awareness of where to complain
 - Knowledge that currently BPD is not fully empowered to address these problems to residents' satisfaction (for example, incidents involving free-roaming cats are not currently addressed by BPD).
 - *Hindrances to enforcement responsiveness.*
 - *Other (higher) priorities.* Other issues are prioritized for CSOs (e.g., car accidents), so even if the report is called in to be dispatched, they are still not always able to respond quickly. 62 reports were reported resolved with the response "gone on arrival"
 - *Not enough information.* Residents who do report issues don't always provide enough information or details for CSOs to be able to follow through and resolve the problem.
 - *Lack of investigative resources.* Residents who are bitten by an unfamiliar dog or cat bear the burden of identifying the guardian of that dog in order to get any action from the police, even if that person, cat or dog fled the scene. The Task Force learned from its BPD representative that BPD is not empowered to take the time and resources to find the guardian if the name and address are not known to the victim.
 - *Legal limitations.* Some problems or incidents that are reported by residents cannot be addressed by CSOs because the issue being reported (e.g., a welfare issue) may not actually comprise an ordinance violation, or because the individual responsible doesn't answer the door to respond to the CSO.

The Task Force recommends that the city retain an officer, or officers, whose sole duty is to respond to animal-related issues so that the city's animals and citizens are better served. The Task Force recommends that City animal control officers obtain certification in animal control and be required to participate in continuing education courses, through a national professional training program. In looking at available literature, Burlington is now of the size that it merits a full time animal control officer. The Task Force notes that some residents do not contact the Burlington Police Department as they may not be aware this is where complaints go, free-roaming cats are not addressed, and that people may not be

comfortable with calling the police with concerns about their neighbors or may be reluctant to report incidents. Please see additional [discussion under the ordinance for Section 5-2a](#)

In addition to the recommendation of a full-time animal control officer or officers, at times the City is not in compliance with the requirement to house stray companion animals due to space issues. Currently companion animals except birds, reptiles, and dogs are taken to the Humane Society of Chittenden County (HSCC). It is unclear if the City's current contractor for dogs, Lucky Puppies, will provide services in the future or have enough space in the future for the City's stray dogs. Because the HSCC and Lucky Puppies take in companion animals from other cities as well, space is an issue. The Task Force recommends that an animal shelter be within Burlington or close so that the shelter may be easily monitored and inspected by the Animal Control Officer.

The Task Force also recommends that the animal shelter follows the standards of care³⁵ set forth by the Association of Shelter Veterinarians. These standards include provisions of adequate shelter, population management, standards for animal handling, sanitation, prevention of pathogen spread, and attention to medical and behavioral health. Given that the City would be responsible for animals in its care, if the City does not have its own shelter it should still ensure that contracted providers follow these guidelines.

³⁵ [The Association of Shelter Veterinarians' Guidelines for Standards of Care in Animal Shelters - Second Edition - December 2022](https://jsmcah.org/index.php/jasv/issue/view/2): <https://jsmcah.org/index.php/jasv/issue/view/2>

Appendix F: Proposed Off-Leash Dog Ordinance and Off-Leash Dog Policy

Proposed Addition of Section 7 to City Ordinance Appendix D

In 2000 the City established a pilot program pertaining to off-leash dog areas that expired in 2003 with no apparent further action by the City.³⁶ The Task Force recommends that a new Section 7 of Appendix D be enacted to reflect current practices:

Appendix D

Sec. 7. - Off-leash dog opportunities

- (A) *Off-Leash Dog Policy.* The Parks, Recreation and Waterfront Department (PRW) shall maintain an Off-Leash Dog Policy (OLDP) as approved by the Parks Commission. The policy may be modified by PRW with the approval of the Parks Commission. The OLDP shall govern the establishment of off-leash dog opportunities, except that permanent fenced dog parks shall be established by ordinance. The OLDP shall govern operations of off-leash dog opportunities and share enforcement authority with the animal control officer(s) as enumerated in this section.
- (B) *Designation of Areas.* Areas shall be designated for the purpose of allowing dogs to be under control of the guardian or guardian's agent by means other than physical restraint. Opportunities shall include: fenced dog parks, water access, and field use on an hourly, seasonal, or year-round basis within reasonable walking distance of neighborhoods. Opportunities, where possible, shall be dispersed across the city. .
 - (1) Permanent off-leash fenced dog parks shall be located at:
 - (a) Oakledge Park
 - (b) Starr Farm Dog Park
 - (c) Urban Reserve
 - (2) Off-leash dogs are prohibited at the following parks. Dogs in these parks must be leashed at all times:
 - (a) Appletree Park
 - (b) Arms Park
 - (c) Baird Park
 - (d) Battery Park
 - (e) Bike path
 - (f) Champlain Street Park
 - (g) City Hall Park
 - (h) Dewey Park
 - (i) Ethan Allen Park

³⁶ City of Burlington, Vermont, Ord. of 9-23-02

<https://www.codepublishing.com/VT/Burlington/#!/BurlingtonAxD/BurlingtonAxD.html> (Pilot program. The rules of this section shall be in full force and effect for eighteen (18) months. The director of parks and recreation shall review the impacts of the designated off-leash areas and shall make a report to the city council after twelve (12) months of operation. Unless directed otherwise by the city council, these rules shall expire upon the end of the 18th month in which the rules were in effect.)

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- (j) Kieslich Park except for the portion known as "Texaco Beach"
 - (k) Lakeside Park
 - (l) Little Park
 - (m) MacKenzie Park
 - (n) North Beach
 - (o) Pomeroy Park
 - (p) Potvin Park
 - (q) Roosevelt Park
 - (r) Schifilliti Park
 - (s) Starr Farm Park except for the portion known as "Starr Farm Dog Park"
 - (t) Water Works Park
 - (u) Waterfront Park

(C) Public Information.

- (1) PRW shall provide information about off-leash dog opportunities to include maps, hours, and references to rules & policies with onsite signage and through its website.
- (2) PRW shall annually conduct a targeted campaign to educate the community about the City ordinances that pertain to off-leash dogs in general, and the the off-leash dog opportunities and associated rules and policies..
- (3) Funds to implement Section C shall be made available to PRW from the fees collected pursuant to Article II Section 5-17.

(D) General Rules for All Areas Designated as Off-Leash Dog Areas.

- (1) A person taking a dog into an off-leash area shall have the dog held on leash when entering and exiting the off-leash area.
- (2) A person taking a dog into an off-leash area shall maintain voice, hand, or leash control over the dog at all times while the dog is in the off-leash area. Such person shall have in their possession a leash at all times.
- (3) A person taking a dog into an off-leash area is responsible for all actions of the dog, shall keep the dog within their vision at all times, and shall remove the dog when their behavior is in violation of the City of Burlington Code of Ordinances, including but not limited to Appendix D Secion 7, or the PRW OLDLP.
- (4) The following are prohibited in off-leash dog areas:
 - (a) Glass containers.
 - (b) Female dogs in heat.
 - (c) Excessive barking, howling, or other noise.
 - (d) Bullying of other dogs.
 - (e) Failure to remove feces; All feces shall be removed from the off-leash area and placed in the appropriate receptacle.
 - (f) Unlicensed dogs; All dogs shall be licensed and display valid license tags.
 - (g) Dangerous dogs as defined by Burlington Code of Ordinances, Article II, Section 5-13.
 - (h) More than 3 dogs per person.
 - (i) Children under 12 years of age unaccompanied by an adult.

(E) Enforcement.

- (1) In addition to the penalties provided for by ordinance, a person or dog that violates the rules of this section is subject to ejection from the off-leash area as defined in the OLDLP.

-
- (2) In addition to the penalties provided for by ordinance, a duly authorized enforcement officer may impound a dog for a violation of the rules of this section or for activities determined to be a nuisance.
 - (3) In addition to the penalties provided for by ordinance, all violations of Appendix D and the OLDP include a restorative justice process with the Burlington Community Justice Center.
- (F) *Administration.*
- (1) Commercial Use of Parks. The PRW may issue a permit and charge a fee to allow for commercial use of off-leash dog areas by professional trainers, and for-profit and not-for-profit animal organizations. Portions of the off-leash dog areas shall remain available for unencumbered use by the public as off-leash areas during these events. Fees collected by PRW for commercial use shall be used for the establishment, operations, or improvements of designated off-leash dog areas. Commercial use of off-leash dog areas without a permit shall result in a fine as set for in Chapter 22 section 23 of the Burlington Code of Ordinances. Commercial use of off-leash dog areas may be further defined or modified by the OLDP.

Proposed Off-Leash Dog Policy (OLDP)

The following text has been drafted by the Dog Task Force as a proposed Off-Leash Dog Policy to be reviewed by the Parks Commission, and once an official OLDP is established, to be revised by the Parks Commission as needed.

OFF-LEASH DOG POLICY

Purpose:

This policy incorporates by reference all rules set forth in Appendix D of the Burlington Code of Ordinances.

Areas of Policy:

- 1) *Designation of Areas and Times of Operations*
 - 2) *Additional Rules for Use of Off-Leash Fenced Dog Areas*
 - 3) *Rules for Commercial Use of Off-Leash Dog Areas*
 - 4) *Signage*
 - 5) *Public Outreach & Enforcement*
 - 6) *Operations*
-
- 1) *Designation of Areas and Times of Operations.*

The following areas are off-leash areas, as designated herein or on site:

 - a) *Fenced Dog Parks*
 - i) *Starr Farm Park (year-round).*

Times. The designated area may be used year-round from 8:00 a.m. to 8:00 p.m. or sunset, whichever is earlier.
 - ii) *Urban Reserve (year-round).*

Times. The designated area is open for off-leash use at any time.

iii) Oakledge Park (year-round)

Times. The designated area is open for off-leash use during the hours the parking lot is open for vehicle parking.

b) Off-Leash areas (not fenced)

i) North End of Leddy Beach (year-round). The area north of the northernmost entrance to Leddy Beach

Times. The designated area is open for off-leash use at any time.

ii) Oakledge Cove (year-round). The area of Oakledge Park known as Oakledge Cove

Times. The designated area is open for off-leash use at any time

iii) Northshore Natural Area (year-round).

Times. The designated is open for off-leash use at any time

iv) Blanchard Beach (seasonal). The area of Oakledge Park known as Blanchard Beach

Times. The designated area is open for off-leash use at any time between November - March

v) Texaco Beach (year-round). The beach area of Kieslich Park known as "Texaco" Beach.

Times. The designated area is open for off-leash use at any time

vi) Lower Calahan Park (year-round). The area of Calahan Park that is bounded on the east by the sledding hill, north by Locust Street, west by Pine Street, and south by the park/neighborhood boundary excluding programmed areas such as baseball fields, roads/walks, etc.

Times. The designated area is open for off-leash use from 6:00 a.m. to 8:00 a.m.

vii) Open Area of Schmanska Park (year-round). The multipurpose field of Schmanska Park extending from the basketball court to the tennis court.

Times. The designated area is open for off-leash use from 6:00 a.m. to 8:00 a.m.

viii) Open Area of Smalley Park (year-round). The multipurpose field excluding the programmed softball field.

Times. The designated area is open for off-leash use from 6:00 a.m. to 8:00 a.m.

ix) Gravel Path of the Urban Reserve The area of the Urban Reserve that is the maintenance access running parallel to the train tracks between the designated off-leash area signs on the northern and southern ends.

Times. The designated area is open for off-leash use at any time.

2) *Community Expectations for Use of Off-Leash Fenced Areas*

(1) In addition to the rules set forth in Appendix D, please observe the following guidelines:

(a) Do not allow dogs to dig holes, except in an area designated for digging by the Parks, Recreation and Waterfront Department (PRW). The person accompanying the dog shall fill in any hole created by the dog prior to exiting the area.

(b) Do not consume human food.

(c) Do not feed other people's dogs.

(2) All gates to the dog park must be closed after entering and exiting.

(3) The priority use for off-leash dog parks is off-leash dogs. Please ensure that children do not interfere with the activities of dogs in the park.

3) *Community Expectations for Use of Unfenced Off-Leash Areas*

In addition to the rules specified in Appendix D, please observe the following guidelines:

- (1) Ensure your dog is placed back on leash after leaving an off-leash dog area.
- (2) Dog guardians should be respectful of other users using the space. This is a shared space, even during the times where dogs are allowed off-leash. The priority use for these areas is not necessarily dogs.
- (3) Non-dog guardians should expect dogs may be running free in designated off-leash areas.

4) *Rules for Commercial Use of Off-Leash Fenced areas*

- a) Commercial users are required to be a *Park Program* participant.
- b) Commercial users are responsible for creating any boundaries, with temporary fencing or by other temporary means, required to meet their needs and that of the other users.
- c) Commercial users are limited to twelve days per year exclusive of commercial uses that do not restrict other uses of the area.
- d) No more than one commercial user may use the same dog park concurrently.
- e) Off-leash dogs will be permitted to access any areas of the off-leash area that are not separated by temporary or permanent fencing.
- f) With the exception of extraordinary circumstances, no more than 33% of an off-leash dog area shall be permitted to be restricted for commercial use.
- g) Commercial use shall not interfere with standard entrances and exits from the off-leash dog area.
- h) If any PRW staff time is required for the event, commercial users of the park are responsible for all costs related to the staff time. PRW staff will only be made available with the approval of the PRW Director
- i) Commercial users will be responsible for all costs related to set-up, operations, security, and cleanup for all events.
- j) Standard PRW Department requirements for reserving parks apply.

5) *Public Outreach & Enforcement.*

- a) The PRW and the Police Department shall collaborate to educate and enforce the rules and policies applicable to off-leash dog areas, A person who violates any rules or policies applicable to off-leash dog areas on two (2) occasions within a twelve-month period shall be barred from taking any dog into the off-leash areas during the six (6) months subsequent to the second violation.

6) *Operations*

- a) The PRW shall maintain a volunteer group that provides guidance and support for off-leash areas
- b) The PRW Director may, upon a finding of need at a particular off-leash area, close the area to off-leash use. The reopening of such area is at the discretion of the Director. The Director shall post a notice indicating that the area has been closed for off-leash use at the entrance to the area and at other locations in the area if needed to give notice to the public of the closing.

Appendix G: Off-Leash Detailed Findings & Recommendations

The Task Force reviewed work from previous committees ([see Appendix K](#)) as well as current practices, ordinances and policies. The group also did a city-wide survey to solicit public opinion on areas proposed by previous committees ([see Appendix I](#)). Prior efforts to create off-leash areas were left uncompleted, as Section 7 of Appendix D in the City Ordinances expired.³⁷

Table 3. Current and Proposed Off-Leash Areas for Dogs

	Current	Proposed
Off-Leash	3.5/520 acres Starr Farm Dog Park Waterfront Dog Park Texaco Beach	Add: • Sections of Neighborhood Parks (Smalley, Calahan, Schmanska) 6-8am • Sections of Natural Areas (Northshore, Urban Reserve) • Beaches (Blanchard, North Beach wintertime only; Oakledge Cove & section of Leddy Beach all year) Keep: • Starr Farm Dog Park, Waterfront Dog Park, Texaco Beach
On-Leash only (Neighborhood Park)	All Neighborhood Parks	Most Neighborhood Parks except for designated areas in Calahan, Schmanska, & Smalley Parks
On-Leash only (Conservation Area)	All Natural Areas	Same (all areas designated “Urban Wilds” - such as Arms Forest, Crescent Woods, Arthur Park, Ethan Allen Park, McKenzie Park, and Mount Cavalry Red Maple)
No Dogs Allowed	Cemeteries	Same (at the wish of Cemetery Commission)

[Interactive map showing proposed off-leash areas](#)

There is a strong desire from dog owners to have easy access to off-leash areas. More fenced in areas exclude non-dogs and their caretakers from spaces in our parks, and the City also lacks funds to build fenced in dog parks. Many communities have turned to unleashed dog areas to solve the issue of limited park spaces and the desire not to fence

³⁷ City of Burlington, Vermont, Ord. of 9-23-02

<https://www.codepublishing.com/VT/Burlington/#!/BurlingtonAxD/BurlingtonAxD.html> (Pilot program. The rules of this section shall be in full force and effect for eighteen (18) months. The director of parks and recreation shall review the impacts of the designated off-leash areas and shall make a report to the city council after twelve (12) months of operation. Unless directed otherwise by the city council, these rules shall expire upon the end of the 18th month in which the rules were in effect.)

these spaces, while providing a mechanism to better regulate and manage where dogs are off-leash and enforce regulations that they be on leash outside of off-leash areas. The question of creating unfenced off-leash dog areas elicits strong opinions both for and against.

Some neighboring cities have successfully created unfenced off-leash areas. South Burlington allows dogs to be under voice control at all parks and only requires leashes on South Burlington Recreation trails and at the following parks: Red Rocks, Vet Memorial, and Jaycee Park. Colchester's default policy is also off-leash, with dogs required on-leash only on sidewalks and the bike path. Winooski's policy is similar to Burlington's, where the default is on-leash only. But for similar reasons they are exploring the possibility of establishing another location or two where dogs can officially be allowed off-leash, then working to tighten up enforcement where it isn't allowed.

Some efforts were made to find alternative spaces to the park spaces overseen by Burlington Parks & Recreation.

- *Cemetery spaces.* The Task Force discussed the fact that some fenced in spaces in Burlington currently exist but are not available for dogs. The idea of using cemetery spaces as an urban solution is not new.³⁸ A proposal to work with the Cemetery Commission to consider the option of on-leash or off-leash use for dogs was unsuccessful. The Cemetery Commission heard the proposal, including the possibility of additional revenue and volunteer hands to maintain the cemeteries, but chose not to work with the Task Force to explore this concept.³⁹
- *Spaces outside Burlington.* At the suggestion of City Councilmember Sarah Carpenter,⁴⁰ the Task Force looked beyond Burlington to understand what off-leash spaces were available (for those with cars who can drive). As noted above, our neighboring



³⁸ For example, see the Cemetery Dogs program at the Congressional Cemetery in Washington, DC - one quarter of the cemetery's operating income derives from donations by dog walking members and covers the costs of grounds maintenance contracts. Source: <https://congressionalcemetery.org/dog-walking/>

³⁹ See Burlington, VT Cemetery Commission meeting minutes from their April 20, 2023 meeting: <https://burlingtonvt.portal.civicclerk.com/event/5294/files/7035>

⁴⁰ See Burlington, VT City Council meeting minutes from their March 27, 2023 meeting: <https://burlingtonvt.portal.civicclerk.com/event/2058/files/2159>

communities of South Burlington and Colchester have much less restrictive leash laws, allowing off-leash use in their parks unless specifically restricted. In addition, South Burlington, Essex, Milton and Shelburne have fenced dog parks.

- *Former Landfill in the Old North End.* The Task Force also discussed the former landfill area at the top of Manhattan Ave. This area is currently being used by some residents as an off-leash area for dogs, but due to continued monitoring of environmental considerations cannot be officially set up for dogs at this time.

After reviewing the prior task force work, the results of the Spring 2023 survey, and consulting with the Cemetery Commission and directors of parks in neighboring towns, the Task Force recommends the following areas to the Parks Commission for piloting. More specific details are in the drafted [Off-Leash Dog Policy](#).

Table 4. Recommended areas to pilot unfenced off-leash dog sections

Park	Time	Rationale
Smalley	6-8am	Significant requests from survey; limited use by youth in the mornings
Leddy Beach (north end)	All day	Slight in favor from survey, significant current use
Northshore	All day	Slight in favor from survey, significant current use
Calahan Park	6-8am	Slight in favor from survey, proposed area (lower field) is in a different location from the playground; significant current use
Schmanska Park	6-8am	Slight in favor, Recommended by 2013 task force, adds an area in the East end of Burlington, suggest morning only
Urban Reserve	All day	More in favor, off-leash connection to dog park and parking lot, will separate from bike path w/ clear signage on start/stop of off-leash areas
Blanchard Beach	November -March	Limited beach use in the winter.
North Beach	November -March	Limited beach use in the winter.
Oakledge Cove	All day	South end water access, helps curb existing off-leash use at Blanchard in the summer.

In addition to the above areas, the proposed fenced-in dog park in Oakledge Park was by far the most popular and most supported area with survey respondents. Future funding and significant planning would be needed to make this a reality.

Appendix H: Education Campaign

Part of the scope of the Task Force work mandated by the City Council resolution requested that Task Force members conduct an educational campaign around the following issues:

1. Off leash dogs in city parks, natural areas or beaches
2. Dogs attacking people or other dogs
3. Dog feces not being picked up
4. Dog barking contributing to noise pollution

All materials and research were developed using volunteer time and resources. Outreach was limited to available slots on the Parks Recreation and Waterfront (PRW) Front Porch Forum and social media accounts. The Task Force recommends some funding be allocated to educational outreach and that multiple city departments participate in the sharing of information on their social media accounts. The campaigns comprised of the following:

1. Leash Your Dog PSA for conservation reasons (wildlife, plants)⁴¹
2. Interview with Seven Days to address additional reasons for leashing your dogs (including prevent of attacks)⁴²
3. April Stools Day PSA to encourage residents to pick up their dogs' feces⁴³
4. Barking PSA to provide helpful tips to address barking and reduce noise pollution

The Task Force also explored the possibility of increasing licensing numbers through a limited social media drive,⁴⁴ and worked with the BPRW to create the Wag the Waterfront event.



⁴¹ As seen in PRW's Front Porch Forum post May 18, 2022:

https://frontporchforum.com/areas/22/issues/4452#post_2786297

⁴² Mullis, R. (Aug 9, 2023). One Burlingtonian's Journey to On-Leash Dog Ownership. Published in print as "Going to the Dogs | One Burlingtonian's journey to on-leash dog ownership" and online at

<https://www.sevendaysvt.com/arts-culture/one-burlingtonians-journey-to-on-leash-dog-ownership-38844346>

⁴³ As seen in PRW's Front Porch Forum Post April 1, 2022:

https://frontporchforum.com/areas/23/issues/5456#post_2747458

⁴⁴ Instagram reel created by task force members on volunteer time, and shared on PRW's Instagram account on March 21, 2023 to encourage residents to license their dogs and explain how to get their dogs licensed.

<https://www.facebook.com/reel/936523320687771>

Proposed Annual Education Calendar

A proposed calendar to continue providing education on various topics was developed and is shown below, followed by details on the various public service announcements as well as the Wag the Waterfront event.

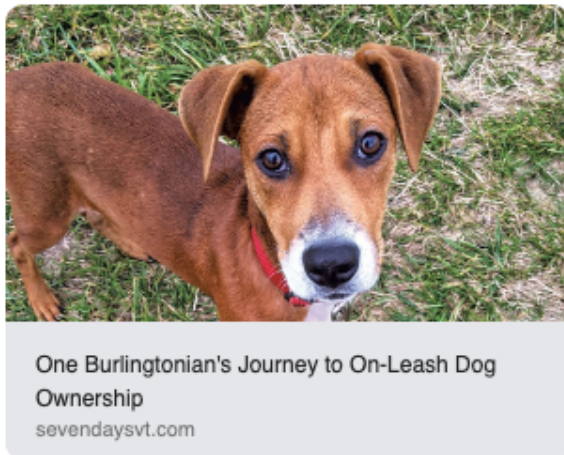
Legend:

PSA
Campaign/Drive
Event

JANUARY Barking PSA	FEBRUARY Repeat Spay/Neuter PSA (February is S/N Awareness Month) Campaign/Drive: Dog Licenses Due April 1	MARCH Licensing Campaign Continues
APRIL Off-Leash PSA (Conservation) Picking up Poop PSA	MAY Don't Leave Your Dog in the Car PSA Off-Leash Dog PSA (to avoid conflicts attacks)	JUNE Keep Your Dog Cool PSA Don't Leave Your Dog in the Car PSA (repeat July/Aug)
JULY Off-Leash Dog PSA (to avoid conflicts attacks) Dog Days Event <i>Church Street tie-in for pet friendly shopping areas or Burlington Farmer's Market on Pine St</i>	AUGUST Off-Leash Dog PSA (to avoid conflicts attacks)	SEPTEMBER Wag the Waterfront Event
OCTOBER Halloween Parade Event? <i>Dog Costume Contest?</i>	NOVEMBER <i>(a week after leaf pick up)</i> Poop Scoop PSA Even through winter need to scoop poop all year round	DECEMBER Spay/Neuter PSA

Leash Your Dog Outreach (7 Days Article)

Taskforce members Maria Karunuñgan and Abbey Duke were interviewed by journalist Rachel Mullis of Seven Days to weigh in on thoughts about off-leash dogs, resulting in the following publication in Seven Days:⁴⁵



The take-home message in the article was to encourage residents to leash their dogs for a variety of reasons, including respect and consideration for others' cultural and religious preferences, prevention of unwanted conflict between unfamiliar dogs with unknown sociability, and generally taking more responsibility for their dogs' behavior around others.

Wag the Waterfront Event September 2023

- PRW hosted on September 9, 2023 1-4pm⁴⁶
- Social media posts invited people to come⁴⁷
- The event featured the following:
 - Afternoon Yappy Hour in the dog park
 - Free professional caricatures & free professional photos



⁴⁵ Mullis, R. (Aug 9, 2023). One Burlingtonian's Journey to On-Leash Dog Ownership. Published in print as "Going to the Dogs | One Burlingtonian's journey to on-leash dog ownership" and online at <https://www.sevendaysvt.com/arts-culture/one-burlingtonians-journey-to-on-leash-dog-ownership-38844346>

⁴⁶ See <https://enjoyburlington.com/event/wag-the-waterfront/>

⁴⁷ See for example <https://www.instagram.com/p/Cw7iosEMae4/>

- Booths rented by local dog-related businesses (daycares, groomers, dog trainers, dog treat bakeries, etc).
- Events such as dog training demos, Paws & Poses yoga, and weight-pulling

Public Service Announcements Developed by the Task Force

The following public service announcements were developed by the Task Force for several educational campaigns. Most of these were shared on social media.

Excessive Barking PSA

The Task Force wrote a public service announcement to address the complaint of excessive barking.⁴⁸ The main points of this campaign were to help raise awareness about why excessive barking is bad (pointing to upset neighbors, welfare issues, & violation of city code). Tips from a professional trainer were provided, including the recommendation to consult with a veterinarian and professional trainer if struggles continued.

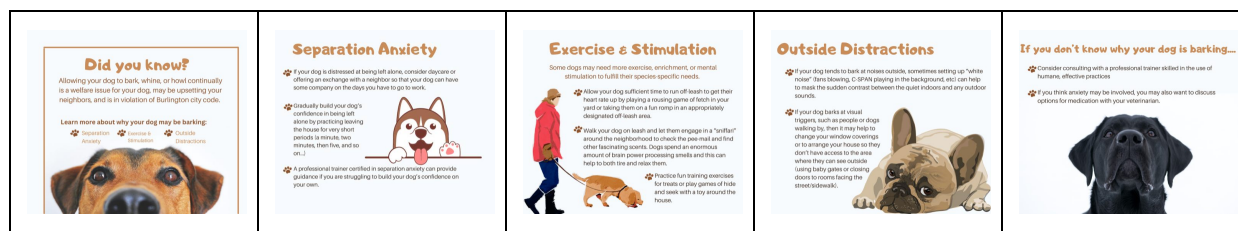


Fig. 4 Barking PSA Instagram slides

Leash Your Dog PSA

The Leash Your Dog PSA released in May 2022⁴⁹ contained the following text:

:: A MESSAGE FROM THE DOG TASK FORCE ::

Protect Nature - Leash Furry Companions in Vermont's Natural Areas

Spring is nature's time to restore and grow, and also nature's most fragile time. Burlington's natural areas are still in recovery from forest clearing hundreds of years ago and use this

⁴⁸ See for example the Facebook post on February 16, 2023:

<https://www.facebook.com/BTVParks/posts/pfbid04CsSzqckLeKfr2BHivHVsYssx3KDYdthXt4CysmTxATD2FNqieg9Sh eDXinqKhpl>

⁴⁹ PRW's Front Porch Forum post May 18, 2022:

https://frontporchforum.com/areas/22/issues/4452#post_2786297

time to replace and regain strength. Spring flowers have delicate stems and depend on small ground insects, like ants, to help them expand their population.

Larger, similarly tender mammals like foxes are born now through August! For these animals, reproduction takes a lot of energy and kits, pups and their parents are weaker and especially vulnerable throughout this season.

Off-leash dogs (and their owners) unknowingly break tender wildflower stems and chase or even fatally maim baby animals, setting back the tiny steps that ecosystems take each spring towards restoration.

Please walk your dog on a leash on all trails and paths throughout City and Vermont parks. Obey on-leash postings to allow Vermont's forests to regain their species diversity and to save our wildlife. To learn more about spring wildflowers and to see the cutest red fox kit photo, please see our facebook page <https://www.facebook.com/BTVParks>.

Scoop the Poop PSA

The Scoop the Poop PSA ("April Stools Day") released in April 2022⁵⁰ contained the following text:

On behalf of the Burlington Dog Task Force Team, we'd like to remind everyone: Scoop Your Poop!

Pet waste should be picked up promptly because it...

- > is harmful for kids playing in the dirt
- > contaminates locally grown food
- > contaminates drinking water and swimming areas
- is gross!!!!

With the weather warming and snow finally melted, we want to encourage all dog owners to pick up their dog's poop! (and any poop you see from other dogs, even if they are not your own).

Pet waste is harmful for children playing in your local neighborhood as parasites from fecal matter can remain in the soil for years. Picking up poop can also go a long way to protecting local gardens especially if you are growing food for yourselves, and protect anyone working or playing in the dirt. In addition, please keep in mind our drinking water is affected as well! According to the Lake Champlain Committee, pet waste contributes up to one-third of bacterial pollution in waterways near developed areas. (source: <https://www.lakechamplaincommittee.org/learn/news/item/2200-stool-piles-and-counting/>) Bacteria from pet waste adds e-coli that can result in the closing of recreational swimming areas.

Help us protect our children's play areas, neighborhood gardens, and local swimming spots by picking up your dog's poop!

⁵⁰ PRW's Front Porch Forum Post April 1, 2022: https://frontporchforum.com/areas/23/issues/5456#post_2747458

Recommended Additional Areas of Educational Outreach

The Task Force recommends the following additional areas of education:

- Education on preventing dog attacks & conflicts with other dogs & people
- Resource for new arrivals (either new residents of Burlington who have dogs, or current residents who get a new dog)
- How/when to report incidents & what information is helpful
- Guidelines for behavior of dogs in designated off-leash areas
- Education/information that can be distributed on the cards that accompany dog license tags
- Curriculum for community justice center, should a restorative justice approach be adopted for resolving violations of dog policies & ordinances.
- Low-cost spay/neuter outreach

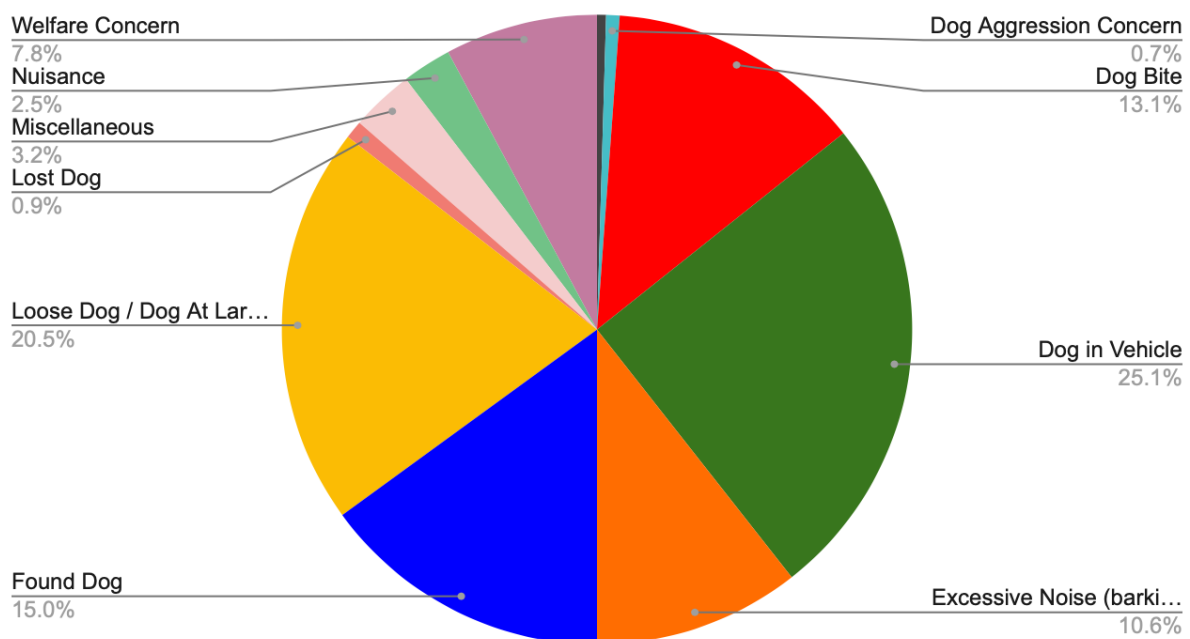
Appendix I: Data Summaries (Police Incident Reports, Off-Leash Survey)

The Task Force analyzed animal incident reports provided by the Burlington Police Department (BPD) and results of an off-leash survey conducted by the Department of Parks Recreation Waterfront (PRW).

2019 Dog and Cat Incident Reports Analysis

The Task Force analyzed data from 467 incidents involving companion animals (cats and dogs) that were reported in the calendar year 2019. The effort to summarize the data and analyze it was time-consuming, as the data were presented to the task force as individual PDF files with written details of each incident. To make sense of these written reports, a dataset was created by pulling the following variables from each report: date, time, incident number, origin of call, animal type, location of incident, incident details, and resolution. Incident details consisted of a summary of what was reported by the caller to dispatch. Resolution consisted of the responding officer's response and/or a more detailed description of the incident. The "Incident Type" variable in the data set was then broken down into dog-related or cat-related incidents, and assigned a category.

Dog Incidents in 2019

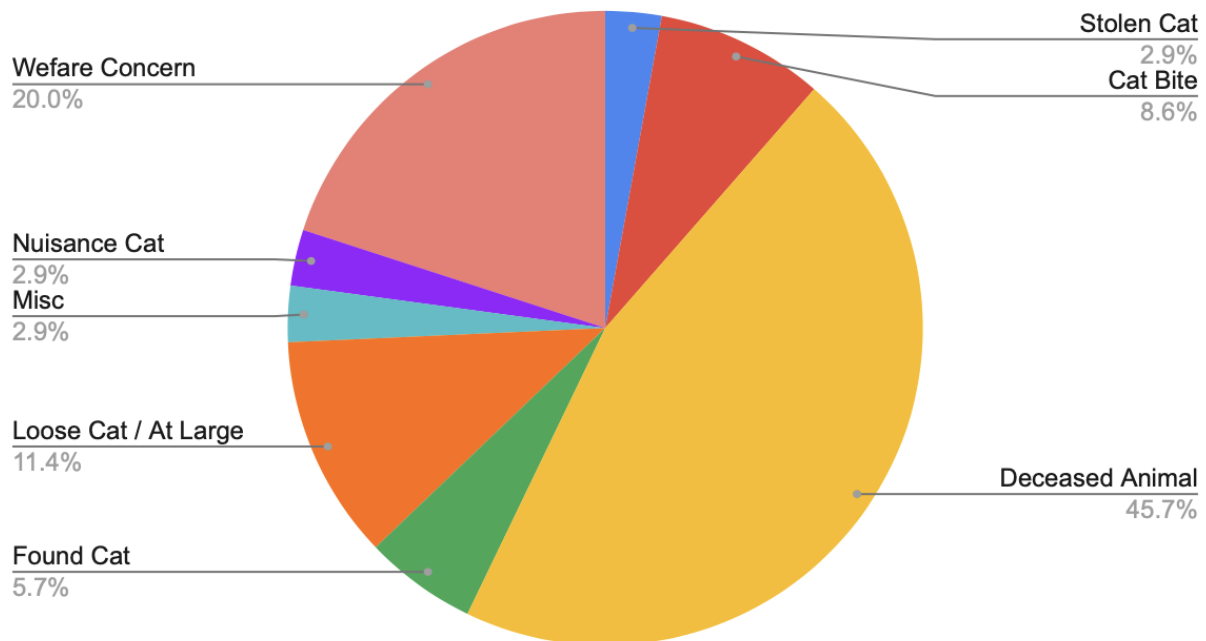


Dog-Related Incidents

Reported dog incidents were categorized as follows (in order by the number of incidents reported in 2019):

- *Dog in Vehicle*: Vehicle was gone on arrival (GOA), Dog did not appear to be in distress (guardian of vehicle not present or mentioned in the incident report), Dog did not appear to be in distress and the guardian returned to their vehicle and the officer was able to speak to the guardian about the dangers of leaving a dog in a car; or Dog was in distress. (109)
- *Loose Dog / Dog At Large*: (89)
- *Found Dog*: (65)
- *Dog Bite*: Dog bite to another dog, Dog bite to a person, Dog bite to both a dog/person, Dog bite to a cat, Dog bite to unknown person or animal. (57)
- *Excessive Noise*: Barking, whining, and/or howling (46)
- *Welfare Concern*: Issues related to an animal's well-being and safety including but not limited to possible animal neglect, animal abuse, and injured animals. (34)
- *Miscellaneous*: Examples are guardianship disputes, how to surrender an animal, requests for behavioral training assistance, and how to obtain care for an animal while the guardian is hospitalized. (14)
- *Nuisance*: (11)
- *Lost Dog*: (4)
- *Dog Aggression Concern*: (3)
- *Deceased Animal*: (2)

Animal Incidents: Cats 1/1/2019-12/31/2019



Cat-Related Incidents

- *Deceased Animal:* (15)
- *Welfare Concern:* (7) Issues related to an animal's well-being and safety including but not limited to possible animal neglect, animal abuse, and injured animals
- *Loose Cat / At Large:* (4)
- *Cat Bite:* (3)
- *Found Cat:* (2)
- *Miscellaneous:* Example: Request for behavioral training assistance. (1)

Cat Incident Reports. Almost half of police incident reports concerning domesticated cats involved the reporting of a deceased cat (45.7%). People reporting these incidents were concerned about cats and other cat related incidents included welfare concerns (20%), loose cats (11.4%), and found cats (5.7%). Cat bites made up 8.6% of all cat related incident reports. Because residents know that general issues with cats (cat welfare, lost cats, etc) are not handled by CSOs, the number of cat incidents is likely to be grossly underreported.

Spring 2023 Off-Leash Survey Analysis

Based on the work of the previous task force & work groups ([see Appendix K](#)), areas recommended for off-leash usage were reviewed by the committee based on current usage, and a proposal for areas to pilot was derived. This proposal was included in a survey to get feedback from the community. Based on feedback and information about current off-leash use by residents, the pilot areas were further revised. For example, Roosevelt and Schmanska were removed from consideration, based on quantitative survey opinions and written comments. Leddy Park Trails was also removed from consideration, in spite of quantitative results in favor of, due to important written considerations brought up by community members in the open comments portion.

Quantitative Survey Results

BURLINGTON PARKS OFF-LEASH SURVEY

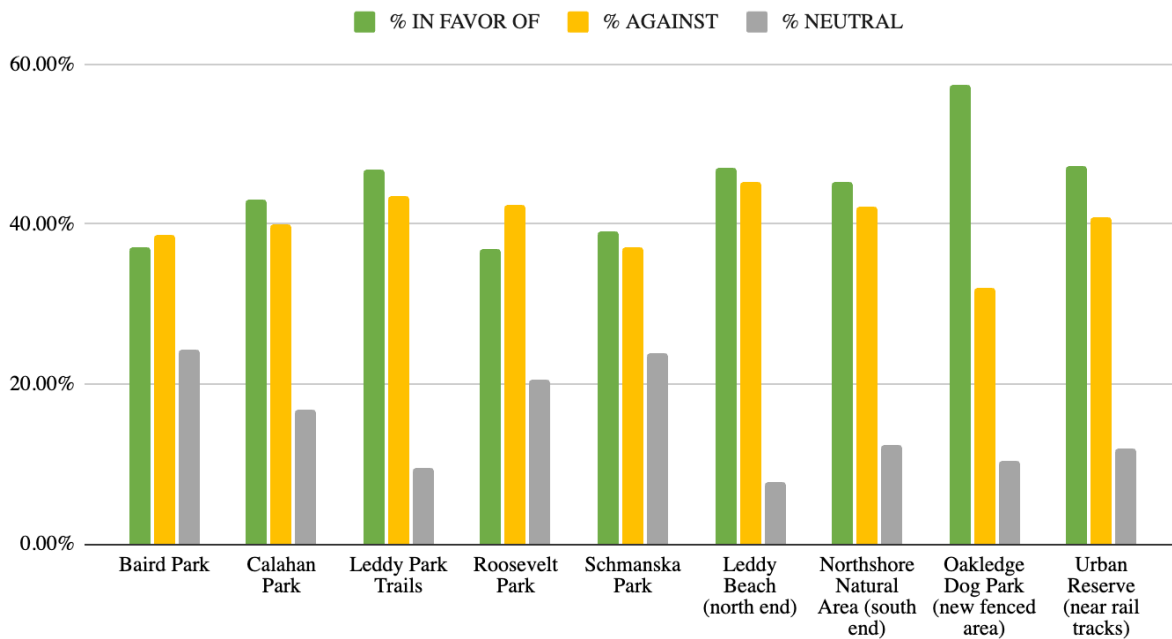


Fig. 5. Community members' opinions about proposed off-leash areas.

Table 4. Community members' opinions about proposed off-leash areas

LOCATION	IN FAVOR	AGAINST	NEUTRAL
Baird Park	353 (37.04%)	368 (38.61%)	232 (24.34%)
Calahan Park	422 (43.11%)	392 (40.04%)	165 (16.85%)
Leddy Park Trails	467 (46.93%)	433 (43.52%)	95 (9.55%)
Roosevelt Park	352 (36.9%)	405 (42.45%)	197 (20.65%)
Schmanska Park	369 (39.13%)	349 (37.01%)	225 (23.86%)
Leddy Beach (north end)	445 (46.99%)	429 (45.30%)	73 (7.71%)
Northshore Natural Area (south end)	414 (45.25%)	387 (42.30%)	114 (12.46%)
Oakledge Dog Park (new fenced area)	542 (57.48%)	303 (32.13%)	98 (10.39%)
Urban Reserve (near rail tracks)	433 (47.22%)	375 (40.89%)	109 (11.89%)

Qualitative Survey Results (Analysis/Coding of Written Comments)

In addition to the quantitative survey collected, the Task Force compiled 631 written comments from respondents providing additional opinions and suggestions regarding off-leash areas and dog parks (61% of respondents left one or more comments). Many comments focused on specific proposed locations, or suggested additional locations not included in the survey. Comments fell into the following categories or theme (in order by the number of comments received in the categories):

- *Appreciate off-leash areas as option:* Commenters felt there were not enough off-leash areas or appreciated the city was investigating additional off-leash spaces for dogs. (202)
- *Dog parks only:* Commenters felt off-leash areas should only be provided strictly in fenced-in dog parks designated for dogs, and that there should not be designated unfenced areas. (143)
- *Nuisance behavior / Environmental impact.* Commenters expressed concern over the negative impact of dogs in general - contributing to noise, annoying people, or trampling local plants/killing wildlife especially in conservation areas. (122)

-
- *Enforcement & Reporting:* Commenters asked for more accessible complaint forms, stronger consequences for existing ordinance infractions, or complained that they never saw enforcement happen, and this made them leery of offering off-leash areas. (121)
 - *Park-specific.* Commenters made a comment about a specific park, such as requesting we consider Smalley Park for off-leash. (100)
 - *Safety.* Commenters were concerned about aggressive dogs, or dogs jumping on/injuring people (small children were often mentioned). (67)
 - *Time/season complexity:* Commenters felt the initial survey's multiple sets of disparate times per individual park would lead to a lot of confusion and possibly be difficult to enforce. (39)
 - *Comments for other public land-owners.* Commenters suggested offering areas not governed by the city of Burlington as possibilities for off-leash. (38)
 - *Education:* Commenters asked for increased education around rules, requested more signage and clarity so that community members knew which rules applied in which parks and where. (25)
 - *Cultural impact.* Commenters expressed concern for individuals whose cultural or religious practices may be adversely affected by allowing off-leash dogs in unfenced spaces (this was especially common in reference to Roosevelt Park) (17)
 - *Neighborhood park concerns.* Commenters made suggestions for specific parks. (17)
 - *Tag / Permit Concept.* Commenters thought that some off-leash areas should be provided on a tag or permit basis. (16)
 - *Accessibility.* Commenters were concerned about more off-leash spaces being accessible to people who don't have cars and need to walk their dogs to an available off-leash area. (10)
 - *Comparison to other cities.* Commenters made positive or negative comparisons of Burlington to other cities (usually to complain that Burlington was not dog-friendly enough, but sometimes to complain that it was too dog-friendly). (8)
 - *No off-leash.* Commenters felt dogs should not be allowed off-leash anywhere in Burlington. (6)
 - *No additional comment.* 39% of respondents did not leave a comment

After reviewing the written comments and quantitative data, decisions were made to remove the following proposed off-leash areas from consideration by the Parks Commission as a pilot, for the reasons stated below:

- Leddy Trails (concerns about wildlife disruption)
- Roosevelt Park (concerns about aversive effect on neighborhood cultural practices)
- Baird Park (concerns about how close the proposed dog play area would be to the children's playground)

The survey also collected feedback from respondents on areas that had not been included, to see if there should be additional areas considered.

- Smalley Park came up frequently and as a result, Smalley was added to the list of pilot areas.
- Many commenters requested additional locations not under the purview of PRW to be made off-leash (for example, Red Rocks or Ethan Allan Homestead, both of which require dogs to be on-leash and are not part of PRW).

Appendix J: Task Force Progress Reports to City Council PACC Committee

The Task Force submitted progress reports to the [City Council PACC Committee](#) on the following dates.

2022-03-01

2023-02-23

2023-08-23

Appendix K: History of Prior Task Force Work

In 1998, the City chose to pilot five locations for off-leash areas. They included Starr Farm Park, Urban Reserve, Intervale, Schmanska and Oakledge Park. Two areas, Starr Farm and Urban Reserve, exist today as off-leash fenced parks. The language for the program still exists in the City Ordinances under Appendix D, section 7, Rules and Regulations of the Burlington Parks and Recreation Park. The section became no longer enforceable in approximately 2002 as the pilot ran out without any information that indicates that the City Council took action.

In 2011, the City Council created a work group to revise and formalize the pilot program started in 1998. After two years, the workgroup recommended that the South, Center and North end of the City all have options for dogs off-leash. They also specified four parks off-leash areas would not be permitted including Burlington Greenway, Battery Park, City Hall Park and Champlain Street Park. They suggested that Starr Farm and Urban Reserve fenced dog parks be listed in the ordinance and that the non-fenced areas be listed in a new off-leash dog policy rather than an ordinance. The off-leash dog policy would be approved by the Parks Commission and not through City Council.

The suggested off-leash areas from the 2011-2013 report included Leddy Park, Oakledge Park, Calahan Park, Schmanska Park, Waterfront Park (in addition to the fenced area), and Roosevelt Park. It was a mix of year-round and seasonal and any time of day to specified times of day. The Parks, Recreation & Waterfront (BPRW) department started a Parks

Comprehensive Plan process around the time of the final report. With that process starting, the decision was made to pause the off-leash work to see what came out of the comprehensive plan. It did not get picked back up again following the release of the 2015 Comprehensive Plan.

In 2019, the current BPRW Director started to move forward with the work from 2011-2013 meeting with PACC and the Parks Commission. The suggestion was made by the Parks Commission to survey the community as quite a bit of time had passed from the 2011-2013 work. Before sending out the survey, the pandemic hit and once again, the project stalled.

Resolution Relating to

ACCEPTANCE AND APPROVAL OF THE FY 2023 AUDIT

RESOLUTION _____
Sponsor(s): Bd. of Finance
Introduced: _____
Referred to: _____
Action: _____
Date: _____
Signed by Mayor: _____

CITY OF BURLINGTON

In the year Two Thousand Twenty-Four.....

Resolved by the City Council of the City of Burlington, as follows:

That WHEREAS, the City’s auditors, Marcum LLP has completed the City audit for the fiscal year July 1, 2022 to June 30, 2023; and
WHEREAS, the auditor has prepared a management letter to accompany that audit; and
WHEREAS, during the audit the auditor did not identify any deficiencies in internal controls that were considered to be material weaknesses; and
WHEREAS, the City has responded to the items in the management letter; and
WHEREAS, on Tuesday, February 20th the Board of Finance was presented with the Audit findings; and
WHEREAS, on February 26th, the Board of Finance has accepted the audit and recommended that the City Council approve and accept the audit, including the management letter;
NOW, THEREFORE, BE IT RESOLVED that the City Council approves and accepts the City’s Fiscal Year 2023 audit, including the management letter.

KS/Resolutions 2024/Acceptance and Approval of the FY 2023 Audit
February 22, 2024



Date: February 20 and 26, 2024
To: Board of Finance and City Council
From: Katherine Schad, Chief Administrative Officer
CC: Mayor Miro Weinberger
Memo: Responding to FY23 Audit Results

Unassigned Fund Balance

In the [presentation of the Mayor's FY24 budget](#) in June 2023, the Administration forecast an unassigned fund balance (UAFB) of approximately \$7M and the FY23 audit results confirm an UAFB of \$6.5M. The audit is for the fiscal year of July 2022 to June 2023 and acknowledging the context that FY23 was an unpredictable year and one of the first trying to return to post-pandemic normalcy, we are grateful that we ended this year close to where we had planned.

In the [FY23 Budget](#) the City chose to invest close to \$2.5M of money from Burlington's UAFB for critical one-time investments such as relocating the City IT equipment out of Memorial Auditorium; investing in the BCA capital arts campaign; upgrading some aspects of our parks; and ensuring all residents have access to recycling totes. In the FY23 audit we see the UAFB drop as money was spent, as planned, and the resulting balance of \$6.5M is 8% of operating expenses which is healthy and well within the City's [fund balance policy](#).

FY23 Budget Performance

It is a bit challenging to get an accurate picture of how the City performed in FY23 from some of the attached audit materials because there was so much movement within our dedicated funds this year. We also experienced significant post-pandemic volatility within both our operating expenses and revenues, with both coming in significantly lower than originally projected, and ended the year with expenses outpacing revenues by approximately \$600,000. This includes the use of \$1M of ARPA revenue replacement funds.

	Approved	Amended Final	Actual	Variance
Revenues	\$84.6M	\$86.8M	\$80.7M	(\$6.1M)
Expenses	\$84.6M	\$86.4M	\$81.3M	\$5.1M
Net	-	\$0.4M	(\$0.6M)	(\$1.0M)

Reviewing the budget to actual combined report, the only departments that significantly over-expended their budgets were police and fire and this was due to staffing, primarily the use of overtime. The City has made

progress reducing overall overtime at the fire department over the last year, and has also updated its overtime projections, so we do not expect these budget overages to continue.

In analyzing revenues, the main areas where the City fell short of budget for FY23 were:

- Taxes. Property taxes were inaccurately forecast in this year but a system developed by the new assessor will ensure this does not happen again.
- Licenses & permits. This category includes building permits (collected by the permitting and inspections department) and franchise fees (collected by water and BED). Building permits have fallen with interest rates and construction costs at very high levels and franchise fees were budgeted incorrectly in FY23. This category has been budgeted more conservatively in FY24.
- Charges for services. This category includes Payment in Lieu of Taxes and due to a timing of payments some of these were pre-paid in FY22 for FY23 but this category is appropriately budgeted for FY24.
- Contributions and donations. This category includes miscellaneous grants that the City budgeted to be budget-relieving and were not. The City is learning how to navigate the new federal funding environment and will be more conservative with future grant budgeting.

CITY OF BURLINGTON, VERMONT

GENERAL FUND

BALANCE SHEET

JUNE 30

	2023	2022
ASSETS		
Cash and cash equivalents	\$ 8,196,900	\$ 848,358
Investments	8,980,889	10,072,953
Escrows	2,223,000	2,223,000
Receivables, net of allowance for uncollectibles:		
Property and other taxes	1,766,830	1,787,222
Departmental and other	3,339,638	3,374,880
Due from fiduciary fund	-	6,140,000
Due from other funds	1,329,640	3,823,883
Advances to other funds	91,000	703,308
Inventory	318,032	194,823
Prepaid expenditures	290,353	472,662
Other current assets	110,136	176,096
TOTAL ASSETS	\$ 26,646,418	\$ 29,817,185
LIABILITIES, DEFERRED INFLOWS OF RESOURCES AND FUND BALANCES		
Liabilities:		
Accounts payable	\$ 1,594,951	\$ 1,279,650
Accrued payroll and benefits payable	1,347,869	1,395,972
Unearned revenue	2,845,907	735,365
Insurance reserve	1,071,562	891,194
Other liabilities	77,478	307,319
TOTAL LIABILITIES	6,937,767	4,609,500
Deferred Inflows of Resources:		
Unavailable revenues	2,152,236	3,080,043
Fund Balances:		
Nonspendable	699,385	1,370,793
Restricted	1,788,355	2,342,852
Committed	738,507	861,380
Assigned	7,799,673	8,914,744
Unassigned	6,530,495	8,637,873
TOTAL FUND BALANCES	17,556,415	22,127,642
TOTAL LIABILITIES, DEFERRED INFLOWS OF RESOURCES AND FUND BALANCES	\$ 26,646,418	\$ 29,817,185

CITY OF BURLINGTON, VERMONT

GENERAL FUND

STATEMENT OF REVENUES, EXPENDITURES AND CHANGES IN FUND BALANCE

FOR THE YEARS ENDED JUNE 30

	2023	2022
Revenues:		
Taxes	\$ 44,161,597	\$ 42,865,821
Payments in lieu of taxes	1,695,326	1,517,590
Licenses and permits	4,184,267	3,561,535
Intergovernmental	3,596,059	8,269,924
Charges for services	18,414,764	16,688,789
Contributions	912,503	851,455
Investment income (loss)	1,027,038	(554,714)
Other	349,074	385,657
Total Revenues	74,340,628	73,586,057
Expenditures:		
Current:		
General government	18,480,901	15,991,250
Public safety	33,389,941	31,253,528
Public works	5,451,832	5,075,203
Culture and recreation	14,309,499	12,836,743
Community development	1,081,422	1,352,586
Capital outlay	538,733	-
Debt service:		
Principal	4,922,831	4,606,920
Interest and bond issue costs	2,945,938	2,725,959
Total Expenditures	81,121,097	73,842,189
Excess (deficiency) of revenues over (under) expenditures	(6,780,469)	(256,132)
Other Financing Sources (Uses):		
Sale of capital asset	152,270	-
Bond premium	2,114,542	289,792
Transfers in	4,790,963	5,436,615
Transfers out	(4,848,533)	(4,434,585)
Total Other Financing Sources (Uses)	2,209,242	1,291,822
Net change in fund balances	(4,571,227)	1,035,690
Fund Balances, at Beginning of Year	22,127,642	21,091,952
Fund Balances, at End of Year	\$ 17,556,415	\$ 22,127,642

Statement of Revenues and Other Sources, Expenditures and Other Uses - Budget to Actual Co

	FY Approved Budget	FY Amended Budget	Adjusted Actual Amount
101			
Revenue	84,581,868	86,818,637	80,732,516
Taxes	41,269,113	41,567,714	41,125,547
Local Option	3,000,000	3,000,000	3,031,484
Payment In Lieu Of Taxes	1,440,105	1,440,105	1,695,326
Licenses and permits	5,112,136	6,043,906	4,184,267
Intergovernmental	3,183,410	3,268,704	3,353,951
Charges for Services	19,111,781	19,170,449	18,378,352
Investment Income	735,000	735,000	1,025,379
Contributions and donations	995,700	1,047,913	912,503
Interest & Penalties	0	0	0
Other Operating Revenues	1,160,110	1,310,480	221,387
Bond premium	350,000	350,000	2,114,542
Sale of Capital Asset	0	0	152,270
Use of Fund Balance	4,020,000	4,638,829	0
Transfers In	4,204,513	4,245,537	4,537,508
Expense	84,631,867	86,450,500	81,334,161
Nondepartmental	4,308,747	4,310,633	3,489,375
City Council	359,500	375,856	155,038
Regional Programs	2,652,774	3,117,774	2,883,668
Mayor	477,358	483,050	501,566
Clerk Treasurer	3,819,122	3,693,214	3,549,948
City Attorney	1,254,310	1,272,366	1,082,532
Planning	887,969	1,172,624	635,178
City Assessor	515,980	523,353	449,752
Human Resources & Payroll	1,159,186	1,351,191	1,171,041
REIB	1,822,813	1,882,132	1,482,628
Business & Workforce Development	1,555,582	1,563,084	773,330
Information Technology	2,378,065	1,893,659	1,804,259
Fire	13,793,547	13,988,065	14,146,391
Police	16,495,178	16,730,217	16,965,871
Permitting & Inspection	2,302,100	2,335,099	2,135,606
Public Works	5,828,397	5,917,121	5,451,832
Library	2,472,428	2,608,852	2,542,978
Parks & Recreation	9,338,703	9,365,815	8,723,712
Burlington City Arts	2,960,432	3,078,805	3,014,991
Community and Economic Development	1,502,693	1,564,665	1,081,422
Capital Outlay	1,369,657	529,110	528,733
Debt Service	6,832,719	8,149,208	7,868,770
Transfers Out	544,607	544,607	895,541
110			
Revenue	0	4,635,470	665,887
Taxes	0	0	4,566
Intergovernmental	0	0	242,107
Charges for Services	0	0	36,413
Investment Income	0	0	1,659
Other Operating Revenues	0	0	127,688

Use of Fund Balance	0	4,635,470	0
Transfers In	0	0	253,455
Expense	0	4,635,470	4,635,470
Nondepartmental	0	0	282,361
Clerk Treasurer	0	0	210,008
City Assessor	0	0	10,218
Police	0	0	142,073
Parks & Recreation	0	0	27,818
Capital Outlay	0	0	10,000
Transfers Out	0	4,635,470	3,952,992
Grand Total	49,999	368,137	4,571,227

Fund 101 is General Fund. Fund 110 is Designated (Assigned) Fund.

Combined

Variance with Final Budget
(6,086,121)
(442,167)
31,484
255,221
(1,859,639)
85,247
(792,097)
290,379
(135,410)
0
(1,089,093)
1,764,542
152,270
(4,638,829)
291,971
5,116,339
821,258
220,818
234,106
(18,516)
143,266
189,834
537,446
73,601
180,150
399,504
789,754
89,400
(158,326)
(235,654)
199,493
465,289
65,874
642,103
63,814
483,243
377
280,438
(350,934)
(3,969,582)
4,566
242,107
36,413
1,659
127,688

(4,635,470)
253,455
0
(282,361)
(210,008)
(10,218)
(142,073)
(27,818)
(10,000)
682,478
(4,939,364)

City of Burlington, Vermont
June 30
General Fund - Fund Balance Classifications

	2023
Nonspendable:	
To offset prepaid expense	290,353
To offset inventory	318,032
To offset long-term advances or interfund notes to:	
Capital project funds for:	
Great Streets	25,000
Burlington Town Center	66,000
Total Nonspendable	699,385
Restricted:	
Police Equitable Sharing Funds	292,612
Excess bond revenues - Future Debt payments / capital	1,495,743
Total Restricted	1,788,355
Committed:	
Compressed Natural Gas CNG	179,049
Fire - Alarm Surcharge	180,094
Library Books and Donations	12,278
Parking Fund by Charter	23,000
Public Records Restoration	297,147
Wellness	46,939
Total Committed	738,507
Assigned:	
Brookfield dev fees	139,412
Capital proceeds in fall borrowing understated for interest on BAN	50,000
Church street marketplace (MOU)	-
COVID-19	-
Digitize zoning files and property records	-
Early learning imitative grant	765,971
Facility repair reserve	74,646
Fleet reserve	165,000
Great streets - Champlain College	-
Health insurance reserve - limits	-
HR consultant - review of staffing and jobs	25,000
Jobs and people study	100,000
Liability insurance reserve	750,000
Development reserve	200,000
Public works - Snow removal (reserve)	250,000
Reappraisal	523,804
Burlington Telecom - escrow settlement	49,172
Planning - professional and consulting fees	234,558
Regional programs - Win Ave Corridor	15,000
Regional programs - Bystander	15,000
Regional programs - Indigenous people study	50,000
Regional programs - Expanded mental health	-
Police department - dedicated rebuilding fund	250,000
Regional dispatch - Public safety authority	150,000
Racial equity, inclusion, and belonging	214,388
BPRW - Investment	343,377
BPRW - Dewey park upgrade	86,190
Recycling totters - DPW	180,766
CT - Identify efficiencies and additional revenue opportunities	91,554
Opioid funding	142,141
IT - Move City IT equipment out of memorial	-

Operating Budget	2,565,059
City Council Initiatives	30,000
REIB - Health Emergency	50,000
Library - Repair & Maintenance	6,943
Regional Programs - Arts	26,250
Planning - additional from	255,442
Total Assigned	7,799,673
Total Fund Balance - Nonspendable, Restricted, Committed, and Assigned	11,025,920

-
-
-
-
-
-
-

<u>2022</u>	<u>Change</u>
472,662	(182,309)
194,823	123,209
433,807	(408,807)
269,501	(203,501)
1,370,793	(671,408)
294,642	(2,030)
2,048,210	(552,467)
2,342,852	(554,497)
174,483	4,566
143,681	36,413
12,278	-
23,000	-
428,638	(131,491)
79,300	(32,361)
861,380	(122,873)
139,412	-
50,000	-
356	(356)
76,953	(76,953)
150,000	(150,000)
680,805	85,166
74,646	-
665,000	(500,000)
780,000	(780,000)
750,000	(750,000)
25,000	-
100,000	-
1,000,000	(250,000)
200,000	-
250,000	-
441,958	81,846
-	49,172
275,000	(40,442)
15,000	-
15,000	-
50,000	-
400,000	(400,000)
750,000	(500,000)
150,000	-
105,614	108,774
520,000	(176,623)
100,000	(13,810)
500,000	(319,234)
150,000	(58,446)
-	142,141
500,000	(500,000)

-	2,565,059
-	30,000
-	50,000
-	6,943
-	26,250
-	255,442
8,914,744	(1,115,071)
13,489,769	(2,463,849)

-	Proof
-	Proof
-	Proof
-	Proof
-	Proof
-	Proof
-	Proof
-	Proof

City of Burlington, Vermont Presentation of Audit Results

February 20, 2024

Presented by:
Alina Korsak, CPA
Partner



marcumllp.com

Tonight's Objective

- ❑ Understand Why We Do the Annual Audit
- ❑ Review Management Letter
- ❑ Discuss Summary of General Fund Results

Reasons Behind the Annual Audit

- ❑ Burlingtonians put their trust in elected public officials and municipal employees to be responsible custodians of their tax dollars. The City validates this trust by employing strong financial controls and ensuring that the books of accounts **accurately reflect the financial activities of the fiscal year**.
- ❑ Vermont law requires that towns and cities (as well as school districts) **account for the monies entrusted to them and that these records be audited** (see 24 V.S.A. §§ 1681-1686 and 16 V.S.A. § 323).
- ❑ Financial accounting provides information for those outside the City management team (elected representatives, citizens and taxpayers), usually after the end of the financial year, and so is essential for **public accountability**.
- ❑ Auditing is the mechanism which provides assurance to the public about the veracity of the accounts, and hence is fundamental to **maintain trust**.

Management Letter

❑ Prior Year Comments:

- ❑ **Improve Controls Over Journal Entries and Adhere to a Formal Closing Schedule**
- ❑ **City Response:** Has begun issuing key monthly reports and engaged a consultant who is designated to monitor and perform analytical review of the general ledger on a regular basis as recommended.
- ❑ **Review City Ordinance Language in Comparison to Collective Bargaining Agreements (CBAs) in Relation to Pension**
- ❑ **City Response:** City will update ordinance language as recommended. The City notes retroactive adjustments to pension benefits are a rare occurrence.

❑ Current Year Comments:

- ❑ **Consider Improvements to Information Technology Policies**
- ❑ **City Response:** City will implement recommendations including a user access control process; improving policies regarding provisioning and terminations; and bolstering its cybersecurity resources.

General Fund Budget vs. Actual Results

Category	FY22 Actual	FY23 Final Budget	FY23 Actual	FY23 Variance
Revenues	\$79.2M	\$86.8M	\$80.7M	(\$6.1M)
Expenditures	\$78.2M	\$86.4M	\$81.3M	\$5.1M
Net	\$1.0M	\$0.4M	(\$0.6M)	(\$1.0M)

General Fund Balance Classifications as of June 30, 2023 and 2022 – Part 1

Fund Balance Classification	Amount (June 30, 2023)	Amount (June 30, 2022)	Change between FY22 and FY23
Nonspendable	\$0.7M	\$1.4M	(\$0.7M)
Restricted	\$1.8M	\$2.3M	(\$0.6M)
Committed	\$0.7M	\$0.8M	(\$0.1M)
Assigned	\$7.8M	\$8.9M	(\$1.1M)
Subtotal	\$11.0M	\$13.5M	(\$2.5M)

FY23 Unassigned Fund Balance

Fund Balance Classification	Amount (June 30, 2023)	Amount (June 30, 2022)	Changes between FY22 and FY23
Subtotal of Non-Spendable, Restricted, Committed and Assigned Fund Balance	\$11.0M	\$13.5M	(\$2.5M)

FY22 Unassigned Fund Balance was \$8.6M

Plus Changes to other Fund Balances \$2.5M

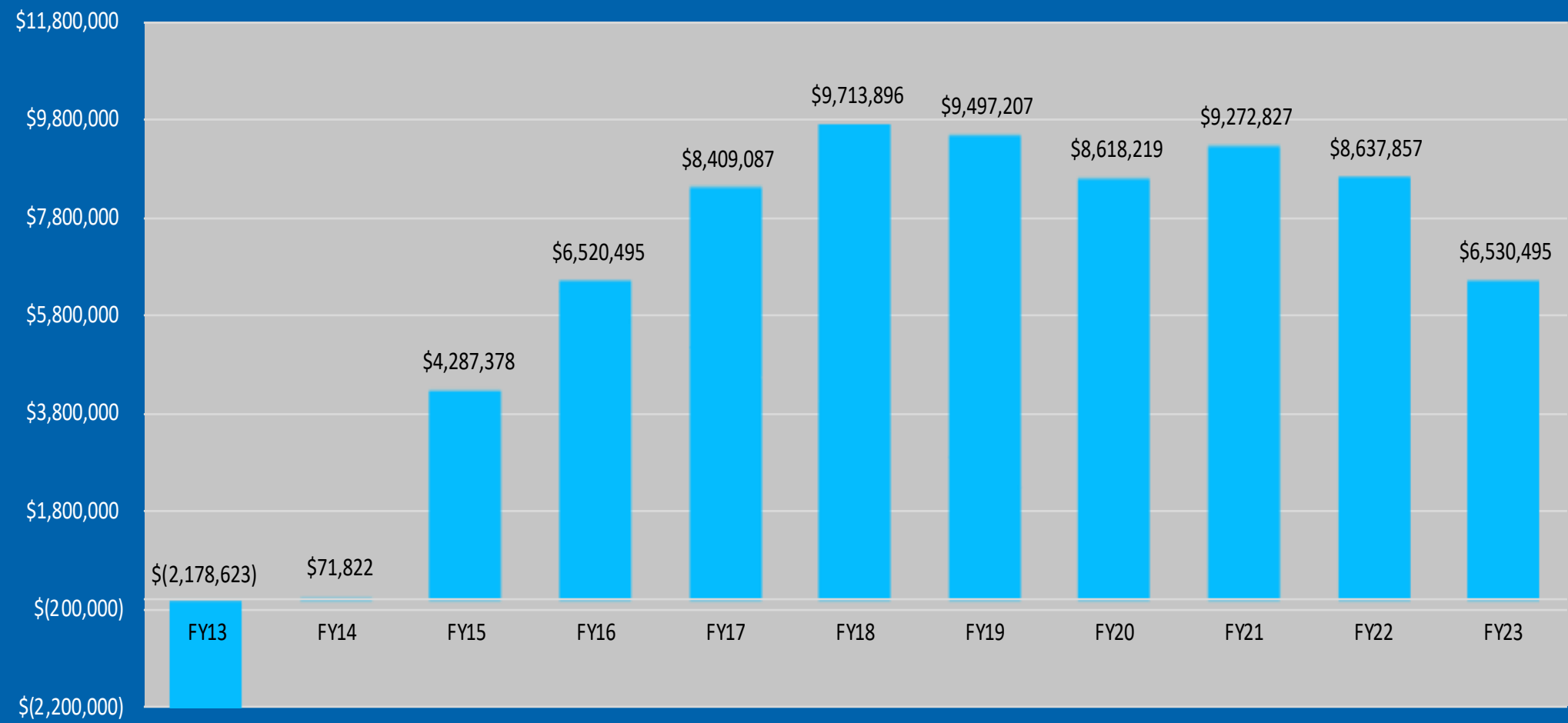
Less Net Change in Fund Balance (\$4.6M)

FY23 Unassigned Fund Balance is \$6.5M

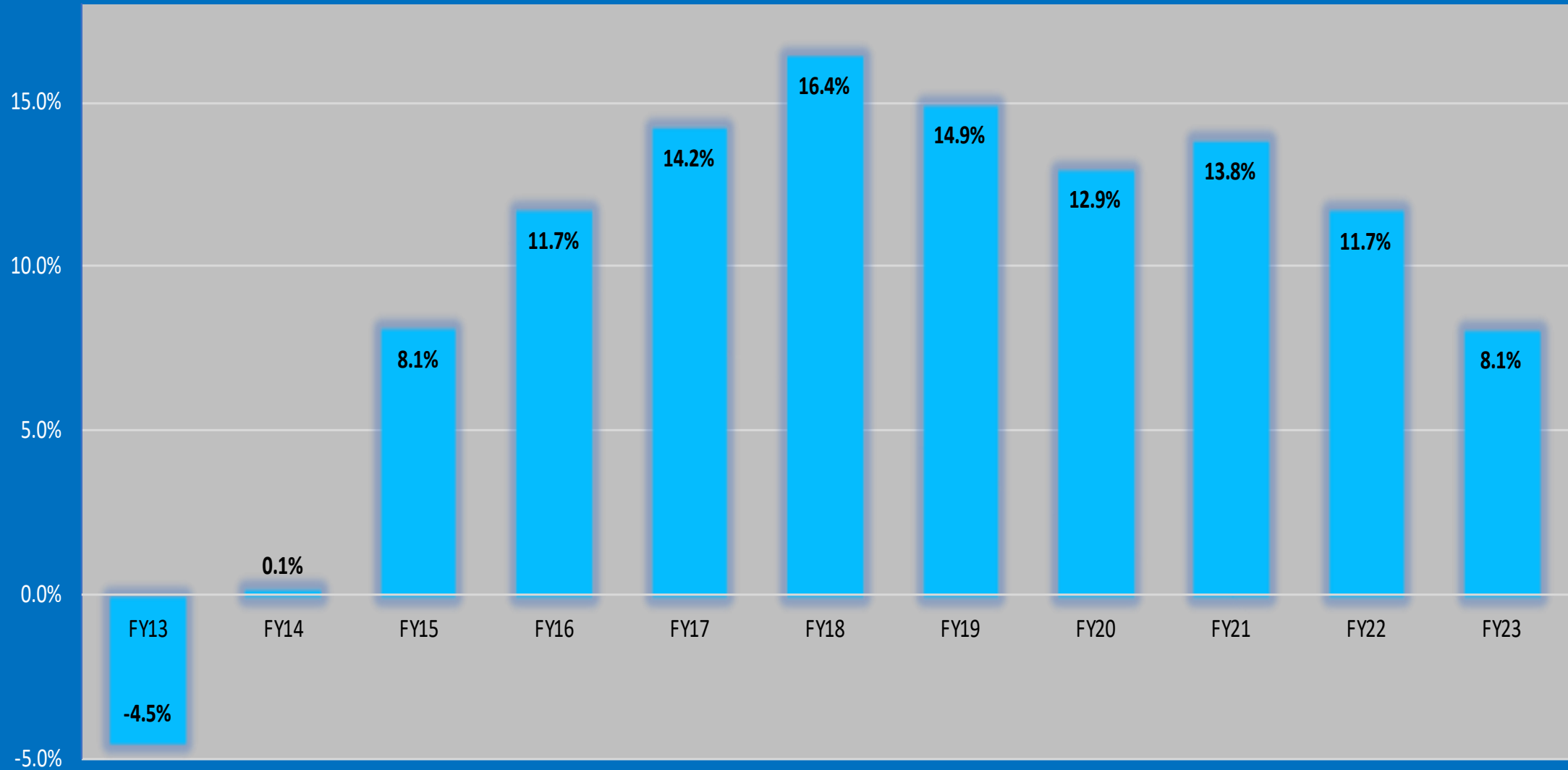
General Fund Balance Classifications as of June 30, 2023 – Part 2

Fund Balance Classification	Amount (June 30, 2023)
Nonspendable	\$0.7M
Restricted	\$1.8M
Committed	\$0.74M
Assigned	\$7.8M
Unassigned	\$6.5M
Subtotal	\$17.5M

General Fund Unassigned Fund Balance for Fiscal Years Ended June 30



General Fund Unassigned Fund Balance as a % of Total Expenditures



Questions and Discussion

CITY OF BURLINGTON, VERMONT

Management Letter
For the Year Ended June 30, 2023

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1. Improve General Ledger Monitoring and Adhere to a Formal Closing Schedule	3
2. Review City Ordinance Language in Comparison to Collective Bargaining Agreements (CBAs) in Relation to Pension	4
Current Year Recommendations:	
3. Consider Improvements to Information Technology Policies	4

To the Honorable Mayor
and City Council
City of Burlington
149 Church Street
Burlington, Vermont 05401

In planning and performing our audit of the basic financial statements of the City of Burlington, Vermont as of and for the year ended June 30, 2023, in accordance with auditing standards generally accepted in the United States of America, we considered the City's internal control over financial reporting (internal control) as a basis for designing our auditing procedures for the purpose of expressing our opinions on the financial statements, but not for the purpose of expressing an opinion on the effectiveness of the City's internal control. Accordingly, we do not express an opinion on the effectiveness of the City's internal control over financial reporting.

Our consideration of internal control was for the limited purpose described in the preceding paragraph and was not designed to identify all deficiencies in internal control that might be significant deficiencies or material weaknesses and therefore, significant deficiencies or material weaknesses may exist that have not been identified.

A deficiency in internal control exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct misstatements on a timely basis. A material weakness is a deficiency or combination of deficiencies in internal control, such that there is a reasonable possibility that a material misstatement of the City's financial statements will not be prevented, or detected and corrected on a timely basis. A reasonable possibility exists when the likelihood of an event occurring is either reasonable possible or probable as defined as follows:

- *Reasonably possible.* The chance of the future event or events occurring is more than remote but less than likely.
- *Probable.* The future event or events are likely to occur.

Our consideration of internal control was for the limited purpose described in the first paragraph and was not designed to identify all deficiencies in internal control that might be material weaknesses. Given these limitations, during our audit we did not identify any deficiencies in internal control that we consider to be material weaknesses. However, material weaknesses may exist that have not been identified.

During our audit, we became aware of other matters that we believe represent opportunities for strengthening internal controls and operating efficiency. The recommendations that accompany this letter summarize our comments and suggestions concerning those matters.

The City's written responses to our comments and suggestions have not been subjected to the auditing procedures applied in the audit of the financial statements and, accordingly, we express no opinion on it.

This communication is intended solely for the information and use of management, Mayor, and City Council, and others within the organization and is not intended to be and should not be used by anyone other than these specified parties.

Merrimack, New Hampshire
February 14, 2024

STATUS OF PRIOR YEAR RECOMMENDATIONS

1. Improve General Ledger Monitoring and Adhere to a Formal Closing Schedule

Prior Year Comment:

Our audit disclosed that the City continued to make a significant number of material journal entries five to six months after year-end. Accurate and timely statements provide key data to support fiscal monitoring, and monthly review of all funds' balance sheets and budget vs actual schedules is necessary to ensure accurate reporting.

We recommended that the City perform year end closing more timely. Step one in accomplishing this goal involves designating an individual to monitor and analytically review the general ledger on a monthly basis. Performing analytical procedures include reviewing all funds and balances to identify anomalies (which could be material misstatements) including unexpected deficits in fund balances and unexpected budget vs actual results. Management should monitor the process of reviewing monthly reports to ensure anomalies are identified timely. Step two is to establish a timeline to cure any misstatements within an appropriate timeframe. Implementation of this recommendation should result in earlier identification of the need for additional entries, improved internal reporting, and will streamline the year-end closing process. We further recommended that the individual designated to monitor the general ledger on a regular basis and perform analytical review of all funds and balances has limited other office responsibilities until corrective action is accomplished.

Current Year Status:

Our audit disclosed again that the City continued to make a significant number of material journal entries five to seven months after year-end. The Clerk Treasurer's office (CTO) was not fully staffed. As a result, designating an individual to perform analytical review and then assigning individuals to research the reasons behind unusual or unexpected trends and overspent budgets within an appropriate timeframe was difficult to accomplish.

Further Action Needed:

We continue to recommend that the City perform year-end closing sooner by prioritizing key reports to review earlier, which should include the annual General Fund budget vs. actual results and life-to-date Capital Project Funds budget vs. actual results. This process should allow City more time to research unexpected trends.

City's Response:

The City acknowledges that it has not made as much progress as planned on this recommendation due to difficulty hiring and retaining qualified staff in the CTO and commits to this work being a top priority in the coming year. Management acknowledges delivering key monthly reports and doing closing entries is imperative to proper budgeting and analysis. Management will communicate on a monthly basis to the City Council beginning with March 2024 with key monthly reports to analyze the general fund budget

vs. actual results and life-to-date capital project funds budget vs. actual results. Management has entered into a contract with a consultant whose assignment is to monitor the general ledger on a regular basis and perform analytical review of general and capital funds and balances to ensure that issues are resolved in a timely manner without the need for late journal entries. The consultant is working closely with CTO staff to accomplish these tasks and this is the consultant's primary task until corrective action is accomplished. Taking this corrective action will remain a top priority for Management and regular updates will be supplied to those charged with governance.

The CTO is also continuing to recruit for open positions, including the Director of Finance, so that the resources are in place to ensure smooth month- and year-end operations. The CTO will report on a monthly basis to the Board of Finance regarding these efforts.

2. Review City Ordinance Language in Comparison to Collective Bargaining Agreements (CBAs) in Relation to Pension

Prior Year Comment:

We became aware of inconsistent language in Collective Bargaining Agreements (CBAs) and the City Ordinance with respect to pension benefit calculations that has resulted in retroactive adjustments to pension benefits.

We recommended that the Legal Department ensure the language in CBAs reference applicable section of the City Ordinance or otherwise provide assurance the language in CBAs matches the City Ordinance.

Current Year Status:

We understand that the recommendation has not yet been implemented.

Further Action Needed:

We continue to recommend that the legal department ensure there that City Ordinance language is consistent with CBA language with respect to pension benefit calculations. Implementation of this recommendation will help ensure that pension benefits are made in accordance with City Ordinance.

City's Response:

The City thanks the auditor for this recommendation to ensure that pension benefits are made in accordance with the City Ordinance and the CTO will move implementing this with the legal department by April 2024. The City would like to note that retroactive adjustments to pension benefits are a rare occurrence and one that has not affected the City in recent years.

CURRENT YEAR RECOMMENDATIONS

3. Consider Improvements to Information Technology Policies

Maintaining secure, restricted access to the City's IT infrastructure is a critical element for safeguarding the City's personal and financial information. During our audit procedures, we identified instances where the provisioning process included mirroring users for access to New World Systems, but no evidence was attached to the request identifying the permissions that needed to be granted to the new users along with the appropriate approvals. Several CTO and HR individuals have privileged access that should be restricted further, if possible. It does not appear that user access review control or a formal process to communicate access removals is currently in place. Additionally, there does not appear to be a formal cybersecurity incident response plan or business continuity and disaster recovery plan.

We recommend that the City consider improvements to IT policies related to provisioning, terminations, privileged access, user access review and cybersecurity. This should result in additional safeguards to personal and financial information.

City's Response:

The City appreciates this recommendation and plans to implement it in the coming weeks. The IT and CTO departments are partnering on a user access control process formally documented and communicated in place for New World Systems. The IT department is improving policies regarding provisioning and terminations. The department is also continuing to bolster its cybersecurity resources including hiring a new cybersecurity expert this Spring who will help to create a new policy and incident response plan.

Resolution Relating to

ACCEPTANCE AND APPROVAL OF THE FY 2023 AUDIT

RESOLUTION 9.7.

Sponsor(s): Bd. of Finance

Introduced: 02/26/24

Referred to: _____

Action: adopted

Date: 02/26/24

Signed by Mayor: 03/04/24

CITY OF BURLINGTON

In the year Two Thousand Twenty-Four.....

Resolved by the City Council of the City of Burlington, as follows:

1 That WHEREAS, the City's auditors, Marcum LLP has completed the City audit for the fiscal year July
2 1, 2022 to June 30, 2023; and

3 WHEREAS, the auditor has prepared a management letter to accompany that audit; and

4 WHEREAS, during the audit the auditor did not identify any deficiencies in internal controls that were
5 considered to be material weaknesses; and

6 WHEREAS, the City has responded to the items in the management letter; and

7 WHEREAS, on Tuesday, February 20th the Board of Finance was presented with the Audit findings;
8 and

9 WHEREAS, on February 26th, the Board of Finance has accepted the audit and recommended that the
10 City Council approve and accept the audit, including the management letter;

11 NOW, THEREFORE, BE IT RESOLVED that the City Council approves and accepts the City's Fiscal
12 Year 2023 audit, including the management letter.

13
14 KS/Resolutions 2024/Acceptance and Approval of the FY 2023 Audit
15 February 22, 2024

* * * * *

DISTRIBUTION:

I hereby certify that this resolution
has been sent to the following
department(s) on

CAO Schad

ORIGINAL

RESOLUTION RELATING TO

Acceptance and Approval of the FY 2023 Audit

.....
.....

Adopted by the City Council

February 26, 20 24
 Clerk

Approved March 4, 20 24
 Mayor

Vol. Page

Attest:

Lori Olberg
Licensing and Records Coordinator

* * * * *

Resolution Relating to

UPDATING INCLUSIONARY ZONING PAYMENT IN LIEU

RESOLUTION_____

Sponsors: Councilors Hightower,
Bergman, Magee, Dieng
Introduced: _____
Referred to: _____

Action: _____
Date: _____
Signed by Mayor: _____

CITY OF BURLINGTON

In the year Two Thousand Twenty-Four
Resolved by the City Council of the City of Burlington, as follows:

- 1 That WHEREAS, Burlington adopted Inclusionary Zoning in 1990 to support the growth of not just
2 housing, but specifically affordable housing, in the face of rising housing costs; and
3 WHEREAS, amendments were made by the City Council in 2019, at the Administration’s
4 recommendation, to allow an offsite option as well as payment in lieu for inclusionary units; and
5 WHEREAS, where applicable, the payment-in-lieu fee is currently \$35,000 per dwelling unit for
6 projects containing 5-16 dwelling units, \$70,000 per dwelling unit for projects containing 17 – 49 dwelling
7 units, and \$85,000 per dwelling unit for projects containing 50 or more dwelling units; and
8 WHEREAS, a marginal fee approach is used in payment of the in-lieu fees such that a 17-unit project
9 would pay a total of \$140,000, \$35,000 for each of the first two inclusionary units and \$70,000 for the third
10 inclusionary unit; and
11 WHEREAS, the payment-in-lieu options at this time are insufficient for the City or its partners to
12 subsidize construction of current units to make those affordable as:
13 • In 11 units recently for sale under Champlain Housing Trust’s (CHT) Shared-Equity Program,
14 CHT Invested a minimum of \$113,000 and an average of \$154,000 to lower the buyer’s price and
15 make the homes affordable. These units were not just in Burlington where there may be higher
16 costs. None of the current in-lieu payments meet even the minimum CHT shared-equity investment
17 of this sample of recent homes sold, much less the average.
18 • Vermont Housing Finance Agency (VHFA), CHT’s, and Cathedral Square’s median costs for new
19 units is over \$500,000, \$500,000 and \$467,000 respectively, and for VHFA and Cathedral Square
20 this includes units outside of Chittenden County.
21 • However, according to the Vermont Housing Finance Agency, households at 85% of Median
22 Income cannot afford homes that are over \$199,000 for a 1 BR; \$239,000 for a 2 BR; and \$276,500
23 for a 3 BR. Similarly, even households at median income can only afford a maximum sales price of

24 \$234,000 for a 1 BR; \$281,000 for a 2 BR; and \$325,000 for a 3 BR. This leaves an implied gap of

25 AT LEAST \$142,000 to \$220,000 between the target IZ families and the construction costs;¹ and

26 WHEREAS, the City of Burlington is making several changes to zoning that will increase housing

27 stock; and

28 WHEREAS, in 2023, the City Council put in a last-minute ad-hoc work-around for the South-End

29 Rezoning as, with no real residential current uses, it would have allowed substantial payment in lieu in what is

30 projected and zoned to become a middle/upper-middle class neighborhood without contributing sufficiently to

31 subsidize the same number of affordable units;

32 NOW, THEREFORE, BE IT RESOLVED that the City Council recognizes and seeks to address the

33 significant gap between our current payment-in-lieu system and what it takes to make a market unit affordable

34 to a family that qualifies for our Inclusionary Zoning housing; and

35 BE IT FURTHER RESOLVED to refer to the Planning Commission the attached memorandum and

36 suggested language for amending Ordinance Section 9: Inclusionary and Replacement Housing generally and

37 specifically Sec. 9.1.13 Off-Site and Payment in Lieu Options, Subsection (b); and

38 BE IT FURTHER RESOLVED that the Planning Commission review the proposed amendment under

39 its normal process, that is, as if it had been an amendment prepared by the Planning Commission pursuant to

40 24 V.S.A. §4441(b) within this calendar year.

41

42

43

44 ZH/Resolutions 2024/*Updating Inclusionary Zoning Payment in Lieu*

45 2/20/24

¹ VHFA Maximum Rent and Purchase Price Affordability Thresholds by Income and Households Size, November 2023
<https://www.housingdata.org/documents/Purchase-price-and-rent-affordability-expanded.pdf>

Article 9: Inclusionary and Replacement Housing

Sec. 9.1.5 Applicability

(a) The creation of five (5) or more residential units through new construction and/or substantial rehabilitation of existing structures, including the development of housing units utilizing development provisions other than those specified in Sec 9.1.5 (b).

Sec. 9.1.13 Off-Site and Payment in Lieu Options

(b) Payment In-Lieu Option

The developer of a covered project may provide a payment in lieu to the Housing Trust Fund rather than construct inclusionary units on or offsite contingent on AMI as determined by HUD's Low- and Moderate-Income Summary Data. The payment in lieu option may be utilized by right under the two following scenarios:

- 1) Covered projects located in a census block where more than fifty-one percent (51%) of the residents are below eighty percent (80%) AMI as determined by HUD's Low- and Moderate-Income Summary Data may utilize the payment in lieu option subject to the following standards:

i. ~~The payment in lieu fee shall be \$75,000 per dwelling unit for projects containing 5 dwelling units.~~

~~ii.~~ The payment in lieu fee shall be ~~\$11535~~,000 per dwelling unit for projects containing ~~65~~-16 dwelling units.

iii. The payment in lieu fee shall be ~~\$15070~~,000 per dwelling unit for projects containing 17-49 dwelling units.

iv. ~~iii.~~ The payment in lieu fee shall be ~~\$85175~~,000 per dwelling unit for projects containing 50 or more dwelling units.

A marginal fee approach shall be used in payment of the in lieu fees. (Example: A 17-unit project would pay a total of ~~\$140,000~~~~425,000~~ {~~\$12535~~,000 for each of the first two inclusionary units and ~~\$1750~~,000 for the third inclusionary unit}.

- 2) Covered projects located in a census block where less than fifty-one percent (51%) of the residents are below eighty percent (80%) AMI as determined by HUD's Low- and Moderate-Income Summary Data may utilize the payment in lieu option per the following standards:

i. ~~The payment in lieu fee shall be \$100,000 for units for projects containing 5 dwelling units~~

ii. The payment in lieu fee shall be ~~\$15035~~,000 per dwelling unit for projects containing ~~65~~-16 dwelling units. ~~ii.~~

iii. The payment in lieu fee shall ~~not be allowed~~ ~~\$200,000~~ for projects containing 17 or more dwelling units.

Commented [Zs1]: Would also be interested in / consider removing this section and having the above apply to all development.



**CITY OF BURLINGTON
DEPARTMENT OF PUBLIC WORKS**

645 Pine Street, Suite A
Burlington, VT 05401
802.863.9094 VOICE
802.863.0466 FAX
802.863.0450 TTY
www.burlingtonvt.gov/dpw

MEMORANDUM

To: Board of Finance and City Council
Fr: Chapin Spencer, Director of Public Works
Laura Wheelock, P.E., Senior Public Works Engineer
Olivia Darisse, P.E., Public Works Engineer
Madeline Suender, E.I., Associate Public Works Engineer
CC: Norman Baldwin, P.E., Assistant Director Public Works and City Engineer
Jackie Esperti, Parking Services Operations Manager
Robert Goulding, Public Works Public Information Manager

Re: **Parking Management Sublease Agreement with Unified Parking Partners**
Date: February 20, 2024 (Board of Finance) and February 26, 2024 (City Council)

I. SUMMARY OF REQUEST

The Department of Public Works (DPW) is seeking Board of Finance recommendation and City Council authorization to execute a Parking Management Sublease Agreement with Unified Parking Partners and Courthouse Plaza.

II. BACKGROUND

Great Streets Main Street is a generational reinvestment into one of Burlington's most important corridors – and it will be a multi-year project that will be comprehensively renew water and wastewater utilities, install tree wells that will allow for a robust tree canopy, rebuild the street and sidewalks, add protected bike lanes and improve the overall public realm.

City staff have brought forward the lessons learned from our first two Great Streets projects to minimize overall impacts as much as possible. New efforts include:

- **Pre-characterizing soils within the project area and developing a Soils Management Plan under the guidance of the VT Department of Environmental Conservation.** These steps have allowed the project team and contractor to understand the contaminated material present underground prior to beginning construction, and develop a plan for managing these soils in order to mitigate the risk of costly and disruptive project delays.

- **Including communications responsibilities in resident engineering contract.** In addition to Resident Engineering services, EIV Technical Services is providing a dedicated public outreach consultant to this project, Natalie Boyle, who is serving as the project's first point of contact for businesses and the general public. Since Natalie is able to collaborate directly with the RE services team within the same firm, she is acutely familiar with day-to-day construction activities and accurately communicate information to the public. Those who submit inquiries are guaranteed a timely, well-informed response.
- **Proactively replacing water services and sewer laterals for property owners at no cost.** In the interest of maximizing the integrity of the streetscape, the project team performed inspections of all water and sewer laterals within the project to identify services that warranted replacement within the project area. Not only does this mitigate risk of construction delays, it ensures that underground infrastructure within the project area will not fail and result in costly replacement of the new streetscape materials once completed.
- **Securing a grant through the Department of Business Workforce and Development to support business promotion during the project.** This \$15,000 grant will enable the City to further promote the great local businesses along the corridor during the construction.
- **Leasing adjacent parking to make affordable parking spaces available to the public.** The public will lose access to a varying number of public parking spaces throughout the course of construction. The contractor has occupied the City-owned parking lot on the corner of Main Street and South Winooski Avenue during active construction of the ravine sewer, and on-street parking will be disrupted as the contractor progresses with work on Main Street and Church Street. Business owners and the general public have expressed concern about these impacts, and the project team has taken action to mitigate temporary parking loss.

III. PARKING MITIGATION STRATEGIES

The project team understands that providing proximate parking to the corridor during construction is critical to supporting our great local businesses and has taken the following steps:

- Converting traffic to one-way on South Champlain Street between King Street and College Street, resulting in additional on-street parking on South Champlain Street.
- Limiting the full closure of the Main & Winooski municipal lot to just the initial phase of construction.
- Utilizing the Park Burlington website and project communications to direct the public to alternate parking facilities.
- Providing additional affordable off-street public parking. After a year of discussions and negotiations with Unified Parking Partners and Courthouse Plaza, we are pleased to announce that the City is making the 85 public parking spaces at 199 Main Street available for more hours and at lower rates. This parking, accessed from South Winooski Avenue, had previously been available to the public but at limited times and premium rates (\$5/hour) which limited the utilization. The lease agreement, if approved, will provide:
 - 85 public parking spaces conveniently located to downtown close to shops and businesses.
 - Available from 6am to 3am daily.
 - A more accessible rate to match the City's standard rates, currently \$1.50 per hour.
 - Capability to pay for parking via City payment options such as ParkMobile and pay-on-foot kiosks.

IV. FINANCIAL TERMS

Through the Lease Agreement, the City would lease each space for \$4.60 per day. Under the agreement, the City would lease all 85 spaces for the first year at \$11,892.92 per month or a total of \$142,715.00 for the year. The Traffic Fund will make the first year lease payments. The revenue from public parking sessions will be collected by the Parking Facilities Fund and will offset the cost of this program. With a conservative assumption of an average 60 parkers per day parking for two hours, the net cost would be ~\$76,000/yr. With a more aggressive projection of 90 parkers per day staying for an average of 3 hours, the net cost would be \$43,560/yr. The Traffic Fund has budgeted for this parking support in FY'24 (G/L 264-19-200-450.6500_118) and we will ensure to budget for this in FY'25.

The lease allows the City to keep the full 85 spaces for the second year or reduce the leased spaces as demand necessitates. It also allows for the City to extend the lease for an additional 8 months if needed to complete the Great Streets Main Street construction.

V. TIMELINE

If approved by the City Council on February 26th, we are expecting to have the City signage and kiosks installed and the lower rates implemented by mid-March, 2024. There will be construction signage directing drivers to this parking resource. The new rates and hours will be listed on www.ParkBurlington.com as soon as the lease agreement is executed, listed on the Main Street project website www.GreatStreetsBTV.com, and communicated to contacts on the project's email distribution list.

We are pleased with the cooperative relationship with Courthouse Plaza and Unified Parking Partners to work out this beneficial arrangement. Please reach out with any questions.

VI. MOTIONS

Board of Finance

1. To approve and recommend that the City Council authorize the Director of Public Works to execute Attachment A - Parking Management Sublease Agreement with Unified Parking Partners and Courthouse Plaza, in an amount not to exceed \$142,715 per year.

City Council

2. To authorize the Director of Public Works to execute Attachment A - Parking Management Sublease Agreement with Unified Parking Partners and Courthouse Plaza, in an amount not to exceed \$142,715 per year.

VII. ATTACHMENTS

- A. Parking Management Sublease Agreement

PARKING MANAGEMENT SUBLEASE AGREEMENT

This Parking Management Agreement (this “Agreement”) is entered among the City of Burlington (the “City”), a Vermont municipality with a principal place of business of 149 Church Street, Burlington, Vermont; Courthouse Plaza LLC, a Vermont limited liability company with a principal place of business of 2822 Saint George Road, Williston, Vermont (“Owner”); and UPP Global, LLC, a Delaware limited liability company registered in the State of Maine to do business as United Parking Partners, with a principal place of business of 496 Congress Street, Suite 3, Portland, Maine (“Lessee”), collectively, the “Parties” and each a “Party”.

WHEREAS Owner is the fee owner of certain real property and other improvements situated in Burlington, Vermont located at 199 Main Street as more particularly depicted in Exhibit A attached to this Agreement (the “Garage Property”); and

WHEREAS Lessee leases the Garage Property from Owner for purposes of carrying on a private, for-profit parking operation; and

WHEREAS the City’s Great Streets Main Street Project will reconstruct several blocks of Main Street, projected to start in early 2024, and to continue for at least two years, and the City is seeking proximate publicly-accessible parking at typical City rates to mitigate temporarily the loss of on-street parking spaces during the construction project; and

WHEREAS the Owner and Lessee are ready, willing, and able to sublease to the City Level 3 (defined below) of the Garage Property to provide such affordable, publicly-accessible parking; and

WHEREAS in consideration of City’s need for publicly-accessible parking and Owner and Lessee’s ability and willingness to meet such need, the Parties desire to enter into this Agreement and to provide publicly available parking for the duration of the City’s need on mutually agreeable terms; and

NOW THEREFORE, in consideration of the matters described above, and of the mutual benefits and obligations set forth in this Agreement, the Parties agree as follows:

1. PURPOSE

This Agreement sets forth the understanding of the Parties with regard to the use, maintenance, operation, improvement, repair and other matters related to the Garage Property. The Parties acknowledge the use, operation, and maintenance of the Parking Garage shall: (a) provide safe, accessible parking for Permitted Users; (b) ensure unobstructed (subject to traffic control) ingress, egress, and location identification, including directional signage within the Parking Garage; and (c) maximize the interests of the City, Owner, and Lessee. Except for the portions of the Garage Property used for valet parking or private, for-profit parking as provided in this Agreement, the Parking Garage shall be operated as a self-park, public parking garage.

2. BACKGROUND

A. Authority. Each Party represents and warrants to the other that the execution and delivery of this Contract and the performance of such Party’s obligations have been duly authorized.

- B. Consideration.** The Parties acknowledge that the mutual promises and covenants contained herein and other good and valuable consideration are sufficient and adequate to support this Contract.

3. DEFINITIONS

- A. “Garage Property”** is defined in the first recital.
- B. “Level 3”** means the tray of 85 parking spaces in the Garage Property directly accessible from South Winooski Avenue.
- C. “Permitted Users”** means persons who use the Parking Garage from time to time with the permission of Owner and/or Lessee.
- D. “Effective Date”** means the date on which this Contract is approved and signed by the City, as shown on the signature page.
- E. “Displacement Period”** means a period of weeks during the term hereof, to be determined by the City, when public works shall occur at the entrances to the first and second levels of the Garage Property, such that those levels will not be available for Long Term Parkers (defined below).

4. EFFECTIVE DATE, TERM, AND TERMINATION

- A. Effective Date.** This Contract shall not be valid or enforceable until the Effective Date. The City shall not be bound by any provision of this Contract before the Effective Date and shall have no obligation to pay the other Parties for any performance or expense incurred before the Effective Date or after the expiration or termination of this Contract.
- B. Term.** This Contract and the Parties’ respective performance shall commence on the Effective Date and expire April 1, 2026, or upon the satisfaction of the City, unless sooner terminated as provided herein. In consideration of Ten Dollars and No Cents (\$10.00), the receipt and sufficiency of which is hereby acknowledged, the City shall have the option to extend the term for up to eight (8) months. This option shall be exercised at least thirty (30) days prior to the end of the term.
- C. Termination.** The Agreement may be terminated in accordance with the following provisions, which are not exclusive:
- i. Termination for Cause. The City may, upon written notice to the Owner or Lessee, terminate the Agreement, as of a date to be specified by the City, if the Owner or Lessee fails to maintain the necessary parking availability or maintenance standards to the satisfaction of the City. The Owner or Lessee shall be compensated on the basis of the parking fees incurred and accepted by the City upon the date of notice by City of termination. In case of other breaches of this Agreement, including, without limitation, failure to obtain and maintain required insurance or failure to honor indemnification and defense obligations hereunder, the City may terminate this Agreement without notice and

without further compensation to Owner or Lessee.

- ii. Termination for Convenience. In addition to its rights and options to terminate this Agreement as provided herein, the City may, at any time during the term of this Agreement, terminate the Agreement by submitting written notice to the Owner and Lessee within not less than thirty (30) days prior to the termination date, via certified or registered mail, of its intention to do so. If the termination is for the City's convenience, payment to the Owner or Lessee will be made promptly for the amount of any fees owed to the date of the notice of termination, less any payments previously made.
- iii. Contract Disputes. In the event of a dispute between the parties to this Agreement each party will continue to perform its obligations unless the Agreement is terminated in accordance with these terms.

5. AGREEMENT DOCUMENTS

The following agreement documents are hereby adopted, incorporated by reference, and made part of this Agreement. The intention of the agreement documents is to establish the necessary terms, conditions, and other items necessary for the proper execution of the duties and responsibilities contained herein.

The following documents constitute the agreement documents:

Attachment A: Map and Description of Garage Property

Attachment B: City of Burlington Ordinances, Chapter 20 and Appendix C, current as of February 1, 2024

Attachment C-1: Owner's Certificate of Insurance

Attachment C-2: Lessee's Certificate of Insurance

Attachment C-3: City's Certificate of Insurance

6. JOINT OPERATION

- A. Dual use.** The Garage Property consists of multiple levels with two primary uses: private arrangements by agreement for ongoing monthly parking access with area business and tenants ("Long Term Parkers"); and, open, public-parking charged on an hourly basis ("Public Parkers"). The scope of this agreement is intended to govern the latter use that will encompass the entirety of garage Level 3 (85 spaces) accessible from South Winooski Avenue.
- B. Operation as Single Property.** The Parties recognize that the Garage Property will be operated as a single garage creating an inventory of *at least* eighty-five (85) parking spaces allocated for Public Parkers.
- C. Designated Premises.** It is agreed among the Parties that that during the term of this Agreement, Level 3 will be available exclusively to Public Parkers, except during the

Displacement Period, when it will be made available first for Long Term Parkers and second for Public Parkers.

7. MAINTENANCE AND OPERATION

A. Generally. Owner and/or Lessee will be responsible for administering, maintaining, operating, improving and repairing the Garage Property, including but not limited to resurfacing, patching, repairing, replacing, sweeping, garbage removal, removing snow and standing water, cleaning, striping, painting and maintain the Garage Property in such a manner as to provide safe public access to the spaces on Level 3. Owner and Lessee shall also ensure that the City has access to power as reasonably necessary, including to operate kiosks or other equipment allowed under this Agreement.

B. Ingress and Egress. The Parties agree, and the Owner and/or Lessee shall ensure, that public means of access including vehicle ramps and pedestrian access is open and passable at all times when the Garage Property is open to the public.

C. Hours of Operation and Availability. Level 3 shall be open for Public Parkers at least twenty-one (21) hours per day from 6 a.m. to 3 a.m., seven (7) days per week, every day of the year, except: (1) during an emergency necessitating closure; (2) for days and times as reasonably necessary when repairs are performed or capital improvements are installed; or (3) as agreed to by all three parties in writing.

D. Maintenance Standards.

- i. During all hours of operation, Owner and Lessee shall ensure the following maintenance standards:
 1. Entrances, exits, and other points for ingress and egress shall be clearly marked and convenient;
 2. Pedestrian paths and corridors to points of exit shall be free from interference by vehicles;
 3. The Garage Property shall comply with all applicable federal, state, and local laws, including, without limitation, the Americans with Disabilities Act and other disability access laws;
 4. Lighting and security services (including security monitoring equipment) shall be consistent both with the requirements of paragraph (E) of this section and the operation of other parking garages in downtown Burlington;
 5. All sidewalks, walkways, stairways, elevators, roadways and parking surfaces inside the Garage Property, including its entrances and exits, shall be kept and maintained in good, safe and clean condition;

6. Snow, ice, surface water and debris shall be promptly treated or removed if inside the Parking Garage, or its entrances and exits.

- ii. Owner and Lessor shall hold harmless, indemnify, and defend the City and its officers, employees, agents, successors, and assigns from and against any and all claims, damages, liens, liabilities, penalties, causes of action, lawsuits, fines, or costs (including attorneys' fees or costs) of any kind or nature whatsoever (collectively, "Claims"), arising from or relating to the failure of the Garage Property to comply with the maintenance standards above, excepting claims arising from the gross negligence or willful misconduct of the City. The foregoing obligations shall survive termination of this Agreement.

E. Required Staff. Subject to paragraph (G), below, the Lessee shall employ persons on an as-needed basis to monitor cameras and security personnel to protect persons and property from harm or damage. The Lessee shall designate an individual who may be contacted by the Parties for the purposes of ensuring that: (a) the Parking Garage is operated and maintained in a first-class condition consistent with this Agreement; (b) vehicles and persons are able to enter and exit the Parking Garage at all times; and (c) inquiries, complaints and emergency conditions receive a prompt response. The Lessee shall either have staff available on site or by phone to respond to operational and emergency issues.

F. Capital Improvements. Owner shall be responsible, at its sole cost and expense, to make all repairs and capital improvements (structural and nonstructural) to the Garage Property for the purpose of maintaining standards for a first-class parking garage in an urban area, and as otherwise agreed between the Parties. Upon notice from the City that repairs or improvements are necessary to preserve the structural integrity of the Garage Property and/or to maintain maintenance standards herein, Owner shall promptly commence to make such repairs, or in the alternative, provide a report that repairs are either unnecessary or are scheduled in accordance with the relative urgency. This paragraph shall not be construed to create a duty of the City to identify or report conditions of the Garage Property.

G. Security. During the Displacement Period, the City shall provide security for Level 3. Otherwise, Owner and Lessee shall be responsible at their own cost and expense to provide security for the entire Garage Property. Nothing in this paragraph shall prevent the City from enforcing payment by Public Parkers at Level 3.

8. PARKING FEES AND CONSIDERATION

A. Fees for Public Parking. The City shall have the sole right during the term of this Agreement to charge parking fees (as determined by it in its sole discretion) to Public Parkers for their use of Level 3. The City may install signs and kiosks to facilitate collection of fees, which the City shall remove at termination of this Agreement. Parking enforcement on Level 3 shall be the City's responsibility, except that the City shall not be responsible to enforce payment by Long Term Parkers on Level 3 during the Displacement Period. City signage may include hours of operation and similar information reasonably determined by the City to be necessary or convenient to its operations.

- B. Hours of Operation.** Parking by Public Parkers shall be allowed on Level 3 at least between the hours of 6 a.m. and 3 a.m. daily.
- C. Payment to Lessee.** During the term of the Agreement, City agrees to pay as compensation to Lessee a monthly sublease payment of Eleven Thousand Seven Hundred Thirty Dollars and No Cents (\$11,892.92) for each month during this Sublease Agreement.
- D.** Prior to April 1, 2025, the parties shall meet and confer in good faith to discuss the City's need for spaces effective from that date to the end of the term of this Agreement, and if agreed by the Parties, this Agreement shall be amended to modify the number of spaces leased by the City on Level 3, and the City's monthly sublease payment shall be adjusted accordingly based upon a rate of Four Dollars and Sixty Cents (\$4.60) per space per day.
- E. Non-Appropriation.** The obligations of the City under this Agreement are subject to annual appropriation by the Burlington City Council. If no funds or insufficient funds are appropriated or budgeted to support continuation of payments due under this Agreement, the Agreement shall terminate automatically on the first day of the fiscal year for which funds have not been appropriated. The Parties understand and agree that the obligations of the City to make payments under this Agreement shall constitute a current expense of the City and shall not be construed to be a debt or a pledge of the credit of the City. The decision whether to budget and appropriate funds during each fiscal year of the City is within the discretion of the Mayor and City Council of the City. The City shall deliver written notice to Owner/Lessee as soon as practicable of any non-appropriation, and Owner/Lessee shall not be entitled to any payment or compensation of any kind for work performed after the City has delivered written notice of non-appropriation.

9. NO NUISANCE OR WASTE.

The Parties shall not use or occupy the Garage Property in any manner which causes damage, nuisance, or waste.

10. REMOVAL OF VEHICLES

If any Party finds that any person or Party is using the Garage Property in a manner which violates any term of this Agreement or any reasonable rule related to the Garage Property, then the Owner or Lessee may require the vehicle or persons to be removed from the Garage Property. Prior to the removal of a vehicle, the Party may give notice by posting a copy of intent to remove on the offending vehicle. After 24 hours' notice, except in the case of emergency, the Party is authorized to remove the vehicle and take such other action as is reasonably necessary, including storage or impoundment. For purposes of Burlington Code of Ordinances Section 20-77, Owner hereby designates Lessee and the City as Owner's agent for the limited purpose of removing offending vehicles.

11. INSURANCE

Generally. The insurance coverages in the amounts set forth below shall be maintained by all Parties unless otherwise agreed in writing. No warranty is made that the coverage and limits listed herein are adequate.

- i. General Liability And Property Damage: Commercial General Liability, on an occurrence form, providing all major divisions of coverage including, but not limited to:

1. Premises Operations
2. Independent Contractors' Protective
3. Products and Completed Operations
4. Personal Injury Liability
5. Medical Expenses
6. Garage-keepers Liability Coverage with a limit of at least \$500,000

Coverage limits shall not be less than:

- | | |
|----------------------------------|-------------|
| 1. General Aggregate | \$2,000,000 |
| 2. Products-Completed/Operations | \$2,000,000 |
| 3. Personal & Advertising Injury | \$1,000,000 |
| 4. Each Occurrence | \$1,000,000 |
| 5. Damage to Rented Premises | \$ 250,000 |
| 6. Med. Expense (Any one person) | \$ 5,000 |

- ii. Automobile: combined single limit of \$1,000,000 for owned, non-owned, and hired vehicles.

- iii. Workers Compensation & Employer Liability: coverage in amounts specified by law but not less than \$500,000 per accident, \$500,000 per policy, and \$500,000 per employee.

- iv. Umbrella/Excess Liability:

1. \$1,000,000 Each Event Limit;
2. \$1,000,000 General Aggregate Limit;
3. Umbrella coverage is excess above the general, automobile, and employer liability.

Endorsements. Owner's and Lessee's policies of insurance shall be endorsed to: (1) name the City and its officers, employees, agents, successors, and assigns as additional insureds on a primary, non-contributory basis on all liability policies referenced above; (2) waive subrogation against the City; and (3) provide the City thirty (30) days' notice of cancellation. If requested by Owner and/or Lessee, the City shall provide substantially similar endorsements.

12. BINDING EFFECT; ASSIGNMENT AND SUBLETTING

This Agreement and all of the provisions of this Agreement will be binding upon and inure to the benefit of the Parties and their respective successors and permitted assigns. However, this Agreement and any of the rights, interests, or obligations under this Agreement may not be assigned, transferred or the parking spaces contemplated herein sublet without the prior written consent of the other Parties to this Agreement. Notwithstanding the foregoing, the Parties' obligations under this Agreement shall inure to any assignee, whether the assignment is authorized.

13. NO WAIVER

Notwithstanding the passage of time, no failure on the part of any Party to insist upon the performance of any covenant, agreement, term or condition or to exercise any right or remedy contained in this Agreement shall constitute a waiver of such breach or of the requirement that such covenant, agreement, term or condition be complied with or performed by the other party. No waiver of any breach shall affect or alter this Agreement, and each covenant, term and condition shall continue to be in full force and effect with respect to any then-existing or subsequent breach or performance obligation.

14. FORCE MAJEURE

No party to this Agreement shall be liable to the other for any failure or delay of performance of any obligation under this Agreement to the extent the failure or delay is caused by acts or events beyond its reasonable control that render performance illegal or impossible ("Force Majeure"). To assert Force Majeure, the nonperforming party must prove that it: (a) made all reasonable efforts to remove, eliminate, or minimize the cause of delay or damage, (b) diligently pursued performance of its obligations, (c) substantially fulfilled all obligations that could be fulfilled, and (d) timely notified the other Parties of the likelihood or actual occurrence of a Force Majeure event.

15. SEVERABILITY

If any provision of this Agreement or the application of such provision to any person or circumstance shall to any extent be invalid or unenforceable, the remainder of this Agreement or the application of such provision to persons or circumstances other than those as to which it is held invalid or unenforceable shall not be affected, and each provision of this Agreement shall be valid and enforceable as necessary to effectuate the original intent of the Parties as closely as possible.

16. CASUALTY & CONDEMNATION

Notwithstanding anything in this Agreement to the contrary, the City will not be liable for damage to the premises not caused by the City or any of its officers, employees, or agents. In case of any casualty that causes all or a substantial portion of Level 3 to become unavailable for Public Parkers for a period of three (3) business days or longer, and in case of any condemnation by an agency other than the City of all or any part of Level 3, the City may, in its reasonable discretion, terminate this Agreement immediately and shall be liable for sublease payments only to the date of termination. The City also shall have the option in such circumstances to sublease only a portion

of Level 3, in which case sublease payments shall be prorated based upon a rate of Four Dollars and Sixty Cents (\$4.60) per space per day.

17. MISCELLANEOUS

This Agreement, including the agreement documents identified in Section 5, contains the entire agreement and understanding of the Parties with respect to the subject matter of this Agreement, and supersedes all prior oral or written understandings, agreements, promises or other undertakings between the Parties. This Agreement may be changed only by a written agreement signed by the Parties. This Agreement may be executed in identical counterparts, each of which shall, collectively, constitute but one document. This Agreement shall be construed according to the laws of the State of Vermont, notwithstanding conflicts of law principles, and venue for any dispute arising from this Agreement shall be proper in Chittenden County, Vermont, notwithstanding any provision of law to the contrary. There are no third-party intended beneficiaries of this Agreement. This Agreement shall not be construed against its drafter.

18. LAWS AND REGULATIONS

All Parties will use the Garage Property in accordance and compliance with all laws of the City of Burlington, State of Vermont, and the United States, including all applicable rules and regulations.

19. RELATIONSHIP OF PARTIES

Notwithstanding anything to the contrary contained in this Agreement, this Agreement shall not be deemed or construed to make the Parties to this Agreement partners or joint venturers, or to render either party liable for any of the debts or obligations of the other.

20. NOTICE

All notices required or permitted to be given under this Agreement shall be in writing, may be given by personal delivery, United States mail (certified, return receipt requested) or overnight delivery by a service retaining evidence of delivery, and shall be deemed delivered when received at the address set forth in the opening paragraph, unless another address is provided by notice.

-signature page(s) to follow-

21. SIGNATURE

The Parties have executed this Agreement at Burlington, Vermont as of the Effective Date. The signatories hereto represent and warrant their authority to bind their respective parties. This Agreement may be executed electronically, and an electronic copy or other facsimile shall be treated as an original.

**City of Burlington
Department of Public Works**

By: _____
Chapin Spencer
Director

Date: _____

Courthouse Plaza, LLC

By: _____
[Name]
[Title]

Date: _____

UPP Global, LLC

By: _____
[Name]
[Title]

Date: _____

Attachment A: Map and Description of Garage Property

**Attachment B: City of Burlington Ordinances, Chapter 20 and Appendix C, current as of
[Date]**

Attachment C-1: Owner's Certificate of Insurance

Attachment C-2: Lessee's Certificate of Insurance

Attachment C-3: City's Certificate of Insurance

Board of Finance and City Council Submission ChecklistDepartment: Public Works Submitter: Laura Wheelock and Olivia DarisseTitle/Subject: Main Street Parking Management Sublease Agreement

	Approval:	Meeting Date:
☒	Board of Finance	2/20/2024
☒	City Council	2/26/2024
☐	Concurrent	Click or tap to enter a date.

This form must be completed by the person submitting the materials, and sent with the final submission. Please do not indicate that a signoff was received until it has actually been obtained.

Signoffs Received

Signoff Needed	Received	Date Received	Note
Department Head	Yes	2/13/2024	Chapin Spencer
Mayor's Office informed and approved memo	Yes	2/13/2024	Jordan Reddell
Board/Commission, if required	N/A	Click or tap to enter a date.	Click or tap here to enter text.
City Attorney's Office has approved contract and/or legal documents, -Identify attorney in note	N/A	Click or tap to enter a date.	Click or tap here to enter text.
City Attorney's Office has approved memo and motion(s) or resolution(s) -Identify attorney in note	Yes	2/13/2024	Erik Ramakrishnan
CAO has reviewed budget, financing, and memo	Yes	2/13/2024	Katherine Schad
Human Resources, if personnel action -Identify HR Manager in note	N/A	Click or tap to enter a date.	Click or tap here to enter text.
CIO, if an IT-related investment/purchase	N/A	Click or tap to enter a date.	Click or tap here to enter text.

Materials Included

	Included?	Note
Final Memo Attached?	Yes	Click or tap here to enter text.
Contract Attached, if applicable?	Yes	Sublease Agreement
Additional Materials, if necessary	N/A	
Draft Resolution or Motion?	Yes	Motions - Memo
If for submission to Council, are sponsors identified?	Yes	Board of Finance