

Burlington Planning Commission
149 Church Street
Burlington, VT 05401
www.burlingtonvt.gov/cityplanning

*Andy Montroll, Chair
Michael Gaughan, Vice Chair
Alexander Friend
Erhard Mahnke
Erin Malone
Ryan Nick
Julia Randall*

Burlington Planning Commission

Tuesday, August 27, 2024, 6:30 PM

Remote & Virtual Meeting via Zoom

In person option available:

Bushor Conference Room (Room 102), 1st Floor of City Hall, 149 Church St.

To Join the Meeting on a Computer

Link:<https://zoom.us/j/97941883790?pwd=bGZBNzNyV1liL3p5NkhIL2dqUFIzdz09>

Passcode: 658929

To Join the Meeting on a Phone

Number: +1 646 931 3860 US Meeting ID: 979 4188 3790

1. Agenda

2. Public Forum

Subject	2.1. Speakers will be limited to no more than 3 minutes during the public forum.
Meeting	August 27, 2024 - Agenda - Tuesday, August 27, 2024, 6:30 PM, Burlington Planning Commission
Category	2. Public Forum
Department	Planning
Type	

3. Proposed CDO Amendment Public Hearing: ZA-24-04 Neighborhood Code Part 2A

Subject	3.1. Approve the Municipal Bylaw Amendment report, make any changes and refer amendment to Council with recommendation
Meeting	August 27, 2024 - Agenda - Tuesday, August 27, 2024, 6:30 PM, Burlington Planning Commission
Category	3. Proposed CDO Amendment Public Hearing: ZA-24-04 Neighborhood Code Part 2A
Department	Planning

Type	Public Hearing Action
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Recommended Action	Approve the Municipal Bylaw Amendment report, make any changes and refer to Council with recommendation
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4. Commissioner Items

5. Adopt Minutes

Subject	5.1. Review and approve the 8/13 Planning Commission meeting minutes
Meeting	August 27, 2024 - Agenda - Tuesday, August 27, 2024, 6:30 PM, Burlington Planning Commission
Category	5. Adopt Minutes
Department	Planning
Type	

6. Communications

6.1. Review and accept written communications

7. Adjournment

Guidance for Participating in a Virtual Planning Commission Meeting

As social distancing measures to preserve public health and safety continue to be required to prevent the spread of COVID-19, or are recommended as a standard practice, the Office of City Planning will be supporting the Planning Commission to conduct their meetings online via Zoom. Here is information about how to join a virtual meeting, and what to expect while participating.

General Guidance for Public Participation

Please remember that in this digital meeting environment, meetings are open to the public and anyone may be watching or listening even if you cannot see them. Meetings will be recorded, and both the recording and chat content of the meeting will be maintained as a public record.

Please ensure your display photo and screen name are professional, such as using your first and last name. Please test your audio and video prior to the start of a meeting, and familiarize yourself with how to join a meeting by your chosen method. And finally, please be patient with us. Technology doesn't always work as planned, and we are all learning how to hold a successful virtual meeting!

How to Join a Virtual Meeting

Zoom allows participation via either computer or telephone. Each agenda for a meeting that will be conducted virtually will include details about how to join via either of these options, including a web address, phone number, Meeting ID, and password.

If you participate via computer, you have the option of seeing Commissioner videos and any presentation materials that may be shared. If you use either a standard phone or cell phone to call in, you will only hear the audio portion of the meeting. If you join via a smartphone, you may have the option to download the Zoom app, which will enable you to see and hear the meeting.

How to Participate in a Virtual Meeting

During meetings, only Planning Commission members and limited staff members will be viewed on video. Members of the public attending a meeting will be muted, except when invited to speak during public forum or a public hearing. Whether members of the public can speak at other times during the meeting is the discretion of the Chair.

If you want to speak during public forum, please take the following steps to assist us in making this process run as smoothly as possible:

- Email staff at cdillard@burlingtonvt.gov by 5pm on the day before a meeting to indicate your interest in speaking. You do not need to provide your comments. Staff will enable your microphone as your name is called from a list of interested speakers.
- During a meeting, you can use the "Raise Hand" feature, or indicate in a chat message that you wish to speak during public forum. Staff will enable your microphone as your name is called.
- If you are interested in submitting your comments in writing instead of speaking during the meeting, you may do so by 5pm the day before a meeting, they will be forwarded to the Commissioners ahead of the meeting.

CITY OF BURLINGTON

ORDINANCE _____

Sponsor: Office of City Planning,
Planning Commission

In the Year Two Thousand Twenty-Four

Public Hearing Dates: _____

An Ordinance in Relation to

ZA-24-04 Neighborhood Code 2-A: Technical Corrections & PUD
Standards

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 Appendix A-Burlington Comprehensive Development Ordinance of the Code of Ordinances of the City of Burlington be and hereby is amended by Sec. 3.3.3(a) Impact Fee Exceptions and Waivers; Sec. 3.4.2(b) Design Review Applicability; moves Map 4.5.1-1 Design Review Overlay District to Sec. 3.4.2(b) as amended and renumbered Map 3.4.2; amends Sec. 4.3.1(e) Residential Districts established; modifies Map 4.3.1-1 Base Zoning Districts; amends the Residential Corridor District purpose statement in Sec. 4.4.5 (a) 5; modifies Map 4.4.5-1 Residential Zoning Districts; updates Tables 4.4.5-1 and Tables 4.4.5-2; amends Sec. 4.4.5 (d) 1. B. Residential Development Bonuses; creates Sec 4.4.5-2 (d) 2. D. Exceptions to Maximum Building Footprint Limit; creates Section 4.4.5 (d) 4. D. Additional Unit; deletes Sec. 4.5.1 Design Review Overlay District and reserves section; deletes Sec. 5.4.5 Accessory Dwelling Units; amends Table 7.2.1-B Sign Types Permitted by Form/Zoning District in 7.2.1 Sign Types; amends Table 11.1.3-1 Planned Unit Development Project Size Standards and creates Table 11.1.3-2 Planned Unit Development Standards; and amends Article 13 – Definitions thereof to read as follows:

Article 3: Applications, Permits, and Project Reviews

PART 3: IMPACT FEES

Sec. 3.3.3 Exemptions and Waivers

(a) Exemptions:

The following types of development are exempt from this Part:

1. additions to existing dwelling units, provided such additions are for residential purposes;
2. alterations to an existing use provided that such alteration occurs entirely within an existing building and within the same square footage;
3. land development which does not result in new building square footage (e.g. parking lots, facade renovations, signs, etc.);
4. additions to existing buildings for which the sole purpose is to provide additional means of egress (e.g. stair towers, elevators, etc).
- 4.5. the creation of an Additional Unit on lot or with in Owner Occupied Single Detached Dwelling as described in Sec. 4.4.5 (d) 4. D.

Commented [SM1]: Added to explicitly state that ADUs are exempt from Impact Fees, per PC recommendation.

Article 3: Applications, Permits, and Project Reviews

PART 4: SITE PLAN AND DESIGN REVIEW

Sec. 3.4.1 Purpose

These site plan review regulations are enacted to provide for the consideration of site features and their location and arrangement so as to protect important natural and cultural features, ensure the adequacy of parking and circulation, provide for necessary landscaping and screening, and protect and maintain the character and development pattern of the surrounding area.

Additionally, design review regulations are intended to provide for the detailed review of certain uses, structures, and architectural features 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.

Sec. 3.4.2 Applicability

(a) Site Plan Review:

Site Plan Review shall be required for the approval of all development subject to the provisions of this ordinance with the exception of single-family dwellings not otherwise subject to the requirements of Design Review.

(b) Design Review:

~~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 this part and the review criteria described in Art 6~~
Design Review shall be required for the approval of all development subject to the provisions of this ordinance ~~for within~~ the following geographic areas or for all development subject to the following provisions:

1. ~~For any projects located within the geographic areas as delineated as applicable on Map 3.4.2-1 within the Design Review Overlay District~~ Applicable as defined in Article 4, Sec. 4.5.1, and any of the following:
- 4.2. ~~For any projects within geographic areas delineated as not applicable on Map 3.4.2-1 but that are subject to the following provisions:~~
 2. ~~a. Any development subject to the provisions of Article 3, Part 5 – Conditional Use and Major Impact Review;~~
 3. ~~b. Any development subject to the provisions of Article 5, Part 3 – Non-Conformities;~~
 4. ~~c. Any development subject to the provisions of Article 5, Part 4 – Special Use Regulations;~~
 5. ~~d. Any development subject to the provisions of Sec. 7.1.6 Non-Conforming Signs and Article 7, Part 3 Sign Plans;~~
 6. ~~e. Any development subject to the provisions of Article 10 – Subdivision;~~
 7. ~~f. Any development subject to the provisions of Article 11 – Planned Development; and,~~
 - g. A project within an RL District where a building contains 3 or more units or proposes more than one building on a lot subject to Sec. 4.4.5.
 8. ~~h. Any development made subject to the provisions of this Part by direct reference not otherwise noted here.~~

Design Review shall not be required for:

1. Single detached dwellings and duplex dwellings within an RL district not otherwise subject to any of the above provisions.
2. All applications subject to the planBTV: Downtown Code under Art. 14, which shall be exempt from review under this section, and the development review principles and standards contained in Article 6 – Development Review Standards, and instead shall be subject to the requirements of Article 14.

Commented [MT2]: See the proposed changes to Art 3 & 4. This proposes to condense the applicability standards for design review from Article 3 & 4 together, proposes some approaches where there are gaps with new NC standards, and suggests a few minor map changes to resolve gaps between current map and NC Residential District boundary changes.

This does not fundamentally change the applicability of design review, but seeks to make it more clear. If a broader discussion about the locations/uses of design review is warranted, suggest removing this from Part 2-A and discussing in a subsequent amendment.

Commented [MT3]: This will move existing Map 4.5.1-1 to this location and renumber/rename accordingly.

Potential changes to the map to integrate existing policy with map changes from NC Part 1:

Areas that were RL that are now RM or RC – should they be added to Design Review? (RM used to be a threshold for requiring DR)

Commented [MT4]: By starting with the map of where DR is applicable, it presumes that all of the following project types are subject to DR within those zones. These are only needed to be retained for areas where DR would not otherwise be required by virtue of zoning district

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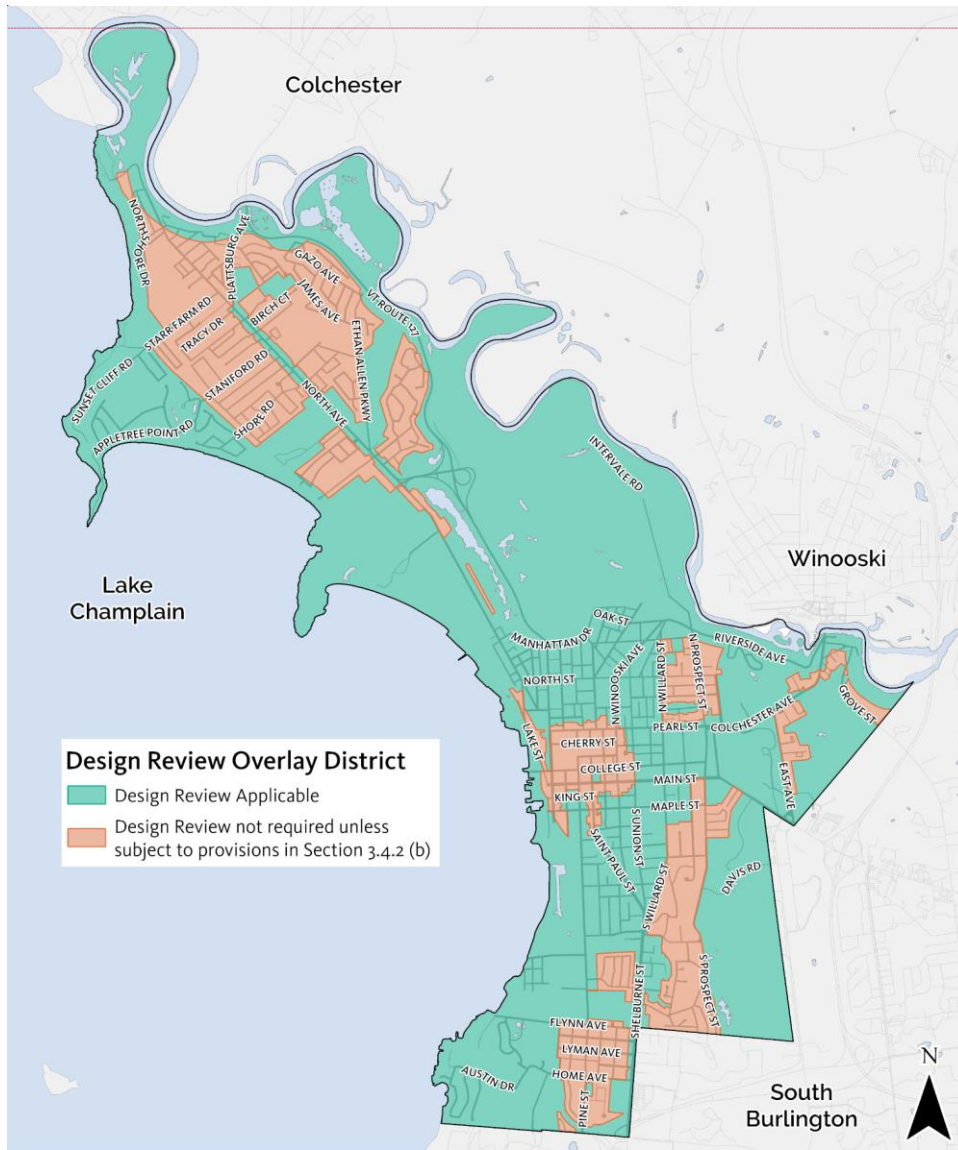
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Map 3.4.2-1 Design Review Overlay District

*Burlington Comprehensive Development Ordinance
Districts effective Jan. 30, 2008 with amendments effective 06-02-2021 (ZA-21-03)*

Commented [SM5]: Incorporates the new Corridor District as well as RM areas previously zoned as RL into the Design Review Overlay District.

This new map also adjusts the colors used in an effort to make the map more intuitive.

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:

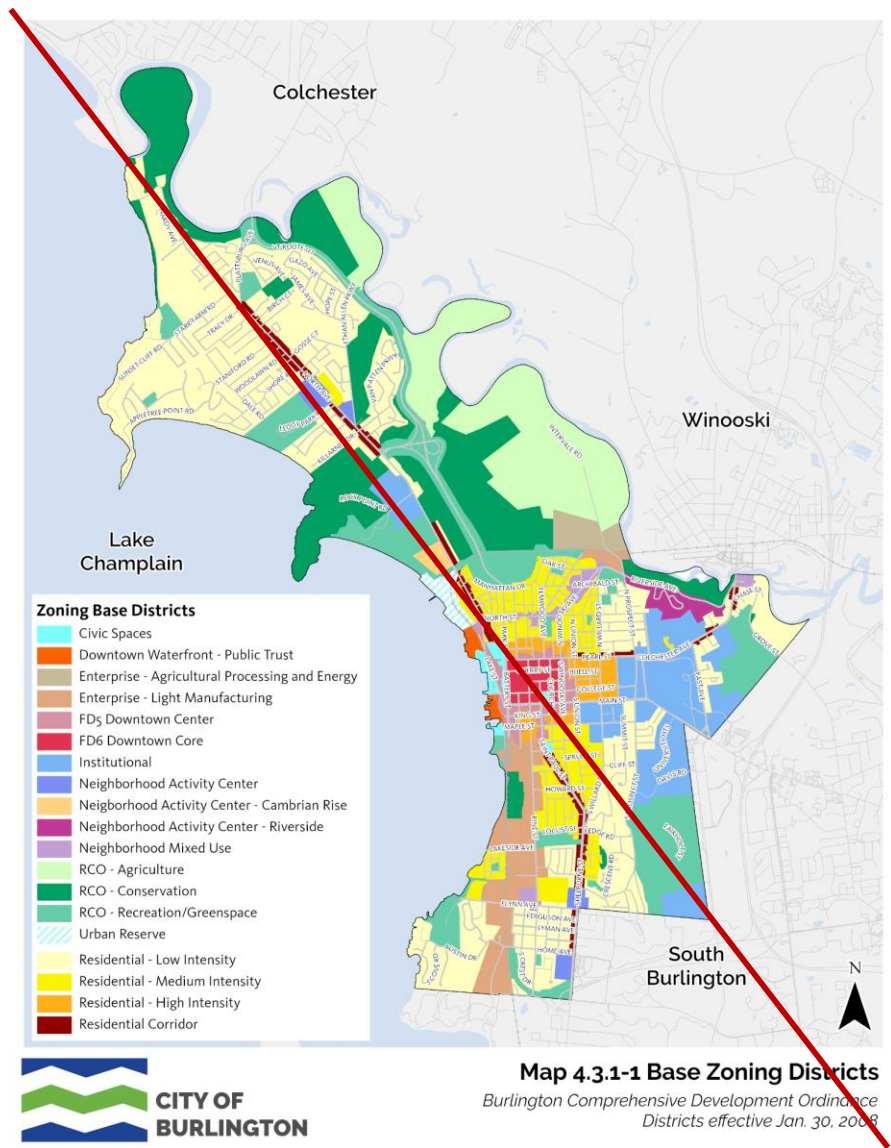
(a) through (d) – *As Written*

(e) A series of four (4) **Residential** districts: *see Sec. 4.4.5*

- Residential Corridor (RC), [where mapped, this district applies to properties with street frontage on North Avenue, Colchester Avenue, and Shelburne Street to a maximum depth of 200 ft;](#)
- Residential High Intensity (RH);
- Residential Medium Intensity (RM); and
- Residential Lower Intensity (RL);

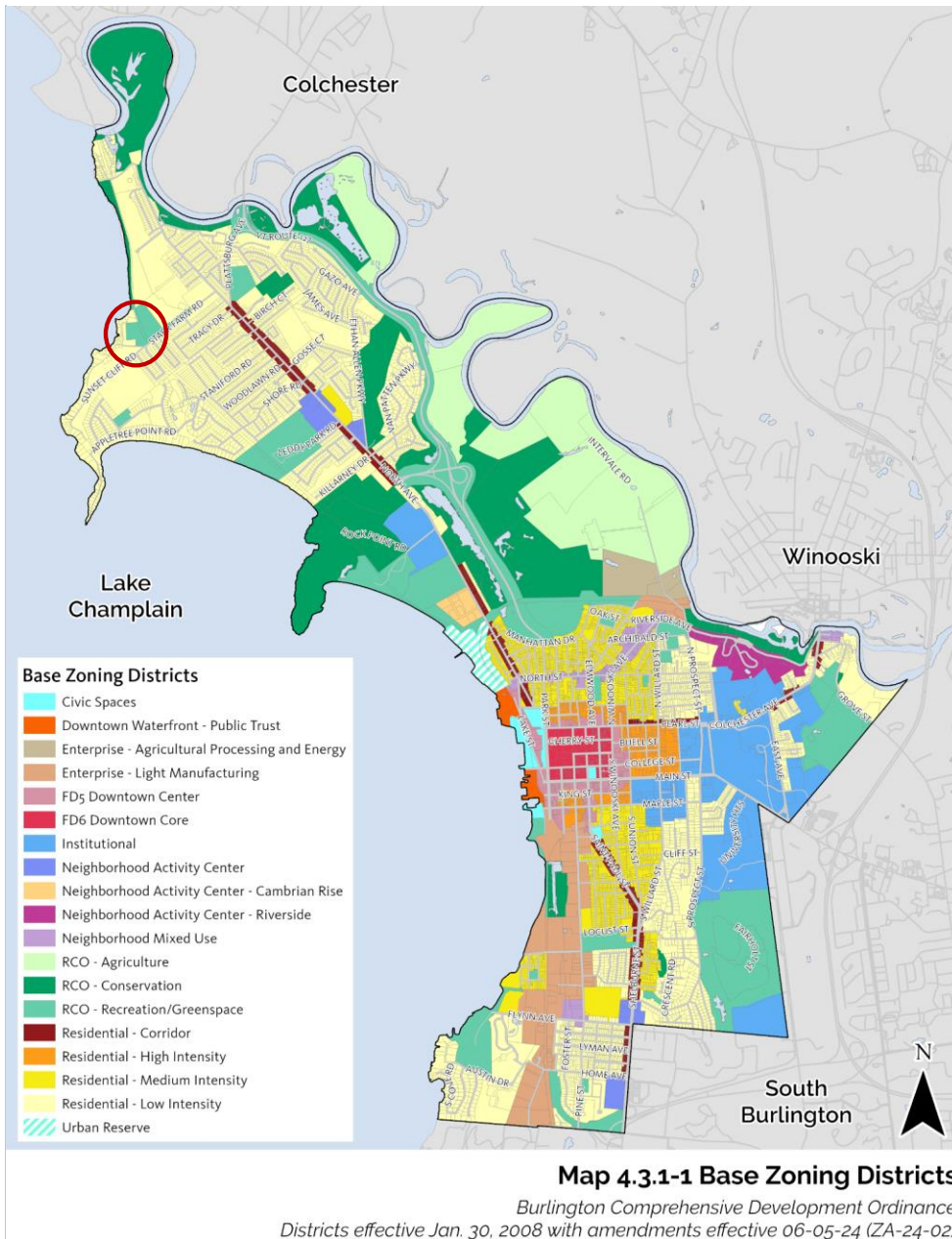
(f) through (g) – *As Written*

Commented [MT6]: Technical correction to clarify how to apply RC zone, and consistent with how the Downtown & Multimodal mixed use parking district works.



Map 4.3.1-1 Base Zoning Districts

Commented [MT7]: This corrects the inadvertent zoning change to portion of Starr Farm Park from ZA-24-02



Article 4: Zoning Maps and Districts

PART 4: BASE ZONING DISTRICT REGULATIONS

Sec. 4.4.5 Residential Districts

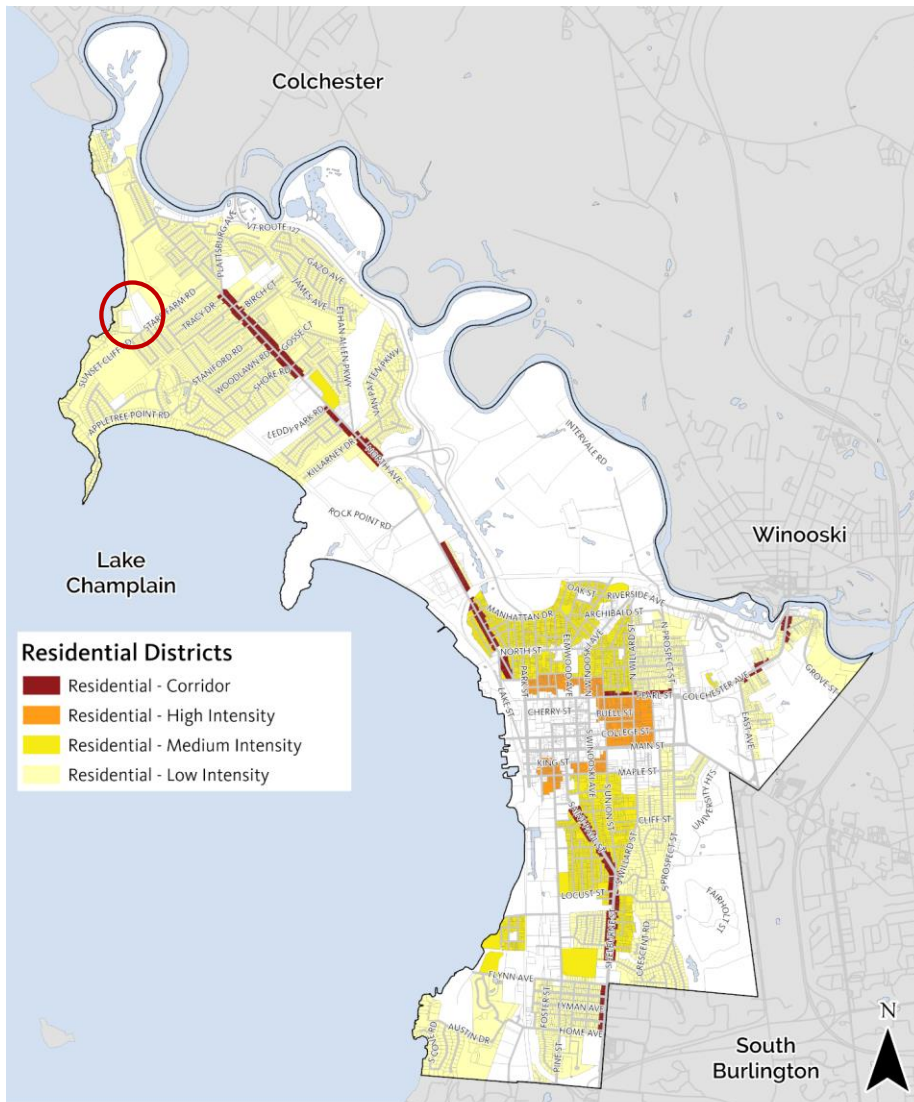
(a) Purpose:
As Written

The Residential districts as illustrated in Map 4.4.5-1 are further described as follows:

1. The **Residential Lower Intensity (Residential Low, RL)** – *As Written*
2. The **Residential Medium Intensity (Residential Medium, RM)** – *As Written*
3. The **Residential High Intensity (Residential High, RH)** – *As Written*
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 up to four stories and high lot coverage. Neighborhood-serving commercial uses may be incorporated in existing or new buildings.

Commented [MT8]: Corrects an inconsistency between the purpose statement and tables that follow.





Map 4.4.5-1 Residential Zoning Districts

*Burlington Comprehensive Development Ordinance
Districts effective Jan. 30, 2008 with amendments effective 06-05-24 (ZA-24-02)*

Commented [MT9]: Makes same correction to Starr Farm.

Sec. 4.4.5 Residential Districts

(b) Dimensional Standards

The 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 Lot Size, Frontage, Setback, and Lot Coverage Standards in Residential Districts

District	Min. Lot Frontage ^{2,3,4,5} (linear feet)	Setbacks ^{1,6,7,8,9}			Lot Coverage ^{1,10}
		Front	Side	Rear	
Residential Low (RL)	30'	Min: Avg. of front setback 2 adjacent lots on both sides +/- 5 feet Max required: 25 ft	Min: 10% of lot width or avg. of side setback of 2 adjacent lots on both sides Max required: 20 ft	20 ft.	45%
Residential Medium (RM)				15 ft.	55%
Residential High (RH)	N/A			80%	
Residential Corridor (RC)	N/A	Min required: 5 ft Max permitted: 20 ft		80%	

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) 2C below.

10. Reserved

Commented [MT10]: This is a placeholder for the lot cover footnote that will relate to Cottage courts in a future amendment, rather than deleting the stray footnote number from the table.

Table 4.4.5-2 Principal & Secondary Structures Massing and Placement Standards in Residential Districts

District	Max Height & Stories ^{1,3}	Max Dwelling Units per Structure ^{2,3}	Max. Principal Structure Footprint ³	Max. Secondary Structure Footprint ³	Max Building-face before providing offset ⁵ <u>Max. Linear Elevation before offset⁴</u>	Min. Distance between Structures on same lot
Residential Low (RL)	35' 3 stories	4	1,800 sq.ft.	1,100 sq.ft.	50'	15'
Residential Medium (RM)	35' 3 stories	4	1,800 sq.ft.	900 sq.ft.		
Residential High (RH)	50' 4 stories	N/A	N/A	N/A		
Residential Corridor (RC)			3,600 sq.ft.	N/A		
1. Details regarding the measurement of and exceptions to height limits are found in Art 5. 2. Minimum dwelling unit size is 350 sq.ft. 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 Table 4.4.5-3 or Article 11. Where an existing Principal Structure contains only an owner-occupied Single detached dwelling, and proposes to add one additional unit within the Principal Structure or in a Secondary Structure, see additional provisions in Sec. 4.4.5 (d) 4. D. 4. Required on all building facesElevations. Minimum offset is 5 ft measured perpendicular to the building face Elevation in excess of 50 ft linear feet.						

Commented [MT11]: Reference to Table 4.4.5-3 is an intentional placeholder for cottage courts in a future amendment.

Commented [MT12]: This is to call attention to the new section in the residential districts which brings the ADU standards into the NC details.

(c) **Permitted and Conditional Uses:**
As Written

(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 and Housing for Individuals with Disabilities 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 projects including exclusively senior housing, housing for individuals with disabilities, or a mixture exclusively thereof -provided the following conditions are met:

Commented [MT13]: FYI: This section was already adopted into the code as a placeholder for Cottage Courts related to the footnote comments in the tables above.

Commented [MT14]: This section has been updated to address how the development bonuses adapt to Table 4.4.5-2 and Article 11 approach recommended.

- 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, height, and development intensity shall not exceed the following. The maximum dwelling units per building in Table 4.4.5-2 may be waived subject to the DRB approval under Article 11. -and residential densities shall not exceed the following:~~

Table 4.4.5-4: Senior Housing and Housing for Individuals with Disabilities Bonus

District	Maximum Lot Coverage	Maximum Development Intensity Density	Maximum Height
RL	4455%	20 du/ae 1.5 FAR	4 stories, 50 ft
RM	4865%	40 du/ae 1.75 FAR	
RH	9290%	80 du/ae 2.0 FAR	5 stories, 62 ft.

(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) Any applicable lot coverage, height, FAR, and units per building limits may be modified by the DRB up to a limit of 100% of the pre-application coverage, height and GFA condition.
- ~~a) Lot coverage and residential densities shall not exceed the following:~~

Table 4.4.5-5: Residential Conversion Bonus

District	Maximum Coverage	Maximum Density
RL	50% (62% with inclusionary allowance)	8 du/ae (8.75 with inclusionary allowance)
RM	60% (72% with inclusionary allowance)	30 du/ae (37.5 with inclusionary allowance)
RH	80% (92% with inclusionary allowance)	60 du/ae (69 with inclusionary allowance)

(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, and where any applicable development allowances per Article 9 are utilized, 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 densitydevelopment intensity, lot coverage, and building height permitted in any district as defined below:

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Commented [MT15]: This aligns the lot cover bonus to new NC standards for lot cover in these zones. Generally, this bonus previously allowed approx. a 10% lot cover for each district.

Commented [MT16]: Most often, these projects are going to be subject to PUD developments, vs small individual NC scale projects. Therefore, these bonuses are calibrated to the FAR that is allowed in the new proposed standards for Article 11.

Commented [MT17]: This did not used to allow an additional story in RL & RM. However, changes to Act 47 of 2023 state that if a project is providing 20% affordable housing, they shall be entitled to an extra story of height. Because this is separate from Article 9, and therefore any intensity bonuses afforded to a project under that, this change is necessary to ensure this bonus complies with state requirement.

Commented [MT18]: Previously, RH height was limited to 3 stories, and this bonus allowed an extra floor just for the RH district. If we wish to keep the extra floor bonus in RH, with the new height limit in RH of 4 stories, then this is the new max height.

Commented [MT19]: The focus here is on converting a non-conforming and non-residential use in a residential area to residential. This takes the approach that any existing non-conformity can be retained, but repurposed into residential uses with whatever # of units works within those limits.

Table 4.4.5-56: Maximum Intensity, Lot Coverage and Building Heights with Bonuses

District	Maximum Density/FAR*	Maximum Height	Maximum Lot Coverage*
RH	80-du/ac/2.0 FAR	4562-feet	9290%
RM	40-du/ac/1.75 FAR	3550-feet	7265%
RL	20-du/ac/1.5 FAR	3550-feet	6255%

*- 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

Commented [MT20]: Renumbered because the prior table is getting deleted.

2. Exceptions to Dimensional Standards

A. through C – As Written

D. Exceptions to Maximum Building Footprint Limit

- (i) Existing structures legally existing as of January 1, 2024 in excess of the building footprint limits in Table 4.4.5-2 shall not be considered non-conforming. Such buildings shall only be allowed to be converted, adaptively reused, or enlarged, including for the purpose of adding additional units, within the limits this part or as otherwise permitted in Sec. 5.4.8 or Article 11.
- (ii) Single-family homes legally existing as of January 1, 2024 in excess of the building footprint limits in Table 4.4.5-2 may be expanded to 125% of the pre-existing footprint, as long as no additional units are added.

Commented [MT21]: This is to answer the question we have received about existing buildings that are already larger than the limit, as well as whether existing SF homes already bigger than 1800 sf should be allowed to expand.

Some policy questions have come up about why would exempt SF homes, and not buildings that allow another unit. Can discuss with PC if needed.

3. Exception for Neighborhood Commercial Uses

As Written

4. Miscellaneous Standards

(A) Through (C) –As Written

D. Additional Unit on lot or with in Owner Occupied Single Detached Dwelling

Where an existing Principal Structure in any Residential Zoning District contains only an owner-occupied Single Detached Dwelling, and an applicant proposes to add a single additional dwelling unit within the Principal Structure or within a detached Secondary Structure on the same lot as the owner-occupied home, the application shall be eligible for shall be subject to administrative review and approval according to Sec.3.2.7 (a) 13, and exempt from paying impact fees, according to Sec. 3.3.3., except where otherwise required.

Commented [MT22]: Per commission discussion of using admin review and impact fee waiver as an owner incentive.

Commented [SM23]: Removing "shall be eligible" to following PC discussion on 6/11 to prevent any questions that might come from using the term "eligibility"

(e) Effective Date.

The amendments to this Section 4.4.5 that allow for a secondary structure within RL and RM zones, except as may otherwise be allowed by Article 11, are effective October 1, 2024.

Article 4: Zoning Maps and Districts
PART 5: OVERLAY ZONING DISTRICT REGULATIONS

Sec. 4.5.1 Reserved 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 geographic⁴ 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:

(2) The following areas within Residential Districts:

- A. All properties west of the Burlington Bike Path north of College Street;
- B. All properties west of the Vermont Railway line south of Lakeside Ave;
- C. All properties within 500' of Lake Champlain or the Winooski River;
- D. All properties with frontage on Brooks Avenue;
- E. All properties within the area bounded by Maple, South Willard, Howard and South Union streets;
- F. All properties with frontage on the west side of South Union St. between Main and Howard streets;
- G. All properties with frontage on the north side of Howard St. between South Union and St. Paul streets;

(3) The following uses, buildings, and properties within Residential Districts:

- A. ~~All nonresidential uses, residential uses with home occupations, or other conditional uses, having frontage on the following major streets:~~

- (i) Shelburne Street, from its point of beginning southerly to its intersection with Home Avenue;
- (ii) South Union Street, from its intersection with Howard Street southerly to its terminus at Shelburne Street;
- (iii) St. Paul Street, from its intersection with Howard Street southerly to its terminus at Shelburne Street;
- (iv) Colchester Avenue, from its intersection with East Avenue northeasterly to its intersection with Barrett Street; and
- (v) North Avenue, from its intersection with Convent Square northerly to its intersection with Plattsburg Avenue.

(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.

⁴This 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.

Commented [MT24]: By creating the RC, which allows multiunit buildings and neighborhood commercial uses, effectively means that anything except a single family home or duplex within the RC would be subject to design review if we want to keep the same applicability thresholds. We should update the map to add RC areas to the “applicable” to make this clear.

The area covered by ii. is now in RM. Based on the other changes embedded here, same would apply: all but SF & duplex would be applicable.



Commented [MT25]: This map will be moved to Article 3, and may incorporate changes per the above sections.

Article 5: Citywide General Regulations
PART 2: DIMENSIONAL REQUIREMENTS

(b) Exceptions to Lot Coverage:

In all districts, the following shall not be counted as lot coverage:

1. through 9. – *As Written*

~~10. For lot area occupied by an ADU, the DRB may approve up to 650 sq. ft. additional lot coverage over existing lot coverage, even if present or proposed lot coverage exceeds the standard lot coverage limits. To grant such an exemption, the DRB must find that the existing lot coverage has been lawfully created, and that the proposed location, site design, and improvements will enable on-site management of the first one inch of stormwater runoff from the lot area of the ADU exceeding the applicable lot coverage limit, and will not have undue adverse impact on public rights of way based on the review of the DPW Stormwater Program Manager.~~

Commented [SM26]: Addressed in ZA-24-04's modest increases to the maximum allowable lot cover in Residential Districts.

Article 5: Citywide General Regulations
PART 4: SPECIAL USE REGULATIONS

Sec. 5.4.5 Accessory Dwelling Units

(a) Accessory Units, General Standards/Permitted Uses:

Where there is a principal structure on a lot which exists as an owner-occupied single family residence, one accessory dwelling unit, that is located within or appurtenant to such single family dwelling, shall be allowed as a permitted use if the provisions of this subsection are met. An accessory dwelling unit means a dwelling unit that is clearly subordinate to the principal dwelling, and has facilities and provisions for independent living, including sleeping, food preparation, and sanitation. An accessory unit shall not be counted as a dwelling unit for the purposes of density calculation. Additionally, there must be compliance with all the following:

1. The property has sufficient wastewater capacity as certified by the Department of Public Works; and
2. The unit does not consist of more than 900 sq.ft., or 30 percent (30%) of the Gross Floor Area of the principal home, whichever is greater; and
3. Applicable setback and coverage requirements are met, except as provided for in Sec. 5.2.3 (b) 10; and
4. A deed or instrument for the property shall be entered into the land records by the owner containing a reference to the permit granting the accessory unit prior to the issuance of the certificate of occupancy for the unit. Such reference shall identify the permit number and note that the property is subject to the permit and its terms and conditions including owner occupancy. No certificate of occupancy shall be issued for the unit unless the owner has recorded such a notice.

(b) Discontinuance of Accessory Units:

Approval of an accessory dwelling unit is contingent upon owner occupancy of either the principal or accessory dwelling unit as a primary residence. For purposes of this section, owner occupancy means that, after the creation of the accessory unit all individuals listed on the deed for the property must reside in the principal unit or in the accessory unit. If neither the principal unit nor the accessory unit is owner-occupied as a primary residence, the approval for the accessory dwelling unit is void and the kitchen of the accessory dwelling unit must be removed within 90 days with the entirety of the property being occupied as a single unit. When an accessory unit that is the result of additional square footage and/or a new accessory structure is proposed to be removed, revised floor plans and a revised site plan shall be required to be submitted for review and approval.

Furthermore, where additional square footage is added to a single family home for purposes of creating an accessory unit and the accessory unit is at any point discontinued, none of the additional square footage shall be eligible for the purposes of increasing the number of unrelated adults that may be allowed to inhabit the property.

Commented [MT27]: Per discussion with the PC, we collapsed this into an incentive within Sec. 4.4.5.

Article 7: Signs
PART 2: SIGN TYPES

Sec. 7.2.1 Sign Types

Table 7.2.1-B Sign Types Permitted by Form/Zoning District (continued)									
	Residential				Civic, RCO & Urban Reserve				Sign Type Standards
Sign Type	<u>RC</u>	RH	RM/ RM-W	RL/ RL-W	Civic & RCO-R/G	RCO-A	RCO-C	UR	
Awning & Canopy Sign	●	●	○	○	○	○	○	○	7.2.2
Band Sign	●	○	○	○	○	○	○	○	7.2.3
Blade Sign	●	●	●	●	●	●	●	○	7.2.4
Directory Sign	●	●	●	●	●	●	○	○	7.2.5
Freestanding Sign	●	○	○	○	●	○	○	●	7.2.6
Freestanding Yard Sign	●	●	●	●	●	●	●	●	7.2.7
Marquee	○	○	○	○	○	○	○	○	7.2.8
Monument Sign	●	○	○	○	●	○	○	●	7.2.9
Outdoor Display Case	●	○	○	○	●	●	○	○	7.2.10
Projecting Sign	●	○	○	○	●	○	○	○	7.2.11
Sandwich Board	●	○	○	○	●	●	●	●	7.2.12
Wall Sign	●	●	●	●	●	○	○	○	7.2.13
Window Sign	●	●	●	●	●	●	●	○	7.2.14
● - Sign Type is permitted					○ - Sign Type is <u>not</u> permitted				

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Article 11: Planned Development

PART 1: PLANNED UNIT DEVELOPMENT

Sec. 11.1.1 Intent. – As Written

Sec. 11.1.2 Authority.

These regulations are enacted under the provisions of 24 V.S.A. Section 4417.

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:

Table 11.1.3-1 Planned Unit Development Project Size Standards

Districts	Minimum Project Size
RH, RM , Downtown Waterfront – Public Trust District and Neighborhood Mixed Use, Institutional, E-LM	No minimum project size.
RL, RCO-R/G, RM	2 acres or more 0.5 acres ¹

1. See Table 11.1.3-2 for additional standards for PUD project sizes in the RL and RM districts.

Table 11.1.3-2 Planned Unit Development Standards

District	Lot Size	Setback		Max. FAR	Max. Bldg. Height	Max. Bldg. Footprint ^{2,3}	Max. Bldg. Elevation Before Providing Offset	
		Front Internal ROW ¹	Project Periphery					
RL	0.5-1 Acre	0' Min 20' Max.	Min: 10% of lot width or avg. of side setback of 2 adjacent lots on both sides. Max Required: 20 ft.	0.5	3 Stories 35 ft.	1,800 sq. ft. 5,000 sq. ft. 15,000 sq. ft.	N/A	
	1–3 Acres			50 ft.				
	3+ Acres							
RM	0.5-1 Acre			1.0			N/A	
	1–3 Acres							50 ft.
	3+ Acres							

1. Front setbacks shall be measured from the edge of the Right-of-Way, that is fully internal to the project, to which the building draws its frontage. Buildings must be at least 10' from the curb or edge of a public Right-of-Way if no curb exists, except where the ROW is a Public Path, in which case the building must be at least 5' from the edge of the Public Path.
2. For projects within RL & RM zones, the limit on the number of primary and secondary structures is not applicable.
3. The DRB may grant an expansion beyond these maximum footprints for additions to existing buildings in excess of these footprint limits as of January 1, 2024.

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:

- 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 Footprint: The sum of the area of the largest floor of a Building measured from the exterior Elevations. It does not include un-insulated porches if said areas are not used for human occupancy, nor protrusions in a wall (i.e. a bay window) if such protrusions do not create habitable area.

Elevation: An exterior wall of a Building.

-
- * Material stricken out deleted.
** Material underlined added.

TO: Burlington Planning Commission
FROM: Charles Dillard, AICP, Principal Planner
Sarah Morgan, Planner
DATE: August 27, 2024
RE: Proposed ZA-24-04 Neighborhood Code Part 2

Overview & Background

The City Council adopted ZA-24-02 (Neighborhood Code) at its March 25, 2024 meeting. 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.

During its discussion of the proposed Neighborhood Code amendments in fall and winter 2023, the Joint Neighborhood Code Committee bifurcated the Code to facilitate discussion of the Code's core concepts while reserving later discussion for a second package of amendments. Part One, those amendments adopted in March, addresses substantive changes to Article 4 and Appendix A, as well as other sections. Those changes evolved the residential zoning district standards, allowable uses, and district boundaries. This amendment, ZA-24-04, addresses the first series of additional amendments to incorporate the Neighborhood Code into other sections of the CDO, as well as to address technical corrections from ZA-24-02.

Neighborhood Code Part 2 Amendments

A number of related standards need to be addressed throughout the CDO. Many of these were originally included in the "Relationship of Core Zoning Recommendations to other Ordinance Details" chart used in Joint Committee discussions, and some have emerged from additional public discussion at the hearings for Part 1 as well as from inquiries following the adoption of the code.

The purpose of Part 2 of the Neighborhood Code is to explore technical details and related standards necessary for implementing neighborhood-scale infill development across Burlington. Unlike Part 1 of the Neighborhood Code, recommendations will come from the Planning Commission as four or more separate amendments, detailed below. Using the general direction from past discussions of the Joint Committee, the Planning Commission, either as a body or through its Ordinance Committee, can review or make recommendations for these related standards within each proposed amendment.

Neighborhood Code Part 2-A: Secondary Structures, Planned Unit Developments, and Technical Corrections

Per the request of the City Council on March 25th, the Commission has discussed considerations related to the allowance of secondary structures in the Residential Districts, including but not limited to the following topics:

- Height of secondary structures relative to primary structures
- The context of secondary buildings in historic districts or on a lot with a listed structure
- The relationship between secondary buildings allowed in the residential standards and citywide provisions for Accessory Dwelling Units (ADUs)
- Considerations for allowing existing non-conforming and non-residential buildings that are encroaching in setbacks to be converted and/or vertically expanded through additional height

This amendment currently includes modifications to the Planned Unit Development (PUD) standards, including consideration of a threshold for lot/project size in the Residential districts, as well as development intensity, permitted uses, and other topics as identified. However, at its July 9 meeting, the Commission discussed deferring action on amendments to PUD standards to the upcoming Neighborhood Code Part 2B amendments. While the PUD language remains in the warned version of the amendment, staff recommends removing these proposed standards and deferring them to Part 2B.

Lastly, this initial amendment will provide clarifications and corrections relevant to the process and implementation of Neighborhood Code Part 1, including:

- Additional miscellaneous definitions to clarify and support consistent implementation of new standards, including what is counted with the maximum "building footprint"
- Consolidation of the applicability of Design Review and the Design Review Overlay zone into one section that provides clearer expectations of what is subject to review
- Possible situations where exceptions to maximum building footprint standards may be considered
- Technical Corrections, including clarifying the Residential Corridor Zone purpose statement to require frontage on a major thoroughfare; updating zoning for Starr Farm Park; internal reference correction

During the course of several meetings, the Commission has discussed the aforementioned proposed Part 2-A topics. Ultimately, the Neighborhood Code Part 2A amendment addresses the standards outlined below and issues while leaving some existing and previously adopted standards unchanged.

Neighborhood Code Part 2-B: Lot Subdivisions

There is a demand to provide housing typologies such as Cottage Courts and townhouses, as well as unique subdivision types that could create land use efficiencies and facilitate infill housing development. This amendment package will focus on the following topics:

- Flag Lot and fee-simple small lot standards, including site and lot dimensions, frontage, and access
- Other standards that allow subdivision to facilitate fee-simple ownership of lots under duplex, townhouse, and cottage court housing types
- Cottage Court standards, including site and lot dimensions, frontage, access, development intensity, open space, and other topics as identified
- Townhouse and fee-simple duplex standards, including site, lot and building dimensions, frontage, access, development intensity and other topics as identified
- Pending Commission action, Planned Unit Development standards, the consideration of which has been discussed during Part 2A discussions.

Neighborhood Code Part 2-C: Residential Corridors and Neighborhood Commercial Uses

The Neighborhood Code initiative focuses on housing standards. However, consistent with *planBTV*'s call for appropriate and contextual neighborhood evolution and following requests to expand allowable uses within residential districts, this amendment will explore the following topics related to non-residential uses and the transitions between residential districts and mixed-use development.

- The potential expansion of what factors warrant Residential Corridor zone designation and the identification of other applicable locations for this district
- Consideration of the transition of heights/intensities of development and mixed-use allowances of existing mixed-use districts adjacent to the new Residential Corridor district (i.e. neighborhood mixed-use and neighborhood activity center districts)
- Re-visit use table allowances for residential districts across the city

As noted below under "Other Relevant Topics + Related Planning Projects," the upcoming *planBTV*: New North End will be an opportunity to explore expanded mixed-use and commercial development within New North End neighborhoods. Zoning amendments specific to the New North End should be

informed by that planning process, which will commence in fall 2024, with anticipated completion in 2026.

Neighborhood Code Part 2-D: Residential Parking Standards

This amendment will explore parking standards, including potential additional flexibility to allow stacked parking (3+ cars in a row) for residential developments and/or consideration of infill-related parking impacts in neighborhoods with high parking demand. This amendment will also provide an opportunity to implement recommendations following the Citywide Transportation Options Study.

Other Relevant Topics + Related Planning Projects

Throughout the Joint Committee discussions, a number of questions and related issues were raised that are not within the core focus of the Neighborhood Code or relate to issues that staff strongly recommends should be discussed in other plans and studies on the near horizon before the Commission provides recommendations. These upcoming planning projects, anticipated start dates, and requested discussion topics include the following:

- The impact on infill implementation resulting from existing regulations for historic properties (*planBTV*: Historic Preservation Plan, Fall 2024)
- Opportunities for expanded mixed-use and neighborhood commercial development in the New North End, including building scale and land use mix for the topics below (*planBTV*: New North End, fall 2024).
 - Large site redevelopment along the North Avenue Corridor, including the overall scale of development and mix of uses
 - Potential for small mixed-use and/or commercial nodes within neighborhoods and/or within close proximity to the Burlington Greenway
- How to ensure access to greenspace across all of Burlington's neighborhoods, including corridors and greenways that provide connectivity and mobility for both people and wildlife (*Open Space Plan*. Summer 2024)

Finally, some requested discussion topics must be carried out in conjunction with other departments. These topics are broad in scope and involve policies outside of, but adjacent to, the purview of the Planning Commission. In most cases, conversations are already underway with other departments and community stakeholders to strategize how to effectively accomplish these goals.

- Stormwater and wastewater impacts resulting from infill development, including consideration of the need for development review criteria and whether change to Chapter 26 (stormwater) may be needed to address and accelerate residential-scale and neighborhood-green stormwater infrastructure solutions (Note: this must be undertaken in conjunction with DPW-Water division)
- Consideration for whether or not Article 9 Inclusionary Zoning should apply to lots with two structures exceeding 5 units, where the number of units in each building individually would not require IZ (Note: several IZ updates are under consideration currently, and the discussion should include how this question relates to IZ updates)
- Solutions to address implementation feasibility and homeownership opportunities, including:
 - Technical and financial assistance for "small" developers/homeowner developers to help build new homes at this scale
 - Homeownership incentives (funding and other policies not in the purview of zoning) to support first-time homebuyers and owner occupancy of multi-unit infill developments
 - Consider whether building/fire code exceptions/alternative approaches have applicability for implementing middle housing types (i.e. sprinklers, stairs, etc.)
 - Review the role that condo conversion plays in prohibiting homeownership

Proposed Amendment: ZA-24-04

Amendment Type

Text Amendment	Map Amendment	Text & Map Amendment
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Purpose Statement

This amendment augments Neighborhood Code Part 1 by making technical corrections to various standards for Residential Districts, clarifies the relationship between secondary buildings allowed in the residential standards and citywide provisions for secondary structures, streamlines ordinance sections related to Design Review applicability, and addresses standards for Planned Unit Developments and residential development bonuses..

Proposed Amendments

The following amendments to the *Burlington Comprehensive Development Ordinance* are included in this proposal:

1) Amends Article 3 – Application, Permits, and Project Reviews and Article 4 - Zoning Maps and Districts to clarify design review standards and expectations

- Consolidates the applicability of Design Review and the Design Review Overlay zone into one section that provides clearer expectations of what is subject to review. In doing so, the amendment amends Sec. 3.4.2, deletes Sec. 4.5.1 Design Review Overlay District and moves *Map 4.5.1-1 Design Review Overlay to become Map 3.4.2-1.*

2) Amends Article 4 – Zoning Maps and Districts to make the following technical corrections and clarifications:

- Amends Sec. 4.3.1 to confirm that the Residential Corridor (RC) district, where mapped, apply only to properties with frontage on North Avenue, Colchester Avenue or Shelburne Street.
- Corrects the description of the Residential Corridor district in Sec. 4.4.5 to confirm the maximum building height of 4 stories.
- Makes a technical correction to replace an undefined term, "face," with the defined term, "Elevation," in order to facilitate project review and provide clarity.
- Corrects mapping error on *Maps 4.3.1-1 Base Zoning Districts & 4.4.5-1 Residential Zoning Districts.*
- Confirms that existing structures in excess of the building footprint limits in Table 4.4.5-2 shall not be considered non-conforming and cross-references provisions in Articles 5 and 11 that would allow for their reuse and/or expansion.
- Updates density & intensity standards that apply to projects utilizing Residential Development Bonuses to be consistent with standards used in Tables 4.4.5-1 & 4.4.5-2 and Article 11
- Re-names Section Sec. 4.4.5 (d) 1. B. (i) and Table 4.4.5-4 to "Senior Housing and Housing for Individuals with Disabilities" bonus.
- Corrects *Map 4.5.1-1 Design Review Overlay* to reflect Downtown Form Code boundaries, removing the applicability of design review from the areas

3) Amends Article 3 – Applications, Permits, and Project Reviews, Article 4 – Zoning Maps and Districts and Article 5 – Citywide General Regulations to clarify the relationship of Accessory Dwelling Units to Secondary Structures

- Clarifies that the creation of an Accessory Dwelling Unit as described in Sec 4.4.5 (d) 4. D. is exempt from impact fees.
- Clarifies the relationship between secondary buildings allowed in the residential standards and citywide provisions for Accessory Dwelling Units (ADUs).
- Creates a new Miscellaneous Standard allowing for single additional dwelling units to be constructed on a lot with an existing owner-occupied Principal Structure under administrative review and with a waived impact fee.
- Removes the exception to lot cover related to Accessory Dwelling Units, which was taken into consideration when modestly increasing lot cover standards in ZA-24-02.

4) Amends Article 7 – Signs to reflect changes made in ZA-24-02

- Modifies Table 7.2.1-B Sign Types Permitted by Form/Zoning District by correcting column headers with updated Residential Districts
- Creates a new column for the RC district, which is proposed to equated with the NMU district's sign standards, reflecting the potential for mixed-use development along the corridors

5) Amends Article 11 – Planned Development to establish standards for Planned Unit Development in the RL and RM districts.

- Modifies Table 11.1.3-1 Planned Unit Development Project Size Standards to establish a new minimum size for PUDs in the RL and RM districts.
- Creates a new Table 11.3.1-2 Planned Unit Development Standards that creates new regulations for lot size, setbacks, Floor Area Ratio, building height, building footprint and building elevations.
- Establishes a process wherein the Design Review Board may grant an expansion beyond this Section's maximum building footprint standards when a project proposes an addition to existing buildings.

6) Amends Article 13 Definitions to create new definitions for Building Footprint and Elevation

- Creates a new definition for Building Footprint to clarify how building mass is measured as regulated in Table 4.4.5-2.
- Creates a new definition for Elevation to clarify how building offset standards in Table 4.4.5-2 are applied.

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." To that end, these amendments are largely technical in nature and are intended to clarify for the public and staff the standards and processes regulating residential construction in Burlington's neighborhoods.

The "Sustain" theme intends to "anticipate small and incremental change that is consistent with existing development patterns, building scale and neighborhood character." The amendment's primary substantive changes address the topic of Planned Unit Development in the residential districts. These standards allow for more intensive infill development while remaining consistent with established built character on similar sites within Burlington's residential districts through the regulation of scale in various contexts.

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 provide additional clarity and specificity to the form-based approach established in Neighborhood Code Part 1. This change is supported by Objective 2.2.
- 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.
- Confirms established zoning standards facilitating Accessory Dwelling Unit construction, which are consistent with Objective 9.1.

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 6/25/24	Presentation to & discussion by Commission Various Dates*	Approve for Public Hearing 7/23/24	Public Hearing 8/27/24	Approved & forwarded to Council
City Council Process				
First Read & Referral to Ordinance Cmte	Ordinance Cmte discussion Various Dates*	Ordinance Cmte recommend	Second Read & Public Hearing	Council Approval & Adoption

* The Planning Commission met on the following dates within 2024: 4/23, 5/14, 5/28, 6/11, 6/25, 7/9, 7/23

Burlington Planning Commission

149 Church Street
Burlington, VT 05401

www.burlingtonvt.gov/cityplanning

Andy Montroll, Chair
Michael Gaughan, Vice Chair
Erhard Mahnke
Ryan Nick
Alexander Friend
Erin Malone
Julia Randall

Burlington Planning Commission

Tuesday August 13, 2024, 6:30 P.M.

Hybrid Meeting via Zoom and in City Hall's Bushor Conference Room

Draft Minutes

Commissioners Present:

☒ Andy Montroll ☒ Michael Gaughan
☐ Erhard Mahnke ☐ Erin Malone
☒ Ryan Nick ☐ Julia Randall
☒ Alexander Friend

City Staff Present:

☒ Charles Dillard, Interim Director
☒ Sarah Morgan, Planner

Public Attendance: Sharon Bushor

Guest Speakers: Brandon Marshall and Alex Collins (Brown University), City Councilor Melo Grant, Grace Keller (Howard Center), Jess Kirby and Tom Dalton (Vermonters for Criminal Justice Reform), Ed Baker (Independent Addiction/Recovery Educational Consultant)

1. Agenda

Call to Order: 6:30pm

Changes to Agenda: No Changes

2. Chair's Report

Andy Montroll: N/A

3. Director's Report

Charles Dillard: Reminder of the Public Hearing on August 27, 2024 regarding ZA-24-04 Neighborhood Code Part 2A

4. Proposed CDO Amendment: ZA-25-01 Overdose Prevention Centers

Action: Receive testimony from the following invited guest speakers, ask questions and provide feedback.

Motion by: N/A

Seconded by: N/A

Vote: N/A

Discussion Notes: See recording available on Civic Clerk, with the Panel Discussion beginning at [time] in the recording.

5. Public Forum

Name(s)

Comment

Sharon Bushor: Agreed with others who said that housing is the key to the solution. However, Burlington can't afford to do it on its own. The State and Legislature failed people and communities when they ended the motel program but didn't provide any services or any assistance to communities to deal with the people who relocated there. There were questions the Commissioners had but didn't ask. Asked that those questions be sent to the members of the panel and that their responses be posted. Expressed

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. The City is also committed to providing proper access to services, facilities, and employment opportunities. For accessibility information or alternative formats, please contact Human Resources Department at (802) 540-2505.

concern that perceptions of the use of the OPC will be used as an argument that it has failed and should be closed. The use should be tracked to show it's a success in harm reduction and overdose prevention. Believes the Commission does have a role to play in creating a definition of the ordinance. There are criteria for the OPC that can be used to create a template.

6. Commissioner Items

Charles Dillard: The next Planning Commission meeting is Tuesday, August 27

7. Adopt Minutes

Action: Review and approve the July 23 Planning Commission meeting minutes

Motion by: R. Nick **Seconded by:** A. Montroll **Vote:** Unanimous

Notes or Corrections: N/A

8. Communications

Action: Review and accept the communications

Motion by: R. Nick **Seconded by:** A. Montroll **Vote:** Unanimous

Notes or Corrections: N/A

9. Adjournment

Action: Motion to Adjourn

Time of Adjournment: 8:50 pm

Motion by: R. Nick **Seconded by:** M. Gaughan **Vote:** Unanimous

Guidance for Participating in a Virtual Planning Commission Meeting

As social distancing measures to preserve public health and safety continue to be required to prevent the spread of COVID-19, or are recommended as a standard practice, the Office of City Planning will be supporting the Planning Commission to conduct their meetings online via Zoom. Here is information about how to join a virtual meeting, and what to expect while participating.

General Guidance for Public Participation

Please remember that in this digital meeting environment, meetings are open to the public and anyone may be watching or listening even if you cannot see them. Meetings will be recorded, and both the recording and chat content of the meeting will be maintained as a public record.

Please ensure your display photo and screen name are professional, such as using your first and last name. Please test your audio and video prior to the start of a meeting, and familiarize yourself with how to join a meeting by your chosen method. And finally, please be patient with us. Technology doesn't always work as planned, and we are all learning how to hold a successful virtual meeting!

How to Join a Virtual Meeting

Zoom allows participation via either computer or telephone. Each agenda for a meeting that will be conducted virtually will include details about how to join via either of these options, including a web address, phone number, Meeting ID, and password.

If you participate via computer, you have the option of seeing Commissioner videos and any presentation materials that may be shared. If you use either a standard phone or cell phone to call in, you will only hear the audio portion of the meeting. If you join via a smartphone, you may have the option to download the Zoom app, which will enable you to see and hear the meeting.

How to Participate in a Virtual Meeting

During meetings, only Planning Commission members and limited staff members will be viewed on video. Members of the public attending a meeting will be muted, except when invited to speak during public forum or a public hearing. Whether members of the public can speak at other times during the meeting is the discretion of the Chair.

If you want to speak during public forum, please take the following steps to assist us in making this process run as smoothly as possible:

- Email staff at cdillard@burlingtonvt.gov by 5pm on the day before a meeting to indicate your interest in speaking. You do not need to provide your comments. Staff will enable your microphone as your name is called from a list of interested speakers.
- During a meeting, you can use the "Raise Hand" feature, or indicate in a chat message that you wish to speak during public forum. Staff will enable your microphone as your name is called.
- If you are interested in submitting your comments in writing instead of speaking during the meeting, you may do so by 5pm the day before a meeting, they will be forwarded to the Commissioners ahead of the meeting.

Sarah Morgan

From: Sharon Bushor <sfbushor@gmail.com>
Sent: Monday, August 26, 2024 8:33 AM
To: Charles Dillard; Andrew Montroll; Sarah Morgan
Cc: Scott Gustin; Mary O'Neil; Garret King
Subject: Fwd: Draft Neighborhood Code Zoning Amendment

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

I want to resubmit my communication from July 23rd. Please note the lines referenced were from a prior draft and not the one you have warned. Therefore I will repeat some of the points made then

First Article 4 Zoning Map and Districts

Part 3 Zoning Districts; Section 4.3.1 Base Districts ; e lines 85 and 86 ...200 foot maximum depth for properties along RC .

Please read #4 in the July communication. It speaks to how this depth may lead to boundary line adjustments and encroach and erode the RL lots behind the corridor. It also speaks to virtually no parking in this corridor so how will mix use exist. And finally speaks to the slope that abuts Riverside Ave and how larger structures could further compromise its instability. ALL this suggests the allowances for corridors is a misfit for Colchester Ave. Please remove this road from your corridor designation.

Next, Table 4.4.5.2 Principal and Secondary Structures RM and RL Secondary structures in both districts should be 1100 sq ft. The premise that RM lots are smaller is factually not true. Lots in both districts vary so if a 1100 foot structure can be accommodated why not allow it? See comment #6 in my July communication.

To continue, Article 5 Part 2 b,) Exceptions, lines 254 thru 259 mention STORMWATER. This is being eliminated but I call your attention to it because in this Zoning Rewrite lot coverage is being expanded in RL and RM and stormwater is not being addressed yet it was when ADUs were added. Why is this left undone? This eliminated action addressed the evaluation of stormwater impact by the City and the need for a plan to address this runoff. This language can be inserted into this draft. It is environmentally unsound to not recognize the impact of this level of development. I am puzzled why staff and the Commission ignore this significant problem and see this draft as ready to be implemented. See note #10 in my July communication.

Next Section 4.4.5 Residential Districts Dimensional Standards

Minimum Lot Frontage...30 feet is too narrow to accommodate a structure and driveway. How was this width decided? Was it mapped out to evaluate if this allowed development as proposed? I am seeking evidence of the behind the scenes process that substantiates this and other decisions. Currently this has been absent from this rewrite. See note # 5 in my July communication.

Note: Under this section is the setback from water's edge. Please add this to your " need to revisit list". It states the setback is 75 feet. Is this now adequate with increased rainfall, flooding and erosion?

Thank you

Finally some general comments. With the premise to maximize housing, 8 units per lot was decided to be the correct number. Yet this encourages the creation of small units and there is nothing in this Ordinance to incentivize the creation of family housing. It still reads as a developer's wish list tipping the scale further to make Burlington an investors home and ultimately further reducing owner occupied properties. This expands the percentage of rental properties making the balance we have strived for further out of reach.

NOTHING in this Ordinance protects MATURE TREES. In my opinion it is INCONSISTENT with our climate action plan by eliminating our external lungs that help reduce carbon. Sarah was present when Director Tuttle

initially stated this would be addressed yet this Ordinance is silent on this issue. Please consider adding a provision that requires a permit to remove a healthy mature tree when developing a lot. It is a start to the need for a more robust provision. Also please read comment # 8 in my July communication regarding administrative approval and Suggestion/ Question #5 regarding the need to sprinkle structures that don't have street frontage. AFFORDABILITY!!! Why does an Ordinance that expands housing not address a mechanism to ensure a percentage be affordable? This creates housing for whom? Once again lower income people are literally left out in the cold. Are we able to do better? YES! I believe we can.

Well, the Ordinance is 19 pages long. My comments are a few pages shy of that.
Thank you for reading (I hope) this new communication and rereading my July communication.
Please share with all staff and the entire Commission.
Sharon Bushor
Ward 1 Resident

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

From: **Sharon Bushor** <sfbushor@gmail.com>
Date: Tue, Jul 23, 2024, 4:37 PM
Subject: Draft Neighborhood Code Zoning Amendment
To: Charles Dillard <cdillard@burlingtonvt.gov>, <smorgan@burlingtonvt.gov>, <amontroll@burlingtonvt.gov>

Good morning,

This has been a difficult process for the public. I see this as equal to PlanBTV yet the rollout has been quite different and pales in comparison to the City wide resident inclusion for PlanBTV. I attribute most of this to the every changing scope of the proposal. What started as an amendment to accommodate what once was allowed (the missing middle) became a MAJOR zoning rewrite. Even the language used (now called the Neighborhood Code) doesn't reflect the enormity of the impact of this rewrite. I only mention this to perhaps spark a conversation among staff and the Commission to how better include City residents in the remaining proposed amendments. Having said that, I do have some comments, questions and suggestion for this current proposed draft amendment.

I will move through this in chronological order.

1. Sec 3.4.1 Purpose (lines 34 and 35)

" provide for necessary landscaping and screening and protect and maintain the character and development pattern of the surrounding area" This is no longer referenced in this amendment and all proposed development deviates from the existing pattern. Please rewrite to reflect the factual intent of this revision.

2.Question for lines 62 and 63...Does this apply to a separate structure ADU?(It is more than one structure on a lot)

3. Map 3.4.2-1 Design Review Overlay District Will this map be further revised to address triggers for Design Review.

4. Residential Corridor (lines 88 and 89)

This needs further analysis and consideration before you designate additional streets as Corridors. Maybe consider two types of corridors ,major and minor with unique criteria for each . For this existing amendment, line 89 says the depth is 200 feet. Has anyone mapped this out? When driving down North Ave and Shelburne Street, I see many lots having that depth. On Colchester Ave. I was unable to find many with the exception between Mainsfield Ave and Fletcher Place. From East Ave down to Barrett Street, I believe there are none. If that depth is maintained it would include multiple lots and encroach into the residential lots

behind. My concern is that it will encourage lot boundary adjustments and further erode the surrounding neighborhoods. Burlington has such a small land mass which makes the concept of transitions next to impossible. With the proposed additional height and density for RC, it inserts RH into RL zones. See Map 4.4.5 where lot coverage for RH and RC are both 80%.

Corridors must designate the entire street or clearly define start and end points. Map 4.3 2-1 Base Zoning Districts reveals the compression RCs create in our small City and reflects a jumbled zoning proposal. Please take more time with this aspect of NC. Please map it out to see what this would look like if realized.

NOW I WANT TO FOCUS ON COLCHESTER AVE. I continue to maintain this street is very different than North Ave and Shelburne Street. It is in an older part of the City with larger historic homes. Yet this Ordinance has eliminated protection for older homes built on Colchester Ave between East Ave and Barrett Street lines 239 and 240. This is a real loss of the history of this section of Burlington and clears the way for significant alterations to these residential structures without adequate review. It also is a street with limited parking and no opportunity for off street parking so the mixed use component will not be able to be realized. Two businesses exist on this roadway. Kampus Kitchen that survives because of land owned by UVM in close proximity where people briefly park plus 2 designated street spaces out front . Domino's Pizza which delivers pizza and barely has space for its delivery vehicles. I agree it is a transportation corridor but is unable to accommodate the other zoning allowances. Therefore, that is why I suggested two corridor designations with each having unique criteria and opportunities. Please consider removing Colchester Ave from the current Corridor designation. It does not meet the criteria.

5. Table 4.4.5-1. This table has the minimum lot frontage for RL and RM as 30 feet. The few lots that currently exist with this width have had difficulty creating a driveway for cars to park without having their door hit the neighbors house. Why would this happen? With this narrow lot, sideyard setbacks are 10% or 3 feet. If an existing structure is on the property line, you can see the potential problem. In this table it has mandates. Please change the wording under RC Front Setback . Currently states maximum permitted, please change to maximum required. Also why make the new additions to Corridors stick out and not be in line with surrounding neighbors and thus use the same averaging tool to determine setbacks?. The few feet gained is not worth the visual disruption.

6. Table 4.4.5-2 In this table, which defines the size of the secondary structure, an assumption is made that RL lots have more buildable space than RM lots. This is factually untrue. Lot sizes vary greatly throughout RL and RM. When the determination to disregard lot size in zoning was made by this Commission during your initial NC meetings, you have created an Ordinance that misses housing opportunities on larger lots in RM. Note: second structure in RL is 1100 vs 900 in RM.

7. Lines 164-166. I am not sure what this allows. Where are the justifications for exceptions? As granted by the DRB, will they be tracked to understand if amendments to this Ordinance are needed?

8. Lines 202 and 203. Administrative approval of a single unit (internal or external) Will there be a Z card posted?

This is a big change from a DRB process to now one that allows no neighbor input. In my neighborhood a change was made that caused water to flow into neighbors basements. How will staff know about the idiosyncrasies and problems that exist?

9. Lines 214 - 216 . These lines are deleted and contain language explaining the purpose of protection of older historical structures. Where does this live now? If not present in this draft, then please don't delete until protection is defined and included. The conversations have included discussions for change but not elimination. When you remove language without replacing it, the result is elimination of that protection.

10. Lines 259- 264 have been deleted since they were regulations for ADUs. Please look at these closely for guidance and the framework to address stormwater runoff. In essence, it refers to the expansion of lot coverage

and the need to evaluate the impact on the right of way (streets) requiring review by the DPW Stormwater Program Manager to evaluate and propose necessary conditions NOTE: THIS WAS INCLUDED FOR THE ADDITION OF ONE SRRUCTURE (900 SQFT MAX). Now this draft proposed larger structures with greater lot coverage and there is no required review. Why does this make sense?

Also where is the evaluation of the impact of cumulative development on wastewater and stormwater capacity? This seems like a health and safety issue that needs to be included in this Ordinance Now not later.

This draft is addressing "the missing middle". My next comments are recommendations for what is " missing" in this draft and are offered to strengthen (and admittedly change) what is proposed.

#1 Many conversations and opinions were expressed regarding the height of the 2nd structure in relation to the primary structure. My suggestion is if the second structure is either taller than 2 stories (to address the one story home) or taller than the primary multistory home, it would require DAB review.

#2 Add a condition that would require a permit to remove healthy mature trees from the lot BEFORE the building permit was issued. Need to discuss enforcement. Trees are essential for air quality and an important component of cooling a more fully developed City.

#3 REQUIRE the submission of a stormwater plan if lot coverage reaches the maximum allowed and MANDATE if bonuses allow greater lot coverage.

#4 Please consider having IZ apply if the total number of units on a lot exceed 5 . Therefore it would not be applied to each structure independently. Ideally, I would favor an IZ Ordinance that would trigger at 4 units.

#5 A memory lane issue. I recall when the ADU Ordinance was proposed, the issue of a structure not having street frontage came up in relation to Fire Department access. Most had to meet this safety concern by installing a sprinkler system. With the NC structures will be in the backyard without street frontage and this issue was never discussed. So what are the requirements for a new structure or conversion of a garage etc. ? Looking back at recent legislation it offered greater detail and gave guidance to the person attempting to comply with our Ordinances.

I believe that had value.

#6 I still have concerns about the conversion of non residential or nonconforming structures into residential uses. Please understand I AGREE with this proposal. What is missing are conditions if this structure is right on the property line. Activity levels, privacy concerns need to be addressed with recommended screening or placement of windows. Once again these considerations are missing.

#7 Last comment: I still believe we would have,a better quality of life if we limited the number of units in the second structure to two, not four. It may encourage larger units for families or even the creation of a duplex for rent or homeownership. This still would add much needed housing.

Thank you for your time.

Sharon Bushor

Ward 1 Resident