Burlington Planning Commission
149 Church Street
Burlington, VT 05401
www.burlingtonvt.gov/pz
Phone: (802) 865-7144

Andy Montroll, Chair
Bruce Baker, Vice Chair
Yves Bradley
Alex Friend
Emily Lee
Harris Roen
Jennifer Wallace-Brodeur

PUBLIC HEARING NOTICE

Burlington Comprehensive Development Ordinance
ZA-20-02 Accessory Uses & Structures
ZA-20-03 Accessory Dwelling Units

Pursuant to 24 V.S.A. §4441 and §4444, notice is hereby given of a public hearing by the Burlington Planning Commission to hear comments on the following proposed amendments to the City of Burlington's *Comprehensive Development Ordinance* (CDO). The public hearing will take place on **Tuesday, December 10, 2019 beginning at 6:45pm** in Contois Auditorium, City Hall, 149 Church Street, Burlington, VT. Pursuant to the requirements of 24 V.S.A. §4444(b):

Statement of purpose: This amendment is proposed to the *Burlington CDO* as follows:

- **ZA-20-02:** The purpose of this amendment is to provide clarity as to what "accessory" is and to establish consistency in the application of "accessory" throughout the *CDO*. Some adjustment is made to the definition of the term "accessory," and misuse of the term is corrected in two places. Some related clean-up is also included, such as relocating several "accessory" exemptions under the exemptions section of the *CDO*. Finally, the term "principal" is defined.
- **ZA-20-03:** The purpose of this amendment is to encourage the creation of accessory dwelling units (ADU's) throughout the city to support homeowners as they age in place, provide flexible options to help owners afford and better utilize available space within their homes, and to provide additional affordable housing options within existing neighborhoods. This amendment modifies applicable ADU and other citywide general standards, including enabling ADU's as a permitted use in all zoning districts, creating an alternative maximum unit size and lot coverage waiver process, and eliminating the parking requirement and limitation on stacked parking.

Geographic areas affected: the proposed amendments are applicable to the following areas in the City of Burlington:

- **ZA-20-02:** Applicable to all geographic areas and zoning districts.
- **ZA-20-03:** Applicable to single-family lots within residential, mixed use, and institutional zoning districts where residential uses are permitted.

List of section headings affected:

- **ZA-20-02**: The proposed amendment relocate exemptions from *Sec. 4.4.5 (d) 4 E.* to *Sec 3.1.2 (c)*; amends *Sec. 4.4.5 (d) 4*; amends *Sec. 5.1.2 (e)*; amends *Sec. 11.1.*6; and amends *Article 13* Definitions and corresponding terms and definitions in *Article 14 Downtown Form Based Code*.
- **ZA-20-03**: The proposed amendment amends *Sec. 5.4.5 (a) – (c);* establishes *Sec. 5.2.3 (b) 10;* amends *Sec. 5.3.4 (a) 2. B and C;* amends *Sec. 5.3.5 (a) 1;* establishes *Sec. 8.1.14 (c);* amends *Article 13 Definitions*; and amends *Appendix A Use Table.*

The full text of the *Burlington Comprehensive Development Ordinance* and the proposed amendment is available for review at the Office of City Planning, City Hall, 149 Church Street, Burlington Monday through Friday 8:00 a.m. to 4:30 p.m. or on the department's website at https://www.burlingtonvt.gov/PZ/CDO/Proposed-Amendments-Before-the-Planning-Commission

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 the City Planning department or 711 if you are hearing or speech impaired.

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Special Meeting of the Burlington Planning Commission with the City Council Ordinance Committee

Tuesday, December 10, 2019, 6:30 P.M.
Contois Auditorium, City Hall, Burlington

AGENDA

I. Agenda

II. Public Forum- Time Certain 6:30 p.m.

III. Public Hearing: Proposed CDO Amendment ZA-20-02 *(Time Certain: 6:45pm)*

The Planning Commission will hold a public hearing on a proposed zoning amendment related to Accessory Use & Structure definitions and references. Information related to this item is included in the agenda packet.

Staff Recommendation: Following public hearing, discuss proposed amendment and, if necessary, direct staff on any additional changes to the amendment. Reapprove the municipal bylaw amendment report and forward to City Council

IV. Public Hearing: Proposed CDO Amendment ZA-20-03

The Planning Commission and City Council Ordinance Committee will hold a public hearing on a proposed zoning amendment related to Accessory Dwelling Units (ADU's). This amendment comes as a result of the Mayor's Housing Summit and subsequent policy reform recommendations. Information related to this item is included in the agenda packet.

Staff Recommendation: Following public hearing, discuss proposed amendment and, if necessary, direct staff on any additional changes to the amendment. Reapprove the municipal bylaw amendment report and forward to City Council.

V. Proposed CDO Amendment: ZA-20-04 Minimum Parking *(Please note: item is time permitting)*

The Joint Committee will continue discussion of a proposed amendment related to the minimum requirements for new parking spaces for developments in selected areas of the city. This amendment comes as a result of the Mayor's Housing Summit and subsequent policy reform recommendations. Information related to this item is included in the agenda packet.

Staff Recommendation: Discuss proposed amendment and provide direction to staff on further changes to the draft. If satisfactory, approve the municipal bylaw amendment report and warn for a public hearing.

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VI. Commissioner Items

a. Dates for additional Joint Committee meetings in 2020

VII. Communications

a. Communications are enclosed in the agenda packet.

VIII. Adjourn

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Staff Recommendation: Discuss proposed amendment and provide direction to staff on further changes to the draft. If satisfactory, approve the municipal bylaw amendment report and warn for a public hearing.

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THE CITY OF BURLINGTON
CITY PLANNING

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Phone: (802) 865-7144

TO: Burlington Planning Commission
FROM: Scott Gustin, Department of Permitting & Inspections
CC: Meagan Tuttle, City Planning
DATE: November 19, 2019
RE: Proposed CDO Amendment ZA-20-02: Accessory Uses & Structures

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Overview & Background

This amendment stems from staff's observation of inconsistent treatment of "accessory" in various sections of the Comprehensive Development Ordinance. The Planning Commission Ordinance Committee reviewed this amendment at their December 2018 and February 2019 meetings and forwarded it for discussion by the full Planning Commission.

The CDO makes multiple references to the term "accessory" in a variety of different scenarios such as accessory uses, accessory structures, and accessory dwelling units. The idea is predicated on the distinction between principal and accessory, whether in reference to structures or uses. Within the context of the CDO, the term "principal" refers to the main structure or use of a property. "Accessory" refers to an adjunct structure or use that is customary and incidental to the principal structure or use. A principal use or structure may stand on its own. An accessory use or structure must always be associated with a primary use or structure.

Some common examples of an accessory/principal relationship include a shed associated with a single family home or administrative office space associated with a grocery store use.
The focus here is on "accessory;" however, is bears noting that the term "principal" (or primary) is not defined in Article 13. Providing such definition is recommended.

Accessory is essentially about a feature's scope and context as it relates to the primary feature. The term should be plainly and simply defined to establish clear guidelines while affording necessary flexibility for any particular set of circumstances. Over-defining the term or trying to articulate standards for particular situations lessens flexibility.

Recommended Amendment Details

Amendment Type

Text Amendment	Map Amendment	Text & Map Amendment

Purpose Statement & Summary

The purpose of this amendment is to provide clarity as to what "accessory" is and to establish consistency in the application of "accessory" throughout the CDO. Some adjustment is made to the definition of the term "accessory," and misuse of the term is corrected in two places. Some related clean up is also included, such as relocating several "accessory" exemptions under the exemptions section of the CDO. Finally, the term "principal" is also defined.

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Proposed Amendments

- Amend *Sec. 3.1.2 (c)* to include exemptions relocated from *Sec. 4.4.5 (d) 4 E.*

  Sec. 3.1.2 (c), *Exemptions*

  The following shall be exempt from the requirements of this Ordinance and shall not be required to obtain a zoning permit:

  (1) – (15) As written.

  (16) Seasonal skating rinks

  [Note: Renumbering to place seasonal skating rinks as # 12, following #11 Children's play structures, may be more intuitive than simply tagging on at the end.]

- Amend *Sec. 4.4.5 (d) 4* to reference "accessory" as defined in Article 13, to relocate exemptions in subsection E to *Sec. 3.1.2 (c),* and to correct "principle" to "principal".

  Sec. 4.4.5 (d) 4, *Accessory Residential Structures and Uses*

  4. Accessory Residential Structures and Uses

  An accessory structure 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 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 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, Part 2;

  B. Any accessory structure that is seventy-five percent (75%) or greater of the ground floor area of the ~~principle~~ principal structure 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 ~~principle~~ principal structure;

  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; and,

  E. ~~Uncovered play structures, seasonal skating rinks, raised planting beds shall not require a zoning permit.~~ *[Note: This provision to be located with all other exemptions in Sec. 3.1.2 (c) as noted above.]*

- Amend *Sec. 5.1.2 (e)* to remove the arbitrary 500 sf limit on nonresidential structures and to refer instead to the applicable provisions of Article 4.

  Sec. 5.1.2

  (d) Accessory Residential Structures:

  An accessory structure customarily incidental and subordinate to a principal residential use shall also be governed by the provisions of Sec. 4.4.5(d) 4.

(e) Accessory Nonresidential Structures:

An accessory structure customarily incidental and subordinate to a principal nonresidential use may be permitted subject to the provisions of Article 4 ~~provided the gross floor area of any accessory structure does not exceed five hundred (500) square feet or contain living space~~.

- Amend Sec. 11.1.6 to replace incorrect use of the term "accessory" with correct "non-residential."

Sec. 11.1.6 ~~Accessory~~ Non-Residential Facilities

(a) – (b) As written.

- Amend Article 13: Definitions to include "temporal" in the definition of "accessory," to delete incorrect use of "accessory" in the "animal" definitions, and to define the term "principal."

Accessory Appurtenance, Building or Use: A use or ~~detached building~~ structure that:

(a) Is located on the same lot as the principal use or building served;
(b) Is clearly incidental to and customarily found in connection with the principal use or building; and
(c) Is subordinate in area, temporal extent, or purpose to the principal use or building served, and is not to exceed twenty-five percent (25%) of the gross area or sales of the principal use or building served.

Animal

(a) **Boarding:** An establishment involving any structure, land, or combination thereof used, designed, or arranged for the keeping of five (5) or more domestic pets more than three (3) months of age for profit or exchange, inclusive of equines but exclusive of other livestock used for agricultural purposes in areas approved for agricultural uses. The keeping of four (4) or less such animals more than three (3) months of age for personal enjoyment shall not be considered "boarding" for the purposes of this ordinance.
(b) **Domestic Pet**: Any canine, feline, or European ferret (Mustela putorious furo) and such other domestic animals as the Secretary of the Agency of Agriculture, Food and Markets shall establish by rule and that has been bred or raised to live in or about the habitation of humans, and is dependent on people for food and shelter.
(c) **Livestock:** Animals used for food production (including eggs, milk, honey, and meat) or fiber.
(d) **Grooming:** Any establishment where domestic pets are bathed, clipped, or combed for the purpose of enhancing their aesthetic value or health.
(e) **Hospitals:** An establishment for the care and treatment of the diseases and injuries of animals and where animals may be boarded during their convalescence. (See Veterinarian Office)
(f) **Kennel:** ~~Accessory~~ building or enclosure for the keeping of domestic pets.
(g) **Barn or coop**: ~~Accessory~~ building or enclosure for the keeping of livestock.
(h) **Shelter:** A facility used to house or contain stray, homeless, abandoned, or unwanted domestic pets or livestock for the purpose of providing temporary kenneling and finding permanent adoptive homes and that is owned, operated, or maintained by a public body, an established humane society, animal welfare society, society for the prevention of cruelty to animals, or other nonprofit organization devoted to the welfare, protection, and human treatment of animals.
(i) **Store, Pet**: A retail sales establishment primarily involved in the sale of domestic pets, such as dogs, cats, fish, birds, and reptiles, excluding exotic animals and livestock.

~~Principal (also Primary) Structure or Use~~

~~A structure that accommodates the principal use of the lot or use that is the main purpose for which a site is developed and occupied.~~

Principal Building

The main or primary Building located on a Lot within which there is conducted any one or more of the Principal Use(s) found on such Lot.

Principal Use

A main or primary Use accommodate by a Building or a Lot. The dominant use or uses to which the premises is devoted and the primary purpose for which the premises exists.

- Strike from Article 14 the definitions of Accessory Building and Use, and Principal Building and Use to eliminate duplication/inconsistencies among definitions in Articles 13 and 14.

  ~~**Accessory Building:** A Building that: (1) is located on the same Lot as the Principal Use or Building served; (2) is clearly incidental to and customarily found in connection with the Principal Use or Building; and (3) is subordinate in area, extent, or purpose to the Principal Building served.~~

  ~~**Accessory Use**: use of a Building, Outbuilding, Structure, or Lot allowed pursuant to Section 14.3 and which is subordinate and incidental to and customarily found in association with a Principal Use located within the same lot. Not synonymous with Accessory Dwelling Unit.~~

  ~~**Principal Building:** the main Building on a Lot, usually located toward the Frontage, in which there is conducted any one or more of the Principal Use of such Lot.~~

  ~~**Principal Use:** a main or the Principal Use accommodated by a Building or a Lot. The dominant use or uses to which the premises is devoted and the primary purpose for which the premises exists~~.

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).

Proposed Future Land Use & Density

The proposed amendment does not directly pertain to any specific goals and policies of *planBTV*. Insofar as it clarifies and codifies parameters around distinctions between accessory and primary structures and uses, the amendment facilitates implementation of land use standards generally. Therefore, the proposed amendment has little impact on future land use or density, and are limited to adjusted parameters around the use of "accessory" as defined in the *CDO*.

Impact on Safe & Affordable Housing

The proposed amendment has no impact on the availability of safe and affordable housing. The standards as to accessory dwelling units are unaffected by this amendment.

Planned Community Facilities

The proposed amendment has no impact on planned community facilities.

Process Overview

The following chart summarizes the current stage in the zoning amendment process, and identifies any recommended actions:

<table>
<tr><th colspan="5">Planning Commission Process</th></tr>
<tr><td rowspan="2">Draft Amendment prepared by: Staff, PC Ord. Cmte Recommendation</td><td rowspan="2">Presentation to & discussion by Commission 9/10/19</td><td rowspan="2">Approve for Public Hearing 9/10/19</td><td rowspan="2">Public Hearing 12/10/19</td><td>Approve & forward to Council</td></tr>
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TO: Burlington Planning Commission
City Council Ordinance Committee
FROM: Meagan Tuttle, Principal Planner, City Planning & Ian Jakus, Housing Projects & Policy Specialist, CEDO
DATE: November 18, 2019
RE: Proposed CDO Amendment ZA-20-03: Accessory Dwelling Units

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Overview & Background

Accessory dwelling units (ADUs) are efficiency or 1-bedroom apartments located within or on the same property as a single-family, owner-occupied home. ADU's are often located above a garage, in a basement, or as a backyard cottage, and have been utilized widely in cities across the US, and to some degree here in Burlington, as a tool for older adults to remain in their homes as they age, to create housing for an elder or a dependent, and provide homeowners with a way to offset housing costs.

In 2015, the City Council adopted the *Housing Action Plan*, which contained 22 strategies for building a more affordable, inclusive, livable, walkable, sustainable, and vibrant Burlington. Among these strategies was a call for a review of Accessory Dwelling Units in the city, to "evaluate the consequences of incentivizing this kind of construction and to establish clear protections that prevent abuse of this type of unit." As a result, the Community & Economic Development Office and Planning & Zoning department collaborated to prepare a review current ADU creation, policies, and best practices, and offered a series of recommendations for policies and programs to support the creation of more ADUs. This report was reviewed by the City Council's CDNR Committee, who supported the City and partners advancing the report's recommendations.

In April 2019, Mayor Weinberger announced a plan to convene a Housing Summit and advance work to bring focus, urgency, and resolution to five key areas of unfinished business from the *Housing Action Plan*. Reforming local zoning to be more permissive of the creation of ADU's was one of these key areas. Both in the preparation of the City's *Review of Accessory Dwelling Units*, as well as in conversations associated with the Housing Summit, the city has heard overwhelming support from residents and stakeholders about the value of ADU's and the importance of boosting their creation both from a regulatory perspective and through technical and design assistance. The framework for amending the city's zoning ordinances to encourage the creation of ADU's was included in a resolution unanimously supported by the City Council on October 7, 2019. The resolution referred this item to a Joint Committee of the Planning Commission and City Council's Ordinance Committee.

The enclosed zoning amendments are aimed at improving the regulatory framework for creating ADU's. Separately, CEDO and Homeshare VT are working together on a 3-year pilot program to facilitate the development of accessory apartments to serve low-income and senior housing needs. Using a $75,000 state Housing Revenue Fund grant, the program includes an outreach and educational campaign, offers technical assistance to homeowners, will develop standard designs for ADU's, and perform marketing, screening, and matching services for prospective tenants and homeowners.

More information about Accessory Dwelling Units in Burlington, and the proposed amendment can be found online at: https://www.burlingtonvt.gov/mayor/housingpolicy/adu

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Recommended Amendment Details

Amendment Type

Text Amendment	Map Amendment	Text & Map Amendment

Purpose Statement & Summary

The purpose of this amendment is to encourage the creation of accessory dwelling units (ADU's) throughout the city to support homeowners as they age in place, provide flexible options to help owners afford and better utilize available space within their homes, and to provide additional affordable housing options within existing neighborhoods.

This amendment modifies applicable ADU and other citywide general standards, including enabling ADU's as a permitted use in all zoning districts, creating an alternative maximum unit size and lot coverage waiver process, and eliminating the parking requirement.

Proposed Amendments

The following changes are proposed to the *Comprehensive Development Ordinance* in order to achieve these goals. These changes are detailed in the attached documents.

- Enable Accessory Dwelling Units as a permitted use for single-family homes in all zoning districts by eliminating *Sec. 5.4.5 (B)*, clarifying *Sections 5.3.4 (a) 2.A* and *5.3.4 (a) 2.C*, and deleting Accessory Dwelling Units from *Appendix A- Use Table*.

- Increase the maximum size for ADU's to accommodate their location on lots with smaller homes, by adding an alternative maximum size in *Sec. 5.4.5 (A)(2).*

- Allow for a portion of the lot coverage associated with a detached ADU to be exempt based on a stormwater impact review provision within a new *Sec 5.2.3 (b) 10*, and noted in *Sec. 5.3.5 (a)*, in order to accommodate ADU's on smaller lots.

- Eliminate the parking requirement associated with an ADU by deleting *Sec.5.4.5(A)(4)* and enable stacked parking for ADUs within *Sec. 8.1.14*.

- Update the definition for ADU's to remove conflicts with the special provisions in *Sec.5.4.5*.

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).

Proposed Future Land Use & Density

The proposed amendment is intended to encourage the creation of ADU's on lots or within existing or newly constructed single-family homes throughout the city. Further, these changes are intended to remove barriers faced by owners of small homes and / or small lots who are presently unable to accommodate an ADU under the standards. Specifically, this amendment addresses the 2019 *planBTV* policy to "modify land development and / or building ordinances regarding ADU's and create a program to incentivize their creation through technical assistance, funding, and other means." This is important as ADU's enable new housing options that not only serve the city's changing demographics, but also conserve the existing scale, mass, and design characteristics of neighborhoods.

Impact on Safe & Affordable Housing

This proposed amendment furthers the City of Burlington and the State of Vermont's goals to expand the availability of safe and affordable housing. By encouraging the creation of ADU's, the city is meeting the spirit of *planBTV* to expand the range of housing options available to meet different and changing needs of households, including enabling residents to age in place,

augment household income to afford housing expenses, or secure new affordale housing in established neighborhoods of the city.

Planned Community Facilities
The proposed amendment has no impact on planned community facilities.

Process Overview
The following chart summarizes the current stage in the zoning amendment process, and identifies any recommended actions:

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Excerpts of Article 5: Citywide General Regulations

Sec. 5.4.5 Accessory Dwelling Units

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

Where there is a primary 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 an efficiency or one-~~-~~bedroom apartment that is clearly subordinate to the primary dwelling, and has facilities and provisions for independent living, including sleeping, food preparation, and sanitation. No accessory unit shall be inhabited by more than two adult occupants. 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 D~~d~~epartment of P~~p~~ublic W~~w~~orks; and
2. The unit does not consist of more than 800 sq.ft., or 30 percent (30%) of the ~~total habitable floor~~Gross Floor A~~a~~rea ~~of the building~~ of the primary home~~, inclusive of the accessory dwelling unit~~, whichever is greater; and
3. Applicable setback and coverage requirements are met, except as provided for in Sec. 5.2.3 (b) 10; and

   ~~a. ;~~

   ~~3. One additional parking space which may be legally allocated to the accessory unit must be provided for the accessory unit; 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) Conditional Use Approval for Accessory Units:**~~

~~If any of the following are also proposed, conditional use approval, as well as development review provisions of Article 6 shall be required:~~

~~1. A new accessory structure;~~

~~2. An increase in the height or habitable floor area of the existing dwelling;~~

~~3. An increase in the dimensions of any parking area;~~

(c) Discontinuance of Accessory Units:

Approval of an accessory dwelling unit is contingent upon owner-~~-~~occupancy of either the ~~single-family~~primary 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 primary unit or in the accessory unit. If neither the primary unit nor the accessory unit is no longer 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.

Sec. 5.2.3 Lot Coverage Requirements

(a) As written

(b) Exceptions to Lot Coverage

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

(1)-(9) *As written*

(10) The DRB may grant an exemption from maximum lot coverage limits for up to 650 sq.ft., of the lot area occupied by an ADU. 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.

Sec. 5.3.4 Nonconforming Uses

(a) Changes and Modifications:

A nonconforming use may be changed to a conforming use pursuant to all applicable provisions of this ordinance. When a nonconforming use has been made conforming, it shall not be made nonconforming again.

Any change or modification to a nonconforming use, other than to full conformity under this Ordinance, shall only be allowed as specified below and shall require conditional use approval pursuant to the provisions of Article 3, Part 5 by the DRB.

1. *As written*

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 an expansion does not add any dwelling units except as may be permitted for adaptive reuse or residential conversion bonuses approved per the provisions of Sec. 4.4.5(d)(7) and for Accessory Dwelling Units per the provisions of Sec.5.4.5.;
   B. Such an 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 uses 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.

Sec. 5.3.5 Nonconforming Structures

(a) Changes and Modifications

Nothing in this Part shall be deemed to prevent normal maintenance and repair or structural repair, or moving of a non-complying structure pursuant to any applicable provisions of this Ordinance.

Any change or modification to a nonconforming structure, other than to full conformity under this Ordinance, shall only be allowed subject to the following:

1. Such a change or modification may reduce the degree of nonconformity and shall not increase the nonconformity except as provided below.

   Within the residential districts, and subject to Development Review Board approval, existing nonconforming single-family homes and community centers (existing enclosed spaces only) that project into side and/or rear yard setbacks may be vertically expanded so long as the expansion does not encroach further into the setback than the existing structure. Such expansion shall be of the existing nonconformity (i.e. setback) and shall:

   i) Be subject to conformance with all other dimensional requirements (i.e. height, lot coverage, density and intensity of development);

   ii) Not have an undue adverse impact on adjoining properties or any public interest that would be protected by maintaining the existing setbacks; and,

   iii) Be compatible with the character and scale of surrounding structures.

   Existing accessory buildings of 15 feet in height or less shall not exceed 15 feet tall as expanded.

   Within all districts, and subject to the Development Review Board approval, structures for the purpose of creating an ADU may be constructed on lots with legally non-conforming lot coverage per Sec.5.2.3 (b) 10.

2. Such a change or modification shall not create any new nonconformity; and,

3. Such a change or modification shall be subject to review and approval under the Design Review provisions of Article 3, Part 4.

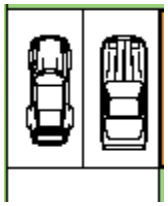
Sec. 8.1.14 Stacked and Tandem Parking Restrictions

Except as otherwise provided below, all parking facilities shall be designed so that each motor vehicle may proceed to and from the parking space provided for it without the moving of any other motor vehicle.

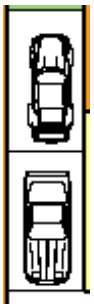
(a) Stacked or valet parking may be allowed if an attendant is present to move vehicles. If stacked parking is used for required parking spaces, a written guarantee must be filed with the City ensuring that an attendant will always be present when the lot is in operation. The requirements for minimum or maximum spaces continue to apply for stacked parking.

(b) Tandem Parking may be allowed for single family detached dwelling units, accessory apartments, duplex dwelling units, and dedicated employee-only parking signed as such. In no case shall more than 4 parking spaces (2 pairs) in total be provided in tandem on any one lot.

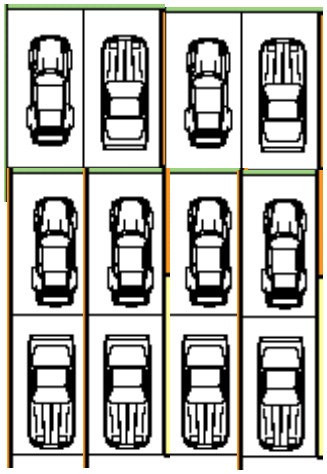
~~(b)~~(c) Stacked parking shall be allowed for single-family detached dwelling units and Accessory Dwelling Units with no requirement for an attendant to be present.



Normal



Tandem



Stacked

Excerpt of Article 13: Definitions

Accessory Dwelling Unit or Apartment (ADU): An efficiency or one-bedroom apartment that is clearly subordinate to a single-family dwelling, and has facilities and provisions for independent living, including sleeping, food preparation, and sanitation. ~~, provided the unit does not exceed 30% of the total habitable floor area of the single-family dwelling.~~

Excerpt of *Appendix A- Use Table*

	Urban Reserve	Recreation, Conservation & Open Space			Institutional	Residential			Downtown Mixed Use					Neighborhood Mixed Use				Enterprise	
USES	**UR**	**RCO - A**	**RCO - RG**	**RCO - C**	**I**	**RL / W**	**RM / W**	**RH**	**D**	**DW**	**DW-PT[16]**	**DT**	**BST**	**NMU**	**NAC**	**NAC-RC**	**NAC-CR**	**E-AE**	**E-LM**
RESIDENTIAL USES	**UR**	**RCO - A[1]**	**RCO - RG**	**RCO - C**	**I**	**RL / W**	**RM / W**	**RH**	**D**	**DW**	**DW-PT[16]**	**DT**	**BST**	**NMU**	**NAC**	**NAC-RC**	**NAC-CR**	**E-AE**	**E-LM**
Single Detached Dwelling	N	N [1]	N	N	Y	Y	Y	N[30]	N[30]	N	N	N[30]	N[30]	N[30]	N[30]	N[30]	N	N	N
~~Accessory Dwelling Unit (See Art.5, Sec.5.4.5)~~	~~N~~	~~N~~	~~N~~	~~N~~	~~Y~~	~~Y~~	~~Y~~	~~N~~	~~N~~	~~N~~	~~N~~	~~N~~	~~N~~	~~N~~	~~N~~	~~N~~	~~N~~		
Attached Dwellings - Duplex	N	N[1]	N	N	Y	CU [2]	Y	Y	N	N	N	N	N	Y [3]	N	Y	N	N	N
Attached Dwellings - Multi-Family (3 or more)	N	N[1]	N	N	CU	N	Y	Y	Y	Y	N	Y	Y	Y	Y	Y	Y	N	N
Attached Dwelling(s) – Mixed-Use[26]	N	N[1]	N	N	CU	CU	CU	CU	Y	Y	N	Y	Y	Y	Y	Y	Y	N	N

THE CITY OF BURLINGTON
CITY PLANNING

City Hall, 3rd Floor
149 Church Street
Burlington, VT 05401

www.burlingtonvt.gov/planning
Phone: (802) 865-7144

TO: Burlington Planning Commission
City Council Ordinance Committee
FROM: David White, Director, City Planning
DATE: December 10, 2019
RE: Proposed CDO Amendment ZA-20-04: Minimum Parking Requirements

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Overview & Background

Burlington did not begin requiring parking for new development through zoning until the 1970s, and up until 1986, developments within the downtown core were exempt from requirements to build a prescribed number of spaces. In 2008, three parking districts were established in the zoning ordinance to ensure that the required number of parking spaces was based on the geographic context of the development. As part of the 2013 *planBTV: Downtown & Waterfront Plan*, a comprehensive evaluation of parking use was conducted which illuminated that 40% of parking in existing private parking lots and garages was vacant most of the time. It is estimated that if these existing parking spaces were utilized more fully, they could support an additional 700+ housing units and 350,000 sq.ft. of commercial space without building any new parking. Since 2013, BBA has been working with the City to implement a downtown parking management program to better utilize existing parking resources, and make private parking resources available for public parking needs. In 2019, BBA found that despite the loss of about 500 parking spaces at CityPlace, there are still hundreds of unused parking spaces available to the public even at peak times.

In April 2019, Mayor Weinberger announced a plan to convene a Housing Summit and advance work to bring focus, urgency, and resolution to five key areas of unfinished business from the *Housing Action Plan*. Reforming local zoning to address the cost to construct, maintain, and lease housing units was one of these key areas. The framework for amending the city's zoning ordinances to amend the requirements for minimum on-site parking in certain parts of the city was included in a resolution unanimously supported by the City Council on October 7, 2019. The resolution further called for consideration of Transportation Demand Management measures, a reduction in the maximum amount of parking allowed on-site, and an update to the City's Impact Fees to create a more holistic fund to include alternative transportation capital projects. The resolution referred the Zoning related items from this framework to a Joint Committee of the Planning Commission and City Council's Ordinance Committee.

As such, the enclosed zoning amendments are aimed at reducing a significant factor in the cost to construct, maintain, and lease housing units, therefore increasing the affordability of those housing units. Further, these amendments intend to allow more space within new development to be used for creating housing units, recognize the context-sensitive nature of parking and driving behaviors, and support a more robust system of transportation choices that enables the city to meet its Net Zero Energy goals.

More information about Minimum Parking Requirements in Burlington, and the proposed amendment can be found online at: https://www.burlingtonvt.gov/mayor/housingpolicy/parking

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 the City Planning department or 711 if you are hearing or speech impaired.

Recommended Amendment Details

Amendment Type

Text Amendment	Map Amendment	Text & Map Amendment

Purpose Statement & Summary

The purpose of this amendment is to establish a new Multi-Modal Mixed Use parking district, in which there would be no on-site minimum parking requirements for new developments. The proposed amendment further extinguishes parking requirements for existing developments within this district to enable greater flexibility for shared-parking, and introduces a transportation demand management requirement for Major Impact projects within this district. The proposed amendment eliminates minimum on-site parking requirements for Affordable Housing, adaptive reuse of a listed historic building, and for Accessory Dwelling Units. Finally, this amendment adds minimum parking requirements for several use types not already covered, and lowers the maximum on-site parking limits for all parking districts citywide.

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).

Proposed Future Land Use & Density

The proposed amendment is intended to support infill and redevelopment that includes new homes within parts of the City that are planned for growth, including mixed use zoning districts, and along major thoroughfares into/out of the city that are served by high frequency public transit lines.

Impact on Safe & Affordable Housing

This proposed amendment furthers the City of Burlington and the State of Vermont's goals to expand the availability of safe and affordable housing. This amendment intends to reduce a requirement of new development that contributes in a significant way to the viability and cost of new development, and to the ongoing cost of renting and maintaining housing.

Planned Community Facilities

The proposed amendment has no impact on planned community 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: City Staff, with support of City Council	**Presentation to & discussion by Commission & Council Ordinance Cmte** 10/30, 11/12, 12/4, 12/10	**Approve for Public Hearing**	Public Hearing	Approve & forward to Council Continue discussion
City Council Process				
First Read & Referral to Ordinance Cmte	Ordinance Committee discussion	Ordinance Cmte recommends to Council [as is / with changes]	Second Read & Public Hearing	Approval & Adoption Rejected

ARTICLE 8: PARKING

PART 1: GENERAL REQUIREMENTS

Sec. 8.1.1 Purpose

It is the purpose of this article to:

(a) Ensure there are adequate parking and loading facilities to serve the use or uses of the property;

(b) Ensure that parking facilities are designed to provide proper circulation, reduce hazards to pedestrians, and protect the users of adjoining properties from nuisance caused by the noise, fumes, and glare of headlights which may result from the operation of vehicles parking off the street;

(c) Reduce congestion in the streets and contribute to traffic safety; and

(d) Encourage alternate modes of travel that will reduce dependence upon the single-occupancy automobile.

These regulations are enacted under the provisions of *24 V.S.A. Chapter 117*

Sec. 8.1.2 Applicability

No structure shall be erected or altered, or any use changed or established, unless or until the provisions of this Article have been met. No onsite parking shall be required or provided within the Urban Reserve District.

Sec. 8.1.3 Parking Districts

The demand for parking is highly dependent on the context within which a given use or structure is located. Factors such as proximity to other related uses, availability of public transportation, the density of land uses, and the ability to share parking with nearby uses are all factors which influence the demand for individual and dedicated off-site parking. For the purposes of this Article, the following three (3) Parking Districts as illustrated in Map 8.1.3-1 are hereby created:

(a) Neighborhood Parking District:

This parking district establishes the baseline of parking requirements throughout the city where the demand for offsite parking is largely dependent on the needs and characteristics of an individual site or land use.

(b) Shared Use Parking District:

This parking district reduces the requirements from the baseline standards recognizing that opportunities exist to share parking demand between related

nearby land uses, and that travel to and between these uses may not be strictly automobile dependent.

(c) ~~Downtown~~ Multimodal Mixed-Use Parking District:

This parking district ~~further reduces~~eliminates the minimum on-site parking requirements ~~from the baseline standards~~ of Sec. 8.1.8 recognizing ~~that~~ the opportunity for extensive sharing of parking demand between nearby mixed land uses ~~occurs; that a majority of~~makes travel to and between proximate land uses ~~is~~ largely independent from an automobile; and that an array of non-vehicular transportation modes, public parking facilities, and frequent transit service greatly reduces the need for independent parking for individual land uses.

This Parking District includes all properties in the following Zoning Districts:

(a) Downtown Core (FD6)
(b) Downtown Center (FD5)
(c) Downtown Waterfront – Public Trust (DW-PT)
(d) Neighborhood Activity Center (NAC)
(e) Neighborhood Mixed Use (NMU)
(f) NAC – Riverside (NAC-R)
(g) NAC – Cambrian Rise (NAC-CR)

This Parking District also includes all properties with street frontage on the following major thoroughfares below to a maximum depth of 200-ft, with the exception of those properties subject to Part 3 - Institutional Parking Management Plans:

(a) North Avenue from Battery Park to Plattsburg Avenue
(b) Colchester Avenue
(c) Pearl Street
(d) North Winooski Avenue
(e) Riverside Avenue from N. Winooski Ave to Colchester Ave
(f) Battery Street
(g) Main Street
(h) Pine Street
(i) Saint Paul Street

With the exception of public parking provided in exchange for an Article 4 Development Bonus (*see Sec 4.4.1 (d) 5 A*), minimum on-site parking requirements permitted for any structure and/or use within this Parking District in effect prior to the adoption of this provision shall be hereby withdrawn in order to facilitate a more efficient allocation and management of existing parking resources and the development of land.

Commented [MT1]: Question from Joint Committee:

Does this depth make sense when considering properties such as Price Chopper plaza on Shelburne Road.

Commented [DEW2]: Kim - Does this work?

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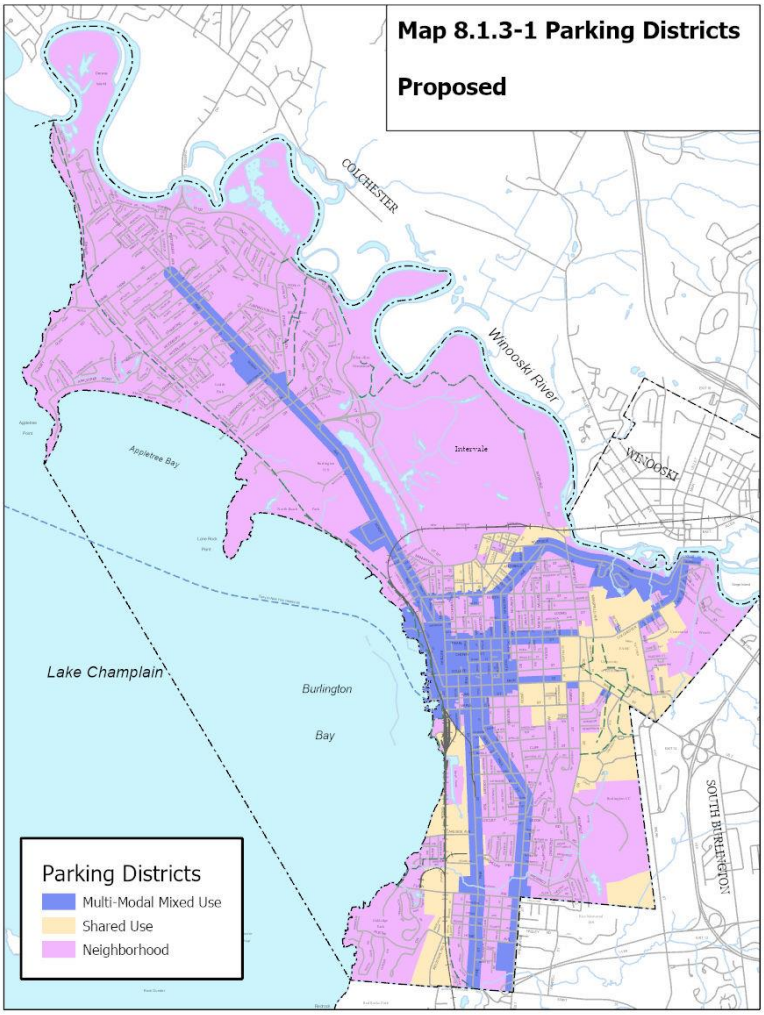
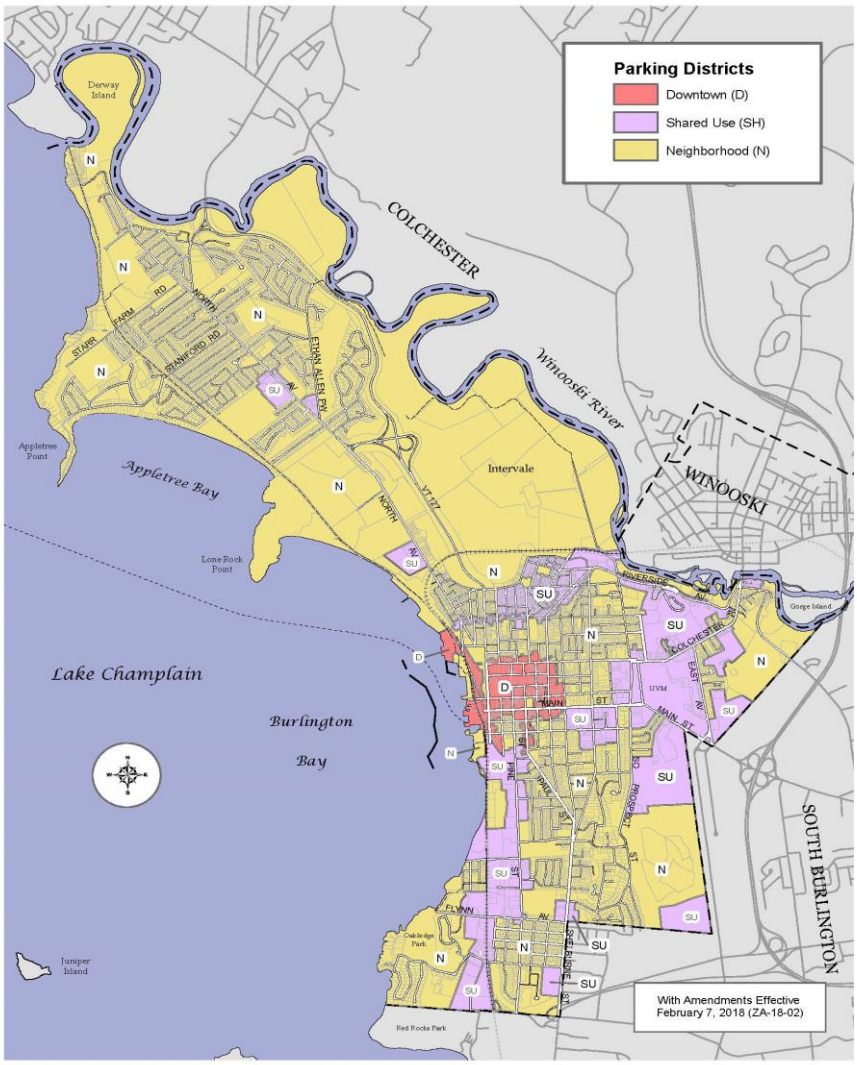


Commented [DEW3]: Need to refine the corridors so it doesn't capture lots that don't actually have frontage on them.

75



Commented [MT4]: Eliminate this map.

Map 8.1.3 -1 Parking Districts

Sec. 8.1.4 Existing Structures

Any structure or land use lawfully in existence prior to the adoption of this ordinance shall not be subject to the requirements of this Article as long as the kind or extent of

use is not changed, and provided further that any parking facilities now serving such structures shall not in the future be reduced below such requirements.

Sec. 8.1.5 Existing Structures - Change or Expansion of Use

Whenever there is an alteration or conversion of a structure or a change or expansion of a use which increases the parking requirements, the total additional parking requirements for the alteration, conversion, change, or expansion shall be provided in accordance with the requirements of this Article. A waiver may be requested pursuant to the provisions of Sec. 8.1.15.

Sec. 8.1.6 ~~Existing Structures:~~Affordable Housing and Historic Buildings Exemption ~~in Downtown District~~

~~Any nonresidential use within a structure lawfully in existence prior to January 1, 2007 in any Downtown Parking District shall be exempt from the requirements of this Article when applying for a change to any other nonresidential use.~~Regardless of location, the Minimum Off-Street Parking Requirements found under Sec. 8.1.8 below shall not apply to any of the following:

(a) The creation of permanently affordable inclusionary housing units satisfying the applicable provisions of Article 9 Part 1 - Inclusionary Housing (*see Sec. 9.1.10 Income Eligibility and Sec. 9.1.11 Calculating Rents and Selling Prices*);

(b) The adaptive reuse and/or substantial rehabilitation of a building listed on the State or National Register of Historic Places; and,

~~(a)~~(c) The creation of an Accessory Dwelling Unit subject to the provisions of Sec. 5.4.5.

Commented [DEW5]: No longer applicable

Commented [DEW6]: **all** permanently affordable units – an expansion of what was recently approved in IZ

Commented [DEW7]: Cross reference to the proposed in ADU amendment

Sec. 8.1.7 Non-conforming Residential Structure

Where additions or conversions to existing residential structures within a Neighborhood or Shared Use Parking District add living space but do not add dwelling units, and such sites do not currently meet the parking standards of Sec. 8.1.8, one (1) parking space shall be provided for each additional room. Single detached dwellings shall be exempt from this requirement.

Sec. 8.1.8 Minimum Off-Street Parking Requirements

A minimum number of off-street ~~P~~parking spaces for all uses and structures shall be provided in accordance with Table 8.1.8-1 below.

(a) Where no requirement is designated and the use is not comparable to any of the listed uses, parking requirements shall be determined by the DRB upon recommendation by the administrative officer based upon the capacity of the facility and its associated uses.

(b) When the calculation yields a fractional number of required spaces, the number of spaces shall be rounded to the nearest whole number.

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Table 8.1.8-1 Minimum Off-Street Parking Requirements

	Neighborhood Districts	Shared Use Districts	Multimodal Mixed-Use ~~Downtown~~ Districts
RESIDENTIAL USES	**Per Dwelling Unit except as noted**		
Multi-unit attached dwelling units, studio units or 1-bedroom dwelling unit.	2	1	~~1~~0
Single Family detached and Duplex	2	2	~~1~~0
RESIDENTIAL USES - SPECIAL	**Per Dwelling Unit except as noted**		
Assisted Living	0.5	0.5	~~0.4~~0
Bed and Breakfast (per room, in addition to single-family residence)	1	0.75	~~0.5~~0
Boarding House (per two (2) beds)	1	0.75	~~0.5~~0
Community House	1	0.75	~~0.5~~0
Convalescent Home (per four (4) beds)	1	1	~~1~~0
Dormitory (per two (2) beds)	1	1	~~1~~0
Emergency Shelter	0	0	0
Group Home (per two (2) beds)	1	1	~~1~~0
Historic Inn (per room, in addition to single-family residence)	1	0.75	~~0.5~~0
Sorority & Fraternity (per two (2) beds)	1	1	~~1~~0
NON-RESIDENTIAL USES	**Per 1,000 square feet of gross floor area (gfa) except as noted**		
Adult Day Care (per two (2) employees)	1	1	~~1~~0
Agricultural Use	~~None~~0	~~None~~0	~~None~~0
Amusement Arcade	2	1	0
Animal Boarding/Kennel/Shelter	2.5	1.5	~~1~~0
Animal Grooming (per grooming station)	1	1	0
Animal Hospitals/Veterinarian Office	3	2	~~1~~0
Appliance & Furniture Sales/Service	2.5	1	~~1~~0
Aquarium	1.3	1	~~1~~0
Art Gallery/Studio	3.3	2.5	~~1~~0
Auction Houses	3.3	2.5	~~1~~0
Automobile & Marine Parts Sales	2.5	1.5	~~1~~0

Commented [DEW8]: Added per expired ZA-19-03

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Table 8.1.8-1 Minimum Off-Street Parking Requirements

	Neighborhood Districts	**Shared Use Districts**	**Multimodal Mixed-Use ~~Downtown~~ Districts**
Automobile Body Shop	2 plus 1/bay	2 plus 1/bay	~~2 plus 1/bay~~0
Automobile Repair/Service	2 plus 1/bay	2 plus 1/bay	~~2 plus 1/bay~~0
Automobile Sales – New & Used	2	2	~~1~~0
Bakery	2.5	2.5	~~1~~0
Bank, Credit Union	2.5	2	~~1~~0
Bar/Tavern	4	3	~~None~~0
Beauty/Barber Shop (per station/chair)	1	1	~~None~~0
Bicycle Sales/Repair	2.5	1	~~None~~0
Billiard Parlor (per game table)	1	1	~~None~~0
Boat Repair/Service	2	2	~~1~~0
Boat Sales/Rental	2	2	~~1~~0
Boat Storage	3	2	~~1~~0
Bowling Alley (per lane)	3	2	~~1~~0
Building Material Sales	3.3	2.5	~~1~~0
Café (per four (4) seats)	1	~~None~~0	~~None~~0
Camp Ground (per camping space)	1	1	~~1~~0
Car Wash (stacking spaces per wash bay)	4	4	~~4~~0
Cemetery	~~None~~0	~~None~~0	~~None~~0
Cinema (per four (4) seats)	1	1	~~None~~0
Club, Membership	3.3	2.5	~~1~~0
Community Center	3.3	2.5	~~1~~0
Community Garden (per ten (10) plots)	1	1	~~None~~0
Conference Center	3	2	~~1~~0
Contractor Yard (per 1,000 gfa of office space)	2.5	2	~~2~~0
Convenience Store	3	2	~~1~~0
Convention Center	n/a	3	~~2~~0
Courthouse	n/a	3.3	~~2~~0
Crematory (per FTE employee)	1	1	~~1~~0
Crisis Counseling Center	4	3	~~1~~0
Daycare - Home (6 children or less)	~~None~~0	~~None~~0	~~1 drop-off~~0

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Table 8.1.8-1 Minimum Off-Street Parking Requirements

	Neighborhood Districts	**Shared Use Districts**	**Multimodal Mixed-Use ~~Downtown~~ Districts**
Daycare - Large (Over 20 children) (per two (2) employees)	1 plus 1 drop-off per 5 children	1 plus 1 drop-off per 5 children	~~2 drop-off~~0
Daycare - Small (20 children or less) (per two (2) employees)	1 plus 1 drop-off per 5 children	1 plus 1 drop-off per 5 children	~~1~~0
Dental Lab	2	1	~~None~~0
Distribution Center (per 3,000 gfa)	1	0.75	~~0.75~~0
Dry Cleaning Plant	1.3	1	~~1~~0
Dry Cleaning Service	2.5	2	~~2~~0
Film Studio	3.3	2.5	~~1~~0
Fire Station (per apparatus)	2	2	~~1~~0
Food & Beverage Processing	1.3, plus 3 per 1,000 gfa devoted to patron use	1, plus 2 per 1,000 gfa devoted to patron use	~~1~~0
Fuel Service Station (per employee/shift)	1	1	~~1~~0
Funeral Home (per four (4) seats)	1	1	~~1~~0
Garden Supply Store (per 1,000 gfa of retail area.)	3	2	~~1~~0
General Merchandise/Retail	3	2	~~None~~0
Grocery Store	3	2	~~None~~0
Hazardous Waste Collection/Disposal (per two (2) employees on the largest shift)	1	1	~~n/a~~0
Health Club	3	2	~~1~~0
Health Studio	2	1	~~None~~0
Hospitals (per patient bed)	2	2	~~2~~0
Hostel (per two (2) beds)	0.5	0.5	~~None~~0
Hotel/Motel (per room)	1	0.75	~~0.75~~0
Laundromats (per washing machine)	1	1	~~None~~0
Library	1.3	1	~~None~~0
Lumber Yard (per 1,000 gfa of retail area.)	3	2	~~1~~0
Manufacturing-Light	1.3, plus 3 per 1,000 gfa devoted to patron use.	1.3, plus 2 per 1,000 gfa devoted to patron use.	~~1~~0

Commented [DEW9]: Added per expired ZA-19-03

Commented [DEW10]: Added per expired ZA-19-03

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Table 8.1.8-1 Minimum Off-Street Parking Requirements

	Neighborhood Districts	**Shared Use Districts**	**Multimodal Mixed-Use ~~Downtown~~ Districts**
Manufacturing	1.3, plus 3 per 1,000 gfa devoted to patron use.	1.3, plus 2 per 1,000 gfa devoted to patron use.	~~1~~0
Marina (per berth)	0.5	0.5	~~0.5~~0
Medical Lab	2	1	~~None~~0
Museum	1.3	1	~~1~~0
Office - General	2	2	~~2~~0
Office - Medical, Dental	3	2	~~1~~0
Office – Technical	2	2	~~2~~0
Open Air Markets	~~None~~0	~~None~~0	~~None~~0
Operations Center - Taxi (per three (3) employees)	1	1	~~1~~0
Operations Center - Truck/Bus (per 3,000 gfa)	1	0.75	~~0.75~~0
Park (per playing area)	5	~~None~~0	~~None~~0
Parking Garage – Private	~~None~~0	~~None~~0	~~None~~0
Parking Lot – Private	~~None~~0	~~None~~0	~~None~~0
Performing Arts Center (per four (4) seats)	1	1	~~None~~0
Performing Arts Studio	1	~~None~~0	~~None~~0
Pet Store	2.5	1	~~None~~0
Pharmacy	3	2	~~1~~0
Photo Studio	2.5	1	~~None~~0
Photography Lab	1	1	~~None~~0
Police Station	2.5	2	~~2~~0
Post Office	1.3	1	~~1~~0
Post Office - Local	2	2	~~None~~0
Printing Plant	1.3	1	~~1~~0
Printing Shop	2	2	~~None~~0
Public Transit Terminal	1 per 200 gfa of public waiting space	1 per 200 gfa of public waiting space	~~None~~0
Public Works Yard/Garage	~~None~~0	~~None~~0	~~None~~0
Radio & TV Studio	2	2	~~2~~0
Rail Equip. Storage & Repair	~~None~~0	~~None~~0	~~None~~0

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Table 8.1.8-1 Minimum Off-Street Parking Requirements

	Neighborhood Districts	**Shared Use Districts**	**Multimodal Mixed-Use ~~Downtown~~ Districts**
Recording Studio	1.3	1	~~1~~0
Recreational Facility - Indoor (per four (4) seats)	1	1	~~0.5~~0
Recreational Facility - Outdoor (per playing field)	15	10	~~None~~0
Recreational Facility - Outdoor Commercial	Larger of 1 per 4 seats or 15 per playing field	Larger of 1 per 4 seats or 10 per playing field	~~1 per 6 seats~~0
Recreational Vehicle Sales – New and Used	2	2	~~1~~0
Recycling Center - Large above 2,000 gfa	~~None~~0	~~None~~0	~~None~~0
Recycling Center - Small 2,000 gfa or less	~~None~~0	~~None~~0	~~None~~0
Research Lab	2.5	2	~~2~~0
Restaurant	4	3	~~None~~0
Restaurant – Take-Out	4	3	~~None~~0
Salon/Spa	4	4	~~2~~0
School - Secondary (per Classroom)	7	5	~~2~~0
School - Primary (per Classroom)	1.5	1.5	~~1.5~~0
School – Preschool Large (over 20 children) (per two (2) employees	1 plus 1 drop-off per 5 children	1 plus 1 drop-off per 5 children	~~1 plus 1 per 5 children~~0
School – Preschool Small (up to 20 children) (per two (2) employees	1 plus 1 drop-off per 5 children	1 plus 1 drop-off per 5 children	~~1~~0
School - Trade/Professional	5	3	~~1~~0
School, - Post-Secondary	2	2	~~2~~0
Solid Waste Facility - Incinerator, Landfill, Transfer Station	~~None~~0	~~None~~0	~~None~~0
Tailor Shop	2	1	~~None~~0
Vehicle Salvage	~~None~~0	~~None~~0	~~None~~0
Warehouse	0.5	0.35	~~0.35~~0
Warehouse - Self Storage Facility	1 per resident manager, plus 1 per 100 leasable storage spaces	1 per resident manager, plus 1 per 100 leasable storage spaces	~~1 per resident manager, plus 1 per 100 leasable storage spaces~~0
Warehouse - Retail	3.3	2.5	~~2.5~~0

Commented [DEW11]: Added per expired ZA-19-03

Commented [DEW12]: Added per expired ZA-19-03

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Table 8.1.8-1 Minimum Off-Street Parking Requirements			
	Neighborhood Districts	**Shared Use Districts**	**Multimodal Mixed-Use ~~Downtown~~ Districts**
Wholesale Sales	1.3	1	~~1~~0
Worship, Place of (per four (4) seats)	1	1	~~1~~0

Sec. 8.1.9 Maximum On-Site Parking Spaces

The total number of off-street parking spaces provided in all parking districts shall not be more than ~~125% of the minimum number of spaces required for the Neighborhood Parking District for any given use~~ as required in Table 8.1.~~8~~9-1 below. ~~In no case shall the maximum number of required spaces be less than one (1) per unit of measurement (beds, units, 1000 gross sqft, etc.) for the use.~~

Table 8.1.9-1 Maximum Off-Street Parking Requirements		
Neighborhood Districts	**Shared Use Districts**	**Multimodal Mixed-Use District**
125% of the minimum number of spaces required for the Neighborhood Parking District for any given use as required in Table 8.1.8-1	100% of the minimum number of spaces required for the Neighborhood Parking District for any given use as required in Table 8.1.8-1	100% of the minimum number of spaces required for the Shared Parking District for any given use as required in Table 8.1.8-1

(a) **Exemptions**: The following shall ~~reduce~~ not be included in the maximum number of allowable spaces required by this section:

1. Structured Parking: Spaces provided within the footprint of a structure containing one or more other uses, including rooftop, at-grade, or below grade spaces shall not be counted towards the maximum, provided the floor area dedicated to parking is less than 50% of the total gross floor area of the structure;

2. Public Parking: Spaces provided and available for use by the public shall not be counted towards the maximum. Such spaces shall be available to the public at a minimum of nights and weekends, and be signed or marked accordingly;

3. Carpool, Vanpool, and Car-Share Parking: Spaces dedicated for vehicles participating in a carpool, vanpool, or car-share program shall not be counted towards the maximum. Such spaces shall be reserved for such use, and be signed or marked accordingly; and,

4. Alternative Fueled Vehicle Parking. Parking spaces dedicated for vehicles operating on primarily alternative fuels including but not limited to electric, natural gas, and hydrogen shall not be counted towards the maximum. Such spaces shall

Commented [MT13]:

Example of how the min/max works:

Today, a 5,000 sq.ft. Tavern is located in the Shared Use Parking District.

It would be required to have 3 parking spaces per 1,000 sq.ft. at minimum, or at least 15 spaces. Its maximum allowed parking spaces would be 125% of the Neighborhood District requirement of 4 spaces/1,000 sq.ft, or 25 spaces.

Under the proposed changes to the Max Parking table, the new maximum allowed is only 100% of what is required in the Neighborhood Parking District, or 20 spaces (so, 5 fewer).

Alternatively, if that same Tavern were to be located in the Multi-modal Mixed Use District under this proposed ordinance amendment, it would have no minimum requirement to provide parking spaces, and the maximum would be limited to what is required in the Shared Use District- or 15 spaces.

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be reserved for such use, and be signed and/or the space painted with the words "Alternative Fueled Vehicles Only."

5. Waiver of Maximum Parking Limitations. Parking in excess of the maximum parking limitation of this section may be waived by the DRB pursuant to the provisions of Sec 8.1.15 with the following additional requirements:

A. The applicant requesting the waiver shall also provide:

(i) a peak demand parking study for two similar uses in the area; and,

(ii) a TDM Plan pursuant to the requirements of Sec. 8.1.16

B. The following additional review criteria shall be addressed regarding how:

(i) The need for additional parking cannot reasonably be met through provision of on-street parking or shared parking with adjacent or nearby uses;

(ii) The proposed development demonstrates that its design and intended uses will continue to support high levels of existing or planned transit and pedestrian activity; and,

(iii) The site plan indicates where additional parking can be redeveloped to a more intensive transit supportive use in the future.

Sec. 8.1.10 Off-Street Loading Requirements.

Outside of the ~~Downtown~~ Multimodal Mixed-Use Parking District, every structure constructed after the effective date of this ordinance and used for non-residential use shall provide sufficient space for the unloading and loading of vehicles. The adequacy of any proposed loading areas shall be considered as part of the site plan and traffic circulation review. Such loading areas shall have access to a public alley or a public street in such a way to minimize conflicts with the circulation of other vehicles and pedestrians, be screened from public view, and provide safe and effective access to the city's street network.

Sec. 8.1.11 Parking Dimensional Requirements

The following standards in Table 8.1.11-1 below shall be used to ensure safe, adequate, and convenient access and circulation. These standards shall be adhered to except in situations where a lesser standard is deemed necessary by the DRB after consultation with the city engineer due to site topography, location of existing or proposed structures, lot configuration, and/or the need to preserve pervious lot coverage for on-site stormwater management, existing trees, and mature vegetation.

Mechanical access parking shall be exempt from the dimensional requirements of this section.

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Table 8.1.11-1 Minimum Parking Dimensions

~~Angle of~~ Parking Space Type	Space Width (A) ~~of Space~~	Space Length (B) ~~of Space~~	Vertical Clearance (C) (Stall and Aisle)	~~Width of Angled Space~~	~~Length of Angled Space~~	~~Minimum Back Up Length~~
Standard ~~Cars~~						
Parallel ~~Parking~~	8~~9~~.0’	~~22~~18.0’	7.5’	-	-	-
45° Angle[2]	9.0’[1]	~~20~~18.0’	7.5’	~~12.7’~~	~~20.5’~~	~~15.0’~~
60° Angle[2]	9.0’[1]	~~20~~18.0’	7.5’	~~10.4’~~	~~21.8’~~	~~18.0’~~
90° Angle[2]	9.0’[1]	~~20~~18.0’	7.5’	~~9.0’~~	~~20.0’~~	~~24.0’~~
Compact[3] ~~Cars~~	Compact spaces must be clearly identified with pavement marking and signage.					
Parallel ~~Parking~~	~~8.0~~7.5’	~~20~~15.0’	6.8’	-	-	-
45° Angle[2]	8.0’	~~18~~16.0’	6.8’	~~11.2’~~	~~18.3’~~	~~13.0’~~
60° Angle[2]	8.0’	~~18~~16.0’	6.8’	~~9.2’~~	~~19.8’~~	~~15.0’~~
90° Angle[2]	8.0’	~~18~~16.0’	6.8’	~~8.0’~~	~~18.0’~~	~~20.0’~~
Tandem	9.0’	36’	7.5’			
Scooter/Motorcycle	4’	8.0’	6.8’			
Aisle Width (C)						
Aisle width (one-way)	~~10’~~12’ 14’ for 60° angled spaces 90° angled spaces not permitted		7.5’			
Aisle width (two-way)	20’ 23’ for 90° angled spaces		7.5’			

[1] The minimum stall width may be reduced to 8.5’ for spaces dedicated to residential uses.

[2] Angled spaces may be either head-in or back-in.

[3] The overall proportion of compact spaces may not exceed 50%.

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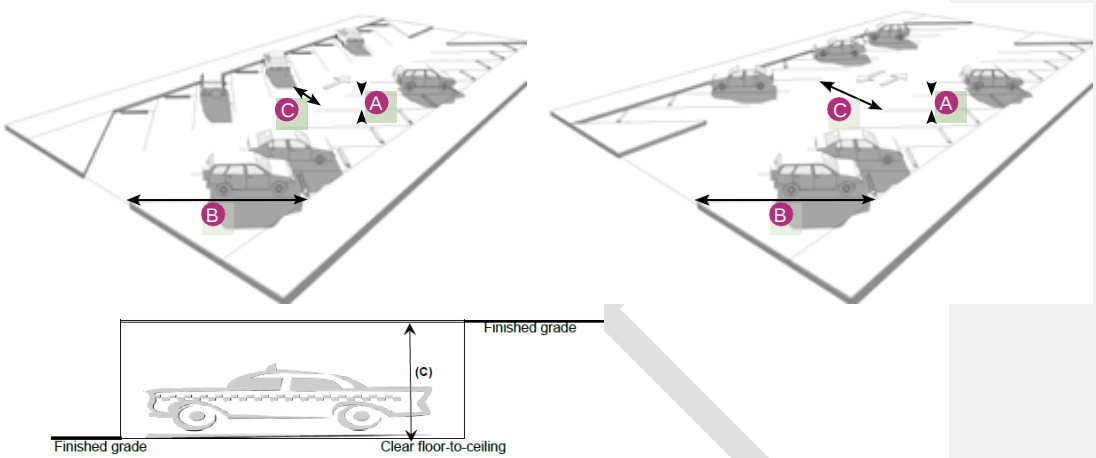


Illustration 8.1.11-A - Parking Dimensions

Sec. 8.1.12 Limitations, Location, Use of Facilities

(a) Off-Site parking facilities:

Except for single and two-family dwellings, required parking facilities may be located on another parcel of land. The off-site parking area shall be within the same zoning districte as the use it serves or ~~is~~ in a zoninge district that allows parking lots or parking garages as ~~primary~~ Principal uses. Parking that serves any use located outside a residential zoninge district shall not be located within a residential zoneing district. ~~Off-site parking spaces shall be subject to the site plan design standards of Article 6: Part 2. The maximum parking limitations of Section 8.1.9 apply.~~ Off-site parking facilities shall be as follows:

Commented [DEW14]: redundant

1. Neighborhood Parking District: No more than 50% of the total required off-street parking from Table 8.1.8-1 shall be provided at a distance greater than 600 feet from the use it is intended to serve. ~~For residential uses, a minimum of 1 space per unit shall be provided on-site.~~

2. ~~Downtown and~~ Shared Uuse Parking Districts: Any off-site parking shall be provided within 1,000 feet of the use it is intended to serve unless such parking is provided as part of a Parking Management Plan pursuant to Sec. 8.1.15 approved by the DRB.

3. The distance from the off-site parking to the associated use shall be measured in walking distance along a sidewalk or other pedestrian path separated from street traffic from the nearest parking space to the principle pedestrian entrance to the building housing the use. Such off-site parking shall not reduce the required parking for any other use utilizing the property on which it is located

unless such shared use is approved by the development review board per Sec. 8.1.15 (b). The right to use the off-site parking to meet the minimum parking requirements of Sec. 8.1.8 must be guaranteed for the duration of the use as evidenced by a deed, ~~or~~ easement lease, or similar written instrument as approved by the City Attorney and recorded in the Burlington land records. ~~Use of off-site parking for parking spaces in excess of the minimum parking requirements of Sec. 8.1.8 may be secured by lease or similar written instrument.~~

~~(b) Downtown Street Level Setback:~~

~~In order to maintain an active streetscape, any off-street parking occupying street level frontage in the Downtown Parking District shall be setback from the front property line in order to reserve street-level frontage for pedestrian-oriented uses.~~

Commented [DEW15]: Superseded by Article 14- the downtown form based code.

(c) Front Yard Parking Restricted:

Required parking in all residential zoning districts shall not be located in a required front yard setback area abutting a public street, except alleys. This prohibition extends from the edge of the public right-of-way into the required front yard setback for the entire width of the property with the exception of a single access drive no more than eighteen feet (18') or less in width. The provisions of this subsection shall not be applicable during such times as when the winter parking ban pursuant to Section 20-56 of the Code of Ordinances is in effect. Where parking is provided outside the front yard setback, but either partially or entirely between the principle structure and the street, such parking shall be screened to the extent practicable from view from the public street.

Commented [DEW16]: Will be subject to its own amendment at a later time (other part of expired ZA-19-03)

(d) Shared Parking ~~in Neighborhood Parking Districts~~:

In the event that a mix of uses occupy a single structure or parcel of land located in a Neighborhood or Shared Use Parking District, the total requirement for off-street parking shall be the sum for all individual uses unless it can be shown that the peak parking demands are offset and spaces can be shared (for example: retail and residential, or theater and office uses) as evidenced by a shared parking analysis utilizing current industry publications. ~~In such cases the parking required must at least meet the requirements for Shared Use Districts.~~

Commented [MT17]: Question from Joint Committee: Is this current practice? If not, is it the right standard to use? If it is, then perhaps need to name the "industry publication" that the City accepts.

(e) Single Story Structures in Shared Use Districts:

In the event that a single story structure is proposed to be located in a Shared Use District, the total requirements for off-street parking shall be calculated as for a Neighborhood Parking District. This provision does not apply to single story structures existing and occupied as of the effective date of this ordinance.

(f) Joint Use of Facilities:

The required parking for two (2) or more uses, structures, or parcels may be combined in a single parking facility if it can be shown by the applicant to the satisfaction of the DRB that the use of the joint facility does not materially overlap with other dedicated parking in such facility, and provided that the proposed use is

evidenced by a ~~irrevocable~~ deed, lease, contract, reciprocal easement, or similar written instrument establishing the joint use acceptable to the city attorney.

(g) Availability of Facilities:

Required parking pursuant to this Article shall be available for parking of operable passenger vehicles used by residents, customers and employees only, and shall not be used for the storage or display of vehicles or materials. The distribution of parking spaces for any and all individual uses will be required to be arranged in such a way as to ensure optimal access and use by the patrons of such use(s).

~~**(h) Compact Car Parking:**~~

~~Compact parking spaces may be used in parking structures or lots. Up to fifteen (15%) percent of the total parking spaces in a parking garage may be designated for compact cars. Such spaces shall be signed or the space painted with the words "Compact Car Only."~~

Commented [DEW18]: Replaced by footnote #4 in table 8.1.11-1

Sec. 8.1.13 Parking for Disabled Persons

Parking spaces for disabled persons shall comply with current the Americans with Disabilities Act guidelines and shall be at least eight feet (8') wide with an adjacent access aisle at least five feet (5') wide. Parking access aisles shall be part of an accessible route to the building or facility entrance. Accessible parking spaces shall be designated as reserved for the disabled by a sign showing the symbol of accessibility. Painting of the paved area for the dedicated parking spaces alone shall not be sufficient as the sole means of identifying these spaces.

Sec. 8.1.14 Stacked and Tandem Parking Restrictions

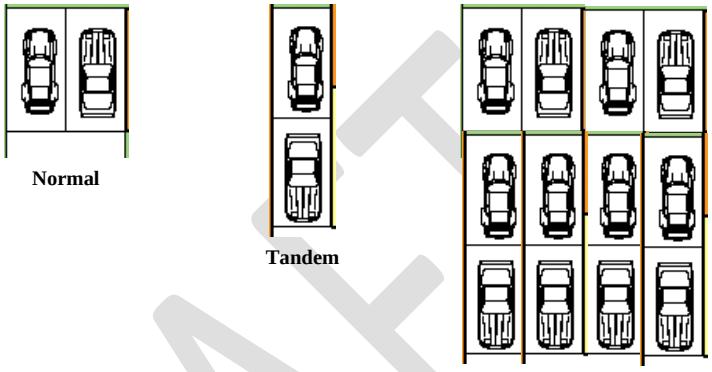
Except as otherwise provided below, all parking facilities shall be designed so that each motor vehicle may proceed to and from the parking space provided for it without the moving of any other motor vehicle. The requirements for minimum or maximum spaces continue to apply for stacked and Tandem parking.

(a) Stacked or valet parking may be allowed if an attendant is present to move vehicles. If stacked parking is used for required parking spaces, a written guarantee must be filed with the City ensuring that an attendant will always be present when the lot is in operation. ~~The requirements for minimum or maximum spaces continue to apply for stacked parking.~~

Commented [DEW19]: Note: ADU amendment removes this requirement for SF and ADU

(b) Tandem Parking ~~may~~ shall be allowed for all dwelling units (whether attached or detached). Each dwelling unit may have a pair of tandem parking spaces, however any pair of tandem parking spaces shall not serve more than one dwelling unit ~~single family detached dwelling units, accessory apartments, duplex dwelling units~~, ~~and~~ Tandem parking shall also be allowed for dedicated employee-only parking where signed as such. ~~In no case shall more than 4 parking spaces (2 pairs) in total be provided in tandem on any one lot.~~

Commented [DEW20]: Updated to be consistent with expired ZA-19-03



Sec. 8.1.15 Waivers from Parking Requirements/ Parking Management Plans

(a) Parking Waivers

The total number of parking spaces required pursuant to this Article may be reduced to the extent that the applicant can demonstrate that the proposed development can be adequately served by a more efficient approach that more effectively satisfies the intent of this Article and the goals of the municipal development plan to reduce dependence on the single-passenger automobile.

Any waiver granted for a residential use shall not exceed fifty percent (50%) of the required number of parking spaces ~~except for the adaptive reuse of a historic building pursuant to Sec. 5.4.8 which may be waived by as much as one hundred percent (100%)~~. Any waiver granted for a non-residential use may be as much as ninety percent (90%) ~~except that a waiver for ground floor retail uses in any Form or Mixed Use district may be as much as one hundred percent (100%)~~. Waivers shall only be granted by the DRB, or by the administrative officer pursuant to the provisions of Sec. 3.2.7 (a)7.

Commented [DEW21]: Superseded by new exemption

In order to be considered for a waiver, the applicant shall submit a Parking Management Plan that specifies why the parking requirements of Sec. 8.1.8 or Sec. 8.1.9 are not applicable or appropriate for the proposed development, and proposes an alternative

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that more effectively meets the intent of this Article. A Parking Management Plan shall include, but not be limited to:

(1) A calculation of the parking spaces required pursuant to Table 8.1.8-1, and Sec. 8.1.9 regarding parking maximums where applicable.

(2) A narrative that outlines how the proposed Parking Management Plan addresses the specific needs of the proposed development, and more effectively satisfies the intent of this Article and the goals of the Municipal Development Plan.

(3) An analysis of the anticipated parking demand for the proposed development. Such an analysis shall include, but is not limited to:

i. Information specifying the proposed number of employees, customers, visitors, clients, shifts, and deliveries;

ii. Anticipated parking demand by time of day and/or demand by use;

iii. Anticipated parking utilizing shared spaces or dual use based on a shared parking analysis utilizing current industry publications;

iv. Availability and frequency of public transit service within a distance of 800-feet.

v. A reduction in vehicle ownership in connection with housing occupancy, ownership, or type; and,

vi. Any other information established by the administrative officer as may be necessary to understand the current and project parking demand.

(4) Such a plan shall identify strategies that the applicant will use to reduce or manage the demand for parking into the future which may include but are not limited to:

i. A telecommuting program;

ii. Participation in a Transportation Management Association including methods to increase the use of mass transit, car pool, van pool, or non-auto modes of travel;

iii. Implementation of a car-share program;

iv. Development or use of a system using offsite parking and/or shuttles; and,

v. Implementation of public transit subscriptions for employees.

(5) An analysis and narrative pursuant to Sec. 8.1.9 regarding waivers of parking maximums where applicable

Prior to any approval by the DRB pursuant to this section, the means by which the Parking Management Plan will be guaranteed and enforceable over the long term, such as a contract, easement, or other means, and whether the city should be a party to the management contract or easement, shall be made acceptable to the city attorney.

(b) Shared Parking for Off-Site Use

Onsite parking spaces may be made available for use by off-site users subject to review and approval of a Parking Management Plan by the DRB.

~~The~~ A Parking Management Plan for Shared Parking for Off-Site Use must include the following:

1. A calculation of the parking spaces required pursuant to Table 8.1.8-1 and a calculation of those parking spaces to be shared for off-site parking use.
2. Information specifying the actual onsite demand for required parking by day, time of day, and by use and also information specifying when and how much parking would be made available to off-site users.
3. A narrative that outlines how the proposed Parking Management Plan will allow for shared use of required parking spaces with off-site users; how it will enable continued availability of required parking spaces pursuant to Table 8.1.8-1 while also affording off-site parking use of those spaces.

The Parking Management Plan must demonstrate to the satisfaction of the DRB that making spaces available to off-site users does not negatively affect their ability for onsite users to park due to either:

1. There being an excess of onsite spaces beyond that necessary to satisfy the requirements of Sec. 8.1.8; and/or,
2. The spaces are to be made available during off-peak hours of the onsite and/or required users.

Parking spaces being made available to off-site users may be made available:

- Either with or without a fee;
- For transient use by the general public; and/or,
- By lease, provided the term of any lease does not exceed one (1) year.

Prior to any approval by the DRB pursuant to this section, the means by which the Parking Management Plan will be guaranteed and enforceable over the long term, such as a contract, easement, or other means, and whether the city should be a party to the management contract or easement, shall be made acceptable to the city attorney.

Sec. 8.1.16 Transportation Demand Management

(a) **Purpose**: This section requires the implementation of Transportation Demand Management strategies for certain projects for the purpose of advancing the goals of the City's land use and transportation plans, and promoting public health, safety, welfare, and protection of the environment by:

- Reducing parking demand;
- Reducing vehicle miles traveled (VMT);
- Increasing transit use and non-motorized travel; and,
- Reducing car ownership

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(b) **Applicability:** Transportation Demand Management shall be required for certain development projects as follows:

a. all projects subject to Major Impact Review pursuant to Sec. 3.5.2 (b) and located in the Multimodal Mixed Use Parking District (see Sec. 8.1.3(c)); and,

b. All requests for a waiver from the requirements of Sec 8.1.8 Minimum Off-Street Parking Spaces or Sec 8.1.9 Maximum Off-Street Parking Spaces pursuant to Sec.8.1.15 Waivers from Parking Requirements/ Parking Management Plans

(c) **TDM Requirements**: Transportation Demand Management shall include each of the following elements:

a. Outreach and Education:

i. Designation of a Transportation Coordinator who directly or indirectly shall be responsible for each of the following:

1. Prepare and present informational and educational materials regarding available TDM strategies to all tenants and employees;

2. Organize and host an annual meeting for all tenants and employees to present and discuss available TDM strategies, and opportunities for increased use and participation;

3. Record-keeping of all TDM strategies and participation rates by offering (and parking utilization if applicable);

4. Preparation and dissemination of an annual travel survey of all tenants and employees; and,

5. Annual reporting to City of all TDM activities and rates of participation (and parking utilization if applicable) to validate continued compliance with the provisions of this Section

b. TDM Strategies: The following TDM strategies shall be made available at a minimum:

i. A "Guaranteed Ride Home" offered to all employees;

ii. GMT Transit passes offered to all tenants and employees at a minimum subsidy of 20% as follows:

1. Tenants and/or employees living or working outside Chittenden County must be offered a pass that includes access to inter-regional commuter routes;

2. Tenants and/or employees living and working within Chittenden County may be offered a pass that includes access to local and intra-regional as applicable; and,

iii. Where on-site parking is also made available:

Commented [DEW22]: Does not apply to affordable housing and Historic properties adaptive re-use exempted projects

Commented [MT23]: This list is not meant to be comprehensive of all strategies that a property/owner *may* employ, but rather to indicate what is *required* at minimum.

Commented [DEW24]: Joint committee indicated that this should be defined. Will need to include something overarching that doesn't prescribe how the program works, such as:

A program that benefits bus riders, bikers, walkers, vanpoolers, and carpoolers who may face an occasional unforeseen change of plans that prevents them using their typical mode of travel to and from work. In such cases participants are typically reimbursed for the cost of a taxi or ride-share thus giving them the peace-of-mind that they can always get where they need to go.

Further, Joint Committee asked who is responsible for these requirements in the case of commercial leases.

Commented [MT25]: May need to clarify that this applies to those using transit.

Commented [DEW26]: FYI, Current GMT pass rates:

LINK Express - $150/mo
Local Commuter - $75/mo
Local Route - $40/mo

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1. Conduct parking utilization studies at least annually;
2. The cost of parking shall be un-bundled from all residential and non-residential leases and deeds - permanently affordable housing units are exempt;
3. Where parking spaces are made available to off-site users parking spaces may be made available by lease, provided the term of any renewable lease does not exceed one (1) year; and,
4. Priority parking spaces shall be made available for:
    a. Handicapped spaces;
    b. Bicycles, scooters, and motorcycles spaces;
    c. Car-share where 1 space must be offered for every 20 residential units not to exceed 5 spaces subject to an agreement with a car-share provider; and,
    d. Carpool and/or Vanpool vehicles where there are more than 20 parking spaces on the site available for non-residential uses. In such cases, 5 spaces or 5% of the parking spaces on site, whichever is less, must be reserved for carpool use before 9:00 AM on weekdays.

c. TDM Agreement:
    i. Commitment to ongoing implementation of the TDM requirements as set forth above;
    ii. Acknowledgement that the project has no claim to the ongoing availability of nearby on-street public parking, and that the City retains the right to charge for or remove such on-street parking at any time;
    iii. Acknowledgement that failure to maintain transportation demand management as required above is a violation of this ordinance, and understanding that, pursuant to Sec. 2.7.8 of this ordinance, no zoning permit or certificate of occupancy may be granted until any such violation has been remedied; and,
    iv. Commitment to notify any subsequent owners and tenants in writing of their obligations under this section as part of any purchase and sale and/or lease agreements.

(d) **Review and Enforcement:** The Administrative Officer shall be responsible for determining compliance with the TDM requirements set forth above, and ongoing implementation shall be included as a condition of any discretionary or administrative permit required for development subject to the conditions of this Section.

Commented [MT27]: Joint Committee recommended removing another item that was here that would have limited permits to 1-month duration. There was a concern about forcing a relationship between landlords and employees for commercial tenants.

Commented [DEW28]: A 2010 US survey found that each carshare vehicle reduced 9 to 13 personal vehicles.

There are typically 10-20 members per vehicle

Commented [DEW29]: Understanding the provider could decline the offer (for larger project in particular)

Commented [DEW30]: Joint Committee had a mixed response to this idea. Some felt it was simply a way to ensure acknowledgement that street parking conditions can change, while others felt that it seemed to suggest that there is otherwise a right to utilize street parking that doesn't exist.

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Guidelines regarding compliance with these TDM requirements shall be developed and provided to applicants by the Administrative Officer.

Failure to maintain transportation demand management as required above shall be a violation of this ordinance, and pursuant to Sec. 2.7.8 of this ordinance no zoning permit or certificate of occupancy may be granted without an approved TDM plan in effect.

The remainder of this Article is unchanged:

- *Part 2 – Bicycle Parking*
- *Part 3 – Institutional Parking Plans*

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December 5, 2019 *Submitted electronically*

Dear Members of the Burlington Planning Commission and City Council Ordinance Committee:

We are writing on behalf of AARP Vermont, the Burlington Business Association (BBA), HomeShare Vermont and our membership to urge your joint committee to move forward with ordinance changes that will encourage the development of Accessory Dwelling Units (ADUs) in the city.

AARP, BBA and HomeShare have long supported the city's efforts to increase affordable housing options in Burlington, especially for our aging population. The cost and availability of housing matters for the city's economy and is critical to its future. Specifically, it affects the ability of businesses to hire and retain qualified workers, in turn influencing decisions about whether to locate, expand, or remain in Vermont. Once a certain type of housing is built, especially single- family homes, it becomes extremely difficult to add new types of housing to existing neighborhoods. We believe that ADUs can create additional housing in the lowest density areas of the city and have a minimal design impact on neighborhood character. For the homeowner, an ADU provides a flexible living arrangement to meet the needs of multi-generational families including older adults interested in aging in place. For some established community members, it may be the key factor in allowing them to stay in Burlington.

We urge the Planning Commission to update the City's zoning in order to encourage the creation of ADUs throughout the city, which will support homeowners as they age in place, provide flexible options to help owners afford and better utilize available space within their homes, and provide additional affordable housing options within existing neighborhoods. Specifically:

- enable ADUs as a permitted use in all zoning districts,
- limit code requirements which would add cost to the construction of ADU's,
- create an alternative maximum unit size and lot coverage waiver process, and
- eliminate the parking requirement and limitation on stacked parking.

Momentum to move forward on improvements to the ADU ordinance is building in Burlington, and time is of the essence. The Commission and the Ordinance Committee should move forward with a proposal to make it easier to build ADUs by recommending these zoning changes to the City Council.

Sincerely,

Kelly Stoddard Poor
Associate State Director, AARP VT

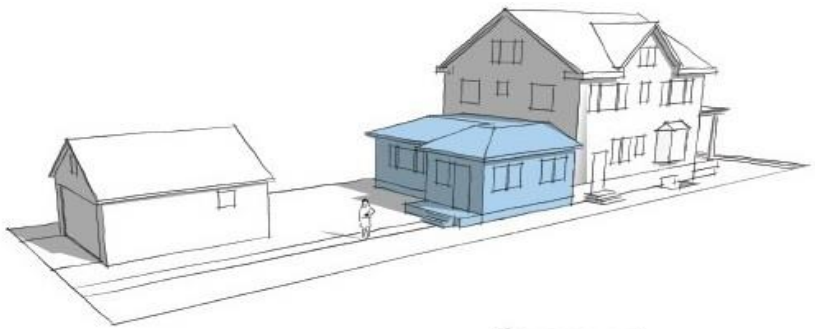
Kelly Devine
Executive Director, BBA

Kirby Dunn
Executive Director
HomeShare Vermont

BTV HOUSING SUMMIT

www.burlingtonvt.gov/btv-housing-policy

Accessory Dwelling Units



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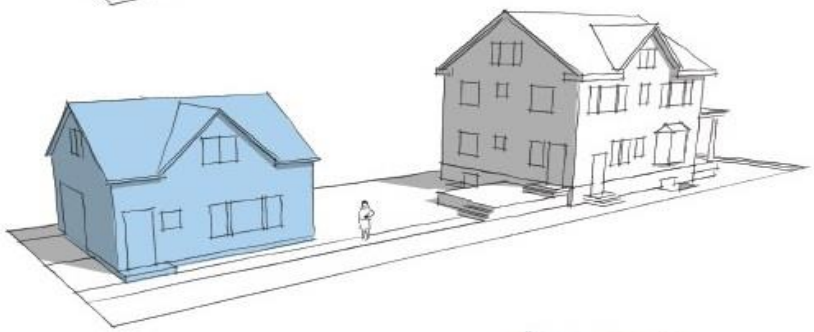

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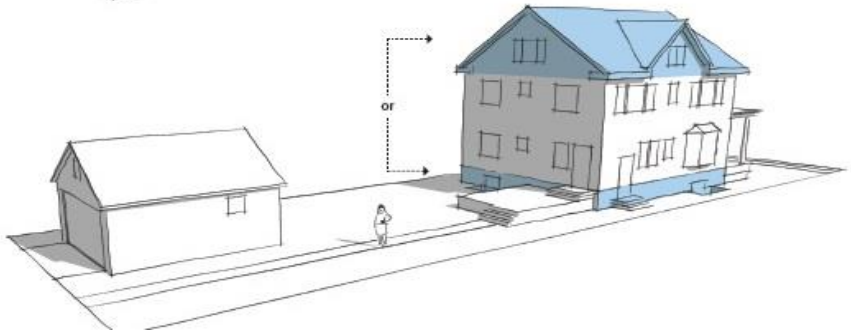
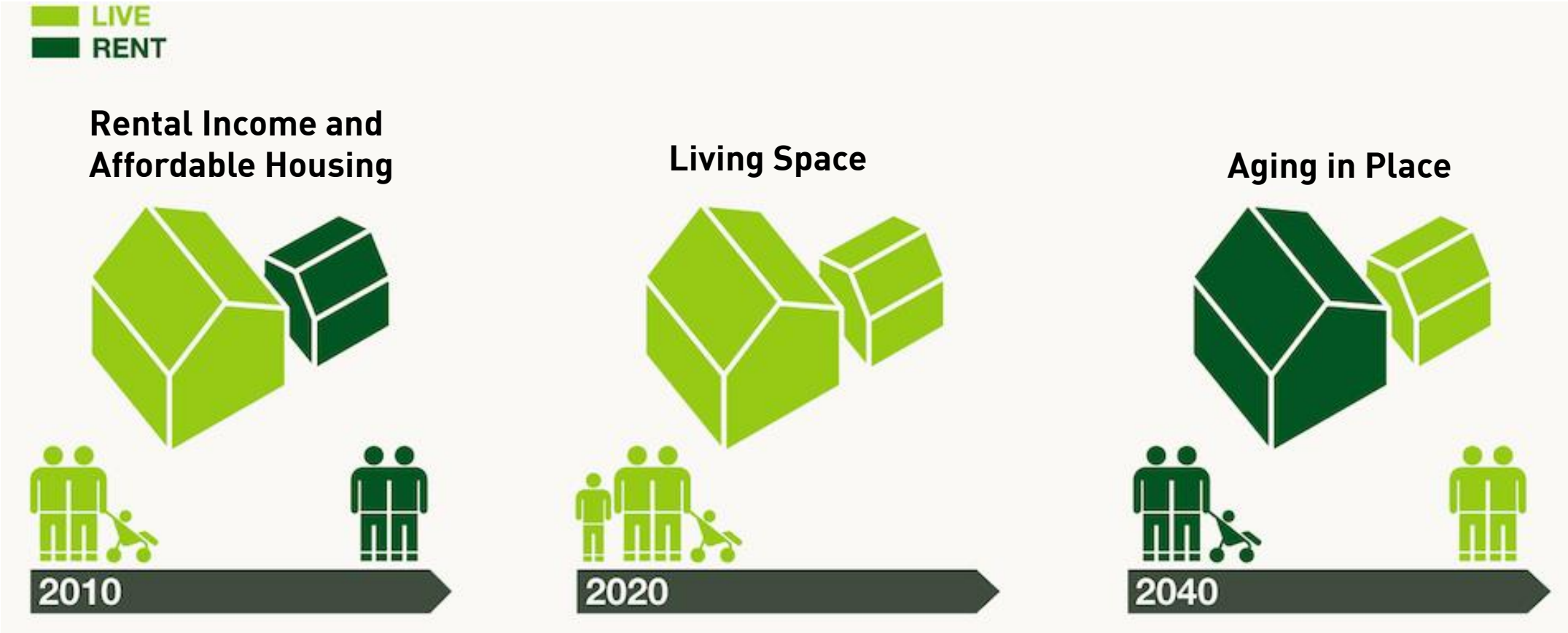


Internal Conversion

http://www.startribune.com/right-to-build-accessory-dwelling-heads-to-minneapolis-council/282303781/

Accessory Dwelling Units

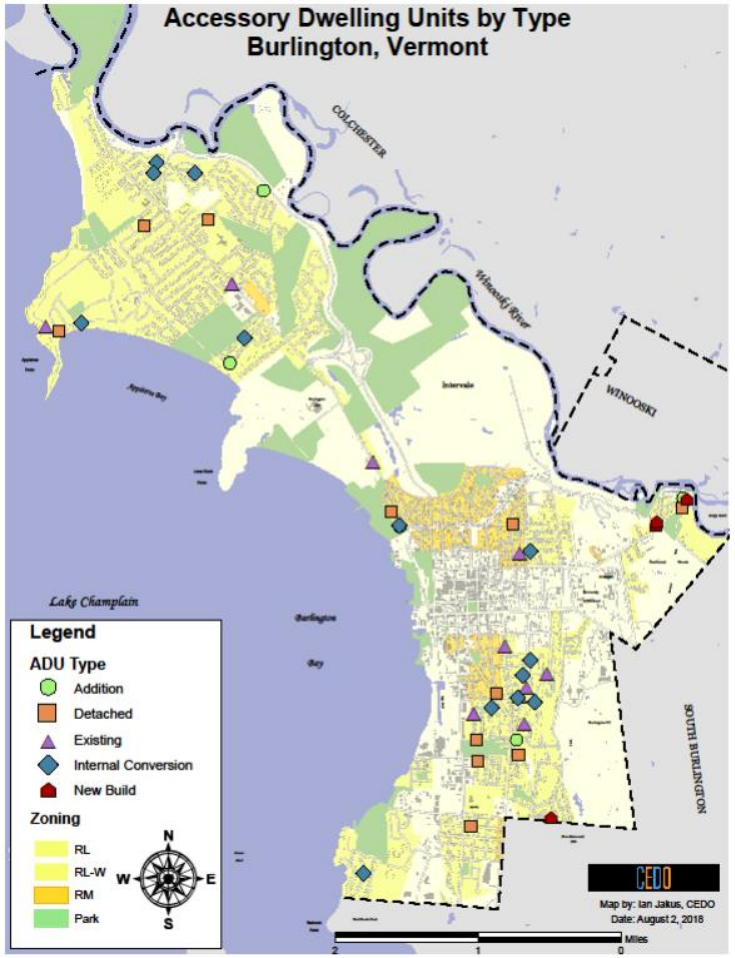


Source: https://hammerandhand.com/

Review of ADU's in BTV 2018

Directed by the Housing Action Plan, and approved by Council's CDNR in Feb 2019, the report:

- Reviewed benefits, impacts, and best practices for ADU's nationally
- Analyzed ADU development in Burlington (location & type of ADU's built, owner survey results)
- Made recommendations for regulatory and non-regulatory approaches to encourage ADU's



Find the report online at www.burlingtonvt.gov/cedo/adu

Housing Summit 2019

Continuation of ADU Report-We Heard:

- Reconsider approaches to lot coverage, ADU size, and parking requirements
- Make permitting for ADU's simpler
- Encourage ADU's that offer affordable housing options, discourage use exclusively for Short Term Rentals

Proposed Policy Reform Framework

- ADU's allowed in conjunction with single-family home in all zoning districts
- Streamline permitting: creating an ADU no longer a primary reason for a project to go to DRB (only if other DRB review criteria triggered)
- No parking space required for an ADU, allow stacked parking for ADU's
- Increase max ADU size: 30% of gross floor area of primary home, or 800 sq.ft., whichever is greater
- Up to 650 sq.ft. of lot area exempt from lot coverage limit if stormwater impacts are mitigated

Non-Regulatory Initiatives

ADU Initiatives advancing outside of Zoning Reform efforts:

- **In partnership with Homeshare Vermont, CEDO working on an ADU technical assistance pilot program funded by State Housing Bond**

  Has offered City insights to real site conditions, barriers, opportunities for reforms

- **ADU FAQ's on CEDO, P&Z and partners' websites; CEDO working to develop an ADU "how-to" resource guide for property owners wishing to build an ADU**

- **Partners providing access to national resources, and local education/ resources to their members (largely through Homeshare, AARP, BBA)**

Joint Committee Discussion Topics

The Committee and public shared the following questions/issues for discussion:

- **Affordability of building an ADU (relates to decisions about all of the issues below)**

  Specifically, how to make them more affordable for owners to build?

- **Building, Fire, Trades Code Requirements for ADUs- owners' experiences**

  What standards are applied, and why, and how do we make sure that owners are not surprised by them?

- **Maximum Size limit for an ADU**

  How did we arrive at 800 sq.ft. as the max size, and is this the right limit?

- **Parking Requirement**

  Do we eliminate the requirement vs. provide greater flexibility for to accommodate on-site parking?

- **Potential Lot Coverage Waiver**

  Could this be addressed through a bonus approach, how does this compare to what we allow for other types of impervious surface?

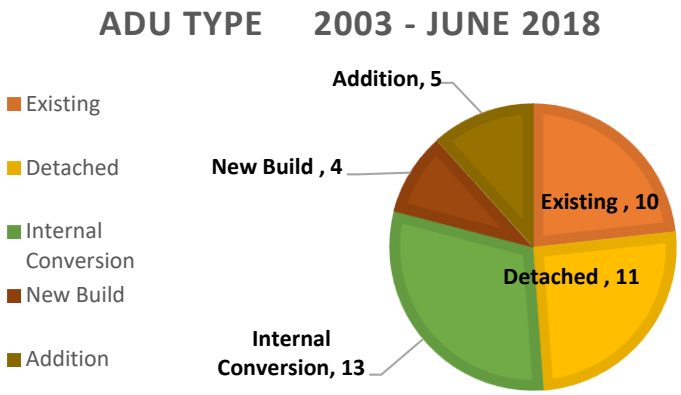
ADU's Built in BTV To-Date

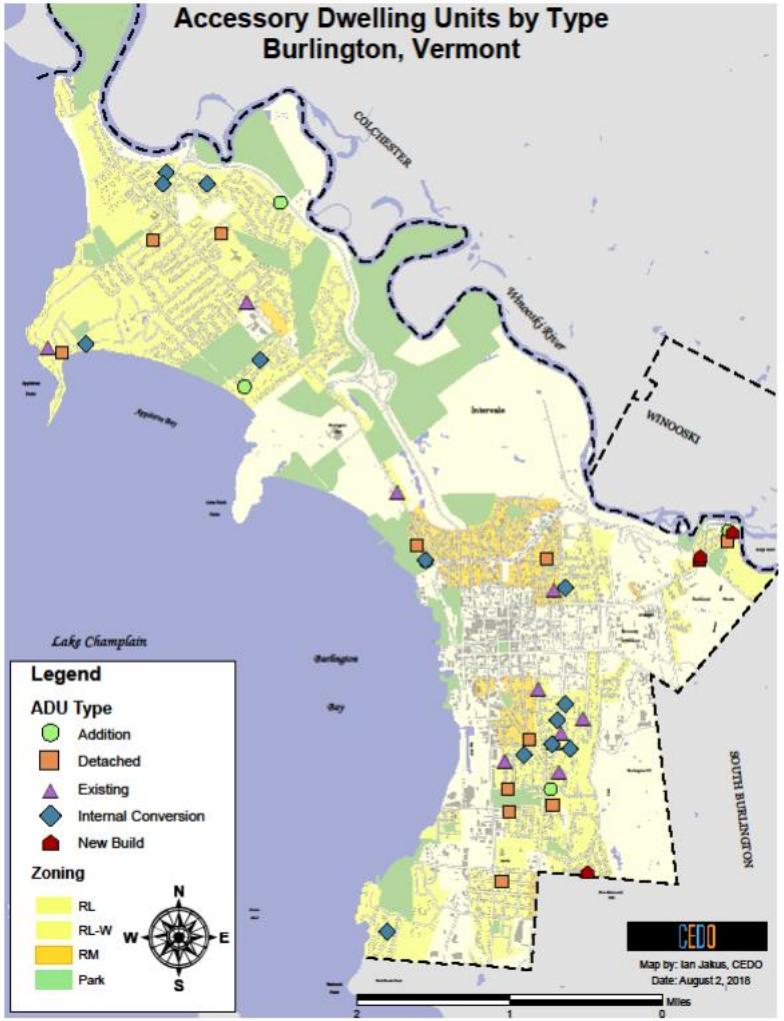
ADU Stats from the *ADU's in Burlington* White Paper:

- About 50 have been built since 2008

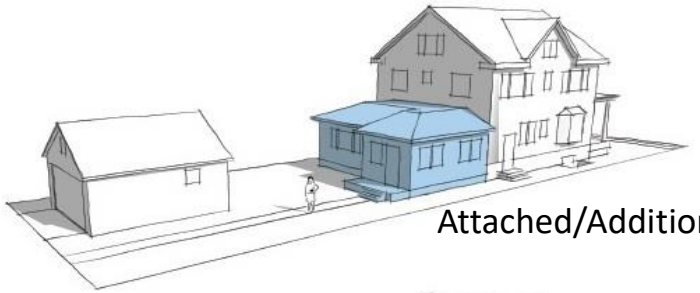
- Range from 294 sq.ft. to 1,500 sq.ft
- 80% are smaller than 800sq.ft.

- Cost to construct range from $3,000 to $150,000
  Median cost $40,000
  75% less than $100,000

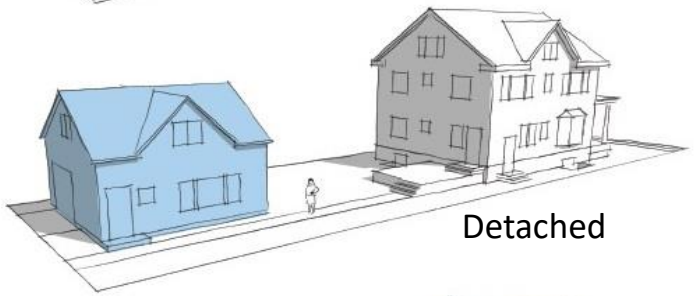




ADU Types Built in BTV To-Date



Attached/Addition



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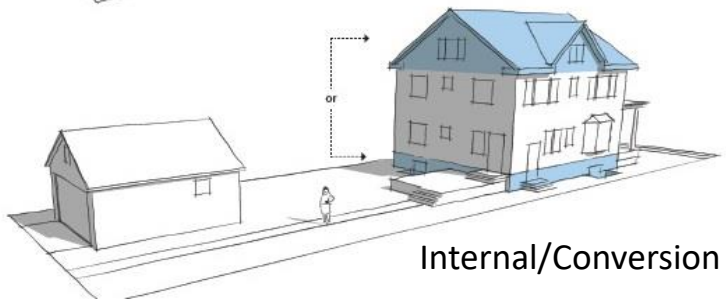

Internal/Conversion

Cost to Build an ADU

From New Hampshire Housing Finance Agency's ADU Guide:

Discussing Kol Peterson's *Backyard Revolution, the guide notes:*

> "small isn't necessarily inexpensive. A bathroom costs as much to install in a small home as in a big one. Attaching a self-contained dwelling to an existing home may cost more than building it as a free-standing house because it may require re-engineering part of the main structure. Basements and garages must be brought up to code..."

From "Jumpstarting the Market for Accessory Dwelling Units":

by Terner Center for Housing Innovation at UC Berkley:

> "To date, no city has developed a comprehensive and truly effective approach to assisting homeowners with financing ADU's. As a result, only the most affluent homeowners, who can tap into savings, are building ADU's. However, locally focused lenders, such as credit unions, are a valuable source of funding, and show potential for jumpstarting the ADU market."

Cost to Build an ADU

Also from "Jumpstarting":

Three factors that lead to the success of ADU implementation:

- **Reform zoning regulations. Most effective have been: minimum lot size and floor area limits, minimize design review, and easing owner-occupancy requirements.**
  Proposed to increase max ADU size, eliminate parking requirement (i.e. new impervious costs)

- **Waiving fees. Particularly permitting and utility connection fees.**
  Proposed elimination of Conditional Use may reduce permitting & design review costs for ADUs

- **Educate homeowners & provide technical assistance. Provide manuals, prototype plans, etc.**
  HomeshareVT Pilot Program for lower-income homeowners & City FAQ on website; City to produce a more robust how-to guide.

Cost to Build an ADU

Conclusions and Recommendations:

- **Reduce *zoning* requirements that can drive up costs:**
  - **Eliminate Parking Requirement...**may help reduce cost of new impervious surface
    - Cost for driveways can be $3-$4 per sq.ft. or more (~300sq.ft. for parking space + access area = $1,000+)
  - **Maintain flexibility regarding the type** (attached vs detached) and location of an ADU, in order for an owner to make design decisions based on lot, unit needs, and budget
  - **Eliminate Conditional Use (and corresponding permitting fees) requirements for ADUs**
    - Other types of Accessory Residential Structures & Uses are already permitted, including garages, barns, storage sheds, tennis courts, cabanas for swimming pools (up to 75% of the ground floor area of the principal structure, and may encroach into rear and side yard setbacks if not taller than 15 ft.)
- **Continue to work with partners on Technical Assistance and other approaches**

Fire & Building Code for ADUs

The same standards are applied to ADUs as to the creation of all new habitable area in the City, per adopted fire code standards:

- **Sprinklers are usually required for units and other habitable space when:**
  - Primary access to the unit/space is located between 50 -150 ft from a street
  - The unit/space is not accessible through the primary home
  - Access to the unit/space is located in a way that poses a risk to safe egress (i.e. only accessible through a garage or kitchen)

- **The most costly factor associated with this requirement is if a new or upgraded waterline is required. However, there may be some alternatives:**
  - When cost prohibitive, the fire code allows for an internal storage tank system to supply sprinklers
  - Combined domestic water/sprinkler systems if installed by qualified fitter/plumber
  - Locate the unit/space in a way that can be protected through fire-rated materials
  - Note: a sprinkler system may take place of requirements for egress, other fire-rating specifications

Fire & Building Code for ADUs

Conclusions and Recommendations:

- **Flexibility in size and placement of an ADU is key:**
  - Enable most viable and cost effective placement of the ADU specific to the site's conditions
    (i.e. detached, replacing existing structure, addition/internal conversion)
  - Flexibility for the size of an ADU to accommodate code requirements
    (i.e. on-site water tank option needs to be placed within a heated space, ADA design)
- **Add more information about Fire, Building, Trades Codes into ADU FAQ's and Guide**

Maximum ADU Size

Some basic stats on Burlington ADUs:

- Vermont Statute requires municipalities to **allow ADU size up to 30% of the primary home**
- According to current zoning ordinance, a **2,000 sq.ft. home can build an 800 sq.ft. ADU today**
- **80% of ADUs built in Burlington are smaller than 800 sq.ft.**; ADU size is on average only 23% of the size of the primary home
- Median home size in Burlington is ~1,600 sq.ft., **yet only 4 ADU's have been built for homes smaller than 1,600 sq.ft**.

	Permitted Max ADU Size under current CDO							
Max Sq. Ft. of ADU Allowed:	300	400	500	600	700	800	900	1000
If Sq.Ft. of Primary Home is:								
800	**330**	360	390	420	450	480	510	540
900	360	390	387	396	405	414	423	432
1000	390	**420**	416	419	422	424	427	430
1100	420	**450**	455	456	456	457	458	459
1200	450	**480**	496	497	497	497	497	498
1300	480	510	**539**	539	539	539	539	539
1400	510	540	**582**	582	582	582	582	582
1500	540	570	625	**625**	625	625	625	625
1600 (Median SF Home size BTV)	570	600	667	**667**	667	667	667	667
1700	600	630	710	710	**710**	710	710	710
1800	630	660	753	753	**753**	753	753	753
1900	660	690	796	796	**796**	796	796	796
2000	690	720	839	839	839	**839**	839	839
2100	720	750	882	882	882	**882**	882	882
2200	750	780	924	924	924	924	**924**	924
2300	780	810	967	967	967	967	**967**	967
2400	810	840	1010	1010	1010	1010	1010	**1010**
2500	840	870	1053	1053	1053	1053	1053	**1053**

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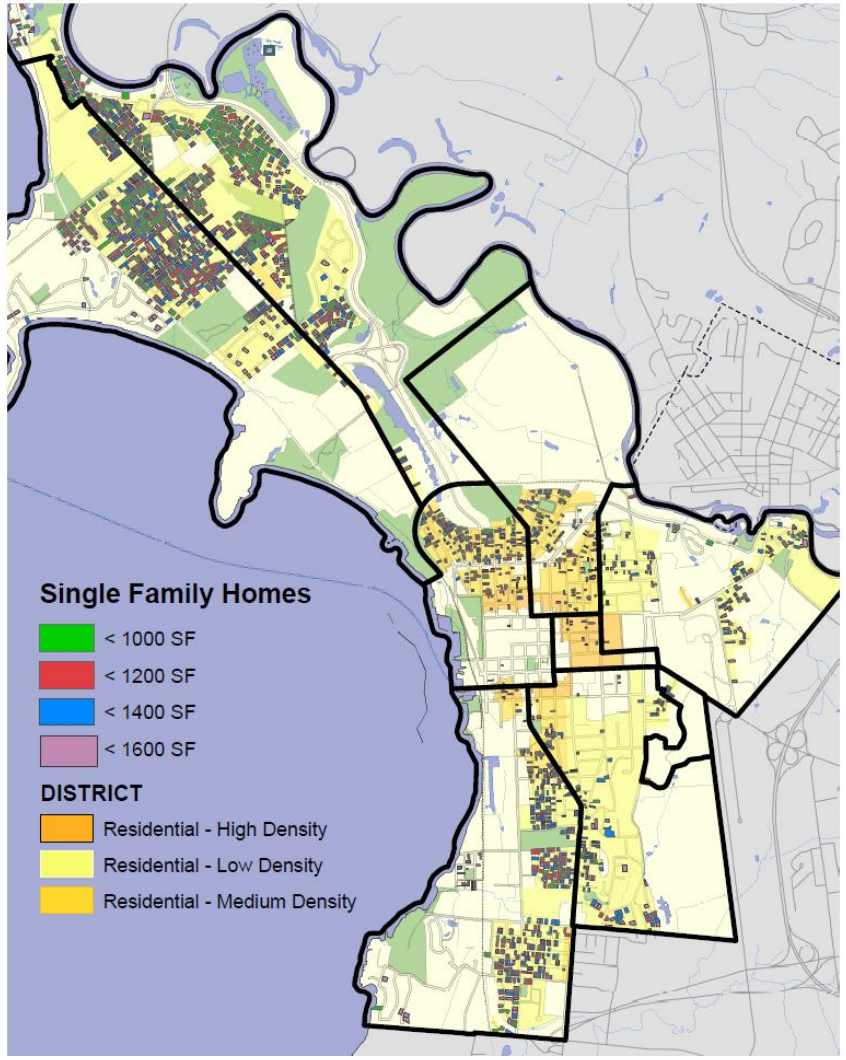

Maximum ADU Size

What is the size limit in other communities?

- Municipal ordinances commonly allow 800-1,000 sq.ft. ADU max size, but range widely
- Other common approaches- % of primary home or % of lot size
- VT State Law allows up to 30% of primary home
- Montpelier, VT allows up to 900 sq.ft.
- State law in New Hampshire allows ADU's up to 750 sq.ft.

Why 800 sq.ft. for Burlington?

- Need to create an alternative max size for smaller homes to exceed the 30% limit

THE ADU GAUNTLET: SELECTED RESTRICTIONS AND REQUIREMENTS FOR ACCESSORY DWELLING UNITS (ADUs) IN CASCADIAN CITIES, EARLY 2013.
(Attached units, such as secondary suites and in-law apartments = AADUs; detached units, such as laneway houses and backyard cottages = DADUs.)
Please help us fact check and fill in the blanks!

CITIES	NUMBER OF ADUs ALLOWED PER LOT	OFF-STREET PARKING SPACES REQUIRED PER ADU	MUST PROPERTY OWNER LIVE ON THE SITE?	HOW MANY PEOPL MAY LIVE ON THE LOT?	HOW BIG MAY ADUs BE? (IN FLOOR AREA)	WHERE IN THE CITY ARE ALLOWED?
Vancouver, BC	1 AADU + 1 DADU	0	no	Each unit gets its owr occupancy quota (e.g ≤5 unrelated persons n each unit)	AADUs: ≥400 sq. ft. and ≤area of primary dwelling. (Smaller permitted in condo AADUs.) DADUs: 280 - 500 sq. ft. (plus 220 sq. ft. garage, which most residents use as living space), and ≤12.5% of lot.	ADUs in virtually all residentia en inside condos, where spac out permit. DADUs: most sin s in city (including lots ≥33 t adjoin lanes/alleys).
Seattle, WA	1	1	yes	Units share one occupancy quota (≤8 n both units, if any unrelated).	AADUs ≤1,000 sq. ft.; DADUs ≤800 sq. ft. and ≤40% of rear yard.	ost residential zones, but lot a e and characteristics must fi uirements. DADUs: sites ≥4 and ≥25 ft wide and ≥75 ft
Portland, OR	1	0	no	Units share one occupancy quota (≤6 f unrelated).	≤800 sq. ft. and ≤75% of primary unit. ADU & other accessory structures (such as garage, shed) cover ≤15% of total site.	lots in residential zones with ached house, or manufacture
Surrey, BC	1	1	yes	Surrey has no occupancy limits.	≤969 sq. ft. and ≤40% of primary unit. ADU attached to garage (coach house): ≤500 sq. ft. above garage and ≤430 sq. ft. at grade.	ADUs in detached single-fami certain zones. DADUs: in cer nes, on lots with detached sir mily houses that are either co have rear lane/alley access a 5 ft. deep.
Burnaby, BC	1 AADU (but only for family members); 0 DADUs	0	no, but occupants must be related	3 unrelated in main dwelling + 2 adults in ADU, must be related o persons living main dwelling	No size limit.	single-family and two-family most residential zones. Also side some condos.
Spokane, WA	1	1	yes	Both units share one occupancy quota (≤6 f any unrelated)	AADU: 250 - 800 sq. ft., not counting its garage, and ≤50% of total footprint of primary dwelling. DADU: Footprint of DADU ≤ footprint of primary dwelling. Combined footprint of all detached accessory structures (e.g., DADU + garage) ≤15% of lot. DADUs: ≤600 sq. ft. and DADU's area, minus its garage, counts toward floor-area ratio allowed in its zone.	all residential lots with attac tached, or manufactured sing ellings that lack a home-base siness. In addition, AADUs a ly where footprint of primary 00 sq. ft., not counting gara
Boise, ID	1	1	yes	Each unit gets its owr occupancy quota (e.g ≤5 unrelated persons n each unit)	ADU ≤10% of lot and ≤600 sq. ft. and ≤1 bedroom.	lots in residential zones.
Tacoma, WA	1	1	yes	≤4 people in ADU. Also, as for other single-family dwellings, mus have ≥300 sq. ft. per person. (This rule makes real limit ≤3 people, because no A U	300 - 1,000 sq. ft. and ≤40% of combined area of primary and accessory unit and ≤10% of lot.	sidential lots with detached mily houses that meet minim e requirement of their zone. ne, e.g., lot ≥5,000 sq. ft.

From Sightline Institute "ADU Do's and Don'ts"

Maximum ADU Size

What is the size limit in other communities?

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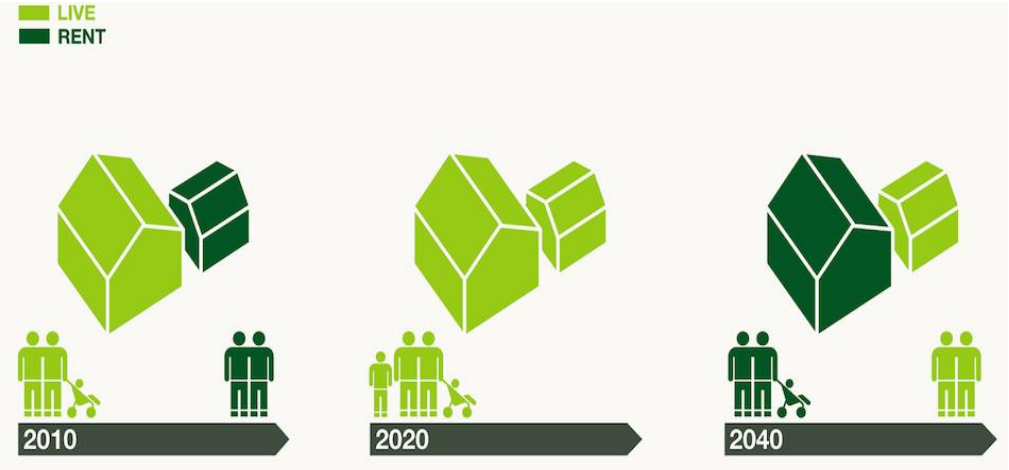
- State law in New Hampshire allows ADU's up to 750 sq.ft.

Why 800 sq.ft. for Burlington?

- Need to create an alternative max size for smaller homes to exceed the 30% limit
- As long-term housing options, larger size allows for design flexibility
- Provide greatest flexibility for an ADU to meet fire code, building code, ADA accessibility, etc.



Maximum ADU Size

Example of ADU Plan by HomeShareVT *(meets ADA & includes tank-supplied sprinkler system)*

Detached ADU Size & Location

How do ADU requirements compare to other structures?

- Per CDO, other types of Accessory Residential Structures & Uses are permitted, including garages, barns, storage sheds, tennis courts, cabanas for swimming pools
- Few municipal ordinances differentiate between attached and detached regarding size, other dimensional requirements; some offer form standards for detached.

Recommendations

- Remove conditional use requirement for creating an ADU to ensure that no more stringent standards apply to an ADU than a new garage.

Existing CDO limits/requirements for an Accessory Structure in Residential Districts

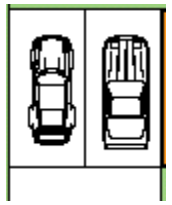
Height	• 35' max; • 15' max if w/in rear or side yard setback
Setback – Side	• 10% of lot with min, 20'max • 5' min for structure 15' or less in height
Setback – Rear	• 25% of lot depth, 20' min – 75' max • 5' min for structure 15' or less in height
Footprint	• 75% max of footprint of principal structure
Other	• Parking stalls/bays limited to number of bedrooms in principal structure.

Basics of Current Parking Standards

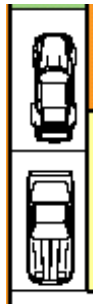
In residential districts, the *Burlington Comprehensive Development Ordinance* presently requires:

- 2 parking spaces for primary single-family home
- 1 additional space for the ADU
- No more than 2 cars in a tandem arrangement
- Minimum parking space size requirement is 9'x 20'

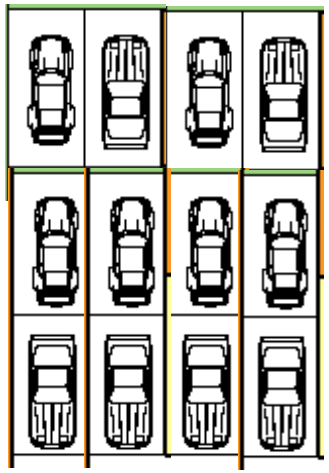
- Maximum waiver for residential parking requirement is 50%, upon approval of a Parking Management Plan



Normal



Tandem

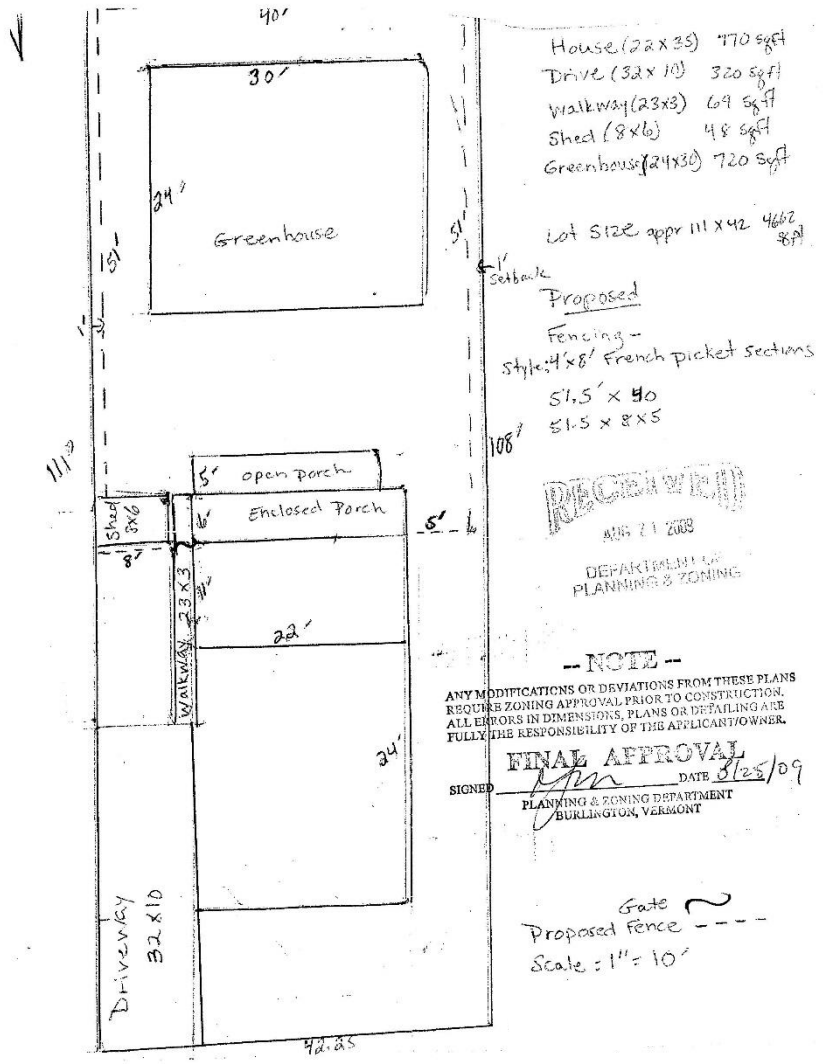


Stacked

BTV Homeowner Case Study

Scenario from 2019 HomeShareVT & CEDO technical assistance program.

Owner would like to replace an existing detached structure with a detached ADU.

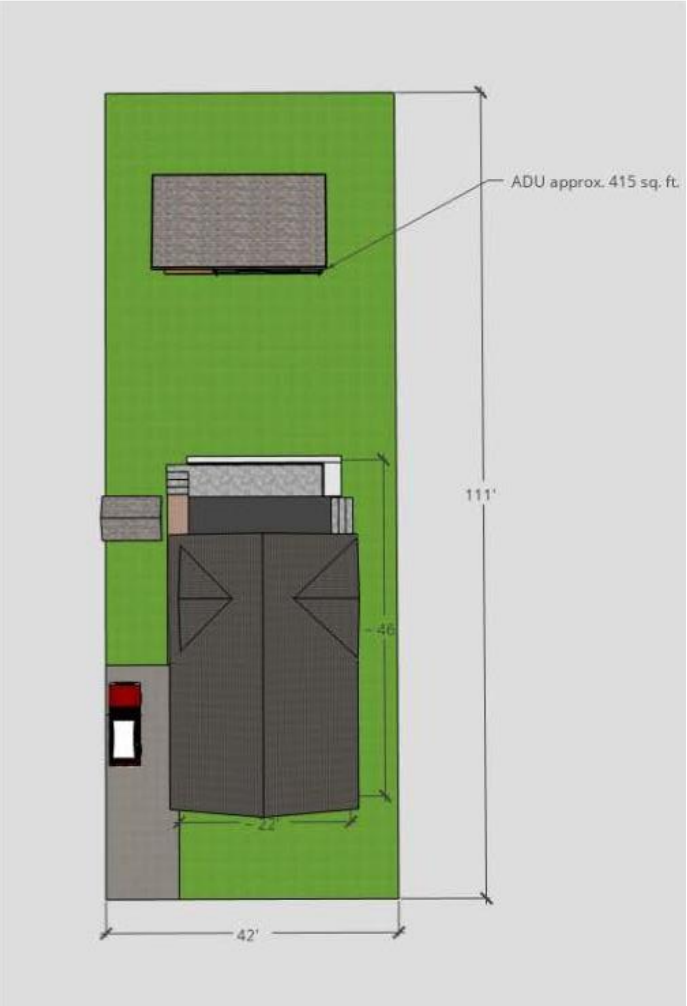


BTV Homeowner Case Study

Limitations:

- Small lot <u>and</u> small home

Translates into a maximum 415 sq.ft. ADU replacing existing non-conforming lot coverage.



BTV Homeowner Case Study

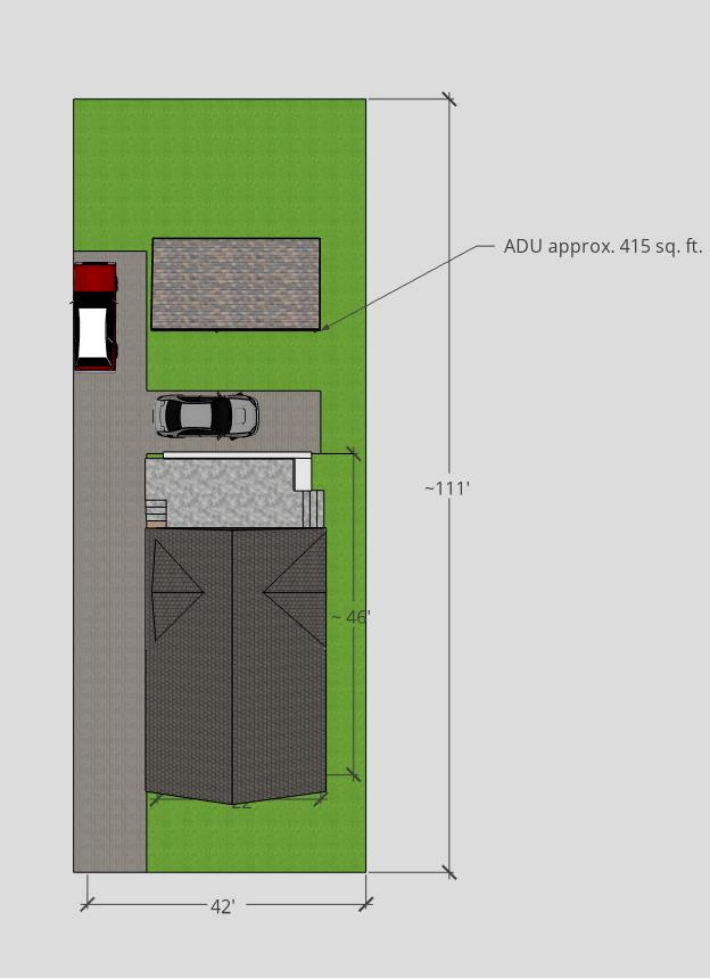
Limitations:

- Small lot <u>and</u> small home

  Translates into a maximum 415 sq.ft. ADU replacing existing non-conforming lot coverage.

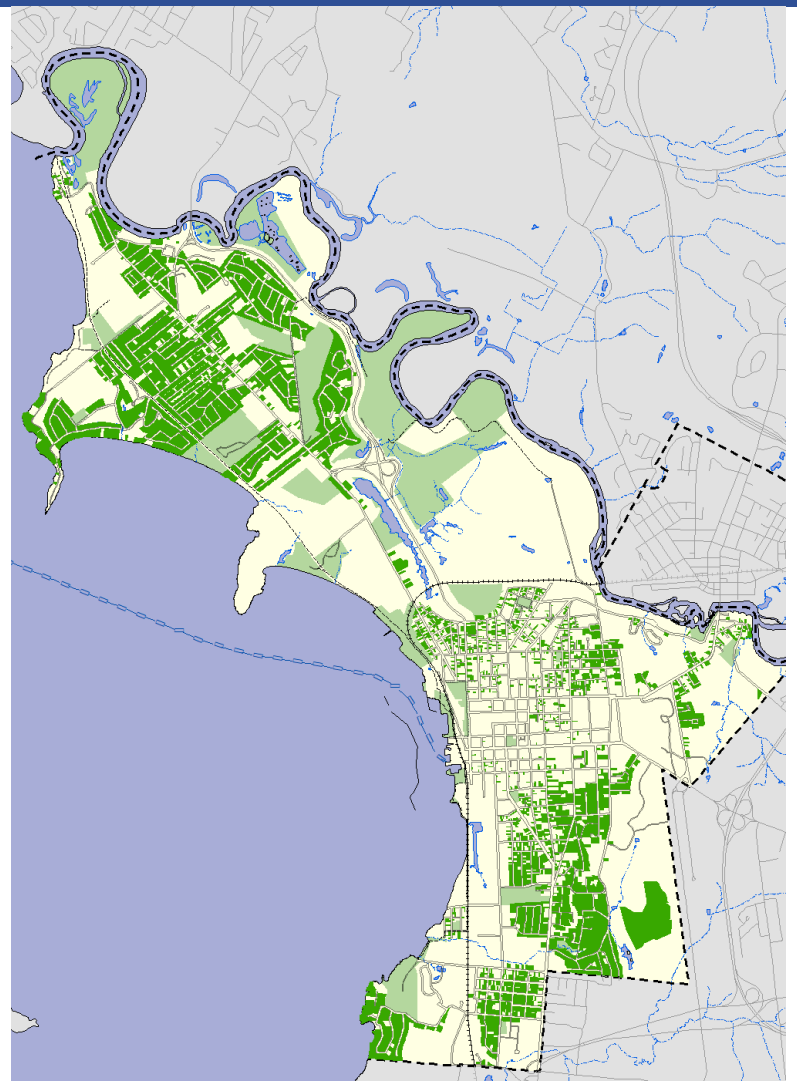
- Parking requirement would mandate significant addition of impervious surface due to lot layout, <u>but</u>

- Lot coverage limit, setback, and requirements for parking layout may preclude those improvements



Impact of Parking Changes

Current Single Family Home lots in the City.

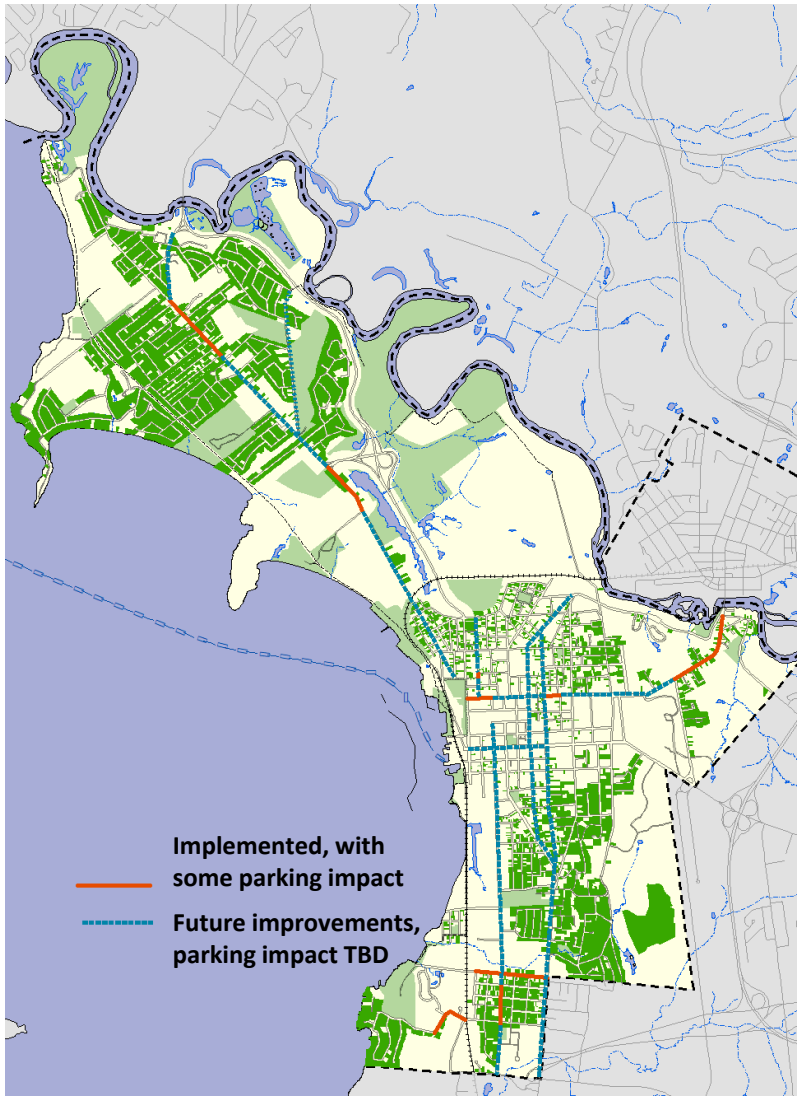


Impact of Parking Changes

Current Single Family Home lots in the City.

And…

planBTV Walk-Bike on-street bike facility network*.

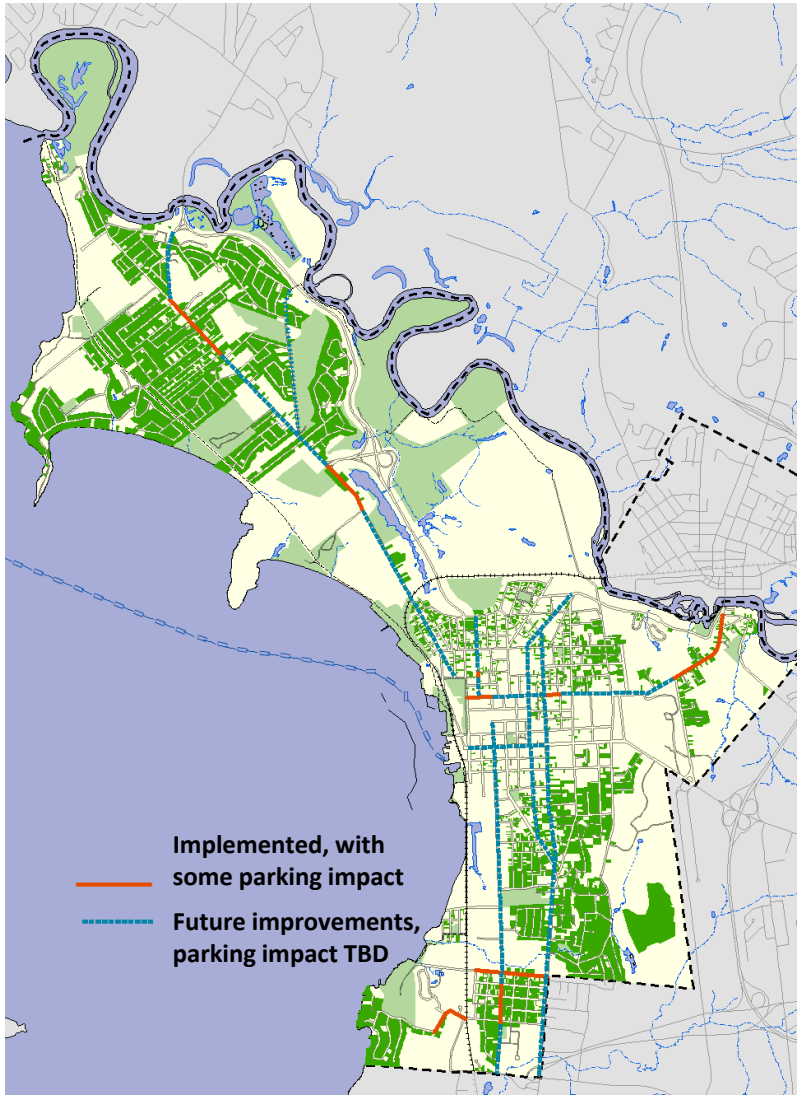


**includes <u>only</u> segments where some parking spaces have been removed for implementation, and future facilities that include more protected bike facilities that may or may not impact on-street parking.*

Parking Standards for ADU's

Conclusions and Recommendations:

- Vast majority of single-family home lots do not have frontage on streets where a major bike facility proposed
- Eliminating the requirement enables an owner to determine if parking is needed, desired as factor that influences cost and other site constraints
- Additionally, allow stacked parking for an ADU if a parking space is being provided, and make it clear that a parking attendant is not required.

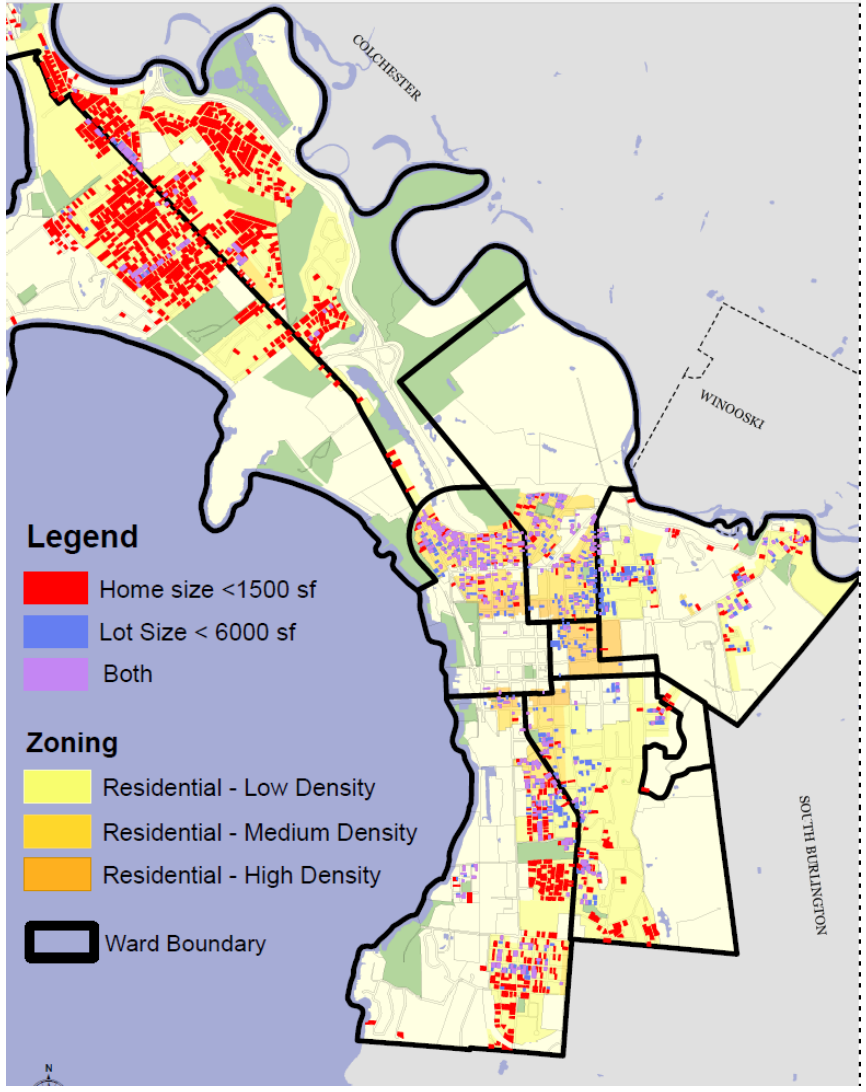


Lot Coverage and ADUs

Analysis of available lot coverage on single-family lots:

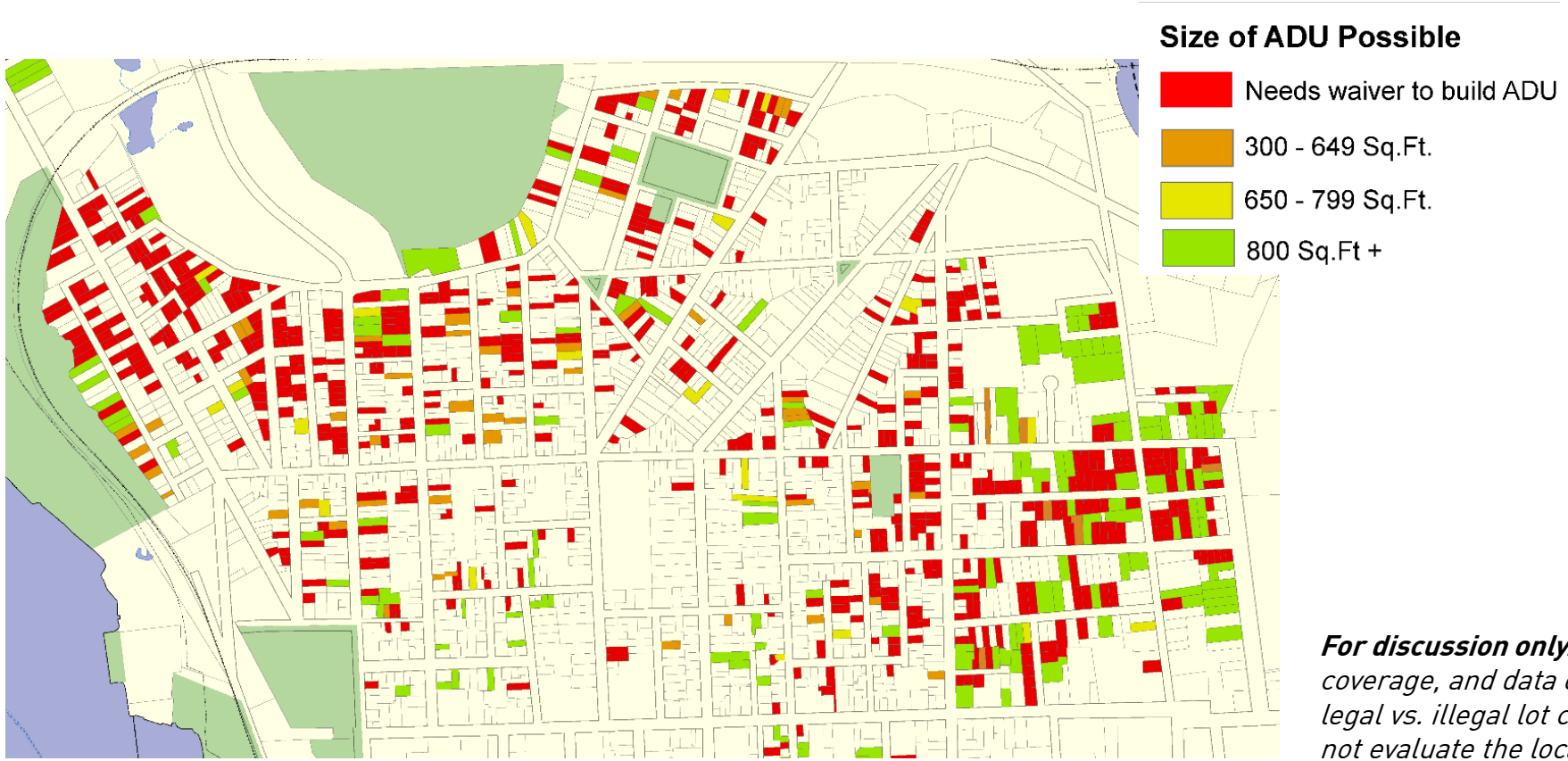
- Concern is primarily for small lots, and where this impacts entire neighborhoods, which corresponds closely to zoning districts
- Most properties in the city fall into the two opposite ends:
  - can't built an ADU at all without a lot coverage waiver
  - can build a large ADU without need for a lot coverage waiver

Zoning District	Single Family Lots in District	Can Accommodate Detached ADU:			
		Only w/ Waiver	Max of 300 – 649 Sq.Ft.	Max of 650 - 799 Sq.Ft.	800 Sq.Ft or larger
RL (35% Cover)	4,236	17%	3%	1%	79%
RM (40% Cover)	626	73%	11%	3%	11%
RH (60% Cover)	87	41%	9%	3%	46%
Total	4,949	25%	4%	2%	70%



Lot Coverage and ADUs

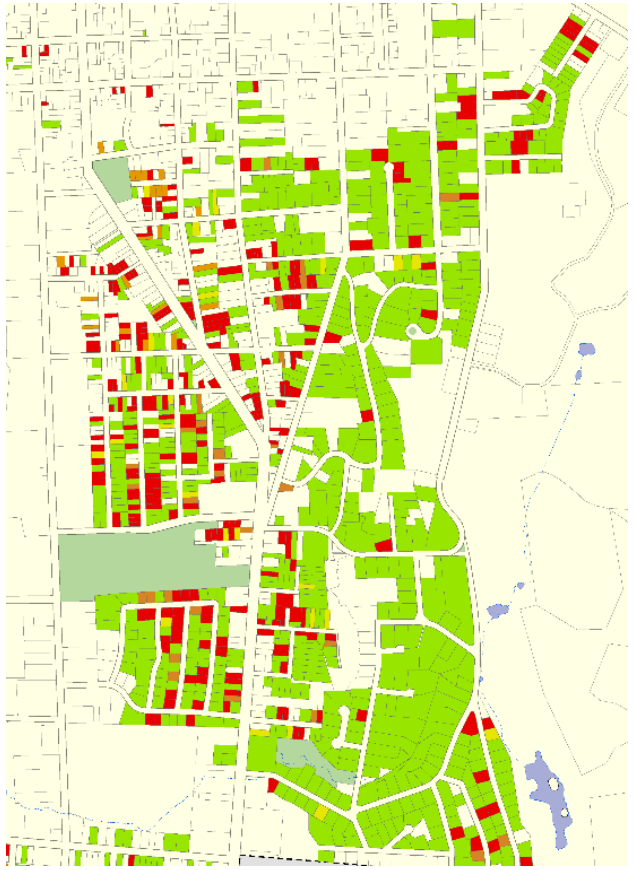
Sample of Old North End and east to Mansfield Ave



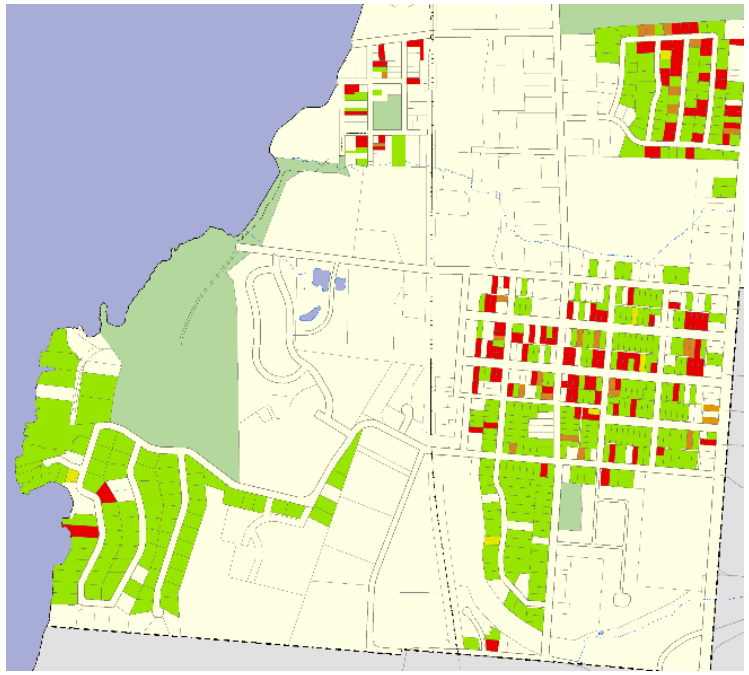
For discussion only. *Based on lot size, percent allowable lot coverage, and data on existing lot cover. Does not distinguish legal vs. illegal lot cover, does not factor setbacks, and does not evaluate the location of available coverage on the lot.*

Lot Coverage and ADUs

Five Sisters, Birchcliff, Hill Section



Lakeside, The Addition, Oakledge



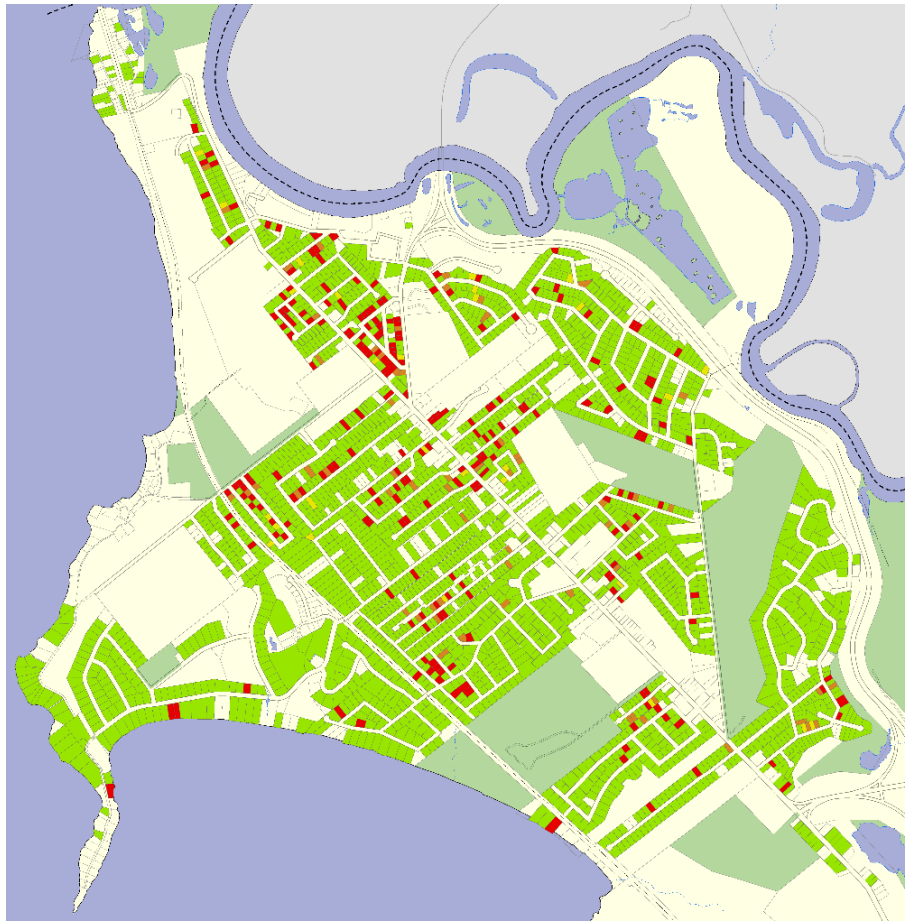
Size of ADU Possible

- Needs waiver to build ADU
- 300 - 649 Sq.Ft.
- 650 - 799 Sq.Ft.
- 800 Sq.Ft +

For discussion only. *Based on lot size, percent allowable lot coverage, and data on existing lot cover. Does not distinguish legal vs. illegal lot cover, does not factor setbacks, and does not evaluate the location of available coverage on the lot.*

Lot Coverage and ADUs

New North End



Size of ADU Possible

- Needs waiver to build ADU
- 300 - 649 Sq.Ft.
- 650 - 799 Sq.Ft.
- 800 Sq.Ft +

For discussion only. *Based on lot size, percent allowable lot coverage, and data on existing lot cover. Does not distinguish legal vs. illegal lot cover, does not factor setbacks, and does not evaluate the location of available coverage on the lot.*

Lot Coverage and ADUs

Conclusions and Recommendations:

- **2019 planBTV recognizes that in some areas of the city, zoning doesn't reflect what has been built, and limits how properties can be modified:**

  Action Item 3.3: *"Re-evaluate zoning regulations and development standards for low and medium density residential districts to ensure standards allow 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."*

- **Allow the DRB to grant a waiver for a portion of the lot cover of the ADU if stormwater is managed, with a maximum of no more than 650 sq.ft.**

- **Manage the volume of water created by the square feet of the ADU's footprint that exceeds lot coverage**

- **DPW Stormwater Program Manager reviews and makes recommendations to the DRB on satisfactory management of stormwater on-site, or through an alternative mechanism**

Lot Coverage and ADUs

Additional Considerations:

- **Based on the analysis of lot coverage, and goal to "keep it simple" for owners seeking to build, an alternative was suggested:**
  - Allow all ADU's to benefit from a lot coverage bonus (i.e. an additional 5% coverage) by-right, and only properties that still need relief use the stormwater waiver process recommended

- **This "moves the needle" but still impacts neighborhoods around the City differently**
  - 90% of lots in low-density zones could build an ADU (looking just at lot cover)
  - A small % of properties across the city gain extra sq.ft. for the size of an ADU- but on the larger end of the spectrum (i.e. lots that could accommodate 800sq.ft.+
  - But, 64% of properties in the residential-medium would still need a waiver (i.e. Old North End, Five Sisters)

Zoning District	Single Family Lots in District	Can Accommodate Detached ADU:			
		Only w/ Waiver	Max of 300 – 649 Sq.Ft.	Max of 650 - 799 Sq.Ft.	800 Sq.Ft or larger
RL – 35% Cover	4,236	17%	3%	1%	79%
+5% bonus		**10%**	**2%**	**1%**	**87%**
RM – 40% Cover	626	73%	11%	3%	12%
+5% bonus		**64%**	**13%**	**4%**	**19%**
RH – 60% Cover	87	41%	9%	3%	46%
+5% bonus		**34%**	**8%**	**1%**	**56%**
Total	4,949	25%	4%	2%	70%
		17%	**4%**	**1%**	**78%**

THE CITY OF BURLINGTON
CITY PLANNING

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TO: Joint Planning Commission & City Council Ordinance Committee
FROM: Meagan Tuttle, Principal Planner, City Planning
DATE: December 9, 2019
RE: Owner-Occupancy Requirements for Accessory Dwelling Units

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During the Joint Committee's discussion of zoning reform for Accessory Dwelling Units (ADUs), several questions related to the owner-occupancy requirement were raised by Committee members, members of the public, and outside experts on ADU policy. This memo summarizes staff research into questions particularly related to enforcement of the requirement and the financing impacts on properties with ADUs.

Mandating—and enforcing—"who" lives in a unit is a complex challenge
Vermont statute enables, and Burlington's zoning ordinance currently limits ADUs to owner-occupied single-family lots, and provides for flexibility for the owner to live in either the primary home or the ADU. If the property is no longer owner-occupied, the kitchen must be removed, and the space occupied by the ADU cannot be used to increase the number of unrelated adults living in the unit. Within some areas of the city in particular, these requirements are considered an important protection against properties being purchased by investors in order to create an ADU to house additional unrelated college students.

While there are mechanisms available to the City to monitor compliance with these requirements, they are imperfect:

- In the *Burlington Comprehensive Development Ordinance* (CDO), "Owner" is defined as "Any person, firm, partnership, association, joint venture, corporation or other entity or combination of entities who alone, jointly or severally with others hold(s) legal or equitable title to any real property,"
    - As such, nothing precludes students from being the legal owner(s) of a property and residing within it.
- "Owner-Occupied" is defined as "…occupancy of premises by an owner for at least 50% of the year."
    - Knowing whether a property is declared as the legal owner's "homestead" only addresses part of the issue. Does the fact that there is no owner on premise the remainder of the year undermine the purpose of the requirement?
- How do we monitor and measure *actual* occupancy? The enforcement process for occupancy is largely complaint-driven; to do otherwise would require additional resources to actively research and monitor compliance.
- While regulating owner-occupancy for ADUs is enabled in Vermont statute, it is worth noting that some states have found that such a requirement is beyond the police powers of a municipality found in zoning, or have passed state laws specific to ADU's which prohibits the regulation of owner-occupancy (i.e. OR, CA, NY, NJ, FL, NC, ID, MA).

Some have expressed an interest in increased monitoring at the time a property is sold in order for the City to proactively ensure future owners understand owner-occupancy restrictions—specifically, to ensure that investment property owners do not purchase these properties with the intention to build an ADU and rent both units. Currently, the Burlington CDO requires notice to be filed in the deed/land records that a property has an ADU. As such, it is the obligation of the title search to discover and inform the prospective buyer of any such limitations. While zoning permits and deed restrictions run with the land, property transfers are filed in the Land Records and with the Assessor's

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Office—not the zoning or code enforcement offices. The City intends to replace its permitting software in the coming years, which may offer a more straightforward path to alerting code enforcement of changes in ownership, but today violations of owner-occupancy requirements are largely complaint driven.

Finally, an important consideration has been shared regarding the requirement to remove an ADU if a property is no longer owner-occupied. As noted above, there is currently some flexibility in the CDO in terms of the amount of time an owner must reside in a unit to be considered owner-occupied. However, this requirement does not account for circumstances that may cause an owner to live off-site for more than half the year, such as for sabbatical, military leave, placement in a long-term medical care facility, and other unforeseen circumstances. The City's knowledge of an owner's lack of occupancy due to these circumstances, and a process for an owner to demonstrate such a hardship is a challenge that the City will need to address if owner-occupancy continues to be a prerequisite for an ADU. At minimum, the ordinance should consider a process by which owners could receive waivers for such situations.

Owner-Occupancy as a financing impediment
Despite the level of interest in ADU's, in most communities there are still relatively few that have actually been constructed. There are myriad challenges with funding ADUs, both direct and indirect. The Joint Committee heard extensive comments about zoning, building, and fire code requirements that contribute to the high cost of construction. In fact, many ADU resources note that just because ADUs are "small" does not mean they are inexpensive to build—particularly for detached ADUs. Additionally, public comments and literature note that there are limited financing methods available to an owner wishing to construct an ADU.

The owner-occupancy requirement has been found to be problematic for the purchase, sale, or lending requirements of a property with an ADU in some communities. Eli Spevak, who is working with AARP on ADU policy and attended the Joint Committee meeting on October 15, provided letters from two lending institutions denying property owners' requests to create an ADU. The denials cited concerns that the bank would not be able to comply with the owner-occupancy requirement if it repossessed the property and that it would limit potential buyers upon resale. Further, some research suggests that conventional mortgages do not allow borrowers to include potential rental income generated from an ADU in the calculation of an applicant's income. These restrictions are based on concerns about whether the unit is legal and the lack of comparable properties within a market to verify assumptions.

The lack of comparable properties also affects how a property is appraised. Appraisal is viewed by some ADU researchers and advocates to be one of the biggest financial challenges all around for ADUs. Some argue that the lack of ADU construction is a result of dual issues: the cost of building a unit is prohibitive to most homeowners and investors are prohibited from building them. The resulting lack of comparable homes with ADU's leads to uncertainty about how to value a property with an ADU, which has resulted in wildly different estimates of added value and methods for calculating income for a property with a unit. Some advocates argue that by eliminating the owner-occupancy requirement, more ADUs will be built, resulting in both a greater supply of housing within a community, and more comparable properties to overcome these appraisal challenges.

Owner-Occupancy and property speculation
While largely viewed positively, a few comments have been shared regarding whether ADU reform will lead to increased competition for single-family homes. In Burlington, approximately 80% of single-family properties are owner-occupied, and only about 1% of those have a permitted ADU today. The City's 2019 *Accessory Dwelling Units in Burlington* report noted the following about properties with ADUs:

> *"In considering the resale of homes with ADU's, the City should monitor what, if any, long term affect ADU development has on the affordability of single-family homes. With only several ADU's being built each year there is not a significant concern about the overdevelopment of ADU's. Additionally,*

as many first-time home buyer and down payment assistance programs are structured to ensure the beneficiary is the primary occupant of a home, it is worth exploring whether these programs would permit an accessory unit and any associated rental income."

Responding to the concern that eliminating the requirement will drive property speculation by investors, Kol Peterson, author of *Backyard Revolution*, and one of the leading experts on ADUs, evaluated ADU development in Portland, OR since 2000. Portland, OR has not required owner-occupancy for ADU's in several decades. From 2000-2009, the city issued just 27 ADU permits per year (on average). It was not until 2015 and later that the market for ADU's in Portland accelerated, with an average of 621 ADU permits issued each year from 2016-2018. To address concerns that the recent ADU boom was fueled by property speculation, Kol evaluated the permit data for the approximately 1,250 property owners that applied for an ADU permit in 2017 and 2018. He found that 90% applied for a permit only once during that two-year timeframe, and were presumably "amateur homeowner developers." Only 10% of the ADU's were developed by a professional developer who built more than one ADU in a two-year span. Notably, the most "prolific applicant" applied for nine ADU permits—for ADUs which were integrated into the lower level of newly built single-family homes.

Summary

This information has been provided to address and answer the questions that have been raised on this issue for the Committee's consideration. Eliminating the owner-occupancy requirement is one way that some communities have overcome challenges associated with funding, creating, and monitoring ADUs as noted above. Cities such as Portland, OR, have not had owner-occupancy requirements in more than 20 years, while others, such as Los Angeles, CA, have recently eliminated these requirements. Some communities have been required to eliminate the provision as a matter of state law, while others recognize that it is a critical barrier to the creation of more homes and easing their local housing crises. Often, eliminating the requirement for owner-occupancy is part of a larger package of ADU policy reforms. Combined with the fact that so few communities have built a critical mass of ADUs, it is nearly impossible to attribute changes in the number of ADUs created in a particular community to any individual policy lever.

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Andy Montroll, Chair
Bruce Baker, Vice-Chair
Yves Bradley
Alexander Friend
Emily Lee
Harris Roen
Jennifer Wallace-Brodeur

Burlington Joint Planning Commission

Tuesday, December 10, 2019, 6:30 P.M.

Contois Auditorium, City Hall, 149 Church Street, Burlington, VT

Minutes

Members Present	Planning Commission: B Baker, J Wallace Brodeur, H Roen, A Friend, E Lee City Council Ordinance Committee: S Bushor, A Roof, C Mason
Members Absent	Planning Commission: A Montroll, Y Bradley
Staff Present: D White, M Tuttle, S Durmick, S Gustin, K Sturtevant	

I. Agenda

Call to Order	Time: 6:35
Agenda	No changes to the agenda

II. Public Forum

Name	Comment	Commission Action
Sophie Quest	Incredibly difficult for daughter to permit an ADU. Paid to build an extra parking space because it was required, but it has yet to be used. Supports efforts to make the ADU process simpler.	
Ruby Perry	Explained how her family made an effort to reach out and educate their neighbors and build community while in the process of building an ADU.	
Andrew Simon	Spoke in favor of ZA-20-03. Noted that the permitting process took significantly longer than the building process, partly because of struggling with the City to comply with the parking requirements. Recommended a book called *Backdoor Revolution* on the topic of ADUs	
Missa Aloisi	As an architect, has worked on 4 ADU projects in Burlington which were all age-in-place scenarios, the largest was 600 square feet, and most of the others did move forward because they could not meet the lot coverage limit.	
Tammie Brownell	Would like to transform a deteriorating greenouse into an ADU for the purpose of aging-in-place. Expressed that ADUs build communities, preserve structures which would otherwise be torn down because of they generate additional income. Currently has room for 2 cars, but would need 3 spaces to meet how the ordinance is currently written. Concerned that Burlington is losing its workforce because	o

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	workers can't find a place to live; believe that ADUs could be part of the solution to this problem.	
Michael Long	Remarked that a standard parking space generates around 4,000 gallons of runoff per year in Burlington. Would like the City to recognize that new development will generate more traffic and demand for parking; eliminating all parking requirements would be irresponsible because it does not deal with the City's transportation needs. Supports maintaining the owner-occupied requirement for ADUs.	
Carolyn Bates	Advocated for tiny homes for many years, and encouraged the Commission to do all that they can to make ADUs an easy and viable option for property owners. Suggested that they bring in tiny home building experts so they can have modular units designed.	
David Perches	Commented that the across the board 30% ADU size restriction is concerning.	
Laurie M.	Excited about the possibility of building an ADU, and hopes that the proposed changes will help with the process.	
Amy Magyar	Thanked the committee and staff for the consideration and care taken to move this ordinance forward with public input. Applauded staff for working to put together a document to make it easier to build ADUs in Burlington.	

III. Public Hearing: Proposed CDO Amendment ZA-20-02 Accessory Uses & Structures

Action: Approve municipal bylaw amendment report and forward to Council		
Motion by: A Friend	Second by: E Lee	Vote: Approved Unanimously
Type: Discussion/Action	Presented by: S Gustin	

Discussion/Notes:

- S Gustin summarized the changes made by the proposed amendment which include cleaning up how the terms accessory, primary, principal are used throughout the zoning ordinance.

B Baker opened the public hearing.

- S Bushor raised the concern that the size of a garage is tied to the number of bedrooms per dwelling, meaning that a 5-bedroom house can have a 5-car garage. She suggested that the Commission consider tightening this limitation to decrease the permitted size of a garage.
- D White noted that this amendment removes duplication between the form-based code and other sections of the ordinance. In order to streamline, need to additionally ensure that whenever the terms "structure(s)" or "building(s)" appear, the terms are used together. Will make these additional edits to the ordinance before it is referred to Council.

B Baker closed the public hearing.

IV. Public Hearing: Proposed CDO Amendment ZA-20-03 Accessory Dwelling Units

Action: Approve municipal bylaw amendment report and forward to Council		
Motion by: J Wallace	Second by: H Roen	Vote: Approved Unanimously
Type: Discussion/Action	Presented by: M Tuttle	

Discussion/Notes:

- M Tuttle presented the changes made to the proposed CDO Amendment ZA-20-03, which enable ADU's as a permitted use for single-family homes in all zoning districts, create an alternative maximum size, provide a lot coverage waiver provision when storm water is managed, and eliminates the parking requirement and enables stacked parking.

B Baker opened the Public Hearing:

- Kirby Dunn, HomeShare VT: Working to develop stand-alone designs to be used by homeowners as a starting point for developing an ADU. Passing of this ordinance will allow Homeshare to provide more technical assistance and support to Burlington residents. Hopes no changes are made to the owner occupancy requirement at this time.
- Missa Aloisi ranked parking as the number one barrier to building ADUs followed by size. Multiple projects she could not accept because of issues related to parking. Sweet spot for ADU size is around 600 sq.ft, because it is what clients can afford. Increasing ADU size to 800 sq.ft. will not necessarily mean that all ADUs will be built larger, but will rather allow flexibility in situations where it makes sense.
- H Roen asked for clarification that the owner occupancy requirement is still intact in the ordinance. M Tuttle confirmed that the amendment warned for public hearing maintains the owner occupancy requirement.
- J Wallace Brodeur commented that she appreciates the Mayor's communication regarding owner occupancy as an impediment to building more housing, but concerned that Committee has not heard from the public about this barrier. Maintaining the requirement is a prudent move in maintaining the character of Burlington neighborhoods, and could be revisited if it does prove to be a barrier.
- S Bushor noted that Ward 1 constituents she connected with were not comfortable with removing the owner occupancy requirement. She agreed that they should keep the owner occupancy requirement for now, and can revisit it later on if deemed necessary
- A Roof felt the debate about the requirement is about whether ADUs are just about supporting families and aging in place, or also about increasing the number of rental units in Burlington. Lack of this requirement will affect all neighborhoods differently depending upon their composition, and did not feel that this was the time to further the debate. Worth discussing the staff point about a waiver of the requirement for circumstances (sabbatical, military, etc.).
- E Lee stated that taking away the owner-occupancy requirement would cause tremendous pushback on this amendment, further delay its passing through City Council, and negatively affect the composition of certain neighborhoods near the institutions.
- B Baker asked if the Councilors preferred to vote regarding their support for the amendment. C Mason said that they are all supportive of moving forward but a vote would not be necessary.

B Baker closed the public hearing.

V. <u>Proposed CDO Amendment: ZA-20-04 Minimum Parking</u>

Action: No action		
Motion by: NA	Second by: NA	Vote:
Type: Discussion	Presented by: D White	

Discussion/Notes:

- S Bushor asked if all of the Neighborhood Activity Centers have adequate parking. D White does not know the status of parking utilization, but confirmed that all have mixed-use developments adjacent to public transit, which should lower the parking demand.
- S Bushor asked about how the lack of parking would affect Colchester Ave, and expressed concern about the removal of parking for tenants. D White responded that minimum parking requirements would not apply to properties fronting the corridor, except the institutions, because the corridor is served by relatively high frequency public transit.
- E Lee noted that if the City charged for on-street spaces in residential areas, it would bring in millions of dollars in revenue which could be invested in the public transportation system.
- E Lee asked if someone could join CATMA to meet the TDM requirements, and what the cost would be. D White responded that this is possible, but cannot be required. M Tuttle added that

the expense depends on the size of the business or project, and that residential members of CATMA is fairly new.

- B Baker commented that 50,000 sq.ft. could very well handle a TDM requirement, whereas nine units may be a greater challenge to implement. But 50,000 sq.ft. sounds too high and nine units sounds too low.
- Jack Hanson noted that he does not own a car, but is essentially paying a tax for parking because parking is built into the cost of rent in his 10-unit apartment complex.
- Gene Bergman observed that one size does not fit all for TDM; different categories and requirements are needed. Noted that much of the language in the ordinance needs to be clarified so that it would be easier for the public to understand and expressed that the carshare and carpooling thresholds are too high.
- A Friend offered increasing the TDM triggers for residential-low density major impact projects from five to 10 units, but lowering the triggers for larger projects in mixed-use areas. Jack Hanson replied that he supports lower triggers everywhere.
- B Baker suggested allowing more flexibility for those with multiple smaller projects for managing their lots through some kind of parking management mechanism. M Tuttle replied that this is an idea they could look further into at the next meeting

VI. Commissioner Items

Action: N/A		
Motion: NA	Second: NA	Vote: NA

- Next Planning Commission meeting is on Tuesday, January 7th as a joint meeting with DRB, DAB, Conservation Board.
- Next Joint Committee meeting is on Tuesday, January 14th

VII. Communications

Action: Accepted the communications.		
Motion by : E Lee	Second: A Friend	Vote: Approved Unanimously

- Memo from Erhard Mahnke in relation to Accessory Dwelling Units
- Memo from Mayor Miro Weinberger in relation to owner-occupancy requirements for ADUs
- ADU Concept draft design from HomeShare VT
- Memo from AARP VT, BBA, and HomeShare VT in relation to ADUs

VIII. Adjourn

Adjournment	Time: 8:35	
Motion: A Friend	Second: E Lee	Vote: Approved Unanimously

Andy Montroll

_____ Approved: January 14, 2020

Andy Montroll, Chair

Respectfully submitted by: _____Sidney Durmick, Commission Secretary