Burlington Planning Commission
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Burlington Planning Commission

Tuesday, August 13, 2019, 6:30 P.M.

City Hall, Conference Room 12, 149 Church Street

AGENDA

I. Agenda

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

III. Chair Report

IV. Director's Report

V. Ordinance Committee Appointment *(2 min)*
The Planning Commission will appoint Matt Bushey as the DAB representative to serve on its Ordinance Committee for FY 2020.
Staff Recommendation: Confirm Matt Bushey's appointment to the Ordinance Committee.

VI. Reapprove Municipal Bylaw Amendment Report: ZA-19-03 *(5 min)*
The City Council Ordinance Committee made additional changes to the proposed ZA-19-03 regarding parking standards. The Commission will review the proposed changes and update the statutory report. Information related to this item is included in the agenda packet on pages 2-4.
Staff Recommendation: Reapprove the municipal bylaw amendment report; forward any comments.

VII. ZA-19-10 Inclusionary Zoning – Off-Campus Institutional Development *(20 min)*
The Planning Commission will conclude its discussion regarding a framework to apply Inclusionary Zoning requirements to Institutional development located outside of the Institutional zoning district. Information related to this item is included in the agenda packet on pages 5-17.
Staff Recommendation: Forward the proposal to the City Council Ordinance Committee.

VIII. Proposed Changes to Certificate of Occupancy Process *(30 min)*
Bill Ward, director of the Department of Permitting and Inspections, will provide an update to the Commission on recommended changes to this process.
Staff Recommendation: No action required. Members are invited to ask questions and offer feedback.

IX. Committee Reports

X. Commissioner Items
a. Next meeting is August 27, 2019 at 6:30pm in Conference Room 12

XI. Minutes and Communications
a. Minutes from the July 23, 2019 meeting are enclosed on pages 18-21 of the agenda packet.

XII. Adjourn

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The City of Burlington will not tolerate unlawful harassment or discrimination on the basis of political or religious affiliation, race, color, national origin, place of birth, ancestry, age, sex, sexual orientation, gender identity, marital status, veteran status, disability, HIV positive status, crime victim status or genetic information. The City is also committed to providing proper access to services, facilities, and employment opportunities. For accessibility information or alternative formats, please contact Human Resources Department at (802) 540-2505. Written comments on items may be directed to the Planning Commission at 149 Church Street, Burlington, VT 05401, or at mtuttle@burlingtonvt.gov

THE CITY OF BURLINGTON
City Planning

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TO: Burlington Planning Commission
FROM: Scott Gustin, Principal Planner, Department of Permitting & Inspections
CC: Meagan Tuttle, Comprehensive Planner, City Planning
DATE: August 13, 2019
RE: Inclusionary Zoning for Institutional Student Housing

Zoning amendment 19-03; Parking Amendments, contains a number of revisions to Article 8. Among them is a change to Section 8.1.12 (c); *Front Yard Parking Restricted*. The Planning Commission referred this amendment to the City Council on August 28, 2018.

Several iterations of Section 8.1.12 (c) have followed. The Council Ordinance Committee initially recommended deleting the language altogether and replacing it with driveway dimensional standards presently located in Article 6. Prior to adoption at public hearing, several councilors expressed concern about deleting the front yard parking restriction.

Section 8.1.12 (c) has been revised again to address these concerns. The current draft clarifies the original intent to restrict parking in the front yard setback (as originally recommended by the Planning Commission), enables garage conversions as requested by Councilors, and incorporates dimensional requirements for residential driveways presently located in Article 6.

As the amendment language has changed, the Planning Commission is given the opportunity to comment prior to public hearing with the City Council presently scheduled for August 26, 2019.

Deleted language is ~~crossed out~~ and new language is underlined in red.

[Begin text amendment]

Sec. 8.1.12 Limitations, Location, Use of Facilities

(a) Off-Site parking facilities:

As written.

(b) Downtown Street Level Setback:

As written.

(c) Front Yard Parking Restricted and Residential Driveways:

~~Required p~~Parking in all residential zoning districts shall ~~not~~ be located ~~in a required~~ behind the 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.~~ Exception: parking may be located within the front yard setback so long as it is located within a driveway that accesses at least one parking space behind the front yard setback.

Notwithstanding the above paragraph, parking in a driveway within the front yard setback due to garage conversions to habitable space is permissible.

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~~ behind 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.

Residential driveways shall be a minimum of 7 feet in width or consist of two 2' driveway strips made of pavement or pervious pavement. The maximum width for single or shared access driveways shall be 18'. In a residential district, driveways and parking areas shall be set back a minimum of 5' from side and rear property lines. Driveways that have a slope of 5% or greater (towards the right of way) shall be made of a solid surface including conventional pavement, pavers or pervious pavement.

(d) Shared Parking in Neighborhood Parking Districts:

As written.

(e) Single Story Structures in Shared Use Districts:

As written.

(f) Joint Use of Facilities:

As written.

(g) Availability of Facilities:

As written.

(h) Compact Car Parking:

As written.

[End text amendment]

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Burlington Planning Commission Report
Municipal Bylaw Amendment
ZA-19-03 Parking Amendments

This report is submitted in accordance with the provisions of 24 V.S.A. §4441(c).

Explanation of the proposed bylaw, amendment, or repeal and statement of purpose:

The purpose of this proposed amendment is to update Table 8.1.8-1 to include "Art Gallery/Studio" consistent with Appendix A and Article 13 within the *Burlington CDO*; to update Table 8.1.8-1 to include parking requirements for small daycares and preschools that are consistent with the requirements for large daycares; to modify Sec. 8.1.14 to allow tandem parking for all dwelling units and to clarify its arrangement when used on multi-family sites; and to modify section 8.1.12 to allow parking within a front yard setback when the parking is within a driveway when there is room for at least one parking space beyond the setback.

Conformity with and furtherance of the goals and policies contained in the municipal development plan, including the availability of safe and affordable housing:

Accommodating required parking on is one of the most frequent limitations to providing housing at the allowable densities articulated in the *Burlington CDO*. The proposed changes to tandem and front yard parking provides greater opportunity for accommodating the required parking on site, enabling residential development to more closely align with the Municipal Development Plan's housing action to "support the creation of new rental and owner-occupied housing units on every parcel of land zoned for residential development at the number of units allowed by zoning".

Compatibility with the proposed future land uses and densities of the municipal development plan:

The proposed amendment does not have an impact on the proposed future land uses of the Municipal Development Plan. The proposed changes to tandem and front yard parking provides greater opportunity for accommodating the required parking on site, enabling residential unit development that more closely relates to the residential densities permitted in the *Burlington CDO*.

Implementation of specific proposals for planned community facilities:

The proposed amendment has no impact on planned community facilities.

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TO: Burlington Planning Commission
FROM: Scott Gustin, Principal Planner, Department of Permitting & Inspections
CC: Meagan Tuttle, Comprehensive Planner, City Planning
DATE: August 13, 2019
RE: Inclusionary Zoning for Institutional Student Housing

This draft updates the overall inclusionary zoning revisions to Article 9 of the *Comprehensive Development Ordinance* (CDO) by including provisions for institutional student housing. It codifies the proposal discussed by the Planning Commission at their July 23, 2019 meeting.

The relevant recommendation of the joint committee (CDNR & Ordinance) to the Planning Commission is:

- Recommendation 12- *Develop ordinance language for meeting IZ requirements for institutional student housing projects outside of the institutional zones*.

The newly proposed language is intended to address off-campus housing affordability for students while recognizing the unique factors that distinguish institutional student housing from other types of housing.

Newly introduced language is underlined in red and highlighted in gray.

[Begin Text Amendments]

ARTICLE 9. INCLUSIONARY AND REPLACEMENT HOUSING

PART 1: INCLUSIONARY ZONING

Sec. 9.1.1 Intent

The intent of these regulations is:

(a) To meet the specific mandates of 24 V.S.A. Chapter 117 related to housing opportunities for all of Vermont's citizens, particularly for those citizens of low or moderate income;

(b) To ensure the provision of housing that meets the needs of all economic groups by precluding construction of only market rate housing on the limited supply of available land within the City;

(c) To improve the quality of life for all residents by having an economically integrated housing supply throughout the City; and,

(d) To prevent overcrowding and deterioration of the limited supply of affordable housing, and thereby promote the public health, safety and general welfare.

Sec. 9.1.2 Authority

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

Sec. 9.1.3 Inclusionary Units, General Description

Inclusionary units shall include those units in a covered project, which are regulated in terms of:

(a) Selling price or rent level;

(b) Marketing and initial occupancy; and,

(c) Continued requirements pertaining to re-sale, rent or carrying cost increases, as specified in this article.

Sec. 9.1.4 Miscellaneous Definitions

~~**"Affordable housing" or**~~ **"Affordable"** shall refer to a housing in which the ~~that is owned or rented by its inhabitants whose gross annual household income does not exceed 80 percent of the county median income or 80 percent of the standard metropolitan statistical area (MSA) income, as defined by the US Department of Housing and Urban Development, and the~~ total cost of the housing, including principal, interest taxes and insurance and condominium association fees, if owned housing, or the total cost of the housing, including rent, utilities and condominium association fees, if rental housing, is not more than thirty per cent (30%) of the household's gross annual income.

"Area Median Income" shall refer to the income for the Burlington MSA set forth in or calculated by regulations promulgated by the United States Department of Housing and Urban Development, pursuant to Section 8 of the Housing Act of 1937, as amended by the Housing and Community Development Act of 1974. The median income consists of all households in the geographic area. The median is the middle value when all are arranged from highest to lowest. The median income that is current on the first day of March of any year shall be used throughout the subsequent twelve (12) months in calculating the general requirements for affordable housing under this article.

"Campus" shall mean the grounds and buildings of a post-secondary educational institution.

"Carrying charges" refer to costs associated with housing co-operatives.

"Certificate of Inclusionary Housing Compliance" shall refer to a certificate issued by the Manager of the Housing Trust Fund, which certificate provides legal assurance that a developer's obligations under this article are being satisfied.

"Exclusive Use by Students" shall mean that fewer than 5 beds within an off-campus student housing project are leased to individuals not enrolled with the institution.

"Housing Trust Fund (HTF)" shall refer to a special revenue account established by the Burlington City Council for purposes related to the creation, promotion, and preservation of long-term affordable housing for very low, low, or moderate income households.

- **"Housing Trust Fund Administrative Committee"** shall refer to an administrative committee consisting of the Manager of the Housing Trust Fund, an appointee of the City Council President and a designee of the Mayor responsible for the administration of the HTF by resolution of the City Council.

- **“Manager of the Housing Trust Fund” or “Manager”** shall be the Director of the City’s Community and Economic Development Office, unless otherwise designated by the City Council by resolution.

~~**“Median Income”** shall refer to the income for the Burlington MSA set forth in or calculated by regulations promulgated by the United States Department of Housing and Urban Development, pursuant to Section 8 of the Housing Act of 1937, as amended by the Housing and Community Development Act of 1974. The median income consists of all households in the geographic area. The median is the middle value when all are arranged from highest to lowest. The median income that is current on the first day of March of any year shall be used throughout the subsequent twelve (12) months in calculating the general requirements for affordable housing under this article.~~

“Off-Campus Housing Cost” shall refer to the estimated cost of off-campus housing per student per academic year as calculated each year by the post-secondary educational institutions.

“Off-Campus Student Housing” shall mean housing projects developed and managed by a post-secondary educational institution, or are developed, managed, or leased in partnership between the institution and a private developer, for the exclusive use and occupancy by that institution’s students.

Sec. 9.1.5 Applicability

This ordinance provision shall apply~~ies~~ to any development of five or more residential units in a single structure ~~shall be subject to the standards of this article~~. Multiple developments or projects by the same applicant or responsible party within any consecutive twelve (12) month period that in the aggregate equal or exceed the above criteria shall be subject to these regulations.

Except as otherwise provided in this ordinance, these regulations shall apply in the instances specified below.

(a) The creation of five (5) or more residential units through new construction and/or substantial rehabilitation of existing structures, including the development of housing units utilizing development provisions other than those specified in Sec 9.1.5 (b).

(b) Where units are created using the Adaptive Reuse or Residential Conversion criteria pursuant to the provisions of Art 4, Sec 4.4.5, this article shall be applicable when at least ten (10) or more dwelling units are created.

(c) An applicant may elect to be subject to the provisions of this article when developing fewer than 5 residential units in a single structure, or ~~if~~ any new units are added to existing units ~~for a total of 5 or more units~~.

Sec. 9.1.6 Exemptions

Exempt from the requirements of this article are:

(a) On-campus p~~P~~rojects that are located within an Institutional (I) zoning district that are ~~developed by an educational institution~~ for the exclusive residential use and occupancy by that institution’s students;

(b) Those dwelling units in a covered project that are produced as “replacement units,” pursuant to Article 9, Part 2 and which do not produce any net new units; and,

(c) Projects created using the Senior Housing Development Bonus pursuant to the provisions of Article 4.

Sec. 9.1.7 Certificate of Inclusionary Housing Compliance

Notwithstanding any other provision of this ordinance, no certificate of occupancy for a project covered by this chapter shall be granted unless and until a Certificate of Inclusionary Housing Compliance has been issued by the Manager of the city's Housing Trust Fund.

Sec. 9.1.8 Inclusionary Units, Rental and Sales

For covered projects in which units are offered for rent or sale, a base of fifteen percent (15%) of all of the dwelling units in the project, graduated as specified in Table 9.1.8~~9~~-1, shall be designated as inclusionary units

This includes any covered project where units are offered for sale via the conveyance of a deed or share for individual units, including fee simple ownership, condominium ownership and cooperative ownership.

Table 9.1.8-1 Inclusionary Zoning Percentages	
If the average sale and rental price of project units is affordable to a household earning:	The percentage of units which are subject to rent and sales prices as per Sec. 9.1.9 and are subject to marketing and continued affordability provisions (Sec. 9.1.10 and Sec. 9.1.11) shall be:
Less than 139% of median income	15%
140%-179% of median income	20%
Development in any Waterfront district (RM-W, RL-W, NAC-CR and FD5 west of Battery St) or 180% of median income and above in any other district	25%
Off-campus student housing	15% of total beds

Sec. 9.1.9 Percentage of Inclusionary Units

~~All c~~Covered projects shall meet the percentage requirements for inclusionary units as specified above, calculated as follows:

Using the units/acre allowed for a covered project (i.e. 46 in the RH, 24 in the RM or 5.5 in the RL), the total number of units proposed is multiplied by the required percentage of Inclusionary units (15%, 20% or 25%, depending on the rent/selling price of the units).

For off-campus student housing projects the percentage of inclusionary beds shall be based on the total project bed count.

When the calculation yields a fractional number of required inclusionary units, the number of units shall be rounded up to the nearest whole number if the fractional number is .50 or greater, and down to the nearest whole number if the fractional number is .49 or less.

(Example: a moderately-priced, multi-family housing development with no commercial space on a one-acre lot in the RH would be able to provide 46 units on-site. Of those, 46 x .15 (15%) = 6.9 (rounded up to 7) units of a total of 46 must be inclusionary units. If the applicant can only provide 20 of such moderately priced units on the site, 15% of the 20 units, i.e. 20 units x .15 = 3 units shall be Inclusionary units).

Sec. 9.1.10 Income Eligibility

Except as provided for in the second paragraph below, Inclusionary Units required under this Article~~,~~ shall be marketed for purchase or rent to households earning less than the median income for the Burlington Metropolitan Statistical Area, adjusted for household size, as specified in Sec 9.1.~~12~~ 11. The median income shall be determined on the basis of the data which is most recent to the time that the units are ready for occupancy. Inclusionary units occupied by households receiving Section 8 vouchers can be presumed to satisfy the income eligibility requirements of this section.

Off-campus student housing projects shall provide beds as noted in Sec. 9.1.9 only to students who have received a need-based financial aid award as verified by the institutions or private developer.

Sec. 9.1.11 Calculating Rents and Selling Prices

The following provisions shall apply to the calculation of rents, selling prices and carrying charges, and to the relationship between unit size and household size:

(a) Inclusionary rental units shall be rented at a price which is affordable for a household with an annual income that is sixty-five percent (65%) of median income adjusted for household size;

(b) Inclusionary units for sale, including cooperative units and the carrying costs associated therewith, shall be sold at a price which is affordable for a household with an annual income that is seventy~~-five~~ percent (70~~5~~%) of median income adjusted for household size;

(c) In calculating the rents or carrying charges of inclusionary units, the following relationship between unit size and household size shall apply:

Unit Size	**Household Size Equivalent**
Efficiency Units:	1 Person Household;
One-Bedroom Units:	1.5 Person Household (average of one and two-person household incomes);
Two-Bedroom Units:	3 Person Household;
Three-Bedroom Units:	4.5 Person Household (average of four and five-person household incomes);
Four-Bedroom Units:	6 Person Household.

With respect to inclusionary units offered for sale, prices will be calculated on the basis of:

(d) An available fixed-rate thirty-year mortgage, consistent with a "blended rate" for Burlington banks plus the Vermont Housing Finance Agency as determined and declared semi-annually (January and July) by the Housing Trust Fund Manager. A lower rate may be used in calculating affordable prices if the developer can guarantee the availability of a fixed-rate thirty-year mortgage at this lower rate from the Vermont Housing Finance Agency for all of the required inclusionary units;

(e) A down payment of no more than five percent (5%) of the purchase price;

(f) Annual property taxes; and

(g) Homeowner insurance, homeowner association fees or condo fees. Homeowner association fees shall be calculated in the same manner as the fees for the market units in the same development. The Housing Trust Fund Manager may modify the amount used in the calculation of condominium fees for the determination of the initial sale price limit for condominium inclusionary units. This modification shall be for the purposes of removing costs, such as plowing, maintenance, insurance, electricity, which are not included in the calculation of the sale price limit for single family inclusionary units.

With respect to off-campus student housing projects:

(h) At least 15% of beds shall be provided at or below 80% of that institution's annual estimated off-campus housing cost.

Sec. 9.1.12 Additional Density and Other Development Allowances

All covered projects shall be entitled to increases in the development allowances of the underlying zoning district in accordance with the provisions of this section.

(a) Any covered project shall be entitled by right to an increase in the maximum lot coverage, density/intensity, and, where applicable, height allowed for the ~~site~~ lot(s) on which the project is located. Applicable design standards in Articles 6 and 14 shall not be construed such that the by-right provisions of this section are reduced ~~following the calculation of density, height, lot coverage, setbacks, and parking improvements for the site~~. Calculations for these entitlements shall be based on the following tables~~.~~:

Table 9.1.12-1 Density/Intensity Allowance Table				
Zoning District	**~~Additional Allowance~~**	**Maximum Units/Acre**	**FAR/Height**	**Maximum Lot Coverage**
RH	~~15%~~	46	~~n/a~~12' height set back 10' along street facade [1]	92%
RM~~, RM-W~~	~~20%~~	25	~~n/a~~	48%
RM-W		25	12' height set back 10' along street facade [1]	72%
RL, RL-W	~~25%~~	8.75	~~n/a~~	44%
FD6, FD5	~~n/a~~	n/a	0.5 FAR	100%
NMU, NAC, NAC-R, ~~NAC-CR, BST~~	~~n/a~~	n/a	0.5FAR+12~~0~~' height set back 10' along street facade	92%
NAC-CR		n/a	0.5FAR+12~~0~~' height set back 10' along street facade	72%

1. In the RH and RM-W residential zones an additional 12 feet of building height shall be allowed by right only for an additional 5% inclusionary housing units provided in excess of the minimum requirements of Sec. 9.1.8.

~~Table 9.1.12-2 Lot Coverage Allowance Table~~		
~~Zoning District~~	**~~Additional Allowance~~**	**~~Maximum Lot Coverage~~**
~~RH, NMU, NAC, NAC-R~~	~~15%~~	~~92%~~
~~RM-W, NAC-CR~~	~~20%~~	~~72%~~
~~RM~~	~~20%~~	~~48%~~
~~RL, RL-W~~	~~25%~~	~~44%~~

(b) ~~Other possible allowances for the provision of Inclusionary Units may include:~~

~~1. A waiver of up to 50% waiver of parking spaces as outlined in Article 8, Sec. 8.1.14,~~

~~2. A waiver of a portion of the impact fees associated with the Inclusionary units, pursuant to the Art. 3, Part 3 Impact Fee Administrative Regulations.~~

(c) (b)The allowances provided for herein may be declined at the option of the applicant;

(d) (c)With the approval of the DRB, units added to a project as market rate units may be substituted by nonresidential uses wherever such nonresidential uses are otherwise permitted in the district where the project is located. Approved substitution for nonresidential uses shall occur at the following rate: 1 market-rate dwelling unit = 1,500 square feet nonresidential space

(e) (d)All provisions of Sec. 9.1.8 through 9.1.11 shall apply, without exception, to any inclusionary units that are constructed.

Sec. 9.1.13 Off-Site and Payment In Lieu Options

(a) Off-Site Option

The developer of a covered project may construct inclusionary units on a lot (or lots) within the City of Burlington other than that on which the covered project is located as determined by HUD's Low- and Moderate-Income Summary Data as updated annually. The offsite option may be utilized by-right per the following scenario.

(1) Covered projects located in a census block where more than fifty-one percent (51%) of the residents are below eighty percent (80%) HUD Area Median Income as determined by HUD's Low- and Moderate-Income Summary Data may utilize the off-site option by right.

(2) In areas where less than fifty-one percent (51%) of the residents are below eighty percent (80%) HUD Area Median Income as determined by HUD's Low- and Moderate-Income Summary Data, utilization of the off-site option shall not be allowed. ~~The DRB, upon a finding that unique, difficult and/or challenging site conditions exist that prevent the inclusionary units from being constructed upon the same site as the market units, may allow any developer of a covered project to comply constructing inclusionary units on a site within the City of Burlington other than that on which the covered project is located, subject to the following conditions:~~

In all cases, utilization of the off-site option shall be subject to the following conditions:

~~(a)~~ (1) The number of inclusionary units to be provided by the developer or by the developer's designee through off-site development shall be ~~no fewer than 1.5 times~~ equivalent to the number otherwise required by this Article;

~~(b)~~ (2) No additional development provisions as outlined in ~~this Article~~ Sec. 9.1.12 shall be granted to the development of units constructed off-site or to the project constructed on-site;

~~(c)~~ (3) Off-site inclusionary units must be located within the City of Burlington;

~~(d)~~ (4) All of the provisions of Sections 9.1.8 through 9.1.11 shall apply without exception to off-site inclusionary units under the provisions of this section;

~~(e)~~ (5) Waiver of provisions from the HTF with regard to minimum square footage and bedroom count relative to average size and bedroom count in a covered project is not permitted; and

~~(f) Should the City Council decide that a payment in lieu is acceptable in exchange for not providing the inclusionary units on or off of the site, the payment shall be $100,000, adjusted annually in accordance with the CPI, commencing January 1, 2007, per the number of units required in (a) above.~~

The off-site option shall not apply to a project located within a waterfront zoning district ~~or the NAC-CR district~~ nor shall it apply to off-campus student housing projects. For the purposes of this Sec. 9.1.13, "site" shall consist of all adjacent ~~lands~~ lots which are the subject of a PUD or other single development application.

(b) Payment In-Lieu Option

The developer of a covered project may provide a payment in lieu to the Housing Trust Fund rather than construct inclusionary units on or offsite contingent on HUD Area Median Income as determined by HUD's Low- and Moderate-Income Summary Data. The payment in lieu option may be utilized by right under the two following scenarios

(1) ~~C~~Covered projects located in a census block where more than fifty-one percent (51%) of the residents are below eighty percent (80%) HUD Area Median Income as determined by HUD's Low- and Moderate-Income Summary Data may utilize the payment in lieu option ~~by right~~ subject to the following standards:

i. The payment in lieu fee shall be $35,000 per dwelling unit for projects containing 5-16 dwelling units.

ii. The payment in lieu fee shall be $70,000 per dwelling unit for projects containing 17-49 dwelling units.

iii. The payment in lieu fee shall be $85,000 per dwelling unit for projects containing 50 or more dwelling units.

A marginal fee approach shall be used in payment of the in lieu fees.

(Example: A 17-unit project would pay a total of $140,000 {$35,000 for each of the first two inclusionary units and $70,000 for the third inclusionary unit}.)

(2) Covered projects located in a census block where less than fifty-one percent (51%) of the residents are below eighty percent (80%) HUD Area Median Income as determined by HUD's Low- and Moderate-Income Summary Data may utilize the payment in lieu option per the following standards:

i. The payment in lieu fee shall be $35,000 per dwelling unit for projects containing 5-16 dwelling units.

ii. The payment in lieu fee shall not be allowed for projects containing 17 or more dwelling units.

The payment in lieu option shall not apply to a project located within a waterfront zoning district. For the purposes of this Sec. 9.1.13, "site" shall consist of all adjacent lots which are the subject of a PUD or other single development application.

Sec. 9.1.14 General Requirements for Inclusionary Units

All covered projects must comply with the requirements set forth below.

(a) In order to assure an adequate distribution of inclusionary units by household size, the bedroom mix of inclusionary units in any project shall be in the same ratio as the bedroom mix of the non-inclusionary units of the project;

(b) Rental inclusionary units within a covered project may "float" (as opposed to designating specific units). Owner-occupied inclusionary units within a covered project must be specifically designated. In either case, inclusionary units may be grouped together or distributed throughout a covered project;

(c) Covered projects including both rental and owner-occupied dwelling units shall provide inclusionary units proportionate to the numbers of rental and owner-occupied dwelling units;

(d) Inclusionary units may differ from the market units in a covered project with regard to interior amenities and gross floor area, provided that:

1. These differences, excluding differences related to size differentials, are not apparent in the general exterior appearance of the project's units; ~~and~~

2. These differences do not include insulation, windows, heating systems, and other improvements related to the energy efficiency of the project's units; and,

3. Inclusionary units are afforded the same opportunity for parking that the market units are afforded.

(e) The ~~gross~~ floor area of the inclusionary units is not less than ninety percent (90%) of the average gross floor area of the market rate units within the project and of the same number of bedrooms. ~~the following minimum requirements, unless waived by the DRB using the following criteria:~~

~~1. All of the units being provided with a specific bedroom count are smaller than the standards outlined below;~~

~~2. More than the required number of inclusionary units are provided on site, not all shall be subject to bedroom mix and size requirement; or,~~

~~3. The units have an efficient floor plan (meaning that less than 5% of the square footage is devoted to circulation) and the bedroom size(s) is a minimum of 144sf or 12'x12.~~

~~One bedroom .... 750 square feet~~

~~Two bedroom ....1,000 square feet~~

~~Three bedroom ....1,100 square feet~~

~~Four bedroom ....1,250 square feet~~

(f) Upon demonstration of inability to sell units to income eligible residents earning ~~75~~70% of the median income, the Manager of the HTF may extend income eligibility to allow priority in the sale of inclusionary units to households earning as much as ~~eighty percent (80%) of~~ median income, adjusted for household size and to households residing in Burlington at the time that these units are offered for sale ~~or lease~~ In extending income eligibility, priority shall be given to the lowest income household who qualifies for purchase, all else being equal;

(g) Except for household income limitations as set forth herein, occupancy of any inclusionary unit shall not be limited by any conditions that are not otherwise applicable to all units within the covered project unless required under federal law, e.g. local use of the Low Income Housing Tax Credit, or in conflict with the stricter bylaws of the designated housing agency; and

(h) The final calculations for the number of inclusionary units shall be determined by the Manager prior to the issuance of the zoning permit. If there is any change in the project due to sales prices for these units that increases the number of inclusionary units required, such modifications shall be determined by the Manager and communicated to the administrative officer prior to the issuance of a certificate of occupancy for the covered project. The rental or sales price of the inclusionary units shall also be determined by the Manager prior to the issuance of a certificate of occupancy.

Sec. 9.1.15 Marketing of Inclusionary Units

Any applicant developing a covered project shall adhere to the following provisions with respect to the initial offering of inclusionary units for sale or rental:

(a) Trust Fund Notification.

The developer shall notify the Manager of the HTF, as defined in Section 18-400 of the Burlington Code of Ordinances, of the prospective availability of any inclusionary units at the time that the building permit is issued for such units in a covered project;

(b) Trust Fund Option.

The Manager of the HTF, in consultation with the other members of the HTF Administrative Committee, shall then have an exclusive option for one hundred twenty (120) days to purchase each inclusionary unit offered for sale from the developer unless waived or assigned;

(c) Trust Fund Waiver.

If the Manager of the HTF, in consultation with the other members of the HTF Administrative Committee or its designee, fails to exercise its option by failing to negotiate and sign a purchase and sale agreement for the inclusionary units, or if the Manager declares its intent not to exercise its option, the developer shall offer the units for purchase to households earning less than the median income referenced in Section 9.1.11. If requested by the developer, the Manager of the HTF shall execute documents that may be recorded in the Burlington Land Records to evidence said waiver of the option;

(d) Time of Closing.

Closing on inclusionary units purchased by the Housing Trust Fund Manager shall occur on or after the time of issuance of the certificate of occupancy. If the Housing Trust Fund Manager fails to close on these inclusionary units, the developer shall offer the unit for purchase or rent to households earning less than the median income referenced in Section 9.1.11, adjusted for household size;

(e) Transfer of Option.

On or before a purchase and sale agreement is executed between the developer and the manager, the Manager may assign the options specified in this section to any "designated housing agency," as defined by the provisions of Article 5 of Chapter 18 of the Burlington Code of Ordinances, in which event it shall notify the developer of such assignment and the agency to which it has assigned the option, which agency shall deal directly with the developer, and shall have all of the authority of the Manager, as provided under this section.

(f) Rentals.

In the case that the inclusionary units are being offered for rent rather than for sale, the Manager shall also be notified in the manner prescribed by subsection (a) regarding Trust Fund Notification, and the Manager and developer shall cooperate in order to rent such units to individuals meeting the income guidelines of Sec 9.1. 11(a) or (h).

Sec. 9.1.16 Continued Affordability Requirements

All covered projects shall comply with the following provisions to ensure continued affordability of inclusionary units provided under this article and units required to be continually affordable under Section 9.1.16.

(a) 99-Year Requirement.

All inclusionary units shall remain affordable for a period of no less than ninety-nine (99) years commencing from the date of initial occupancy of the units. Where a developer can establish that regulatory or other considerations make it impossible to provide the required inclusionary units if subject to the full extent of this requirement, the development review board may modify the duration of the period of continued affordability only to the extent necessary to render the development feasible;

(b) Deed Restrictions.

Provisions to ensure continued affordability of inclusionary units shall be embodied in legally binding agreements and/or deed restrictions satisfactory to the City Attorney's office, which shall be prepared by the developer, but which shall not be recorded or filed until reviewed and approved by the Housing Trust Fund Manager with such modifications as it may deem necessary to carry out the purpose of this article. Such review and approval shall be completed within forty-five (45) days following date of submission of such documents to the Manager of the HTF. Failure of the Manager to respond within the forty-five (45) day period as set forth herein shall constitute approval of the documents;

(c) Resale Restrictions.

Provisions to ensure continued affordability of inclusionary units offered for sale shall include a formula for limiting equity appreciation to an amount not to exceed twenty-five percent (25%) of the increase in the inclusionary unit's value, as determined by the difference between fair market appraisal at the time of purchase of the property and a fair market appraisal at the time of resale, with such adjustments for improvements made by the seller and necessary costs of sale ~~as may be approved by the Manager, with a recommendation from the Administrative Committee of the HTF~~;

(d) Rent ~~Increases~~ Changes

Provisions for continued affordability of inclusionary rental units shall limit annual rent ~~increases~~ changes to the percentage ~~increase~~ change in the median household income within the Burlington Metropolitan Statistical Area (MSA) which shall become effective when approved by the HTF Manager. ~~except to the extent that~~ F~~f~~urther ~~increases~~ changes ~~are~~ made necessary by hardship or other unusual conditions~~, and shall provide that no rent increase may take effect until it has received~~ shall require the approval of the Housing Trust Fund Administrative Committee in writing;

(e) Purchase Option

Provisions for continued affordability of inclusionary units shall provide that the Housing Trust Fund Administrative Committee or its designee shall have an exclusive option to purchase any owner-occupied inclusionary unit when it is first offered for resale for a period of one hundred twenty (120) days from the date on which the HTF Administrative Committee is notified of the availability of the unit; and

(f) Sublet Restrictions.

Provisions for continued affordability of inclusionary units shall prohibit subletting rental units for a price exceeding that which is affordable for a household with an annual income that is seventy ~~five~~ percent (70~~5~~%) of median for the County or the City, whichever is less, consistent with the relationship between unit size and household size set forth in Section 9.1.11.

(g) Off-Campus Institutional Student Housing.

For off-campus student housing projects annual reporting by the institution or the developer to the manager of the housing trust fund shall verify continuing affordability of beds per Section 9.1.11.

Sec. 9.1.17 Review of Proposal for Phasing

Proposals for projects to be constructed in phases shall be reviewed as a component of the initial project review and shall be included in any conditions of approval. A schedule setting forth the phasing of the total number of units in a covered project, along with a schedule setting forth the phasing of the required inclusionary unit(s), shall be presented for review and approval as part of the permitting process, for any development subject to the provisions of this article. If phasing is not included as part of the review process, no phasing of the inclusionary units shall be allowed.

If a covered project is approved to be constructed in phases, the requirements of the following section shall be applicable to each such phase.

Sec. 9.1.18 Timeline for Availability/Phasing of Inclusionary Units for Issuance of Certificate of Occupancy

Inclusionary units shall be made available for occupancy on approximately the same schedule as a covered project's market units, except that certificates of occupancy for the last ten percent (10%) of the market units shall be withheld until certificates of occupancy have been issued for all of the inclusionary units; except that with respect to covered projects to be constructed in phases, certificates of occupancy may be issued on a phased basis consistent with the conditions of approval set forth in Sec. 9.1.17.

Sec. 9.1.19 Enforcement

Violations of this article shall be punishable as provided by Article 2 of this Ordinance.

Sec. 9.1.20 Administration

The Housing Trust Fund and its Manager or designee shall monitor activity under this article and shall provide a report no less than every year to the city council, setting forth its findings, conclusions, and recommendations for changes that will render the program more effective. The report described above shall be presented to the city council at a legally warned public hearing.

[End Text Amendments]

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Burlington Planning Commission

Tuesday, July 23, 2019, 6:30 P.M.

Conference Room 12, City Hall, 149 Church Street

Draft Minutes

Members Present	E Lee, A Montroll, B Baker, H Roen, J Wallace-Brodeur, Y Bradley,
Members Absent	A Friend
Staff Present	D White, M Tuttle, S Durmick, S Gustin, T Rawlings

I. Agenda

Call to Order	Time: 6:32pm
Agenda	No changes to the agenda

II. Public Forum

Name	Comment	Commission Action
Sharon Bushor	• Concerned about dividing planning & zoning depts. • Want to understand whether Green Globes would be added to CDO or another certification process • FD5 Boundaries – Council Ord. Cmte tweaked based on residents' feedback since PC recommended • Appreciate IZ for off-campus institutional housing concept; concern is how units reach those in need	NA

III. Report of the Chair

A Montroll	• No report

IV. Report of the Director

D White	• Has transitioned from Interim CEDO/Planning Director to solely Planning Director

V. Annual Reorganization Meeting

Action: Elected officers and appointed members to committees to serve for FY 2020

Motion by: See Below	Second by: See Below	Vote: See Below

Type: Action	Presented by:

Discussion/Notes:

- **Election of Officers - Chair: A Montroll**
  - Commission unanimously approved a motion by Y Bradley, second by: E Lee
- **Election of Officers – Vice-Chair: B Baker**
  - Commission unanimously approved a motion by J Wallace-Brodeur, second by: H Roen
- **Election of Executive Committee At-Large Member: Y Bradley**
  - Commission unanimously approved a motion by H Roen, second by: B Baker
- **Appointment of Commission Clerk: Sidney Durmick**
  - Commission unanimously approved a motion by B Baker, second by: Y Bradley

- **Appointment of Committees: Long Range Planning**
  - The chair appointed Wallace-Brodeur, Roen & Lee to the Committee
  - Commission unanimously approved a motion by J Wallace-Brodeur, second by E Lee, to appoint Ryan Crehan (CB) and Keenan Christianson (DRB) to the Committee
- **Appointment of Committees: Ordinance**
  - Chair appointed Bradley, Baker & Friend to the Committee
  - Commission unanimously approved a motion by Y Bradley, seconded by H Roen, to appoint Zoraya Hightower (DRB) to the Committee

VI. Approval of Green Globes Certification

Action: Deferred action to future meeting pending additional info		
Motion by:	Second by:	Vote:
Type: Discussion	Presented by: D White	

Commissioner Discussion:

- Consideration based a request that Green Globes (GG) be added to the list of high performance building standards under Article 14. If approved, not an ordinance amendment; would be added the checklist given to applicants
- Based on a Commissioner's own research, the Commission discussed questions about how rigorous the process is for certifying professionals who administer the program; the funding and influence of corporations and lobbying interests in the Green Building Institute and what impact these have on the standards of the certification; and a question about whether GG requires building commissioning. All of these points were compared to LEED.
- Commissioners discussed that an important consideration was outcomes, and ensuring that GG would have equivalent outcomes to a program like LEED, and if buildings ultimately perform as expected based on the certification.
- Some Commissioners noted that they have heard concerns about LEED as well, particularly related to cost and the difficulty of technical assistance, and feel that GG offers a more user-friendly and cost effective alternative that will actually encourage people to build better buildings.
- Commissioners asked staff to clarify whether commissioning is required in GG, and to again try to encourage attendance by those in the architecture, development industries to offer comment at the next meeting.

VII. Proposed ZA-20-01 Form District 5 Boundaries

Action: The Commission approved the municipal bylaw amendment report and warned the amendment for public hearing		
Motion by: Y Bradley	Second by: E Lee	Vote: approved unanimously
Type: Discussion, Action	Presented by: M Tuttle	

Discussion/Notes:

- This amendment reboots an ordinance previously recommended by the Commission that expired, which includes the rezoning of a number of properties to be included in the Form District 5 zone. Council Ordinance Committee has made a number of changes based on residents feedback, and has asked the Commission to warn this version of the amendment for public hearing
- The changes included removing a number of properties from the proposed FD5 boundaries on S Champlain St. and King St. Residents on S Champlain St. were concerned about the

introduction of commercial uses, while those on King St. were concerned about scale & massing of buildings • Councilor Bushor noted that the Ordinance Committee has made trade-offs, but she feels this is ultimately better for the people that live there right now, and that properties can always be revisited in the future if necessary.

VIII. ZA-19-10 Inclusionary Zoning – Off-Campus Institutional Development

The Commission requested that the framework presented by staff be further refined for discussion at the next meeting		
Motion by:	Second by:	Vote:
Type: Discussion	Presented by: M Tuttle	

Discussion/Notes:

- M Tuttle gave a presentation which offered information about how financial aid is applied to housing by the institutions. M Tuttle also noted key questions about how the applicability of Inclusionary Zoning (IZ) relates to institutional housing compared to broader city housing policies, and proposed a framework for how to apply a parallel IZ requirement to off-campus housing for institutions based on the Commission's concerns. It was noted that this is not a perfect solution, but it starts to move in the direction of providing affordability for students. (Presentation can be found online in the agenda packet.)
- Commissioners were generally supportive of the framework that was outlined, but had questions about how to ensure that the beds that are offered at a discounted rate are offered to students who need financial assistance, and who administers the appropriate certification process.
- A Commissioner felt it was important that if the price of a bed is discounted, that it will not have an impact on a student's financial aid award amount.
- Staff noted the limitations on collecting student financial information, challenges of a self-certification process, and the concern about creating a new certification process that is a significantly higher standard than what is required today for other forms of housing.
- Councilor Bushor asked if there is a legal way to verify the information submitted.
- Commissioners asked staff to continue to develop the concept, particularly related to details around certification and compliance.

IX. Committee Reports

Executive	Met on 7/23 and discussed Inclusionary Zoning and other upcoming agenda items
Ordinance	No Report
Long Range	No Report

X. Commissioner Items

Next Meeting	Tuesday, August 13, 2019 @ 6:30pm in Conference Room 12, City Hall

XI. Minutes Communications

Action: Approved minutes and accepted the communications		
Motion by: B Baker	Second by: H Roen	Vote: approved unanimously

Minutes Approved for the 7/9/19 meeting
Communications Filed:

- Public Hearing Notice from South Burlington regarding changes to Land Development Regulations

- Letter from AARP VT regarding ADU policy amendments
- Email from E Hoekstra of Redstone regarding IZ for Institutional housing

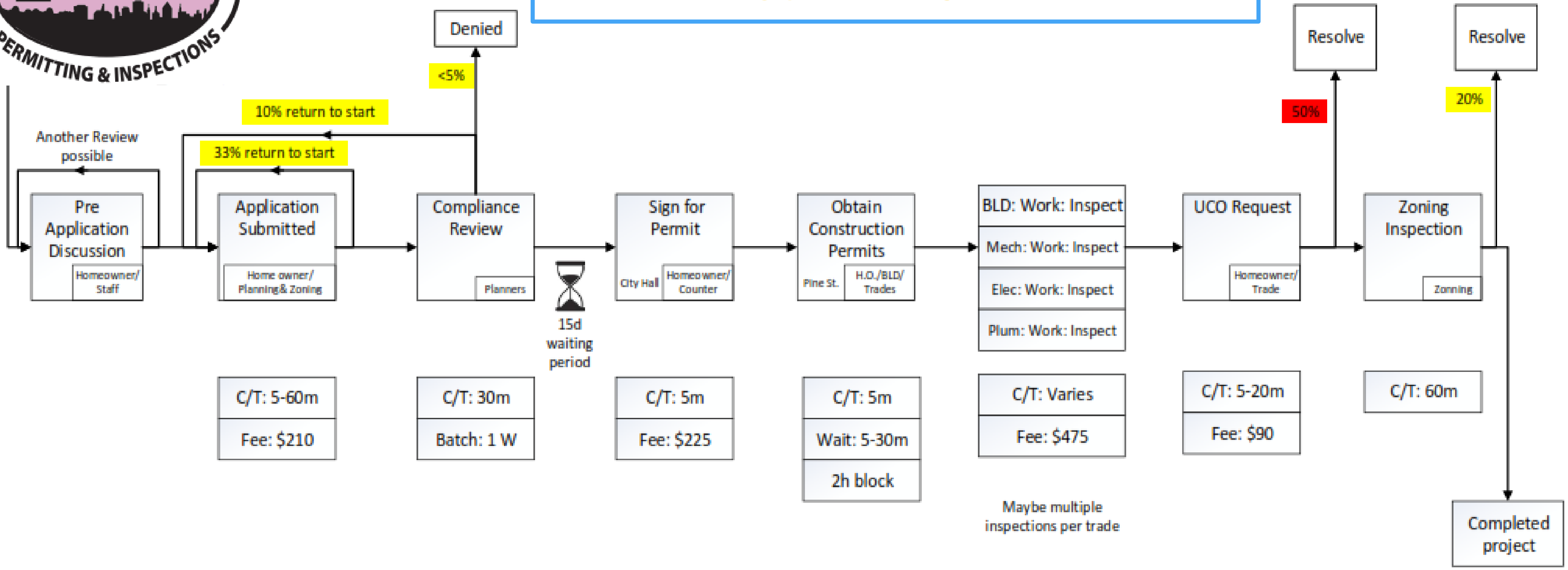
XII. Adjourn

Adjournment	Time: 8:15pm	
Motion: A Montroll	Second: H Roen	Vote: approved unanimously

Respectfully Submitted by: S Durmick

BURLINGTON, VT
PERMITTING & INSPECTIONS

Permitting Value Stream Map
CURRENT STATE



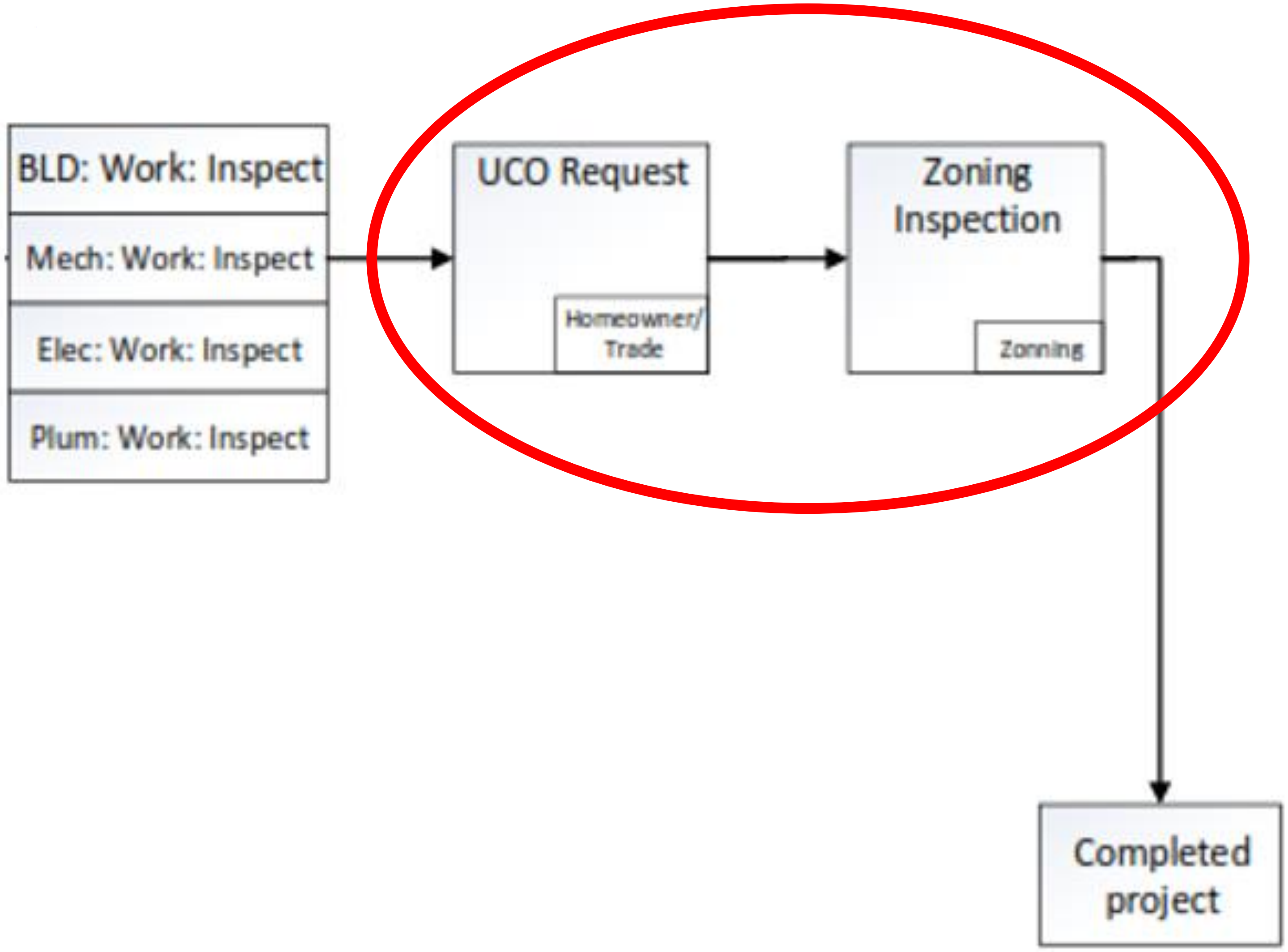
First Time Right 22%

Assumptions:
Homeowner, Small addition, Existing home
Zoning Administration Approval, $50K
Steer Development toward city goals
Life Safety

- Areas requiring improvement
- Highest need for improvement
- Improved Results

Current State Value Stream Map - 01-10-2019
Permit Process: Homeowner/Existing
Small Addition
Zoning Administration Approval

Proposed Changes to Certificate of Occupancy Process



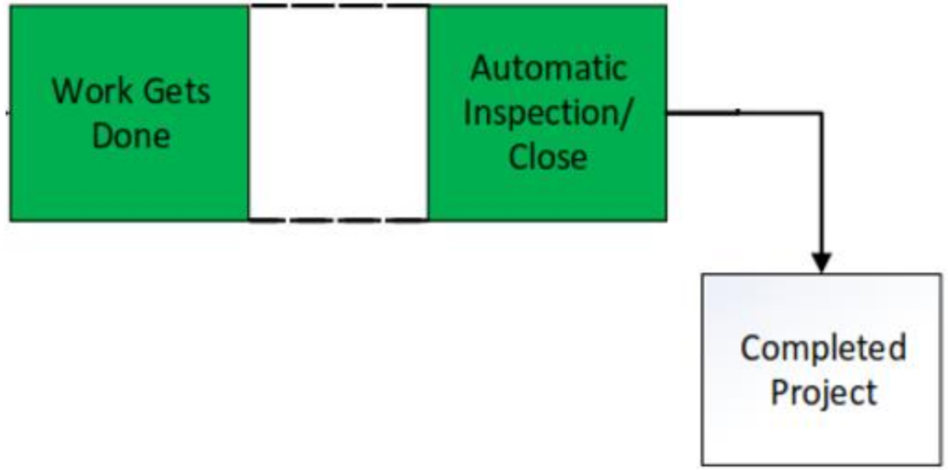
Current CO Practice

When a project's building permit gets closed:

1) Customer comes to 645 Pine
2) Customer signs CO request
3) Customer pays CO fee
4) Zoning Inspector scheduled for site visit
5) UCO issued

Future state of UCO process

ZP conditions include CO request and UCO fee at start of the project



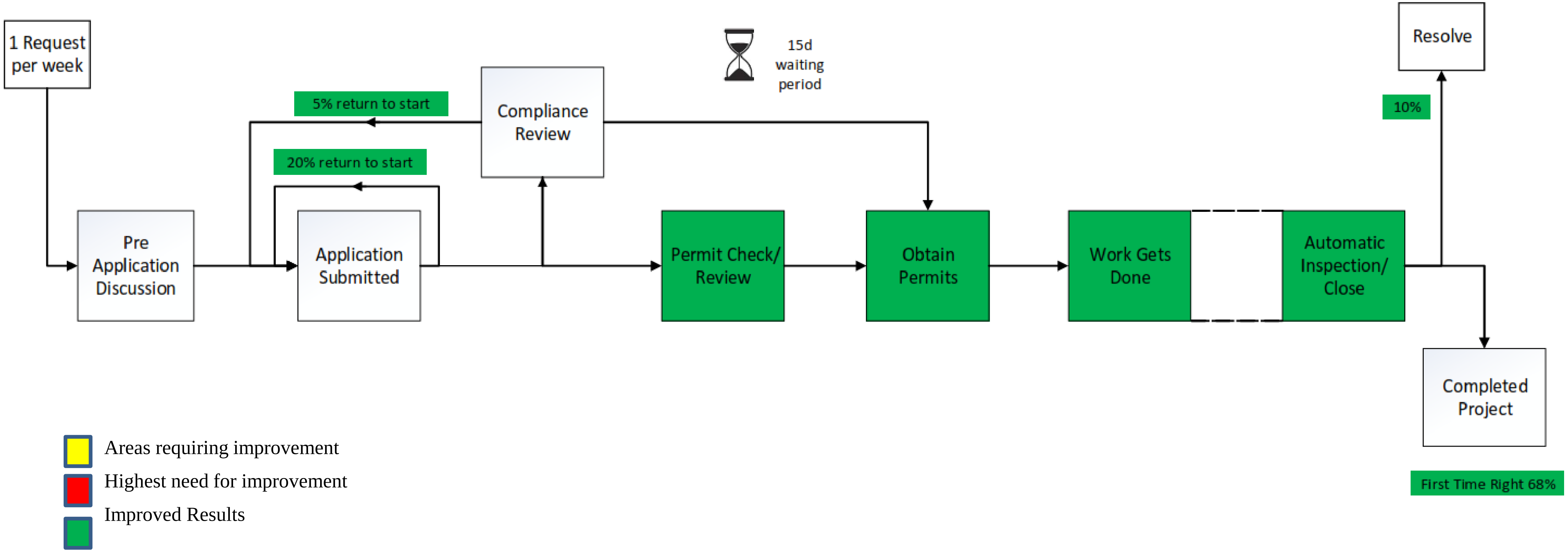
When a project's building permit gets closed:

1) The building official's status change triggers an e-mail to zoning UCO team.

2) The UCO team conducts a final inspection and issues UCO.

Permitting Value Stream Map

FUTURE STATE



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Burlington Planning Commission
Tuesday, August 13th, 2019, 6:30 P.M.
Conference Room 12, City Hall, 149 Church Street
Minutes

Members Present	E Lee, A Montroll, H Roen, A Friend, J Wallace-Brodeur, Y Bradley
Members Absent	
Staff Present	D White, M Tuttle, T Rawlings, S Gustin, S Durmick

I. Agenda

Call to Order	Time: 6:33
Agenda	No changes to the agenda

II. Public Forum

Name(s)	Comment	Commission Action
Sharon Bushor	Concerned about front yard parking in ZA-19-03, encouraged Commission to require pervious pavers	
Bob Duncan	Requested consideration for flexibility beyond 18' limit on width of driveways in ZA-19-03; represented a client's site constraints which preclude 2 cars from fitting in an 18' drive	

III. Chair Report

A Montroll	• No report

IV. Director's Report

M Tuttle	• Council has taken up the proposed IZ amendments; plan to conclude discussion on this tonight to forward the rest of the Commission's recommendations • In upcoming meetings, Commission members will be receiving presentations in relation to the City's work on the Housing Summit policy reforms • Housing Summit Part 2 on September 4th, encourage Commissioner participation

V. Ordinance Committee Appointment

Action: Matt Bushey appointed as DAB Representative to the Ordinance Committee		
Motion by: J Wallace-Brodeur	Second by: E Lee	Vote: Approved unanimously
Type: Action	Presented by:	

VI. Reapprove Municipal Bylaw Amendment Report: ZA-19-03

Action: Reapprove municipal bylaw amendment report and forward comments to Council		
Motion by: Y Bradley	Second by: A Friend	Vote: Approved unanimously

Type: Discussion, Action	Presented by: S Gustin

Discussion & Notes:

- S Gustin explained the evolution of the proposed ZA-19-03 regarding parking within the front yard setback, based on Council Ordinance Committee and public comments. Council has changed the ordinance, so Commission is asked to reapprove the report and offered opportunity to provide comments.

Comments & Discussion:

- Commissioners had questions about the origin of this amendment and in what parts of the City the 18' driveway standard currently applies. Staff confirmed that this originated from the DRB's assessment that the ordinance language and the interpretation didn't match, and that the 18' width standard presently applies to driveways in Design Controlled areas of the city.
- A Commissioner was concerned that allowing parking within the front yard setback will allow parking in front of houses on some lots. Commissioners recommended that Council incorporate language to allow 18' wide drive, but preclude parking between the house and the street.
- Commissioners discussed S Bushor concern about pervious pavement for driveways, and the driveway width and agreed to discuss these issues again in the future if the amendment comes back for additional revisions.

VII. ZA-19-10 Inclusionary Zoning – Off-Campus Institutional Development

Action: Refer comments and proposed framework to Council for consideration within IZ reforms		
Motion by: E Lee	Second by: J Wallace-Brodeur	Vote: Approved unanimously
Type: Discussion, Action	Presented by: M Tuttle, S Gustin	

Discussion & Notes:

- M Tuttle reviewed how the previously discussed framework for Inclusionary Zoning for institutional projects could be incorporated into the draft Article 9 amendments previously referred to Council.

Commissioner Comments:

- Update the definition of "estimated off-campus housing cost" to clarify this must be the number the institution uses to make financial aid decisions
- Consider using a percentage of beds, rather than 5 beds, as the threshold for defining "exclusive use" by students.
- Update the applicability section to reflect that all off-campus institutional projects for the exclusive use of students are subject to these requirements.
- Require as part of the annual compliance reporting that the institution or developer must certify that the project also still meets the definition of exclusive use by students.
- S Bushor shared concerns that no representatives from UVM or Champlain were present. Staff assured Commissioners that institutions are aware of this proposed framework.

VIII. Proposed Changes to Certificate of Occupancy Process

Action: None required		
Motion by: NA	Second by: NA	Vote: NA
Type: Discussion	Presented by: Bill Ward	

Discussion/Notes:

- B Ward presented proposed changes to the Certificate of Occupancy (CO) process for building and zoning permits contemplated by the new Department of Permitting and Inspections (DPI). The more automated process will be more efficient, takes out extra steps, and provides tracking and analysis options for data. It reduces hassles for customers and staff, and funnels requests through a more centralized electronic system. Main concern from staff is how applicants may react to paying the cost of the CO upfront as part of the application fees.

- Commissioners overall were very supportive of these changes.
- A Commissioner noted that currently, many projects never actually close permits, so the department may see an increase in volume. B Ward responded that DPI is preparing for this.
- A Commissioner asked how a homeowner will know when the permit is closed. B Ward indicated that they will receive a CO in the mail or electronically, and be able to look the permit status up in the online system at any time.
- B Ward clarifies that this is primarily targeted at the regular fees anticipated by the average homeowner project. For larger, and multi-phase projects, the timing of payment for impact fees/development review fees is currently being reviewed.

IX. Committee Reports

Executive	No Report
Ordinance	No Report
Long Range	No Report

X. Commissioner Items

Next Meeting	Tuesday, August 27, 2019 @ 6:30 in Conference Room 12, City Hall

XI. Minutes and Communications

Action: Accept the communications		
Motion by: Y Bradley	Second by: A Friend	Vote: Approved unanimously
Minutes Filed: July 23, 2019 Communications Filed: • Letter from Bob Duncan of Duncan Wisniewski Architecture regarding driveway width expansion		

XII. Adjourn

Adjournment	Time: 8:04 pm	
Motion: E Lee	Second: A Friend	Vote: Approved Unanimously

Signed: August 27, 2019

Andy Montroll, Chair

Respectfully submitted by: S Durmick

Sidney Durmick, Planning Commission Secretary

Approved by the Planning Commission on August 27, 2019