

Burlington Planning Commission

149 Church Street
Burlington, VT 05401
Telephone: (802) 865-7188
(802) 865-7195 (FAX)
(802) 865-7144 (TTY)

www.burlingtonvt.gov/pz

*Andy Montroll, Chair
Bruce Baker, Vice-Chair
Yves Bradley
Alexander Friend
Michael Gaughan
Erin Malone
Julia Randall*

Burlington Planning Commission

Tuesday, August 8, 2023, 6:30 pm

Remote & Virtual Meeting via Zoom

In-Person Option Available:

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

To Join the Meeting on a Computer

Link: <https://zoom.us/j/93943167252>

To Join the Meeting on a Phone

Number: +1 719 359 4580 **Meeting ID:** 939 4316 7252

AGENDA

I. Agenda

II. Public Forum

III. Chair's Report

IV. Director's Report

V. Public Hearing for Proposed CDO Amendment: ZA-23-04 Temporary Structures

The Commission will hold a public hearing on a proposed amendment to the Burlington Comprehensive Development Ordinance that provides for the placement of temporary structures for non-residential purposes in Civic Spaces as all enumerated City of Burlington Parks (Code of Ordinances Chapter 22-1), without review or required zoning permit for up to 60 days, provided that the structure is approved by the Burlington Fire Marshal. Information related to this item is included in the agenda packet on page 4.

Staff Recommendation: Approve the Municipal Bylaw Amendment report, make any changes and refer to Council with recommendation.

VI. Public Hearing for Proposed CDO Amendment: ZA-24-01 Technical Amendments

The Commission will hold a public hearing on a proposed amendment to the Burlington Comprehensive Development Ordinance that includes numerous technical corrections to the CDO. Information related to this item is included in the agenda packet on page 7.

Staff Recommendation: Ask questions and provide feedback on the draft amendment. Warn the amendment for a public hearing and approve the municipal bylaw amendment

VII. Public Hearing for Proposed CDO Amendment: ZA-23-03 Setbacks

The Commission will hold a public hearing on a proposed amendment to the Burlington Comprehensive Development Ordinance that would modify a limited grouping of setback standards to facilitate development and redevelopment within residential districts and to reconcile language across Articles and 5 and 14 for clarity. Information related to this item is included in the agenda packet on page 24.

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 cdillard@burlingtonvt.gov.

Staff Recommendation: Approve the Municipal Bylaw Amendment report, make any changes and refer to Council with recommendation.

VIII. Public Hearing for Proposed CDO Amendment: ZA-23-05 168 Archibald

The Commission will hold a public hearing on a proposed amendment to the Burlington Comprehensive Development Ordinance that would modify the zoning district for the property at 168 Archibald Street from RM to NMU to facilitate additional commercial uses on the property. Information related to this item is included in the agenda packet on page 30.

Staff Recommendation: Approve the Municipal Bylaw Amendment report, make any changes and refer to Council with recommendation.

IX. Commissioner Items

- a. Committee Reports

X. Minutes & Communications

- a. The minutes of the July 25 meeting are enclosed in the agenda packet on page 43.
- b. Communications are enclosed in the agenda packet.

XI. Adjourn

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Staff Recommendation: Approve the Municipal Bylaw Amendment report, make any changes and refer to Council with recommendation.

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XI. Adjourn



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Guidance for Participating in a Virtual Planning Commission Meeting

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

General Guidance for Public Participation

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

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

How to Join a Virtual Meeting

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

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

How to Participate in a Virtual Meeting

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

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

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



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TO: Burlington Planning Commission

FROM: Sarah Morgan, Planner
Charles Dillard, AICP, Principal Planner

DATE: July 24, 2023

RE: Proposed CDO Amendment – ZA-23-04: Temporary Structures

Overview & Background

The BTV Market, located within City Hall Park, provides Burlington's artists and makers with opportunities to sell their products. This outdoor market takes place every Saturday from June to October in City Hall Park, and has seen success connecting residents with a diverse group of vendors. This success has lead BCA and Love Burlington to launch the 8-week BTV Winter Market, also within City Hall Park from mid-November to late December. However, market organizers have run into barriers that prevent the execution of the winter market because of their use of temporary vendor sheds installed in City Hall Park. These sheds are used to provide vendors with a covered, warm and wind-blocking structure to present their art and merchandise in the winter.

Currently, Burlington regulates temporary structures in Article 5, Section 5.1.2, stating that temporary structures can only be placed for up to 10 consecutive days or 30 days within any 12 month period in the same location without a permit. This regulation thus prevents the Winter Market to operate for more than 30 days within any 12-month period, severely limiting the amount of time that artists and makers have to sell their goods.

This amendment seeks to amend the zoning ordinance to provide additional flexibility in the Temporary Structure provisions to exempt Temporary Structures as defined in Chapter 3 of NFPA 101 of a non-residential use from requiring a zoning permit for up to 60 days in Civic Spaces as well as all enumerated City of Burlington Parks (Code of Ordinances Chapter 22-1), contingent upon the Fire Marshal issuance of a temporary permit. This proposed change ultimately seeks to support the expansion of creative economic opportunities that connect artists and makers to customers within existing community facilities.

Proposed Amendment

Amendment Type

Text Amendment	Map Amendment	Text & Map Amendment
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Purpose Statement

The proposed amendment provides for the placement of temporary structures for non-residential purposes in Civic Spaces as all enumerated City of Burlington Parks (Code of Ordinances Chapter 22-1), without review or required zoning permit for up to 60 days, provided that the structure is approved by the Burlington Fire Marshal.

Proposed Amendments

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

1. Amends Sec. 5.1.2 (f) Temporary Structures

- Add an exception for temporary structures for non-residential purposes in Civic Spaces as well as city parks all enumerated City of Burlington Parks (Code of Ordinances Chapter 22-1) from review and required permit for up to 60 days within a 12-month period, provided that the structure is approved by the Burlington Fire Marshal.

Relationship to planBTV

This following discussion of conformance with the goals and policies of planBTV is prepared in accordance with the provisions of 24 V.S.A. §4441(c).

Theme:	Dynamic	Distinctive	Inclusive	Connected
Land Use:	Conserve	Sustain		Grow

Compatibility with Proposed Future Land Use & Density

The proposed amendment emphasizes the need to promote land use, economic development opportunities, and public improvements consistent with its local character and its role as a regional growth center. Additionally, this amendment aligns with the call to evaluate land development or building ordinances for necessary changes that accommodate the evolving needs and characteristics of commercial and industrial workspaces (*planBTV* Action 9.4).

Impact on Safe & Affordable Housing

This amendment has no direct impact on Safe & Affordable Housing.

Planned Community Facilities

This proposed amendment supports the city's commitment to supporting activities taking place at or within its community facilities as this will increase the capacity for commercial development that is already supported by existing infrastructure and parking (*planBTV* Action 8.2)

Process Overview

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

Planning Commission Process				
Draft Amendment prepared by: Staff	Presentation to & discussion by Commission	Approve for Public Hearing 4/25/2023	Public Hearing 8/8/2023	Approved & forwarded to Council
City Council Process				
First Read & Referral to Ordinance Cmte	Ordinance Cmte discussion	Ordinance Cmte recommend	Second Read & Public Hearing	Council Approval & Adoption

CITY OF BURLINGTON

In the Year Two Thousand Twenty-Two

An Ordinance in Relation to

ZA-23-04 Temporary Structures

ORDINANCE _____

Sponsor: (Department or Councilor) _____

Public Hearing Dates: _____

First reading: _____

Referred to: _____

Rules suspended and placed in all stages of passage: _____

Second reading: _____

Action: _____

Date: _____

Signed by Mayor: _____

Published: _____

Effective: _____

It is hereby Ordained by the City Council of the City of Burlington as follows:

That Appendix A, Comprehensive Development Ordinance, of the Code of Ordinances of the City of Burlington be and hereby is amended by amending Sections 5.1.2 Structures, thereof to read as follows:

Sec. 5.1.2 Structures

Except as otherwise provided by law or by this ordinance, no structure in any district shall be created, removed or altered except in conformance with the provisions of this Article and the requirements of the district in which such land or structure is located.

a – e. As Written

(f) Temporary Structures:

The administrative officer may approve a temporary structure that is incidental and accessory to a principal use subject to the following:

No Review or Permit Required	Site Plan Review: Zoning Permit & COA	Review as per Underlying Zoning
A structure placed up to 10 consecutive days or 30 days within any 12-month period at the same location.	A structure placed from 11-31 consecutive days or 31-60 days within any 12 month period at the same location.	A structure placed over 31 consecutive days or more within any 12 month period at the same location, is no longer considered a temporary structure.
Tents used for recreational non-commercial camping purposes.		
Tents as defined in Chapter 3 of NFPA 101 for non-residential purposes, as approved by the Burlington Fire Marshal, placed up to 180 days within a 12-month period at the same location.		
Temporary structures for non-residential purposes in both Civic Spaces and all enumerated City of Burlington Parks (Code of Ordinances Chapter 22-1), without review or required zoning permit for up to 60 days within a 12 month period, provided that the structure is approved by the Burlington Fire Marshal.		

* Material stricken out deleted.

** Material underlined added.



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www.burlingtonvt.gov/plan

TO: Burlington Planning Commission
FROM: Charles Dillard, AICP, Principal Planner
DATE: July 24, 2023
RE: Proposed CDO Amendment – ZA-24-01: Technical Amendments

Overview & Background

In review and administration of the Comprehensive Development Ordinance (CDO), staff and applicants have noted various elements that require minor, technical amendment to correct spelling, cross-references, or clarify the administration of specific provisions. This package of technical amendments is the natural result of administering a lengthy and complex ordinance, and regularly amending it to implement specific policy goals. As is typical every few years, this package of amendments has been prepared jointly by staff from the Office of City Planning and Department of Permitting and Inspections. The technical corrections can be categorized as follows, and more specifically described in staff comments in the enclosed draft amendment:

- **Spelling/Numbering/Formating Errors:** These majority of these amendments would correct spelling errors, errors in numbering of sections and subsections, and formatting errors, mostly related to cross-references to other portions of the CDO.
- **Site/Building Standards and Features:** These amendments are primarily needed to correct errors in the code to ensure consistency or to clarify ambiguities raised by the Development Review Board and DPI staff.
- **Internal Consistency and Administrative Clarity:** These amendments address internal ambiguity around definitions and methods for calculating density, and provide greater clarity for the implementation of recent major policy initiatives related to inclusionary zoning and ADU provisions.
- **Use Table Errors:** The use table incorrectly states that the Mental Health Crisis Center is a prohibited use in the Neighborhood Mixed Use district, while it should be listed as a conditional use. Changes to the Use Table also clarify that use tables for the downtown form districts are found in Article 14.

Proposed Amendment

Amendment Type

Text Amendment	Map Amendment	Text & Map Amendment
-----------------------	---------------	----------------------

Purpose Statement

This amendment corrects a number of errors in the CDO that are considered technical and will provide further clarity and consistency of administration for staff and applicants.

Proposed Amendments

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

1. Amends Article 3 – Applications, Permits, and Project Reviews

- Modifies Sec. 3.1.2 to exempt new interior finished space from requiring a zoning permit

- Modifies Sec. 3.2.7 to exempt certain ADUs from DRB review when associated with a COA Level II permit

2. Amends Article 4 – Zoning Districts and Maps to make various corrections

- Modifies Sec. Table 3.5.2.1 to provide a Table header name;
- Modifies Sec. 4.3.1 to change "NAC-RC" to "NAC-R," consistent with other references to this district in the CDO;
- Modifies Sec. 4.4.1 to correct the subsection numbering;
- Modifies Sec. 4.4.2 to correct a typo in the Table 4.4.1-1 building height column and correct the numbering of table footnotes;
- Modifies Sec. 4.4.5's Table 4.4.5-3 to correct a cross-reference and re-number the Table's footnotes;
- Modifies Sec. 4.4.5 to remove "swimming pool" from list of accepted accessory structure exemptions, providing consistency with Sec. 5.2.3(b);
- Modifies Sec. 4.4.5(d) 3 to correct the reference to Article 5;

3. Amends Article 5 – Development Review Standards to make various corrections

- Modifies Sec. 5.1.2 to correct a cross-reference;
- Modifies 5.2.5 to reword from "buildings" to "structures" to provide greater clarity;
- Modifies Sec 5.2.6 to add "from the average grade" language to this section that regulates building height on sloped sites as per a previous zoning amendment;
- Modifies Sec. 5.2.6 to correct the subsection lettering;
- Modifies Sec. 5.2.6 to increase modestly the allowed variation in maximum building height;
- Modifies Sec. 5.2.7 to clarify the Floor Area Ratio standard, particularly to reference lot area rather than an undefined term "site";
- Modifies Sec. 5.3.5 to delete an obviated reference to conditional use requirements;
- Modifies Sec. 5.4.8 to provide consistency across CDO elements in discussing the extent of lot coverage bonuses;
- Modifies Sec. 5.4.13 to correct a reference to the FD5 and FD6 in the Downtown Form Code;

4. Amends Article 7 – Signs to provide updated guidance and greater clarity

- Modifies Sec. 7.1.8 to update the historic marker definition based on typical dimensions for such signs;
- Modifies Sec. 7.2.13 to provide greater clarity in regulating wall signs when proposed for buildings taller than two stories

5. Amends Article 9 – Inclusionary and Replacement Housing to correct a cross-reference

- Modifies Sec. 9.1.12 to confirm intent that IZ density bonus is permitted only when IZ units are provided on the same lot or lots as the project's market rate units;
- Modifies Sec. 9.1.15 to correct a cross reference to the Code of Ordinances

6. Amends Article 10 – Subdivision Review to update submission requirements based on a recent policy change

- Modifies Sec. 10.1.5 to correct language that currently calls for paper copies of submissions when only digital copies are currently required

7. Amends Article 14 – PlanBTV Downtown Code to make various corrections

- Modifies Sec. 14.4.13 to correct the subsection numbering
- Modifies Sec. 14.7.1 to correct a typo
- Modifies Sec. 14.7.2 to correct a typo and clarify use of term “abandonment” as meaning “discontinuance”
- Modifies Sec. 14.8 to correct a typo

8. Amends Appendix A –Comprehensive Use Table to correct the table

- Modifies the Use Table to correct an error in the Mental Health Crisis Center row
- Creates a new Downtown Form Districts Column
- Corrects district identification error from NAC-RC to NAC-R

Relationship to planBTV

This following discussion of conformance with the goals and policies of planBTV is prepared in accordance with the provisions of 24 V.S.A. §4441(c).

Theme:	Dynamic	Distinctive	Inclusive	Connected
Land Use:	Conserve	Sustain		Grow

Compatibility with Proposed Future Land Use & Density

This amendment has no direct impact on land use and density, except in that it corrects errors and provides greater clarity.

Impact on Safe & Affordable Housing

This amendment has no direct impact on safe and affordable housing, except in that it corrects errors and provides greater clarity.

Planned Community Facilities

This amendment has no direct impact on planned community facilities, except in that it corrects errors and provides greater clarity.

Process Overview

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

Planning Commission Process				
Draft Amendment prepared by: Staff 7/6/23	Presentation to & discussion by Commission 7/11/23	Approve for Public Hearing 7/11/2023	Public Hearing 8/8/2023	Approved & forwarded to Council
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CITY OF BURLINGTON

In the Year Two Thousand Twenty-Two

An Ordinance in Relation to

ZA-24-01 Technical Amendments

ORDINANCE _____

Sponsor: (Department or Councilor) _____
Public Hearing Dates: _____

First reading: _____

Referred to: _____

Rules suspended and placed in all
stages of passage: _____

Second reading: _____

Action: _____

Date: _____

Signed by Mayor: _____

Published: _____

Effective: _____

It is hereby Ordained by the City Council of the City of Burlington as follows:

That Appendix A, Comprehensive Development Ordinance, of the Code of Ordinances of the City of Burlington be and hereby is amended by amending Sections 3.1.2 Zoning Permit Required, 3.2.7 Administrative Review and Approval, 3.5.2 Applicability, 4.4.1 Downtown Mixed Use Districts, 4.4.2 Neighborhood Mixed Use Districts, 4.4.5 Residential Districts, 5.1.2 Structures, 5.2.5 Setbacks, 5.2.6 Building Height Limitations, 5.2.7 Density Calculations, 5.3.5 Nonconforming Structures, 5.4.8 Historic Buildings and Sites, 5.4.13; 7.1.8 Sign Permit Applications, Submission Requirements Review and Decision-making, 7.2.13 Wall Sign, 9.1.8 Inclusionary Rentals Units, Rentals and Sales, 9.1.12 Additional Density and Other Development Allowances, 9.1.15 Marketing of Inclusionary Units, Article 10 Subdivision Review, Sec. 13.1.2 Definitions, 14.4.13 Urban Design Standards, 14.7.1 Application for a Zoning Permit: Submission Requirements and Review, 14.7.2 Non-Conformities, 14.8 Glossary, and Appendix A, thereof to read as follows:

Sec. 3.1.2 Zoning Permit Required

(a-b) As written

(c) Exemptions

1-20. As written

21. The creation of new interior finished and habitable space where no change of use or exterior alteration is proposed.

Sec. 3.2.7 Administrative Review and Approval

(a) The administrative officer is hereby authorized to undertake the review and approval of those applicable applications subject to the planBTV: Downtown Code under Sec. 14.7.1 e) i and all of the following types of applications:

1. Basic;
2. 2. Awning;
3. 3. Fence;
4. 4. Sign;
5. 5. COA Level I; and,
6. 6. Lot Line Adjustment.

In addition, the administrative officer is hereby authorized to undertake the review and approval of certain COA Level II applications subject to the following thresholds and conditions:

7. Granting of parking waivers for up to ten spaces in the NMU zones where there is a change of use from one non-residential use to another wholly within an existing building;
8. Waivers for residential parking in tandem situations where there is one space behind one other, usually in a driveway;
9. Additions to single family houses in a design control district located 200feet or more from the lakeshore and that are 50% or less of the existing gross floor area of the principal structure;
10. Simple renovations in design control districts such as door and window changes, re-siding, re-roofing, enclosing porches, adding a shed or garage, and additions no greater than 500 square feet in size that otherwise comply with all applicable dimensional standards of Art. 4 and the development review criteria of Art. 6;
11. Compliance with conditions of approval as specified in a written decision of the DRB; ~~and,~~
12. Minor amendments to development applications previously approved by the DRB where the proposed amendment otherwise qualifies for administrative review as a COA Level I application or under the planBTV: Downtown Code under Sec. 14.7.1 e) i and will not substantively alter any findings of fact or DRB decision and related conditions of approval; ~~and,~~
- 12-13. Creation of an Accessory Dwelling Unit where no other applicable standards would require review by the DRB.

Sec. 3.5.2 Applicability

(a) As written

(b) Major Impact Review:

Major Impact Review shall be required for the approval of all development involving any one or more of the following:

Table 3.5.2-1 Zoning Districts

	Downtown Mixed Use and Form Districts	Neighborhood Mixed Use, Institutional, Enterprise,	Residential-Medium Density, Residential – High Density	Residential-Low Density	RCO-A, RCO-C, RCO-RG, UR
Dwelling Units	Creation of fifty (50) or more dwelling units	Creation of twenty-five (25) or more dwelling units	Creation of ten (10) or more dwelling units	Creation of five (5) or more dwelling units	NA
Land Subdivision	NA	NA	Creation of ten (10) or more lots;	Creation of five (5) or more lots	NA
Non-residential or Mixed Use Development	A development footprint ¹ of fifty thousand (50,000) s.f. or more, or the creation of one hundred thousand (100,000) s.f. or more of	A development footprint ¹ of twenty thousand (20,000) s.f. or more, or the creation of forty thousand (40,000) s.f. or more of gross floor area.	A development footprint ¹ of eight thousand (8,000) s.f. or more, or the creation of fifteen thousand (15,000) s.f. or more of gross floor area.	A development footprint ¹ of five thousand (5,000) s.f. or more, or the creation of ten thousand (10,000) s.f. or more of gross floor area.	Creation of five thousand (5,000) s.f. or more of gross floor area ²

	gross floor area.				
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¹ Development Footprint: total area of impervious coverage – buildings and parking.

² Farm structures are exempt per 10 VSA 6001.

In addition, Major Impact Review shall also be required for multiple projects undertaken by the same applicant or responsible party within any consecutive twelve (12) month period on the same or adjacent property that in the aggregate equal or exceed the above criteria.

Sec. 4.3.1 Base Districts Established

The following zoning districts are hereby established as illustrated in Map 4.3.1.-1 and further described in Part 4 below:

(a) As written

(b) A series of four (4) Neighborhood Mixed Use districts (see Sec. 4.4.2)

- Neighborhood Mixed Use (NMU);
- Neighborhood Activity Center (NAC);
- Neighborhood Activity Center - Riverside Corridor (NAC-RC); and,
- Neighborhood Activity Center – Cambrian Rise (NAC-CR);

(c-g) As written

Sec 4.4.1 Downtown Mixed Use Districts

(a-b) As written

(c) As written

(d) District Specific Regulations

1. As written

23. Facades and Setbacks on Side and Rear Property Lines

As written

34. Lake Champlain Waterfront Setback:

As written

45. Development Bonuses/Additional Allowances

As written

Sec. 4.4.2 Neighborhood Mixed Use Districts

(a) As written

(b) Dimensional Standards and Density

The density and intensity of development, dimensions of building lots, the heights of buildings and their setbacks from property boundary lines, and the limits on lot coverage shall be governed by the following standards:

Table 4.4.2 -1 Dimensional Standards and Density

Districts	Max. Intensity (floor area ratio ¹)	Max. Lot Coverage	Minimum Building Setbacks (feet)			Building Height (feet)
			Front ³	Side	Rear	
NAC	2.0 FAR	80% ⁴	0	0 ²	0 ²	Min: 22', 2 stories Max: 35

NMU	2.0 FAR	80%	0 ⁵	0 ²	0 ²	Min: 22', 2 stories Max: 35
NAC- Riverside	2.0 FAR	80%	0	0 ²	0 ²	Min: 22', 2 stories Max: 35
NAC-CR	2.0 FAR	60%	Min. 0 ⁷ Max. 20 ⁷	10 ⁶	20 ⁶	Min: 22', 2 stories Max: 65'

1. Floor area ratio is described in Sec. 5.2.7. Measurement of and exceptions to height limits are found in Sec 5.2.6. Bonuses for additional FAR and height where available are described in section (d)3 below, and additional height, FAR and lot coverage is afforded by-right for inclusionary housing projects under Sec. 9.1.12. Actual maximum build out potential may be reduced by site plan and architectural design considerations of Art 6.
2. Structures shall be setback a minimum of 15-feet along any zoning district boundary line that abuts a residential zoning district. Lots of record existing as of September 9, 2015 that are split by neighborhood mixed use and residential zones are exempt from this district boundary setback.
3. Structures shall be setback a minimum of 12-feet from the curb on a public street.
4. Exceptions to maximum lot coverage are provided in (d)2.
5. Notwithstanding footnote 4, the NMU district at the intersection of Pine St. and Flynn Avenue shall have a minimum front yard setback of 10 feet.
6. Side and rear yard setbacks are applicable only to the periphery of the NAC-CR district and not to individual parcels within the district.
7. Front yard setbacks for buildings fronting on North Avenue shall be 20' min and 30' max.

(c-d) As written

Sec 4.4.5 Residential Districts

(a) As written

(b) Dimensional Standards and Density

The density and intensity of development, dimensions of building lots, the heights of buildings and their setbacks from property boundary lines, and the limits on lot coverage shall be governed by the following standards:

Table 4.4.5-1 As written

Table 4.4.5-2 As written

Table 4.4.5-3: Residential District Dimensional Standards

Zoning District	Max. Lot Coverage ¹	Setbacks ^{1, 3, 4, 5, 6}				Max. Height ⁴
		Front ²	Side ³	Rear	Waterfront	
RL; WRL	35%	Min/Max: Ave. of 2 adjacent lots on both sides +/- 5-feet	Min: 10% of lot width Or ave. of side yard setback of 2 adjacent lots on both sides Max required: 20-feet	Min: 25% of lot depth but in no event less than 20' Max required: 75-feet	Min: 75' feet from the ordinary high water mark of Lake Champlain and the Winooski River	35-feet

Table 4.4.5-3: Residential District Dimensional Standards

Zoning District	Max. Lot Coverage ¹	Setbacks ^{1, 3, 4, 5, 6}				Max. Height ⁴
		Front ²	Side ³	Rear	Waterfront	
RM	40%	Min/Max: Ave of 2 adjacent lots on both sides +/- 5-feet	Min: 10% of lot width Or ave. of side yard setback of 2 adjacent lots on both sides Max required: 20-feet	Min: 25% of lot depth but in no event less than 20' Max required: 75-feet	NA	35-feet
WRM	60%	Min/Max: Ave of 2 adjacent lots on both sides +/- 5-feet	Min: 10% of lot width Or ave. of side yard setback of 2 adjacent lots on both sides Max required: 20-feet	Min: 25% of lot depth but in no event less than 20' Max required: 75-feet	Min: 75' feet from the ordinary high water mark of Lake Champlain and the Winooski River	35-feet
RH	80%	Min/Max: Ave of 2 adjacent lots on both sides +/- 5-feet	Min: 10% of lot width Or ave. of side yard setback of 2 adjacent lots on both sides Max required: 20-feet	Min: 25% of lot depth but in no event less than 20' Max required: 75-feet	NA	35-feet

1. An additional ten per cent (10%) lot coverage may be permitted for accessory residential features per (d)3A below. Measurement of and exceptions to coverage, setback, and height standards are found in Art 5.

2. Average front yard setback of the principal structures on the 2 adjacent lots on both sides within the same block having the same street frontage. See Sec. 5.2.45.

3. In no event shall the side yard setback be required to exceed 20-feet, or the rear-yard setback be required to exceed 75-feet.

4. Additional setbacks from the lakeshore and other water features may be applicable per the requirements of the Sec 4.5.4 Riparian and Littoral Conservation Overlay Zone.

5. The side yard setback shall be calculated based on the 4 adjacent properties (2 on each side of the subject property). The right side yard setback is the average of the right side yard setback of the principal structures on these 4 properties. The left yard setback is the average of the left side yard setback of the principal structures

Table 4.4.5-3: Residential District Dimensional Standards

Zoning District	Max. Lot Coverage ¹	Setbacks ^{1, 3, 4, 5, 6}				Max. Height ⁴
		Front ²	Side ³	Rear	Waterfront	
on these 4 properties. The adjacent properties shall be within the same block having the same street frontage as the subject property. See Sec. 5.2.5.						
6. Where there are fewer than 2 adjacent lots on both sides within the same block having the same street frontage, the average side yard setback shall be calculated from the fewer number of lots. Where there are no adjacent lots, the setback shall be 10% of the lot width.						
7. For properties in the WRL and WRM zones with frontage along Lake Champlain or the Winooski River, the front yard setback shall not be required to exceed 50 feet in any event.						

(c) As written

(d) District Specific Regulations

1. As written2. Lot Coverage

1.Exceptions for Accessory Residential Features

-In addition to lot coverage exemptions in Sec. 5.2.3 (b), within the RL, RL-W, RM and RM-W districts, an additional ten (10) per cent of lot coverage above the otherwise applicable limit may be permitted for the following amenity features accessory to residential uses provided that such features shall at no time be enclosed or be used for parking:

(i) Decks;

(ii) Patios;

(iii) Porches;

(iv) Terraces

(v) Tennis or other outdoor game courts;

(vi) Swimming pools and swimming pool aprons;

(vii) Walkways;

(vii) Window Wells; and/or

(ix) Pervious pavement designed and maintained to infiltrate the 1-year/24-hour storm event onsite, subject to review and approval by the Stormwater Administrator.

3. Accessory Residential Structures, Buildings and Uses

An accessory structure, building, and/or use as defined in Article 13 and provided under Sec. 5.1.1 and 5.1.2 customarily incidental and subordinate to a principal residential structure, building and/or use, including but not limited to private garages, carriage houses, barns, storage sheds, tennis courts, swimming pools, cabanas for swimming pools and detached fireplaces may be permitted as follows:

A. Accessory structures or buildings shall meet the dimensional requirement set forth in the district in which they are located pursuant to Sec. 4.4.5(b) of this Article and related requirements in Art 5, Parts 1 and 2;

B. Any accessory structure or building that is seventy-five percent (75%) or greater of the ground floor area of the principal structure or building shall be subject to the site plan and design review provisions of

Art. 3, Part 4 and the applicable standards of Art 6;

C. Private garages shall be limited to as many stalls as there are bedrooms in the dwelling to which it is accessory, provided that the ground floor area is less than seventy-five percent (75%) of the ground floor area of the principal structure or building; and

D. The outdoor overnight storage of commercial vehicles not otherwise associated with an approved home occupation or made available for the exclusive use of the residential occupants, or the outdoor storage of more than one unregistered vehicle, shall be prohibited. Any and all vehicles shall be stored in an approved parking space.

4-6. As written

Sec. 5.1.2 Structures

Except as otherwise provided by law or by this ordinance, no structure in any district shall be created, removed or altered except in conformance with the provisions of this Article and the requirements of the district in which such land or structure is located.

(a-c) As written

(d) Accessory Residential Structures or Buildings

An accessory structure or building customarily incidental and subordinate to a principal residential use, structure, or building shall also be governed by the provisions of **Sec. 4.4.5(d)43**.

(e-f) As written

Sec. 5.2.5 Setbacks

Setbacks between **buildings structures** and property lines where required are intended to provide access to light and air, provide fire separation and access, and maintain the existing neighborhood pattern of **buildings-structures** and open spaces between them and to the street.

(a-b) As written

Sec. 5.2.6 Building Height Limits

No structure shall exceed thirty-five (35) feet in height unless otherwise authorized under the district-specific provisions of Article 4:

(a) As written

(b) Building on Sloped Sites

Buildings on slopes shall reflect the pre-construction topography of the site by making use of opportunities to vary the building's height and roof forms relative to terrain changes as follows:

1. **Measurement Interval:** Building height shall be measured **from the average grade** along the street-facing façade at intervals of no less than 32-feet or more than 65-feet along the entire length of the street-facing façade (s).
2. As written
3. As written

(c) Exceptions to Height Limits

1-5. As written

6. The administrative officer may allow for up to a 510% variation in the maximum building height to account for grade changes across the site. In no event however, shall such additional height enable the creation of an additional story beyond the maximum permitted.

(ed) Clear Sight Triangle

Sec. 5.2.7 Density Calculations

(a) As written

(b) Floor Area Ratio

In accordance with the district-specific provisions of Article 4 where the intensity of development is measured on a floor area ratio basis, the calculation of development intensity shall be measured by dividing the gross floor area of all structures on a site lot or lots, or portion of the site lot(s) where split by a zoning district boundary, by the area of the gross site lot(s)-area.

Sec. 5.3.5 Nonconforming Structures

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.

When any portion of a nonconforming structure has been made conforming, it shall not be made nonconforming again except as provided for historic building features pursuant to Sec. 5.2.5(b)(4).

A non-conforming residential structure may be enlarged up to the dimensional standards of the underlying zoning district, subject to review and approval by the DRB pursuant to Art. 3, Part 4 Design Review ~~and Art. 3, Part 5 Conditional Use Review~~. Adaptive reuse or residential conversion bonuses may allow a greater expansion than the underlying zoning district allows approved per the provisions of Article 4.

Sec. 5.4.8 Historic Buildings and Sites

(a-d) As written

(e) Historic Building Rehabilitation Bonus:

In order to facilitate the rehabilitation and reuse of historic buildings in Residential and Institutional districts, development in excess of the limits set forth in Tables 4.4.4-1, 4.4.5-2 and 4.4.5-3 may be permitted by the DRB subject to all of the following conditions:

- i. The principal building shall be listed or eligible for listing in the United States Department of the Interior's National Register of Historic Places or the Vermont State Register of Historic Places;
- ii. The density limits of the underlying zoning district in Sec. 4.4.4(b) and 4.4.5(b) shall not apply. The extent of development shall instead be limited to an expansion up to a total of 125% of pre-application gross floor area of the qualifying principal building in (i) above;
- iii. The rehabilitation conforms to the requirements of Sec.5.4.8 (b) above;
- iv. Neighborhood commercial uses may be permitted by the DRB subject to the applicable requirements of Sec. 4.4.5(d)(5)(A); and,
- v. Lot coverage shall not exceed the figure established in Table 5.4.8-1:

Table 5.4.8-1 Historic Building Rehabilitation Bonus

District	Maximum Coverage ¹
RL, RL-W, I	Expansion up to <u>the greater of 62% lot coverage or a total of 125% of pre-application principal building coverage.</u>
RM, RM-W	Expansion up to <u>the greater of 72% lot coverage or a total of 125% of pre-application principal building coverage.</u>
RH	Expansion up to <u>the greater of 92% lot coverage or a total of 125% of pre-application principal building coverage.</u>
<u>1. The maximum lot coverages identified in this table are applied in Table 4.4.5-8 – Maximum Density, Lot Coverage and Building Heights with Bonuses</u>	

Sec 5.4.13 Emergency Shelters

Emergency shelters shall be subject to the site and design review standards in Art 6.

In addition to conditional use standards where applicable, proposals for all new emergency shelters shall comply with the following requirements:

- (a) All dimensional standards for the underlying zoning per the requirements of Art. 4 shall be applicable;
- (b) Density within the residential zones shall be per the residential density standards of Article 4. For the purposes of density calculation for emergency shelters, every four (4) beds shall count as one (1) dwelling unit;
- (c) Density within the neighborhood mixed use zones shall be limited to fifty (50) beds, and there is no density limit in the downtown or downtown transition FD5 and FD6 zones;
- (d) Overnight stays by any individual are limited to 180 consecutive days. An extension of up to 60 days may be provided if no alternative housing is available;
- (e) There shall be onsite management by qualified adults during all hours of operation with at least 1 management person for every 25 beds; and,

- (f) An emergency shelter may be the primary use of a property, or it may be accessory to another primary use on a property.

Sec. 7.1.8 Sign Permit Applications, Submission Requirements, Review and Decision-making

(a-g) As written

(h) Historic Marker

A non-illuminated Wall Sign ~~two (2) square feet or less in size~~ sixteen square feet or less in size commemorating the historic significance of a building or site.

(i-j) As written

Sec. 7.2.13 Wall Sign

Description

This Sign type has a single face and is attached, painted, or otherwise mounted parallel to a building or structure wall on a Primary or Secondary Frontage or elevation where no street Frontage is available.

Specifications

Height (max)

No higher than the floor level of the second story. 253

Area (max)

- 2 sf per linear foot of street frontage, or elevation where no street frontage is available, associated with a first floor tenant.
- 10 sf for a second floor or above tenant with only a ground floor entryway.
- In no case may the total area of all Wall Signs exceed the lesser of two hundred (200) square feet or fifteen (15%) per cent of the area of the façade or elevation to which they are attached.
- A Wall Sign in any residential district shall not exceed 6-sf in area.
- A Wall Sign in a RCO-R/G district shall not exceed 20-sf in area.

Depth/Projection (max)

12-in max. from the facade

Sec 9.1.8 Inclusionary Units, Rentals 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 9.1.8-1, 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. 9.1.105 and Sec. 9.1.146) shall be at least:
Less than 139% of AMI	15%
140%-179% of AMI	20%

Development in any Waterfront district (RM-W, RL-W, NAC-CR and FD5 west of Battery St) or 180% of AMI and above in any other district	25%
Off-campus student housing	15% of total beds

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 lot(s) on which the project is located when all required Inclusionary Units are constructed on the same lot, or lots subject to Article 11 Planned Development. Calculations for these entitlements shall be based on the following tables:

Sec. 9.1.15 Marketing of Inclusionary Units

(a) Trust Fund Notification

The developer shall notify the Housing Trust Fund Manager, as defined in Section 18-400-403 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;

Sec. 10.1.5 Lot Line Adjustments

The intent of this section is to provide for an abbreviated review and approval process for the realignment of lot boundary lines between existing adjacent lots, including the merger of lots, where no additional lots are being created. In addition, a lot line adjustment shall include the addition and subtraction of vestigial alleys, as defined in Article 13, when being combined with an adjacent lot. A lot line adjustment shall not constitute a subdivision.

(a) Lot Line Adjustment Submission Requirements:

1-3. As written

4. Two (2) copies One digital or electronic copy of a lot line adjustment plat which shall include the following:

The plat shall be prepared by a Vermont licensed land surveyor and indicate all lots that are proposed to be modified as a result of the proposed lot line adjustment. The survey shall be sufficient to clearly indicate the area, metes, bounds, and ties of each of the affected lots.

The survey shall include all structures and site improvements and delineate all building/structure setbacks, lot coverage, parking spaces and any other details as may be specified by the Administrative Officer..

The following additional language shall be printed on the plat:

“Approval of this lot line adjustment plat does not constitute the creation of a separate parcel or lot. It adjusts the physical location of the common boundary of the adjoining parcels or lots. This lot line adjustment has been approved by:”

City of Burlington Administrative Officer/ Assistant Administrative Officer

Date: _____ Zoning Permit # _____

(b) Completeness of Submission:

Upon receipt of a complete application, the administrative officer shall have no more than thirty (30) days to render a decision on the lot line adjustment application pursuant to the provisions of Sec. 3.2.5.

Sec. 13.1.2 Definitions

Density Calculation: A calculation based on the lot size and the allowable units per acre or FAR as applicable in a given zoning district.

~~Floor Area Ratio: The ratio of above ground gross floor area to gross site area or, a multiplier representative of the development limits of a site applied to the parcel/land size.~~

Sec. 14.3.6 Civic Spaces

(a-b) As written

(c) Park

Intent

As written

Specifications

As written

Typical Features

As written

Parking

~~On-site parking is not required unless facilities for structured recreation and community events such as recreation fields and courts, swimming pools, and community rooms are provided. No on-site parking is required.~~

Sec. 14.4.13 Urban Design Standards

(a-c) As written

(d) Building Materials

The following requirements regarding the selection and use of Building materials is intended to improve the physical quality and durability of buildings, enhance the pedestrian experience, and maintain the character of the downtown area.

i. Primary Materials: Not less than 80 percent of each street-facing Facade (not inclusive of voids) shall be constructed of one or more primary materials comprised of tested and proven, high quality, durable, natural products, and those with low embodied carbon. For Facades over 100 square feet, more than one Primary Material shall be used. Changes between Primary Materials must occur only at inside corners. The following are considered acceptable Primary Materials:

A. Brick and tile masonry;

B. Native or sintered stone;

C. Wood – panels, clapboard or shingles;

D. Glass curtain wall; and,

E. Cementitious siding;

ii. Accent Materials: The following Accent Materials may make up no more than 20% of the surface area on each Façade. Accent Materials are limited to:

A. Pre-cast and cast-in-place board-formed, finished and/or textured, and patterned masonry;

B. External Insulation Finishing System - EIFS (for upper story trim and cornice elements only);

C. Gypsum Reinforced Fiber Concrete (GFRC—for trim elements only);

D. Metal (for beams, lintels, trim elements and ornamentation, and exterior architectural metal panels and cladding only);

E. Split-faced block (for piers, foundation walls and chimneys only); and,

F. Glass block.

iii. Doors and Windows: Commercial grade doors, windows, and hardware shall be used on all Building Types with the exception of the Rowhouse and Multi-family - Small Building Types used for residential purposes.

iv. Roof Materials (not applicable to flat roofs). Acceptable roof materials include 300 pound or better, dimensional asphalt composite shingles, wood shingles and shakes, metal tiles or standing seam, slate, and ceramic tile. To the extent possible, all roof materials and colors should be selected to maximize the roof's Solar Reflectance Index (SRI).

vi. Alternate Materials: Alternate Primary and Accent materials, including high quality synthetic materials, may be approved by the Administrative Officer after seeking input from the Design Advisory Board. New materials must be considered equivalent or better than the materials listed above and demonstrate successful, high quality installations in a similar climate. Regionally-available materials, and those with low embodied carbon, will be strongly preferred.

vii. Other:

A. The use of recycled and/or regionally-sourced materials is strongly encouraged.

B. With the exception of natural wood siding or shingles such as cedar or redwood intended to gradually weather with time, all exposed wood and wood-like products (e.g. fiber-cement) shall be painted or stained. Exterior trim shall be indistinguishable from wood when painted.

C. Any synthetic siding and finish products shall be smooth-faced with no artificial grain texturing.

Sec. 14.7.1 Applying for a Zoning Permit: Submission Requirements and Review

(a-e) As written

(f) Review and Approval of Civic Spaces and Civic Buildings

The creation of new Civic Spaces or Civic Buildings, or the Substantial Modification of an existing Civic Space or Civic Building, shall follow the process as defined below. Any other proposed alteration to an existing Civic Space or Civic Building shall be reviewed and approved by the Administrative Officer who shall ensure ongoing compliance with the intent and standards of this Chapter as applicable.

Because of their important civic nature and public use, the design and form of a new or Substantial Modified Civic Space or Civic Building shall be determined after:

- pre-application review and consultation with the departments of Coty City Planning, Permitting and Inspections, Community and Economic Development, and Parks, Recreation, Waterfront;
- a pre-application Neighborhood Public Meeting pursuant to Sec. 3.2.1 (d) of the BCDO;
- review and recommendation of the Design Advisory Board; and,
- final review and approval by the Development Review Board.

In its discretion to approve a new Civic Space or Civic Building, the Development Review Board, after a Public Hearing, shall consider and reach an affirmative finding on each of the following:

i. Conformance with the adopted land use and development plans for the area as identified in the Municipal Development Plan;

ii. Consistency with:

A. the purpose of this ordinance;

B. the intent of the Form District where the project is located;

C. the purpose of Civic Spaces generally; and,

D. the intent of the Civic Space Type being proposed; and,

iii. that the proposed Civic Space or Civic Building as designed provides a positive public benefit and enhancement to the community and the context within which it is proposed.

Sec. 14.7.2 Non-Conformities

In addition to that as specified in Article 5, Part 3 Non-Conformities of the *Burlington Comprehensive Development Ordinance*, any Building, Structure, Frontage, Development, Site, Improvement, or other appurtenance thereto which lawfully existed at the time of adoption of the applicable provisions of this Article or any amendment thereto may be continued subject to the following provisions:

a) Nothing in these regulations are intended to prevent normal repair and maintenance necessary to keep a Building, Structure, Site, Improvement or other appurtenance thereto in a safe and sound condition;

b) Any Building, Structure, Frontage, Development, Site, Improvement, or other appurtenance thereto which legally existed on the effective date of this Article that does not conform to the requirements of this Article may continue until a Substantial Modification is requested or ~~Abandonment-discontinuance~~ occurs.

c) Any nonconforming structure may be enlarged, maintained, repaired or altered; provided, however, that no enlargement, maintenance, repair or alteration shall either create an additional nonconformity or increase the degree of the existing nonconformity of all or any part.

d) At such time when a Substantial Modification is requested or ~~Abandonment-discontinuance~~ occurs, only the affected portion(s) of the Building, Structure, Frontage, Development, Site, Improvement, or other appurtenance thereto shall be required to comply with all applicable provisions of this Article and to the greatest extent practicable in the determination of the Administrative Officer or unless relief is provided by the DRB pursuant to Sec. 14.7.3 below; and,

~~de~~) Buildings listed or eligible for listing on the State or National Register of Historic Places shall not be required to make any modifications under this section that would threaten their historic integrity.

Sec 14.8 Glossary

Civic: the term defining public or quasi-public activities dedicated to arts, culture, education, recreation, government, places of ~~workshopworship~~, public assembly, and public transportation.

Appendix A Use Table – All Zoning Districts

See Appendix A



City of Burlington, VT
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TO: Burlington Planning Commission
FROM: Charles Dillard, AICP, Principal Planner
DATE: July 24, 2023
RE: Proposed CDO Amendment – ZA-23-03: Setbacks

Overview & Background

Setback standards are intended to provide access to light and air, provide fire separation and access, and maintain the existing neighborhood pattern of buildings and open spaces between them and to the street. However, certain setback rules are frequently cited as unduly limiting potential for infill projects within Residential areas. In fall 2022, the Planning Commission's Ordinance Committee, with input from Permitting and Inspections staff, met to discuss this limited group of setback standards and how they might be amended to facilitate redevelopment while maintaining their role in maintaining existing neighborhood character. The Committee identified the four residential district standards summarized below as topics to address in a zoning amendment.

Front Yard Averaging

Front yard setbacks intend to maintain a relatively consistent pattern of development along a given street. The *Comprehensive Development Ordinance* (CDO) today regulates front yard setback generally through an averaging approach that considers the two adjacent properties on either side of the subject property. The minimum front yard setback is simply the average of these four properties. In situations where one of the four adjacent properties is vacant, the next closest property on the same block face is to be considered. Beyond these Article 5 general standards, district-specific standards are applied in Article 4. In the Residential districts, the minimum and maximum setback must be within 5 feet of the aforementioned averaging-determined setback (either toward or away from the street). These two standards together provide adequate flexibility in most cases. However, there are situations where one of a property's adjacent lots contains a building with a very deep setback that skews the average. In such cases, the required setback is typically not feasible and can be a barrier to infill projects.

In considering front yard averaging, the Ordinance Committee determined that an appropriate response is to allow for the exclusion of one "outlier" property from the averaging equation. The Committee suggested defining "outlier." The amendment does propose allowing for the excluding of one property, but does not at this time propose defining "outlier." Given the existing +/- 5 feet allowance in the Residential districts, staff feels that an outlier definition that is too small would not impact the required min/max setback, and an outlier that is too large may retain the existing inflexibility. For example, where property's four adjacent setbacks are 12'/12'/10'/12', the resulting average is 11.5 feet and the Residential district +/- 5 feet allowance would create a minimum setback of 6.5 feet and a maximum of 16.5 feet. Only an outlier setback of 33 feet or more would materially impact the min/max setback. As such, for the purpose of clarity and ease of review, staff does not propose defining "outlier."

Setback Exceptions – Abutting Building with Doors or Windows

Today, the *Ordinance* establishes a minimum setback of 10 feet in cases where an adjacent property's building is within five feet of the common property line and contains doors and/or windows. A similar Downtown Form Code standard (Sec. 14.4.13 e.) v.) prohibits doors and windows along building elevations that are located on a side or rear property line where no setback is required. While these standards are intended to prevent unnecessary limitations on development of adjacent property and impacts to existing adjacent properties, the standards unfairly limit

development. As such, the Ordinance Committee recommended reconciling the Articles 5 and 14 standards, and amending them to allow for buildings (with or without doors/windows) up to the property line where no setback is required. The amendment would also state clearly that any such construction is subject to the effective building code.

Setback Exceptions – Building or Site Features

Today the *Ordinance* permits building and site features that project into required side setbacks but existing language is ambiguous and often leads to confusion among applicants and review staff. As such, the Ordinance Committee recommends amending this Sec. 5.2.5(b) 2 to state clearly that the list of permitted projections is not meant to restrict other projections that may not be listed. Thus, the amendment would also provide flexibility in development and redevelopment.

Garage Setback

Today, the *Ordinance* requires a minimum 25 foot setback for any street-facing garage on properties that have a front yard setback requirement. This is true even when the required front yard setback is far less than 25 feet. In considering this requirement, the Ordinance Committee recommends deleting the 25 foot standard, but retaining related language that states that the front wall of a garage must be behind the front wall of the associated residence. This standard had been in place to guarantee that a parked car would not infringe on the sidewalk or right of way. However, with the removal of parking minimums and a general desire to encourage redevelopment and reduced car-driven land use standards, the standard is no longer desirable or necessary.

Proposed Amendment

Amendment Type

Text Amendment	Map Amendment	Text & Map Amendment
----------------	---------------	----------------------

Purpose Statement

This amendment modifies a limited grouping of setback standards to facilitate development and redevelopment within residential districts and to reconcile language across Articles 5 and 14 for clarity. The amendment removes ambiguous and unnecessary standards that often create barriers to infill development.

Proposed Amendments

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

1. Amends Article 5 – Citywide General Regulation to modify setback standards as described below.

- Modifies Sec. 5.2.5(a) to allow for the removal of one property in the front yard setback averaging equation, which would create needed flexibility in determining the minimum front yard setback, particularly in residential portions of the city where there are typically greatly varying setbacks or where outlier setbacks may be common.
- Modifies Sec. 5.2.5(b) to allow for greater flexibility in meeting side setback standards where they exist and, in cases where they are not required, to refer applicants and review staff to the regulating effective building code.

2. Amends Article 6 – Development Review Standards to modify garage setback standards in residential districts.

- Modifies Sec. 6.2.2(h) to remove a requirement that garages be set back a minimum of 25 feet in cases where the subject property has a required front yard setback.

3. Amends Article 14 planBTV Downtown Code –to modify language regulating building placement and design in cases where setbacks are not required.

- Modifies Sec. 14.4.13(e) v. to remove a restriction on windows and doors on buildings placed on a side or rear property line where no setback is required and instead allow such openings but refer applicants and review staff to the regulating effective building code.

Relationship to planBTV

This following discussion of conformance with the goals and policies of planBTV is prepared in accordance with the provisions of 24 V.S.A. §4441(c).

Theme:	Dynamic	Distinctive	Inclusive	Connected
Land Use:	Conserve	Sustain		Grow

Compatibility with Proposed Future Land Use & Density

The proposed amendment is consistent with *planBTV*, which calls for small and incremental change that is consistent with the existing development pattern, building scale and neighborhood character. In facilitating infill development, the amendment allows for the small and subtle changes that the *Plan* calls for in Burlington's residential districts, particularly at a time when a housing shortage is generally acknowledged.

Impact on Safe & Affordable Housing

The amendment, in facilitating infill development, will promote the development of safe and affordable housing by clearly legalizing patterns of development that are desirable but that today may be prohibited or obstructed due to unclear *Ordinance* language.

Planned Community Facilities

This amendment has no direct 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: Staff 2/16/23	Presentation to & discussion by Commission 2/28/23	Approve for Public Hearing 3/28/2023	Public Hearing 8/8/2023	Approved & forwarded to Council
City Council Process				
First Read & Referral to Ordinance Cmte	Ordinance Cmte discussion	Ordinance Cmte recommend	Second Read & Public Hearing	Council Approval & Adoption

CITY OF BURLINGTON

In the Year Two Thousand Twenty-Two

An Ordinance in Relation to

ZA-23-03 Setbacks

ORDINANCE _____

Sponsor: (Department or Councilor) _____
Public Hearing Dates: _____

First reading: _____

Referred to: _____

Rules suspended and placed in all
stages of passage: _____

Second reading: _____

Action: _____

Date: _____

Signed by Mayor: _____

Published: _____

Effective: _____

It is hereby Ordained by the City Council of the City of Burlington as follows:

That Appendix A, Comprehensive Development Ordinance, of the Code of Ordinances of the City of Burlington be and hereby is amended by amending Sections 5.2.5 Setbacks, amending Sec. 6.2.2 and Sec. 14.4.13 Urban Design Standards, and amending Sec. 14.6.7 Parking, thereof to read as follows:

Sec. 5.2.5 Setbacks

Setbacks between buildings and property lines where required are intended to provide access to light and air, provide fire separation and access, and maintain the existing neighborhood pattern of buildings and open spaces between them and to the street.

(a) Setbacks Required:

Unless otherwise authorized or specified under the district-specific provisions of Article 4, which shall be controlling over these provisions, a setback shall be provided between any proposed structures and/or site features, and the front, side and rear yard property lines as follows: (See Art. 13 for definitions of “setback” and “yard.”)

1. Front yard. In order to maintain the existing pattern of development along a given street, both a minimum and maximum front yard setback shall be maintained where required under Article 4.

A. The minimum front yard setback for any structure shall be the average of the front yard setback of principal structures in lawful existence as of the adoption of this ordinance on the two (2) neighboring lots on either side and within the same block and having the same street frontage. Among the comparative sample of four neighboring properties, one may be removed from the averaging calculation.

B-C. As Written

2-3. As Written

(b) Exceptions to Yard Setback Requirements:

The following projections into required yard setbacks may be permitted subject to the standards of Article 6 to ensure compatibility with neighboring properties:

1. Abutting Buildings with Doors or Windows: ~~Where the façade of an existing adjacent principal building is within 5 feet of the common property line and has either doors or windows, a setback of 10 feet shall be required for any new development up to the height of the abutting building in any district where no setback is required. New Buildings, additions, or significant improvements to existing Buildings placed on a side or rear property line, or within 10 feet of another building, where no setback is required are~~

subject to construction material and building opening restrictions as established in the effective Building Code (2015 IBC).

2. Building or Site Features: Eave, sills, roof overhangs, cornices, steps to first floor entries, walkways, ramps for the disabled, fences walls, and similar building and site features may project into a required yard setback. Building and site features outside of the building envelope, including but not limited to eaves, sills, roof overhangs, cornices, steps to first floor entries, walkways, ramps for people with disabilities, fences and walls may project into a required yard setback. Such projecting building features are subject to construction material and building opening restrictions as established in the effective Building Code (2015 IBC).

3-8. As written

Sec. 6.2.2 Review Standards

(a)-(g) As written

(h) Building Location and Orientation

The introduction of new buildings and additions shall maintain the existing development pattern and rhythm of structures along the existing streetscape. New buildings and additions should be aligned with the front façade of neighboring buildings to reinforce the existing “street-edge,” or where necessary, located in such a way that complements existing natural features and landscapes. Buildings placed in mixed-use areas where high volumes of pedestrian traffic are desired should seek to provide sufficient space (optimally 12-15 feet) between the curblin and the building face to facilitate the flow of pedestrian traffic. In such areas, architectural recesses and articulations at the street-level are particularly important, and can be used as an alternative to a complete building setback in order to maintain the existing street wall.

Principal buildings shall have their main entrance facing and clearly identifiable from the public street. The development of corner lots shall be subject to review by the city engineer regarding the adequacy of sight distances along the approaches to the intersection. To the extent practicable, development of corner lots in non-residential areas should try to place the building mass near the intersection and parallel to the street to help anchor the corner and take advantage of the high visibility location.

In residential areas, accessory buildings shall be located in such a way so as to be secondary and subordinate in scale and design to the principal structure. A parking structure – either attached or detached – shall be setback from the longest street-facing wall of the principal structure and be deferential yet consistent in character and design. ~~Where a front yard setback is required, any street-facing garage wall containing garage doors shall be set back a minimum of 25’ from the front property line to prevent parked vehicles from blocking the public sidewalk.~~ Where a garage is not oriented towards the street (i.e. the garage doors face the rear or side yard), the street-facing garage wall shall have windows or doors or other features that break-up the mass into smaller elements, and be blended with the character of the residential portion of the structure.

Where a garage is attached to a principal single-family or duplex residential structure and oriented to the street (i.e. the garage doors face the street) the following standards shall apply:

1. Except as provided in subsections 3, 4 and 5 below, a street-facing garage wall shall constitute no more than 50% of the width of the street-facing façade of the entire structure (including the garage portion), and shall not exceed 24-feet. In cases where a street-facing garage wall constitutes between 30%-50% of the street-facing façade, living space is encouraged above to integrate the garage more closely into the design and mass of the overall structure. In cases where the street-facing garage wall constitutes more than 50% of the width of the street-facing façade, living space above is required.

2. Each bay of the garage shall have a separate entrance door of no more than 10-feet in width.

3. Where the width of the street-facing façade of the residential portion of the structure is less than 14 feet, the street-facing garage portion may be allowed up to but not exceeding 14 feet in order to allow for a single garage bay.

4. Where a garage entrance is within a single roofline and wholly integrated into the overall design the front façade of the structure, it may constitute more than 50% of the width of the street-facing façade provided there is interior living space above, and the primary pedestrian entrance offers a clear and welcoming entrance from the street.

5. Enclosed space originally designed and constructed as a garage for vehicular parking but converted to living space may be converted back to enclosed vehicular parking provided there is no expansion of the building footprint necessary to complete the conversion.

Sec. 14.4.13 – Urban Design Standards

a)-d) As written

e) Walls

i-iv. As written

v. New buildings, additions, or significant improvements to existing Buildings placed on a side or rear property line or within 10 feet of another building, where no setback is required ~~shall contain neither doors nor windows along such elevation in order to prevent unnecessary limitations on the development of adjacent property~~ are subject to construction material and building opening restrictions as established in the effective Building Code (2015 IBC).

* Material stricken out deleted.

** Material underlined added.

TO: Burlington Planning Commission
FROM: Charles Dillard, AICP, Principal Planner
DATE: July 24, 2023
RE: Proposed CDO Amendment – ZA-23-06: 168 Archibald Street

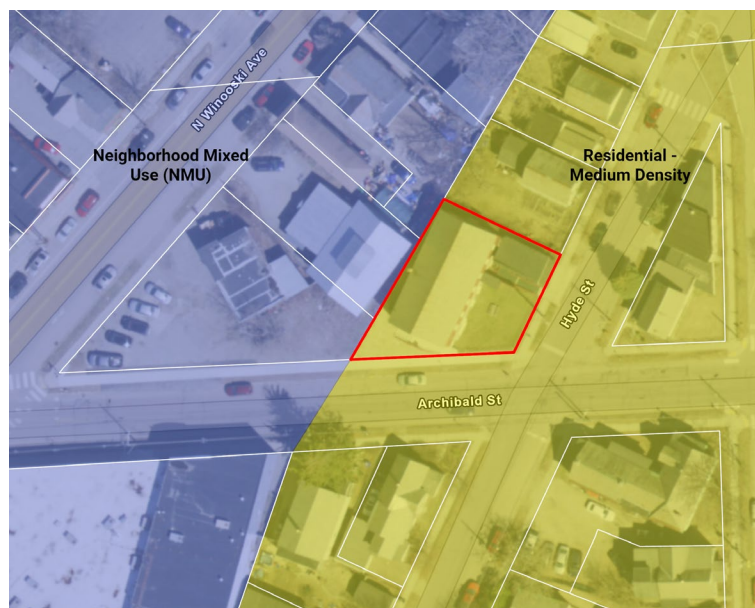
Overview & Background

This amendment is requested by Kitter Spater, prospective owner of the property located at 168 Archibald Street. The applicant seeks to rezone the property from Residential – Medium Density (RM) to Neighborhood Mixed Use (NMU). The property is immediately adjacent to the property at 320 North Winooski Avenue, which is within the NMU district.

Under current RM zoning, a limited range of neighborhood commercial uses is allowed. The CDO defines Neighborhood Commercial Uses as, "Non-residential establishments intended to serve or accommodate the needs of a limited geographic segment of a community or area." The applicant intends to use the property for uses not currently permitted under the Neighborhood Commercial Uses category, but that are otherwise permitted in the immediately adjacent NMU district and consistent with the Neighborhood Activity Centers designation on the Future Land Use Map.

North Winooski Avenue and North Street are the spines of the Old North End and are depicted as Neighborhood Activity Centers on *planBTV's* Future Land Use Map. The edges of these zones play an important role in transitioning from the higher intensity mix of uses within the Activity Centers and the typically residential neighborhoods surrounding them. The property at 168 Archibald is one such property, and is identified as within a Transitional Edge on the Future Land Use Map.

The property is listed on the National Register of Historic Places and is also known as the Old Ohavi Zedex Synagogue. The Synagogue was built in 1885, making it the oldest continuing Jewish congregation at the time of its placement on the Register in 1978.



168 Archibald
 (outlined in red)

Proposed Amendment

Amendment Type

Text Amendment	Map Amendment	Text & Map Amendment
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Purpose Statement

This amendment modifies the zoning district for the property at 168 Archibald Street from RM to NMU to facilitate additional commercial uses on the property.

Proposed Amendments

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

1. Amends Article 4 – Zoning Maps and Districts to modify three maps as described below.

- Modifies Map 4.3.1-1 Base Zoning Districts
- Modifies Map 4.4.2-1 Neighborhood Mixed Use Districts
- Modifies Map 4.4.5-1 Residential Zoning Districts

Relationship to planBTv

This following discussion of conformance with the goals and policies of planBTv is prepared in accordance with the provisions of 24 V.S.A. §4441(c).

Theme:	Dynamic	Distinctive	Inclusive	Connected
Land Use:	Conserve	Sustain	Grow	

Compatibility with Proposed Future Land Use & Density

The proposed amendment is consistent with *planBTv*, which designates the property as a Neighborhood Activity Center Transitional Edge on the Future Land Use Map. The *plan* states that, “within neighborhood activity centers, gradual transitions in the intensity of development and the uses permitted are important to help these mixed-use areas blend with lower density residential areas that surround them.

Impact on Safe & Affordable Housing

The amendment has no substantial impact on safe and affordable housing in Burlington.

Planned Community Facilities

This amendment has no direct 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: Staff 6/21/23	Presentation to & discussion by Commission 6/27/23	Approve for Public Hearing 6/27/2023	Public Hearing 8/8/2023	Approved & forwarded to Council
City Council Process				
First Read & Referral to Ordinance Cmte	Ordinance Cmte discussion	Ordinance Cmte recommend	Second Read & Public Hearing	Council Approval & Adoption

CITY OF BURLINGTON

In the Year Two Thousand Twenty-Two

An Ordinance in Relation to

ZA-23-06 168 Archibald Street

ORDINANCE _____

Sponsor: (Department or Councilor) _____

Public Hearing Dates: _____

First reading: _____

Referred to: _____

Rules suspended and placed in all
stages of passage: _____

Second reading: _____

Action: _____

Date: _____

Signed by Mayor: _____

Published: _____

Effective: _____

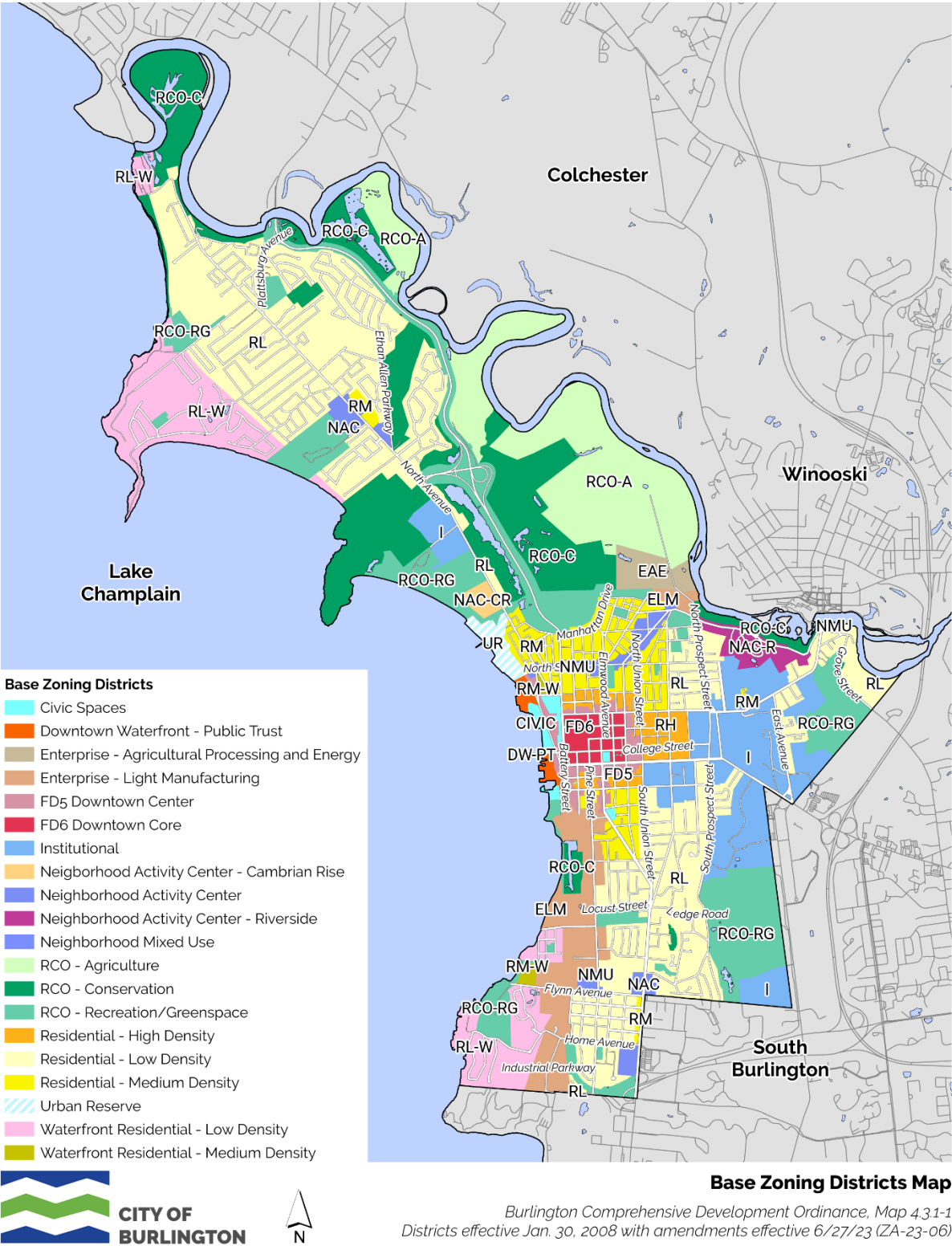
It is hereby Ordained by the City Council of the City of Burlington as follows:

1 That Appendix A, Comprehensive Development Ordinance, of the Code of Ordinances of the City of
2 Burlington be and hereby is amended to rezone 168 Archibald Street from Residential-Medium Density
3 (RM) to Neighborhood Mixed Use (NMU) by amending Map 4.3.1-1 Base Zoning Districts, Map 4.4.2-1
4 Neighborhood Mixed Use Districts, and Map 4.4.5-1 Residential Zoning Districts, thereof to read as follows:

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6 **Maps included below to replace respective maps in current CDO version
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Sec. 4.2.1 Authority and Purpose



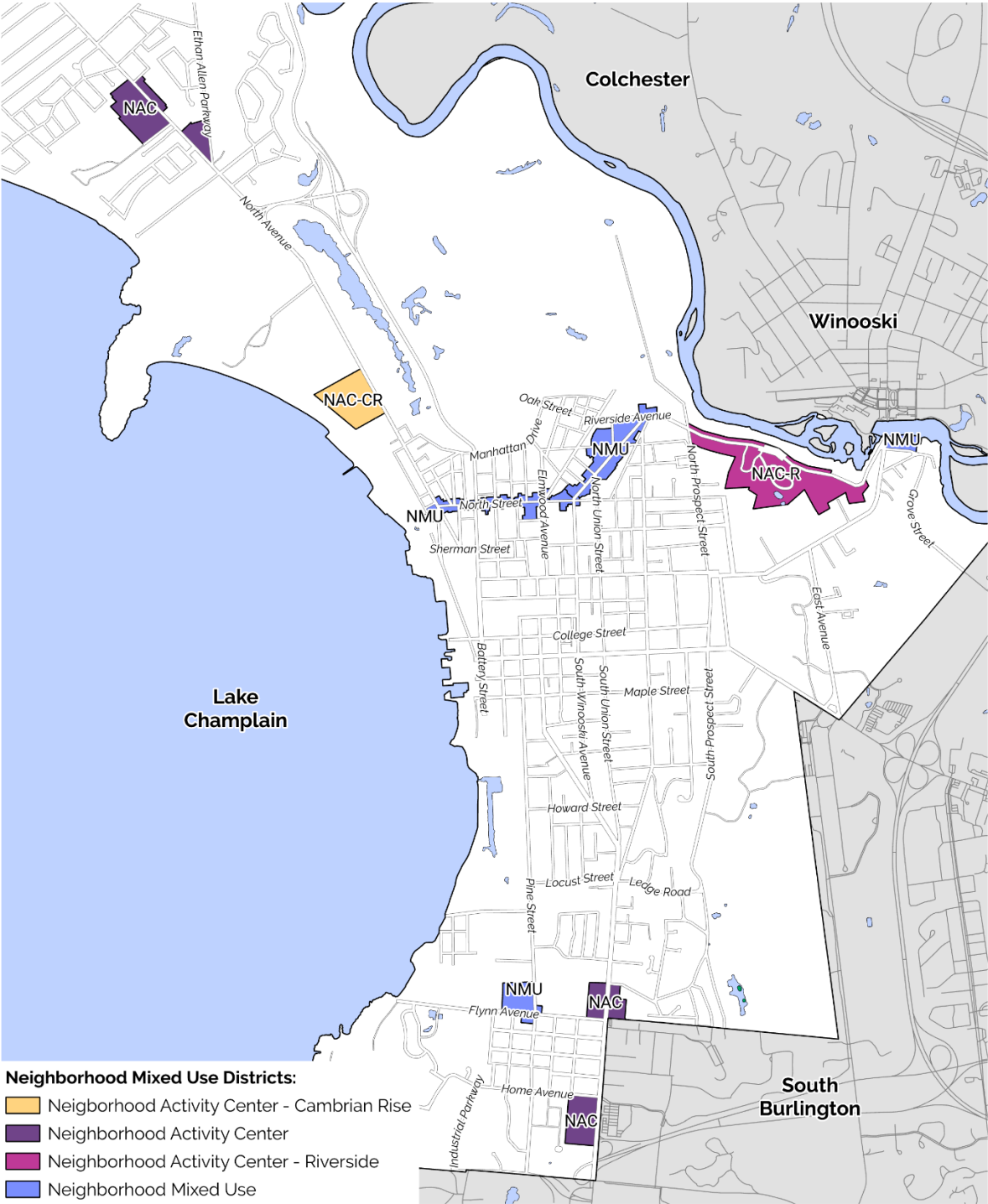
34

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Map 4.2.1-1 Official Map of the City of Burlington

36

Sec. 4.4.2 Neighborhood Mixed Use Districts

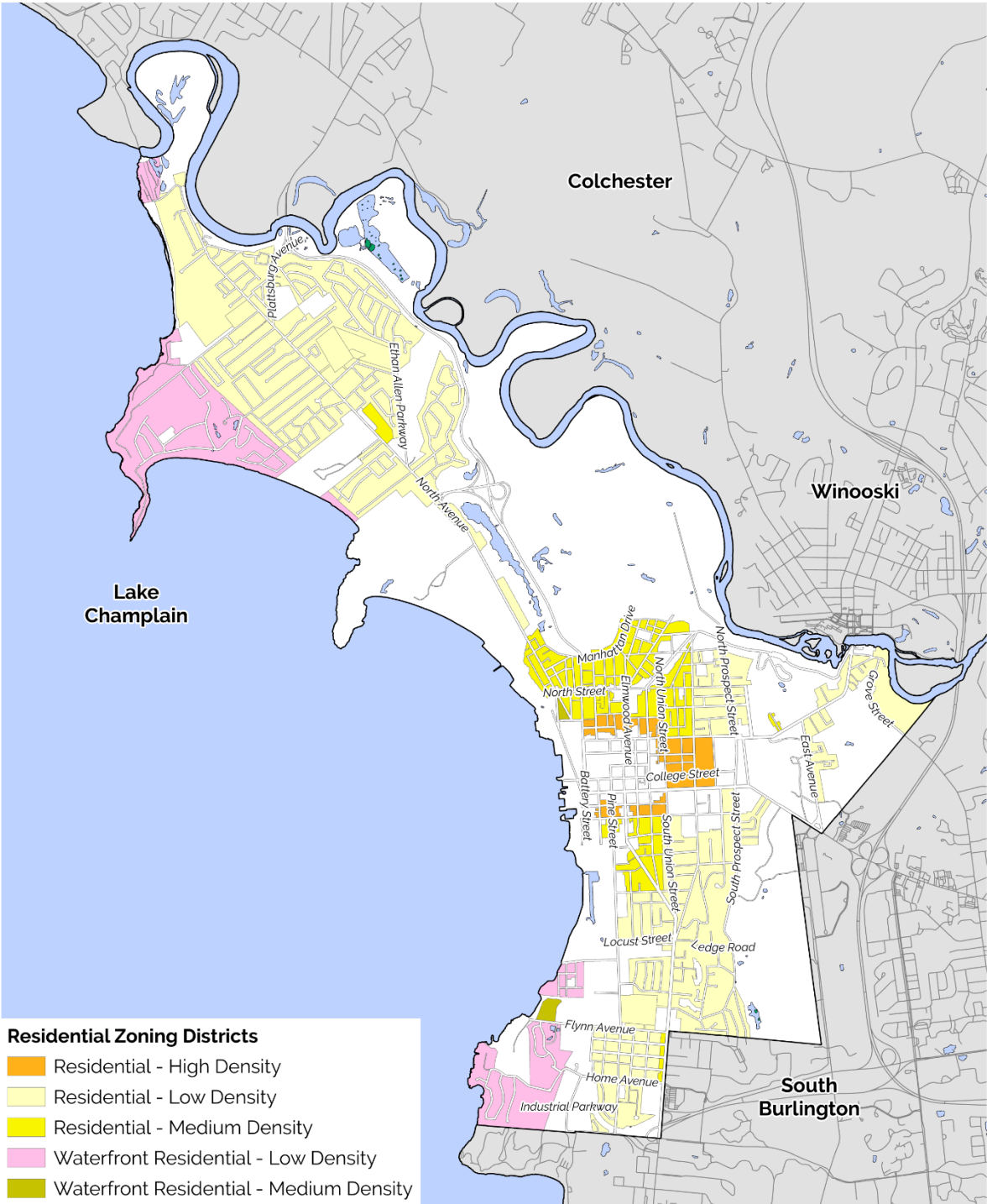


Map 4.4.2-1 Neighborhood Mixed Use Districts

Burlington Comprehensive Development Ordinance, Map 4.4.2-1
Districts effective Jan. 30, 2008 with amendments effective 6/27/23 (ZA-23-06)

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Sec. 4.4.5 Residential Districts



42 * Material stricken out deleted.

43 ** Material underlined added.

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Appendix A-Use Table – All Zoning Districts

	Urban Reserve	Recreation, Conservation & Open Space			Institutional	Residential			Downtown Mixed Use ^l	Downtown Form Districts (See Article 14)	Neighborhood Mixed Use				Enterprise	
USES	UR	RCO - A	RCO - RG	RCO - C	I	RL/W	RM/W	RH	DW-PT ¹⁶	Downtown FDs	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	DW-PT ¹⁶	Downtown FDs	NMU	NAC	NAC-RC	NAC-CR	E-AE	E-LM
Single Detached Dwelling	N	N ¹	N	N	Y	Y	Y	N ³⁰	N		N ³⁰	N ³⁰	N ³⁰	N	N	N
Attached Dwellings - Duplex	N	N ¹	N	N	Y	Y ²	Y	Y	N		Y ³	N	Y	N	N	N
Attached Dwellings - Multi-Family (3 or more)	N	N ¹	N	N	Y	N	Y	Y	N		Y	Y	Y	Y	N	N
RESIDENTIAL SPECIAL USES	UR	RCO – A	RCO - RG	RCO - C	I	RL/W	RM/W	RH	DW-PT ¹⁶	Downtown FDs	NMU	NAC	NAC-RC	NAC-CR	E-AE	E-LM
Assisted Living	N	N	N	N	CU	CU	Y	Y	N		Y	Y	Y	Y	N	N
Boarding House ⁶ (4 persons or less)	N	N	N	N	CU	CU	Y	Y	N		Y	Y	Y	N	N	N
Boarding House ⁶ (5 persons or more)	N	N	N	N	CU	CU	CU	CU	N		CU	CU	CU	N	N	N
Community House (See Sec.5.4.4)	N	N	N	N	CU	CU	CU	CU	N		CU	CU	CU	CU	N	N
Convalescent /Nursing Home	N	N	N	N	CU	CU	Y	Y	N		Y	Y	Y	Y	N	N
Dormitory ⁵	N	N	N	N	CU	N	N	N	N		N ²⁵	CU	CU	N	N	N
Emergency Shelter ³¹	N	N	N	N	N	CU	CU	CU	N		CU	CU	CU	CU	N	N
Group Home	N	N	N	N	Y	Y	Y	Y	N		Y	Y	Y	Y	N	N
Historic Inn (See Sec.5.4.2)	N	N	N	N	CU	CU	CU	CU	N		CU	Y	Y	Y	N	N
Mobile Home Park	N	N	N	N	N	CU	CU	N	N		N	N	N	N	N	N
Sorority/Fraternity ⁵	N	N	N	N	CU	N	N	N	N		N	N	N	N	N	N
Short Term Rental ³³	N	N	N	N	Y	Y	Y	Y	N		Y	Y	Y	Y	N	N
NON-RESIDENTIAL USES	UR ²¹	RCO - A	RCO - RG	RCO - C	I	RL/W	RM	RH	DW-PT ¹⁶	Downtown FDs	NMU	NAC	NAC-RC	NAC-CR	E-AE	E-LM
Adult Day Care	N	N	N	N	CU	N	N	N	N		Y	Y	Y	Y	N	N
Agricultural Use ²⁰	N	Y	Y	CU	Y	N	N	N	N		N	N	N	N	Y	N
Amusement Arcade	N	N	N	N	N	N	N	N	N		N	CU	CU	CU	N	N
Animal Boarding/Kennel/Shelter	N	CU	N	N	N	N	N	N	N		N	CU	CU	CU	CU	CU ²⁷
Animal Grooming	N	N	N	N	N	N	N	N	N		Y	Y	Y	Y	CU	CU ²⁷
Animal Hospitals/Veterinarian Office	N	CU	N	N	CU	N	N	N	N		CU	CU	CU	CU	Y	Y ²⁷
Appliance Sales/Service	N	N	N	N	N	N	N	N	N		Y ²⁴	Y	Y	Y ²⁴	N	Y ²⁷
Aquarium	N	N	CU	N	CU	N	N	N	(See Sec.4.4.1(d) 1)		N	N	N	N	N	N
Art Gallery/Studio	N	N	N	N	Y	N	N	CU ¹³	(See Sec.4.4.1(d) 1)		Y	Y	Y	Y	Y	Y
Auction House	N	N	N	N	N	N	N	N	N		N	Y	Y	N	N	CU ²⁷

Appendix A-Use Table – All Zoning Districts

Automobile Body Shop	N	N	N	N	N	N	N	N	N		N	N	Y	N	N	Y ²⁷
Automobile & Marine Parts Sales	N	N	N	N	N	N	N	N	(See Sec.4.4.1(d) 1)		CU	Y	Y	Y	N	Y ²⁷
Automobile/Vehicle Repair	N	N	N	N	N	N	N	N	N		CU ^{9, 12, 14}	CU ^{9, 12, 14}	CU ¹⁴	N	N	Y ²⁷
Automobile Sales – New & Used	N	N	N	N	N	N	N	N	N		N	Y	Y	N	N	CU ²⁷
Automobile/Vehicle Salvage Yard	N	N	N	N	N	N	N	N	N		N	N	N	N	N	N
Bakery	N	N	N	N	N	N ²²	N ²²	CU ¹³	N		Y	Y	Y	Y	Y	Y ²⁷
Bank, Credit Union	N	N	N	N	CU	N ²²	N ²²	N ²²	N		Y	Y	Y	Y	N	Y
Bar, Tavern	N	N	N	N	N	N	N	N	N		CU	CU	CU	CU	N	N
Beauty/ Barber Shop	N	N	N	N	CU	N ²²	N ²²	CU ¹³	N		Y	Y	CU	Y	N	N
Bicycle Sales/Repair	N	N	N	N	CU	N	N	N	N		Y	Y	Y	Y	N	Y ²⁷
Billiard Parlor	N	N	N	N	N	N	N	N	N		CU	Y	CU	Y	N	N
Boat Repair/Service	N	N	CU	N	N	N	N	N	(See Sec.4.4.1(d) 1)		N	CU	CU	N	N	Y ²⁷
Boat Sales/Rentals	N	N	CU	N	N	N	N	N	(See Sec.4.4.1(d) 1)		N	Y	Y	N	N	Y ²⁷
Boat Storage	N	N	CU	N	N	N	N	N	N		N	CU	CU	N	N	Y ²⁷
Bowling Alley	N	N	N	N	N	N	N	N	N		CU	Y	Y	Y	N	Y
Building Material Sales	N	N	N	N	N	N	N	N	N		N	Y ¹⁰	Y	N	N	Y ²⁷
Café	N	CU ¹⁷	CU	N	CU	N ²²	N ²²	CU ¹³	(See Sec.4.4.1(d) 1)		Y	Y	Y	Y	CU	CU ²⁷
Camp Ground	N	Y	Y	N	N	N	N	N	(See Sec.4.4.1(d) 1)		N	N	N	N	N	N
Car Wash	N	N	N	N	N	N	N	N	N		N	CU	Y	CU	N	CU ²⁷
Cemetery	N	N	Y	N	N	N	N	N	N		N	N	N	N	N	N
Cinema	N	N	N	N	Y	N	N	CU	N		CU ¹⁴	Y	N	Y ¹⁴	N	N
Club, Membership	N	N	Y	N	CU	N	Y	Y	N		CU	CU	N	CU	N	N
Community Center	N	N	CU	N	CU	CU ¹³	CU ¹³	Y ¹³	N		Y	Y	Y	Y	N	CU ²⁷
Community Garden	N	Y	Y	N	Y	Y	Y	Y	N		Y	Y	Y	Y	Y	Y ²⁷
Conference Center	N	N	N	N	CU	N	N	N	N		N	N	N	N	N	N
Composting	N	CU	N	N	N	N	N	N	N		N	N	N	N	N	N
Contractor Yard	N	N	N	N	N	N	N	N	N		N	N	Y ¹⁰	N	N	Y
Convenience Store (See Sec.5.4.3)	N	N	N	N	N	N	N	CU ¹²	N		Y ¹²	Y	Y	Y ¹²	N	Y ²⁷
Convention Center	N	N	N	N	N	N	N	N	N		N	N	N	N	N	N
Courthouse	N	N	N	N	Y	N	N	CU	N		N	N	N	N	N	N
Crematory	N	N	N	N	N	N	N	N	N		N	N	CU	N	N	N
Crisis Counseling Center	N	N	N	N	CU	CU	CU	CU	N		Y	Y	Y	Y	N	N
Daycare (See Sec.5.4.1)	N	CU ⁸	CU ⁸	CU ⁸	CU	CU ¹³	CU ¹³	CU ¹³	N		Y	Y	Y	Y	CU	CU ^{17,27}
Daycare – Family Home	N	N	N	N	Y	Y	Y	Y	N		Y	Y	Y	Y	N	N
Dental Lab	N	N	N	N	CU	N	N	N	N		Y	Y	Y	Y	N	Y

Appendix A-Use Table – All Zoning Districts

Distribution Center	N	N	N	N	N	N	N	N	N		N	N	CU	N	N	CU
Dry Cleaning Plant	N	N	N	N	N	N	N	N	N		N	N	CU	N	N	CU
Dry Cleaning Service	N	N	N	N	CU	N ²²	N ²²	N ²²	N		Y ²⁴	Y	Y	Y ²⁴	N	CU ²⁷
Film Studio	N	N	N	N	Y	N	N	N	N		N	CU	Y	CU	N	CU
Fire Station	N	N	Y	N	Y	CU	CU	CU	N		Y	Y	Y	Y	Y	Y
Food & Beverage Processing	N	N	N	N	N	N	N	N	N		CU ¹⁴	CU ¹⁴	CU	CU ¹⁴	Y	Y
Fuel Service Station ⁹	N	N	N	N	N	N	N	N	N		CU ¹¹	Y ¹¹	Y	N	N	N
Funeral Home	N	N	N	N	N	CU ⁷	CU ⁷	CU ⁷	N		CU	Y	Y	N	N	N
Garden Supply Store	N	N	N	N	CU	N	N	N	N		CU ²⁴	Y	Y	N	Y	Y ²⁷
General Merchandise/Retail – Small <4,000sqft	N	N	N	N	CU	N ²²	N ²²	N ²²	(See Sec.4.4.1(d) 1)		Y	Y	Y	Y	N	Y ²⁷
General Merchandise/Retail – Large ≥4,000sqft	N	N	N	N	N	N	N	N	(See Sec.4.4.1(d) 1)		N	CU ¹⁸	CU	CU	N	CU ^{17,27}
Grocery Store – Small ≤10,000sqft	N	N	N	N	N	N	N	CU	N		Y	Y	Y	Y	CU	CU ²⁸
Grocery Store – Large >10,000sqft	N	N	N	N	N	N	N	N	N		N	Y	Y	N	N	CU ²⁸
Hazardous Waste Collection/Disposal	N	N	N	N	N	N	N	N	N		N	N	N	N	N	CU
Health Club	N	N	N	N	Y	N	N	CU	N		CU	Y	Y	Y	N	CU ²⁷
Health Studio	N	N	N	N	Y	N ²²	N ²²	CU	N		Y	Y	Y	Y	N	Y ²⁷
Hospitals	N	N	N	N	CU	N	N	CU	N		N	N	N	N	N	N
Lodging	N	N	N	N	CU	N	N	N	(See Sec.4.4.1(d) 1)		N	Y	N	Y	N	N
Junkyard	N	N	N	N	N	N	N	N	N		N	N	N	N	N	N
Laundromat	N	N	N	N	CU	N ²²	N ²²	CU ¹³	N		Y ¹³	Y	Y	Y	N	Y ²⁷
Library	N	N	N	N	Y	CU	CU	Y	N		Y	Y	Y	Y	N	N
Lumber Yard	N	N	N	N	N	N	N	N	N		N	CU ¹⁰	Y	N	N	Y
Manufacturing-Light	N	N	N	N	N	N	N	N	N		CU ¹⁴	CU ¹⁴	CU	CU ¹⁴	CU	Y
Manufacturing	N	N	N	N	N	N	N	N	N		N	N	CU	N	CU	Y
Marina	N	N	Y	N	N	N	N	N	(See Sec.4.4.1(d) 1)		N	N	N	N	N	N
Medical Lab	N	N	N	N	CU	N	N	N	N		CU	Y	Y	N	CU	CU
Mental Health Crisis Center	N	N	N	N	N	N	CU (See §5.4.11)	N	N		NCU	N	N	N	N	N
Museum–Small < 10,000 sqft	N	CU	CU	CU	Y	CU ¹³	CU ¹³	CU ^{8,13}	(See Sec.4.4.1(d) 1)		Y	Y	Y	Y	CU	Y ²³
Museum-Large >10,000 sqft	N	N	N	N	CU	N	N	N	(See Sec.4.4.1(d) 1)		N	CU	CU	N	CU	CU ²³
Office - General	N	N	N	N	N	N	N	N	N		Y	Y	Y	Y	CU	Y ²⁷

Appendix A-Use Table – All Zoning Districts

Office - Medical, Dental	N	N	N	N	CU	N ²²	N ²²	N ²²	N		Y	Y	Y	Y	N	Y ²⁷
Office-Technical	N	N	N	N	N	N	N	N	N		Y	Y	Y	Y	CU	Y
Open Air Markets	N	Y	Y	N	Y	CU	CU	CU	(See Sec.4.4.1(d) 1)		Y	Y	Y	Y	Y	Y ²⁷
Operations Center – Taxi/Bus ⁹	N	N	N	N	N	N	N	N	N		N	N	CU ¹¹	N	N	Y
Operations Center - Trucking ⁹	N	N	N	N	N	N	N	N	N		N	N	Y ¹¹	N	CU ¹¹	CU
Park	N	Y	Y	Y	Y	Y	Y	Y	(See Sec.4.4.1(d) 1)		Y	Y	Y	Y	CU	CU ²⁷
Parking Garage ⁹	N	N	N	N	Y	N	N	CU	N		CU	Y	N	CU	N	CU
Parking Lot ⁹	N	N	N	N	N	N	N	N	N		N	CU	N	N	N	CU
Performing Arts Center	N	N	N	N	Y	N	N	N	(See Sec.4.4.1(d) 1)		CU	Y	N	CU	N	CU ^{27,32}
Performing Arts Studio	N	N	N	N	Y	N	N	CU ¹³	(See Sec.4.4.1(d) 1)		CU	CU	CU	Y	N	Y ²⁷
Pet Store ¹⁰	N	N	N	N	N	N	N	N	N		CU	Y	Y	Y	N	N
Pharmacy	N	N	N	N	CU	N ²²	N ²²	N ²²	N		Y	Y	Y	Y	N	N
Photo Studio	N	N	N	N	N	N ²²	N ²²	N	N		Y	Y	Y	Y	N	Y
Photography Lab	N	N	N	N	N	N	N	N	N		CU	Y	Y	Y	CU	Y
Police Station - Central	N	N	N	N	CU	N	N	N	N		Y	Y	Y	N	N	N
Police Station - Local	N	N	CU	N	Y	CU	CU	CU	N		Y	Y	Y	Y	Y	Y
Post Office – Central Distribution Center	N	N	N	N	N	N	N	N	N		N	Y	Y	N	N	Y
Post Office - Local	N	N	N	N	Y	N ²²	N ²²	N ²²	N		Y	Y	Y	Y	N	N
Printing Plant	N	N	N	N	N	N	N	N	N		N	N	CU	N	N	Y
Printing Shop	N	N	N	N	CU	N ²²	N ²²	N	N		CU	Y	Y	Y	N	Y
Public Transit Terminal	N	N	N	N	Y	N	N	N	(See Sec.4.4.1(d) 1)		N	CU	CU	Y	CU	Y
Public Works Yard/Garage ⁹	N	N	N	N	CU ¹¹	N	N	N	N		N	CU ¹¹	Y ¹¹	N	CU	Y
Radio & TV Studio	N	N	N	N	N	N	N	N	N		N	Y	Y	Y	N	Y
Rail Equip. Storage & Repair	N	N	N	N	N	N	N	N	(See Sec.4.4.1(d) 1)		N	N	N	N	CU	CU ²⁷
Recording Studio	N	N	N	N	N	N	N	CU	N		CU	CU	Y	Y	N	Y
Recreational Facility - Indoor	N	N	CU	N	CU	N	CU	CU	(See Sec.4.4.1(d) 1)		N	Y	CU	N	N	CU ²⁷¹
Recreational Facility - Outdoor Commercial	N	N	CU	N	CU	N	N	N	(See Sec.4.4.1(d) 1)		N	N	CU	N	N	N
Recreational Facility - Outdoor	N	N	Y	N	Y	N	N	N	(See Sec.4.4.1(d) 1)		N	Y	Y	CU	N	N

Appendix A-Use Table – All Zoning Districts

Recreational Vehicle Sales – New and Used	N	N	N	N	N	N	N	N	N		N	CU	CU	N	N	Y ²⁷
Recycling Center – Large ¹⁰ (above 2,000 sf)	N	N	N	N	N	N	N	N	N		N	N	N	N	CU	CU
Recycling Center - Small ¹⁰ (2,000 sf or less)	N	N	N	N	CU	N	N	N	N		CU	CU	CU	CU	CU	Y
Research and Development Facility	N	N	N	N	CU	N	N	N	N		CU	CU	CU	CU	CU	Y
Research Lab	N	CU	N	N	CU	N	N	N	(See Sec.4.4.1(d) 1)		N	CU	CU	CU ²⁴	CU	Y
Restaurant	N	N	N	N	N	N ²²	N ²²	CU ^{8, 13}	(See Sec.4.4.1(d) 2)		Y ¹³	Y	Y	Y ¹³	N	N
Restaurant – Take Out	N	N	N	N	CU ¹³	N ²²	N ²²	N	(See Sec.4.4.1(d) 1)		Y ¹³	Y	Y	Y ¹³	N	Y ^{13,27}
Salon/Spa	N	N	N	N	CU	N ²²	N ²²	N	N		Y	Y	Y	Y	N	N
School - Post-Secondary &Community College	N	N	Y	N	CU	N	CU	CU	N		CU	CU	CU	CU	N	N
School – Preschool (see Sec. 5.4.1)	N	CU ⁸	CU ⁸	CU ⁸	CU	CU ¹³	CU ¹³	CU ¹³	N		Y	Y	Y	Y	CU	CU ^{17,27}
School - Primary	N	N	N	N	CU	CU	CU	CU	N		CU	CU	CU	CU	N	N
School - Secondary	N	N	N	N	CU	CU	CU	CU	N		CU	CU	CU	CU	N	N
School, -Trade, or Professional	N	N	N	N	CU	N	N	N	N		CU	N	N	CU	N	CU ²⁷
Solid Waste Facility - Incinerator, Landfill, Transfer Station	N	N	N	N	N	N	N	N	N		N	N	N	N	CU	CU
Tailor Shop	N	N	N	N	N	N ²²	N ²²	CU	N		Y	Y	Y	Y	N	N
Warehouse	N	CU	N	N	CU	N	N	N	(See Sec.4.4.1(d) 1)		N	N	Y ¹⁵	N	Y	Y
Warehouse, Retail ⁹	N	N	N	N	N	N	N	N	N		N	CU ¹⁵	CU ¹⁵	N	CU	CU
Warehouse, Self-Storage ⁹	N	N	N	N	N	N	N	N	N		N	N	Y ¹⁵	N	N	CU
Wholesale Sales ⁹	N	CU	N	N	N	N	N	N	N		N	N	Y ¹⁵	N	Y	Y
Worship, Place of	N	N	N	N	CU	CU	CU	Y	N		Y	CU	CU	CU	N	N

1. Residential uses are not permitted except only as an accessory use to an agricultural use.

Legend:	
Y	Permitted Use in this district
CU	Conditional Use in this district
N	Use not permitted in this district
Abbreviation	Zoning District
RCO – A	RCO - Agriculture
RCO – RG	RCO – Recreation/Greenspace
RCO – C	RCO - Conservation
I	Institutional
RL/W	Residential Low Density, Waterfront Residential Low Density
RM/W	Residential Medium Density, Waterfront Residential Medium Density
RH	Residential High Density
DW-PT	Downtown Waterfront-Public Trust

Appendix A-Use Table – All Zoning Districts

2. Duplexes may be constructed on lots which meet the minimum lot size specified in Table 4.4.5-1.

3. Duplexes shall only be allowed as a result of a conversion of an existing single family home. New duplexes are prohibited.

4. Reserved.

5. An existing fraternity, sorority, or other institutional use may be converted to dormitory use subject to conditional use approval by the DRB.

6. Must be owner-occupied.

7. Must be located on a major street.

8. Daycare centers and preschools in the RCO zones shall only be allowed when a small museum is the principal use.

9. Automobile sales not permitted other than as a separate principal use subject to obtaining a separate zoning permit.

10. Exterior storage and display not permitted.

11. All repairs must be contained within an enclosed structure.

12. No fuel pumps shall be allowed other than as a separate principal use subject to obtaining a separate zoning permit.

13. Permitted hours of operation 5:30 a.m. to 11:00 p.m.

14. Such uses not to exceed ten thousand (10,000) square feet per establishment.

15. Excludes storage of uncured hides, explosives, and oil and gas products.

16. See Sec.4.4.1(d) 2 for more explicit language regarding permitted and conditional uses in the Downtown Waterfront – Public Trust District.

17. Allowed only as an accessory use.

18. A permitted use in the Shelburne Rd Plaza and Ethan Allen Shopping Center.

19. [Reserved].

20. Accepted agricultural and silvicultural practices, including the construction of farm structures, as those practices are defined by the secretary of agriculture, food and markets or the commissioner of forests, parks and recreation, respectively, under 10 VSA §1021(f) and 1259(f) and 6 VSA §4810 are exempt from regulation under local zoning.

21. See Sec. 4.4.7 (c) for specific allowances and restrictions regarding uses in the Urban Reserve District.

22. See Sec. 4.4.5 (d) 6 for specific allowances and restrictions regarding Neighborhood Commercial Uses in Residential districts.

23. Allowed only on properties with frontage on Pine Street.

24. Such uses shall not exceed 4,000 square feet in size.

25. Dormitories are only allowed on properties contiguous to a school existing as of January 1, 2010.

26. The mixed uses shall be limited to those that are either permitted, conditional, or pre-existing nonconforming in the zoning district.

27. This use is permitted or conditionally permitted on lots south of Home Avenue only when one or more Industrial or Art Production use(s) exists on the lot, and when the combined gross floor area of all uses with this footnote does not exceed 49% of the Gross floor Area on the lot.

28. Grocery Stores up to but not to exceed 35,000 square feet may be permitted subject to conditional use approval by the DRB in that portion of the Enterprise-Light Manufacturing District between Flynn and Home Avenue.

29. Must be fully enclosed within a building.

30. New single detached dwellings are not permitted. However, a pre-existing single detached dwelling may be reverted to a single family use regardless of its present use if the building was originally designed and constructed for that purpose.

31. See special use standards of Sec. 5.4.13, Emergency Shelters.

32. Performing Arts Centers in the ELM zone shall be limited to properties with frontage on Pine Street up to 5,000 square feet in size, and to properties with frontage on Industrial Parkway up to 15,000 square feet in size. Performing Arts Centers may contain accessory space for preparation and serving food and beverages, including alcohol, provided this accessory space comprises less than 50% of the entire establishment.

33. Short term rentals are permitted by right, subject to per building limitations and rental registration requirements pursuant to Chapter 18: Minimum Housing Standards of the City Code of Ordinances.
- | | |
|--------|---|
| NMU | Neighborhood Mixed Use |
| NAC | Neighborhood Activity Center |
| NAC-RC | NAC – Riverside Corridor |
| NAC-CR | NAC – Cambrian Rise |
| E-AE | Enterprise – Agricultural Processing and Energy |
| E-LM | Enterprise – Light Manufacturing |

ⁱ For permitted and conditional uses within the Downtown and Waterfront Form Districts, refer to Article 14.

Burlington Planning Commission

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Bruce Baker, Vice-Chair
Yves Bradley
Alexander Friend
Michael Gaughan
Julia Randall
Erin Malone*

Burlington Planning Commission

Thursday, July 11, 2023 6:30 P.M.

Hybrid Meeting via Zoom and in the Bushor Conference Room

Draft Minutes

Members Present	M. Gaughan, A. Montroll, A. Friend, E. Malone, J. Randall
Staff Present	C. Dillard, M. Tuttle
Public Attendance	

I. Agenda

Call to Order	Time: 6:30pm
Agenda	No changes.

II. Public Forum

Name(s)	Comment
S. Bushor	(1) Expressed concerns about people changing properties - Rooms from dining rooms or whatever, into bedrooms and change attics into bedrooms, change basements into bedrooms. There are a number of properties that don't declare themselves as investment or rental properties. (2) Section 5.26 to increase modestly the allowed variation and maximum building heights from 5% to 10%. Up to 8 feet, the 10% works, but when it gets to 10 feet, it would allow another story and that is added height that raises concerns. (3) Agreed with section 9.1.12 IZ stating the inclusionary units had to be on the same lot. (4) Spoke about having the right sized building, referencing the European standards.

III. Chair's Report

A. Montroll	Annual organizational meeting to be scheduled.
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IV. Director's Report

M. Tuttle	Extended support and well wished to families and friends affected by the floor. Q: What are the plans for the \$22 million grant A: The \$22 million grant is going to be combined with TIF revenues that have been set aside in the city's waterfront tax increment financing district to help us rebuild Saint Paul and Pine and then reconstruct 10 additional blocks of Cherry and Bank streets.
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V. Project Update: Citywide Transportation Options Study and Transportation Planning Work

Action: n/a		
Motion:	Seconded by:	Vote:

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Project Manager Tien-Tien Chan from Nelson/Nygaard gave an overview of the TDM project which includes:

- Comprehensive review of previous plans, studies, and policies
- Analysis of parking and curb demand in the greater downtown area
- Review of national best practices in TDM policy and implementation
- Developing regulatory and non-regulatory recommendations for TDM
- Engaging local and regional stakeholders

J. Randall: TDM was recently discussed when reviewing the Joint Institutional Parking Management Plan for U VM and Champlain College. It's a picture of the availability of parking and how well the institutions are performing on providing that, but it doesn't go into detail as much as I would like.

VI. Proposed CDO Amendment: ZA-23-01 South End Innovation District

Action: Move to reapprove statutory report and refer back to council with recommendations.

Motion: M. Gaughan

Seconded by: J. Randall

Vote: 4 in support, 1 abstaining

The South End Innovation District is a zoning amendment to create a new district within a portion of the South end that would help us facilitate a number of our economic development goals for the South End as well as open up new opportunities for housing and a portion of the South End.

J. Randall: A comment on the sentence in line 73 of the purpose statement, it says streets should be constructed in a manner that allocates the majority of their space to pedestrians and cyclists. Is it intended that all modes have equal access to the street area?

M. Tuttle: The intent of that is to indicate that we want any new streets that may be developed in this area to prioritize those types of modes to not only make space for them to, but to prioritize them. Ultimately, this is intended to be an aspirational statement that will guide any work between a developer and DPW.

A. Montroll: How did the definition of Right-of-Way changed? And do we have right-of-way in the code?

M. Tuttle: We didn't have a definition of Right-of-Way before, and yes, the discussion of block perimeter standards we talk about streets and public rights of ways in terms of how they relate to lots. And we talk about streets and public paths in terms of meeting the block perimeter standards.

A. Montroll: I suggest taking a closer look and seeing if it should include things beyond just transportation.

A. Friend: What do commissioners think about shared kitchens and shared bathrooms. Do we really want to tell property owners how many kitchens and bathrooms they can have?

M. Tuttle: We're talking about an individual living space that's something less than like a full apartment, for example. That's the only reason why this is descriptive as it is, and it's not meant to micromanage how many of these units are put in. The only reason that it talks about this for dwelling spaces being the equivalent of the dwelling unit is because in some districts we do limit the number of living dwelling units based on the size of the lot. It would only come into play in a district where that kind of density standard matters and where somebody elects to build these kinds of living spaces.

J. Randall: I'm really glad that this definition is being included. I think having it as an option is the ethical thing to do because this may be a great way for a developer to provide more units than they otherwise would be able to. This type of living arrangement is not dissimilar to a lot of the housing situations that exist around the city right now with people sharing larger single-family homes or larger apartments and sharing kitchens, bathrooms and other spaces like that. I think it's great to have this explicitly defined.

VII. Proposed CDO Amendment: ZA-24-01 Technical Amendments

Action: Warn for public hearing with the statutory report		
Motion: A. Friend	Seconded by: M. Gaughan	Vote: Unanimous
M. Tuttle: Addressing the items raised in public forum. (1) There is a recommendation to change the waiver from the height limits from a 5% waiver from the height to a 10% waiver from the height. (2) The next question was about the changes to the development intensity bonuses that are allowed for adaptive reuse of historic buildings. And the specific question was are they allowing you know development and access of what you could otherwise get through other bonuses that we have in the ordinance. And the answer is no. This is just intending to make sure that the upper limit is the upper limit, whichever combination of bonuses the city allows you to use, making sure that the two sections of the ordinance. (3) I just want to make sure that it's explicitly clear that we are again just making sure that the development bonuses that are allowed for people who are putting their inclusionary units in a building, that is clear that those are only for when you're putting those units. The building and not for when you are putting units off site or paying info.		

VIII. Commissioner Items

Action: n/a		
Motion by:	Second by:	Vote
Type:	Presented by:	

IX. Minutes and Communications

Action: Approve the minutes and accept the communications with corrections		
Motion by: A. Friend	Second by: J. Randall	Approved: Unanimous

X. Adjourn

Adjournment	Time: 8:25pm	
Motion: E. Malone	Second: M. Gaughan	Vote: Unanimous

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Yves Bradley
Alexander Friend
Michael Gaughan
Emily Lee
Julia Randall*

Burlington Planning Commission

Tuesday, July 25, 2023, 6:30 P.M.

Hybrid Meeting via Zoom and in the Bushor Conference Room

Draft Minutes

Members Present	M. Gaughan, A. Montroll, A. Friend, E. Malone, J. Randall, B. Baker
Staff Present	C. Dillard, M. Tuttle, S. Morgan
Public Attendance	D.Crites (DPW)

I. Agenda

Call to Order	Time: 6:30pm
Agenda	1. Move the Annual Organizational Meeting from item V. to II.

II. Annual Organizational Meeting

Action: Nominate A. Montroll as Chair	
Vote: Unanimous	
Action: Nominate B. Baker as Vice-Chair	
Vote: Unanimous	
Action: Nominate C. Dillard as commission clerk	
Vote: Unanimous	
Action: Nominate M. Gaughan as the at large member for the executive planning Committee	
Vote: Unanimous	
Action: Nominate M. Gaughan, A. Friend, E. Malone for the Long-Range Planning Committee	
Vote: Unanimous	
Action: Nominate B. Baker, J. Randall, Y. Bradley for the Ordinance Committee	
Vote: Unanimous	
Action: Nominate E. Gould as the DRB rep for the Long-Range Planning Committee	
Vote: Unanimous	
Action: Nominate C. Halpert as the DRB rep for the Ordinance Committee	
Vote: Unanimous	

III. Public Forum

Name(s)	Comment
S. Bushor	At City Council meeting on 7/24, an amendment came forward from Joan Shannon that had to do with taking out dormitories from that South end district. It morphed into a conversation about if Champlain or UVM wanted to build

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	dormitories outside of their campus. I believe that it's not in our best interest to sell property to the colleges or universities. They already take up a lot of the land that Burlington has and they already dominate so many agendas. They are driving the housing crisis. I live in ward one and the hospital and UVM control what happens in ward one. And I don't want them to control our entire city. I don't want them to control our downtown. I don't want them to control our South end. I don't really feel like it's advantageous for them to control the new North End. I hope that if it comes to that, there would be a conversation about it, and a very rigorous process to limit the number of properties that could go to that use. From my own experience having lived with a lot of people that are college age that they can dominate the atmosphere, the climate, the conditions, the quality of life.
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IV. Chair's Report

A. Montroll	N/A
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V. Director's Report

M. Tuttle	(1) On 7/24 The City Council unanimously adopted the South End Innovation District zoning. (2) Updates to the final amendments introduced by the council's Ordinance Committee: a) To refine how the onsite parking the surface parking limits work. They wanted a little bit of flexibility for larger lots to be able to proportionately expand how much surface parking they had that would go beyond just 20 spaces per lot. b) An amendment by one of the counselors to prohibit the use of offsite or fee in lieu alternatives to the inclusionary zoning standards within this district and that was unanimously adopted into the amendment package. c) A proposed amendment to remove dormitories as a permitted use in the district. It did not get removed from the ordinance. It failed on a tie vote. d) The ordinance Committee had removed hotels as a permitted use in the district. There was a proposed amendment to bring that use back into the district with some further limitations on how those hotels could be created. And that amendment actually failed. They made changes to parking and inclusionary zoning standards, kept dormitories, and kept hotels out so that package, as amended, then was unanimously adopted by the Council. (3) In response to the S. Bushor comment – one of the other items on the City Council's agenda (from 7/24) was an executive session related to the UVM housing agreement. Those conversational have been ongoing, and we're hopeful to make progress in the coming months to share more on that. A point of clarification, the discussion about dormitories and other parts of the city came up just in the context about this being one area of the city off campus where we were talking about allowing dorms. And there was some concern about dorms outside of the institutions, primary campuses. One of the counselors noted that our zoning ordinance today already allows dormitories as a conditional use in some other zoning districts. It was not a general discussion about the city promoting or trying to encourage the development of dorms and other places, but just a note about there being other locations in the city where they are also permitted. M. Gaughan: Congratulated staff and Charles on doing great work. A. Montroll: Joined Michael in praising the staff on the amazing work done. J. Randall: Thanked Charles for doing an amazing job.
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VI. DPW Transportation Planning Work

D. Crites	Transportation Planning staff from Department of Public Works provided an update on their current and upcoming work. J. Randall: Are there live links of the dashboards presented? Are those made public, and how often are they updated? What are some other things you want to update from the past plan that didn't capture fully? What are some new goals you anticipate for this updated plan? D. Crites: I think there's some fidelity that the 2017 plan. Like any large-scale plan, planning for multimodal network for full city sometimes has trouble getting into the detail about whether a conceptualized facility will really work on a corridor based on where curbs sit, where property lines sit, other things. I think part of that will be sort of a refresh of what the right treatments for each one. Another example too is to sort of refine the right facility. There's kind of a funny example I've joked about in the office that if you look at the 2017 plan, Pine St. portions of Pine St. suggest that we should have a shared use path, a shared lanes and bike lanes, which sounds great if you're a cyclist and we're overrun with cyclists rolling our streets. But given current mode chair and the cost of building all three of those facilities on the same place, I wonder if that's really the right recommendation for the city. So just kind of a refresh look at it and update it. We looked at Plan B TV coming in with fresh eyes and saying there's problems. We don't so much see big problems with the framework of that plan and what it's calling for. We see a lot bigger problems with just saying we can't use this plan for federal funds that we need to implement this plan. Without a doubt that is a key piece of running the update, but then we want to run that update too to give us a community supported and data-driven priority list out of it. M. Gaughan: Looking at the accident numbers, it was a pretty precipitous change from 2018 to current, which seems to be contrary to national trends. Any thoughts on that? D. Crites: On thing when you look at the data is that 2023 is partial, but we do have drops. We have seen a big drop 2018-2019 or 2020 drop is simply people weren't moving as much during COVID. One of the things that might explain is that more people are working from home.
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VII. Project Update: Neighborhood Code

S. Morgan	Staff presented and provided an update on community engagement in support of the Neighborhood Code initiative, which will evaluate the zoning tools that regulate new homes in these areas today, and identify opportunities for new neighborhood-scale housing citywide. B. Baker: If you want to build any of these types of houses, how does this model convert to a code? M. Tuttle: We're using this to help us understand to what degree our current ordinances would need to flex to allow certain types of housing. If we are simply making changes such as to allow duplexes in all of these places, that tells us to focus our efforts on one set of strategies like eliminating the different minimum lot size standard that applies to duplexes than single family. If there's much greater interest in some of the higher end middle housing types, then we need to start looking at things like density limits or maybe even things like lock coverage or setback standards that would enable
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these things to truly fit into the lots that we have in different parts of the city. And this tool has been really helpful for having conversations with people about what context sensitive zoning might mean and what that topic really looks like. We're trying to get, we're trying to use these different building types to help us kind of understand order of magnitude, scale and so they don't, they don't represent every possible outcome

B. Baker: Are you talking to people that try to build these smaller units because they're running into problems like huge rear setback and no parking. If you want to activate, you need that your setback to go away so people can build back there, especially in historic neighborhoods where you can only really build back.

M. Tuttle: We have had a couple of those kinds of conversations and we'll be having a few more focused ones too. The focus of the last couple months has been really on like the public level understanding and discussions. But we have definitely like talking with folks who have experienced actually converting or constructing projects too.

M. Gaughan: Is Cottage Court a small lot single family, or is the cottage court intended to be very small homes?

M. Tuttle: Typically, very small homes. When we've been talking about cottage courts, we probably are talking about individual freestanding homes that might be a little smaller. In the 800, maybe 1000 square foot range and on a lot that could be as small as 1/2 an acre. We also like this housing type because it there's potential that it could either look like a HOA kind of condo type development with free standing structures or if we are able to get the standards right maybe B fee simple option as well.

M. Gaughan: The idea that you can have a super small fee, simple lot, with the single-family home, that might be more efficiently use for those very long lots. Just wouldn't want to lose track of that. But I feel like the cottage court allowance would get you there.

C. Dillard: I think that Cottage Courts and all of these housing types are also going to be applicable to affordable housing developers. So CHT or some other sort of Land Trust or affordable housing developer is going to be able to take advantage of these roles just the same way that a market rate developer would. And I think cottage courts in particular are really interesting from a Land Trust perspective and that you can sort of parcelize them and sell the building, but the land is maintained by the trust. It could really bring ownership options to a lot more people.

M. Tuttle: Bruce was asking about how is this helping us get to the level of suggesting code changes. I think a lot of people have a strong positive reaction to the concept of a cottage court. And we know for example, PUD in theory should be a way that you could get to that, however, we don't allow you to use the tool of a PUD until you have two acres or more. One of the ways that we might be able to. Making these become more of a reality is either reducing the lot size threshold for when you can use the PUD tool or just simply allowing a cottage court typology on lots of quarter, half acre, whatever is the right size to facilitate that so.

M. Gaughan: I think that there's different types or different people, but this same concept applied to more conventional building type being the smallest single family. Just wanted to kind of reiterate why I think that's important.

M. Tuttle: We are working with a consultant in sort of a limited technical capacity to help us translate these concepts into the standards for how we

would actually code for these different housing types. And one of the nice things about this group is that they are architects as well. They're actually thinking about what the floor plan of a housing unit would look like with multiple bedrooms and really livable spaces to make sure that we could fit a minimum size for a new middle housing type on these lots and make sure that our standards are actually workable from that perspective as well.

J. Randall: A typology that I think would sort of speak to this and might be a little bit easier for folks to understand is the double duplex. That's a great way of getting at the same sort of thing which is looking for to create those additional unit opportunities, but having some detached structures on the same lot. I think lot size is an important thing to talk about in this conversation. Obviously, a cottage court to become something that is cohousing or has more of an internal village style development to it. There have to be more than two of them, and that needs a bigger lot. I think I don't want to limit that style development to super large lots because the reason we're having this conversation is to try to improve and increase those opportunities. But I feel like that is a limitation for cottage courts specifically that maybe double duplexed or ADUS on a certain lot could come in and help address.

M. Tuttle: We've been having a lot of really interesting conversations with folks, umm a lot of really helpful conversations about moving the needle from an education perspective about what are these housing types and how are we thinking about them from a zoning perspective, but also a lot of enthusiasm as well. I think it's been a really helpful couple months definitely.

A. Montroll: Some of these events are going out to late October. Is there a sense of when this is going to start to look like a code?

M. Tuttle: We are anticipating that we would have some concepts for the actual changes themselves to share with you either in late August or early September. We're actively working with the consultant on developing those right now. And then part of the reason why those engagement events go out that far is that we also will sort of be adapting this engagement work too, so that we can have conversations with people about slightly more refined concepts as well.

A. Montroll: Is there a plan or an idea as this starts getting refined? To be putting a group together perhaps of commissioners and members of the public or others or maybe the City Council again to go over it? Or is it going to all come back to the Commission?

M. Tuttle: It's something that we have talked about in terms of putting together a particularly joint committee between the Planning Commission and the Council, because I think as we know from a lot of our recent work, some of these bigger amendments can sometimes help to be having the conversation together at the same time. So that's definitely something that I think that the council ordinance committee chair has signaled an openness to as well as the Commission. Some of the other conversations like the question that Bruce asked also about talking to people with some of the like hands-on experience about what it means to actually build this kind of housing. We'll be doing some stakeholder conversations too as we get those concepts prepared to help us ensure that we're right sizing them.

M. Gaughan: Perhaps through the executive committee or the ordinance committee or smaller group to bring the City Council along so that there's an

	understanding that we were in the weeds for a while and had thought through a lot of the issues that were subsequently revisited. E. Malone: I want to say to the city folk - this is just such inspiring participation through the public like the visuals, the definitions going out to where people are. Thank you so much for getting out there and then having the plan over many months. I kind of have heard from some people about these and I just wanted to say that perhaps there's opportunities to see even more different kinds of people at some of the school events. I know in the fall, often there's community events where many families go and it's free childcare and you get to see a whole different swath of the city and they might have impact or insights to.
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VIII. Minutes and Communications

Action: Approval of Minutes & Communications		
Motion by: J. Randall	Second by: A. Friend	Approved: Unanimous

IX. Adjourn

Adjournment	Time: 7:52 P.M.	
Motion: E. Malone	Second: M. Gaughan	Vote: Unanimous

Burlington Planning Commission

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Andy Montroll, Chair
Bruce Baker, Vice-Chair
Yves Bradley
Alexander Friend
Michael Gaughan
Emily Lee
Julia Randall

Burlington Planning Commission

Thursday, August 8 2023, 6:30 P.M.

Hybrid Meeting via Zoom and in the Bushor Conference Room

Draft Minutes

Members Present	M. Gaughan, B. Baker, A. Friend, A. Montroll, Y. Bradley, J. Randall
Staff Present	M. Tuttle, C. Dillard, S. Morgan
Public Attendance	S. Bushor, S. Gustin

I. Agenda

Call to Order	Time: 6:30pm
Agenda	(1) The minutes for the 7/11 PC start on page 43, the minutes for the 7/25 PC start on page 46. (2) Communication from CEDO to request the release of funds for the development of the 176 S Winooski Ave – the VFW project

II. Public Forum

Name(s)	Comment
S. Bushor	Will save the comments for the public hearing items on the agenda.

III. Chair's Report

A. Montroll	N/A
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IV. Directors Report

M. Tuttle	(1) The City is rolling out a new platform called Civic Clerk. The previous platform called Board docs has been replaced by the new system. All of the city's boards, and commissions onto that single platform so that residents will always know where they can find agendas for all public meetings of the city. Instead of the PDF packet attached to an e-mail as it used to be, this will be more of a dynamic web-based agenda with all of your attachments. A. Montroll: Will we still be able to make hard copies? M. Tuttle: Yes, there's an option to download from City Clerk. We can help with printing agendas and agenda packets for anybody that needs a hard copy before the meetings. Send us a request if that's the case.
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V. Public Hearing for Proposed CDO Amendment: ZA-23-04 Temporary Structure

Action: Approve the Municipal Bylaw Amendment report and refer to City Council with recommendation for approval		
Motion: J. Randall	Seconded by: A. Friend	Vote: Unanimous

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.

A. Montroll: Typically, at the public hearings, we have a brief introduction, open it up to the public for comments, and then back to the Commission for any further discussion and action.

S. Morgan: The temporary structures amendment proposes for the placement of temporary structures for non-residential purposes and civic spaces and all enumerated city of Burlington parks without review or required zoning permits for up to 60 days provided that the structure is approved by the Burlington Fire Marshall.

A. Montroll: These changes are being done to help facilitate the specific thing that the City wants to do in the winter time. Do these changes meet all the needs that the City is looking for in the department, to be able to use the parks in this way?

S. Morgan: Yes, I reached out to the Parks Department as well, and they're also interested.

No Public Comments.

VI. Public Hearing for Proposed CDO Amendment: ZA-24-01 Technical Amendments

Action: Approve the report and refer the zoning change to the Council with recommendation for approval

Motion: Y. Bradley

Seconded by: A. Friend

Vote: Unanimous

C. Dillard: This is a package of technical amendments to the ordinance that has been compiled over probably more than a year of administering the ordinance. These changes primarily came from staff of the Permitting and Inspections Department, and the Office of City Planning.

We have (3) recommended additions: (1) Article 7 and it relates to section 7.2.3 band signs. The ordinance today permits one band sign per street level storefront. There is at least one business in downtown that occupies one storefront, but actually has two architecturally unique storefronts with 2 signed bands, but they've been advised that they're not complying with the code and they are asked to remove one of the sides. This is a technical amendment that would allow for more than one band sign when there is more than one architecturally distinguishable sign band. (2) Article 9 and it relates to fee in lieu and off-site affordable housing options. And this language would prohibit the use of the off-site in lieu options for projects that have already taken advantage of the density and development allowance bonuses, section 9.1 point 12. A project that has already constructed its building with those bonuses and included some affordable housing units, can't go retro retroactively and say we want to now move the affordable units off site or pay a fee, given that they've already taken advantage of the bonuses, which are only permitted when those are on site. (3) Article 10 to millard submittal requirements for plans. The City no longer requires Millard submittals. Everything is digital and this is a technical fix to remove mention of all those bylaw requirements in the ordinance.

Public Hearing:

S. Bushor: (1) First I'll start with the three additions which. I have no issues with, in fact, I really support to prohibit the use of fee in lieu. If you've already taken advantage of the density and height bonus and the other two seem straightforward. I haven't seen the language, but they seem to be appropriate. I just wanted to speak to those. (2) Starting with Article 3 that exempts new interior space from requiring a zoning permit but they do need a building permit. I understood that. Thank you for that clarity. I'm concerned about the internal addition of bedrooms and then therefore making what was maybe a 4 bedroom, maybe a 5 bedroom or more, and violating the four unrelated. The 3.1.2 it says no change of use, I mean a bedroom is a bedroom and if it wasn't the fact that we have all these investment properties and people want to reap the revenue and get as much as they can per bedroom, this probably wouldn't be an issue. Maybe if I lived in the Old North End it wouldn't be an issue, but it's an

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issue. For the section of the city I live in and I feel like this increases vulnerability and I think we all know that we'd like to think everyone is forthright and does the right thing but they don't and that's the reality. I have to speak about my concern regarding this. (3) I wanted to ask if there is administrative review, does that exclude the public from any type of input? And I know that the idea is to streamline the process and I understand that for minor things, but I just want to understand administrative review. I think sometimes the neighborhood has great insight that the city officials and the city would benefit from hearing. (4) The next section is 5.4.13 emergency shelters and what's being proposed is there's no longer going to be a limit in FD 5 and form base code 5 and 6 and this would have been a no brainer, but with what has happened with the pods I am concerned about the external activity, not the people living in the shelter, not the necessary beds that are needed by the shelters, but what has been an attraction externally and what has created problems for the city to really get a handle on. To have no limit in the number of beds it heightens my awareness and it's only because of what's been going on now recently that makes me concerned about this. And I feel that with form-based code, it makes life clearer and I think administratively it makes life clearer, but once it's set in stone, the public has no way to refute it because it's allowed. And I'm only bringing it up because I don't know how to deal with the issue that I'm bringing forward. (5) The next section is 1.3.6 civic spaces and I want in this technical review there is at the end on lines 438 and 439 the definition of civic spaces which are all public spaces and it talks again about parking - lines 42,43 and 44. Once again there will be no parking required and I've brought this up before. I actually spoke with Charles probably 18 months ago or so about when this ordinance went forward with eliminating minimum parking. And I get the intent, but I raised one concern and that concern has to do with ADA and I feel that people need parking in close proximity to an event, or a house. Are being left behind in this community because if there's no parking requirement then then there's they're not going to be guaranteed to be able to park in close proximity. If they wanted to go to an event. They may not go to that event and not everybody. I know that there's this thought that that some people feel like everyone takes what the SSTA van. That's not true. I'm sorry. I live here. I've lived here. I'm older. I know so many people who have handicap signs that are legit and they drive and I feel that this is a real concern for me also and these are civic spaces. I put this back to the city, the Planning Commission and the planning department. I don't feel like we are really making our city friendly or livable for everybody. And I think we're slowly eliminating people with disabilities and I don't think that's our intent.

End of Public Hearing.

A. Friend: Former councilor Busher raises a good point about the section 3.1.2 of not needing a zoning permit for creation of new, finished or habitable space. How is this a technical amendment when it seems much broader than that?

S. Gustin: The first item about exempting interior work. A lot of the CDO used to be tied to parking, and the section about interior work was tied to parking. If you increase finished space within the existing envelope of a residence, so the attic or the basement, a zoning permit was needed only because there were parking minimums tied to that. Let's say you had a 4 unit building and you needed 8 parking spaces and you only had 6. If you wanted to add additional finished space, you needed to demonstrate in your application you were providing additional parking for that space. Similarly for commercial spaces – if you finish the basement below the bank, you increased your finished square footage and that upped your minimum parking requirement. There was a standard to them in the zoning code. If the parking window is gone, there is no standard in the zoning code.

Responding to Sharon's concern about folks packing in bedrooms. Dwelling units have to be occupied by a family according to the CDO. And that applies whether you have a two-bedroom unit or if I better

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mute the punch line. Really there is no standard to apply, which is why we're looking to strike this present requirement.

A. Montroll: What you are saying is that the only standards there were on how many bedrooms you could have, was based on parking. But since there's no parking standards, there are no more standards left?

S. Gustin: Yes, that's basically it.

M. Tuttle: However, for the unrelated residential occupancy limits, the Council adopted this change in part based on recommendations that came from the Planning Commission where that we maintained the parking requirements for situations where people have exceeded the residential occupancy limit. I think that and the fact that exceeding these limits is required as a conditional use by the DRB means that this standard that we're talking about in Article 3 probably wouldn't be applicable to these situations. Is that right, Scott?

S. Gustin: Yeah. And that that's a good point, Meagan. The only thing that has a parking minimum now is if you want to exceed more than four unrelated adults. And that does require a permit, requires conditional use review and approval by the DRB with the public hearing.

M. Tuttle: If we want to provide clarification, we could amend this statement to say the creation of new interior finished inhabitable space where no change of use or alteration is proposed except for as applicable in it would be section 4.4.5-3C,

A. Montroll: The Commission would like to see that amendment made.

S. Gustin: The emergency shelters are part of the technical amendment's package. I will point out that as part of Act 47 passed by the legislature as of September 1st, emergency shelters are subject only to limited review. They're put into the same regulatory boxes as schools, state properties, hospitals, and places of worship.

M. Tuttle: Just to be clear, that Act is actually not making any policy change to how emergency shelters are regulated today. It's just updating a reference to our previous zoning district names. It's changing downtown and downtown transition to form districts 5 and 6. It's just making it consistent with our new form code.

J. Randall: Just wanted to confirm that there's no change on the number of beds allowed?

M. Tuttle: That's right. There's already not a limit in form districts 5 & 6. This is just when we adopted Article 14, our form code. We just missed changing this reference to the previous district names, so we're just correcting that reference.

S. Gustin: Addressing S. Bushor's concern about public participation for administrative review – There is opportunity. It's not the same as a board meeting. We do hear from neighbors calling in response to the Z cards. They get posted. All the applications are viewable online either through a map or through the city's property database. Folks can and do weigh in through administrative process as well.

A. Montroll: There was also the question about the handicap parking.

C. Dillard: This was a remnant that was left unchanged when the parking standards were changed from minimum to maximum. This was just an oversight I think on our part that we didn't catch this mention of

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required parking related to civic spaces downtown and part of 14. This is doing what has already been done in the parking amendment by making explicit that no on-site parking is required.

M. Tuttle: To speak to Sharon's suggested preference that we keep this ambiguity here. I think one of the challenges with doing that is that one section of the ordinance would say that on site parking is required. But if we refer to our parking, our article that regulates parking, there would actually be no minimum parking required for that use. So it just kind of talks in circles when there's nothing actually required.

M. Gaughan: I had a question on the IZ. Could someone walk me through that again? I guess my two questions are, is this related to after the project is completed? And if not, isn't there already a provision to increase density with all IZ to account for? Is this for existing buildings, new buildings and what's the scope of applicability to various zoning districts?

C. Dillard: This is for existing buildings, but references the standard that prohibits the offsite and payment in lieu options when the affordable is not built on site. To take advantage of the density bonuses, the required IZ affordable housing has to be built on site.

M. Tuttle: We're just making sure this is clear that for both payment and lieu and off site that in order to be able to use those bonuses the units have to be on site. And then this has been addressing that issue where something has been constructed and occupied, yes, it is the existing building after the fact issue if it benefited from a density bonus.

VII. Public Hearing for Proposed CDO Amendment: ZA-23-05 168 Archibald

Action: Approve the Municipal Bylaw Amendment report and refer to City Council with recommendation for approval

Motion: B. Baker

Seconded by: Y. Bradley

Vote: Unanimous

C. Dillard: This amendment was sent for Commissioners back in March and this came from the Ordinance Committee and it addresses a number of the setback standards in the ordinance.

Public Hearing:

S. Bushor: (1) The front yard setback I think is I think the proposed amendment is great. I know it doesn't solve everything, but it's certainly a step in the right direction. (2) I'm not sure what the garage amendment says, and that's okay. (3) The other item which says you can build right up to the property line or within 10 feet or up to the property line even if you have doors and windows? What I couldn't figure out was if there was a building also built right up to the property line beside you, side or rear setback. There is nothing to suggest any distance between those two structures. Is that what I'm supposed to take away from this? Because I wasn't clear on that. I am concerned about buildings in close proximity and fires jumping from one building to the next. I know it allows you to maximize lot coverage and density, but I don't understand how it improves the quality of the of the people living inside and I don't understand if there is any distancing between structures, side yard or rear with this proposal and so I'm looking for more answers and expressing some concerns because I can't figure it out. Thank you.

End of Public Hearing.

C. Dillard: The first part about is there an ordinance that requires building separation (3) - The fire and building code do require separation, but they but only in events where those buildings are not constructed to certain fire ratings and downtown areas. In many cities and towns just like in Burlington

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where there's no side setback required the sort of building code and the fire code require that any building that is constructed up on that long line has to have a high rated firewall; any windows on that have to be a certain fire rating. Which is why we make reference in the proposed language to the building code. Second part of the question about their quality of life and privacy and the form downtown form code, much of the existing built fabric is composed of buildings that are built to the lot lines and there are no side setbacks and that was the development pattern that I think the community expressed should be continued and the development of the form code, and so that's why building there is no site set back required there. The initial language that we're proposing to change though perhaps create some unfair circumstances where let's say I own a property in a farm district and I build my building up to the lot line and my neighbor who owns the adjacent property wants to build a project. They then wouldn't be allowed to take advantage of that no sit back rule and would be required to then set their building back 10 feet, whereas the building code says you can put your buildings. Together you just have to have fire rated walls much like buildings downtown today do. In our opinion this would ameliorate that potentially unfair circumstance.

M. Tuttle: I think the other piece that we're finding is that there are, there have been a number of circumstances downtown where even in some existing buildings cases, on the upper floors of existing buildings that were historically built all the way to the lot lines. This has made the opportunity to convert upper floors into habitable space for residential units very difficult, if not impossible because this standard alone simply precluded any operable doors or windows from being on those facades. So even imagine just like a freestanding building without any neighbors touching it, this has made it very difficult for those buildings to be converted. There is definitely a consideration here as Charles said about what this does kind of in terms of how it impacts neighboring properties, but I think we've also found it to be maybe artificially limiting in some circumstances where the building code could be a tool that could be applied to deal with those situations instead.

B. Baker: I want to talk about building site features exception. I agree with Meagan's interpretation. In development sometimes you have to get every inch you can in order to build units and some things that appear to be benign like the first one we've just been talking about is an example of that, and building or site features exceptions is as well. For example, it says steps to 1st floor entries. That precludes someone from having a step to a basement entry and sprinkling that building, not changing how anything really looks in our neighborhoods very much. I also think related to that, there should be an exception that says window wells or retaining structures that are below grade that create window wells and the like should also be exceptions. The definition of window well, in the definition section of Article 13 says the airspace between a structure that would retain soil and a window we don't regulate in setbacks window space, so technically it's something that shouldn't be here, but I actually brought that issue to the DRB and they asked that we clear that. They said that it should be clarified. So technically I believe you don't need to have window wells in here, but I think the common usage of the word window well is something with a little structure that holds back soil.

C. Dillard: I just wanted to clarify, did you also say retaining walls or is it just the two window wells and basement wells?

B. Baker: If think if you say retaining walls that are below grade that would cover what a window well is, it's airspace and a retaining structure below grade.

S. Gustin: Retaining walls and window wells are effectively smaller retaining walls, and retaining walls are allowed to encroach into setbacks already. I'm not so sure it needs to be there. I remember a discussion at the staff level About rather than adding a longer and longer and more complicated list of

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what might be exceptions, leaving the list as is and introducing some more generalized language. I don't think it needs to be mentioned. If you do mention it expressly, then okay, the list will be a little bit longer.

M. Tuttle: There is a statement here about steps to 1st floor entries. I don't have a lot of hesitation about noting first floor or basement entries, but I don't know if Scott has a good sense for if we remove the language and just leave steps. If we're talking now about like fire escapes and large structures that could be containing stairs, that would now encroach into setbacks, and I don't know if that would necessarily be our intent.

S. Gustin: I think if we went beyond first floor entries and basement entries, then we're opening the door to having fire escapes and similar exterior stair structures within setbacks, and I think that's inconsistent with our design standards.

M. Tuttle: I think I'd be OK with saying first floor or basement entries and leaving it at that.

VIII. Public Hearing for Proposed CDO Amendment: ZA-23-05 168 Archibald

Action: Approve the Municipal Bylaw Amendment report, and refer to Council with recommendation.		
Motion: J. Randall	Seconded by: A. Friend	Vote: Unanimous

C. Dillard: This is a proposal to rezone the property at 168 Archibald Street from residential moderate density to neighborhood mixed-use. It's at the corner of Hyde and Archibald streets.

No Public Comments.

IX. Commissioner Items

Action: N/A		
Motion by:	Second by:	Vote
Type:	Presented by:	
M. Tuttle will not be at the 8/22 Planning Commission meeting, but she will be at the 9/12 Planning Commission.		

X. Minutes and Communications

Action: Approve the minutes from 7/11 & 7/25 meeting, and accept the CEDO communication		
Motion by: A. Friend	Second by: Y. Bradley	Approved: Unanimous

XI. Adjourn

Adjournment		Time: 7:42 p.m.
Motion: J. Randall	Second: B. Baker	Vote: Unanimous