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

Andy Montroll, Chair
Bruce Baker, Vice Chair
Yves Bradley
Alex Friend
Michael Gaughan
Emily Lee
Brynne Martin

PUBLIC HEARING NOTICE

Burlington Comprehensive Development Ordinance Amendment
ZA-21-07: Height Measurements, Dormers & Eaves
ZA-21-08: Act 179 Changes to Ch. 117
ZA-21-09: Updates and Corrections to Article 14

Pursuant to 24 V.S.A. §4441 and §4444, notice is hereby given of a public hearing by the Burlington Planning Commission to hear comments on the following proposed amendments to the City of Burlington's *Comprehensive Development Ordinance* (CDO). The public hearing will take place during the Planning Commission meeting on **Tuesday, July 27, 2021, with the hearing starting at Time Certain 6:45pm**. **You may access the hearing/meeting as follows:**

To join virtually from a Computer, please click this URL to join, and enter the Webinar ID if prompted:
Link: https://us02web.zoom.us/j/88316224232 **Webinar ID:** 883 1622 4232

To join virtually by phone, dial this number and enter the Webinar ID when prompted:
Number: +1 312 626 6799 **Webinar ID:** 883 1622 4232

To join the meeting in person:
Sharon Bushor Room, Room 102, City Hall, 149 Church Street, Burlington, VT 05401

Pursuant to the requirements of 24 V.S.A. §4444(b):

Statement of purpose:
The purpose of the proposed amendments are as follows:

- **ZA-21-07:** To clarify building height measurements, when and how dormers affect building height, and defines dormers and eaves.
- **ZA-21-08:** To incorporate recent changes to state enabling statute regarding ADU's, existing small lots, and small multi-unit dwellings.
- **ZA-21-09***:* To make a range of corrections and updates to Article 14 based on its application.

Geographic areas affected:
These amendments apply to the following areas of the city:

- **ZA-21-07:** All areas and zoning districts within the city.
- **ZA-21-08:** All areas and zoning districts within the city.
- **ZA-21-09:** Form Districts 5, 6, and Civic located in the downtown area of the city.

List of section headings affected:
The proposed amendments modify the following sections of the *Burlington Comprehensive Development Ordinance*:

- **ZA-21-07:** Modifies *Sec. 5.2.6 (a) 1.;* adds *Sec. 5.2.6(a) 2.D and Sec. 5.2.6 (b);* Modifies *Sec. 6.3.2. (a) 2;* and Modifies *Article 13; Definitions*
- **ZA-21-08:** Modifies *Sec. 5.2.1;* Modifies *Sec. 5.4.5*; Modifies *Sec.13.1.2;* and Modifies *Appendix A-Use Table*

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- **ZA-21-09:** Modifies *Sec. 14.1.3; Sec 14.3.4-C; Sec.14.3.4-E; Sec.14.3.4-F; Sec.14.3.4-G; Sec 14.3.5-C; Sec.14.3.5-E; Sec.14.3.5-F; Sec.14.3.5-G;* Creates *Sec. 14.3.6.-I Water Dependent;* Modifies *Sec. 14.4.13; Sec. 14.5.15; Sec. 14.6.4; Sec. 14.6.7; Sec. 14.6.8; Sec. 14.7.1; Sec. 14.7.2; Sec. 14.7.3;* and *Sec. 14.8;* and Modifies *Article 14- Map 3 Shopfront Required*

The full text of the *Burlington Comprehensive Development Ordinance* is available online at www.burlingtonvt.gov/DPI/CDO. The proposed amendment can be reviewed in hard copy posted on the first floor of City Hall, 149 Church Street, Burlington or online at https://www.burlingtonvt.gov/DPI/CDO/Amendments

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Regular Meeting
Burlington Planning Commission
Tuesday, July 27, 2021, 6:30 P.M.
Remote Meeting via Zoom
In-person option available at:
Bushor Conference Room (Room 102), 1st Floor of City Hall, 149 Church St.

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Link: https://us02web.zoom.us/j/88316224232

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AGENDA

I. Agenda

II. Chair's Report

III. Director's Report

IV. Public Forum

V. Public Hearing: Proposed CDO Amendment ZA-21-07 Heights, Dormers & Eaves (Time Certain: 6:45pm)
The Commission will hold a public hearing on a proposed amendment to the Burlington *Comprehensive Development Ordinance* regarding height measurements, dormers and eaves. Information related to this item is in the agenda packet on page 6.

Staff Recommendation: Approve staff changes to proposed amendment, re-approve Municipal Bylaw Amendment report and refer to Council with recommendation.

VI. Public Hearing: Proposed CDO Amendment ZA-21-08 Act 179 Changes
The Commission will hold a public hearing on a proposed amendment to the Burlington *Comprehensive Development Ordinance* resulting from Act179 of the 2020 VT Legislative session. Information related to this item is in the agenda packet on page 12.

Staff Recommendation: Approve Municipal Bylaw Amendment report and refer to Council with recommendation.

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VII. Public Hearing: Proposed CDO Amendment ZA-21-09 Updates & Corrections to Article 14

The Commission will hold a public hearing on a proposed amendment to the Burlington *Comprehensive Development Ordinance* regarding updates and corrections to Article 14. Information related to this item is in the agenda packet on page 17.

Staff Recommendation: Approve Municipal Bylaw Amendment report and refer to Council with recommendation.

VIII. Annual Organizational Meeting

The Planning Commission will elect officers and appoint members to its committees to serve for FY2022.

Election of Officers: Chair & Vice Chair

- Election of Executive Committee At- Large Member
- Appointment of Commission Clerk: Meagan Tuttle
- Appointment of Committees:
    - Long Range Planning Committee
        - One member of the PC Executive Committee and Two At-Large Members
        - One member of the DRB
            - Nominee:
        - One member of the Conservation Board.
            - Nominee: Ryan Crehan
    - Ordinance Committee
        - One member of PC Executive Committee and Two At-Large Members
        - Two additional members from DRB, DAB, or CB.
            - DAB Nominee: Jay White; DRB Nominee:

Planning Commission bylaws are enclosed for reference in the agenda packet on page 39.

IX. Commissioner Items

a. Upcoming Meetings –
    i. Tuesday, August 10, 2021 at 6:30pm (TBD)
    ii. Tuesday, August 24, 2021 at 6:30pm

X. Minutes & Communications

a. The minutes of the July 13, 2021 meeting are enclosed in the agenda packet on page 45.
b. Communications are enclosed in the agenda packet on page 47.

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 mtuttle@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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The full text of the *Burlington Comprehensive Development Ordinance* is available online at www.burlingtonvt.gov/DPI/CDO. The proposed amendment can be reviewed in hard copy posted on the first floor of City Hall, 149 Church Street, Burlington or online at https://www.burlingtonvt.gov/DPI/CDO/Amendments

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TO: Planning Commission

FROM: David E White, FAICP, Dir. of Planning
Scott Gustin, AICP, DPI Principal Planner & Zoning Division Manager
Mary O'Neil, AICP, DPI Principal Planner

DATE: July 21, 2021

RE: CDO Amendment ZA-21-07: Height Measurement, Dormers & Eaves

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Overview & Background

This amendment addresses two areas within the Comprehensive Development Ordinance that relate to how a building's height is measured as follows:

Height Measurement

This amendment seeks to improve the connection between existing sections of the Comprehensive Development Ordinance pertaining to how building height is measured:

- Sec. 5.2.6 (a) 1 A & B note two starting points for measuring a building's height – from the sidewalk or from the average finished grade around the entire building, depending on the distance from the sidewalk.
- Sec. 5.2.6 (a) 3 specifies increments for building height measurement along the street façade.

The relationship between Sec. 5.2.6 (a) 1 A and 3 is clear. A building's height measured from the public sidewalk is done in increments to account for changes in grade along the street façade. The relationship between Sec. 5.2.6 (a) 1 B and 3 however is not clear. How does the requirement for height measurement intervals along the street façade(s) relate to the average finished grade around the entire building? This amendment seeks to clarify this relationship. The end result clarifies that measurement of building height is done in increments along the street façade(s) in any case.

The Committee met and discussed this issue on 2/4 and 3/4, and unanimously recommended forwarding the staff recommendation to the full Planning Commission.

Dormers & Eves

The Comprehensive Development Ordinance offers no guidance on how the measurement of a building's height may be impacted when dormers are proposed. Dormers are a common building element that enable greater useable living space in an attic, and at times, can stretch or exceed height limits. This amendment seeks to articulate under what circumstances roof dormers actually affect building height and how. It also introduces a basic design standard and new definition of the term.

Since the Commission referred this amendment to a Public Hearing, staff has noted the need for a minor change to the language regarding dormers which is highlighted in yellow below.

A related matter as to roof form is the term "eave" which lacks definition in the CDO. Eaves are allowed to project into setbacks. Lacking definition of the term, there have been proposals to stretch the concept of what an eave is in order to take advantage of the allowable setback encroachment. This amendment seeks to define the term "eave."

The Planning Commission Ordinance Committee discussed changes to address dormers and eaves separately, but the matters have been combined into one amendment given that they are both related to roof forms. The Committee addressed dormers January 7 and February 4, 2021 and

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recommended forwarding the amendment to the full Planning Commission for consideration. The Committee discussed the eave matter at their March 7 and April 4, 2019 meetings and recommended forwarding the amendment to the full Planning Commission for consideration.

Proposed Amendment

Amendment Type

Text Amendment	Map Amendment	Text & Map Amendment

Purpose Statement

The purpose of this amendment is to clarify that building height is measured in increments along the street façade, regardless of whether the building height is measured just from the public sidewalk or from the average finished grade around the entire building. Further, the proposed amendment identifies when and how roof dormers affect building height measurement, provides a design standard for dormers, and defines the terms "dormer" and "eave."

Proposed Amendments

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

[Begin text amendment]

Article 5: Citywide General Regulations

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)Height Measurement:

The maximum height of any building shall be measured as follows:

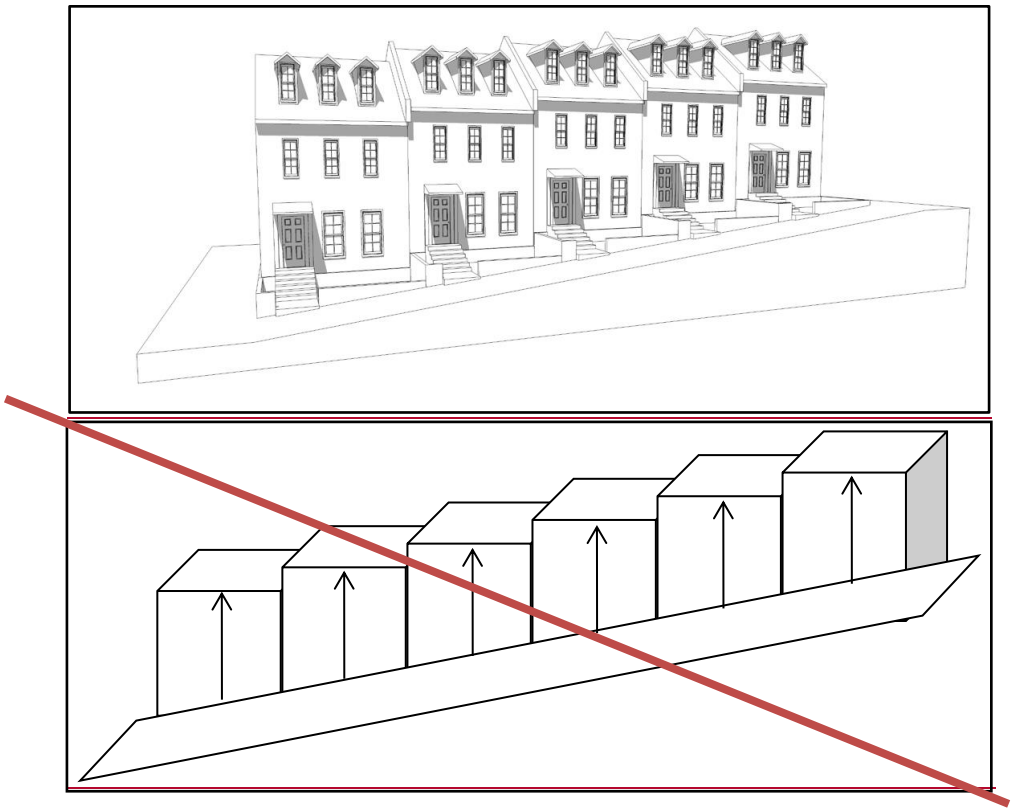
1. Starting Point: Building height shall be measured **from**:
   - A. a public sidewalk, alley, or other public way or space where the proposed building's street-facing façade ~~it~~ is within a ~~10~~50-foot horizontal distance~~-~~ of the lot's street frontage. ~~of an exterior wall on the front of the building;~~ or,
   - B. the average finished grade within a 10-foot horizontal distance of the building's street-facing façade where the proposed building is more than a 50-foot horizontal distance from the lot's street frontage.~~all exterior walls of the building. In cases where a property line is within a 10-foot horizontal distance of an exterior wall, the average grade shall be measured between the property line(s).~~
   - ~~B.~~C. For buildings on sloped sites, see additional measurement standards in (b) below.
2. Ending Point: Building height shall be measured to:
   - A. Flat Roof: *As written.*
   - B. Pitched Roof: *As written.*
   - C. Curved Roof: *As written.*
   - D. Roofs with Dormers: Building height will be calculated to the midpoint of the rise of dormers that either individually or collectively exceed 50% of the width of the horizontal eave length of the roof.

Dormers less than this width do not affect height calculation noted in A – C and E of this subsection.

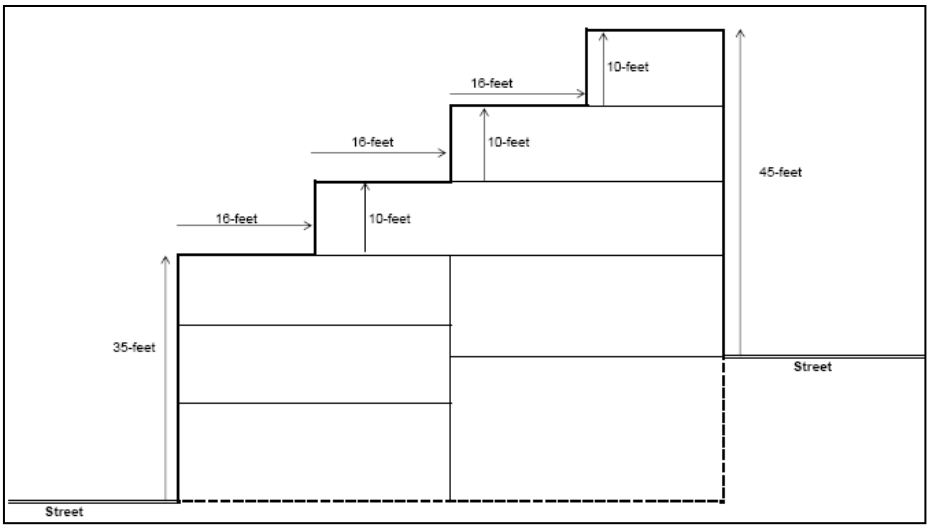
E. Other Roof Forms: As written.

(b) Buildings 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: ~~To encourage a variation in building heights relative to terrain changes and encourage a variation in roof form~~, B~~b~~uilding height shall be measured along the street-facing façade ~~beginning no less than 16-feet or more than 32-feet from lowest corner, or where two streets intersect if a corner lot, and~~ at ~~an~~ intervals of no ~~less than 32-feet or~~ more than 65-feet ~~for~~ along the entire length of the street-facing façade~~-~~(s).



2. Lots Fronting on Two or More Streets: Where a lot, other than a corner lot, fronts on two or more streets, the building height shall be measured along each street-facing façade. Where the streets are at differing elevations, the building height may gradually increase above the maximum height allowed on the lowest street provided that any such additional height along the lowest street shall be set-back a minimum of 16-feet from the average plane of the building's street-facing façade below for every 10-feet of additional building height up to the maximum height allowed on the highest street.



3. Illustration: To ~~illustrate~~ evaluate the height and bulk of ~~the~~ a proposed building~~structure~~ in context with its surroundings, the ~~DRB~~ applicant may be required ~~the developer~~ to prepare a scale model, computer visualization, illustrations, or other renderings~~of the proposed building in context with its surroundings~~.

(c~~b~~) Exceptions to Height Limits

(Unchanged)

Article 6: Development Review Standards
Sec. 6.3.2 (a) 2, Roofs and Rooflines

New buildings should incorporate predominant roof forms and pitches within the existing neighborhood and appropriate to the context. Large expanses of undifferentiated roof forms shall be avoided. This can be achieved by incorporating dormers or some variation in the roof form to lessen the impact of the massing against the sky. While flat roofs can be a reasonable architectural solution, pitched roof forms and architectural elements that enhance the city's skyline are strongly encouraged. Roof eaves, parapets, and cornices should be articulated as an architectural detail. Roof-top mechanicals shall be screened from view from the public street, and should be incorporated into and hidden within the roof structure whenever possible.

Dormers shall not exceed the height of the ridgeline of the roof to which they are attached, and shall be set back a minimum of 1-foot from the edges of the underlying roofline. Individual dog house dormers shall be limited to 33% of the horizontal eave length of the principal roofline.

Solar panels, light colored ballast or roof membranes, split roof clerestories, planted or "green" roof technologies (with a clearly articulated maintenance plan) and "gray water" collection are encouraged. Active rooftop uses are also encouraged to add to the visual complexity and activity of the city's skyline, and afford public access to otherwise unseen views of the city and surrounding landscape.

Article 13: Definitions

Eave: The edge of the roof which overhangs the face of an exterior building wall and, normally, projects beyond the side of a building; performing the primary function of the roof in throwing water clear of the exterior building walls.

Dormer: A roofed structure, often containing a window that projects vertically beyond the plane of a pitched roof. Dormers are commonly used to increase the usable space in a half story and to create window openings in a roof plane.

Shed dormers have a single, inclined roof.

Dog house dormers are gable roofed, typically with a single window.

All other definitions, as written.

[End text amendment]

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 does not impact the types or density of potential land use and density.

Impact on Safe & Affordable Housing
The proposed amendment has no impact on housing safety and affordability.

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

Process Overview

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

Planning Commission Process				
Draft Amendment prepared by: Staff, PC OC review 2/4 & 3/4/21	Presentation to & discussion by Commission 4/27/21	Approved for Public Hearing 4/27/21	**Public Hearing** 6/22/21 & 7/27/21	Approve & forwarded to Council
				Continue discussion

<table>
<tr><th colspan="5">City Council Process</th></tr>
<tr><td rowspan="2">First Read & Referral to Ordinance Cmte</td><td rowspan="2">Ordinance Cmte discussion</td><td rowspan="2">Ordinance Cmte recommend as modified</td><td rowspan="2">Second Read & Public Hearing</td><td>CCOC Recommends Approval & Adoption</td></tr>
<tr><td>Rejected</td></tr>
</table>

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TO: Planning Commission

FROM: David E White, FAICP, Dir. of Planning
Scott Gustin, AICP, DPI Principal Planner & Zoning Division Manager

DATE: June 21. 2021

RE: ZA-21-08 Act 179 Changes to Ch. 117

Overview & Background

The Vermont legislature passed Act 179 (S.237) in September 2020, and the bill was signed into law on October 12, 2020. Among other things, this act included multiple changes to state enabling law (24 VSA Ch 117) intended to promote greater access to affordable housing, Specifically relevant to Burlington are 3 changes that require amendment to the *Comprehensive Development Ordinance (CDO)* in order to conform with these changes in state statute. These are:

- amending the definition and some requirements for accessory dwelling units
- requiring that certain "small lots" must be unable to connect to municipal water and sewer in order for a municipality to prohibit development on it
- prohibiting a municipality from denying dwellings of four or fewer units in districts that allow multi-unit dwellings based solely on the character of the area when conducting a conditional use review

The Planning Commission discussed each of these issues on Feb 23, 2021, and supported recommended staff changes applicable to sections of the *CDO* relative to Accessory Dwelling Units and Existing Small Lots. The Commission refered the issue of conditional use review for small multi-unit buildings to its Ordinance Committee for additional discussion.

The Commission's Ordinance Committee discussed the provisions related to conditional use review of multi-unit buildings between two and four units on March 4, 2021. Staff presented 4 possible approaches, with an overall recommendation which centered on removing conditional use review for all residential uses across the city. The staff recommendation that conditional use is not appropriate for residential uses located within a residential district is based on a number of factors, including:

- residential uses permitted or prohibited within each district should be more consistent with the purpose statement of the zoning districts involved (i.e. allowing duplexes as a permitted use in RL)
- there is regulatory redundancy between Conditional Use Review and Major Impact Review for multi-unit housing; ultimately Major Impact Review is more appropriate for considering changes in residential intensity
- Appendix A currently creates confusion between regulating use vs. regulating building type (ie. "Attached Dwelling(s) – Mixed-Use" is a building type, not a use).

The Ordinance Committee unanimously recommended forwarding the staff recommendation to the full Planning Commission for consideration.

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Proposed Amendment

Amendment Type

Text Amendment	Map Amendment	Text & Map Amendment

Purpose Statement

The proposed amendment addresses recent changes to the state enabling statute, ensuring that the *CDO* complies with new standards for ADUs, existing small lots, and small multi-unit dwellings.

Proposed Amendments

The following amendments to the Burlington CDO are included in this proposal:

1. Amend *Sec. 5.2.1 Existing Small Lots*

   This affords additional provisions for the development of existing Small Lots, when those lots can connect to municipal water and sewer infrastructure.

2. Amend *Sec. 5.4.5 Accessory Dwelling Units* and *Sec. 13.1.2 Definitions*

   This removes bedroom and occupant limits from ADU standards and definitions, and increases the alternative maximum size for ADUs to 900 sq.ft.

3. Amend *Appendix A- Use Table*

   Changes duplex from a Conditional to Permitted use within the RL and RL-W districts; deletes "Attached Dwellings-Mixed Use" and distinguishes between multi-family dwellings of 3-4 units and those with 5 or more units; and changes multi-family dwellings of 3-4 units from a Conditional to a Permitted use in the Institutional district.

[Begin text amendments]

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

Sec. 5.2.1 Existing Small Lots

Any small lot of record existing as of April 26, 1973 may be developed for the purposes permitted in the district in which it is located even though not conforming to minimum lot size requirements if ~~such lot is not less than four thousand (4,000) square feet in area with a minimum width and depth dimension of forty (4) feet.~~ the lot:

- can be served by municipal water and sewer service; and
- is at least four thousand (4,000) square feet in area; and
- has a minimum width and depth dimension of forty (40) feet or more.

~~A permit for~~ Aany such development shall require a permit ~~certificate of appropriateness~~ pursuant to the standards of Article 4 and, where design review is applicable, design review provisions of Article 3 and the development standards of Article 6.

Sec. 5.4.5 Accessory Dwelling Units

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

Where there is a principal structure on a lot which exists as an owner-occupied single family residence, one accessory dwelling unit, that is located within or appurtenant to such single family dwelling, shall be allowed as a permitted use if the provisions of this subsection are met. An accessory dwelling unit means a ~~an efficiency or one bedroom apartment~~ dwelling unit that is clearly subordinate to the principal dwelling, and has

facilities and provisions for independent living, including sleeping, food preparation, and sanitation. ~~No accessory unit shall be inhabited by more than 2 adult occupants~~. An accessory unit shall not be counted as a dwelling unit for the purposes of density calculation. Additionally, there must be compliance with all the following:

1. The property has sufficient wastewater capacity as certified by the Department of Public Works; and,
2. The unit does not consist of more than ~~800~~ 900 sq.ft., or 30 percent (30%) of the Gross Floor Area of the principal home, whichever is greater; and,
3. Applicable setback and coverage requirements are met, except as provided for in Sec. 5.2.3 (b) 10; and,
4. A deed or instrument for the property shall be entered into the land records by the owner containing a reference to the permit granting the accessory unit prior to the issuance of the certificate of occupancy for the unit. Such reference shall identify the permit number and note that the property is subject to the permit and its terms and conditions including owner occupancy. No certificate of occupancy shall be issued for the unit unless the owner has recorded such a notice.

Sec. 13.1.2 Definitions.

Accessory Dwelling Unit or Apartment: ~~An efficiency or one-bedroom apartment~~ A dwelling unit that is clearly subordinate to a single-family dwelling, and has facilities and provisions for independent living, including sleeping, food preparation, and sanitation.

Appendix A – Use Table

See attached.

[End text amendments]

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 amendments, while necessary to maintain compliance with state enabling statutes, are consistent with the land uses and densities proposed in *planBTV.* These changes do not significantly change the overall land uses and densities permitted in residential areas of the city, but is in line with the plan's future land use vision, which anticipates small and incremental changes to residential areas within the context of existing development patterns.

Impact on Safe & Affordable Housing

The proposed amendments have no impact on housing safety, and may serve to improve affordability be reducing the time, cost, and complexity for small multi-family residential development.

Planned Community Facilities

The proposed amendment has no impact on planned community facilities.

Process Overview

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

<table>
<tr><th colspan="5">Planning Commission Process</th></tr>
<tr><td rowspan="2">Draft Amendment prepared by: Staff, PC OC review 3/4/21</td><td rowspan="2">Presentation to & discussion by Commission 2/23/21, 4/27/21</td><td rowspan="2">Approved for Public Hearing 4/27/21</td><td rowspan="2">Public Hearing 6/22/21 7/27/21</td><td>Approved & forwarded to Council</td></tr>
<tr><td>Continue discussion</td></tr>
<tr><th colspan="5">City Council Process</th></tr>
<tr><td rowspan="2">First Read & Referral to Ordinance Cmte</td><td rowspan="2">Ordinance Cmte discussion</td><td rowspan="2">Ordinance Cmte recommend as modified</td><td rowspan="2">Second Read & Public Hearing</td><td>CCOC Recommends Approval & Adoption</td></tr>
<tr><td>Rejected</td></tr>
</table>

Appendix A-Use Table – All Zoning Districts – Planning Commission Public Hearing Draft 06/22/2021

	Urban Reserve	Recreation, Conservation & Open Space			Institutional	Residential			Downtown Mixed Use[i]	Neighborhood Mixed Use				Enterprise	
USES	**UR**	**RCO - A**	**RCO - RG**	**RCO - C**	**I**	**RL/W**	**RM/W**	**RH**	**DW-PT[16]**	**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]**	**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~~CU~~[2]	Y	Y	N	Y[3]	N	Y	N	N	N
Attached Dwellings - Multi-Family (3 or more)	N	N[1]	N	N	~~CU~~Y	N	Y	Y	N	Y	Y	Y	Y	N	N
~~Attached Dwelling(s) – Mixed-Use[26]~~	~~N~~	~~N[4]~~	~~N~~	~~N~~	~~CU~~	~~CU~~	~~CU~~	~~CU~~	~~N~~	~~Y~~	~~Y~~	~~Y~~	~~Y~~	~~N~~	~~N~~

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
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

1. Residential uses are not permitted except only as an accessory use to an agricultural use.
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. No more than 5 rooms permitted to be let in any district where bed and breakfast is a conditional use. No more than 3 rooms permitted to be let in the RL district.
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.

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

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

www.burlingtonvt.gov/plan

TO: Planning Commission

FROM: David E White, FAICP, Dir. of Planning

DATE: July 21, 2021

RE: ZA-21-09 - Updates and Corrections to Article 14

Overview & Background

This amendment makes a collection of corrections and revisions to Article 14 of the *Burlington Comprehensive Development Ordinance* (BCDO) – the planBTV: Form Based Code - based on the past 36+ months of real-world application to improve its consistent use and effective applicability. This has been a collective effort of the Permitting and Inspections team and some applicants working with staff to collect problems, questions, and challenges confronted in its application to real-world projects since adoption in the fall of 2017.

Proposed Amendment

Amendment Type

Text Amendment	Map Amendment	Text & Map Amendment

Purpose Statement

The purpose of this amendment is to revise Article 14 of the *Burlington Comprehensive Development Ordinance* (BCDO) based on the past 36+ months of real-world application to include a number of corrections and updates to improve its consistent use and effective applicability, including:

Proposed Amendments

Proposed amendments include:

- Consistent use of terms and concepts regarding things like allowed encroachments into setbacks, location of parking, glazing, and voids.
- Makes clear the the exemption for work being proposed for a public right-of-way or thoroughfare, and instead directs compliance with *Great Streets BTV: Downtown Street Standards*, and approval by the Dept. of Public Works.
- Adds new definitions including those for Awnings, Balconies, Canopies, Decks
- Revises rear yard setback in FD5 to be consistent with previous Downtown-Transtion District requirement
- Adds a new Civic Space Type for "Water-Dependent" sites to better incorporate current and potential use of Perkins Pier
- Revise Map 3 – Shopfronts Required to include the new segments of Pine and St. Paul streets

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- Revises Urban Design Standards regarding Primary Materials, Balconies and Decks, and Awnings and Canopies to improve their practical application
- Consolidates standards regarding Fences into a single location for ease of use, and adds maximum height and expands material standards
- Clarifies how the requirements and standars apply to existing and non-conforming structures.
- Expands authority for Administrative Relief for minor variations from numerical standards.
- Removes references to "Planning and Zoning" department and "Director." and replaces them with "Permitting and Inspections" dept and "Administrative Officer" as appropriate

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

[Begin text amendment]

See attached.

[End text amendment]

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 does not impact the types or density of potential land use and density.

Impact on Safe & Affordable Housing
The proposed amendment has no impact on housing safety and affordability.

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

Process Overview

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

Planning Commission Process				
Draft Amendment prepared by: Staff 4/7/21	Presentation to & discussion by Commission 4/27/21 & 5/11/21	Approved for Public Hearing 5/1/21	**Public Hearing** 6/22/21 7/27/21	Approved & forwarded to Council
				Continue discussion
City Council Process				
First Read & Referral to Ordinance Cmte	Ordinance Cmte discussion	Ordinance Cmte recommendation	Second Read & Public Hearing	Approval & Adoption
				Rejected

Burlington Comprehensive Development Ordinance

PROPOSED: ZA-21-09 – planBTV Downtown Code Update

Planning Commission Public Hearing Draft– June 22, 2021.

Changes shown (underline to be added, ~~strike out~~ to be deleted) are proposed changes to the *Burlington Comprehensive Development Ordinance.*

Purpose: This amendment is to revise Article 14 of the BCDO to include a number of corrections and updates to improve its use and applicability.

Sec. 14.1.1-14.1.2 – unchanged

Sec. 14.1.3 -Applicability

This planBTV Downtown Code shall be applicable to all lands outside of the public rights-of-way or a Thoroughfare within the Downtown and Waterfront District as mapped or described on the Burlington Regulating Plan (Section 14.2), as such may be changed from time to time, pursuant to Section 14.2 - Regulating Plan. Any and all subdivision of land, development, and construction or modification of all Improvements, land, Buildings, and Structures in the Downtown and Waterfront District shall occur only in accordance with this Article 14 planBTV Downtown Code as in effect on the date of acceptance of the completed application for approval of the applicable Project Plan submitted pursuant to Section 14.7 Administration and Procedures.

Improvement, development, construction or modification within an existing or proposed public right-of-way or a Thoroughfare shall be made in accordance with *Great Streets BTV: Downtown Street Standards*, and require approval by the Dept. of Public Works.

To the extent applicable, and not otherwise in conflict with this Article 14-planBTV Downtown Code, the following sections of the Burlington Comprehensive Development Ordinance (CDO) shall also continue to apply:

a) Article 1 - General Provisions
b) Article 2 - Administrative Mechanisms;
c) Article 3 - Applications, Permits and Project Reviews, Parts, 1, 2, 3, 5 and 6;
d) Article 4 - Zoning Maps and Districts, Parts 1, 2, 3, and Part 5 Sec. 4.5.4;

e) Article 5 - Citywide General Regulations, Parts 1 and ~~,~~ 2;~~,~~ Part 3, Secs 5.3.1-5.3.4 and Secs 5.3.1-5.3.8;~~,~~ Part 4, Sec. 5.4.7 and~~,~~ Sec. 5.4.8;~~,~~ and, Part 5;

f) Article 7 - Signs

g) Article 8 - Parking

~~g)~~h) Article 9 - Inclusionary and Replacement Housing;

~~h)~~i) Article 10 - Subdivision Review;

~~i)~~j) Article 12 - Variances and Appeals; and,

~~j)~~k) Article 13 - Definitions.

In each case, the standards and requirements applicable to the Downtown and Waterfront District Regulating Plan and this Article 14 shall take precedence without limitation over any duplicative or conflicting provisions of the other Articles of the Burlington Comprehensive Development Ordinance (BCDO).

If there is any conflict between the provisions of this Article 14 and any provisions of any other existing City codes, ordinances, regulations or standards (the "Existing Local Codes"), the provisions of this Article 14 shall take precedence over such conflicting provisions except for City and state Building, Fire, Health and Safety Codes.

The graphics, illustrations, photographs, tables, and metrics are an integral part of the planBTV Downtown Code; however:

a) Photographs are provided only as general illustrative examples and are not binding;

b) The illustrations of Table 14.3-A Burlington Form Districts Summary Table, Table 14.3.6-A Civic Space Types Summary Table, Table 14.4-A Building Types Summary Table, and Table 14.5-A Frontage Types Summary Table are provided only as general illustrative descriptions and are not binding;

c) The diagrams, photographs, and illustrations contained in Sections 14.3.4 through 14.3.6 (Specific to Form Districts), Sections 14.4.4 through 14.4.13 (Specific to Building Types), and Sections 14.5.4 through 14.5.17 (Specific to Frontage Types) are provided only to indicate the general character of the various Form Districts and elements. References to metrics shown thereon however shall have regulatory effect.

d) The graphics, illustrations, and photographs in Section 14.8 Glossary are provided for illustrative purposes only and are not binding;

e) ~~f)~~ The graphical depictions of the Form Districts on the various Tables are provided for ease of reference only and are not binding. The Form District designations and standards applicable to each Form District are binding.

Where in conflict, metrics represented in text and/or tables shall take precedence over metrics represented graphically, and a more specific standard shall take precedence over a more general standard.

Sec 14.2.6 - Special Requirements

Map 3 - Shopfronts Required – See Attached

Sec. 14.3.4 FD6 Downtown Core

14.3.4-C- Lot Occupation & Building Placement

Frontage Buildout & Building Setback

Rear Setback:

- Principal Buildings	0-ft min. or 15-ft from a rear public Alley centerline
- Outbuildings	0-ft min. or 15-ft from a rear public Alley centerline

Table 14.3.4-E- Parking, Loading & Service

On-Site Parking

On-site parking shall be provided per the requirements of Sec. 14.6.7.

Location on the Lot

All parking provided within a Principal Building Type (other than a Perimeter Building) shall be located Underground, above the second Story, and/or at-grade within the first Story where located in the Third Lot layer and separated from the street by an Active Street-level Use.

~~Parking Lots are not permitted, and Parking Areas shall be located in the Third Lot Layer~~.

~~Unless located within a Principal Building below the finished grade or above the second Story,~~ ~~a~~All Parking Structures, ~~and~~ Garages, and Parking Areas shall be located in the Third Lot Layer behind a~~-~~ Principal Building Type ~~Perimeter Building (see Sec. 14.4.11 and Sec. 14.6.3)~~.

Parking Lots are not permitted

Miscellaneous

See also Sec. 14.6.7 for additional requirements pertaining to parking and site design.

14.3.4-F- Encroachments ~~–~~into Required Setbacks

Encroachment Type	~~Front~~	Rear
~~Frontage Type Elements[1]~~	~~Permitted~~	~~Permitted~~
Awnings and Canopies[2]	~~Permitted~~	Not permitted
~~Signs[3]~~	~~Permitted~~	~~Not permitted~~
Balcony and Decks		4-ft max. encroachment
Other Architectural Features[4]	~~4-ft max.~~	4-ft max. encroachment
Landscaping	~~Permitted~~	Permitted
Fences or freestanding walls	~~Not permitted~~	6-ft max. height
Driveways, Walkways	~~Permitted~~	Permitted
Utility Structures	~~Not permitted~~	Permitted

14.3.4-G- Encroachments - Public right-of-way

[3] Building eaves, roof overhangs, solar shades, and light shelves; bay windows, oriels, and vestibules that are less than ten feet wide; and, cornices, belt courses, window sills, buttresses, or other similar architectural features may encroach into the ROW provided they are a minimum of 10-ft above the Sidewalk.

Sec. 14.3.5 FD5 Downtown Center

14.3.5-C- Lot Occupation & Building Placement

Frontage Buildout & Building Setback

Rear Setback:

Principal Buildings	- 0~~3~~-ft min. or 15-ft from rear public Alley centerline - 10-ft min. along a Form District boundary shared with a residential district.
Outbuildings	-0~~3~~-ft min. or 15-ft from rear public Alley centerline

Table 14.3.5-E- Parking, Loading & Service

On-Site Parking

On-site parking shall be provided per the requirements of Sec. 14.6.7.

Location on the Lot

All parking provided within a Principal Building (other than a Perimeter Building Type) shall be located: Underground, above the second Story, and/or at-grade within the first Story where located in the Third Lot layer and separated from the street by an Active Street-level Use.

~~Parking Lots are not permitted, and Parking Areas shall be located in the Third Lot Layer~~.

~~Unless located within a Principal Building below the finished grade or above the second Story,~~All Parking Structures, Garages and ~~Garages~~ Parking Areas shall be located in the Third Lot Layer behind a Principal ~~Perimeter~~ Building ~~(see Sec. 14.6.3 and Sec. 14.4.11)~~Type.

Parking Lots are not permitted

Miscellaneous

See also Sec. 14.6.7 for additional requirements pertaining to parking and site design.

14.3.5-F- Encroachments into ~~–~~ Required Setbacks

Encroachment Type	~~Front~~	Rear
~~Frontage Type Elements[1]~~	~~Permitted~~	~~Permitted~~
Awnings and Canopies[2]	~~Permitted~~	Not permitted
~~Signs[3]~~	~~Permitted~~	~~Not permitted~~
Balcony and Decks		4-ft max. encroachment
Other Architectural Features[4]	~~4-ft max.~~	4-ft max. encroachment
Landscaping	~~Permitted~~	Permitted
Fences or freestanding walls	~~Not permitted~~	6-ft max. height
Driveways, Walkways	~~Permitted~~	Permitted
Utility Structures	~~Not permitted~~	Permitted

DRAFT

14.3.5-G- Encroachments - Public right-of-way

[3] Building eaves, roof overhangs, solar shades, and light shelves; bay windows, oriels, and vestibules that are less than ten feet wide; and, cornices, belt courses, window sills, buttresses, or other similar architectural features may encroach into the ROW provided they are a minimum of 10-ft above the Sidewalk.

Sec. 14.3.6-I Water-Dependent

Intent

An Open Space associated with water-dependent recreation and related facilities.

Specifications

Form District	FD5
Size	No size limits
Frontage	Independent
Character	Informal
Coverage[1]	80% max.
Buildings and Structures[1]	1,500 sqft max in aggregate
Setback for Buildings and Structures	50-feet from the mean high water mark of Lake Champlain (100-feet above mean sea level) unless encroachment is required for the operation of a water-dependent use or facility. Features such as walkways, planters, benches, fountains, public art, sitting walls and other improvements to enhance the pedestrian environment and enjoyment of the waterfront may encroach into this required setback provided public access to the water's edge and pedestrian circulation is not unreasonably impaired.

[1] Not inclusive of any associated Civic Buildings.

Typical Facilities

• Water-oriented facilities and services such as docks, marinas, boat ramps and lifts, boat fueling and pump-out, restrooms, marina office and chandlery, and facilities for commercial vessels.
• Civic, recreational, and community facilities
• Playgrounds and play Structures
• Passive recreation, paths, and trails
• Buildings and Structures necessary to support water-oriented facilities and services
• Commercial concessions

Parking

On-site parking is not required, and may not occupy more than 60% of the gross site area.

Sec. 14.4.13 - Urban Design Standards

a) **Voids and Transparency**: Requirements regarding the proportion and spacing of voids, and the transparency of glazing on a Building Facade for the purposes of activating the public street, shall be as required in Table 14.4.13-A Street Activation - Primary and Secondary Facade below.

14.4.13-A- Street Activation – Primary and Secondary Facade

	Building Types: *Rowhouse, and Multi-Family: Small*		Building Types: *Mixed-Use, Multi-Family: Large, Perimeter, and Civic*	
	Ground Floor	Upper Floors	Ground Floor	Upper Floors
Facade Voids: (Rough openings of all windows and doors, and the transparent portion of a curtain wall per floor)	15% min	10% min	40% min[1]	20% min
Distance between voids measured both horizontally and vertically	35-ft max.		20-ft max.	
Transparency and Reflectance of	VLT - na	VLT - na	60% VLT min[2] VLR - 15% max[2]	VLT - na VLR - 15% max[2]

Glazing: applicable to 80% of the glazing per floor.	VLR - 15% max[2]	VLR - 15% max[2]

(VLT - Visible Light Transmittance, VLR - Visible Light Reflectance)

[1] Additional requirements shall be as required for Officefront or Shopfront Fronta

b) **Windows & Doors**:

iii. Principal Entrances shall be defined and articulated by architectural elements such as lintels, pediments, pilasters, columns, canopies, awnings, transoms, sidelights, or other design elements appropriate to the architectural style and details of the Building as a whole. Bays including a Principal Entrance should be expressed vertically, and may continue onto the upper stories. Such bays are not required to include additional horizontal expression or upper story step-backs as required in c) below.

iv. Where provided:

A-D - unchanged

~~E. Shading devices designed and intended to control light entering the Building may project no more than 5-feet from the Facade, shall be consistent in materials, color, and design across the same Facade, and shall be placed, sized, shaped, and proportioned to match the associated openings.~~

c) **Façade Articulation and Upperstory Stepbacks**:

iii. Building Facades shall be horizontally articulated as follows:

C. The top story (other than a penthouse setback at least 10-feet from the primary plane of the Façade below) must have a cornice, parapet, pitched or shaped roof form and/or other equivalent architectural feature involving a projection from the average plane of the Facade of the story below by at least 12-inches to serve as an expression of the Buildings top.

iv. The upper stories of any Building exceeding 6 stories in height shall step-back as follows:

A. An upper story step-back of at least 10-feet from the primary plane of the Façade below shall occur above ~~either~~ the 2nd ~~3rd, 4th, or 5th~~ story, with the resulting Building base ~~seeking to~~ maintaining a consistent height of at least 50-feet along Main and Battery streets, and at least 33-feet on all other downtown streets, in order to frame and define the public realm.

d) **Building Materials**:

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, ~~and~~ 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- E - unchanged

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 ~~(for trim and cornice elements only)~~;

B-F - unchanged

iii - *unchanged*

~~iv. Fences: Fence materials shall not include barbed or razor wire. Chain link and wire fencing shall not be used along any Frontage Line, however, woven cable fencing is permitted.~~

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).

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

vi~~i~~. Other: - *unchanged*

e). **Walls**:

i. Unfinished (ie. not clad or constructed in a Primary or Secondary Material per d) above) foundation walls on a Principal Building shall be exposed no more than 48-inches above the finished grade. Surface-applied waterproofing on any foundation wall shall not be visible.

ii-vi – unchanged

f). **Roofs**: – *unchanged*

g) **Balconies and Decks:** Where provided, all Balconies and Decks shall meet the following specifications:

i. Balconies must be at least 4-feet deep (A) and 5-feet wide, and shall not project more than 8-feet from the plane of the Façade or Elevation to which it is attached.

ii. Balconies shall be cantilevered or visibly supported by brackets or beams sized, shaped and proportioned to match the associated ~~b~~Balcony. Columns or posts extending to the ground within the public right-of-way~~-~~ are prohibited ~~on a Facade, except in the case of a Gallery Frontage Type.~~

iii. Balconies shall provide 8-feet minimum clear height above the finished grade, or 13-feet 6-inches minimum clear height above the finished grade above any area used for vehicular parking or circulation, or emergency vehicle access.

~~i.~~iv. The ~~b~~Balcony platform shall be at least 3-inches thick, and where the underside of a balcony is visible from a public way it shall be finished. Balconies may ~~or may not~~ incorporate a ~~roof,~~ Canopy or Awning, but shall not be enclosed.

v. Decks shall be permitted only in the Third Lot Layer or on rooftops.

vi. Decks may include a Canopy, Awning or free-standing pergola, but shall not be enclosed.

h) **Awning and Canopies**: Awnings and ~~c~~Canopies are encouraged as a traditional street-level store~~-~~front fitting to accent and provide shade and/or shelter over a primary entrance, display windows, or outdoor seating. Awnings and Canopies may also be found above upper story windows and Balconies, and over secondary entrances. Where provided, ~~such~~ all Awnings and Canopies ~~placed on a Facade~~ shall meet the following specifications:

i. Awnings and ~~c~~Canopies shall provide 8-feet minimum clear height above the finished grade ~~(A)~~, and ~~shall project a minimum of 6-feet from the Façade (B) to a maximum of 2-feet from the curb (C).~~ 13-feet 6-inches minimum clear height above the finished grade shall be provided above any area used for vehicular parking or circulation, or emergency vehicle access (A).

ii. First floor Awnings and Canopies shall project a minimum of 3-feet from the Façade (B) or Elevation to which it is attached to a maximum of 2-feet from the curb (C). Awnings and Canopies on upper story windows may project no more than 5-feet from the Facade. Awnings that cannot project a minimum of 3-feet due to the small size of the opening, shall project a minimum of 50% of the height of the opening (e.g. a window that is 4-ft tall shall project at least 2-ft).

~~ii.~~iii. Awnings and C~~c~~anopies shall be placed, sized, shaped, and proportioned to match the associated openings or width of the associated Frontage, and ~~.~~shall be consistent in materials, color, and design across the same Façade, Frontage Type, or architectural bay.

~~iii.~~iv. Awnings and C~~c~~anopies that span across an entire ~~Façade~~ Frontage shall be fixed no higher than the top of the first story.

~~iv. All awnings and canopies used within an individual Frontage Type shall be consistent in materials, color, and design.~~

v. Awnings and ~~c~~Canopies shall not be internally illuminated or backlit, however they may contain lighting fixtures intended to illuminate the ground beneath when covering a Building entrance.

~~v.~~vi. Awnings and Canopies may incorporate signage pursuant to the requirements of Article 7.

~~vi.~~vii. Awnings shall have a~~n internal or external~~ structural framework of steel/aluminum or other appropriate, durable structural material supporting a thin, non-translucent covering material with a matte finish such as ~~painted~~ metal, acrylic, canvas, or synthetic fabric. ~~The~~ A~~a~~wnings ~~design should~~ shall not include a soffit, and c~~- or side-panels. Retractable awnings are encouraged.~~olumns or posts extending to the ground are prohibited within the public right-of-way. Retractable Awnings are encouraged.

~~vii.~~viii. Awnings ~~shall be~~are typically rectangular in elevation and triangular in cross-section, ~~with~~ shall have straight edges with no arcs or curves, and may be pitched to shed water off to the side when placed over a Building entrance. ~~.~~The valance of ~~the~~ an A~~a~~wning shall be no more than 12-inches in height (D).

ix. Canopies are typically rectangular in both elevation and in cross-section, shall have straight edges with no arcs or curves, and may be pitched enough to shed water off to the side when placed over a Building entrance. The faces of the Canopy shall be no more than 24-in in height (D).

x. Canopies shall be constructed of steel/aluminum or other appropriate, durable structural material, and~~. The canopy~~ may be clad in metal panel, wood, or other durable finished material.

~~viii.~~xi. The ~~c~~Canopy ~~design shall~~ may include a flat roof ~~be~~ or be left open ~~to~~ from above without a roof using louvers or slats instead to provide shade,~~, and the exterior faces of the canopy should be no more than 24-in in height (D).~~

~~ix.~~xii. Canopies projecting into the public right-of-way shall be cantilevered or supported from above, and~~. C~~ columns or posts extending to the ground are prohibited. Canopies placed outside of the public right-of-way may be partially or fully free-standing.

i). **Other**:

i. Upper-story open exterior fire stairs shall be located in the Third Lot Layer. They may be located in the Second Lot Layer provided they are enclosed and incorporated and designed in a manner consistent with the overall architectural design of the Building.

ii. Permanent vertical access features (stairs, ramps, etc.) ~~handicapped access ramps~~ located in the First Lot Layer must be integrated into the design of the chosen Frontage Type. Otherwise they must be located in the Second or Third Lot Layer.

iii. All utility service connections shall be underground for new construction.

iv. The footprint area of an Outbuilding may not exceed the footprint area of the Principal Building.

(photo caption) - An example of a ~~handicapped~~ vertical access ramp integrated into a Building Frontage.

Sec 14.5.15- Courtyard Frontage Type

14.5.8-C - Standards

Courtyard Width	- 12-ft min. - lessor of 1/3 the total Building width or 35-ft max
Courtyard Depth	12-ft min.- 35-ft max
Canopy/Awning Projection	10-ft from Façade max
Clear Path of Travel to a Principal Entrance	

14.5.8-D - Miscellaneous

A maximum of one Courtyard is permitted per Principal Building.

A Courtyard shall remain open to the sky, and may not contain Driveways, parking, loading or service areas, or mechanical equipment or vents.

A Courtyard may include a free-standing Canopy, Awning, umbrellas or pergola, but they shall not be enclosed.

The Courtyard shall be activated as a space for gathering, circulation, outdoor shopping, and/or restaurant seating.

The proportions and orientation of ~~these spaces~~a Courtyard should be carefully considered for solar orientation and user comfort.

A Courtyard is considered as part of the Building for the purpose of measuring the Frontage Buildout. All faces of the recessed Courtyard shall be considered to be part of the Façade.

Sec 14.5.15- Forecourt Frontage Type

14.5.15-D - Miscellaneous

A Forecourt occupies the First Lot Layer, and may extend the depth of a maximum required front yard setback to an amount equal to the maximum depth permitted in Sec. 14.5.15-C.

A Forecourt shall remain open to the sky, and may not contain Driveways, parking, loading or service areas, or mechanical equipment or vents.

A Forecourt may include a free-standing Canopy, Awning, umbrellas or pergola, but they shall not be enclosed.

Hardscape coverage requirement may be achieved through a combination of pervious and impervious surface materials.

Sec. 14.6.4- Building Height

a) thru c) - *unchanged*

d) **Basements and Crawl Spaces**

i. Exposed basement walls visible along any Frontage shall not exceed 8~~9~~ (~~nine~~eight) feet in height measured from the exterior finished grade to the finished floor of the Story above.

ii. Unfinished crawl spaces taller than 3 (three) feet shall be screened from view from public Thoroughfares with landscaping.

iii. Unfinished crawl spaces shall not exceed 5 (five) feet in height measured from the exterior finished grade to the finished floor of the Story above.

e) **Grading or Regrading of Sites**. Sites with uneven topography present unique issues in relation to Building height. Buildings on steep slopes shall reflect the pre-construction topography of the site. When a site's topography is modified, the site shall be graded in such a way to avoid the following features:

i. Retaining walls or unfinished blank walls taller than 4 feet in height along required Principal or Secondary Frontage;

ii. Retaining walls taller than 8 feet in height along the rear or side setbacks; and

iii. The construction of Buildings that do not reflect the preconstruction topography of the site. Illustrations below show appropriate site grading methods.

f) **-** *unchanged*

Sec. 14.6.7- Parking and Circulation

a) thru d) – *unchanged*

e) **Parking Structures and Garages**

i. With the exception of individual Garages serving a Rowhouse Building Type which shall be located in the Third Lot Layer, all Pparking Structures and Garages shall be located:

-within a Principal Building Type and located Underground, above the second Story, and/or in the ground floor when located in the Third Lot layer and separated from the street by an Active Street-level Use; or,

- behind a Perimeter Building (See Section 14.4.11)~~, or enclosed below the finished grade or above the second story within a Principal Building that provides active uses (such as, but not limited to, residential lobby, retail, office, recreational, or services) at the street level along the width of the Frontage a minimum of 20-feet deep.~~

ii-vi ~~–~~ *unchanged*

g) Parking Spaces, Lot Design and Layout

i - ii – *unchanged*

iii. Stacked and Tandem Parking. – *otherwise unchanged*

Sec. 14.6.8- Site and Landscape Standards

a) **Purpose and Applicability**- *unchanged*

b) **Site Standards:**

v. Fences and Free-standing Walls:

A. Fences and Free-standing Walls placed within the First Lot Layer shall not exceed 4-feet in height. Fences and Free-standing Walls placed within the Second or Third Lot Layer shall not exceed 8-feet in height unless a different height limit is specified under the applicable Form District or Frontage Type.

B. -Materials used for Fences and Free-standing Walls shall be limited to Brick and tile masonry; Native or sintered stone; Wood – panels, clapboard or shingles; Cementitious siding, metal, and woven or braided cable wire. Chain-link and welded-wire fencing shall not be used along any Frontage Line with the exception of the temporary enclosure of a construction site, or where required by the Building Official to protect public safety. Barbed or razor wire shall not be used in any application. Alternate materials may be approved by the Administrative Officer after seeking input from the Design Advisory Board. Alternate materials must be considered equivalent or better than the materials listed above, and must demonstrate successful, high quality local installations. Regionally-available materials are preferred.

~~A.~~C. All fences and free-standing walls shall be installed so that ~~the~~ a finished side faces outward towards the adjacent property or public ~~way~~Frontage.

c) **Landscape Standards:** *otherwise unchanged*

d) **Solid Waste Storage Areas** - *unchanged*

Sec. 14.7 – Administration and Procedures

14.7.1 - Applying for a Zoning Permit: Submission Requirements and Review

a) – *unchanged*

b) Application Submission. Each application shall be submitted to the Department of ~~Planning and Zoning~~Permitting and Inspections along in a form to be provided by the Department. Upon its determination that an application is complete, the Department shall process each application in accordance with this Section.

c) – unchanged

d) Modification of Submission Requirements. The Administrative Officer ~~Director~~ may allow the modification of the application and submission requirements listed above, including reducing and/or combining existing and proposed information on the same site plan, provided that any modification enables adequate review of the application. The Administrative Officer ~~Director~~ may also require the submission of additional information when deemed necessary to make a decision on the request. Such additional information may include but is not limited to the following:
(remaining unchanged)

e) - unchanged

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 ~~Director~~ 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 City Planning ~~and Zoning~~, 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.

Remaining section is unchanged

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 ~~non-conformity~~ which lawfully existed at the time of adoption of the applicable provisions of this ~~or any~~ 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, ~~sign,~~ 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 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.

~~a)~~d) At such time when a Substantial Modification is requested or Abandonment occurs, only the affected portion(s) of the Building, Structure, Frontage, Development, Site, ~~sign,~~ 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;

~~b) Any modification other than a Substantial Modification an existing Building, Structure, Frontage, Development, Site, sign, Improvement, or other appurtenance thereto shall be permitted By Right only if such changes result in greater conformance with the specifications of this Article;~~

~~c)~~ ~~Any change or modification shall not create any new nonconformity;~~ and,

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

14.7.3 - Variation from the Form: Administrative Relief, DRB Alternative Compliance, and Variances

The planBTV Downtown Code is intended to result in By-Right approval where development occurs strictly in conformance with the requirements of the applicable Form District. In some instances, however, it may be necessary to vary the prescribed form in order to accommodate unique site and/ or building circumstances in order to promote context-sensitive development. In such instances, an applicant may seek Administrative or Development Review Board approval for relief from the requirements as set forth below. Any and all relief from the prescribed standards shall run with the land and be binding on the Property Owner and its/their successor and assigns. Applications requesting relief shall be made in writing and in the form as determined by the Department.

a) **Administrative Relief.** The Administrative Officer shall have the authority to authorize modification of up to 10% from any numerical standard set forth in this Article inclusive of any specific relief set forth in Table 14.7.3-A Administrative Relief below ~~sets forth relief from the prescribed standards that may be granted by the Director~~. No other relief from the prescribed standards shall be permitted except as approved by the Development Review Board in b) below.

i. Any request for Administrative Relief shall extend the requirements of 24 VSA 4448(d) regarding Administrative decisions for an additional 30 days in order to provide for opportunities for public notice and comment pursuant to Departmental procedures.

ii. Decisions by the Administrative Officer ~~Director~~ regarding any Relief granted shall be made in writing and upon affirmative findings that:

A. The relief granted is the minimum necessary to achieve the desired result;

B. Granting the relief will yield a result equal to or better than in strict compliance with the standard:

C. ~~T~~the~~T~~The property will otherwise be developed consistent the purpose of this ordinance, the intent of the Form District, the intent and purpose of the section that the relief is being sought, and all other applicable standards; and,

D. Any additional findings as may be required by Table 14.7.3-A Administrative Relief as follows:

Table 14.7.3-A - Administrative Relief

Type of Relief	Limits of Relief Granted	Required Findings	Standards Reference
previous unchanged			
~~Glazing~~Voids: A reduction in the amount of required minimum ~~glazing~~ voids on Primary and Secondary Facades	Maximum of 10% from the required ~~Glazing~~ voids	The relief is necessary to meet the requirements of a High Performance Building Energy Code or program.	Section 14.4: Specific to Building Types, Table 14.4.~~15~~13- A Street Activation – Primary and Secondary Façade, and Section 14.5: Specific to Frontage Types
~~Glazing~~Voids: A reduction in the maximum linear distance between ~~window openings~~voids	Maximum of 10% of the required linear distance between ~~windows~~ voids	The relief is necessary for the creation of stronger distinctions between individual Frontage Types and/or at Building corners.	Section 14.4: Specific to Building Types, Table 14.4.13-
remaining unchanged			

b)-c) - unchanged

Sec. 14.8 - Glossary

Active Street-level Use: a use or activity within a space that is regularly frequented and actively utilized by workers, residents, guests, and/or patrons of the Principal Use; invites direct access from the public sidewalk or Civic space; and, provides visual interest and engagement to pedestrians on the adjacent sidewalk. Active street level uses generally include, but are not limited to retail, restaurants, bars, entertainment, hospitality, professional and personal services, libraries, institutional, educational and cultural facilities, office, residential, and entrance lobbies. Active Street-level Uses do not include those intended for parking, storage, mechanicals, utilities, and other substantially similar secondary or accessory uses and spaces.

Awning: A fixed or retractable wall mounted frame covered with fabric or other pliable material that provides decoration and shade and weather protection over a patio, window, storefront, or Building entrance.

Balcony: A wall-mounted projecting platform with a railing accessible from an upper story doorway that provides outdoor amenity space above the first floor.

Canopy: A fixed wall mounted or stand-alone rigid structure that provides decoration and shade and weather protection over a patio, window, storefront, or building entrance.

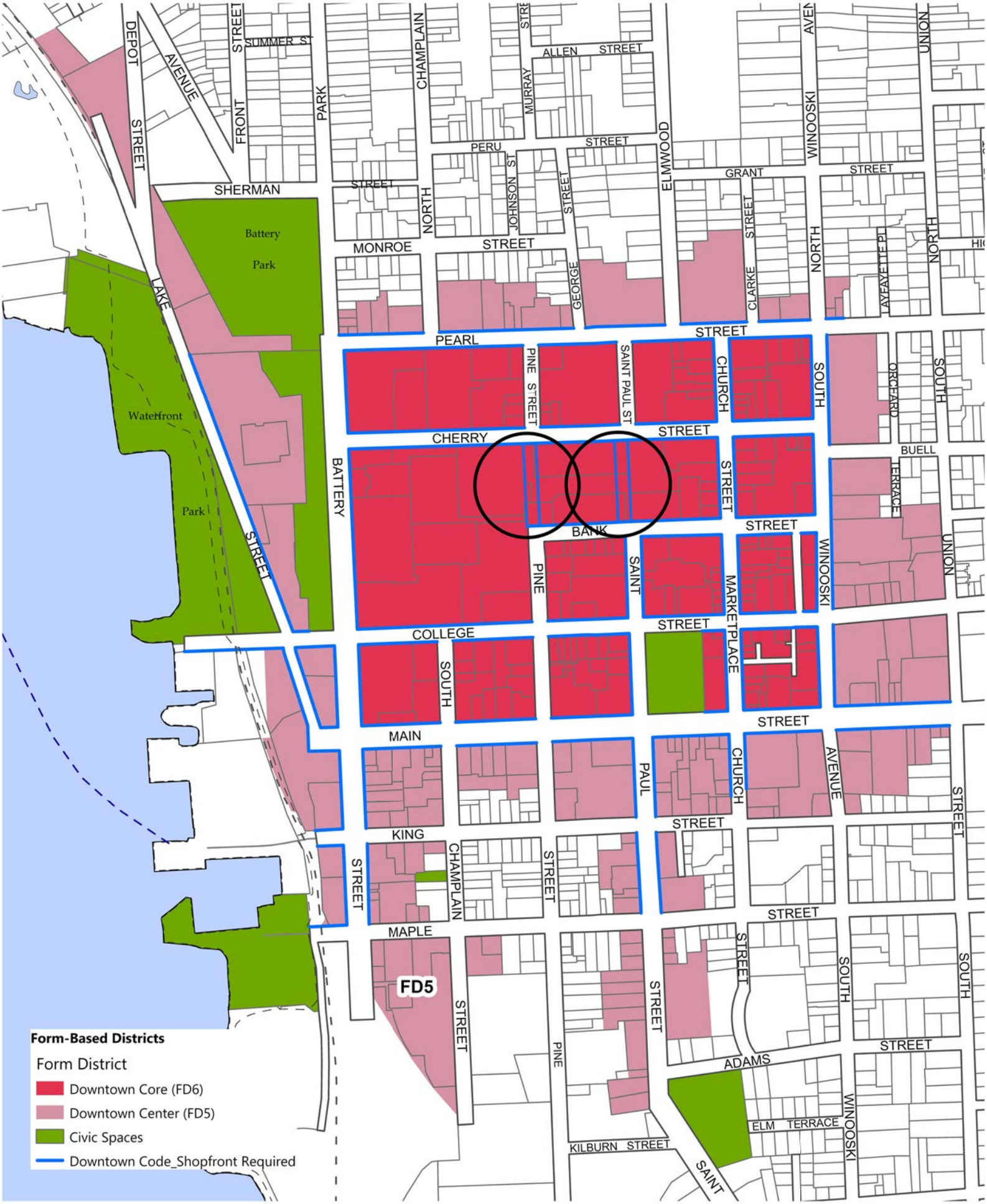
Deck: A roofless, raised platform on the ground or on top of a roof that is accessible from a secondary entrance that provides outdoor amenity space.

Department: The Department of Permitting and Inspections.

Thoroughfare: a public or private way for use by public vehicular, pedestrian, and bicycle traffic that provides Access to Lots and Open Spaces, and incorporates vehicular lanes and Public Frontages.

Streetscreen: a freestanding hedge, fence or wall of between 3.5 and 8 feet in height built (a) along the Frontage Line or (b) on the same plane as the Façade of the Building to Screen a Parking Lot, Parking Area or Loading Area, provide privacy to a side yard or rear yard, and/ or strengthen the spatial definition of the public realm. A Streetscreens may have include an openings no larger than necessary 4-feet to allow automobile andenable pedestrian Access, and may be no longer than 20-ft or 20% of the Frontage whichever is less.

DRAFT



CITY OF BURLINGTON

N

Downtown Form District Shopfront Required - ZA-21-09 as proposed

Burlington Comprehensive Development Ordinance, Article 14- Map 3 with ZA-21-09 expanded Shopfront as proposed

BYLAWS OF THE
BURLINGTON PLANNING COMMISSION

(A) Establishment of Bylaws

The Bylaws of the Burlington Planning Commission, hereafter referred to as the "Commission," are hereby established pursuant to 24 V.S.A. S. 4323 (C) and Sec. 2.2.2 of the *Burlington Comprehensive Development Ordinance*. These bylaws shall be effective from the date of adoption, and may be amended from time to time by a two-thirds vote of the Commission.

(B) Membership

In accordance with 24 V.S.A. Chapter 117 and Sec. 120 of the *Burlington City Charter,* the Commission shall consist of seven (7) residents of the City of Burlington appointed by the City Council. Any appointment to the Commission shall be for a term of three (3) consecutive years. Members may be appointed to successive terms without limitation. Any member desiring reappointment, or city resident desiring an appointment to the Commission, must apply to the City Clerk's office and obtain a nomination from a member of the City Council.

(C) Vacancies/Removal

Vacancies shall be filled by the City Council upon the expiration of such term or an unexpired portion of any term. Any member of the Commission may be removed at any time by unanimous vote of the City Council.

(D) Abstentions from Participation and Voting

In order to secure, protect, and preserve the highest level of public trust in the deliberation and decision of the Burlington Planning Commission, it is incumbent upon each member not only to scrupulously avoid any act which constitutes a conflict of interest established in law, but also to avoid any act which gives the appearance of bias, favoritism, or of interest.

(1) A member shall withdraw from all participation, including all formal and informal discussion and voting, in any deliberation of the Commission or its committees or any issue upon declaration of a conflict of interest or upon the assertion that there is a reasonable public presumption that bias, favoritism, or a conflict of interest may exist. Circumstances under which this provision shall be exercised include, but are not limited to, the following:

(a) If the member has a direct or indirect financial interest in the outcome of the matter at issue. A direct financial interest shall include, but not be limited to, circumstances in which the member is an applicant, a provider of professional or business service to the applicant, serves on the board of directors, or receives any form of remuneration or benefit from the applicant. Indirect financial interest shall include, but is not limited to, if an [As amended: November 7, 2002] immediate family relative or close personal friend has, or is likely to have, a direct financial interest in the outcome of the matter; or

(b) If the matter at issue involves the member's own official conduct; or

(c) If participation in the matter might violate the letter or spirit of a member's code of professional responsibility; or

(d) If a member has such close personal ties to the applicant that the member cannot reasonably be expected to exercise sound judgment in the public interest.

(G) Offices

At the first meeting in July of each year, the Planning Commission shall elect, by majority vote, a Chairperson and Vice-Chairperson from among its members, and shall also elect a Clerk who may or may not be a Commission member or municipal employee. Terms of office shall be for one year. Vacancies in these offices may be filled for the unexpired terms only by majority vote of the Commission.

(H) Committees

1. **Standing Committees**

There shall be three standing committees of the Planning Commission: Executive, Ordinance, and Long Range Planning. Membership comes from those serving on the Planning Commission, the Development Review Board, the Design Advisory Board and/or Conservation Board. With the exception of the Executive Committee, each standing committee shall be composed of a minimum of three (3) persons with a maximum of five (5) persons, of which three (3) must be members of the Commission. The Commission Chairperson may not serve, as the Committee Chairperson for either the Ordinance Committee or Long Range Planning Committee. Each standing committee shall report on its activities and/or recommendations within its purview to the full Commission for its disposition at each Commission meeting. Except as noted, the establishment of standing committees does not constitute a delegation of any responsibility of the full Commission, which retains the exclusive agency for the City under law and ordinance.

1) Executive: The Executive Committee shall be composed of three members consisting of the Commission Chairperson, who shall serve ex-officio as Chairperson of the Committee; the Commission Vice-Chairperson, who shall serve ex-officio as Vice-Chairperson of the Committee; and a Planning Commissioner selected at-large by the Commission at its organizational meeting. The duties and functions of the Committee shall be as follows:

   i. Appointment of standing committees and ad hoc committees including chairpersons unless noted otherwise herein, and appointment of special liaisons as the Commission shall establish, and oversight of committees and liaisons;

   ii. Oversight, including preparation of the annual department budget; supervision and the annual review of the department director; such other tasks as the Commission shall assign.

   iii. Relationship of the department and Commission to city, regional, and state departments and commissions, including scheduling of special work sessions as necessary;

   iv. Commission bylaw revisions and amendments;

   v. Oversight of all contracts as the Commission or department shall enter into or be delegated responsibility for;

2) Ordinance: The Ordinance Committee shall have at least four (4) and no more than five (5) members. Members may be appointed from the following: one (1) member each from the Development Review Board, the Design Advisory Board, or the Conservation Board, in addition to one (1) member from the Planning Commission Executive Committee, and two (2) at-large of the Planning Commission elected by the Commission at its organizational meeting. The chairs of the Development Review Board, Design Advisory Board or the Conservation Board may appoint a member of their board to serve on the Ordinance Committee. If all boards appoint a member the Planning Commission, by election at its organizational meeting will confirm which appointee(s) will serve on the Ordinance Committee. The Chairperson and Vice-Chairperson of the Ordinance Committee shall be elected by a majority of committee members. The duties and functions of the Committee shall be as follows:

i. Preparing and reviewing all revisions of the Zoning and Subdivision Ordinances, Official Map and the Zoning Map;

ii. The enforcement of the zoning and subdivision ordinances and the zoning map, and;

iii. Such other tasks as the Commission shall assign.

3) Long Range Planning: The Long Range Planning Committee shall have at least four (4) and no more than five (5) members including one (1) member from the Development Review Board appointed by the Board's Chairperson. The Committee shall have one member from the Executive Committee, and two (2) at-large members of the Planning Commission elected by the Commission at its organizational meeting. The chair of the Design Advisory Board or the Conservation Board may appoint a member of their board to serve on the Long Range Planning Committee. If both boards appoint a member the Planning Commission will decide which appointee(s) will serve on the Long Range Planning Committee. The Chairperson and Vice-Chairperson of the Long Range Planning Committee shall be elected by a majority of committee members. The duties and functions of the Committee shall be as follows:

i. The development of an implementation plan for the Municipal Development Plan.

ii. Develop a process with a budget for each eight year revision to the Municipal Development Plan;

iii. Review plans of other departments and the regional planning commission and provide comments to the Planning Commission; and

iv. Such other tasks as the Planning Commission shall assign.

2. Ad hoc Committees and Commission Liaisons:

From time to time ad hoc committees and commission liaisons may be established by the Commission for special assignments that do not fall within the general purview of standing committees.

3. Committee Meetings:

When appropriate, standing committees should have regularly scheduled meeting times. All committee activity should be ratified by vote of the committee before presentation to the Commission. All substantive actions of the committees should be recorded in the written minutes kept current by the committee chairperson or designee. At the request of the committee chairperson, a committee meeting shall be taped.

(I) Annual Work Plans

The Planning Commission and each of the standing committees shall set work plans every year. These work plans shall be reviewed periodically. The schedule for work plans and their evaluation follows:

May: Each standing committee evaluates the extent to which it fulfilled its old work plan and a brief (1-2 page) evaluation report is written and submitted to P.C. in time to be part of the packet for the first P.C. meeting in June.

June: Standing committee work plans are evaluated by the P.C. at the first meeting. Feedback for recognition, encouragement and improvement is provided.

Standing committee work plans end at the end of the month.

The work plan for the following year (July – June) is written during June and early July. It is submitted to P.C. in time to be part of the packet for the first P.C. meeting in July.

July: New work plans are discussed, modified if necessary, and approved by the P.C. at the first meeting of the P.C. New work plans begin in July and run through June.

(J) Powers and Duties

In accordance with 24 V.S.A. Chapter 117, and the *Burlington Code of Ordinances,* the Burlington Planning Commission:

(1) Shall prepare a Municipal Development Plan and amendment thereof for consideration by the City Council and to review any amendments thereof initiated by others as set forth in 24 V.S.A. 4384;

(2) Shall prepare and present to the City Council, from time to time, proposed bylaws and make recommendations to the City Council on proposed amendments to such bylaws;

(3) Shall undertake studies and make recommendations on matters of land development, urban renewal, transportation, economy, and social development, urban beautification and design improvements, historic and scenic preservation, the conservation of energy, and the development of renewable energy resources;

(4) Shall prepare and present to the City Council recommended construction specifications for streets and related public improvements pertaining to subdivision development;

(5) Shall prepare and present to the City Council a recommended annual capital budget and future capital programs for a period of not less than five (5) years;

(6) Shall hold public meetings;

(7) Shall undertake comprehensive planning, which may include related preliminary planning and engineering studies;

(8) Shall prepare and present to the City Council, from time to time, recommended fees for the administration of zoning and subdivision regulations;

(9) Perform such other acts or functions as it may deem necessary or appropriate to fulfill the duties and obligations imposed by, and consistent with, the intent and purpose of 24 V.S.A. Chapter 117 and the *Burlington Code of Ordinances.*

(10) May require from other departments and agencies of the City such available information as it relates to the work of the Planning Commission;

(11) May, in the performance of its functions, enter upon land to make examinations and surveys;

(12) May participate in a regional planning program;

(13) May retain staff and consultant assistance in carrying out its duties and powers.

(K) Meetings/Minutes

Meetings of the Planning Commission shall be held at the call of the Chairperson on the second and fourth

Tuesday of each month unless otherwise determined by majority vote of the Commission. The Chairperson may also call special meetings of the Commission. All meetings of the Commission shall be open to the public, except as provided by law. The Commission shall keep minutes of every regular or special meeting. The minutes shall include, but not be limited to, the names of the persons appearing and addressing the Commission, any action taken by the Commission, the findings, if any, made by the Commission and reasons thereof. The minutes shall, thereafter, be made available for public inspection during normal business hours at the office of the Administrative Officer. Any interested party shall have the right to a reproduction of the minutes in an amount sufficient to cover the costs of such reproduction.

(L) Notice

No regular or special meeting of the Commission shall be held without providing at least twenty-four (24) hours written notice to the City Clerk. Public hearings shall require no less than fifteen (15) days prior notice including advertising in a newspaper of general publication within the City and posting on the City Hall community board(s).

(M) Quorum

For the conduct of any meeting or hearing and the taking of any action, a quorum shall be no less than a majority of the members of the Commission and any action thereof shall be taken by a majority of the members of the Commission.

(N) Public Hearing

Prior to Planning Commission action on the adoption of any amendment to the City's Zoning Ordinance, Subdivision Regulation, Official Map, or Municipal Development Plan, a public hearing shall be held by the Planning Commission after public notice.

(O) Ex-Officio Member

The Mayor of the City of Burlington shall be a non-voting ex-officio member of the Commission.

(P) Special Meetings

Special meetings of the Commission may be called by the Chairperson, when he or she deems it expedient, or upon the request of two (2) members of the Commission for the purpose of transacting any business designated in the call. Notice to each member of the Commission for a Special Meeting may be by telephone or otherwise at least twenty-four (24) hours prior to the date of such special meeting. At such special meeting, no business shall be considered other than specified in the call. Additionally, if more than three (3) members of the Commission participate in a meeting with staff, conduct a site visit, or participate in other activities related to the responsibilities of the Planning Commission outside of a regular meeting, the gathering must be warned as a special meeting with proper notice given.

(Q) Governance Procedures

Robert's Rules of Order, as revised, shall govern proceedings of the Commission in all cases which are not specifically covered by other laws, ordinances, bylaws, or regulations.

History:

Established: June 26, 1986

Amended: October 10, 1991

Amended: February 12, 1998

Amended: May 10, 2001

Amended: November 7, 2002

Amended: October 14, 2003

Amended: July 10, 2008

Amended: October 12, 2016

Burlington Planning Commission
149 Church Street
Burlington, VT 05401
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(802) 865-7195 (FAX)
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www.burlingtonvt.gov/pz

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

Burlington Planning Commission

Tuesday, July 13, 2021, 6:30 P.M.

Remote Meeting via Zoom, with City Hall In-Person Option

Draft Minutes

Members Present	B Baker, A Friend, E Lee, M Gaughan, B Martin
Staff Present	D White, M Tuttle
Attendance	R Scully, J Caulo, S Bushor, C Hilliard, K Devine, L Campriello, D Caulo, E Caulo, T Sarandos

I. Agenda

Call to Order	Time: 6:32pm
Agenda	Postpone Item V to July 27 meeting

II. Public Forum

Name(s)	Comment
	No comments

III. Chair Report

B Baker	Welcome to the new Planning Commissioners Brynne Martin and Michael Gaughan

IV. Director's Report

D White	City Council approved FY22 budget on Jun 28. Department now has two new members from the I&T team. Offices are now open to the public with new security features; make an appointment to meet with us in-person.

V. Annual Organizational Meeting

Action: Postponed to July 27 meeting		
Motion by:	Second by:	Vote:
Type:	Presented by:	

VI. Presentation & Proposed E-LM Amendment by Hula

Action: Request staff to review proposal and bring recommendation to Planning Commission		
Motion by: E Lee	Second by: A Friend	Vote: Unanimous
Type: Presentation, Discussion	Presented by: R Scully, J Caulo	
Representatives from Hula presented a proposed zoning amendment to create a Neighborhood Activity Center in the area of the E-LM district near the intersection of Pine St & Lakeside Ave. The presentation slides can be found online at: https://www.burlingtonvt.gov/CityPlan/PC/Agendas.		

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.

Commission Discussion included:

- Commissioners were generally supportive of the concept presented by Hula representatives. However, it was noted that housing was originally envisioned in the planBTV: South End process, but removed due to intense backlash.
- Commissioners noted that transit connections, especially for job growth; housing of all types, tenures, and particularly affordable housing; and replacing surface parking with spaces for housing, jobs, and to improve stormwater were all positive aspects of what was proposed.
- In response to a question about why Hula is pursuing this request, representatives noted that they wish to build on economic development being built at Hula's site, bring more opportunities for employees to live close to work, reverse challenges around cost of living and low vacancy rates, and provide housing for low-income, early professional, and retail/service employees.
- A Commissioner suggested that rezoning this area might present an opportunity to focus more on form than the prescriptive nature of some of the NAC zones elsewhere in the city.
- In response to a question about why the boundaries for this zoning amendment were proposed, Hula representatives indicated the focus was on vacant and underutilized properties, including where other property owners share an interest in exploring policy changes, but didn't want to be too expansive and include properties that might feel pressure to change their use.
- Staff noted that planBTV envisions an innovation district in this area, as one of three "sub-areas" the Enterprise District. It was noted that this area has the most open-ended opportunity to be re-envisioned, but also where the most difficult decisions about the future of the district were likely to focus. It may be the most appropriate location to consider housing, but we also need to understand what makes sense at the edges, and consider the long-discussed questions of what happens in the rest of this district. Helpful that some of the footwork has already been done by Hula Representatives, and while not entirely sure an NAC the way currently proposed makes sense, it directionally makes sense.

VII. Commissioner Items

- Commissioner Lee recommend that the city change policy to enable property owners to purchase their own recycling toters, since the City is unable to supply them to meet demand.
- Commissioner Lee requested more information about how many short-term rentals have been permitted, what units they've replaced, and why Housing Replacement Fees have not been paid. Staff provided some information on the Housing Replacement policy, and indicated more research would be needed into the question of other permitted STRs.
- Next Meetings are on July 27 and Aug 10 at 6:30pm.

VIII. Minutes and Communications

Action: Approve the minutes and accept the communications		
Motion by: A Friend	Second by: E Lee	Vote: Approved by Lee, Friend, Baker. Gaughan, Martin abstain.
Minutes Approved: June 22, 2021 Communications Filed: • Enclosed in agenda packet, and additional communications posted online		

IX. Adjourn

Adjournment	Time: 7:50pm	
Motion: A Friend	Second: M Gaughan	Vote: Approved Unanimously

LAND USE PERMIT
AMENDMENT

State of Vermont
Natural Resources Board
District 4 Environmental Commission
111 West Street
Essex Junction, VT 05452
https://nrb.vermont.gov/

[phone] 802-879-5614

CASE NO: 4C0051-3

City of Burlington Parks, Recreation & Waterfront
645 Pine Street
Burlington, VT 05401

LAWS/REGULATIONS INVOLVED
10 V.S.A. §§ 6001 - 6111 (Act 250)

The District 4 Environmental Commission hereby issues Land Use Permit Amendment #4C0051-3, pursuant to the authority vested in it by 10 V.S.A. §§ 6001-6111. This permit amendment applies to the lands identified in Book 205, Page 239; and Book 361, Page 776, of the land records of the City of Burlington, Vermont, as the subject of deeds to the City of Burlington.

This permit specifically authorizes the rehabilitation of the existing multi-use path through Oakledge Park and construction of a new universally accessible playground, path connections, 8 new universally accessible parking spaces, ADA compliant beach access, restroom improvements, landscaping, and lighting upgrades. The project is located on Flynn Avenue in Burlington, Vermont.

Jurisdiction attaches because the Project constitutes a material change to a permitted development or subdivision, and thus requires a permit amendment pursuant to Act 250 Rule 34.

1. The Permittee, and its assigns and successors in interest, is obligated by this permit to complete, operate and maintain the project as approved by the District 4 Environmental Commission (the "Commission") in accordance with the following conditions.
2. The project shall be completed, operated and maintained in accordance with the conditions of this permit and the permit application, plans, and exhibits on file with the Commission and other material representations.

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The approved plans are:

"Site Plan for Oakledge Park," dated 12/13/20 (Exhibit #004);

Sheet 18 - "Landscape Layout Plan," dated 4/12/21 (Exhibit #010);

Sheet 26 - "Planting Plan," dated 4/12/21 (Exhibit #012);

Sheet 1 - "VWP Impact Exhibit," dated 5/18/21 (Exhibit #013a);

Sheet 41 - "EPSC Narrative (Sheet 1 of 2)," dated 4/13/21 (Exhibit #014);

Sheet 42 - "EPSC Narrative (Sheet 2 of 2)," dated 4/13/21 (Exhibit #015);

Sheet 43 - "EPSC Details," dated 4/13/21 (Exhibit #016);

Sheet 44 - "EPSC Plans (Sheet 1 of 5)," dated 4/13/21 (Exhibit #017);

Sheet 45 - "EPSC Plans (Sheet 2 of 5)," dated 4/13/21 (Exhibit #018);

Sheet 46 - "EPSC Plans (Sheet 3 of 5)," dated 4/13/21 (Exhibit #019);

Sheet 47 - "EPSC Plans (Sheet 4 of 5)," dated 4/13/21 (Exhibit #020);

Sheet 48 - "EPSC Plans (Sheet 5 of 5)," dated 4/13/21 (Exhibit #021);

Sheet 18 - "Landscape Layout Plan," dated 5/12/21 (Exhibit #024a);

Sheet 20 - "Landscape Layout Plan," dated 4/12/21 (Exhibit #025);

Sheet 32 - "Traffic Sign Summary Sheet," dated 4/13/21 (Exhibit #026);

Sheet 33 - "Sign Detail Sheet," dated 4/13/21 (Exhibit #027);

"Signage for Playground," dated 4/1/21 (Exhibit #028);

Sheet 31 - "Landscape Lighting Plan," dated 5/12/21 (Exhibit #030a);

Sheet 31 - "Lighting Details," dated 4/12/21 (Exhibit #031);

Sheet L1-1 - "Playground Lighting Plan," dated 4/1/21 (Exhibit #032);

Sheet 27 - "Planting Plan," dated 4/9/21 (Exhibit #033);

Sheet 27 - "Landscape Plan," dated 4/12/21 (Exhibit #034);

Sheet L 1-1 - "Materials Plan," dated 8/4/17, last revision 11/20 (Exhibit #035);

Sheet 13 - "Plan and Profile (Sheet 1 of 5)," dated 4/13/21 (Exhibit #037);

Sheet 14 - "Plan and Profile (Sheet 2 of 5)," dated 4/13/21 (Exhibit #038);

Sheet 15 - "Plan and Profile (Sheet 3 of 5)," dated 4/13/21 (Exhibit #039);

Sheet 16 - "Plan and Profile (Sheet 4 of 5)," dated 4/13/21 (Exhibit #040);

Sheet 17 - "Plan and Profile (Sheet 5 of 5)," dated 5/18/21 (Exhibit #041a);

Sheet 5 - "Typical Sections (1 of 2)," dated 4/13/21 (Exhibit #045);

Sheet 6 - "Typical Sections (2 of 2)," dated 4/13/21 (Exhibit #046);

Sheet 21 - "Grading Plan," dated 5/12/21 (Exhibit #047a);

Sheet L 3-1 - "Grading & Drainage Plan," dated 8/4/17, last revision 11/20 (Exhibit #048);

"Illustrative Plan," dated 8/4/17, last revision 11/20 (Exhibit #050);

Sheet 49 - "EPSC Plans (Sheet 5 of 5)," dated 5/18/21 (Exhibit #064);

Sheet 27 - "Planting Plan," dated 5/12/21 (Exhibit #065); and

Sheet 27B - "Riparian Planting Plan," dated 5/12/21 (Exhibit #066).

3. All conditions of Land Use Permit #4C0051 and amendments are in full force and effect except as further amended herein.

4. The Permittee shall comply with all of the conditions of the following Agency of Natural Resources Permits:

   a. Authorization of Notice of Intent (NOI #7213-9020.5) under Construction General Permit 3-9020 issued on May 18, 2021 by the ANR Watershed Management Division;

   b. Authorization to Discharge Stormwater #7213-9050 under General Permit 3-9050 (3-Acre General Permit), issued on July 15, 2021 by the ANR Watershed Management Division; and

   c. Individual Wetland Permit #202-453 issued on June 29, 2021 by the ANR Watershed Management Division.

5. Any nonmaterial changes to the permits listed in the preceding condition shall be automatically incorporated herein upon issuance by the Agency of Natural Resources.

6. Representatives of the State of Vermont shall have access to the property covered by this permit, at reasonable times, for the purpose of ascertaining compliance with Vermont environmental and health statutes and regulations and with this permit.

7. A copy of this permit and plans shall be on the site at all times throughout the construction process.

8. No change shall be made to the design, operation or use of this project without a permit amendment issued by the Commission or a jurisdictional opinion from the District Coordinator that a permit is not required.

9. Pursuant to 10 V.S.A. § 8005(c), the Commission or the Natural Resources Board may at any time require that the permit holder file an affidavit certifying that the project is in compliance with the terms of this permit.

10. The conditions of this permit and the land uses permitted herein shall run with the land and are binding upon and enforceable against the Permittee and their successors and assigns.

11. The Permittee shall apply and maintain water and/or other agents approved by the Watershed Management Division in the Project's Erosion Prevention and Control Plan on all roadways or disturbed areas within the project during construction and until pavement and/or vegetation is fully established to control dust.

12. No new floor drains shall be installed without first obtaining a permit or submitting other necessary documentation, as required by the Vermont Department of Environmental Conservation.

13. The Permittee and all subsequent owners or lessees shall install and maintain only low-flow plumbing fixtures in any buildings. Any failed water conservation measures shall be promptly replaced with products of equal or better performance.

14. The Permittee shall comply with Exhibits #001b, 014-021, and 047a-048 (Revised Schedule B; EPSC Narratives and Plans (8); Pause Place Grading; and Playground Grading) for erosion prevention and sediment control. The Permittee shall prevent the transport of any sediment beyond that area necessary for construction approved herein. All erosion prevention and sediment control devices shall be periodically cleaned, replaced, and maintained until vegetation is permanently established on all slopes and disturbed areas.

15. All mulch, siltation dams, water bars and other temporary devices shall be installed immediately upon grading and shall be maintained until all roads are permanently surfaced and all permanent vegetation is established on all slopes and disturbed areas. Topsoil stockpiles shall have the exposed earth completely mulched and have siltation checks around the base.

16. All areas of disturbance must have temporary or permanent stabilization within 14 days of the initial disturbance. After this time, any disturbance in the area must be stabilized at the end of each workday. The following exceptions apply: i) Stabilization is not required if work is to continue in the area within the next 24 hours and there is no precipitation forecast for the next 24 hours. ii) Stabilization is not required if the work is occurring in a self-contained excavation (i.e., no outlet) with a depth of 2 feet or greater (e.g., house foundation excavation, utility trenches).

17. All disturbed areas of the site shall be stabilized, seeded, and mulched immediately upon completion of final grading. All disturbed areas not involved in winter construction shall be mulched and seeded before October 15. Between the periods of October 15 to April 15, all earth disturbing work shall conform with the "Requirements for Winter Construction" standards and specifications of the Vermont Department of

Environmental Conservation's *Low Risk Site Handbook for Erosion Prevention and Sediment Control* (February 2020).

18. Prior to construction of the approved work, the Permittee shall: a) clearly delineate the construction limits with flagging or snow fencing; b) place diversion ditches on the uphill limits of the construction area; and c) place temporary siltation controls on the downhill limits of construction.

19. Starting at the commencement of construction, a Professional Engineer or other soil erosion expert approved in writing by the District Commission shall inspect the site at least once per week and at critical times until the project is completed to ensure that the erosion prevention and sediment control plans are being followed. He or she shall certify by submitting a monthly site inspection report to the Commission that all erosion prevention and sediment controls are in place as specified and approved herein, properly maintained, and effective. Any corrective measures noted by the Professional Engineer shall be implemented immediately.

20. In addition to conformance with all erosion prevention and sediment control conditions, the Permittee shall not cause, permit or allow the discharge of waste material into any surface waters. Compliance with the requirements of this condition does not absolve the Permittee from compliance with 10 V.S.A. (§§ 1250-1284) Chapter 47, Vermont's Water Pollution Control Law.

21. The Permittee shall implement the Riparian Planting Plan (Exhibit #066) as part of project construction. Except for the existing and proposed improvements and vegetation management activities described in the Riparian Planting Plan, the Permittee shall maintain an undisturbed, naturally vegetated riparian buffer zone along the stream immediately north of the beach access. The riparian buffer zone shall be measured inland, perpendicular to, and horizontally 50 feet from the top-of-bank or, in areas where a wetland is contiguous to the stream, from the upland edge of the delineated wetland, and extend to the water's edge at base flow conditions. The term "undisturbed" means no activities that may cause or contribute to ground or vegetation disturbance, or soil compaction, including but not limited to construction; earth-moving activities; storage of materials; tree trimming or canopy removal; tree, shrub or groundcover removal; plowing or disposal of snow; grazing; and mowing. Exhibit #061a (May 26, 2021 ANR Supplemental Comments).

22. Any extracted stumps shall be disposed of on-site above the seasonal high water table and not in any wetland, or at a state-certified stump and inert waste disposal facility, so as to prevent groundwater pollution.

23. The Permittee and all assigns and successors in interest shall continually maintain the landscaping as approved in Exhibits #033-035, 065 and 066 (Planting Plans – Austin Drive; Planting Plans- Upper Parking Lot; Playground Landscaping Plan; Planting Plans

– Flynn Intersection; and Riparian Planting Plan) by replacing any dead or diseased plantings within the season or as soon as possible after the ground thaws, whichever is sooner.

24. Prior to any site work, the Permittee shall install and maintain temporary fencing along the tree line and around trees to be retained as depicted on Exhibits #033-035, 065 and 066.

25. The Permittee shall collect sand under the proposed beach access to a depth of approximately three to six inches prior to construction and shall temporarily stockpile the collected sand during construction. After construction, the Permittee shall redistribute stockpiled stand adjacent to the beach access. Exhibit #061a (May 26, 2021 ANR Supplemental Comments).

26. The installation of exterior light fixtures is limited to those approved in Exhibits #029-032 (BPRW Lighting Standards; Greenway Lighting Plans (2); and Playground Lighting Plan) and shall be mounted no higher than 14 feet above grade level. All exterior lighting shall be installed or shielded in such a manner as to conceal light sources and reflector surfaces from view beyond the perimeter of the area to be illuminated.

27. The installation of exterior signage is limited to those approved in Exhibits #023-028 (BPRW Signage Standards; Greenway Signage Plans (4); and Playground Signage Plan). The Permittee shall not erect additional exterior signage without prior written approval from the District Coordinator or the Commission, whichever is appropriate under the Act 250 Rules. Signage includes banners, flags, and other advertising displays, excepting temporary real estate marketing signs and temporary Grand Opening signs.

28. The Permittee shall provide each prospective purchaser of any interest in this Project a copy of the Land Use Permit Amendment before any written contract of sale is entered into.

29. Pursuant to 10 V.S.A. § 6090(b)(1), this permit amendment is hereby issued for an indefinite term, as long as there is compliance with the conditions herein. Notwithstanding any other provision herein, this permit shall expire three years from the date of issuance if the Permittee has not commenced construction and made substantial progress toward completion within the three-year period in accordance with 10 V.S.A. § 6091(b).

30. All site work and construction shall be completed in accordance with the approved plans by **October 1, 2024**, unless an extension of this date is approved in writing by the Commission. Such requests to extend must be filed prior to the deadline and approval may be granted without a public hearing.

31. Failure to comply with any condition herein may be grounds for permit revocation pursuant to 10 V.S.A. sec. 6027(g).

Dated this 16th day of July, 2021.

By _/s/Thomas A. Little_____
Thomas A. Little, Chair
District 4 Commission

Members participating in this decision:
Monique Gilbert
Pam Loranger

Any party may file a motion to alter with the District Commission within 15 days from the date of this decision, pursuant to Act 250 Rule 31(A).

Any appeal of this decision must be filed with the Superior Court, Environmental Division within 30 days of the date the decision was issued, pursuant to 10 V.S.A. Chapter 220. The Notice of Appeal must comply with the Vermont Rules for Environmental Court Proceedings. The appellant must file with the Notice of Appeal the relevant entry fee required by 32 V.S.A. § 1431.

The appellant must also serve a copy of the Notice of Appeal on the Natural Resources Board, 10 Baldwin Street, Montpelier, VT 05633-3201, and on other parties in accordance with Rule 5(b)(4)(B) of the Vermont Rules for Environmental Court Proceedings.

Decisions on minor applications may be appealed only if a hearing was held by the district commission. Please note that there are certain limitations on the right to appeal, including appeals from Administrative Amendments and interlocutory appeals. See 10 V.S.A. § 8504(k), 3 V.S.A. § 815, and Vermont Rule of Appellate Procedure 5.

For additional information on filing appeals, see the Court's website at: http://www.vermontjudiciary.org/GTC/environmental/default.aspx or call (802) 951-1740. The Court's mailing address is: Vermont Superior Court, Environmental Division, 32 Cherry Street, 2nd Floor, Suite 303, Burlington, VT 05401.

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Exhibit List

Application # 4C0051-3 (7/15/21)

Applicant(s) City of Burlington Parks, Recreation & Waterfront (BPRW)

Landowner(s) City of Burlington Parks, Recreation & Waterfront (BPRW)

Project Town(s): Burlington

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Natural Resources Board

No.	Date Received (Office Use Only)	Document Name/Description	Submitted By (Office Use Only)
000		000 Exhibit List	
001	4/16/21	001 Act 250 Application; and cover letter	Applicant
001a	4/16/21	001a Act 250 Application Revised 4-16-21	Applicant
001b	4/20/21	001b Act 250 Application Revised 4-20-21	Applicant
002	4/16/21	002 Schedule G	Applicant
003	4/16/21	003 Location Map (12/13/2020)	Applicant
004	4/16/21	004 Site Plan (12/13/2020)	Applicant
005	4/16/21	005 Oakledge Adjoiner Mailing Labels and Project Adjoiner Map (04/01/2021)	Applicant
005a	4/20/21	005a Oakledge Adjoiner Mailing Labels and Project Adjoiner Map (04/20/2021)	Applicant
006	4/16/21	006 Municipal Impact Letter - DPW	Applicant
007	4/16/21	007 Municipal Impact Letter - Fire	Applicant
008	4/16/21	008 Municipal Impact Letter - BPD	Applicant
009	4/16/21	009 BPRW Restroom Standards	Applicant
010	4/16/21	010 Pause Place - Sheet 18 (04/12/2021)	Applicant
011	4/16/21	011 Correspondance - Lake Encroachment Permit	Applicant
012	4/16/21	012 Planting Plans- Flynn Intersection - Sheet 26	Applicant
013	4/16/21	013 Wetland Impact Exhibit - Sheet 1 (02-26-2021)	Applicant
013a	5/24/21	013a Wetland Impact Exhibit - Sheet 1 (Rev. 5-18-21)	Applicant
014	4/16/21	014 Erosion Control Narrative - Sheet 41 (04-13-2021)	Applicant
015	4/16/21	015 Erosion Control Narrative - Sheet 42 (04-13-2021)	Applicant
016	4/16/21	016 Erosion Control Narrative - Sheet 43 (04-13-2021)	Applicant

No.	Date Received (Office Use Only)	Document Name/Description		Submitted By (Office Use Only)
017	4/16/21	017	EPSC Plans - Sheet 44 (04-13-2021)	Applicant
018	4/16/21	018	EPSC Plans - Sheet 45 (04-13-2021)	Applicant
019	4/16/21	019	EPSC Plans - Sheet 46 (04-13-2021)	Applicant
020	4/16/21	020	EPSC Plans - Sheet 47 (04-13-2021)	Applicant
021	4/16/21	021	EPSC Plans - Sheet 48 (04-13-2021)	Applicant
022	4/16/21	022	Playground Perspective Rendering	Applicant
023	4/16/21	023	BPRW Signage Standards	Applicant
024	4/16/21	024	Greenway Signage Plan- Sheet 18 (04-12-2021)	Applicant
024a	5/24/21	024a	Greenway Signage Plan- Sheet 18 (Rev. 5-12-21)	Applicant
025	4/16/21	025	Greenway Signage Plan- Sheet 20 (04-12-2021)	Applicant
026	4/16/21	026	Greenway Signage Plan- Sheet 32 (04-12-2021)	Applicant
027	4/16/21	027	Greenway Signage Plan- Sheet 33 (04-12-2021)	Applicant
028	4/16/21	028	Playground Signage Plan (04-01-2021)	Applicant
029	4/16/21	029	BPRW Lighting Standards	Applicant
030	4/16/21	030	Greenway Lighting Plan - Sheet 30 (04-12-2021)	Applicant
030a	5/24/21	030a	Greenway Lighting Plan - Sheet 31 (Rev. 5-12-21)	Applicant
031	4/16/21	031	Greenway Lighting Plan - Sheet 31 (04-12-2021)	Applicant
032	4/16/21	032	Playground Lighting Plan - Sheet L1 (04-01-2021)	Applicant
033	4/16/21	033	Planting Plans- Austin Drive- Sheet 27 (04-12-2021)	Applicant
034	4/16/21	034	Planting Plans- Upper Parking Lot - Sheet 27 (04-12-2021)	Applicant
035	4/16/21	035	Playground Landscaping Plan	Applicant
036	4/16/21	036	Greenway Limits of Work - Sheet 1 (04-13-2021)	Applicant
037	4/16/21	037	Greenway Limits of Work - Sheet 13 (04-13-2021)	Applicant
038	4/16/21	038	Greenway Limits of Work - Sheet 14 (04-13-2021)	Applicant
039	4/16/21	039	Greenway Limits of Work - Sheet 15 (04-13-2021)	Applicant
040	4/16/21	040	Greenway Limits of Work - Sheet 16 (04-13-2021)	Applicant
041	4/16/21	041	Greenway Limits of Work - Sheet 17 (04-13-2021)	Applicant
041a	5/24/21	041a	Greenway Limits of Work - Sheet 17 (Rev. 5-18-21)	Applicant
042	4/16/21	042	Burlington Greenway EOF 2019	Applicant
043	4/16/21	043	Primary Agricultural Soils Map for PAS Analysis	Applicant

No.	Date Received (Office Use Only)	Document Name/Description		Submitted By (Office Use Only)
044	4/16/21	044	Existing Site Conditions Photos	Applicant
045	4/16/21	045	Greenway Typical Sections - Sheet 5 (04-13-2021)	Applicant
046	4/16/21	046	Greenway Typical Sections - Sheet 6 (04-13-2021)	Applicant
047	4/16/21	047	Pause Place Grading - Sheet 21 (04-12-2021)	Applicant
047a	5/24/21	047a	Pause Place Grading - Sheet 21 (Rev. 5-12-21)	Applicant
048	4/16/21	048	Playground Grading	Applicant
049	4/16/21	049	Playground Rendered Plan	Applicant
050	4/16/21	050	Playground Illustrative Plan	Applicant
051	4/16/21	051	4C0051 Permit-1972	Applicant
052	4/16/21	052	4C0051 Plan-1972	Applicant
053	4/16/21	053	4C0051-1 Permit-1978	Applicant
054	4/16/21	054	4C0051-1 Plan-1978	Applicant
055	4/16/21	055	4C0051-2 Permit-1987	Applicant
056	4/16/21	056	4C0051-2 Plan-1987	Applicant
057	4/16/21	057	Stormwater Construction Discharge General Permit Application	Applicant
058	4/16/21	058	Vermont Wetlands Permit Application	Applicant
059	4/16/21	059	AAFM Correspondance (4/16/21)	Applicant
060	4/20/21	060	Oakledge Pk Playground Ph1 SOW VDHP Concur	Applicant
061	5/14/21	061	ANR Entry of Appearance Comments (5/14/21)	ANR
061a	5/26/21	061a	ANR Supplemental Comments (5/26/21)	ANR
062	5/17/21	062	VDHP Entry of Appearance Preliminary Comments (5/14/21)	DHP
063	5/24/21	063	Cover Letter re Response to ANR Comments of 5-14-21 & Teleconference of 5-17-21	Applicant
064	5/24/21	064	EPSC Plans - Sheet 49 (Rev. 5-18-21)	Applicant
065	5/24/21	065	Planting Plans - Flynn Intersection - Sheet 27 (Rev. 5-12-21)	Applicant
066	5/24/21	066	Riparian Planting Plan (5-21-21)	Applicant
067	6/17/21	067	End-of-Field Letter Report for Archaeological Phase I Site Identification Survey Revised 6-2-21	Applicant
068	6/18/21	068	VDHP Comment Letter (6/18/21)	DHP
069	6/30/21	069	Individual Wetland Permit #202-453 Issued 6-29-2021	Applicant
070	7/15/21	070	Operational Stormwater Permit #7213-9050 Issued 7-15-2021	Applicant
071		071		

CERTIFICATE OF SERVICE

I hereby certify on this 16th day of July, 2021, a copy of the foregoing ACT 250 LAND USE PERMIT #4C0051-3, was sent by U.S. mail, postage prepaid to the following individuals without email addresses and by email to the individuals with email addresses listed.

Note: any recipient may change its preferred method of receiving notices and other documents by contacting the District Office staff at the mailing address or email below. If you have elected to receive notices and other documents by email, it is your responsibility to notify our office of any email address changes. All email replies should be sent to NRB.Act250Essex@vermont.gov

City of Burlington Parks, Recreation, & Waterfront
c/o Sophie Sauve
645 Pine Street
Burlington, VT 05401
ssauve@burlingtonvt.gov

Global Petroleum
2 Flynn Avenue
Burlington, VT 05401
sdecell@globalp.com

Katherine Schad, City Clerk
Chair, Selectboard/Chair, Planning Commission
City of Burlington
149 Church Street
Burlington, VT 05401
burlingtontownclerk@burlingtonvt.gov;
lolberg@burlingtonvt.gov

Chittenden County Regional Planning Commission
110 West Canal Street, Suite 202
Winooski, VT 05404
permitting@ccrpcvt.org

Agency of Natural Resources
1 National Life Drive, Davis 2
Montpelier, VT 05602-3901
ANR.Act250@vermont.gov

Dept. of Public Service
112 State Street, Drawer 20
Montpelier, VT 05620-2601
barry.murphy@vermont.gov; PSD.VTDPS@vermont.gov

VTrans Policy, Planning & Research Bureau
Barre City Place
219 N. Main Street
Barre, VT 05641
AOT.Act250@vermont.gov

Agency of Agriculture, Food & Markets
116 State Street, Drawer 20
Montpelier, VT 05620-2901
AGR.Act250@vermont.gov

Division for Historic Preservation
National Life Building, Drawer 20
Montpelier, VT 05620
scott.dillon@vermont.gov; james.duggan@vermont.gov
ACCD.ProjectReview@vermont.gov

FOR YOUR INFORMATION

District #4 Environmental Commission
Thomas Little, Chair
Monique Gilbert/Pam Loranger
111 West Street
Essex Junction, VT 05452

Dated at Essex Junction, Vermont, this 16th day of July, 2021.

Jessica B. Mason

Jessica Mason
Natural Resources Board Technician
802-879-5614
Jessica.Mason@vermont.gov

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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
Emily Lee
Brynne Martin

Burlington Planning Commission

Tuesday, July 27, 2021, 6:30 P.M.

Remote Meeting via Zoom, with City Hall In-Person Option

Minutes

Members Present	A Montroll, B Baker, Y Bradley, A Friend, E Lee, M Gaughan, B Martin
Staff Present	D White, K Sturtevant
Attendance	M Boardman, S Bushor (phone)

I. Agenda

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

II. Chair's Report

A Montroll	Welcome to new Commissioners

III. Director's Report

D White	Update/recommendation on M. Boardman zoning amendment request. Update on STR "conversion" data requested by E Lee. On vacation week of Aug 9 and 16

IV. Public Forum

Name(s)	Comment
M Boardman	Seeking Commission's Ordinance Committee to consider his request for greater flexibility with regard to the design standards regarding garages. B Baker moved Y Bradley seconded to send to Ordinance Committee. Unanimous

V. Public Hearing: Proposed CDO Amendment ZA-21-07 Heights, Dormers & Eaves

Action: Approve changes to proposed amendment, re-approve Municipal Bylaw Amendment Report, and refer to Council with recommendation		
Motion by: Y Bradley	Second by: A Friend	Vote: Approved Unanimously
Type: Public Hearing, Action	Presented by: D White	
The Chair opened the public hearing at 6:55pm and closed it at 7:00 pm with the following comments. Public Comments: • none		

VI. Public Hearing: Proposed CDO Amendment ZA-21-08 Act 179 Changes

Action: Approve Municipal Bylaw Amendment Report and refer to Council with recommendation for adoption in order to comply recent statutory changes.		
Motion by: A. Friend	Second by: B Baker	Vote: Approved Unanimously

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.

Type: Public Hearing, Action	Presented by: D White

The Chair opened the public hearing at 7:07pm and closed it at 7:10 pm with the following comments.
Public Comments:

- S Bushor: BTV has different challenges that the rest of the state and the change to the number of bedrooms and adult occupants puts neighborhoods near the university at greater risk to conversion to investment property rather than families. Up to 8 adult occupants allowed in the two units.

Commissioner Comments:

- M Gaughan: Is there an opportunity to create incentives for the types of ADU's we want instead of adding restrictions?
- A Friend moved, B Baker seconded: refer to Ordinance Committee. Unanimous

VII. Public Hearing: Proposed CDO Amendment ZA-21-09 Updates & Corrections to Article 14

Action: Approve Municipal Bylaw Amendment Report and refer to Council with recommendation.		
Motion by: M. Gaughan	Second by: B. Martin	Vote: Approved Unanimously
Type: Public Hearing, Action	Presented by: D White	

The Chair opened the public hearing at 7:37pm and closed it at 7:38 pm with the following comments.
Public Comments:

- none

Commissioner Comments:

- Y Bradley: Need to be careful about how much we require to be Shopfront as the market is simply not there now
- A Montroll: Proposal is applicable only to new street segments where mall redevelopment is planned and street activation is most important.
- M. Gaughan: Understands that a "Shopfront" does not prescribe a use so a residential lobby would also be acceptable

VIII. Annual Organizational Meeting

The Commission elected a chair, vice chair, and clerk for FY22 and appointed members to its Committees. All elections were unanimous

Role	Member
Chair	A Montroll (Y Bradley nominator, A Friend)
Vice Chair	B Baker (Y Bradley nominator)
Clerk	Meagan Tuttle
Executive Committee At-Large Member	Y Bradley (M Gaughan nominator)
Long Range Committee Members	M Gaughan, B Martin, A Friend, R Crehan (CB), name (DRB)
Ordinance Committee Members	E Lee, B Baker, Y Bradley, J White (DAB), name (DRB)

IX. Commissioner Items

- Next Meetings are on Aug 10 and August 24 at 6:30pm.
- Cancel Aug 10

X. Minutes and Communications

Action: Approve the minutes and accept the communications		
Motion by: M Gaughan	Second by: A Friend	Approved Unanimously

Minutes Approved: July 13, 2021
Communications Filed:

- Enclosed in agenda packet, and additional communications posted online

XI. Adjourn

Adjournment	Time: 8:07pm	
Motion: B Baker	Second: A Friend	Vote: Approved Unanimously

Signed: September 17, 2021

Andy Montroll, Chair

Respectfully submitted by:

David E. White, Director