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
Emily Lee
Harris Roen
Jennifer Wallace-Brodeur

Burlington Planning Commission

Tuesday, April 9, 2019, 6:30 P.M.

City Hall, Conference Room 12, 149 Church Street

AGENDA

I. Agenda

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

III. Chair Report

IV. Director's Report

V. Proposed CDO Amendment: Zoning Adminstrative Officer *(5 min)*

The Commission review a proposed amendment to the *Burlington Comprehensive Development Ordinance* to remove the Planning Director as the ex-officio Zoning Administrative Officer. Information related to this item is included in the agenda packet on pages 2-3.

Staff Recommendation: Staff recommends the Commission approve the municipal bylaw amendment report and warn the amendment for public hearing.

VI. Proposed CDO Amendment: Inclusionary Zoning Updates

The Commission will continue discussing a series of proposed amendments to the *Burlington Comprehensive Development Ordinance* regarding updates to the Inclusionary Zoning (IZ) requirements.

Background on the IZ review process and recommendations can be found online at: www.burlingtonvt.gov/CEDO/IZ. Discussion materials related to this item are included in the agenda packet on pages 4-25.

Staff Recommendation: No action expected. The Commission is invited to offer comments and ask questions as part of an ongoing discussion of this item.

VII. Committee Reports

VIII. Commissioner Items

a. Next meeting is Tuesday, April 23, 2019

IX. Minutes & Communications

a. Minutes from March 26, 2019 are enclosed in the agenda packet on pages 26-28.

X. Adjourn

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

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Meagan Tuttle, AICP, Comprehensive Planner
Jay Appleton, GIS Manager
Scott Gustin, AICP, CFM, Principal Planner
Mary O'Neil, AICP, Principal Planner
Ryan Morrison, Assistant Planner
Shaleigh Draper, Zoning Clerk
Layne Darfler, Planning Technician

TO: Burlington Planning Commission
FROM: Scott Gustin, Principal Planner
DATE: April 9, 2019
RE: CDO Amendment ZA-19-09: Zoning Administrative Officer

Overview & Background

In anticipation of the Planning & Zoning Department restructuring associated with the City's permit reform effort, the City Attorney has recommended that Sec. 2.3.2, *Appointment*, of the *CDO* be amended to disjoin the director of planning and zoning position from that of the zoning administrative officer. At their October 4, 2018 meeting, the Ordinance Committee concurred with the recommendation.

Proposed Amendment

Amendment Type

Text Amendment	Map Amendment	Text & Map Amendment

Purpose Statement

The purpose of this proposed amendment is to disjoin the director of planning and zoning from the zoning administrative officer within the Burlington Comprehensive Development Ordinance.

Proposed Amendments

To achieve the goals identified above, the proposed amendment affects the following sections of the *Burlington Comprehensive Development Ordinance*:

Sec. 2.3.2 Appointment

The ~~director of planning and zoning shall serve, ex officio, as the~~ city's zoning administrative officer (ZAO or administrative officer), ~~and upon the recommendation of the planning commission~~ shall be appointed by the mayor with approval of the majority of the full city council ~~legislative body~~ for a term of up to three years. ~~The ZAO may be removed for cause at any time by the legislative body after consultation with the planning commission.~~

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).

Compatibility with Proposed Future Land Use & Density

The proposed amendment has no impact on the proposed future land use and density goals contained within planBTV (the City's Municipal Development Plan).

The programs and services of the City of Burlington are accessible to people with disabilities. For accessibility information call 865-7188 (for TTY users 865-7142).

Impact on Safe & Affordable Housing

The proposed amendment has no impact on the provision of safe and affordable housing.

Planned Community Facilities

The proposed amendment has no impact on planned community facilities.

Process Overview

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

<table>
<tr><th colspan="5">Planning Commission Process</th></tr>
<tr><td rowspan="2">Draft Amendment prepared by: Staff</td><td rowspan="2">Presentation to & discussion by Commission 4/9/2019</td><td rowspan="2">Approve for Public Hearing</td><td rowspan="2">Public Hearing</td><td>Approve & forward 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 Committee discussion</td><td rowspan="2">Ordinance Cmte recommends to Council [as is / with changes]</td><td rowspan="2">Second Read & Public Hearing</td><td>Approval & Adoption</td></tr>
<tr><td>Rejected</td></tr>
</table>

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Layne Darfler, Planning Technician

TO: Burlington Planning Commission
FROM: Scott Gustin, Principal Planner
DATE: April 9, 2019
RE: CDO Amendment ZA-19-XX: Inclusionary Zoning

Overview & Background

This amendment revises the standards for inclusionary housing in Article 9 and related provisions in other articles of the *Comprehensive Development Ordinance* (CDO). The amendment adjusts the sale price of inclusionary units from 75% of Area Median Income (AMI) to 70% of AMI and replaces square footage provisions for inclusionary units with a percentage (90%) relative to the average size of market rate units. The amendment also facilitates utilization of off-site and payment in lieu options for inclusionary units in more inclusive areas of the city while limiting their utilization in less inclusive areas of the city. The amendment articulates inclusionary standards of off-campus student housing. Furthermore, the amendment specifies by-right development "bonuses" associated with inclusionary housing and eliminates impact fee and minimum off-street parking requirements. Lastly, the amendment includes a number of procedural clarifications.

Significant process precedes this amendment. The 2015 Housing Action Plan identified the need to review the inclusionary zoning standards. A private consultant provided an initial report evaluating the inclusionary zoning standards in 2017. The report contained some initial recommendations. The inclusionary zoning working group was then established to build on the consultant's report with a focus on greater inclusion with consideration given to geographic distinctions within the city (i.e. more versus less inclusive areas). Finally, in 2018, the joint committee (Ordinance and CDNR) was established to specifically address each of the recommendations of the inclusionary zoning working group. The City Council adopted the final report of the joint committee in December 2018. The Planning Commission is now tasked with amending the inclusionary zoning language in the CDO to incorporate the recommendations of the joint committee.

Proposed Amendment

Amendment Type

Text Amendment	Map Amendment	Text & Map Amendment

Purpose Statement

The purpose of this amendment is to make corrections to the *Comprehensive Development Ordinance* consistent with the list of recommendations forwarded to the Planning Commission by the City Council's joint Ordinance & CDNR Committee.

- Recommendation 1- *Reduce payment for in lieu for smaller projects.* See changes to Sec. 9.1.13.

- Recommendation 2- *Replace numerical standards for minimum IZ unit requirements with a 90% of market rate unit size standard.* See changes to Sec. 9.1.14.
- Recommendation 3- *Transfer IZ administration from Housing Trust Fund manager to new Permitting & Inspections Department.* See changes to Sec. 9.1.20.
- Recommendations 4 & 4.1- *Make density and dimensional bonuses by right.* See changes to Sec. 9.1.12 and 4.4.5.
- Recommendations 4.2 & 4.3- *Eliminate minimum off-street parking and impact fee requirements for IZ units.* See changes to Sec. 3.3.3 & 8.1.8.
- Recommendations 5 & 5.1- *Allow for payment in lieu option based on HUD AMI and restructure payments based on project size.* See changes to Sec. 9.1.13.
- Recommendations 6 & 6.1- *Allow for off-site option by right based on HUD AMI and remove 1.5-unit multiplier.* See changes to Sec. 9.1.13.
- Recommendation 7- *Adjust sale price for owner-occupied IZ units from 75% AMI to 70% AMI.* See changes to Sec. 9.1.11.
- Recommendations 10 & 10.1- *Maintain the current IZ target rent price of 65% AMI, and maintain the current income eligibility level of up to 100% AMI.* See Sec. 9.1.11 and 9.1.10.
- Recommendation 12- *Develop ordinance language for meeting IZ requirements for institutional student housing projects outside of the institutional zones.* See changes to Sec. 9.1.19.

Further, this amendment incorporates a number of changes to address procedural and administrative issues forward by City Staff regarding this section of the *CDO*:

- *Required number of units – rounding.* See Sec. 9.1.9.
- *Distribution of units within a building/project*- See Sec. 9.1.14.
- *Unit sales (preference)*- See Sec. 9.1.14.
- *Unit marketing (initial or ongoing; first or every resale)*- See Sec. 9.1.16.
- *Rents and Section 8 vouchers*- See Sec. 9.1.10 & 9.1.11.
- *Housing Trust Fund manager involvement in prices for resale of units*- See Sec. 9.1.16.

Proposed Amendments

To achieve the goals identified above, the proposed amendment affects the sections of the *Burlington Comprehensive Development Ordinance* as outlined in the following pages.

[BEGIN TEXT AMENDMENTS]

Draft v2.0_updated for 4-9-2019 meeting

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

ARTICLE 3. APPLICATIONS, PERMITS, AND PROJECT REVIEWS

PART 3: IMPACT FEES

Sec. 3.3.1 Purpose

As written.

Sec. 3.3.2 Applicability

As written.

Sec. 3.3.3 Exemptions and Waivers

(a) Exemptions:

The following types of development are exempt from this Part:

1. additions to existing dwelling units, provided such additions are for residential purposes;
2. alterations to an existing use provided that such alteration occurs entirely within an existing building and within the same square footage;
3. land development which does not result in new building square footage (e.g. parking lots, facade renovations, signs, etc.);
4. additions to existing buildings for which the sole purpose is to provide additional means of egress (e.g. stair towers, elevators, etc).

(b) School Impact Fee Exemption:

That portion of impact fees attributable to school impacts shall not be required for senior citizen housing projects or for that portion of a project where certain units are reserved specifically for the elderly. Any project, or portion thereof, which meets either state or federal guidelines for elderly housing, shall be deemed a senior citizen housing project and eligible for a full or partial waiver of school impact fees.

(c) Inclusionary Housing Exemption:

Inclusionary housing units per Article 9: Part 1 shall be exempt from this Part.

(~~c~~)(d) Affordable Housing Waivers:

Any residential project containing newly constructed units or substantially rehabilitated housing units that are affordable for households as described in subsections (1), (2) or (3) below ~~are eligible~~ qualifies for a waiver of impact fees for that portion of the project containing affordable housing units in excess of the minimum inclusionary housing requirements of Article 9. The terms, rules, and regulations used herein shall be the same as those defined and specified in this Ordinance pertaining to Inclusionary Zoning (Article 9). For purposes of determining median income, the income levels specified in Article 9 of this Ordinance, ~~or the most recent amendment thereto,~~ shall be applicable.

1. 25% Waiver of Fees: Twenty-five percent (25%) of the fees will be waived for ~~any~~ qualifying units in a project that initially sells for a price that is affordable for households below 90% of median income or that initially rents for a three year

period for a price (including utilities) that is affordable for households below 75% of median income.

2. 50% Waiver of Fees: Fifty percent (50%) of the fees will be waived for ~~that portion of a residential~~ qualifying units in a project that meet~~s~~ the dual test of initial affordability and continuing affordability. For the purposes of this section, "initial affordability" would be defined as a unit that sells for a price that is affordable for households earning less than 75% of median income or that rents for a price (including utilities) that is affordable for households earning below 65% of median. "Continuing affordability" would be defined as affordability that lasts for a period of 99 years.

3. 100% Waiver of Fees: One hundred percent (100%) of the fees will be waived for that ~~portion of a residential~~ qualifying units in a project that initially sell~~s~~ or rent~~s~~ for a price that is affordable for households earning less than 50% of median income and that remain~~s~~ continually affordable as defined above.

(~~d~~)(e)Community Garden Waivers:

As written.

ARTICLE 4. ZONING MAPS AND DISTRICTS
PART 4: BASE ZONING DISTRICT REGULATIONS

Sec. 4.1.1 Intent – Sec 4.4.4 Institutional District

As written.

Sec. 4.4.5 Residential Districts

(a) – (c) As written.

(d) District Specific Regulations:

1 - 6 As written.

7. Residential Development Bonuses

The following exceptions to maximum allowable residential density and dimensional standards in Tables 4.4.5-2 and 4.4.5-3 may be approved in any combination subject to the maximum limits set forth in Table 4.4.5-8 at the discretion of the DRB. Any bonuses that are given pursuant to this ordinance now or in the future shall be regarded as an exception to the limits otherwise applicable.

~~**A. Inclusionary Housing Requirement.**~~

~~Inclusionary Housing units shall be provided, with applicable additional lot coverage and density allowances, in accordance with the provisions of Article 9, Part 1. A maximum of an additional 10-feet of building height may be permitted for an additional 5% inclusionary housing units provided in excess of the requirements of Article 9, Part 1. The total gross floor area dedicated to the additional inclusionary housing shall be equivalent to the gross floor area resulting from the additional allowance.~~

~~Additional lot coverage and residential densities allowances shall not exceed the following:~~

~~Table 4.4.5-4: Inclusionary Housing Allowances~~

~~District~~	~~Maximum Coverage~~	~~Maximum Density~~
~~RL/RL-W~~	~~44%~~	~~8.75 du/ac~~
~~RM~~	~~48%~~	~~25 du/ac~~
~~RM-W~~	~~72%~~	~~25 du/ac~~
~~RH~~	~~92%~~	~~46 du/ac~~

B. – E. As written (except for re-lettered following deletion of A).

ARTICLE 8. PARKING

PART 1: GENERAL REQUIREMENTS

Sec. 8.1.1 – 8.1.7 As written.

Sec. 8.1.8 Minimum Off-Street Parking Requirements

Parking for all uses and structures shall be provided in accordance with Table 8.1.8-1.

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

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

Table 8.1.8-1 Minimum Off-Street Parking Requirements

	Neighborhood Districts	Shared Use Districts	Downtown Districts
RESIDENTIAL USES[1]	**Per Dwelling Unit except as noted**		
Multi-unit attached dwelling units, studio units or 1-bedroom dwelling unit.	2	1	1
Single Family detached and Duplex	2	2	1
1. Inclusionary housing units shall have no minimum off-street parking requirement.			
RESIDENTIAL USES – SPECIAL[1]	**Per Dwelling Unit except as noted**		
Assisted Living	0.5	0.5	0.4
Bed and Breakfast (per room, in addition to single-family residence)	1	0.75	0.5
Boarding House (per two (2) beds)	1	0.75	0.5
Community House	1	0.75	0.5
Convalescent Home (per four (4) beds)	1	1	1
Dormitory (per two (2) beds)	1	1	1
Emergency Shelter	0	0	0
Group Home (per two (2) beds)	1	1	1

Table 8.1.8-1 Minimum Off-Street Parking Requirements			
	Neighborhood Districts	**Shared Use Districts**	**Downtown Districts**
Historic Inn (per room, in addition to single-family residence)	1	0.75	0.5
Sorority & Fraternity (per two (2) beds)	1	1	1
1. Inclusionary housing units shall have no minimum off-street parking requirement.			
NON-RESIDENTIAL USES	**Per 1,000 square feet of gross floor area (gfa) except as noted**		
As written.			

Sec. 8.1.9 – 8.1.5 As written.

ARTICLE 9. INCLUSIONARY AND REPLACEMENT HOUSING

PART 1: INCLUSIONARY ZONING

Sec. 9.1.1 Intent

The intent of these regulations is:

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

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

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

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

Sec. 9.1.2 Authority

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

Sec. 9.1.3 Inclusionary Units, General Description

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

(a) Selling price or rent level;

(b) Marketing and initial occupancy; and,

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

Sec. 9.1.4 Miscellaneous Definitions

~~**"Affordable housing" or**~~ **"Affordable"** shall refer to a housing in which the ~~that is owned or rented by its inhabitants whose gross annual household income does not exceed 80 percent of the county median income or 80 percent of the standard metropolitan statistical area (MSA)~~

~~income, as defined by the US Department of Housing and Urban Development, and the~~ total cost of the housing, including principal, interest taxes and insurance and condominium association fees, if owned housing, or the total cost of the housing, including rent, utilities and condominium association fees, if rental housing, is not more than thirty per cent (30%) of the household's gross annual income.

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

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

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

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

- **"Housing Trust Fund Administrative Committee"** shall refer to an administrative committee consisting of the Manager of the Housing Trust Fund, an appointee of the City Council President and a designee of the Mayor responsible for the administration of the HTF by resolution of the City Council.
- **"Manager of the Housing Trust Fund" or "Manager"** shall be the Director of the City's Community and Economic Development Office, unless otherwise designated by the City Council by resolution.

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

Sec. 9.1.5 Applicability

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

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

(a) The creation of five (5) or more residential units or twenty (20) or more rooming units in a co-living project through new construction and/or substantial rehabilitation of existing structures, including the development of housing units utilizing development provisions other than those specified in Sec 9.1.5 (b).

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

(c) An applicant may elect to be subject to the provisions of this article if new units are added to existing units for a total of 5 or more units.

Sec. 9.1.6 Exemptions

Exempt from the requirements of this article are:

(a) Projects that are located within an Institutional (I) zoning district that are ~~developed by an educational institution~~ for the exclusive residential use and occupancy by that institution's students;

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

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

Sec. 9.1.7 Certificate of Inclusionary Housing Compliance

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

Sec. 9.1.8 Inclusionary Units, Rental and Sales

For covered projects in which units are offered for rent or sale, a base of fifteen percent (15%) of all of the dwelling units in the project, graduated as specified in Table 9.1.9-1, shall be designated as inclusionary units

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

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

Sec. 9.1.9 Percentage of Inclusionary Units

Except as provided for below for institutional student housing projects outside of an Institutional (I) zoning district, ~~A~~all covered projects shall meet the percentage requirements for inclusionary units as specified above, calculated as follows:

Using the units/acre allowed for a covered project (i.e. 46 in the RH, 24 in the RM or 5.5 in the RL), the total number of units proposed is multiplied by the required percentage of Inclusionary units (15%, 20% or 25%, depending on the rent/selling price of the units). When the calculation yields a fractional number of required inclusionary units, the number of units shall be rounded up or down to the nearest whole number.

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

Student housing projects outside of the Institutional (I) zoning district for the exclusive residential use and occupancy by that institution's students shall meet the percentage requirements for inclusionary units by documenting that 15% or more of the undergraduate student body eligible for occupancy of the project falls under 65% Area Median Income on a yearly basis. An annual report shall be filed with the Manager of the Housing Trust Fund demonstrating that the undergraduate student population continues to meet the 15% inclusionary requirement and also including the percentage of residents within the project qualifying under the standards for inclusionary housing. In cases where the 15% inclusionary requirement cannot be met, the percentage requirements for inclusionary units shall be met as noted above. A written covenant between the educational institution and the City shall be executed guaranteeing that, in the event that the institutional student housing project ceases to be used as such, the percentage requirements for inclusionary units shall be met as noted above.

Sec. 9.1.10 Income Eligibility

Inclusionary Units required under this Article, shall be marketed for purchase or rent to households earning less than the median income for the Burlington Metropolitan Statistical Area, adjusted for household size, as specified in Sec 9.1.12. The median income shall be determined on the basis of the data which is most recent to the time that the units are ready for occupancy. Inclusionary units occupied by households receiving Section 8 vouchers can be presumed to satisfy the income eligibility requirements of this section.

Sec. 9.1.11 Calculating Rents and Selling Prices

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

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

(b) Inclusionary units for sale, including cooperative units and the carrying costs associated therewith, shall be sold at a price which is affordable for a household with an annual income that is seventy~~-five~~ percent (705~~5~~%) of median income adjusted for household size;

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

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

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

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

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

(f) Annual property taxes; and

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

Sec. 9.1.12 Additional Density and Other Development Allowances

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

(a) Any covered project shall be entitled by right to an increase in the maximum lot coverage, density/intensity, and, where applicable, height allowed for the ~~site~~ lot(s) on which the project is located ~~following the calculation of density, height, lot coverage, setbacks, and parking improvements for the site~~. Calculations for these entitlements shall be based on the following table~~s~~:

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

1. In the residential zones an additional 10 feet of building height shall be allowed by right only for an additional 5% inclusionary housing units provided in excess of the minimum requirements of Sec. 9.1.8.

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

(1) Design requirements for Additional density, intensity, and/or height:

i. There are a number of ways that building shape, articulations, and choice of materials can be used to reduce the perceived height and mass of buildings, and ensure a high quality of design that complements the character of a project's surrounding area. After consultation with the Design Advisory Board, the Development Review Board shall evaluate any proposal seeking to increase units per acre, lot coverage, and height per the following design criteria:

i. The proposed building presents a design that emphasizes slender, vertically-oriented proportions to assure a rich visually interesting experience as viewed within the context of the downtown skyline; reinforces opportunities for establishing points of reference for visual orientation; and, provides visual interest and human scale at the pedestrian level through the use of a variety of scales, materials, fenestration, massing, or other architectural design techniques.

ii. Step backs, horizontal and vertical variation, selection of materials, and/or other architectural design techniques are used to reinforce the

street wal, create transitions from buildings of a smaller mass and height, and reduce the perceived height and mass of upper stories from the street level; and,

iii. *Upper story proportions of the building are oriented and tapered and/or separated into separate masses in order to retain sky view between individual building elements from the public thoroughfare.*

ii. The DRB may condition the approval of additional units per acre, lot coverage, and height by reducing the building(s') massing or requiring alterations to design features, but in no case shall the maximum number of units, lot coverage, or height be reduced.

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

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

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

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

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

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

Sec. 9.1.13 Off-Site and Payment In Lieu Options

(a) Off-Site Option

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

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

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

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

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

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

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

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

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

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

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

(b) Payment In-Lieu Option

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

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

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

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

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

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

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

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

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

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

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

Sec. 9.1.14 General Requirements for Inclusionary Units

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

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

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

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

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

1. These differences, excluding differences related to size differentials, are not apparent in the general exterior appearance of the project's units; and
2. These differences do not include insulation, windows, heating systems, and other improvements related to the energy efficiency of the project's units; and

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

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

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

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

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

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

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

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

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

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

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

Sec. 9.1.15 Marketing of Inclusionary Units

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

(a) Trust Fund Notification.

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

(b) Trust Fund Option.

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

(c) Trust Fund Waiver.

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

(d) Time of Closing.

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

(e) Transfer of Option.

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

(f) Rentals.

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

Sec. 9.1.16 Continued Affordability Requirements

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

(a) 99-Year Requirement.

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

(b) Deed Restrictions.

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

(c) Resale Restrictions.

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

(d) Rent Increases

Provisions for continued affordability of inclusionary rental units shall limit annual rent increases to the percentage increase in the median household income within the Burlington Metropolitan Statistical Area (MSA), except to the extent that further increases are made necessary by hardship or other unusual conditions, and shall provide that no rent increase may take effect until it has received the approval of the Housing Trust Fund Administrative Committee in writing;

(e) Purchase Option

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

(f) Sublet Restrictions.

Provisions for continued affordability of inclusionary units shall prohibit subletting rental units for a price exceeding that which is affordable for a household with an annual income that is seventy~~-five~~ percent (70~~5~~%) of median for the County or the City, whichever is less,

consistent with the relationship between unit size and household size set forth in Section 9.1.11.

Sec. 9.1.17 Review of Proposal for Phasing

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

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

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

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

Sec. 9.1.19 Enforcement

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

Sec. 9.1.20 Administration

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

[END TEXT AMENDMENTS]

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).

Compatibility with Proposed Future Land Use & Density

This amendment is aimed purely at housing affordability and has little, if any, impact on the proposed future land use and densities proposed in the *Municipal Development Plan (planBTV).*

Impact on Safe & Affordable Housing

This amendment is aimed at improving the city's inclusionary housing standards and procedures with greater flexibility and geographic sensitivity in meeting inclusionary housing requirements consistent with the policies regarding affordable housing articulated in the *Municipal Development Plan (planBTV).*

Planned Community Facilities

This amendment is not expected to have an impact on any planned community facilities.

Process Overview

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

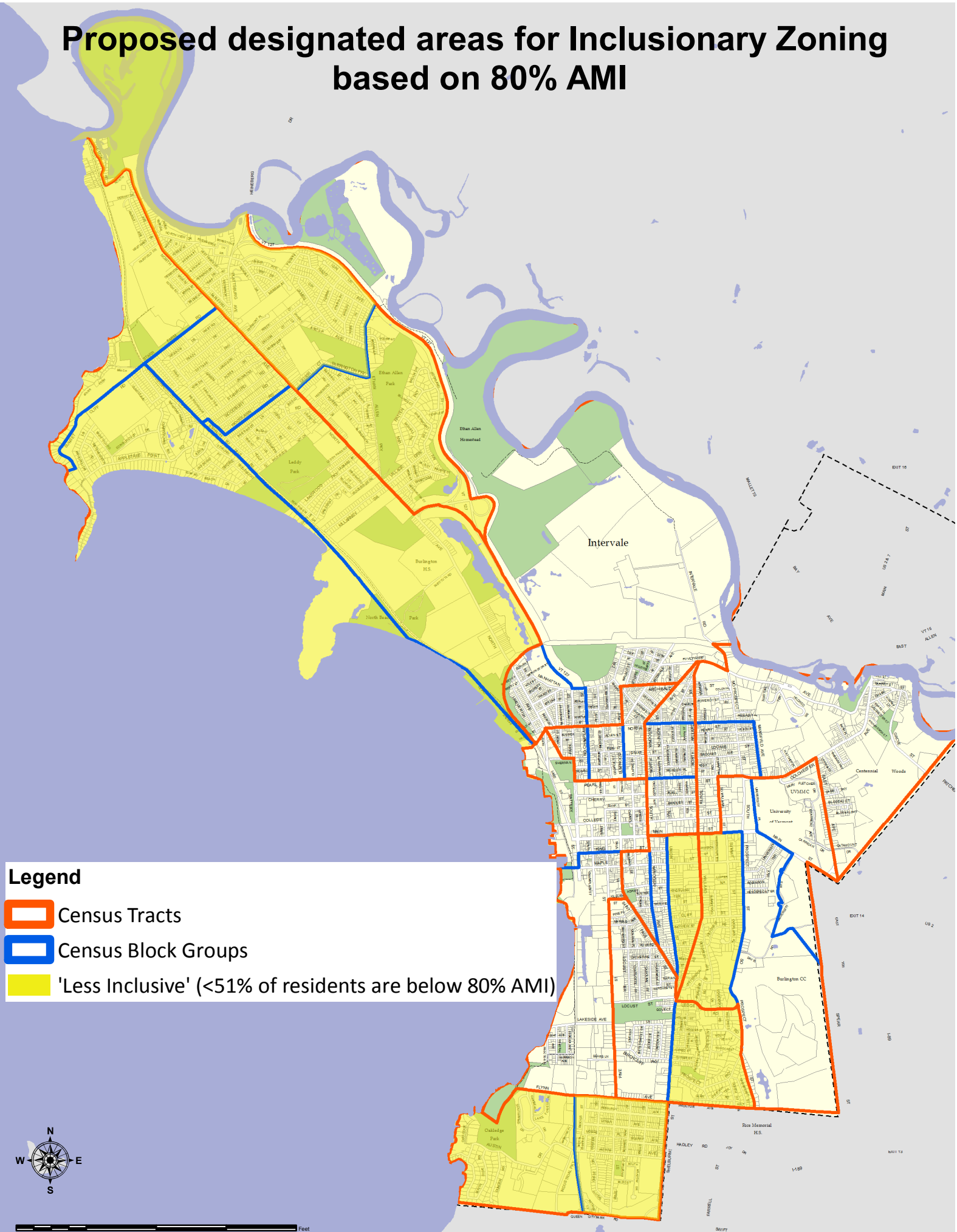
<table>
<tr><th colspan="5">Planning Commission Process</th></tr>
<tr><td rowspan="2">Draft Amendment prepared by: Staff, referred by City Council</td><td rowspan="2">Presentation to & discussion by Commission
3/26/2019
4/9/2019</td><td rowspan="2">Approve for Public Hearing</td><td rowspan="2">Public Hearing</td><td>Approve & forward 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 Committee discussion</td><td rowspan="2">Ordinance Cmte recommends to Council [as is / with changes]</td><td rowspan="2">Second Read & Public Hearing</td><td>Approval & Adoption</td></tr>
<tr><td>Rejected</td></tr>
</table>

Joint Ordinance and CDNR Committee Recommendations Summary Re: Inclusionary Zoning (IZ) 12/12/18				
#	IZ Working Group Recommendation (does not contain consultant recommendation)	Description	Ordinance Change Required?	IZ Joint Committee Recommendation
#1	**Maintain Development Threshold**	Maintain threshold for IZ applicability at 5 units; instead reduce payment in lieu for smaller projects (see #5.1).	No	Support IZWG recommendation as is.
#2	**Reduce IZ unit size restrictions, maintain comparability in all other aspects**	Reduce numerical minimum area for apartments AND allow an IZ unit to be as small as smallest unit in project.	Yes	Eliminate numerical standards for minimum area and replace with a requirement that IZ units be comparable to market rate units with a floor area no less than 90% of the average market rate units within the project of the same number of bedrooms.
#2.1		Reduce IZ unit minimum size for a bedroom to 100 sf.	Yes	Per above #2, eliminate numerical standards for minimum area.
#3	**Monitoring**	Ongoing efforts: IZ Inventory, Marketing IZ rental units, Training on IZ regulations, initial occupancy monitoring.	Yes	For the benefit of both the applicant and the administrator, IZ administration and monitoring should be transferred from the Housing Trust Fund (HTF) and its Manager to the new consolidated permitting and inspections department. This can be achieved by changing CDO Article 9.1.20 to allow the HTF and its Manager to designate this responsibility.
#4	**Provide Density bonuses by right**	Existing allowance (CDO Article 9.1.12) in the IZ ordinance for increased density must contain language to prevent DRB from limiting its use, making it by-right.	Yes	Add a qualification to Section 9.1.12 of the Inclusionary and Replacement Housing Ordinance to ensure the provision of the density allowance by-right, but still ensure opportunity for the DRB/DAB to seek other modifications to a project to address site and architecture design standards. This can be based on Section 14.6.4 of the planBTV Downtown Code.
#4.1		Density bonus in CDO Article 4.4.5 should be reviewed and if meaningful made by-right.	Yes	Support IZWG recommendation as is.
#4.2		Eliminate parking requirement for IZ units.	Yes	Support IZWG recommendation as is.
#4.3		IZ units should receive 100% waiver of fees (CDO Article 3.3.3).	Yes	Support IZWG recommendation as is.

Joint Ordinance and CDNR Committee Recommendations Summary Re: Inclusionary Zoning (IZ) 12/12/18				
#	IZ Working Group Recommendation (does not contain consultant recommendation)	Description	Ordinance Change Required?	IZ Joint Committee Recommendation
#5	**Lower the Payment in Lieu Fee- make payment correspond to scale of project and geography of inclusion**	Proposed that in census block groups where less than 51% of the residents are below 80% HUD Area Median Income ('less inclusive' areas) Payment in Lieu not be allowed at certain project scales (see #5.1) because these areas are in need of more inclusion. See attached map.	Yes	Support IZWG recommendation as is.
#5.1		(5- 16 units) $35,000 / unit - allowed citywide except waterfront (17-49 units) $70,000 / unit - not allowed in 'less inclusive' areas or waterfront (50+ units) $85,000 / unit - not allowed in 'less inclusive' areas or waterfront	Yes	Support IZWG recommendation for the payment in lieu fee structure but apply a marginal fee approach: Using the same fees ($35k/$75k/$85k) and bands (5-16/17-49 /50+) as proposed, step up the fees for the marginal units above the last threshold. For example, under this method, a 17-unit project would pay a total of $140,000 ($35,000 for each of the first two IZ units and $70,000 for the third), rather than $210,000 ($70,000 for all three units).
#6	**Offer a less restrictive off-site option**	IZ units should be allowed off-site by-right if the project is located in a designated area based on (#5.1).	Yes	Support IZWG recommendation as is.
#6.1		Remove 1.5 unit multiplier for IZ units required when exercising the off-site option which also applies to Payment in Lieu in order to clarify and simplify.	Yes	Support IZWG recommendation as is.
#7	**Adjust the sale price for owner-occupied units from 75% of AMI to 70% of AMI**	Reducing the price for IZ homeownership units would allow them to be more competitive with the market rate condo stock outside of Burlington that is similarly priced but has no shared equity restrictions on sale of unit.	Yes	Support IZWG recommendation as is.
#8	**Craft a funding plan that relies on local resources to boost production of affordable housing**	Coordinate with other housing initiatives including Housing Action Plan.	No	Referred to CDNR.
#9	**Achieve support for an affordable housing levy or bond from city voters**	Return the HTF levy to a full penny of the property tax. Consider housing bond potential.	No	Referred to CDNR.

Joint Ordinance and CDNR Committee Recommendations Summary Re: Inclusionary Zoning (IZ) 12/12/18				
#	IZ Working Group Recommendation (does not contain consultant recommendation)	Description	Ordinance Change Required?	IZ Joint Committee Recommendation
#10	**Maintain IZ rent target at 65% of AMI, reduce income eligibility threshold from 100% AMI to 80% AMI**	Keep the current IZ rent target price at 65% of AMI.	Yes	Support IZWG recommendation as is.
#10.1		Reduce the upper income eligibility for those who can qualify to rent an IZ unit to 80% AMI.	No	Maintain at the current 100% AMI upper income eligibility level.
#11	**Contribute levy resources to inclusionary homeownership**	PiL funds as well as any other new funding sources could be used for down payment assistance as part of a shared equity housing program in areas that lack inclusion.	No	Referred to CDNR.
#12	**Establish a per bed fee for purpose built college student housing that's not exempt from IZ**	Currently projects within an Institutional (I) zoning district developed by an educational institution for the exclusive residential use and occupancy by that institution's students are exempt from IZ. Establish a per bed fee as an alternative to the IZ unit requirement in cases where a development is built expressly as student housing (public or private), and rented to students, but not exempt under the current ordinance.	Yes	Develop ordinance language based on the terms that Champlain College met to satisfy the IZ requirement for the 194 Saint Paul project that included demonstrating that over 15% of the undergraduate population fall under 65% AMI on a yearly basis and a covenant to ensure compliance with article 9 in the unlikely event that the property ceases to be used for dedicated student housing. In cases where this standard cannot be met, the IZ requirement must be met on-site.
#13	**Identify and address factors that limit the creation and utilization of accessory units**	City Housing Action Plan - Review of Accessory Dwelling Units in progress.	No	Referred to CDNR.
	OTHER RECOMMENDATIONS OF THE IZWG PERTAINING TO INCLUSION			
#14	**Parking**	General parking reform efforts should include making on-site parking requirement based on the number of bedrooms rather than the number of units.	No	Referred to CDNR.
#14.1		Encourage developers to un bundle cost of parking from rent.	No	Referred to CDNR.
#15	**Infill Development**	PlanBTV: Comprehensive Plan update is in progress.	No	Referred to CDNR.
#16	**Income Standards**	the HUD AMI includes several counties and is not representative of Burlington, consider alternative standards.	No	The Joint Committee determined that HUD AMI should continue to be the income standard.

Proposed designated areas for Inclusionary Zoning based on 80% AMI



Source: HUD - ACS 5 yr 2006 - 2010 low mod income summary data

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
Emily Lee
Harris Roen
Jennifer Wallace-Brodeur

Burlington Planning Commission

Tuesday, March 26, 2019, 6:30 P.M.

Conference Room 12, City Hall, 149 Church Street

Draft Minutes

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

I. Agenda

Call to Order	Time: 6:35pm
Agenda	Approved As Is

II. Public Forum

Name	Comment	Commission Action
Sharon Bushor	City Council adopted the update to planBTV on 3/25. Would like to acknowledge and express appreciation for the work done by Planning staff and the commission. Very responsive to comments and edits suggested by the public and council.	
Barbara Headrick	Shared a communication regarding concerns for the update to the Joint Institutional Parking Management Plan, specifically how the parking deficit will affect residential streets surrounding the campus.	

III. Report of the Chair

A Montroll	• Would like to acknowledge the work done by the commission, and specifically M Tuttle. The organization and readability of the new document is a great improvement. The amount of work to be done within a year timeline, and the ability to remain on schedule, reflects well on the process and M Tuttle.

IV. Report of the Director

D White	• Agree with Councilor Bushor and A Montroll, M Tuttle put in tremendous time, effort, and creativity to the update of planBTV. As well as the update of planBTV: South End, that was also adopted by the City Council on 3/25.

V. Joint Institutional Parking Management Plan

Action: Continue discussion for recommendations at a future meeting		
Motion by:	Second by:	Vote:
Type: Presentation & Discussion	Presented by: Sandy Thibault- CATMA, Jonathan Slason -RSG	
Discussion/Notes: The Joint Institutional Parking Management Plan (JIPMP) is updated every five years, with annual reports. Plan shows current parking supply and utilization for institutions, and the projections of future supply and demand. Gives city and institutions the ability to prepare for the anticipated need, and respond to		

the problems identified. CATMA can aid the institutions and the city with long term solutions and plans to address the parking needs, as well as promote alternative modes of transportation. Some changes in projections likely a result of 1) survey methodology is leading to more accurate and complete picture of user behavior, 2) national trend is less transit, more SOV.

- Champlain College: Future parking supply vs. demand- (-135) deficit, but based on College's detailed management and enforcement, don't anticipate this to be a problem.
- University of Vermont: Future parking supply vs. demand- (-783) deficit. Need to work with University and City to determine how to address this.
- University of Vermont Medical Center: Future parking supply vs. demand- +443 surplus.

Comments & Discussion included:

- B Headrick questions survey methods and reliability of the data being used in the study, suggests observation is better method.
- Commissioners expressed concern about number of commuters that live within a 0.5-mile of campus that are driving and thus requiring a parking space on or off campus. Some Commissioners expressed concern that this is leading to significant impact on city streets and adjacent neighborhoods.
- S Gustin indicated that more detailed explanations of how the deficits will be addressed within the plan are necessary for the DRB to approve.
- Commissioners would like to see plans for how to decrease the number of commuters within a 0.5-mile radius driving to campus, including both policy changes at the institutions and on the city side.
- A Montroll requested a staff recommendation for consideration at an upcoming meeting.

VI. Proposed CDO Amendment: Inclusionary Zoning Updates

Action: No Action Required		
Motion by:	Second by:	Vote:
Type: Discussion	Presented by: S Gustin, M Tuttle, T Rawlings	

Discussion/Notes:
On 3/12, Commission received overview of recommendations made by the Joint Committee regarding Inclusionary Zoning. The commission will review begin discussing corresponding ordinance amendments, based on three themes: addressing the "offsets," promoting greater inclusion, and administrative details.

Regarding offsets:

- Address the cost of providing inclusionary units: Article 9 would be amended to exempt inclusionary units from impact fees, and Article 8 to exempt inclusionary units from the minimum off-site parking requirements.
  - The commission raised questions and concerns about removing parking requirements, specifically to ensure there is discrimination that makes parking spaces inaccessible to the inclusionary tenants. Commission asked staff to offer some thoughts on this.
- Make additional density/intensity and height provisions in Articles 4 and 9 by right for inclusionary units. Per staff, the provisions in Article 9 have been administered this way in practice, so this is largely an update to the language. Regarding Article 4 bonus (permits additional 10' height if an additional 5% inclusionary housing units are provided) has only been used once, so question is whether this is considered meaningful to keep. Proposed includes

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placeholder for language for design standards that limit the effect of making building/site modifications so as not to reduce the permitted density/intensity by these sections. • Commissioners would like staff to proposed design standards that would apply in order to determine which are, or are not, applicable at a future meeting.

VII. Proposed CDO Amendment: Zoning Administrative Officer

Action: Deferred to a future meeting due to time		
Motion by:	Second by:	Vote:
Type: Discussion	Presented by:	
Discussion/Notes:		

VIII. Committee Reports

Executive	No Report
Ordinance	No Report
Long Range	No Report

IX. Commissioner Items

Next Meeting	Tuesday, April 9, 2019 @ 6:30pm in Conference Room 12, City Hall
M Tuttle	Thank you to commissioners for participation and assistance in the update to planBTV, with a special thanks to H Roen, A Friend, and A Montroll for exceptional participation throughout the process.

X. Minutes & Communications

Action: Approve Minutes		
Motion by: J Wallace-Brodeur	Second by: A Friend	Vote: Approved Unanimously
Changes to Minutes: Include comments from commissioners on ZA-19-08: Dwelling Unit, concerns of inadvertently grandfathering existing properties that exceed occupancy limits. Minutes approved with this change.		
Action: Accept Communications		
Motion by: H Roen	Second by: A Friend	Vote: Approved Unanimously
Communications Filed: • Email communication regarding the proposed CDO Amendment: Inclusionary Zoning Updates • Communication from a resident regarding the update to the JIPMP		

XI. Adjourn

Adjournment	Time: 8:30pm	
Motion: J Wallace-Brodeur	Second: B Baker	Vote: Approved Unanimously

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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
Emily Lee
Harris Roen
Jennifer Wallace-Brodeur

Burlington Planning Commission

Tuesday, April 9, 2019, 6:30 P.M.

Conference Room 12, City Hall, 149 Church Street

Minutes

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

I. Agenda

Call to Order	Time: 6:35pm
Agenda	Agenda approved as is, but updated handout for item VI was distributed at the meeting.

II. Public Forum

Name	Comment	Commission Action
Barbara Headrick	Shared a document regarding students living off-campus to illustrate the impact on the housing market; suggests promoting more on-campus housing.	

III. Report of the Chair

A Montroll	• No Report

IV. Report of the Director

D White	• Mayor presented the State of the City address last week, identifying a priority to advance proposals related to housing: ADU's, short-term rentals, parking requirements, increase in the Housing Trust Fund, etc. Goal is to have a summit in May, and related draft CDO amendments in the fall. • Many staff from P&Z will be going to the National Planning Conference next week in San Francisco. M Tuttle, D White will be presenting on planBTV as an example of how plans lead to implementation. • S Draper's last meeting. D White and PC thanked her for hard work, wished her well.

V. Proposed CDO Amendment: Zoning Administrative Office

Action: Approve the Municipal Bylaw Amendment Report and warn for public hearing		
Motion by: Y Bradley	Second by: E Lee	Vote: Approved Unanimously
Type: Discussion	Presented by: D White	
Discussion/Notes: • This action is a result of the charter change vote in March 2019, creating the new Department of Permitting and Inspections, and separating Planning to its own department. Currently, the ZAO and the Planning Director are combined into one position. With the new department, the ZAO needs to reside in that department, and separate from the Planning Director.		

- Some Commissioners asked about the implications of voting against this amendment. D White explains that the charter change will become state statue, which would override the City's ordinance. This amendment is to avoid contradicting the charter, and creating confusion. The commission could choose not to vote on the amendment, but eventually the City Council would likely ask for a recommendation and a decision would have to be made.

VI. Proposed CDO Amendment: Inclusionary Zoning Update

Action: No Action Required		
Motion by:	Second by:	Vote:
Type: Presentation & Discussion	Presented by: M Tuttle, S Gustin, T Rawlings	

Discussion/Notes:

- Previous meeting discussed proposed amendments regarding offsets. Staff updated the proposed amendments per commission feedback on parking requirements, and design standards that apply to the additional density/intensity and height provisions.

Parking:

- Discussed including explicit language that ensure parking is an amenity for which equal access is required, and clarify that parking calculation refers to on-site parking.
- A commissioner suggests being more aggressive with changing parking minimums for all housing if the goal is to reduce costs. Staff noted that parking requirements will be reviewed as a whole in the near future, so this addresses parking for IZ until a comprehensive update.

Density/Intensity and Height Provisions

- Regarding Article 4 height bonus a Commissioner proposed increasing the height bonus to 12', in order to promote its use and create more flexibility for design of space. The Commission asked staff to include that adjustment.
- Commissioners discussed whether IZ only applies to 5 or more units, or whether it should be optional for smaller projects as well, especially the opportunity for the bonuses to enable small-scale infill development in neighborhoods where parking and lot coverage requirements may currently be preventing those units from being created. The Commission asked staff to discuss this and provide a recommendation.
- Commissioners felt that the proposed design standards need to be clearly communicate that the DRB cannot condition a project through design changes in a way that would result in a reduction of units. Additionally, requested staff to modify design standards to be more applicable to smaller residential projects outside of the Form Districts.
- A Commissioner suggested avoiding design standards that emphasize materials and colors on the exterior of the building to break up the massing.

Payment-in-Lieu Option:

- A payment-in-lieu option to the Housing Trust Fund is an option to providing inclusionary units on- or off-site. Changes come directly from Council recommendations; payment options vary depending on the location in more or less inclusionary areas of the city and by the number of units being provided. Changes are intended to address smaller projects where it may not be feasible to provide inclusionary units.
- Need to ensure in this section that the language is clear that the payments go to the Housing Trust Fund, intended to promote more inclusion.

Off-Site Option:

- Developers have the option to provide inclusionary units off-site if the new units being created are in an area that currently has more inclusion. Option is not available if units are being created in an area that currently has less inclusion.

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Size and Sale Price of Inclusionary Units: • The amendment replaces a square footage requirement for IZ with a requirement that they are at least 90% of the size of the market rate units. • The sale price of the units decreases from 75% to 70% of median household income. • A commissioner questions the language in section 9.1.14 (f) "Priority of the purchase of for-sale inclusionary units shall be given to the lowest income household who qualifies for purchase." • Commissioners ask to clarify this section to indicate that it is not the only factor considered when deciding who will purchase the unit. After all things are considered, it would then go to the lowest income household.

VII. Committee Reports

Executive	No Report
Ordinance	Ordinance changes to be forwarded to the Planning Commission coming soon.
Long Range	No Report

VIII. Commissioner Items

Next Meeting	Tuesday, April 23, 2019 @ 6:30pm in Conference Room 12, City Hall

IX. Minutes & Communications

Action: Approve Minutes & Accept Communications		
Motion by: Y Bradley	Second by: B Baker	Vote: Approved Unanimously
Changes to Minutes: N/A		
Communications Filed: • Communication from B Headrick regarding off-campus student housing		

X. Adjourn

Adjournment	Time: 8:09pm	
Motion: Y Bradley	Second: B Baker	Vote: Approved Unanimously

Signed: May 20, 2019

_____

Andy Montroll, Chair

_____

Meagan Tuttle, Comprehensive Planner

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