

**Burlington Planning Commission  
Ordinance Committee**

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Alexander Friend  
Bruce Baker  
Andy Montrol  
Leo Sprinzen  
vacant



**Burlington Planning Commission**  
Ordinance Committee

**Thursday, February 1, 2018 @ 5:15 PM**  
Planning & Zoning Conference Room, Ground Floor, City Hall

**AGENDA**

1. Amendment to Article 5: Citywide General Standards  
*Consideration of changes to Sec. 5.2.7, Density and Intensity of Development Calculations*
2. Conditional Use Exemptions  
*Consideration of changes to Sec. 3.5.3, Exemptions*
3. Adjournment (6:15)

**Next Meeting – March 1, 2018**

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## Department of Planning and Zoning

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Layne Darfler, Planning Technician  
Anita Wade, Zoning Clerk



**TO:** Planning Commission Ordinance Committee  
**FROM:** Scott Gustin  
**DATE:** February 1, 2018  
**RE:** Density and Intensity of Development Calculations

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Following a second discussion by the full Planning Commission on January 23, 2018, the pending amendment to Sec. 5.2.7 was referred again to the Ordinance Committee. This amendment was put forth to eliminate the provision for rounding so as to reflect express residential density limits articulated for the residential zones in Article 4. With the majority of the Planning Commission seemingly in favor of allowing rounding, even when resulting in an additional surplus unit, staff recommends that the amendment simply be dropped at this point.

Section 5.2.7 as presently written is below:

### **Sec. 5.2.7 Density and Intensity of Development Calculations**

#### **(a) Dwelling Units per Acre:**

In accordance with the district-specific provisions of Article 4, the calculation of development intensity shall be measured as follows in such cases where the intensity of development is measured on a dwelling unit per acre basis:

1. Density Calculation: The total number of dwelling units provided on a development site, or portion of the site where split by a zoning district boundary, shall be divided by the gross site area expressed in acres. In calculating the number of residential units permitted, fractional units of less than five-tenths (0.5) shall be rounded down to the nearest whole number and fractional units of five-tenths (0.5) or greater shall be rounded up to the nearest whole number. Any rounding of fractional units shall be limited to a single final calculation for any development.
2. Density Equivalent, Nonresidential Uses: For purposes of density calculations, each one thousand, five hundred (1,500) square feet of nonresidential gross floor area not contained within a dwelling unit or within common hallways, stairwells and elevator shafts serving said dwelling units shall be counted as one dwelling unit.

#### **(b) Floor Area Ratio:**

As written.

A number of concerns about the methodology for present density calculation were expressed by Attorney Murphy on January 23. These concerns are addressed below.

Concern was raised as to the use of the term “development site” (see highlighted). It is not defined in Article 13: Definitions of the CDO.

Density Calculation: The total number of dwelling units provided on a **development site**, or portion of the site where split by a zoning district boundary, shall be divided by the gross site area expressed in acres. In calculating the number of residential units permitted, fractional units of less than five-tenths (0.5) shall be rounded down to the nearest whole number and fractional units of five-tenths (0.5) or greater shall be rounded up to the nearest whole number. Any rounding of fractional units shall be limited to a single final calculation for any development.

Use of this term is intentional. A development site may be a single lot of land or multiple lots together. Where buildable area restrictions apply (i.e. wetlands and steep slopes), the development site is actually smaller than the entire lot. Not every term in the CDO is defined in Article 13, nor does it need to be. The term could be deleted in favor of reference to lot or lots, including buildable area where applicable or simply left as is.

Concern was raised as to the CDO's reference to "gross site area" versus "net area." Staff sees no inconsistency in the CDO. The reference to "gross site area" in Sec. 5.2.7 is consistent with the notation at the bottom of Table 4.4.5-2: *Base Residential Density* that states:

Inclusive of new streets but exclusive of existing streets, and without bonuses or any Inclusionary Zoning allowances.

This notation simply means that the allowable residential density of a parcel is calculated across its entire (i.e. gross) area, even if the lot is to be subdivided to include a new public road. The density calculation, of course, leaves out land associated with existing streets. Both gross and net area are defined in Article 13. Only "gross area" pertains to density calculation.

Concern was expressed as to the degree of fraction considered in calculating allowable residential density on a per acre basis (i.e. 0.5 acre or 0.49 or 0.498 etc.). In practice, this concern is without merit. Every lot of land in Burlington is included in the Amanda permit system. Each lot has a lot size expressed in square feet. In other words, lot size information is provided down to the square foot. Whatever the lot size is expressed in acres is used as the basis for the density calculation, whether the fractional numbers are carried out to the 1<sup>st</sup>, 2<sup>nd</sup>, or 10<sup>th</sup> decimal place.

Concern was expressed as to the methodology itself and its basic premise of starting with a desired number of units and dividing that by the lot size expressed in acreage.

Example (RM zone)

12 units (desired) / .58 acres = 20.7 units.

This number exceeds the 20 unit/acre limitation in the RM zone, so 12 units cannot be permitted.

Linking allowable residential density to lot size is simply a ratio. As such, there are limited methods to calculate it. An alternative method to calculate density is below:

Example (RM zone)

20 units (allowable per-acre density) X 0.58 acre = 11.6 units.

The fractional 11.6 is rounded up to 12, so 12 units would be permitted.

Between the two methods, the former is less likely to yield cases of rounding up for an additional unit than the latter as demonstrated in the two above examples. Lacking a compelling reason to change the formula, staff recommends that it be left unchanged.

Finally, a suggestion was made that rounding fractional results to the next higher whole number be limited to fractions of 0.7 or greater. Employing this standard would be inconsistent with rounding used for parking calculations, inclusionary housing requirements, and mathematical rounding practices generally. It would amount to another “one-off” in the CDO and would invite mistakes. Insofar as rounding is to be allowed, it should follow standard procedure: 0.5 or greater rounds up to the next higher whole number. Less than 0.5 would be rounded down to the next lower whole number.

In sum, the formula for density calculation in Sec. 5.2.7 works. The question as to allowing rounding up even past the express density limit has been answered by the Planning Commission. No restructuring of this section or related sections pertaining to density is needed. Staff recommends simply dropping the proposed amendment.

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**TO:** Planning Commission Ordinance Committee  
**FROM:** Scott Gustin  
**DATE:** February 1, 2018  
**RE:** Sec. 5.3.5; Exemptions

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Zoning amendment ZA-15-02, *Conditional Use, Inclusionary & Replacement House, and Planned Unit Development* did much to clean up disparate conditional use triggers in the Comprehensive Development Ordinance. The amendment had the intended effect of limiting conditional use review largely to those uses noted as “conditional use” in Appendix A – Use Table. That amendment also added “conditional use” to the existing “major impact” exemptions of Sec. 5.3.5. Doing so has had the unintended effect of exempting many conditional use applications from conditional use review. Item (b) is particularly broad reaching. As presently worded, any conditional use – even one involving extensive building renovations – may replace another use and be exempt from conditional use review. This result is not the intent of this exemption. This exemption was originally intended to exempt a project involving substantial building renovation from “major impact” review so long as the floor area or structural capacity of the building did not expand. Its application to conditional uses as well has the effect of exempting many conditional uses going into existing buildings.

Conditional uses are intentionally differentiated from permitted uses in the CDO. Uses noted as conditional are those that warrant closer scrutiny per the conditional use standards of 3.5.6. Consideration is given to character of the neighborhood, traffic generation, impacts on city services, and potential nuisance impacts. These considerations remain pertinent to the conditional use whether proposed in an existing building or not.

Staff recommends eliminating “conditional use” from Sec. 3.5.3. Deleted language is ~~crossed out~~, and new language is underlined in red.

### **Sec. 3.5.3 Exemptions**

~~Neither Conditional Use nor Major Impact Review shall~~ not be required for applications involving one or more of the following:

- (a) Temporary structures that do not otherwise involve a conditional use;
- (b) ~~Substantial~~ Rehabilitation that does not expand the floor area of an existing building or the structural capacity of existing development;
- (c) Projects that do not result in a change of use or increased parking demand;
- (d) Subsurface site improvements including but not limited to underground utility lines and subsurface drainage ways; and,
- (e) Projects where the scope and authority of municipal regulation is limited by statute pursuant to 24 VSA 4413.

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**Burlington Planning Commission**

Ordinance Committee Meeting Minutes

**Thursday, February 1, 2018 @ 5:15 PM**

Planning & Zoning Conference Room, Ground Floor, City Hall

Attendance

- **Committee Members:** Alexander Friend (AF), Leo Sprinzen (LS), Bruce Baker (BB), Andy Montroll (AM)
- **Absent:**
- **Public:** Liam Murphy
- **Staff:** Scott Gustin, Mary O'Neil (Planning & Zoning) Kimberlee Sturtevant (Attorney's Office)

**1. Amendment to Article 5: Citywide General Standards**

*Consideration of changes to Sec. 5.2.7, Density and Intensity of Development Calculations*

Following discussion, Committee members requested that staff revise Sec. 5.2.7 to incorporate defined terms such as "lots" and "buildable area" rather than the undefined term "development site." Revisions will be made, and the amendment will return to Committee for further discussion.

**2. Conditional Use Exemptions**

*Consideration of changes to Sec. 3.5.3, Exemptions*

Following discussion, the Committee approved the proposed amendment to remove "conditional use" from Sec. 3.5.3 and to refer it to the full Planning Commission.

**3. Adjournment**

The Committee adjourned at 6:15 PM.

