CITY OF BURLINGTON, VERMONT
CITY COUNCIL COMMUNITY DEVELOPMENT &
NEIGHBORHOOD REVITALIZATION COMMITTEE
c/o Community & Economic Development Office
City Hall, Room 32 • 149 Church Street • Burlington, VT 05401
802-865-7144 VOX • 802-865-7024 FAX • www.burlingtonvt.gov/cedo

Councilor Selene Colburn, **Chair**, East District
Councilor Tom Ayres, Ward 7
Councilor Adam Roof, Ward 8

Tuesday, January 31, 2017
6:00 – 8:00 PM
Contois Auditorium

Proposed Draft Agenda

1. Review Agenda
2. Public Forum (15 minutes)
3. Approval of Minutes – 12/16 (5 minutes)
4. Renewal of the City of Burlington's Downtown Designation Application – Kirsten Merriman Shapiro (10 minutes)
5. Inclusionary Zoning Report Presentation – Peter Lombardi, czb,LLC (20 minutes)
6. Inclusionary Zoning Report Discussion (60 minutes)
7. Review of scheduled meetings through March 2017 and agendas – (10 minutes)

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Councilor Selene Colburn, **Chair**, East District
Councilor Tom Ayres, Ward 7
Councilor Adam Roof, Ward 8

Tuesday, December 13, 2016
6:30 – 8:00 PM
Contois Auditorium

Draft Minutes

In addition to the Councilors noted above, the following people were in attendance: Noelle MacKay (Community & Economic Development Office (CEDO)), Caryn Long, Stephen Marshall, Ian Jakus (CEDO), Ted Wimpey (Champlain Valley Office of Economic Opportunity Fair Housing Project), Council President Jane Knodell, Jeffry D. Glassberg, Joe Speidel (University of Vermont (UVM)), Morgan True (VTDigger), James Lockridge (Big Heavy World Foundation), Devon Ayers (Burlington resident and Vermont Legal Aid), Todd Rawlings (CEDO)

1. Review Agenda – At 6:33 p.m. Chair Colburn started the meeting and reviewed the agenda. Councilor Roof made a motion to approve the agenda, seconded by Councilor Ayres. Motion approved unanimously.

2. Public Forum

   James Lockridge (Big Heavy World Foundation) said that all-ages venue 242 Main is an important historical and community resource for Burlington and that when Memorial Auditorium is redeveloped, inclusion for 242 Main in the new development should be a priority. He has a petition with over 500 signatures of people who support 242 Main and its place in the new development.

3. Approval of Minutes – Councilor Roof made a motion to approve the July minutes as drafted, seconded by Councilor Ayres. Motion approved unanimously.

4. Inclusionary Zoning Evaluation Report

CEDO Director Noelle MacKay said that an evaluation of the Inclusionary Zoning (IZ) Ordinance was part of the City's approved Housing Action Plan. A Request For Proposal (RFP) process was conducted, a consultant was selected, and now the consultant has delivered a draft of the report. Staff reviewed this initial draft of the report and determined that further information and research were required to fill in gaps and provide factual support for statements. The consultant can come to Burlington on January 30th or 31st to present the final report.

Councilor Roof said that he was very interested in the report and after the final report was issued, he wanted access to the initial draft to see what had changed.

CEDO Director Noelle MacKay said that she hoped to make the report publically available two weeks before the January meeting.

Chair Colburn asked if that meant that it would be available on January 15?

CEDO Director Noelle MacKay said yes.

Devon Ayers (Vermont Legal Aid) said she has been following this process and she is concerned about delays and about the process not being transparent. Vermont Legal Aid supports IZ and believes that it affirmatively furthers fair housing.

CEDO Director Noelle MacKay said that the difference between drafts will be that the final draft has more citations and more information to back up statements.

Devon Ayers (Vermont Legal Aid) said she also wants to see both drafts.

CEDO Director Noelle MacKay said that she will speak with the City Attorney to discuss any issues around sharing these drafts.

Ted Wimpey (Champlain Valley Office of Economic Opportunity Fair Housing Project) asked what has come out in the draft. IZ is of major importance to the fair housing work that he does. With declining public dollars for affordable housing, Burlington must leverage private development to create affordable housing.

Chair Colburn said that she was frustrated by the amount of time between the initial and final drafts. It is important that the January deadline be met. The delay has held up the work of this committee.

The committee members discussed the schedule for the January IZ meeting. They agreed that January 31st was best, starting at 6:30 p.m. or 7:00 p.m.

5. Memorial Auditorium Update

CEDO Director Noelle MacKay said that evaluations of the condition of Memorial Auditorium occurred in the 1980's and has been updated periodically since then. Since that time, there have been public votes to commit funds to the repair of Memorial, but those votes failed to get sufficient voter support. The building is now not safe or fit for occupancy. Last year, the City drafted a general RFP to redevelop Memorial, but just before that RFP was released, UVM announced that it was exploring a new arena in South Burlington and other locations. UVM is looking at this arena in the context of updating other existing buildings on campus. UVM is looking at the feasibility of Memorial as a potential site for a new arena. The City is not interested in managing or programming an arena. If UVM determines that Memorial is a viable site for an arena, then the City will look at next steps to determine whether to issue a new RFP or use the existing RFP. She has met with James Lockridge to discuss 242 Main in the context of Memorial redevelopment.

Councilor Ayres asked when UVM's consultant would reach a recommendation about the arena.

Joe Speidel (UVM) said that the consultant is still working on the recommendations and that the board is eager to learn the results of the consultant's report.

Jeffry D. Glassberg (consultant for the City on the possible Memorial redevelopment) said that his understanding is that UVM's consultants expect to come to a conclusion in January. If Memorial has been determined to be an option for UVM, at that point a public process can begin. The Memorial property represents a very viable redevelopment opportunity on Main Street. The RFP could be released by the end of the first quarter of 2017 and proposals could be received by the end of the second quarter of 2017.

CEDO Director Noelle MacKay said that those dates should be considered provisional.

James Lockridge (Big Heavy World Foundation) asked whether the public will have a role in the RFP process.

CEDO Director Noelle MacKay said yes.

Councilor Ayres said that he recognizes the importance of 242 Main and he knows how much it means to the community. He is amenable to locating 242 Main outside of Memorial.

James Lockridge (Big Heavy World Foundation) said that 242 Main is an historic resource and the petition signers were not receptive to locating outside of Memorial. 242 Main makes an enormous contribution to the cultural resources of the City and he hopes that the City and its partners wish to continue to support it.

Councilor Roof said that he recognizes the value of the building and block to the community. We must be conscious of the history of the building as a memorial to veterans and he wants to be mindful of all users of the building and block (which include a tattoo business and a home). Any redevelopment should include a community gathering space and a performing space. It should be more than arena.

Stephen Marshall said the City should do a general RFP to explore all options and we should be aiming for a diversity of resources. It is important to have art groups side-by-side to foster community.

Caryn Long asked if the City had decided that the we don't need particular tenants or uses in Memorial? The art studio moving is a loss for Edmunds and she values the farmers market. She asked whether an arena would require a zoning change.

CEDO Director Noelle MacKay said the tenants had to move because the building was not safe. Previous public votes to commit funds for rehabilitation had failed. The estimated costs to renovate the building were $8,000,000 - $12,000,000.

Joe Speidel (UVM) said that UVM would be a big tenant in the project, but the arena would not be a UVM project. Other uses in addition to UVM's uses would be great.

Councilor Roof said that his vision was that UVM would not "have the keys" but UVM's role could help the viability of the project which would include other diverse uses.

Councilor Ayres said he wanted to clarify that the $8,000,000 - $12,000,000 cost was just to make the building safe for occupancy. Memorial is a 20th century building trying to function in the 21st century. He emphasized that it has been used a sport venue throughout its history, but a new use must consider parking and traffic issues.

Council President Jane Knodell asked, if UVM is interested in partnering with the City on an arena redevelopment, would there be a flexibility of use?

Jeffry D. Glassberg (consultant for the City on the possible Memorial redevelopment) said that UVM would use the building for events about 65 nights a year, which leaves many opportunities for many other uses. The end product should meet a multitude of uses and added that a hockey arena might require 4,500 seats and basketball would require closer to 3,500 seats. The historic use should be considered a baseline in terms of impact: many large events have been successfully held on the site over the years and the site has no parking.

Stephen Marshall said that infrastructure and transportation issues must be considered regardless of how Memorial is redeveloped.

CEDO Director Noelle MacKay said that we are already thinking about those issues in the Burlington Town Center project and that the City already has a great framework of alternative transportation options. The Library and Park departments are already reaching out to teens about their needs and wants.

Chair Colburn said that the City should activate the historic use in the redevelopment, but the voters communicated there is not an appetite to preserve Memorial. Memorial worked well for 242 Main and others because of varied uses and scales of spaces and it provided a low barrier access to varied uses. 242 Main is important and she would love to see it preserved, but that right now it is not primarily a teen space.

6. Micro-Housing Update

Councilor Ayres said that at the last meeting of this committee, he proposed a conference focusing on micro-housing which could occur in the spring of 2017. Due to the IZ process, this conference has been put on the back-burner, but he would like pick it up again. He is hearing skepticism about whether micro-housing can have an impact in Burlington. This conference would address the need for education around what barriers their might be to micro-housing in Burlington. The conference would occur over a weekend and should include representatives from Champlain Housing Trust (CHT), Planning & Zoning, CEDO, Committee On Temporary Shelter (COTS), and others. A conference could look at the following questions:

- Ancillary Units? There may be opportunities for micro units in the New North End which has many homes with big back yards. What are the incentives and barriers?
- Can micro-housing help homeless people? It seems to be used in other cities creatively.
- Can Yestermorrow be a good resource for tiny house knowledge?

Chair Colburn said that we should be mindful of not overburdening City staff with the planning and coordination of this conference.

Councilor Ayres said that he agreed and he is willing to organize the conference and that City staff would be panelists. He will bring a progress report to the next meeting.

Chair Colburn said that the Housing Action Plan included a review of micro-housing.

Councilor Ayres said that a discussion about micro-housing folds into the conversation about permit reform.

CEDO Director Noelle MacKay said that she has some experience with micro-housing from her role with the State of Vermont. It should be considered a tool in the tool box, but there are environmental concerns around micro-housing. It would be useful to look at the work that Norwich University did competing in the Solar Decathlon. Also, Norwich has developed a unit which can be used as an accessory dwelling unit.

Stephen Marshall said that he is housed now but has been a member of the homeless community. He expressed some thoughts about current programs for the homeless.

Councilor Roof said that this committee has reached out to the homeless community and recognize the value of their input. It is important to try to connect what homeless people with that they want and need.

Chair Colburn said that the last time that this committee discussed micro-housing, she shared research on simple and successful solutions where residents were empowered to shape their environments. There is room for a diversity of approaches to help homeless people. CHT is trying to be innovative and there is a need to think about this problem creatively. CHT went out on a limb for Beacon Apartments and Harbor Place.

Caryn Long said that there is a place in California called "The Flats" where homeless people have a lot of autonomy around their housing. She thought it might be near Palm Desert on a decommissioned Air Force base.

Stephen Marshall said that he had recently read a book called "White Trash" which investigated the relationship between housing and status. This must be considered with any micro-housing solution.

7. Update on Community Development Block Grant Funding

CEDO Housing Program Manager Todd Rawlings gave an overview of the Community Development Block Grant (CDBG) Notice of Funding Availability. CEDO administers the CDBG program. Although the CEDO does not yet know how much will be appropriated, CEDO estimates $110,500 for Public Service projects and $470,845 for Development projects. In addition to the above, $112, 649 of unallocated funds are available from previous grants with $58,510 available for Public Service projects and $54,139 for Development projects. CDBG projects must benefit low and moderate income households and applications are due Wednesday, January 11, 2017. The CDBG Advisory Board evaluates the proposals and is composed of 8 members from Neighborhood Planning Associations, 3 Mayoral appointees, and 1 member from the Agency of Human Services. Public meetings are from January 26, 2017 through early April 2017. The public has right to attend and can make comments during comment period. The Advisory Board makes a recommendation to the Mayor and final recommendations are voted on by the City Council (with public hearing) on approximately April 17, 2017. The Notice of Funding Availability is located on CEDO's website: https://www.burlingtonvt.gov/CEDO/Requests-for-Funds

Chair Colburn asked if the members of this committee were invited to participate and if so how? She also asked if any of the unallocated funds were reserved for use on the opioid issue.

CEDO Housing Program Manager Todd Rawlings said that he did not know, but would find out and get back to the committee on these questions.

8. Schedule Meetings Through March 2017

Committee members agreed on the following provisional meeting schedule:

- January 31, 2017 — Start: 6:30 p.m. or 7:00 p.m. — Location: TBD
- February 23, 2017 — 6:30 p.m. – 8:00 p.m. — Location: TBD
- March 23, 2017 — 6:30 p.m. – 8:00 p.m. — Location: TBD

9. Councilor Roof made a motion to adjourn the meeting and Councilor Ayres seconded that motion. The meeting adjourned at 8:15 PM.

Respectfully Submitted,

Todd Rawlings
Housing Program Manager
CEDO

Evaluation of the City of Burlington's Inclusionary Zoning Ordinance

How well is it working and what role can it play in shaping the future of affordable housing in Burlington?

JANUARY 2017

Evaluation of the City of Burlington's Inclusionary Zoning Ordinance

czb

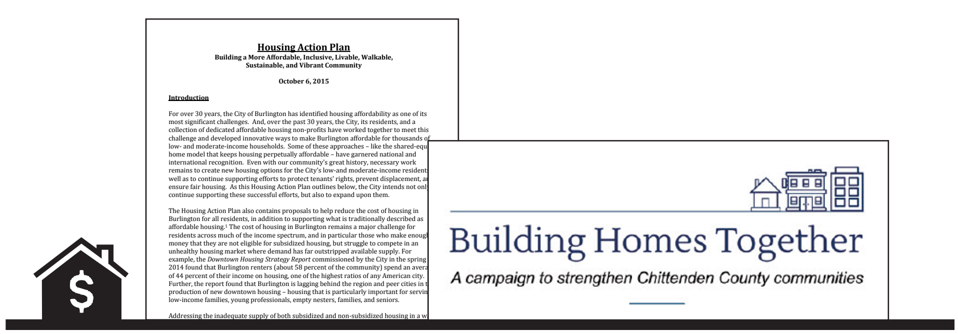
JANUARY 2017

INTRODUCTION

The 1980s and early 1990s marked a period of considerable experimentation in Burlington, Vermont, with regard to the production and preservation of affordable housing. Facing cutbacks in federal housing resources and escalating prices and rents, community leaders sought ways to generate affordable housing by local means and ensure broad access to new housing in rapidly redeveloping areas. Those efforts included city support for the creation of what is now known as the Champlain Housing Trust, the establishment of a Housing Trust Fund with dedicated local funding and, by 1990, the passage of one of the nation's earliest inclusionary zoning ordinances.

Today, Burlington has one of the nation's most diverse and sophisticated affordable housing delivery and financing systems overseen by a broad network of public and non-profit agencies. These include the Champlain Housing Trust, Cathedral Square, Housing Vermont, the Vermont Housing Finance Agency, the Burlington Housing Authority, and the city's Community & Economic Development Office (CEDO). Over time, this system has succeeded in helping to create a market where – according to the city's 2013 Consolidated Plan for Housing and Community Development – fully one-quarter of rental units have been made affordable through public subsidy, regulation, or deed restriction.

But Burlington's parallel success at cultivating a very high quality of life –and therefore high demand – has meant that affordable housing remains one of the city's most critical issues and a public policy priority. Each increment of desirability – brought about by ever increasing quality of life – becomes an increment of demand over supply that makes the market more expensive and less affordable than the community wants it to be. This is made clear in the city's **2015 Housing Action Plan**. It is also made clear by **Building Homes Together**, a recently announced campaign supported by housing and planning agencies that recognize a need to accelerate production of both market-rate and affordable housing.



This evaluation of Burlington's inclusionary zoning ordinance by the urban planning and housing strategy consultant czb is an outgrowth of the city's Housing Action Plan, which recommended an assessment of the policy's impact and ways that it might be improved upon. In doing so, the evaluation is divided into three parts:

PART 1 looks back at what Burlington's inclusionary zoning policy has accomplished. It finds that the ordinance has largely succeeded at producing economically-integrated housing units. But, together with the rest of Burlington's affordable housing system, the ordinance has fallen short when it comes to total production, a problem due, in part, to what might be described as an imbalanced "give and get" equation.

PART 2 looks forward by examining key questions that must be answered in order to guide action on affordable housing policy – questions that get at the specific problem that the Burlington community would like to solve, how willing it is to invest in actually solving the problem, and the extent to which inclusionary zoning can be part of a solution.

PART 3 provides a set of choices and recommendations designed to help frame decision-making in Burlington on inclusionary zoning and related policies.

Throughout, this evaluation strives to maintain the critical context of inclusionary zoning as just one piece of an affordable housing system in Burlington, a community with a proven capacity for self-reflection, risk-taking, and principled action – a capacity that will need to be tapped still more as the community redoubles its efforts on the affordable housing front.

General Overview of Burlington's Inclusionary Zoning Ordinance

As of 2014, when a national inventory of inclusionary housing programs was compiled for the Lincoln Institute for Land Policy, Burlington was one of 487 jurisdictions across 27 states and the District of Columbia to have some form of policy. While details differ from place to place, the basic elements in Burlington's ordinance reflect common approaches in mandatory inclusive housing programs.

Adopted

1990

Legislative intent

(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.

Development threshold

The ordinance applies to any development of 5 or more dwelling units, including new construction or substantial rehabilitation. With adaptive reuse, the threshold is 10 units.

New Construction & Substantial Rehab
5 UNITS

Adaptive Reuse
10 UNITS

Proportional requirement

15% of all dwelling units must be affordable at the ordinance's income targets if the average sale or rental price within the development is affordable to households at or below 139% of area median income (AMI). That base requirement rises to 20% if the development's average unit is affordable between 140% and 179% of AMI, and to 25% if the development is in a waterfront district or if the average unit is affordable at 180+% of AMI.

Average price range of units	% of units to be income restricted
0-139% of AMI	15%
140-179% of AMI	20%
180+% of AMI, or waterfront district	25%

Income targets

There are two income targets: 65% of AMI for rental housing and 75% of AMI for purchasable units.

65% AMI

RENT

75% AMI

SALE

Cost offsets

Developers that comply with the ordinance are entitled to density and lot coverage bonuses of between 15% and 25%, depending on the zoning district. They are also entitled to a waiver of up to 50% of required parking spaces and a waiver of a portion of the impact fees tied to the inclusionary units.

15-25%
added density & lot coverage

Up to
50%
waiver of required parking spaces

Compliance options

Off-site option: If a developer can demonstrate to the Development Review Board (DRB) that site conditions prevent the inclusionary units from being built on the same site as market-rate units, the requirement may be met off-site within the city at 1.5 times the on-site quantity. The sole exception is that this option is not available for projects in a waterfront district.

Payment in lieu: At City Council's discretion, a per-unit payment in lieu may be made in exchange for not providing the required number of inclusionary units. That per-unit fee was set at $100,000 in 2007 and is indexed to inflation (2016 value: $115,000).

Unit comparability

To ensure that inclusionary units are comparable to their market-rate counterparts, the ordinance requires a similar bedroom mix between a development's market-rate and affordable units. It also sets minimum square footages for units (750 square feet for one-bedroom units, 1,000 for two-bedroom, 1,100 for three-bedroom, and 1,250 for four-bedroom).

Minimum SQ FT
750
1,000
1,100

Other notable features

Permanent affordability: Developments must carry deed restrictions that make the inclusionary units affordable for 99 years.

99 YRS

City's right to purchase: When purchasable units are produced, the manager of the city's Housing Trust Fund has the right of first refusal for a 120-day period.

Administration

The Manager of the Housing Trust Fund, an employee of the city's Community and Economic Development Office (CEDO), oversees compliance activities.

PART 1

LOOKING BACK: How well has Burlington's inclusionary zoning policy worked?

INCLUSIONARY PROJECTS, 1990-2015

56 PROJECTS

↓

1,773
TOTAL DWELLING UNITS

↓

270
INCLUSIONARY UNITS

95 CONDO UNITS

155 RENTAL UNITS

19 CO-OP UNITS

1 SINGLE FAMILY UNIT

In the 25 years since the adoption of Burlington's inclusionary zoning policy, 270 affordable housing units have been produced through projects that complied with provisions of the ordinance – with several dozen more units in the proposal or production pipeline as of August 2016. This roughly equates to a dozen new affordable housing units coming on line each year since 1990 as a result of the ordinance – a pace that is a function of overall housing production activity that has averaged around 90 units per year over the same period. This is a valuable way to think about the program because it prompts important questions: is adding one inclusionary unit per month enough to keep pace with the housing needs of Burlington's growing low-wage workforce? If not one per month, what number of units would be sufficient to meet these needs – and how does that translate to wider market activity?

While important, it is essential to remember that the units produced because of the ordinance are program outputs. They may influence but are themselves not program outcomes. What are the outcomes? For example, to what extent has the ordinance succeeded in realizing a Burlington that "provides an economically integrated housing supply that meets the needs of all economic groups"? Are present outputs "sufficient" in the eyes of the Burlington community to do that? And did the ordinance sufficiently address local affordable housing challenges without generating unintended negative consequences for tenants, neighbors, or developers?

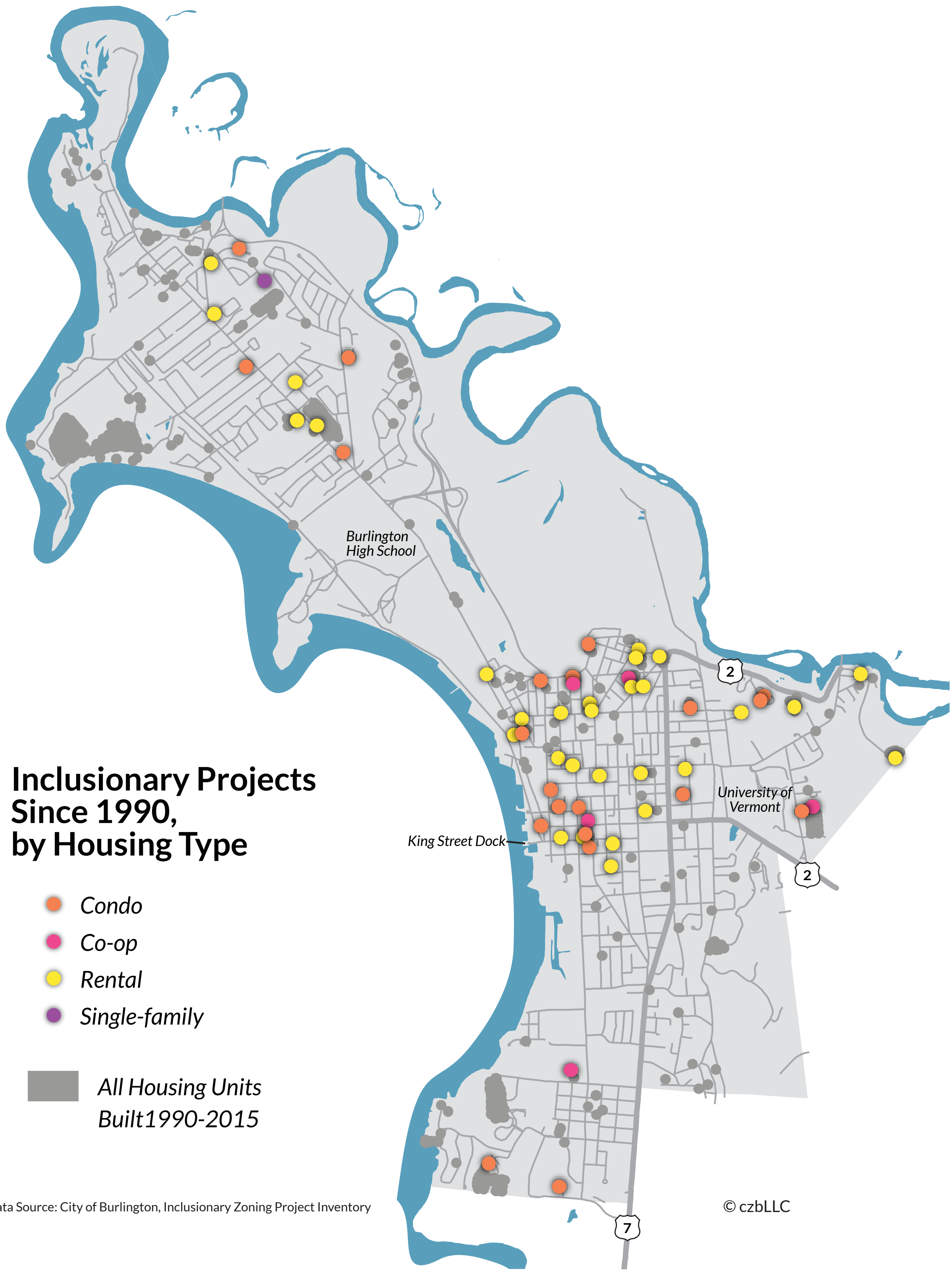
The answers to these questions – owing to their complexity and the many angles from which the policy may be scrutinized – are best divided into three areas. These are as follows:

1) a line of inquiry that looks at the question of **inclusion**;

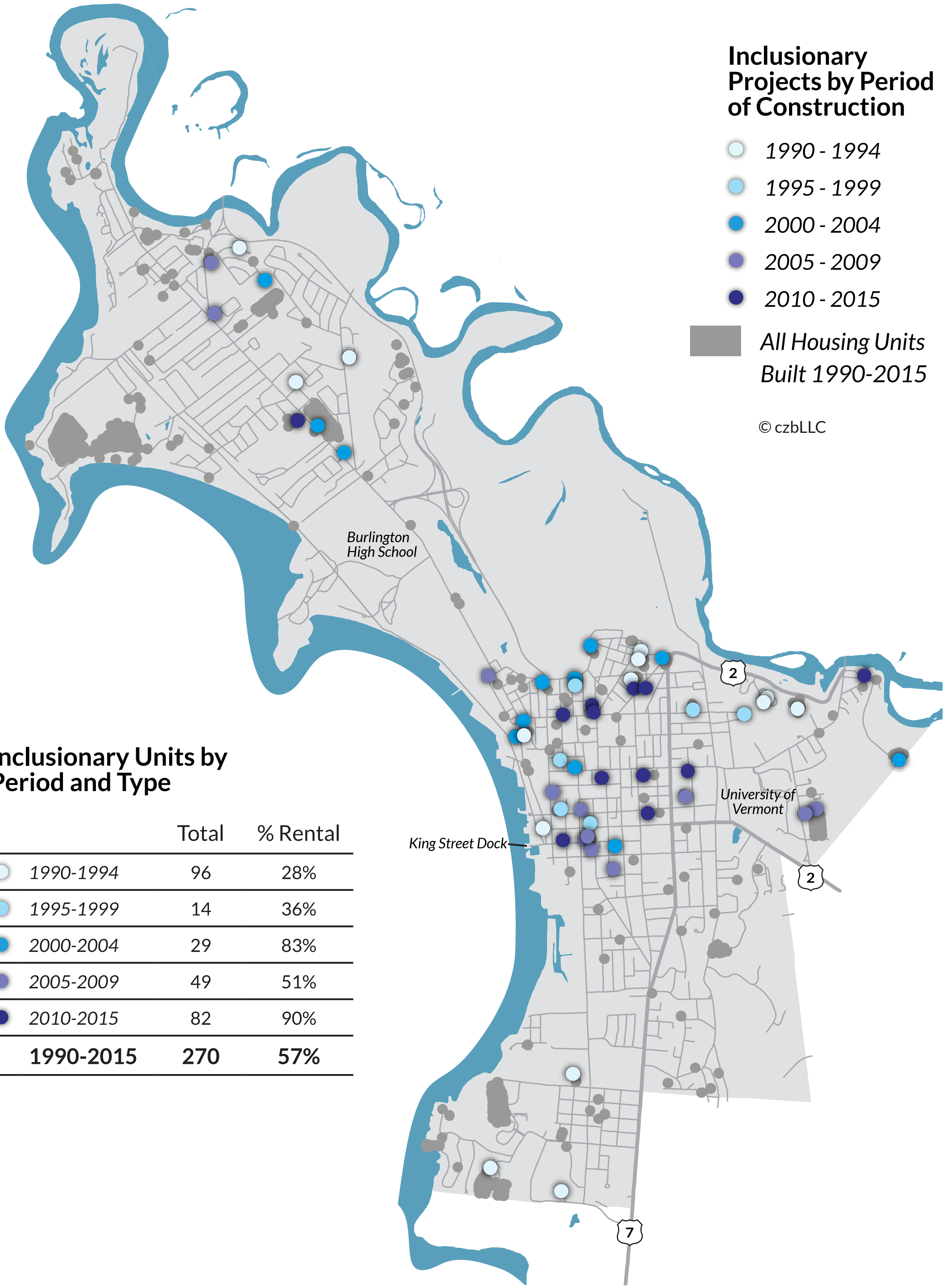
2) a line of inquiry that looks at the question of **housing opportunities** (or production); and

3) a line of inquiry focused on the **policy's inner workings**.

Inclusionary Projects Since 1990, by Housing Type

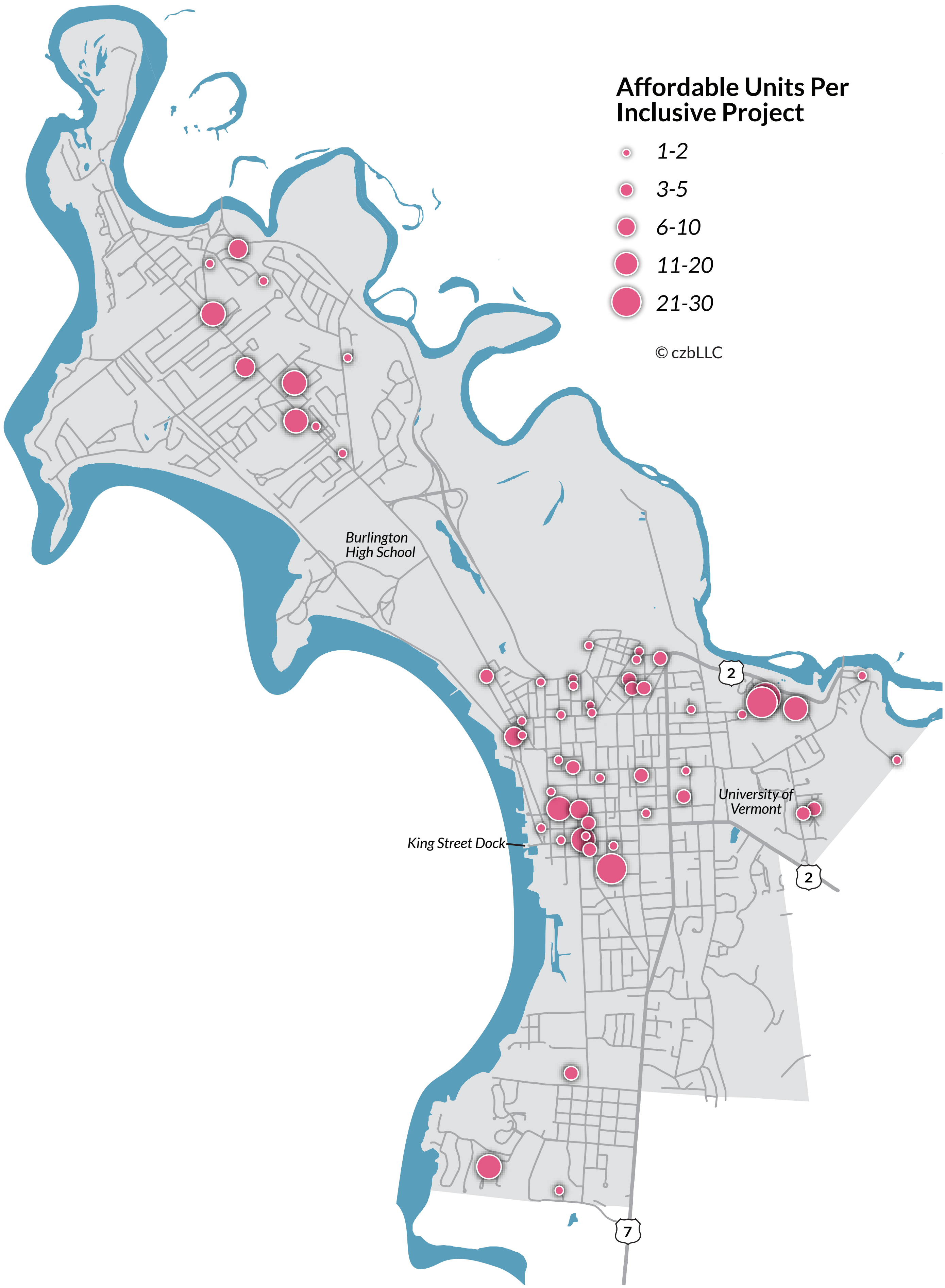


Data Source: City of Burlington, Inclusionary Zoning Project Inventory



Inclusionary Units by Period and Type

	Total	% Rental
1990-1994	96	28%
1995-1999	14	36%
2000-2004	29	83%
2005-2009	49	51%
2010-2015	82	90%
1990-2015	**270**	**57%**



Affordable Units Per Inclusive Project
1-2
3-5
6-10
11-20
21-30
© czbLLC
Burlington High School
University of Vermont
King Street Dock
2
2
7

A Has the policy created economically integrated housing?

Very much so. Burlington's inclusionary zoning policy has succeeded at integrating new affordable housing units with new market-rate units.

An analysis of the 56 projects developed through 2015 in accordance with the city's inclusionary zoning requirements reveals that the vast majority of those projects have resulted in the co-location of affordable and market-rate units — either together in the same building or on adjacent sites. Additionally, many of the projects have had the incidental benefit of locating market-rate units in areas of modestly lower socioeconomic strength than areas without IZ projects — thus cultivating mixed-income environments at both a project-level and a neighborhood-level.

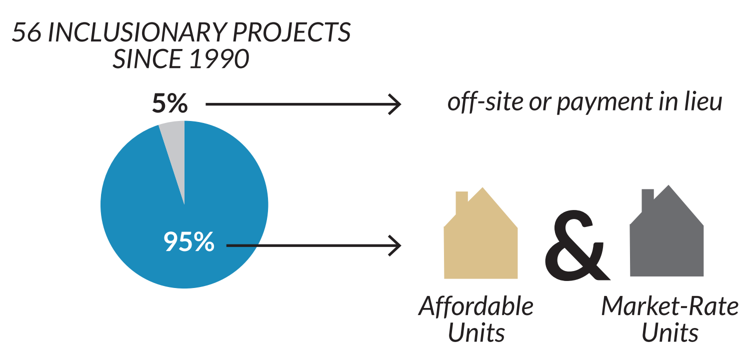
On this front, it is important to recognize that, generally speaking, the private sector does not find an economic rationale to develop mixed-income projects. Instead, such projects have to be a goal that is set and supported by the public sector. The mandatory nature of Burlington's ordinance has done this for 25 years, resulting in mixed-income developments that would not have happened otherwise.

OBSERVATIONS AND FINDINGS

Fully 95% of projects that have complied with the ordinance have blended affordable units with market-rate units to some degree.

Only two projects have used the payment in lieu option to satisfy all of their mandated units. One project did a partial payment in lieu – building one unit and paying not to build the other. And one project exercised the off-site option by placing units at two other IZ-compliant project sites. This high degree of project integration has been achieved, to some extent, by making the ordinance's payment in lieu and off-site options unappealing or infeasible to exercise – an intention of the policy that has both positive and negative ramifications for inclusive housing, which will be addressed later in this evaluation.

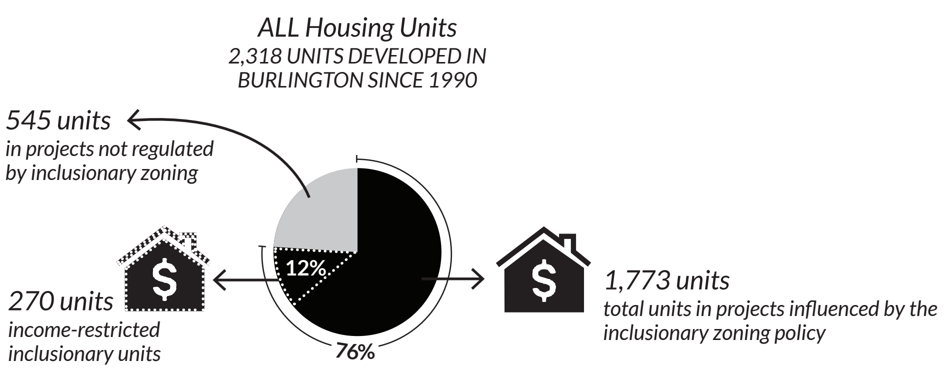
Of the 53 projects that have integrated affordable housing with market-rate units, 51 did so within the same building or as part of the same multi-structure development and two involved partnerships with non-profit developers that built the required units in an adjacent building.

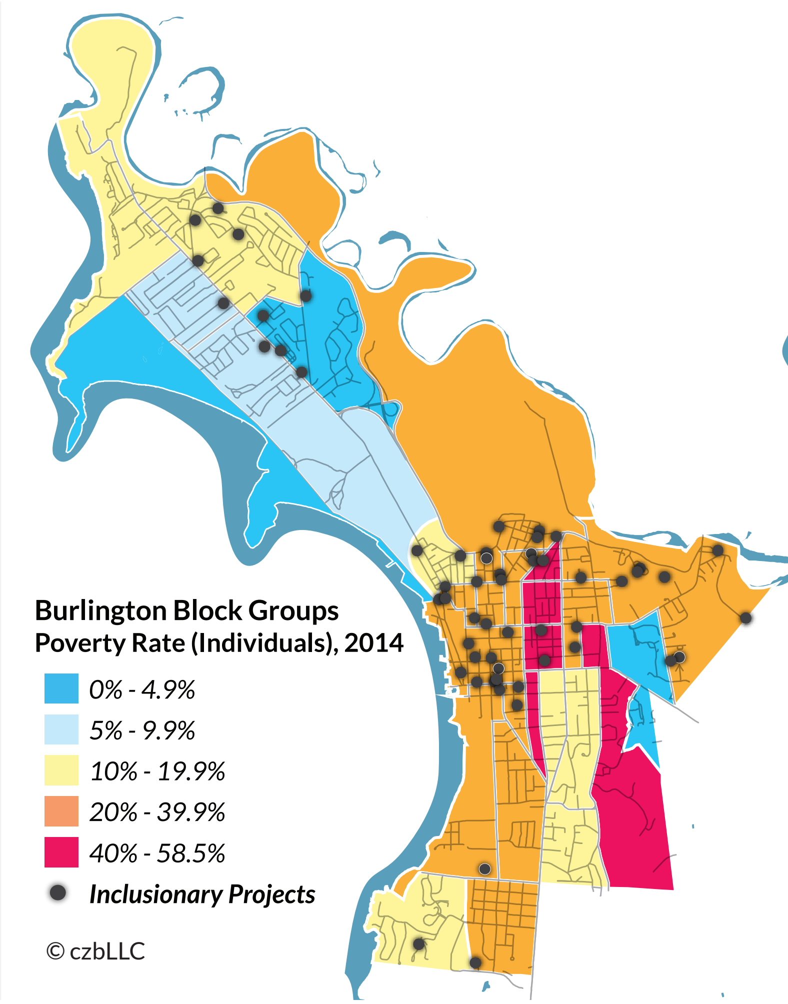


Projects that were required to comply with the ordinance represented 76% of ALL housing units produced between 1990 and 2015 and thus mirrored, to a large extent, the geographic range of overall multi-unit housing production.

The 56 projects permitted between 1990 and 2015 that complied with the inclusionary ordinance had a total of 1,773 units – inclusive of affordable units. Total production in the city during that period was 2,318 units.

A majority of these projects were distributed throughout Burlington's core – within approximately one mile of the intersection of Battery Street and Main Street. This pattern is largely a reflection of where zoning regulations allow multi-unit residential or mixed-use projects, as well as the availability of vacant or underutilized land. Large sections of the city have not received inclusive units because they are not zoned to accommodate the medium density residential developments that have been the vast majority of Burlington's inclusionary projects.

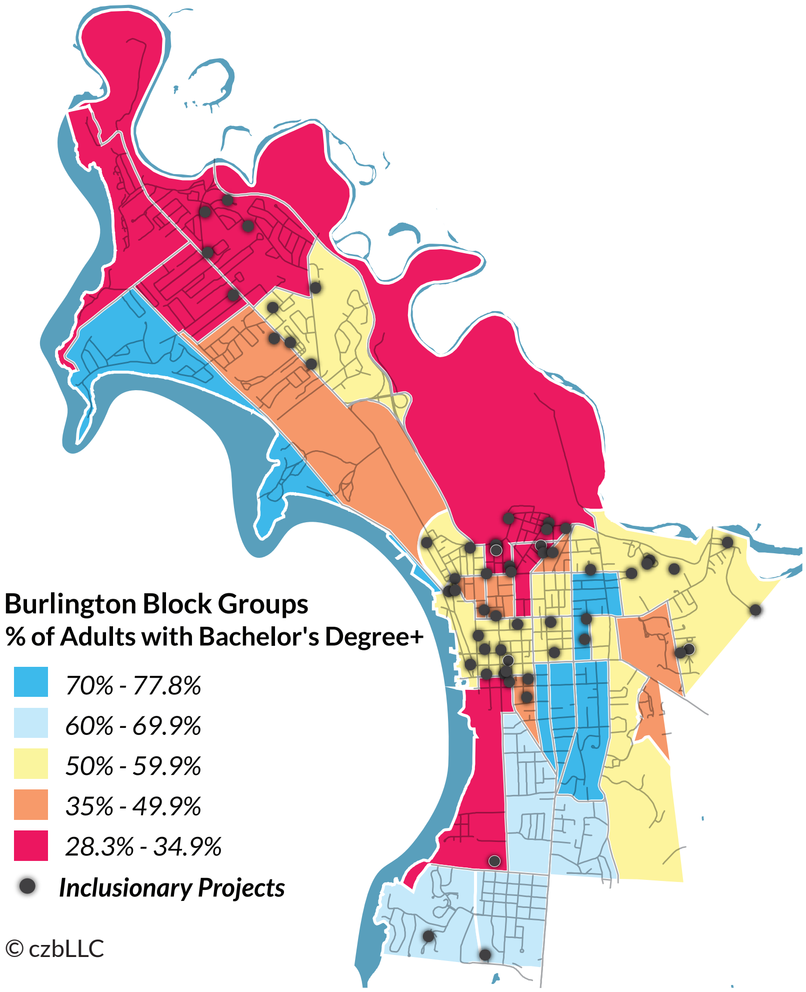




Data Source: 2014 American Community Survey 5-Year Data

Mixed-income projects generated by inclusionary zoning, where units are predominately market-rate, have tended to locate in areas of the city with modestly lower socio-economic strength than areas where no inclusionary projects have occurred – creating patterns of income and housing diversity that help to counteract income segregation and concentrated poverty.

This pattern of inclusionary projects strengthening income and housing diversity in areas of lower socio-economic strength can be attributed, in part, to the fact that developments with five or more residential units are confined to certain parts of the city – including older parts where apartments with non-family households are more common, and in emerging downtown and waterfront areas where the same is true. Areas that, per zoning, are exclusively single-family or low-density residential in character – and can therefore be expected to have more families and higher income levels – have been largely unaffected by inclusionary zoning and its five-unit threshold for compliance.



Nonetheless, inclusionary zoning has ensured that the projects themselves provide modern housing opportunities to existing residents in areas with lower incomes and higher poverty rates. An examination of the inclusionary project locations and underlying socio-economic conditions reveals the following:

Compared to census block groups in Burlington where no units were added between 1990 and 2015 through inclusionary zoning, those that did have such units had:

1. Fewer adults with at least a college degree (45.5% vs. 59.6%)
2. Lower typical median household income ($44,222 vs. $54,860)
3. Lower percentage of homeownership (39.4% vs. 44.1%)
4. Lower typical median home values ($259,578 vs. $401,467)

Inclusionary units were also more likely to be located in areas of higher poverty than the average Burlington resident, but not areas of extreme poverty. While 15% of Burlington residents live in block groups where poverty exceeds 40% (a level considered extreme), the same is true for only 3% of inclusionary units. At the same time, 68% of inclusionary units were located in block groups where poverty was between 20% and 39% compared to 46% of Burlington residents.

A look at family poverty rates (families account for 40% of all Burlington households; the remaining 60% are non-family households, such as student renters, single householders, or unrelated adults living together), reveals that 78% of inclusionary units are located in block groups with family poverty rates below 10%, while the same is true for only 50% of Burlington families.

B Has the policy led to the production of housing that meets the needs of all economic groups – especially citizens of low and moderate incomes?

*Burlington's inclusionary zoning ordinance is part of a sophisticated set of affordable housing tools that has improved access to housing for thousands of households – but which has **not succeeded** at helping the city's housing market catch up or keep up with strong demand.*

The perennial struggle with housing affordability in Burlington is a problem borne of success. As a consequence of the city's immense natural beauty, its distinctive culture, and efforts to cultivate a very high quality of life, it has long been a desirable place to live. Desirability increases the demand for local housing among households with plenty of options and discretionary income. This, in turn, increases demand for neighborhood amenities like restaurants, salons, and boutiques, which require lower-wage service workers to staff them. With more higher-income households competing for Burlington housing, more lower-wage workers trying to find housing, and a few thousand college students seeking off-campus housing each year (often with help from parents, and often in well-worn units that are targeted to the student market), more and more pressure is put on housing prices and rents. Combined with insufficient housing production during a time of sustained regional population growth, these forces have blunted gains achieved by the city's affordable housing systems.

The extent to which inclusionary zoning has, on its own, contributed to insufficient development activity in Burlington – even while generating integrated residential environments – is difficult to precisely separate* from other factors, such as scarcity of vacant land and resistance to new development or greater density. Nonetheless, it is clear that while inclusionary zoning has made a real difference for those living in the 270 units generated by the policy, it has not – on its own or in concert with other policies – changed the underlying dynamics of supply and demand that make the Burlington market unaffordable for a large portion of the city's households.

*A multivariate regression analysis is a useful tool for isolating the impact of a single variable, though it may prove inadequate to drawing an actionable conclusion.

OBSERVATIONS AND FINDINGS

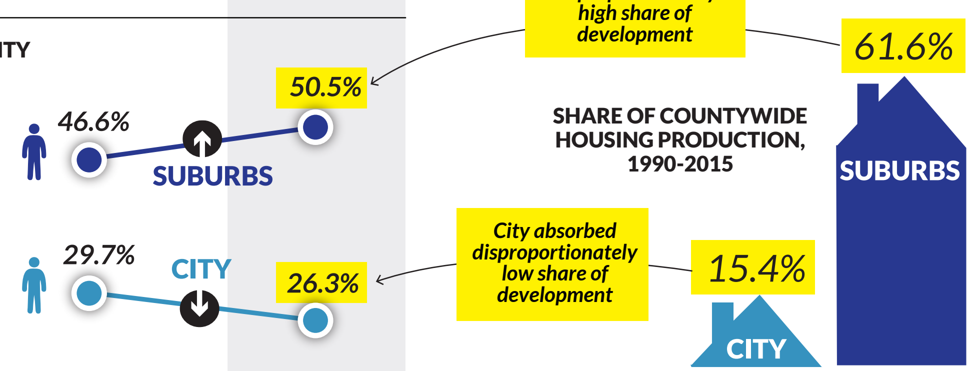
Since 1990, Burlington has fallen short of producing its regional share of housing, generating an estimated 2,500 fewer units over the past 25 years than it should have – despite high demand for city housing.

This significant gap in production was largely absorbed by surrounding jurisdictions, allowing the city to shift its share onto neighbors – exacerbating congestion, land consumption on the urban periphery, unhealthy levels of low residential vacancy throughout the county, and, not least, chronic affordability challenges.

A growing urban area that kept pace with countywide growth...

POPULATION	1990	2015
POPULATION OF BURLINGTON AND SUBURBS	100,572	123,933
% OF COUNTY POPULATION	76.3%	76.8%

...but a city that didn't keep pace and added to suburban growth pressures.



What would it have taken for Burlington to keep up with demand since 1990?

+5,478 additional residents → *+2,501 additional housing units* → *+290 additional inclusionary units*

*If the City of Burlington had maintained a steady share of the county's population between 1990 and 2015, **it would have had 5,478 additional residents**.*

*To house these residents at the city's average household size of 2.19, an **additional 2,501 housing units would have been needed** – a number that was instead absorbed by a region that shares Burlington's supply/demand imbalance and chronically low vacancy rates.*

*If these 2,501 additional housing units had been developed, an estimated **290 additional inclusionary units would have been generated** between 1990 and 2015.*

Data Sources: czb analysis of Census Bureau population data and housing production data from the City of Burlington and Chittenden County Regional Planning Commission; "suburbs" include Essex, Colchester, Winooski, South Burlington, Shelburne, and Williston

OBSERVATIONS AND FINDINGS

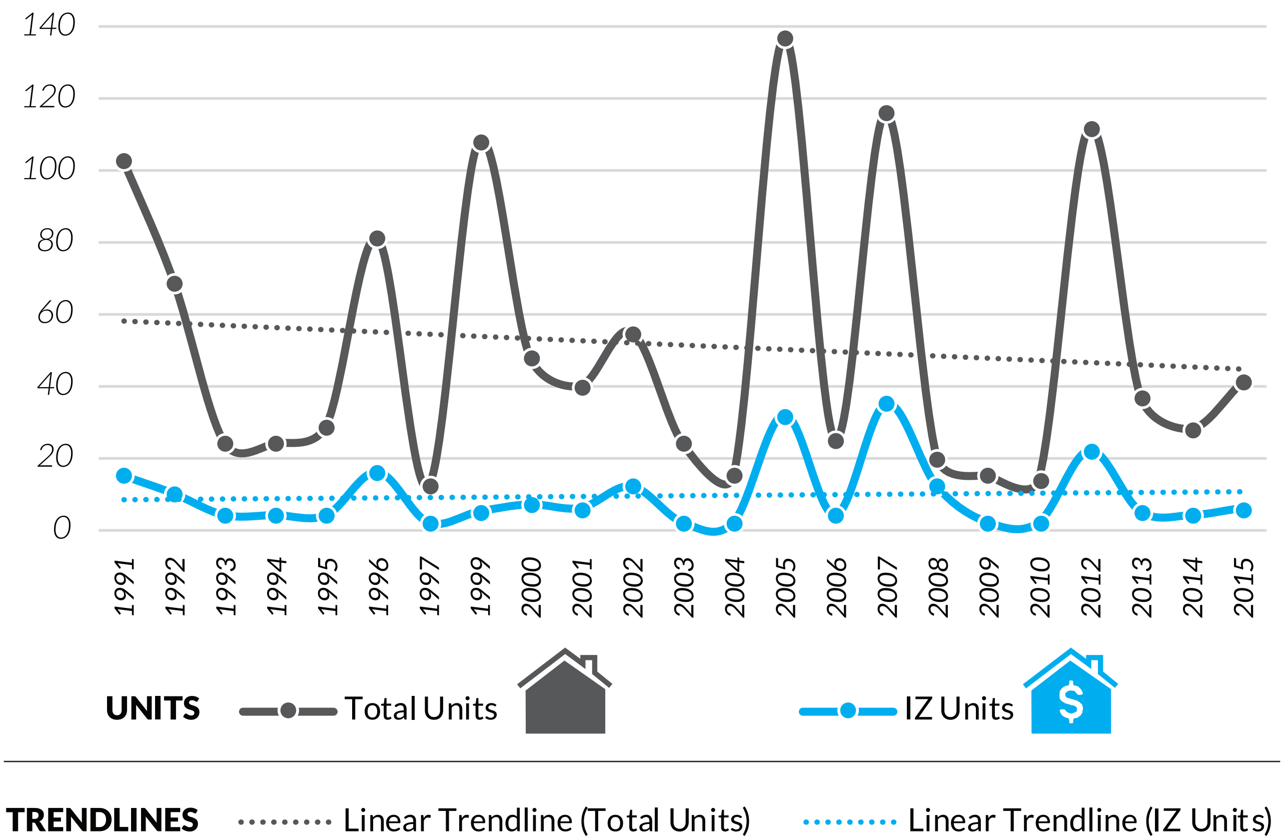
Numerous variables – in addition to the requirements of the inclusionary zoning ordinance – influence the trend lines of both market-rate and inclusionary unit production in Burlington, which have been remarkably stable since 1990 despite considerable fluctuation from year to year.

These variables, which are always changing, include:

- **Land scarcity and its relationship to land pricing**, which is often higher than $500,000 per acre near downtown where jobs and amenities are concentrated. This creates situations where densities often need to exceed 20 dwelling units per acre for a project to be financially workable.
- **Construction costs in Vermont**, which, when combined with scarce land supply, makes it difficult to bring a good quality rental unit on line for less than $225,000 per unit.
- **Cost to finance**, including interest rates, the availability of tax credits, and the expense of syndication.
- **Profitability thresholds**, which are linked to how these variables uniquely coalesce on any given project. The Burlington rental market is such today that very little profit can be obtained for target markets paying less than $1,300/month without some combination of tax credit equity, density allowances, or cash subsidy.
- **Unpredictability of development review**, which is a challenge in many communities, regardless of whether or not inclusionary unit requirements are part of the review.

There is no way to assert definitively that any one of these variables – or inclusionary zoning – accounts for slowing down housing production in Burlington. The best explanation is the simplest: that high quality of life and high demand, when met by a decreasing supply of developable land and the complexities of redevelopment, will most often translate to reduced rates of production. When such a condition exists, the introduction of one more variable becomes an added increment of cost and complexity for a housing developer. Addressing this requires a commitment to flexibility and assurances that the costs of inclusionary units are met by adequate offsets by the public sector – a subject covered through the remainder of this report.

Inclusionary Zoning Production in Burlington, 1991 - 2015



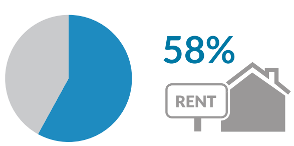
*Note: This table excludes 1990 for the purposes of establishing trend lines that reflect typical production activity. In 1990, 442 units were generated by four projects that included 63 inclusionary units. High production volume that year may have resulted from pent-up demand combined with then-still-new tax provisions from the 1986 Tax Reform Act.

Housing affordability remains an acute challenge for many households. In fact, high proportions of renters, at a range of income levels, spend more than 30% of their incomes each month on housing.

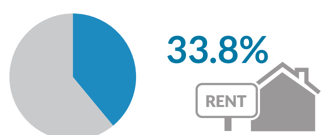
High housing costs, the result of high demand for local units and insufficient production to accommodate that demand, are certainly an important driver of housing unaffordability. But another important cause is insufficient income among Burlington households. In the health and social services sector – the Burlington area's largest sector accounting for one-fifth of all jobs – the median wage of $43,000 is just enough to afford the city's median gross rent of around $1,000. The median wage in retail, the second largest sector, is $27,000. For households supported by a single wage-earner in these sectors, housing costs take a substantial bite out of every paycheck.

Specifically, czb's analysis of recent American Community Survey data revealed the following:

- 58% of households that rent in Burlington pay more than 30% of their income on housing. This includes 86% of renting households with incomes between $20,000 and $34,999 and 46% of renting households with incomes between $35,000 and $49,999.
- 33.8% of households that rent pay more than 50% of their income on housing. This includes one-third of renting households making between $20,000 and $34,999.



PAY MORE THAN 30%
of their income on housing



PAY MORE THAN 50%
of their income on housing

There are sizable gaps between the number of households at certain income ranges and the number of units that are affordable at those ranges.

By performing a gap analysis of the number of existing households at various income ranges and the number of housing units affordable to each range, czb found the following:

Owner units and owner households

523 homes in Burlington valued at a level considered affordable to a household making $50,000

2,061 households in Burlington that own homes and make $50,000 or less

-1,538 GAP between homes and households

Rental units and renter households

3,554 rental units that are priced at levels considered affordable to a household making $35,000

5,694 households that rent and make $35,000 or less

-2,140 GAP between rental units and households

Data Sources: czb analysis of 2014 American Community Survey 5-Year Data

C Does the policy function well from a technical and administrative standpoint?

Burlington's inclusionary zoning mandate has been successfully applied to developments of five or more units for 25 years – *but not without revealing some basic flaws that undermine or muddy the essence of the city's original ambitions for the policy.*

Inclusionary zoning ordinances have many moving parts – all of which need to be attended to and calibrated to achieve consistency, fairness, and effectiveness in practice. While Burlington's ordinance has been consistently enforced on applicable projects, some of its moving parts have functioned poorly or have not been well-calibrated to Burlington's market environment. Recalibration requires a look ahead (see Part 2), but it also requires a look at key elements and practices that have been, or could be, problematic.

OBSERVATIONS AND FINDINGS

Cost offsets for developers – which in theory were designed to cover the cost of affordable units – appear to have failed in practice.

Inclusionary zoning, at its core, requires a give and a get. Cities get additional affordable housing stock in mixed-income environments and, in return, they give developers incentives or subsidies to offset the cost of those units and the risks incurred in building them. In Burlington's ordinance, as in most inclusionary zoning ordinances, **developers are eligible to receive density bonuses to build at a greater intensity** than allowed by the base zoning – thus giving them the opportunity to generate revenue to cover the cost of compliance.

Interviews with both for-profit and non-profit developers with considerable experience in Burlington suggest, however, that in practice **the density bonuses are rarely, if ever, realized.** The ultimate density of a project is, instead, subject to an unpredictable development review process that may yield a project with a lower density than even the base zoning allows.

Verification through a comparison of eligible densities versus realized densities on a project-by-project basis was not part of this evaluation but should be undertaken as the city considers its options relative to inclusionary zoning. If it is true that the bonuses are not being realized consistently and that there is a pattern of project densities being whittled down from their maximum allowable levels, then **corrective action must be taken to ensure that the process is fair** (developers get something in exchange for giving something) and that Burlington, a city with a short supply of vacant land and developable parcels, is not surrendering opportunities to expand the production of housing in general and affordable housing in particular.

The payment in lieu and off-site options are rarely exercised.

Through 2005, payments in lieu were negotiated on three projects, generating $590,000 in place of 29 units – or an average of just over $20,000 per unit. Considering these amounts to be a giveaway, **City Council amended the inclusionary zoning ordinance** in 2006 to raise the payment to $100,000 per unit and fix it to the consumer price index (CPI). (The per-unit payment in lieu cost now stands at approximately $115,000.)

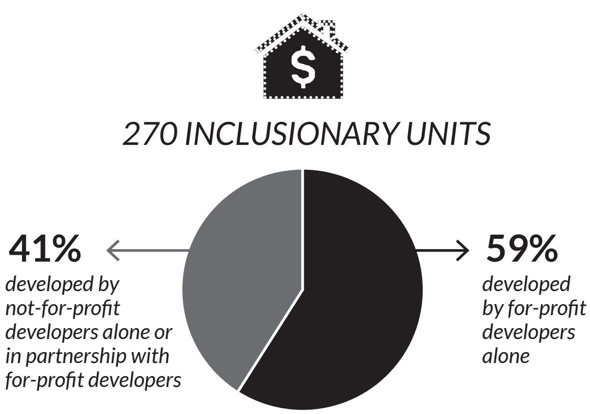
The payment in lieu option has not been exercised since that change was made; while the Burlington housing market is strong, it is not strong enough make $115,000 workable for the development community. On the positive side, this means that the vast majority of projects have met their inclusionary requirement on site and, in turn, furthered the city's goal of economically integrated housing. On the negative side, by making it essentially infeasible to exercise the payment in lieu and off-site options (especially if the ordinance's cost offsets are largely inoperable), **Burlington's ordinance provides little flexibility for developers and undercuts inclusionary zoning's potential to provide revenue to the city's Housing Trust Fund** to support the preservation and creation of affordable housing – through production subsidies, rehab loans, rental vouchers, monitoring the development and management of inclusionary units, etc.

Insufficient monitoring activity has made the achievement of permanent affordability an uncertainty for some units.

A RAND Corporation study of inclusionary zoning from 2012 noted in its review of several ordinances (including Burlington's) that **insufficient monitoring activities** – to ensure that inclusionary units are re-rented and re-sold to income qualified households – is a very typical shortcoming of inclusionary housing programs. This is a problem that often stems from ordinances that provide little guidance on the subject of administration and how to cover administrative costs.

This has been the case in Burlington, where monitoring has been the domain of a single CEDO staff member who also ensures that new projects comply with the ordinance. Because inclusionary zoning is only a small part of their duties to begin with, a **sufficient long-term monitoring system has never truly developed**. Such a protocol is now in the process of being developed at CEDO.

On the other hand, **units managed or otherwise controlled by not-for-profit agencies (approximately 46% of all inclusionary units), are routinely monitored by those agencies.** These include 48 homeowner units controlled by the Champlain Housing Trust – which has exercised the city's right of first refusal to purchase many condos and homes generated by the ordinance.



The practice of allowing not-for-profit agencies to fulfill the inclusionary requirements of for-profit developers has had positive outcomes, but also raises questions.

A handful of recent and proposed projects have featured **partnerships whereby the city allows one or more non-profits to develop units that fulfill the inclusionary requirements of for-profit developers** – usually on adjoining land that the for-profit developer sells to the agency at a deeply discounted price. The results have been positive: the for-profit developer focuses on their market-rate units, the non-profit gets inexpensive land to develop affordable units, and those units are then managed by an agency with affordable housing expertise.

However, the practice raises questions that go to the core of the inclusionary zoning ordinance. For example:

- Is it acceptable or unacceptable that, in these cases, the affordable units have been segregated into buildings adjacent to the market-rate units rather than fully integrating the two?
- Is this practice really just a modified payment in lieu, since the developer is providing resources for affordable housing (discounted land) in return for not developing inclusive units? If it is, should the practice be recognized as such by the ordinance?
- Is it possible that, in some instances, affordable units developed through this practice are merely replacing subsidized units that would have been developed elsewhere – thus generating a net production of less than one unit for every mandated inclusive unit?
- And, to what extent would such partnerships between for-profit and not-for-profit developers be necessary if the ordinance had functioning cost offsets? In other words, **do such partnerships point to weaknesses in the Burlington housing supply chain caused by the way that inclusionary zoning currently functions?**

In addition to such partnerships, it is also notable that just 59% of all inclusionary units (or 160 units) have been developed by for-profit developers alone, with the remaining 41% developed through partnerships or by not-for-profit entities by themselves. This does not diminish the importance of inclusionary units developed by not-for-profits, but it underscores the possibility that Burlington's inventory of inclusionary projects reflects weaknesses within and beyond the ordinance.

Examining Burlington's experience with inclusionary zoning from these three broad angles, combined with an understanding of the ordinance's intent and a review of the national policy literature (see Appendix), yields **two broad categories of work** – technical and adaptive – that the Burlington community may wish to consider as it transitions to a new stage in its application of inclusionary zoning.

1

Technical challenges are those best solved by fine-tuning existing systems using known tools. In Burlington's case, some fine-tuning is likely to improve the functionality of inclusionary zoning and the production pipeline of market-rate and inclusionary units – or it may lead to outcomes that suggest a need for further fine-tuning. Recommended areas of adjustment, which are explained in greater detail and contextualized into a set of options in Part 3, include the following:

Monitoring:

It is critical that the city adopt a monitoring protocol (now in development) to ensure that IZ units continue to be rented or owned by eligible households. But it is also critical that the city review IZ outcomes on a much more regular basis – preferably yearly – to ensure that it stays calibrated to a constantly evolving market.

Cost offsets:

The density bonuses, parking reductions, and impact fee waivers included in the ordinance are fundamental to inclusionary zoning and should be granted consistently by the city to offset costs borne by the developers of IZ units.

Payment in lieu and offsite options:

Flexibility is an important part of leveraging market-rate activity to achieve public goals such as inclusionary units and resources for affordable housing. Without flexibility, market-rate activity and its leveragability for the public good can be diminished. Making Burlington's payment in lieu and offsite options more appealing to developers – while sustaining a focus on economic integration – can provide greater flexibility.

Development threshold:

Burlington's ordinance applies to developments with 5 or more units – a relatively low threshold from a national perspective, and probably too low for Burlington's current housing market. A ten unit threshold is a reasonable adjustment to test at this time – and to monitor for impact on infill activity in the 5 to 9 unit range.

Square footage minimums:

This element of the ordinance is uncommon in other cities with IZ. A more common and flexible approach is a general requirement for unit comparability.

Income targets:

The existing income targets of 65% of AMI for rental units and 75% for purchasable units are similar to commonly used IZ income targets (though 75% for purchase is on the low side). However, Burlington should consider switching to variable income ranges for both rental and purchasable units – a switch that would have to coincide with functioning cost offsets and a carefully structured set of incentives to facilitate production at different points on the income range.

2 **Adaptive challenges**, by contrast, generally require a shift in the community, often characterized by the work of letting go of old assumptions and habits and replacing them with new learnings and new approaches. When made, such "second order" changes can – and very often do – result in non-incremental forward progress towards important community goals. While there is a clear commitment in Burlington to thinking seriously about inclusive and affordable housing and taking sustained action, there is also a harmful tendency towards cost shifting as expressed in the following ways:

Cost shifting from the city to its neighbors:

When Burlington's neighbors absorb the city's unmet housing demand, they gain in terms of tax revenue and other benefits that accrue from development, but they also take on certain costs with long-term implications for themselves and the region – environmental, cultural, infrastructural, and others. The city, meanwhile, benefits from being at the center of an expanding regional labor market and consumer base.

Cost shifting from the public to developers:

The public has a right to set high standards for development in Burlington. After all, careful stewardship of the city's assets has created tremendous value that would be silly not to leverage. But that does not mean developers should be expected to provide a public good without incentive or compensation of some kind – that is why cost offsets are a fundamental part of any inclusionary zoning ordinance. Developers are no less rational than other economic actors and need to obtain a return comparable to any risk-taking entity; expecting them to do otherwise will limit the realization of community goals that mandate their participation as partners.

Cost shifting from employers to the affordable housing sector:

Labor costs are often lower in small cities because cost of living is lower. But in Burlington, the cost of living index is fairly high (124 overall, and 150 for housing) and the median household income relatively low (80% of state and national levels). When employers pay small town wages and expect others to make up the difference on housing, it is no different than Wal-Mart or McDonald's paying low wages and relying on public assistance programs to meet employees' needs.

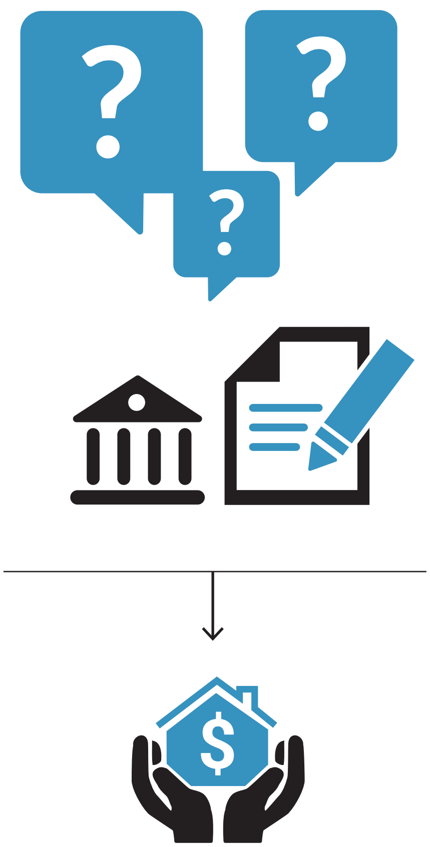
Cost shifting from current to future generations:

The cumulative effect of all forms of cost shifting is that problems do not really get solved. Instead, they become the policy priorities of 2025 and 2030 while contributing in the meantime to greater levels of air pollution (via commuting and congestion) and land consumption on the urban periphery.

The bottom line is that inclusionary zoning and the promotion of housing affordability in Burlington have made laudable strides. There is much for the community to be proud of. But there is also much to do going forward to improve access to economically integrated housing on a larger and more impactful scale.

PART 2

LOOKING FORWARD: What role can inclusionary zoning play in shaping the future of affordable housing in Burlington?



Twenty-five years into Burlington's work on inclusionary zoning, the policy's record – of generating economically inclusive units, of being part of a wider system that has produced too little housing to meet market demand, and of falling short on technical components – offers hints about the policy's value and what might be done to make it stronger.

But a more fundamental series of questions need to be asked before considering inclusionary zoning's future – questions that relate to the purpose of IZ as a tool to aid in the achievement of a community's affordable housing goals.

> ***What problem does Burlington want to solve?***
>
> ***To what extent, if at all, can inclusionary zoning be modified or supplemented to aid in addressing that problem?***
>
> ***And to what extent is the Burlington community willing to pay to achieve what it wants – through adjustments to inclusionary zoning or through other programs and policies?***

So, what problem does Burlington want to try to solve? Clearly, housing that is still too expensive for too many households remains a central problem – but it is one with numerous dimensions that defy blunt solutions.

Beneath that wider problem, however, there is a more specific problem that can provide a valuable sense of policy direction when it comes to inclusionary zoning – because it is a problem that Burlington's ordinance is already partly positioned to address: **pressure on the key households in the 30% to 50% AMI range of affordable housing and *insufficient public incentives to make significant strides within that range.***

Households in this range – who account for approximately 25% of all renting households in Burlington – are those that currently make between $25,000 and $42,000 per year (based on the 2016 AMI of $84,000). They are school teachers, recent college graduates with entry-level work, people with one or two low-wage jobs, health-care workers, and others who play a vital role in Burlington's daily life and economy. They can afford to spend between roughly $625 and $1,050 on housing each month, depending on where they fall within that range. But with median gross rent in the city at just over $1,000 and median monthly owner costs of over $1,700, housing in Burlington is often beyond or at the very top of their affordable price range.

Although several public and not-for-profit programs in the Burlington area are calibrated to assist households within this range when it comes to renting, buying, or fixing a home, such programs are constrained by resource limitations and the same supply insufficiencies (not enough apartments and homes to meet demand) that strain the rest of the housing market. Simultaneously, Burlington's affordable housing providers and human service agencies grapple with meeting demand from households at even lower income ranges (below 30% AMI) – where need is even more acute.

If the 30% to 50% AMI range is a key problem to focus on and channel resources to, how can inclusionary zoning be adapted to assist in a substantial way? There are at least two ways.

One is by using inclusionary zoning as a tool to significantly boost production in the 50% to 80% AMI range – a range that inclusionary zoning is best suited to address and why Burlington's ordinance was created with income targets of 65% of AMI for renters and 75% of AMI for owners. It is also a range that the private market is unlikely to serve – via production of new units – on its own. Stimulating greater production in this range will reduce the degree to which these households are forced to compete for housing with their neighbors in both the 30% to 50% range and above 80%.

The second way that inclusionary zoning can assist is by generating revenue that can be channeled into supporting affordable housing initiatives in the 30% to 50% range. This, of course, means revenue to the Housing Trust Fund from the payment in lieu option – which is flexible enough to support production, preservation, rehab, rental vouchers, and a wide range of other programs.

These two supportive roles that inclusionary zoning might play require a significant shift from the status quo. As a July 2016 report on inclusionary zoning by the Urban Land Institute makes clear, the production of inclusionary units (or revenue generated from a payment in lieu option) is a function of total market-rate activity – which has not been strong in Burlington despite an otherwise robust market and despite a growing region. Additionally, that report concluded that production is often tied to the degree to which incentives make projects feasible for the private sector.

In Burlington, neither condition has been met to make inclusionary zoning truly successful and to make durable progress on affordability. Market-rate activity has lagged and incentives or cost offsets have, for all practical purposes, been absent from the policy's implementation. While market-rate activity may have been sluggish since 1990 regardless of inclusionary zoning, the lack of flexibility and incentives did not help the situation.

The good news is that this can be corrected. And, more than that, inclusionary zoning can play a role in actually stimulating market-rate development – the necessary antecedent of inclusionary units. **But it requires an acknowledgement that to get something that is valuable to the community and meets long-term civic goals, the community must be willing to give more and to pay for what it values.**

That means that density bonuses, if they are offered, need to actually work – which further means that the community needs to make some choices. Are marginally higher densities a fair exchange for accelerated production of market-rate and affordable units in a city with a severe supply shortage? Are the Development Review Board and neighbors of projects willing to let developers build at densities allowed by current zoning and grant them their eligible bonuses – consistently and predictably?

As important as they might be in helping the city realize the development potential of its limited land supply, density bonuses on their own are unlikely to change developers' math dramatically enough to alter Burlington's long-term supply/demand dynamic. Doing so would require both using those bonuses and supplementing them with other incentives and cost-saving measures (such as reducing the time cost of permitting processes) to soften the financial risks of inclusionary projects and provide the levels of confidence necessary for production to rise over a sustained period. This means a more streamlined and predictable project review process and the generation of local financial resources that would allow Burlington, rather than federal or state officials, decide where and how to spend them.

This is familiar terrain for Burlington, which has dedicated a small portion of its property tax revenues to its Housing Trust Fund since 1989, averaging a few hundred thousand dollars annually in recent years. That is a good start. But other cities offer a glimpse of how Burlington can take its Housing Trust Fund and make it a far more powerful force for affordable housing.

Seattle is, perhaps, one of the best examples of a city with a substantial and long-standing commitment to providing local resources for affordable housing (rather than relying solely on a dwindling supply of federal and state funds). On five occasions since 1981, Seattle residents have voted to approve a housing levy – each one spanning a specific time period and each one tied to a set of goals and a detailed resource allocation plan. This fall, Seattle will vote on a sixth housing levy – one that would raise $290 million over seven years from local taxpayers, costing the median Seattle homeowner $122 per year.

Seattle's seven-year plan for the $290 million would invest in the following areas:

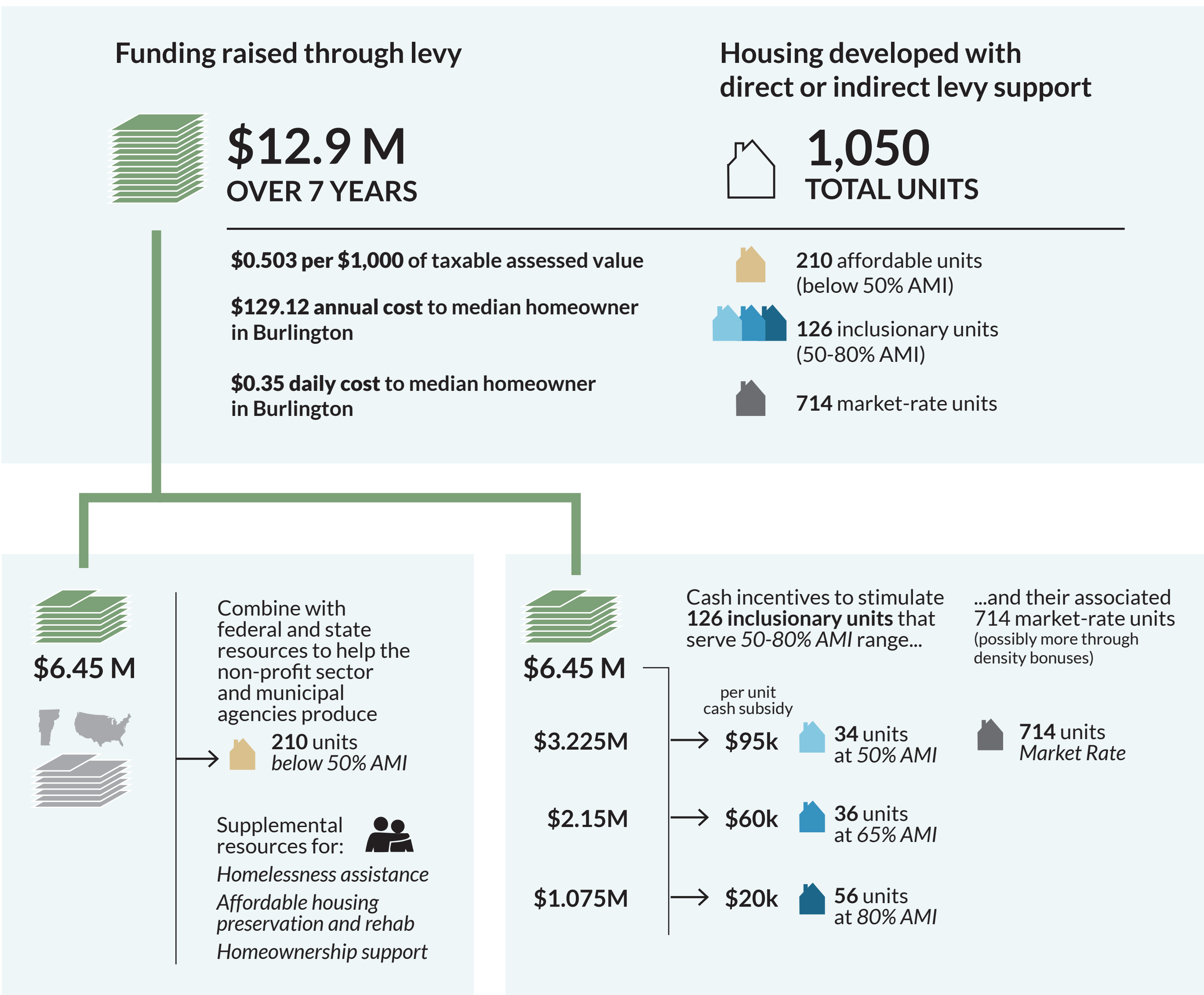
- Rental unit production and preservation
- Homeless prevention and housing stability services
- Homeownership promotion
- Foreclosure prevention assistance
- Acquisition and preservation of the existing affordable stock
- Administration of programs and enforcement eligibility guidelines

If Burlington did something on a similar scale (proportional to tax base), that would mean passing a $12.9 million housing levy for the same seven year period– or $1.84 million citywide per year and $114, on average, per household. That would be an almost ten-fold increase over the average amounts dedicated to Burlington's Housing Trust Fund annually over the past decade.

Goals for such a fund, in terms of supporting housing production, could be tied to the goals of the "Building Homes Together" campaign, which calls for 3,500 new units in Chittenden County through the early part of the next decade, including 700 affordable units. If Burlington committed to realizing a share of that amount equal to its 1990 share of the county's population, it's goal would be 1,050 total units, 210 of them affordable. If one assumes that the remaining 840 units in that goal are split between 714 market-rate units and 126 inclusionary units, that would equate to an annualized inclusionary unit production pace (18) that would be over 60% higher than the 1990 – 2015 period.

How could resources from a housing levy be used to support market-rate and affordable unit production at this level through inclusionary zoning, while also supporting other components of Burlington's affordable housing systems – especially those operating in the 30% to 50% AMI range? The following diagram provides some ideas for how a funding plan might be structured.

Allocation Plan for a Hypothetical Burlington Housing Levy

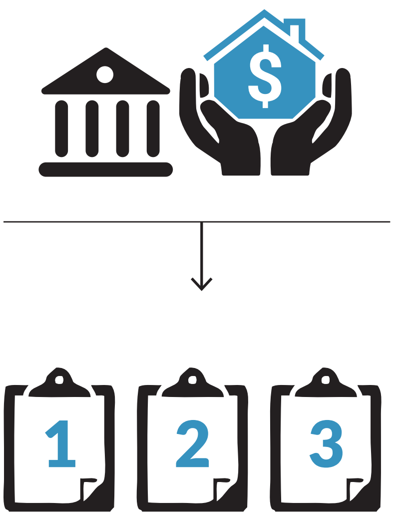


Such a program based on dedicated local resources – and supplemented to a small degree by more payments in lieu achieved through a lower per-unit fee – would put Burlington squarely into catch-up mode on supply and be a strong signal that a healthier housing market with a wider range of affordable options is something Burlingtonians are willing to invest in. A levy similar to Seattle's would provide those resources, as would a bond issue similar to that in **Austin, Texas**, where voters approved the issuance of $65 million in bonds in 2013, along with a levy to pay principal and interest, to fund a range of programs similar to the Seattle levy. (A bond issue of a similar per-capita scale in Burlington would be $3.1 million.)

But generating local resources is a choice the community needs to make. Without additional resources and a commitment to making existing cost offsets more functional, inclusionary zoning is unlikely to play anything but a marginal role going forward – in a market that will continue to be significantly challenged by housing affordability.

PART 3

CHOICES & RECOMMENDATIONS:



A look back at the performance of Burlington's inclusionary zoning policy since 1990 and a look forward at the policy's potential to help the city substantially address a critical problem suggests that the community has roughly three ways to think about the policy's future. This assumes that doing nothing at all or repealing the ordinance are not true options because they go against the grain of Burlington's values and the community's interest in continuous self-improvement.

The following three paths are presented in ascending order of effort and reward – with the first path representing a course of minor tinkering, the second path achieving a fully-functioning inclusionary zoning policy, and the third path leveraging local resources and a functional IZ policy to significantly boost the city's supply of affordable and market-rate housing. Recommendations listed under the second and third paths are contingent upon making existing cost offsets work and providing an additive layer of developer incentives.

1 Status quo plus

Enact largely non-controversial changes to the ordinance that would address some outdated or obsolete components but have only a marginal impact on production. Recommended changes under this option include:

- **Increase development threshold:** Ordinances across the country have thresholds for inclusionary zoning (the size of a project that triggers the inclusionary policy) that range in size from as low as one to as high as 20 or more. Burlington's current threshold of five units is at the low end of this range. In a city where small infill projects will constitute a considerable share of future development and redevelopment work, raising this threshold from five to 10 will decrease the likelihood that small projects – which generally have a harder time absorbing the inclusionary mandate than larger ones – will be rendered infeasible. But increasing it much higher than 10 would surrender the city's potential to make mid-sized projects inclusive.
- **Generalize unit comparability:** The ordinance currently prescribes minimum square footages for rental units, which is a blunt and somewhat outdated way of ensuring that inclusive units are well-blended within a development – especially when the levels set in 1990 (such as 1,000 square feet for a two-bedroom apartment) are on the high side of market-rate expectations today. A more flexible approach that is commonly practiced today can be seen in ordinances that require general comparability between market-rate and affordable units in terms of size, appearance, and bedroom-mix, and that inclusionary units be dispersed rather than concentrated. Instead of re-calibrating the square footage minimums, the language in Burlington's ordinance should be simplified and generalized.
- **Monitoring:** CEDO, the city agency that oversees the administration of inclusionary zoning, is currently in the process of developing a monitoring protocol to guide future efforts to keep track of inclusionary units and to whom they are rented and sold. Options in this regard include yearly auditing of a certain percentage of inclusionary projects – those not already monitored by a non-profit agency – or outsourcing those monitoring duties to a qualified non-profit.

2 Fully functional inclusionary zoning

Enact changes recommended in the "Status quo plus" option AND incorporate the following to ensure that Burlington's ordinance (and its execution) generates the production of inclusive units while providing flexibility and realizable cost offsets for developers:

- **Provide density bonuses by right**: As a critical part of the current ordinance that has failed to function as intended, density bonuses need to be addressed by ensuring that developers receive what they are eligible, by law, to receive. This can be achieved in a few ways. One path is for the Development Review Board to have an internal policy prioritizing the granting of density bonuses and striving to maintain them throughout the course of the review process. Another is for City Council to request that the Development Review Board furnish a "Production Impact Statement" for all inclusionary projects, describing the proposed density of the project, a detailed rationale if the approved project had a lower density than originally proposed, and a statement of the number of housing units surrendered by the review process.
- **Lower the payment in lieu:** The fact that the payment in lieu option has not been exercised in ten years is a sign that it has been poorly calibrated and that, while strong, the market is not strong enough (or has too many relief valves in the form of surrounding jurisdictions) for a $115,000 payment per unit to be a true option. It is an important option, though, for a few reasons: (1) It provides a basic level of flexibility for developers, especially those who do not wish to be limited by the permanent affordability restriction on inclusive units, and (2) the revenue from the payments in lieu can be flexibly allocated not just to support production but to support other affordable housing activities.

  czb recommends that the city experiment by decreasing the payment to $75,000 – roughly one-third of the cost of developing a new market-rate unit – and reassessing this level every two years. If it becomes the go-to option for developers, it should probably be increased. If it's never utilized, additional decreases should be considered.

- **Offer a less restrictive off-site option for low-poverty receiving areas:** Currently, exercising the off-site option involves proving that the chosen site for a project cannot accommodate the inclusionary units – and then building them elsewhere at 1.5 times the original requirement. To provide greater flexibility, this could be modified to allow common use of the off-site option, at a one-for-one unit exchange, when the census block group receiving the inclusionary units has a poverty rate of less than 10% – thus achieving the desired outcome of economically integrated housing. This change could be made while leaving the waterfront district exception in place.
- **Adjust the income target for owner-occupied units from 75% of AMI to a flexible range of 80% to 100%:** A household at 80% of AMI ($67,200) can afford to spend roughly $1,700 per month on housing – which matches the current median monthly homeownership cost in Burlington. That should be the floor for inclusionary for-sale units. At the same time, a household at 100% of AMI ($84,000) has purchasing power nearly equal to the median home value. That should be the ceiling for inclusionary for-sale units. This floor and ceiling, though currently forming the 80% to 100% range, should be monitored regularly to ensure that it remains appropriate to the Burlington market.

  For buyers within this range, a second mortgage and down payment assistance could be offered within a shared equity arrangement through the Champlain Housing Trust.

3 Moving the needle

Enact changes recommended in the "Fully functional inclusionary zoning" option AND provide additive local resources to stimulate an accelerated pace of production that will put Burlington on a path of catching-up with demand. Recommended actions here include::

- **Craft a funding plan that relies on local resources to boost production of affordable housing:** As with the model outlined in Part 2 of this report, craft a plan that would use revenue provided by an affordable housing levy or bond to provide resources across a wide range of initiatives – including incentives for inclusionary unit development.
- **Achieve support for an affordable housing levy or bond from city voters:** A citywide referendum on a levy or bond issue to support a carefully crafted funding plan will be a true test for the city. Are Burlington's citizens willing to invest in a strategy that has the potential to boost supply and affordability in a substantial way – and point the city in the direction of catching-up and keeping-up with demand? Or is affordable housing only a mid-tier priority to be addressed primarily by dwindling federal resources?
- **Adjust income targets for rentals from 65% of AMI to a range of 50% to 80%:** Having functional bonuses and incentives in place for inclusionary zoning would make it feasible to go below the current target of 65% of AMI while extending up to 80% for greater flexibility. This new range would be tied to incentives for developers at different points on the range – recognizing that building a unit with rent capped at 50% of AMI is a significantly greater cost burden than a unit with rent capped at 80% of AMI.

  Operating within this broader range would also provide an opportunity to vary the required proportion of inclusionary units – which is now set at a base level of 15%. Within a 50% to 80% range, the proportion could vary between 10% of units at 50% AMI, to 15% of units at

65% AMI, to 20% of units at 80% AMI. Along with other changes, this would provide more flexibility on a project-by-project basis.

- **Contribute levy resources to inclusionary homeownership:** Within the new for-sale range of 80% to 100% of AMI (see option #2), consider contributing levy resources to bolster second mortgage and down payment assistance, toward per-unit development subsidies for units at 80% of AMI (but no higher), and to providing funding to aid Champlain Housing Trust in exercising the city's right of first refusal to purchase inclusionary units that are sold or resold.

Within the realm of "Moving the Needle," czb also recommends that the following issues related to inclusionary zoning and affordable housing – many of which are addressed in the city's 2015 Housing Action Plan – be thoughtfully considered:

- **Address the intersection of affordable housing and college student housing:** The off-campus student population in Burlington is one of the biggest drivers of low vacancy and tight supply. The inclusionary zoning ordinance exempts dwelling units developed in institutional zones (including college dorms and apartments), but the city should consider addressing student housing in two other ways:
  - **Treat privately developed student housing as a special case and a payment in lieu revenue source:** Many communities with large student populations feature apartment-style developments that are built by for-profit developers and geared towards student populations – without any involvement – financial or otherwise – from a university or college. Development of this kind in Burlington should be treated differently from typical residential development. Instead of a normal inclusionary requirement, consider a per-bed fee on such facilities, with revenues going into the Housing Trust Fund to help rehabilitate rental properties deteriorated by long-term student use.
  - **Prevent cost-shifting:** Consider negotiating a PILOT agreement with the University of Vermont designed specifically to help the city deal with housing conditions (from code violations to price escalation) exacerbated by a large off-campus student population. Base the annual payment on the number of undergraduates living off-campus in private housing – this will add revenue to the Housing Trust Fund for projects that promote affordable housing and give UVM an incentive to develop more on-campus housing or support the development of off-campus housing that takes students out of the private rental market.
- **Identify and address factors that limit the creation and utilization of accessory units:** Lifting inclusionary zoning's development threshold from 5 units to 10 will make it less likely that inclusionary projects will happen in lower-density residential neighborhoods – but those are areas where accessory units can play a vital role in supplementing the city's affordable housing stock and making ownership more feasible through a stream of rental income. Identify and review factors, such as off-street parking requirements, that may be limiting the full potential of this segment of the housing market.

APPENDIX

This appendix includes the following supplemental resources: (1) a summary of key research that provided critical context and background on inclusionary zoning for this evaluation (all listed in the bibliography to this report), and (2) a comparative policy matrix of inclusionary zoning policies in six housing markets with broad similarities to Burlington.

Summary of Key Research

The Economics of Inclusionary Housing, Urban Land Institute, 2016

This report – the most recent national-level review of the practice of inclusionary zoning – puts a particular focus on the economic forces that influence development activity and how inclusionary zoning shapes decision-making by developers. It recognizes, for example, that the most important factor determining the success of IZ policies is "a significant and sustained level of market-rate development." Without that, there is little that IZ can do to influence access to affordable housing.

Additionally, the study argues that, in all but the most overheated real estate markets, incentives are needed to ensure that projects can meet IZ policy requirements while remaining financially feasible to developers. Density bonuses and reductions in parking requirements are frequently-used incentives, but direct subsidies to developers and tax abatements are also tools to consider. Individually or in combination, these subsidies and incentives have the potential to increase the effectiveness of IZ policies. But, as the authors make clear, IZ should not be viewed as a singular tool, but as one of many tools that collectively enhance access to affordable housing.

Making Inclusionary Housing More Flexible, Center for Housing Policy, 2015

Noting that the number of communities with inclusionary housing policies has been expanding year by year, often into new territory and new types of housing markets, this policy brief identifies a common struggle in designing ordinances: striking the right balance between generating new affordable units and ensuring that development remains feasible for developers. With flexibility often being a key to achieving this balance, this brief discusses four current practices that are designed to provide flexibility:

1. Permit off-site development in multiple low-poverty neighborhoods – thus achieving economic integration while providing greater flexibility with site acquisition (see San Diego).

2. Offer options to preserve or increase the affordability of existing housing by accepting the conversion of existing market-rate units into deed-restricted affordable housing as a contribution to IZ requirements (see Montgomery County, MD, and Boulder, CO).

3. Restrict fee-revenue spending to broad, designated areas to achieve economic integration without confining geographic scope too narrowly (see San Diego and Boston).

4. Provide flexibility on the incomes served through variable income targeting – thus tying unit production requirements to the AMI range served by developers (see Santa Monica and San Mateo, CA).

Achieving Lasting Affordability Through Inclusionary Housing, Lincoln Institute of Land Policy, 2014

A national inventory of inclusionary housing policies is at the heart of this report, which focuses particular attention on whether and how such policies ensure long-term affordability protections. Out of the 307 policies for which data were obtained on periods of affordability, the authors found that one-third of the policies required 99-year or perpetual affordability for rental and/or for-sale housing and that around 80% of policies required at least 30 years of affordability.

From 20 case studies (including Burlington), the authors concluded that many jurisdictions struggle to ensure that affordability protections on inclusionary units are maintained due to insufficient administrative resources and a failure to adequately plan for long-term monitoring. They cite strong legal mechanisms, administrative processes, and third-party partnerships as key elements of successful monitoring among the communities studied.

Is Inclusionary Zoning Inclusionary? A Guide for Practitioners, RAND Corporation, 2012

Through analysis of IZ unit locations in 11 communities (including Burlington), this report finds that inclusionary zoning programs have tremendous potential to provide low-income families with extended exposure to low-poverty environments – and that the 11 jurisdictions analyzed have largely succeeded in creating conditions where that can occur. The authors found, for example, that the IZ units analyzed were generally located in neighborhoods where poverty is low and where schools perform at a higher level than the average school in their respective states.

The report notes, however, that IZ performance is difficult to compare to other affordability programs, most of which serve households that are more distressed than the income groups that are most often targeted by IZ (above 50% of AMI). For example, while the typical IZ unit in the analysis is located in a neighborhood with a 7% poverty rate, the typical recipient of a housing assistance voucher (making 30% of AMI or below) lives in a neighborhood with a 19.5% poverty rate.

The Effects of Inclusionary Zoning on Local Housing Markets: Lessons from the San Francisco, Washington, DC, and Suburban Boston Areas, Center for Housing Policy, 2008

Through a longitudinal study of IZ policies in three large metropolitan regions where numerous communities have such policies, this report concludes that wide variations in how IZ policies are structured and the range of markets they operate within make it difficult to broadly analyze their influence on local markets or to compare the mechanical effectiveness of certain IZ features. However, the authors distilled several lessons for IZ practitioners based on their region-level observations:

- o Each individual ordinance should be considered on its own merits.
- o Many IZ policies produce affordable units, but IZ is not a panacea for solving a community's housing challenges.
- o More flexible IZ policies may lead to greater production of affordable units.
- o IZ policies that provide meaningful and achievable density bonuses or other benefits to offset the profits lost on affordable units should be less likely to adversely impact the price and supply of market-rate housing.
- o Different cost offsets may be needed in different communities and in different market cycles.
- o Cost offsets need to work in practice, not just on paper.
- o Broad-based consultations with stakeholders may be helpful in designing effective policies and monitoring their implementation.

Delivering on the Promise of Inclusionary Housing: Best Practices in Administration and Monitoring, PolicyLink, 2007

This policy brief begins its overview of the administrative mechanics of inclusionary housing by noting that this component of IZ is sometimes an afterthought that leaves a community scrambling to locate resources and assign administrative duties. It identifies nine administrative responsibilities that need to be addressed to some degree – from overseeing the production of new units, to monitoring of existing units and overall enforcement – and provides examples of how administrative programs are often structured and paid for.

It notes, for example, that administrative duties are often covered by one or more of the following: a department of local government, a multi-jurisdictional collaboration, a private company (under contract), a nonprofit housing agency, or a community land trust. While the right combination of local partners can provide efficient and effective oversight of inclusionary housing units, the costs of on-going monitoring can often be an unwelcome surprise to communities that practice IZ. But, as the author notes, those costs are quite modest when compared to the resources that go into the creation of inclusionary units in the first place.

Comparative Policy Matrix

	Burlington, VT	Annapolis, MD	Boulder, CO	Cambridge, MA	Chapel Hill, NC	Davis, CA	Evanston, IL
Voluntary/ Mandatory	Mandatory	Mandatory	Mandatory	Mandatory	Mandatory	Mandatory	Mandatory
Threshold for compliance	5 units	10 units	1 unit	10 units or 10,000 sq.ft.	5 units	5 units	5 units near transit stations; 10 units elsewhere
Inclusionary set aside	15% to 25%	Rental: 6%; Owner: 12%	20%		15%	10% to 25%	10% if privately funded; 20% if subsidized
Income targets/ ceilings	Rental: 65% AMI; Owner: 75% AMI	100% AMI	Rental: 60% AMI; Owner: 80% AMI	65% AMI	65-80% AMI	Rental: 50-80% AMI; Owner: 80-120% AMI	Rental: 50-80% AMI; Owner: 80-120% AMI
Off-site option	Yes	No	Yes	No	Yes	Yes	No
Payment In lieu	$115,000/unit	4% of total project cost or donation of land suitable for affordable housing	Varies by average unit size; option to dedicated land for affordable housing	No	$85,000/unit	See fee schedule	$100,000/unit near transit stations; $75,000/unit elsewhere
Cost Offsets	Fee waivers, density bonus, parking reduction	Density bonus	No	Density bonus	Density; fee waivers	Density bonus	Expedited application, fee waivers, density bonus, parking reduction
Product similarity requirements	Minimum square foot requirement	Dispersal; consistency with market-rate design and mix	Dispersal; similar bedroom mix	Consistency with market-rate design and unit mix	Consistency with market-rate design and unit mix	Rental: Dispersal and variety in unit size; Owner: 50% of units must be 3BR	Minimum square foot requirement
Duration	Permanent	Rental: 20 years; Owner: 10 years (period starts over if sold to eligible buyer within 10 years)	Permanent	Permanent	99 years	Permanent	Rental: 25 years; Owner: Permanent

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Williams, Stockton, et al. *The Economics of Inclusionary Zoning*. Washington, DC: Urban Land Institute, 2016.

Data Sources

Data utilized during the course of this evaluation were accessed from the following:

A complete inventory of inclusionary zoning projects was generated by the City of Burlington's Community and Economic Development Office (CEDO)

Geographic information system (GIS) files, including datasets for zoning and residential development activity, were provided by the Vermont Center for Geographic Information, the Chittenden County Regional Planning Commission (CCRPC), and the City of Burlington's Department of Planning & Zoning

Demographic, socioeconomic, and housing data for Burlington and its census block groups were accessed from the U.S. Census Bureau's 2014 American Community Survey

Acknowledgements

czb wishes to thank Gillian Nanton from CEDO for coordinating data collection and stakeholder engagement during the course of this project, as well as the following interview subjects for generously providing insights about affordable housing and inclusionary zoning in Burlington:

Dave Adams, Vermont Housing Finance Agency

Charlie Baker, Chittenden County Regional Planning Commission

Michelle Brodeur, Resident

Selene Colburn, City Council – Community Development & Neighborhood Revitalization Committee

John Davis, Burlington Associates

Marcy Esbjerg, CEDO

Eric Farrell, Farrell Real Estate

Alden Finnie, Resident

Erik Hoekstra, Redstone

Dick Jennings, Mascoma Bank

Jane Knodell, City Council President

Joe Larkin, Larkin Realty

Erhard Mahnke, Vermont Affordable Housing Coalition

Regina Mahoney, Chittenden County Regional Planning Commission

Rita Markley, Committee On Temporary Shelter

Michael Monte, Champlain Housing Trust

Gillian Nanton, CEDO

Nancy Owens, Housing Vermont

Brian Pine, Vermont Energy Investment Corporation (formerly with CEDO)

Erin Pond, Resident

Todd Rawlings, CEDO

Cindy Reid, Cathedral Square

Chris Snyder, Snyder Homes

Miro Weinberger, Mayor

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Evaluation of the City of Burlington's Inclusionary Zoning Ordinance

czb

JANUARY 2017

MEMORANDUM

TO:	City Council
FROM:	Mayor Miro Weinberger
DATE:	January 13, 2017
RE:	Inclusionary Zoning Report and Monitoring

Today CEDO is releasing a draft of a consultant report on Inclusionary Zoning. This report represents the first detailed review of the City's 26-year-old Inclusionary Zoning policy. It includes numerous findings and recommendations that I expect will be the subject of discussion and debate in the weeks and months ahead as we consider ways to adjust and improve this important Burlington policy.

In the process of working with the consultant to conduct this review, the Administration has uncovered one issue that we are not waiting to address. The report identified that "units managed or otherwise controlled by not-for-profit agencies (approximately 46 percent of all inclusionary units) are routinely monitored by those agencies" but that "a sufficient long-term monitoring system has never truly developed" for the remainder the units.

My Administration believes that Inclusionary Zoning is an important ordinance with substantial public benefit. I have directed CEDO staff to implement a system to effectively monitor applicable projects for compliance with the IZ ordinance. The accompanying CEDO memo provides details on the proposed system CEDO has put together to improve enforcement.

The Administration is committed to the rigorous enforcement of our ordinances. As we did with the Livable Wage Ordinance when we discovered enforcement lapses several years ago, we are proposing new monitoring and enforcement policies and procedures for the IZ Ordinance. We look forward to finalizing these discussions.

Thank you.

COMMUNITY & ECONOMIC DEVELOPMENT OFFICE
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TO: City of Burlington City Council
Community Development & Neighborhood Revitalization Committee

FROM: Noelle MacKay
Director, Community & Economic Development Office ("CEDO")

DATE: January 11, 2017

RE: **Inclusionary Zoning (IZ) Ordinance**
Notes Regarding Monitoring

This memo serves to give further information related to questions, comments, and recommendations about the monitoring of IZ units which were expressed found in the "Evaluation of the City of Burlington's Inclusionary Zoning Ordinance" by czb LLC and dated January 2017 ("Report").

The Report calls out that "**units managed or otherwise controlled by not-for-profit agencies (approximately 46% of all inclusionary units), are routinely monitored by those agencies** [their emphasis]. Please note that 70% of the units referenced above are also monitored annually by CEDO for compliance with the federal Home Investment Partnerships (HOME) requirements. HOME income and rent limits exceed the IZ ordinance requirements.

The Report also finds that "**a sufficient long-term monitoring system has never truly developed"** [their emphasis] for the remaining units. In response to the discovery of this longstanding oversight, CEDO has been working to create a new monitoring system over the past year. Specifically, CEDO has:

- Researched and built files for all known IZ projects since its inception. This involved a substantial research using individual Planning & Zoning records, electronic files, as well as the City Assessor's database. This effort is ongoing and we are working assiduously to fill in missing gaps in information.

- Greatly expanded, corrected, and updated the "Inventory of Inclusionary Zoning Units" spreadsheet with information necessary to monitor individual units.

- Developed draft monitoring policies and procedures which includes protocol for ensuring compliance at project completion and for the 99 year term of affordability. Please find a draft policy attached.

- Designated two CEDO staff responsible for IZ monitoring: the Housing Program Manager and the Grants Specialist.

- Planned to notify owners of IZ units that annual monitoring will commence in 2017, after public vetting of the proposed policies and procedures.

Increased funding from the Housing Trust Fund has made the above possible. Continued funding at this level is necessary so the City can ensure that IZ ordinance income and affordability requirements are satisfied in the future.

Encl: IZ Monitoring Policy and Procedure

cc: Marcy Esbjerg, CEDO
Todd Rawlings, CEDO
Gillian Nanton, CEDO

Policies and Procedures for Monitoring Inclusionary Zoning Units

Policies

1) Working with Community & Economic Development Office (CEDO) Director, CEDO's Housing Program Manager (or their designee) shall be responsible for overseeing the monitoring and compliance for Inclusionary Zoning (IZ) units.

2) All known IZ units shall be monitored annually per the below with the exception of any unit which has been encumbered by a permanent (99 year) affordability covenant by another funding and monitoring agency if CEDO has been confirmed that the income, rent, and purchase price limits are at least as restrictive as the IZ ordinance. For rental housing, this includes the permanent affordability covenants of the Vermont Housing & Conservation Board. For homebuyer projects, this includes the shared equity covenants of the Champlain Housing Trust and Green Mountain Habitat for Humanity. It is expressly understood that these units are in compliance with the IZ ordinance unless CEDO has any evidence to the contrary.

3) The income requirements for IZ units are understood to apply to initial occupancy only. If tenant or homebuyer household income rises above the qualifying threshold after initial occupancy, this shall not trigger the termination of a tenant lease.

Procedures

Project Completion & Initial Occupancy Monitoring

1) Household income for the IZ units per the executed Housing Subsidy Covenant must be at or below the applicable annual median income limit (100% for rental and 75%/80% for homebuyers). Household income shall include all sources of income for all prospective occupants 18 or older.

2) Total rent and or sale price shall not exceed the maximum per the executed Housing Subsidy Covenant.

3) For rental housing, once the IZ units are fully occupied with income eligible tenants, owner shall send to Housing Program Manager the following information for each IZ unit:

    a. Names of tenant(s)
    b. Unit address
    c. Total household income

d. Total rent paid by tenant
e. Date lease was signed

4) For homebuyer housing, prior to conveyance the seller/buyer shall send to Housing Program Manager the following information for each IZ unit:

a. Names of tenant(s)
b. Unit address
c. Total household income
d. Proposed sale price

5) Housing Program Manager shall examine the submitted materials and check for compliance.

Post-Completion Monitoring

<u>Owner-occupied units</u>

1) Upon a change in occupancy, owner shall follow the requirements of "Initial Occupancy" above.

2) Annually, CEDO shall monitor for occupancy per the same self-certification form used for HOME and CDBG monitoring. CEDO shall confirm that the owner information matches our records and that the owner is aware of the IZ requirements.

3) Housing Program Manager (or their designee) shall examine the submitted materials and check for compliance.

<u>Rental units</u>

1) Upon a change in occupancy, owner shall follow the requirements of "Initial Occupancy" above.

2) Annually, CEDO shall send to the owner income and rent limits after U.S. Department of Housing and Urban Development releases local data.

3) Annually, CEDO shall contact the owner reminding them of requirements and requesting information regarding current occupants and tenant(s) to confirm that the unit is in compliance with IZ requirements. This may include, but not be limited to, collecting information such as copies of leases.

4) Annually, CEDO shall contact the tenant to confirm rent and occupancy information.

5) Housing Program Manager (or their designee) shall examine the submitted materials and check for compliance.

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www.burlingtonvt.gov/cedo

MEMORANDUM

Date: January 18, 2017

To: City Council Community Development & Neighborhood Revitalization Committee

From: Kirsten Merriman Shapiro, Senior Policy and Project Specialist, CEDO

CC: Noelle MacKay, CEDO Director and Downtown Designee
Ron Redmond, Executive Director, Church Street Marketplace District
David E. White, AICP, Director of Planning & Zoning
Meagan E Tuttle, AICP, Principal Planner, Planning and Zoning
Kelly Devine, Executive Director, Burlington Business Association

RE: Designated Downtown District Renewal Application

It is time for the City to submit a renewal application for it State of Vermont Designated Downtown District. The City was awarded the original Downtown Designation on January 6, 1999 for the area of the Church Street Marketplace and on March 26, 2001 and again in March 22, 2004 was awarded the designation for an expanded Downtown District and again on March 2007 was awarded the designation for an expanded Downtown District and in March of 2012. This renewal application is due on March 6, 2017.

The State of Vermont through the Agency of Commerce and Community Development created the Vermont Downtown Program (1998 Downtown Development Act), which provides a number of benefits, including tax credits, loans and grants from various state agencies to designated downtowns. Details of benefits provided can be found at http://accd.vermont.gov/sites/accdnew/files/documents/CD/CPR/CPR-Designation-Benefits-Overview.pdf

The Downtown Partnership of which the municipality is a partner continues to provide the organizational structure for the designated downtown. The Downtown Partnership primary partners at the time of City's last renewal included CEDO, the Church Street Marketplace, the Department of Planning and Zoning and the Burlington Business Association. The configuration of the Downtown Partnership remains the same for this renewal effort.

The City has the same planning commitment to Downtown District in this renewal application as it did for the 2012 renewal of the Downtown District. All of the Downtown District is in the City's design control district. The majority of properties in the Downtown District are either eligible for listing or are listed national or state historic structures or are in historic districts. The City of Burlington views the Vermont Downtown Program and historic preservation as important tools to protect our cultural resources, while facilitating reinvestment and economic development in our community.

The City of Burlington through the Office of the Mayor, the Community and Economic Development Office, Department of Planning and Zoning, the Church Street Marketplace Commission, in conjunction with the Burlington Business Association, are implementing a program of reinvestment in the City's downtown. This effort requires vigilance and involves a long-term commitment to enhancing economic opportunities, preserving historic buildings, and improving public spaces and infrastructure in the Downtown District ensuring the vitality of Burlington's downtown.

Over all the Downtown designation and benefits have been a catalyst for focusing energy on the health and vitality to Burlington's downtown, ensuring Burlington as a place for arts, education, cultural and recreational opportunities.

We are requesting your support of the renewal of the Designated Downtown District and sponsorship of the draft resolution authorizing the City to submit the renewal application and to enter into the Memorandum of Understanding and Community Reinvestment Agreement.

Attached to this communication are the draft resolution, Memorandum of Agreement and Community Reinvestment Agreement, a map of the Designated Downtown District and a list of the benefits of Burlington's Downtown District.

If you have any questions prior to the January 31, 2017 meeting, please contact Kirsten Merriman Shapiro at 865-7284 or kmerriman@ci.burlington.vt.us

DRAFT

In the year Two Thousand Seventeen resolved by the City Council of the City of Burlington, as follows:

WHEREAS, Vermont's downtowns and villages have served as the social and economic centers of our communities for generations often they play a key role in a region's economy. Almost one fifth of Vermont's economic activity and jobs are based in our downtowns; and

WHEREAS, recent decades have brought tremendous economic, technological and social changes, often with adverse effects on our downtowns along with the national trend of disinvestments in downtowns; and

WHEREAS, Burlington's Downtown is an area of intensive capital investment, both public and private, in buildings, water and sewage systems, streets, sidewalks, and parks; and

WHEREAS, the City of Burlington desires to protect this investment and to preserve the wealth of historic buildings in our downtown, which are built with a quality of construction, craft and style that make Burlington's downtown an attractive place to live, work and visit; and

WHEREAS, the City of Burlington through the Office of the Mayor, the Church Street Marketplace Commission, the Community and Economic Development Office, Burlington City Arts, the Department of Parks and Recreation, the Department of Public Works and the Department of Planning and Zoning in conjunction with the Burlington Business Association, desire to undertake a program of reinvestment in the City's downtown; and

WHEREAS, this must involve a long-term commitment to enhancing economic opportunities, preserving historic buildings, and improving public spaces and infrastructure in the commercial district ensuring the vitality of Burlington's downtown; and

WHEREAS, The State of Vermont through the Agency of Commerce and Community Development created the Vermont Downtown Program (1998 Downtown Development Act), which provides a number of benefits (http://accd.vermont.gov/sites/accdnew/files/documents/CD/CPR/CPR-DT-Designation-Benefits.pdf), including tax credits, loans and grants from various state agencies to designated downtowns; and

WHEREAS, The City was awarded the original Downtown Designation on January 6, 1999 for the area of the Church Street Marketplace; and

WHEREAS, June 26 2000, the City Council authorized the City to make an application to the Agency of Commerce & Community Development to expand and renew Burlington's Designated Downtown; and

WHEREAS, the Agency of Commerce & Community Development approved the expansion and of renewal Burlington's Designated Downtown in March 2004; and

WHEREAS, the Agency of Commerce & Community Development approved the expansion and of renewal Burlington's Designated Downtown in March 2007; and

WHEREAS, the Agency of Commerce & Community Development approved the expansion and of renewal Burlington's Designated Downtown in March 2012; and

WHEREAS, Burlington must submit a renewal application to the Agency of Commerce & Community Development renew Burlington's Designated Downtown on March 6, 2017; and

WHERAS, the Church Street Marketplace Commission has endorsed the continued participation in this program and execution of the Community Reinvestment Agreement at their January 18, 2017 Commission meeting; and

WHERAS, the Burlington Planning Commission has endorsed the continued participation in this program and execution of the Community Reinvestment Agreement at their January 24, 2017 Commission meeting; and

WHERAS, the Burlington Business Association has endorsed the continued participation in this program and execution of the Community Reinvestment Agreement at their January 19, 2017 Executive Board meeting; and

WHERAS, the Burlington Community Development and Neighborhood Revitalization Committee has endorsed the continued participation in this program and execution of the Community Reinvestment Agreement at their January 31, 2017 meeting; and

WHERAS, the Burlington Board of Finance has endorsed the continued participation in this program and execution of the Community Reinvestment Agreement at their February 6, 2017 meeting; and

WHEREAS, the City of Burlington is requesting that the State of Vermont renew Burlington's Designated

Downtown for a period of five years from 2017-2022; and

NOW, THEREFORE, BE IT RESOLVED THAT the City Council authorizes the Mayor through the Community & Economic Development Office and all other city departments to execute documents required to submit an application for the renewal of Burlington's Designated Downtown and to execute a Community Reinvestment Agreement and Memorandum of Agreement with the Community & Economic Development Office, Church Street Marketplace, Department of Planning and Zoning and the Burlington Business Association.

COMMUNITY & ECONOMIC DEVELOPMENT OFFIC

CITY HALL • 149 CHURCH STREET, ROOM 32 • BURLINGTON, VERMONT 05401-8400
(802) 865-7144 • (802) 865-7142 (TTY) • (802) 865-7024 (FAX)
Website: www.cedoburlington.org

COMMUNITY REINVESTMENT AGREEMENT

WHEREAS, the City of Burlington through the Office of the Mayor, the Community and Economic Development Office, the Church Street Marketplace Commission, Burlington City Arts, the Department of Parks and Recreation, the Department of Public Works and the Department of Planning and Zoning, in conjunction with the Burlington Business Association, desire to continue a program of reinvestment in the City's Vermont Designated Downtown District including the Church Street Marketplace; and,

WHEREAS, the City of Burlington has advocated for, supported and participated in the Vermont Downtown Program as one of Vermont's first Designated Downtown since 1999; and

WHEREAS, the City of Burlington has produced and has attached to this agreement an accurate map that delineates the boundaries of the designated downtown district; and

WHEREAS, the City of Burlington certifies that it is meeting the previous planning commitment to the designated Downtown District and will continue this commitment through the renewal period including a Design Control District, Historic Districts and Urban Renewal District; and

WHEREAS, the City of Burlington annually adopts a capital budget and improvement plan under 24 V.S.A. Section 4426, which includes the identified capital improvements in the Downtown District; and

WHEREAS, the City of Burlington is in the process of upgrading infrastructure in the downtown improvement district that connects the original designated district (Church Street Marketplace) through continuity of infrastructure design to the current district; and

WHEREAS, the City of Burlington is continuing to improve public transit facilities such as the new bus transfer station (2016), additional commuter lots and shuttles and considering additional parking garage space for the downtown improvement district; and

WHEREAS, the City of Burlington constructed an additional two parking decks at the Lakeview parking garage in association with the Burlington Town Center, Marriot hotel and facilities along with attracting Macy's as a new anchor department store; and

WHEREAS, the City of Burlington is committed to and has supported the development and upgrade of additional hotel and conference facilities with the Hotel Vermont in 2013 and in 2015 with the Hilton Garden Inn in the downtown improvement district, and

WHEREAS, the City of Burlington is committed to investing over $22 + million in TIF eligible and other infrastructure improvements over the next five years in the Downtown District; and

WHEREAS, the City of Burlington, with the approval by the voters of the November 3, 1998 ballot question, has implemented an expanded downtown improvement district and of a two-hour free parking program; and,

WHEREAS, the Church Street Marketplace Commission has implemented a downtown assessment for the purposes of partially funding the two-hour free parking program; and,

WHEREAS, the Church Street Marketplace Commission and the Burlington Business Association are in the process of considering expanding this assessment to include activities conducted by a more traditional Business Improvement District; and,

WHEREAS, the Burlington Business Association expresses its support for the revitalization efforts associated with Burlington's Vermont Designated Downtown District; and.

WHEREAS, the City of Burlington, Community and Economic Development Office, Church Street Marketplace, Dept. of Planning and Zoning and Burlington Business Association have been and will continue to be committed to sustaining a long-term and comprehensive downtown revitalization effort.

NOW THEREFORE, BE IT RESOLVED THAT the below-signed parties support the designated Downtown Development District and agree to the above listed commitments as part of this Community Reinvestment Agreement.

City of Burlington

______________________________ Date: ______________________________

Mayor Miro Weinberger

Burlington Business Association

______________________________ Date: ______________________________

Kelly Devine, Executive Director

Church Street Marketplace Commission

______________________________ Date: ______________________________

Ronald Redmond, Executive Director

Community & Economic Development Office

______________________________ Date: ______________________________

Noelle MacKay, Downtown Designee & CEDO Director

Burlington Dept. of Planning & Zoning

______________________________ Date: ______________________________

David E. White, AICP, Directo

COMMUNITY & ECONOMIC DEVELOPMENT OFF

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MEMORANDUM OF AGREEMENT BETWEEN THE CITY OF BURLINGTON'S COMMUNITY AND ECONOMIC DEVELOPMENT OFFICE, DEPT. OF PLANNING & ZONING, CHURCH STREET MARKETPLACE, AND THE BURLINGTON BUSINESS ASSOCIATION

The City of Burlington departments of Community and Economic Development (CEDO), Church Street Marketplace (CSM), and Planning & Zoning (DPZ), and the Burlington Business Association (BBA) enter into this Memorandum of Agreement to act as partners to provide oversight and support comprehensive revitalization efforts in the Vermont Designated Downtown District for Burlington, through the period of designation (2017-2021).

CEDO, CSM, DPZ, and the BBA will share leadership in the Downtown Partnership, a public-private partnership that focuses on the health and vitality of the downtown.

The leadership of the Downtown Partnership will convene a partner's meeting to create and review the work plan for Burlington's Designated Downtown along with other meetings as necessary. A Downtown Partnership meeting will be convened within six months of receiving approval of the renewal of the Downtown Designation to coordinate with the new administration, and to refine and adopt a more detailed work plan that includes other community organizations where appropriate.

The City of Burlington has a long history of regular and intensive ongoing business assistance and recruitment activities both through the Church Street Marketplace and CEDO. Two staff members of the Marketplace and five staff from CEDO work on aspects of economic development and revitalization. These two City Departments will continue to provide the business recruitment and retention programs, financing, and technical assistance necessary to have a sustained downtown development program into the future.

The **Community and Economic Development Office (CEDO)** is a City of Burlington department which works with the community to: foster economic vitality; preserve and enhance neighborhoods, quality of life and the environment; and promote equity and opportunity for all residents of Burlington. CEDO's annual budget varies from year to year depending on availability of federal funds, but in FY17 CEDO's annual budget is $5,282,841; a quarter of its staff is focused on enhancing the economic vitality and housing needs of the City.

In support of its mission, CEDO works in partnership with citizens, the public and private sectors, and other city departments to: strengthen the quality of life in Burlington's neighborhoods; preserve and develop decent, safe and affordable housing opportunities; maintain and improve the vitality of Downtown, the Pine Street area and neighborhood business districts; encourage a thriving small business sector; foster job growth and employment opportunities; increase civic engagement and citizen participation; support the delivery of human services; and revitalize Burlington's waterfront.

CEDO will administer community and economic development programs, such as business development loans, technical assistance and various housing programs to improve the availability of housing in the downtown.

The **Church Street Marketplace** is a City of Burlington department that manages the public right-of-way in the Church Street Marketplace District, which is a business improvement district that includes all properties abutting Church Street between Main and Pearl Streets. The Mission of the Church Street Marketplace District Commission is to provide responsible management leading to an economically successful downtown which is vibrant, clean and safe, for the benefit of the fee payers, community members and visitors. The Marketplace staff provides a range of services including administration, maintenance, promotions and safety & security. The Marketplace has a staff of five, and a current budget of $1,002,994.

The Church Street Marketplace Commission sets policy for the business improvement district and each year establishes the common area fee rate, the assessment charged to all property owners in the district. The Marketplace's operating budget is derived entirely through fees from property owners, through sidewalk cafe and cart vendor licenses, and by corporate sponsorships. The Marketplace Commission is also charged with setting the Two Hours Free Parking tax rate, assessed on all commercial properties in the Downtown Improvement District. All fees set by the Marketplace Commission are approved by the City Council.

The **Department of Planning and Zoning** is a City department with responsibility for two essential governmental functions: comprehensive land use and development planning; and administration of the City's land development regulations. Through its planning function, the Department is responsible for the preparation of long-range land use and development plans, including the City's Municipal Development Plan and other area-specific and issue-specific plans; conducts special studies and inventories; and researches and drafts amendments to land development ordinances. Through its regulatory function, the Department administers all permitting and development review functions under the City's Comprehensive Development Ordinance, including both the zoning and subdivision regulations. Finally, the Department also administers the City's Certified Local Government Program (CLG) for historic preservation planning under an agreement with the National Park Service and the VT Division for Historic Preservation.

The DPZ has a staff of 8, and its work is guided by a 7-member Planning Commission who formulates land use and development policy and regulations for consideration by the Council. Another 25 citizen volunteers participate in the planning process as members of the Development Review Board, Design Advisory Board and Conservation Board, playing key roles in implementing the City's land use and development regulations. The department also regularly collaborates with other city departments in the pursuit and application of its functions. The Department's FY2017 Annual Operating Budget is $850,463; 80-100% of the budget is derived from permit fees.

The **Burlington Business Association** is a membership association whose purpose is to maintain and enhance the economic vitality of the Burlington Central Business District and will offer its services to the entire Designated Downtown. The BBA advocates for policies and projects which serve to enhance the business environment in Burlington. In addition, the BBA hosts several annual events which educate, inform, and empower the community to work towards a strong economic future for Burlington. The BBA has three staff and a Board of Directors of 17. Its annual budget is $300,000 which is derived from membership dues and fundraising events.

2017-2021 Work Plan

The broad categories and responsibilities for the 2017-2021 comprehensive work plan for Burlington's Vermont Designated Downtown District can be summarized as follows:

Community and Economic Development Office

1. Administration of a revolving loan fund, direct loans, guarantees, gap financing, and participation loans as well as assisting with gaining access to capital or securing adequate terms and conditions to support retention, expansion and recruitment of downtown business and housing ventures.
2. Implementation of Burlington's strategic plan for revitalization of its urban Renewal Community. The Designated Downtown is within the urban Renewal Community.
3. Provide direct technical assistance to businesses or refer businesses to appropriate services, including help with planning and permitting issues.
4. Provide information about state and federal tax credit programs that would benefit employers and employees.
5. Coordination of renovation to the infrastructure within the Designated Downtown district.

Church Street Marketplace

1. Ongoing business attraction, promotion, and retention activities at the Marketplace and in the Designated Downtown.
2. Renovations to Church Street Marketplace infrastructure.

Department of Planning & Zoning

1. Administration of the City's land development regulations as they are applied within the Designated Downtown District including specific provisions regarding design review and historic preservation.
2. Provide assistance to businesses and property owners regarding redevelopment opportunities, City development policies and regulations, and obtaining necessary land development and constructions permits.
3. Provide information about state and federal historic reinvestment tax credit programs that would benefit business and property owners of eligible historic buildings.
4. Development and implementation of a new comprehensive land use and development plan for the City of Burlington, which will include the entire Designated Downtown District and its adopted plan--the 2013 *planBTV Downtown & Waterfront Master Plan*—which was first incorporated into the city-wide plan in 2014.
5. Development and implementation of a new form-based code for the Downtown and Waterfront area which encompasses the entire Designated Downtown District.

Burlington Business Association

1. Expand revitalization activities to the entire Designated Downtown district.
2. Ongoing promotion and marketing of Burlington's Designated Downtown.
3. Host Annual Business Summit event with focus on downtown vitality
4. Advance a public/private partnership with City of Burlington to deliver improved parking and transportations services in the Downtown.
5. Lead an effort with Downtown Partnership members to craft a plan for a full service Business Improvement District for the Designated Downtown.
6. Produce and distribute the Waterfront Map which highlights waterfront businesses and events from within the Downtown District.
7. Conduct special events and projects to support business attraction and downtown promotion for the waterfront and areas within the Designated Downtown but outside of the Church Street Marketplace.
8. Partner with City of Burlington to advance the rehabilitation of the Burlington Bike & Recreation Path.
9. Partner with City of Burlington to advance the rehabilitation of Burlington's City Hall Park, an important civic space in the heart of the Designated District.

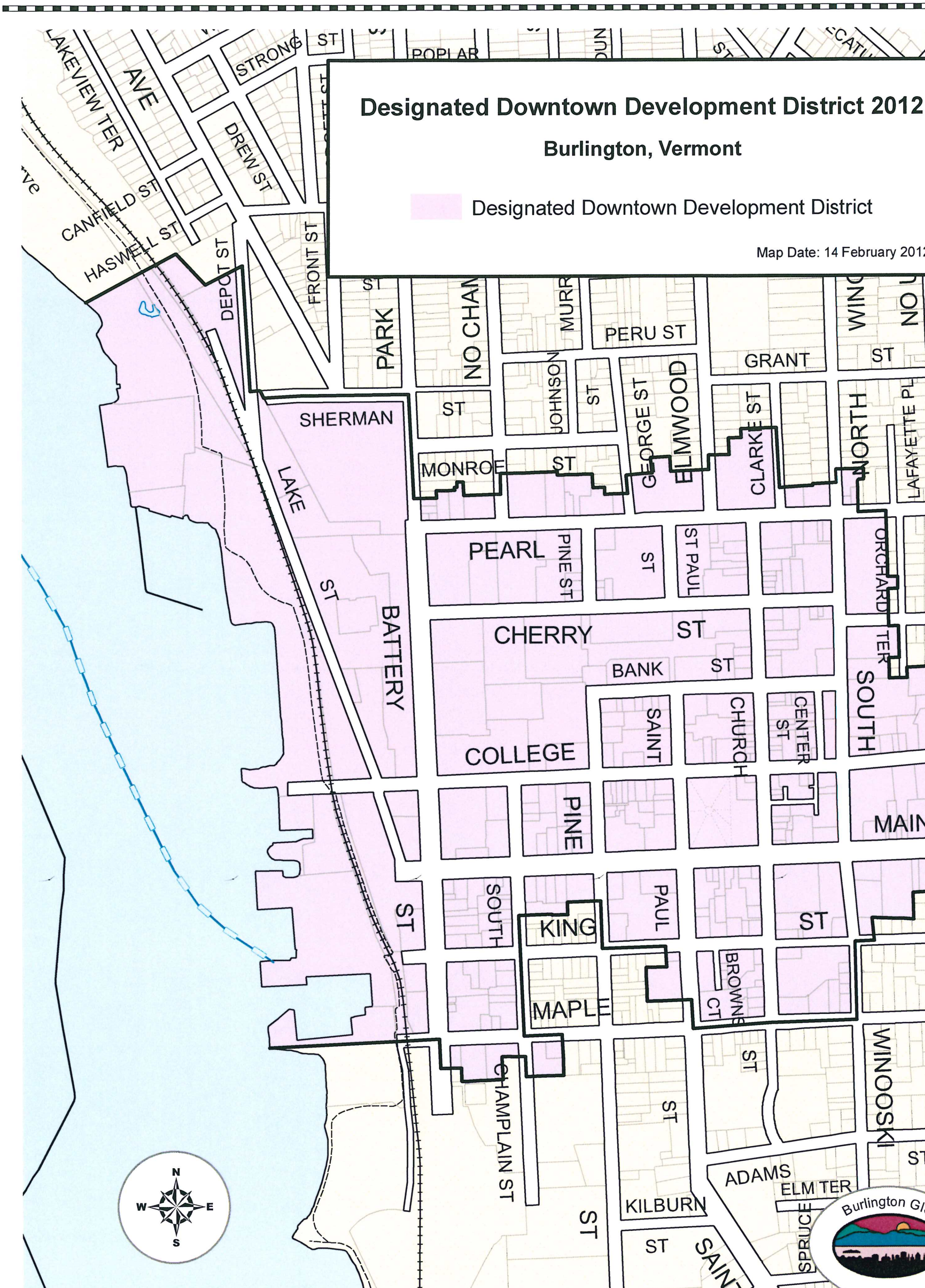
With this Memorandum of Agreement, CEDO, Church Street Marketplace, Dept. of Planning & Zoning, and the Burlington Business Association pledge to jointly develop and support the Downtown Partnership as the primary organization focusing on the health and vitality of Burlington's Designated Downtown. This indicates a commitment by the partners to adopt, accept responsibility for tasks, and commit resources to the attached work plan. They will engage and collaborate as necessary with other organizations in the community to ensure long-term success and sustainability of the revitalization efforts in the Designated Downtown.

Signed: __________________________ Date: _____________
Noelle MacKay, Downtown Designee & CEDO Director
for the Community & Economic Development Office

Signed: __________________________ Date: _____________
David E. White, AICP, Director
for the Burlington Dept. of Planning & Zoning

Signed: __________________________ Date: _____________
Ronald Redmond, Executive Director
for the Church Street Marketplace

Signed: __________________________ Date: _____________
Kelly Devine, Executive Director
for the Burlington Business Association


Designated Downtown Development District 2012
Burlington, Vermont
Designated Downtown Development District
Map Date: 14 February 2012
LAKEVIEW TER
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POPLAR
DREW ST
CANFIELD ST
HASWELL ST
DEPOT ST
FRONT ST
PARK
NO CHAM
PERU ST
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SHERMAN
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JOHNSON
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GEORGE ST
ELMWOOD
CLARKE ST
NORTH
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Overview of Designation Program Benefits

	DOWNTOWN	VILLAGE CENTER	NEW TOWN CENTER	GROWTH CENTER	NEIGBORH DEVE
AUTHORITY					
Statute Section (24 V.S.A. Chapter 76A)	2793	2793a	2793b	2793c	2793e
Date Established	1998	2002	2002	2006	2013
PURPOSE					
Historic Preservation*	√	√		√	√
Economic Revitalization*	√	√		√	√
Smart Growth	√	√	√	√	√
Economic Development	√	√	√	√	√
BENEFITS					
10% State Historic Rehabilitation Tax Credit	√	√			
25% Façade Improvement Tax Credit	√	√			
50% Code Improvement Tax Credit	√	√			
50% Technology Tax Credits	√	√			
Downtown Transportation Fund	√				
Sprinkler System Rebate	√				
Special Assessment District	√	√	√		
Reallocation of Sales Tax on Construction Materials	√				
Traffic Calming Options	√				
Signage Options	√				
Act 250 Threshold for Mixed-Income Housing & Mixed-Use Projects	√			√	√
Act 250 Findings and Conclusionson Criteria	√			√	
Act 250 Master Plan Permit Application				√	
Act 250 Mitigation for Loss of Primary Agricultural Soils**	√		√	√	√
Act 250 fee reduction					√
Act 250 Existing Settlement under criterion 9(L)	√	√	√	√	√
Exemption from land gains tax					√
ANR Wastewater fee capped at $50/application					√
PRIORITY CONSIDERATION* **					
All State Agencies and Funding Programs - first priority	√	√			
Specific State Agencies and Funding Programs:					
Municipal Planning Grants	√	√		√	√
Bike/Ped and Transportation Alternatives Grants	√	√		√	√
Property Assessment Fund (Contaminated Sites / Brownfields)	√			√	√
Community Development Block Grants	√	√		√	√
ANR Wastewater funding	√	√		√	
State affordable housing funds	√			√	√
Locating State Buildings	√	√	√	√	

*May not apply to all growth centers.

**Agricultural soil mitigation benefits apply to designated neighborhood development areas only when they are associated with a designated downtown and applies only to new town centers created before 1/1/14.

***Statute establishes that designated downtowns and village centers should have greater priority for state funding and programs than new town centers and growth centers. (24 V.S.A. §2790(d) and 24 V.S.A. §2793c(i)(2)(A))

For more information, please contact:
Chris Cochran: chris.cochran@vermont.gov or 802.595.5410

CITY OF BURLINGTON, VERMONT
CITY COUNCIL COMMUNITY DEVELOPMENT &
NEIGHBORHOOD REVITALIZATION COMMITTEE
c/o Community & Economic Development Office
City Hall, Room 32 • 149 Church Street • Burlington, VT 05401
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Councilor Selene Colburn, **Chair**, East District
Councilor Tom Ayres, Ward 7
Councilor Adam Roof, Ward 8

Tuesday, January 31, 2017
6:00 – 8:00 PM
Contois Auditorium

Draft Minutes

Attendance: Chair Selene Colburn, Councilors and Committee Members Tom Ayres and Adam Roof, Councilor Sara Gionnani, Councilor Max Tracy, CEDO Director Noelle MacKay, CEDO Assistant Directors Gillian Nanton and Marcy Esbjerg, CEDO Housing Manager Todd Rawlings, CEDO Staff Kirsten Merriman Shapiro, Planning Director David White, Charles Simpson, Ibnar Avilar, Devon Ayers (VLA), Genese Grill, Erhard Mahnke, Brian Pine (VEIC), Joe Speidel (UVM), Lisa Kingsbury(UVM), 32+ members of the public in attendance

1. **Review Agenda** – Chair Selene Colburn called the meeting to order at 6:03PM and reviewed the agenda. Councilor Roof made a motion to approve the agenda with an amendment to check in on meeting dates after the public forum. The motion was seconded by Councilor Ayres and approved unanimously.
2. **Public Forum** (15 minutes)
    - Genese Grill – shared comments about the Inclusionary Zoning (IZ) Report which she felt was flawed because some of the data point were outdated. For example, the report refers to an unhealthy vacancy rate yet that number has been changed in recent months but not used in the report. Ms. Grill shared these comments: building the same number of units will lower rents, however when people move out, landlords renovate and charge higher rents. She mentioned that IZ rates are not affordable. She questioned the statement that Burlington is not holding its weight as to the number of housing units because she believes that Burlington is holding its weight. She also believes that regulations do not stop development. Finally, Ms. Grill said to really welcome refugees, we should have housing policies that welcome them and not displace them.
    - Charles Simpson reminded those present to not depend on the federal resources. He

said we need to look at housing infill on available surface parking lots. He believes Burlington should keep IZ and enhance the current ordinance. Mr. Simpson asked we demand the demolition around the Airport stop because many of those units are affordable housing. He also questioned why we let developers turn over IZ unit responsibility at deeply discounted rates.

3. **Approval of Minutes** – 12/16 – Councilor Roof made a motion to approve the minutes from 12/16 and Councilor Ayres seconded the motion. The motion was approved unanimously.
4. **Renewal of the City of Burlington's Downtown Designation Application** – Kirsten Merriman Shapiro (10 minutes) –

Ms. Merriman Shapiro presented her memo and explained the Downtown Designation Program the City has been a part of since December of 1999. She explained the City is seeking a renewal for the downtown designation and is asking the CDNR Committee to sponsor the resolution before the Board of Finance and City Council. Councilor Roof made a motion to sponsor resolution and Councilor Ayres seconded the motion which was approved unanimously.

5. **Inclusionary Zoning Report Presentation** – Peter Lombardi, czb, LLC (20 minutes)

CEDO Director Noelle MacKay began the presentation by giving background information. She explained that Burlington is the only community in the state to have an IZ ordinance. Last year the administration, CEDO and the CDNR committee developed and the City Council approved a Housing Action Plan (HAP) and within the Plan was a recommendation to review the ordinance. Ms. MacKay thanked the consultants for their work. She also proposed some next steps which might be a working group to review the recommendations. Ms. MacKay noted that this meeting would be the beginning of soliciting public comment and input and written comments to CEDO would be posted on the CEDO website. She did note that the monitoring piece is something the Administration chose to move forward with ahead of the report because the Mayor does feel strongly that we need to enforce the regulations the City already has on the books.
Assistant Director Gillian Nanton explained CEDO and along with the CDNR Committee embarked on the process about a year ago and the review of the IZ ordinance was one of 20 proposals from the HAP. A Request for Proposals was properly vetted through the CDNR Committee and this this firm won the contract. Ms. Nanton explained the consultant visited May and June 2016 and the report gives information and a review of how the IZ ordinance has worked and also recommends next steps.

6. **Review of scheduled meetings through March 2017 and agendas** – (10 minutes)

While the consultant was setting up his presentation, Chair Colburn reviewed the amended agenda to discuss the next meeting dates and topics. The Committee is scheduled to meet again on 2/23 in Contois Auditorium. At that meeting, an update on the Neighborhood Stabilization Program and next steps on IZ will be discussed. Chair Colburn also said the community benefits surrounding the Burlington Town Center agreement will be discussed at the City Council next week during public comment. There is also a CDNR meeting scheduled for 3/23 in CR 12 with an agenda to be determined.

5 **Continued: IZ Report Presentation** Peter Lombardi –

- Mr. Lombardi started the presentation by sharing how the firm approaches the research asking these questions: How to approach policy evaluation – how well is it working? What problem are you trying to solve? What outcomes do you seek? He explained a bit about the environment when the IZ ordinance got started in 1990 was a volatile time for housing and reduced federal support in the 80's. In Burlington, there was concern about development on the waterfront and experimentation with local policies. IZ was not seen as a magic bullet to solve affordable housing or inclusion. Key points from the analysis in the report:

- Has IZ created inclusive/economically integrated housing – yes! 95% of the units have been collocated market rate and income restricted units. Only 5% took the buyout or developed elsewhere. 270 IZ units are in service.
- Most projects took place in LMI census areas which brought market rate units to lower income areas along with affordable units. This resulted in a break up of areas of concentrated poverty. IZ is not taking place in areas where zoning is mostly single family homes.
- Does it provide affordable units – yes – but not at a scale that kept pace with its regional share of housing, generating 2500 fewer units over the past 25 years than it should have compared to the population growth of the county; The variables that influence the lower share of housing – limited supply of vacant land, high land prices; higher construction costs; finance costs; interest costs, development review process; regulatory environment to name a few.
- Are there ways for IZ to work better or contribute more to affordable housing in Burlington? Yes – but changes would need to be made and there would need to be funds pay for it. 58% of Burlington residents still are cost-burdened; over 1/3 pay over 50% on housing; Burlington still has an affordability problem.
- What does Burlington want – a range of housing of all types and for all incomes and a reduction in cost-burden? How could the City possibly achieve these goals?

The Report outlines tools to for 3 paths or directions to take:

- **Status quo plus** to improve how it works but not more housing or affordability: monitoring not just on units but how IZ is working; increase development threshold (raising it to applying to 10 units or more); generalize unit comparability (same size and quality rather than setting size);
- **Fully functional IZ** – as above and more: functioning cost offsets (ie density bonuses and parking waivers – generally not realized), lower payment in lieu; less restrictive off-site option; flexible income target for homeownership.
- **Moving the Needle** –including the recommendations from the first two sections along with a larger local funding commitment for affordable housing which is compared to Seattle's levy initiative for affordable housing.

7. **Inclusionary Zoning Report Discussion** (60 minutes) – Chair Colburn's point of order placed Council committee members first to ask questions of the consultant.
   - Councilor Ayres who represents Ward 4 stated it was good report based on fact. He noted a significant jump in IZ units from 2010-2014 and other time frames and other trend lines – what did those trends represent? Per the consultant, the trends represented economic cycles also the time it takes to go from conception to housing production. Councilor Ayres drew attention to page 24 where there is a look at income targets – more flexibility. He commented that IZ doesn't have any impact on single family detached neighborhoods and it might be a good place for ancillary or smaller ADU's there. Councilor Ayres asked how much open space does the City

have and what about density building up and not out and where there is lower density. He suggested the City be specific about where boundaries are for offsite receipt of IZ units. He also commented that in the policy matrix, some town/gown communities that were of different sizes were listed and inquired if the consultant looked at how the intersection of colleges and IZ policies interacted. The consultant had not explored that aspect but suggested it might be a next step.

- Councilor Roof represents Ward 8 and called the report robust and focused on data. Councilor Roof asked what didn't the consultant include in the report that they considered. The Consultant responded that the 99 year affordability clause in Burlington but that was sacrosanct to the community. He mentioned the firm chewed on it in and its influence on financing, etc. Roof also brought up the county approach, noting we are part of a larger county and what the impact was county-wide. The Building Homes Together campaign was mentioned and it is doing some good thinking about how it can ease the affordable housing in the county. Councilor Roof would like to continue that conversation. It was noted a very small number of developers operate in the City; if the goal is to have a larger volume, developers need to be brought into the conversation. Roof raised a question on payment in lieu – what is a normal ratio? Burlington's payment in lieu was set in 2007 and indexed to inflation – should it be lowered to use it? Or should it be higher to reflect the cost of the unit? What would it do in BTV if we lowered the number to $75K? Councilor Roof referred to p. 16 –and asked what is the expense of syndication? The Consultant said it is related to tax credits. What if Burlington raised the threshold to 10 units, would that create more 9 unit projects to get out of doing IZ? The Consultant has not seen that impact before.
- Chair Colburn asked about Seattle's bonding of money – did it lower the income mark or cost-burden in Seattle? The Consultant said Seattle has been doing a housing levy for many years but was not sure they had collected data about the level of cost-burden in the City or the affordability of units. A more provocative argument might be to serve different income levels; committing enough resources at the lower range to get developers to bite? It was suggested to look at the difference between the MSA AMI or the City of Burlington and how those numbers affect rents. Chair Colburn raised the issue of lowering the payment in lieu number and asked if it doesn't cover the cost of creating a unit, why do it? The response was It isn't enough but it will encourage development even if doesn't raise the cash to build a unit. There was discussion on how to partner with a non-profit developer to manage the units which is a strength in Burlington and brings value. Can partnering with non-profits be addressed in the ordinance and offer predictability

Questions from the Public – Please note all speakers did not introduce themselves.

- Genese Grill – She asked if building the market rate along with IZ units in LMI areas raises the rents in those areas possibly causing gentrification? The consultant answered yes and with that project happening any way IZ allows you to keep some of the new units affordable.
- A member of the public asked if the housing production numbers included– does include institutional housing? Yes.
- Another member of the public asked if the levy numbers and formula presented was scalable if the City wanted to levy more or less funds. Yes.
- Seattle is most prominent example of housing levy – what has it accomplished? This information was not included in the report. The

consultant did not know of any review of results.

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Seeing no further questions or comments, Chair Colburn adjourned the meeting at 8:19 PM.
Respectfully Submitted,

Marcy Esbjerg
Assistant Director, CEDO

CITY OF BURLINGTON, VERMONT
CITY COUNCIL COMMUNITY DEVELOPMENT & NEIGHBORHOOD REVITALIZATION COMMITTEE
c/o Community & Economic Development Office
City Hall, Room 32 • 149 Church Street • Burlington, VT 05401
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Councilor Selene Colburn, **Chair**, East District
Councilor Tom Ayres, Ward 7
Councilor Adam Roof, Ward 8

Tuesday, January 31, 2017
6:00 – 8:00 PM
Contois Auditorium

Draft Minutes

Attendance: Chair Selene Colburn, Councilors and Committee Members Tom Ayres and Adam Roof, Councilor Sara Gionnani, Councilor Max Tracy, CEDO Director Noelle MacKay, CEDO Assistant Directors Gillian Nanton and Marcy Esbjerg, CEDO Housing Manager Todd Rawlings, CEDO Staff Kirsten Merriman Shapiro, Planning Director David White, Charles Simpson, Ibnar Avilar, Devon Ayers (VLA), Genese Grill, Erhard Mahnke, Brian Pine (VEIC), Joe Speidel (UVM), Lisa Kingsbury(UVM), 32+ members of the public in attendance

1. **Review Agenda** – Chair Selene Colburn called the meeting to order at 6:03PM and reviewed the agenda. Councilor Roof made a motion to approve the agenda with an amendment to check in on meeting dates after the public forum. The motion was seconded by Councilor Ayres and approved unanimously.
2. **Public Forum** (15 minutes)
    - Genese Grill – shared comments about the Inclusionary Zoning (IZ) Report which she felt was flawed because some of the data point were outdated. For example, the report refers to an unhealthy vacancy rate yet that number has been changed in recent months but not used in the report. Ms. Grill shared these comments: building the same number of units will lower rents, however when people move out, landlords renovate and charge higher rents. She mentioned that IZ rates are not affordable. She questioned the statement that Burlington is not holding its weight as to the number of housing units because she believes that Burlington is holding its weight. She also believes that regulations do not stop development. Finally, Ms. Grill said to really welcome refugees, we should have housing policies that welcome them and not displace them.
    - Charles Simpson reminded those present to not depend on the federal resources. He

said we need to look at housing infill on available surface parking lots. He believes Burlington should keep IZ and enhance the current ordinance. Mr. Simpson asked we demand the demolition around the Airport stop because many of those units are affordable housing. He also questioned why we let developers turn over IZ unit responsibility at deeply discounted rates.

3. **Approval of Minutes** – 12/16 – Councilor Roof made a motion to approve the minutes from 12/16 and Councilor Ayres seconded the motion. The motion was approved unanimously.
4. **Renewal of the City of Burlington's Downtown Designation Application** – Kirsten Merriman Shapiro (10 minutes) –

Ms. Merriman Shapiro presented her memo and explained the Downtown Designation Program the City has been a part of since December of 1999. She explained the City is seeking a renewal for the downtown designation and is asking the CDNR Committee to sponsor the resolution before the Board of Finance and City Council. Councilor Roof made a motion to sponsor resolution and Councilor Ayres seconded the motion which was approved unanimously.

5. **Inclusionary Zoning Report Presentation** – Peter Lombardi, czb, LLC (20 minutes)

CEDO Director Noelle MacKay began the presentation by giving background information. She explained that Burlington is the only community in the state to have an IZ ordinance. Last year the administration, CEDO and the CDNR committee developed and the City Council approved a Housing Action Plan (HAP) and within the Plan was a recommendation to review the ordinance. Ms. MacKay thanked the consultants for their work. She also proposed some next steps which might be a working group to review the recommendations. Ms. MacKay noted that this meeting would be the beginning of soliciting public comment and input and written comments to CEDO would be posted on the CEDO website. She did note that the monitoring piece is something the Administration chose to move forward with ahead of the report because the Mayor does feel strongly that we need to enforce the regulations the City already has on the books.
Assistant Director Gillian Nanton explained CEDO and along with the CDNR Committee embarked on the process about a year ago and the review of the IZ ordinance was one of 20 proposals from the HAP. A Request for Proposals was properly vetted through the CDNR Committee and this this firm won the contract. Ms. Nanton explained the consultant visited May and June 2016 and the report gives information and a review of how the IZ ordinance has worked and also recommends next steps.

6. **Review of scheduled meetings through March 2017 and agendas** – (10 minutes)

While the consultant was setting up his presentation, Chair Colburn reviewed the amended agenda to discuss the next meeting dates and topics. The Committee is scheduled to meet again on 2/23 in Contois Auditorium. At that meeting, an update on the Neighborhood Stabilization Program and next steps on IZ will be discussed. Chair Colburn also said the community benefits surrounding the Burlington Town Center agreement will be discussed at the City Council next week during public comment. There is also a CDNR meeting scheduled for 3/23 in CR 12 with an agenda to be determined.

5 **Continued: IZ Report Presentation** Peter Lombardi –

- Mr. Lombardi started the presentation by sharing how the firm approaches the research asking these questions: How to approach policy evaluation – how well is it working? What problem are you trying to solve? What outcomes do you seek? He explained a bit about the environment when the IZ ordinance got started in 1990 was a volatile time for housing and reduced federal support in the 80's. In Burlington, there was concern about development on the waterfront and experimentation with local policies. IZ was not seen as a magic bullet to solve affordable housing or inclusion. Key points from the analysis in the report:

- Has IZ created inclusive/economically integrated housing – yes! 95% of the units have been collocated market rate and income restricted units. Only 5% took the buyout or developed elsewhere. 270 IZ units are in service.
- Most projects took place in LMI census areas which brought market rate units to lower income areas along with affordable units. This resulted in a break up of areas of concentrated poverty. IZ is not taking place in areas where zoning is mostly single family homes.
- Does IZ provide affordable units – yes – but not at a scale that kept pace with the cities' regional share of housing, generating 2500 fewer units over the past 25 years than it should have compared to the population growth of the county; The variables that influence the lower share of housing – limited supply of vacant land, high land prices; higher construction costs; finance costs; interest costs, development review process; regulatory environment to name a few.
- Are there ways for IZ to work better or contribute more to affordable housing in Burlington? Yes – but changes would need to be made and there would need to be funds pay for it. 58% of Burlington residents still are cost-burdened; over 1/3 pay over 50% on housing; Burlington still has an affordability problem.
- What does Burlington want – a range of housing of all types and for all incomes and a reduction in cost-burden? How could the City possibly achieve these goals?

The Report outlines tools to for 3 paths or directions to take:

- **<u>Status quo plus</u>** to improve how it works but not more housing or affordability: monitoring not just on units but how IZ is working; increase development threshold (raising it to applying to 10 units or more); generalize unit comparability (same size and quality rather than setting size);
- **<u>Fully functional IZ</u>** – as above and more: functioning cost offsets (ie density bonuses and parking waivers – generally not realized), lower payment in lieu; less restrictive off-site option; flexible income target for homeownership.
- **<u>Moving the Needle</u>** –including the recommendations from the first two sections along with a larger local funding commitment for affordable housing which is compared to Seattle's levy initiative for affordable housing.

7. **Inclusionary Zoning Report Discussion** (60 minutes) – Chair Colburn's point of order placed Council committee members first to ask questions of the consultant.
    - Councilor Ayres who represents Ward 4 stated it was good report based on fact. He noted a significant jump in IZ units from 2010-2014 and other time frames and other trend lines – what did those trends represent? Per the consultant, the trends represented economic cycles also the time it takes to go from conception to housing production. Councilor Ayres drew attention to page 24 where there is a look at income targets – more flexibility. He commented that IZ doesn't have any impact on single family detached neighborhoods and it might be a good place for ancillary or smaller ADU's there. Councilor Ayres asked how much open space does the City

have and what about density building up and not out and where there is lower density. He suggested the City be specific about where boundaries are for offsite receipt of IZ units. He also commented that in the policy matrix, some town/gown communities that were of different sizes were listed and inquired if the consultant looked at how the intersection of colleges and IZ policies interacted. The consultant had not explored that aspect but suggested it might be a next step.

- Councilor Roof represents Ward 8 and called the report robust and focused on data. Councilor Roof asked what didn't the consultant include in the report that they considered. The Consultant responded that the 99 year affordability clause in Burlington but that was sacrosanct to the community. He mentioned the firm chewed on it in and its influence on financing, etc. Roof also brought up the county approach, noting we are part of a larger county and what the impact was county-wide. The Building Homes Together campaign was mentioned and it is doing some good thinking about how it can ease the affordable housing in the county. Councilor Roof would like to continue that conversation. It was noted a very small number of developers operate in the City; if the goal is to have a larger volume, developers need to be brought into the conversation. Roof raised a question on payment in lieu – what is a normal ratio? Burlington's payment in lieu was set in 2007 and indexed to inflation – should it be lowered to use it? Or should it be higher to reflect the cost of the unit? What would it do in BTV if we lowered the number to $75K? Councilor Roof referred to p. 16 –and asked what is the expense of syndication? The Consultant said it is related to tax credits. What if Burlington raised the threshold to 10 units, would that create more 9 unit projects to get out of doing IZ? The Consultant has not seen that impact before.
- Chair Colburn asked about Seattle's bonding of money – did it lower the income mark or cost-burden in Seattle? The Consultant said Seattle has been doing a housing levy for many years but was not sure they had collected data about the level of cost-burden in the City or the affordability of units. A more provocative argument might be to serve different income levels; committing enough resources at the lower range to get developers to bite? It was suggested to look at the difference between the MSA AMI or the City of Burlington and how those numbers affect rents. Chair Colburn raised the issue of lowering the payment in lieu number and asked if it doesn't cover the cost of creating a unit, why do it? The response was It isn't enough but it will encourage development even if doesn't raise the cash to build a unit. There was discussion on how to partner with a non-profit developer to manage the units which is a strength in Burlington and brings value. Can partnering with non-profits be addressed in the ordinance and offer predictability

Questions from the Public – Please note all speakers did not introduce themselves.

  - Genese Grill – She asked if building the market rate along with IZ units in LMI areas raises the rents in those areas possibly causing gentrification? The consultant answered yes and with that project happening any way IZ allows you to keep some of the new units affordable.
  - A member of the public asked if the housing production numbers included– does include institutional housing? Yes.
  - Another member of the public asked if the levy numbers and formula presented was scalable if the City wanted to levy more or less funds. Yes.
  - Seattle is most prominent example of housing levy – what has it accomplished? This information was not included in the report. The

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