

Burlington Planning Commission

149 Church Street
Burlington, VT 05401
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www.burlingtonvt.gov/pz

Andy Montroll, Chair
Bruce Baker, Vice Chair
Yves Bradley
Alex Friend
Emily Lee
Harris Roen
Jennifer Wallace-Brodeur



PUBLIC HEARING NOTICE

Burlington Comprehensive Development Ordinance **ZA-19-07 Commercial Uses in E-LM**

Pursuant to 24 V.S.A. §4441 and §4444, notice is hereby given of a public hearing by the Burlington Planning Commission to hear comments on the following proposed amendments to the City of Burlington's *Comprehensive Development Ordinance* (CDO). The public hearing will take place on **Wednesday, January 9, 2019 beginning at 6:45pm** in Conference Room 12, City Hall, 149 Church Street, Burlington, VT.

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

Statement of purpose: This amendment is proposed to the Burlington CDO as follows:

- **ZA-19-07:** The purpose of the proposed amendment is to permit additional commercial uses in certain parts of the E-LM zoning district consistent with the vision for the South End articulated in the draft *planBTV: South End Master plan*. This includes permitting banks, removing the limitations on performing arts centers, and establishing a requirement that a majority of the gross floor area on a lot south of Home Avenue be an industrial/manufacturing/warehouse use.

Geographic areas affected: the proposed amendments are applicable to the following areas in the City of Burlington:

- **ZA-19-07:** The amendment applies to properties located within the Enterprise-Light Manufacturing zoning district located within the South End of Burlington.

List of section headings affected:

- **ZA-19-07:** The proposed amendment modifies *Sec. 4.4.3 (c) and (d)*; modifies *Table 8.1.8-1 Minimum Off-Street Parking Requirements*; modifies *Article 13 Definitions*; modifies *Appendix A-Use Table*; and modifies *Sec. 14.3.4-H and Sec. 14.3.5-H*.

The full text of the *Burlington Comprehensive Development Ordinance* and the proposed amendment is available for review at the Department of Planning and Zoning, City Hall, 149 Church Street, Burlington Monday through Friday 8:00 a.m. to 4:30 p.m. or on the department's website at www.burlingtonvt.gov/pz.

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Burlington Planning Commission

Wednesday, January 9, 2019, 6:30 P.M.
City Hall, Conference Room 12, 149 Church Street

Special Meeting AGENDA

I. Agenda

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

III. Update on ZA-18-08 Form District 5 Boundaries

Staff will provide an update regarding questions on changes made by City Council Ordinance Committee to the proposed ZA-18-08. Information related to this item is included in the agenda packet on pages 3-5.

Staff Recommendation: No action is required. If the Commission would like to provide comments/a recommendation for consideration by the City Council they may do so.

IV. Public Hearing: ZA-19-07 Commercial Uses in the E-LM (Time Certain 6:45pm)

The Planning Commission will hold a public hearing on a proposed amendment to the *Burlington Comprehensive Development Ordinance* to modify provisions for a number of permitted and conditional uses in the Enterprise Light-Manufacturing district. Information related to this item is included in the agenda packet on pages 6-20.

Staff Recommendation: Following the hearing, the Commission is recommended to refer the proposed amendment with recommendation to City Council.

V. Proposed CDO Amendment ZA-19-04: Trees, Junkyards, Cross Reference

The Planning Commission will discuss a series of proposed amendments to the *Burlington Comprehensive Development Ordinance* regarding sections of the ordinance pertaining to tree cutting, junkyards, and a correction to a cross reference regarding infrastructure in design of sites. Information related to this item is included in the agenda packet on pages 21-33.

Staff Recommendation: The Commission is recommended to approve the municipal bylaw amendment report and warn the amendment for public hearing.

VI. Proposed CDO Amendment ZA-19-08: Dwelling Unit

The Planning Commission will discuss a proposed amendment to the *Burlington Comprehensive Development Ordinance* regarding the definition of a dwelling unit. Information related to this item is included in the agenda packet on pages 34-36.

Staff Recommendation: The Commission is recommended to approve the municipal bylaw amendment report and warn the amendment for public hearing.

VII. Committee Reports

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VIII. Commissioner Items

- a. Joint Meeting with the DRB, DAB & Conservation Board on January 15, 2019 at 5:00pm in Contois Auditorium, City Hall
- b. Please see the attached communications regarding the Inclusionary Zoning Ordinance, beginning on p 49. These are provided for your information in advance of a presentation at the Joint Meeting, and a discussion at the Jan 29 meeting.

IX. Minutes & Communications

The Commission will review and approve the minutes of three meetings from 2018: December 5- Special Meeting, December 11, and December 11- Special Meeting, enclosed in the agenda packet on pages 37-45. Communications are enclosed beginning on page 46.

X. Adjourn

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Burlington Planning Commission Report Municipal Bylaw Amendment ZA-18-08 Form District 5 Boundaries

This report is submitted in accordance with the provisions of 24 V.S.A. §4441(c).

Explanation of the proposed bylaw, amendment, or repeal and statement of purpose:

The purpose of this proposed amendment is to modify the boundaries of Form District 5 to include additional properties located along the boundary of the current district. Properties proposed for inclusion are currently zoned Residential High Density or Residential Medium Density, and have been evaluated for their current and future potential use and intensity. These have been recommended for inclusion in Form District 5 in order to encourage the appropriate type and intensity of future infill or redevelopment, and to enable greater flexibility for expansion or reuse of existing uses and structures by reducing non-conformities.

Conformity with and furtherance of the goals and policies contained in the municipal development plan, including the availability of safe and affordable housing:

The proposed amendment will provide greater flexibility on some properties for infill, and a more diverse range of building types for new development and redevelopment. This flexibility can promote housing development in mixed-use structures as well as small and large multi-family structures, providing greater opportunities for the creation new, or more, housing within the transitional areas around the downtown core. Specifically, this furthers the policies in the Municipal Development Plan to "encourage new land uses and housing designs that serve changing demographics and benefit from new technologies where appropriate" and to "support the development of additional housing opportunities within the city, with concentrations of higher-density housing within neighborhood activity centers, the downtown, and institutional core campuses."

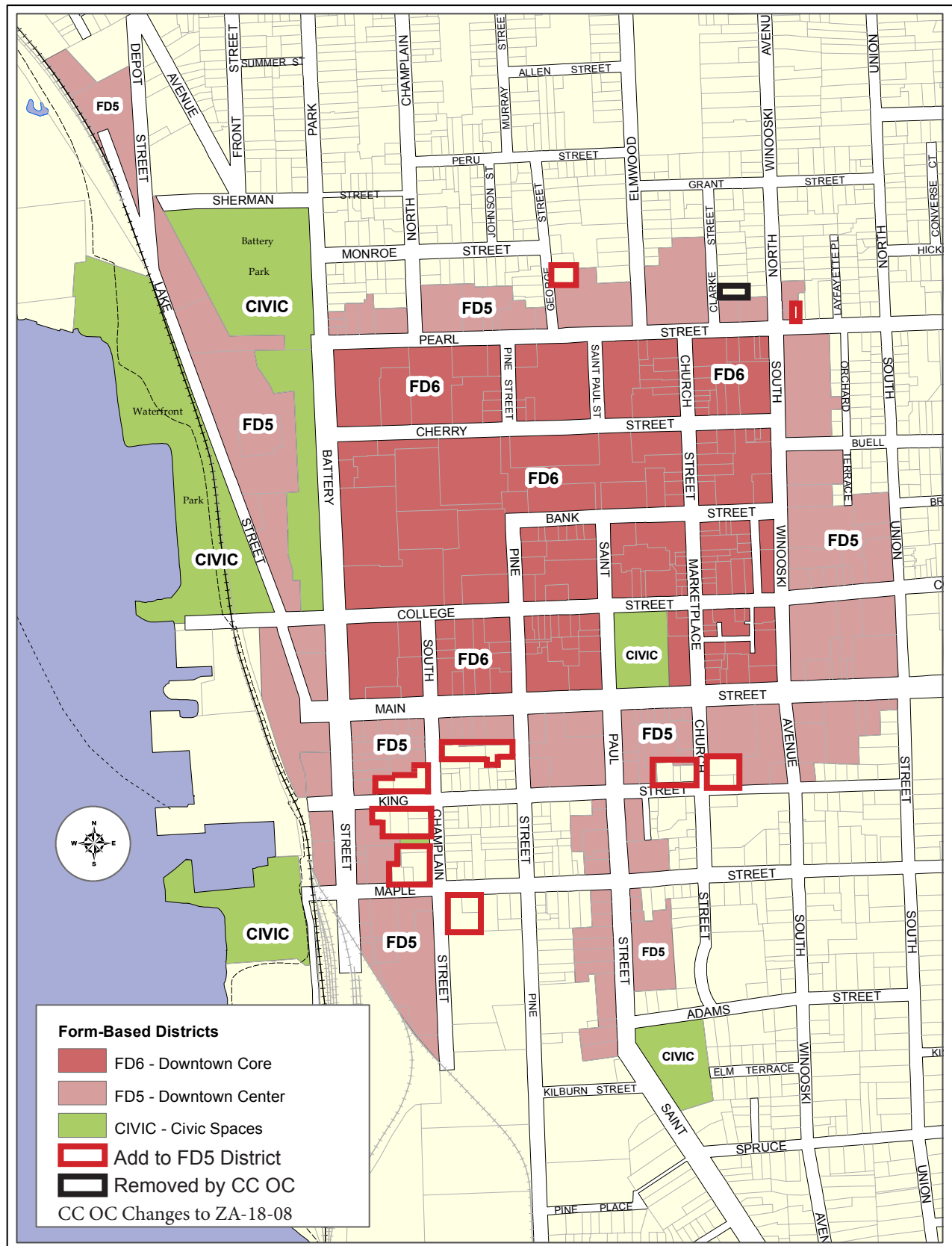
Compatibility with the proposed future land uses and densities of the municipal development plan:

The proposed amendment will provide greater flexibility on some properties for infill, and a more diverse range of building types for new development and redevelopment, including housing and mixed-use. This furthers the policies in the *Municipal Development Plan* related to land use and density, specifically to "encourage mixed-use development patterns, at a variety of urban densities, which limit the demand for parking and unnecessary automobile trips, and support public transportation" and to "retain its moderate scale and urban form in its most densely developed areas, while creating new opportunities for increased densities."

Implementation of specific proposals for planned community facilities:

The proposed amendment has no impact on planned community facilities.

MAP 1 - REGULATING PLAN



MAP 2 - SPECIFIC HEIGHT AREAS



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Geographic areas affected: the proposed amendments are applicable to the following areas in the City of Burlington:

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List of section headings affected:

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Scott Gustin, AICP, CFM, Principal Planner
Mary O'Neil, AICP, Principal Planner
Ryan Morrison, Assistant Planner
Shaleigh Draper, Zoning Clerk
Layne Darfler, Planning Technician



TO: Burlington Planning Commission
FROM: Meagan Tuttle, Comprehensive Planner
DATE: January 3, 2019
RE: Proposed CDO Amendment ZA-19-07: Commercial Uses in the E-LM Zone

revised

Overview & Background

The proposed amendment emerged from a number of separate requests during the past several months to reconsider certain allowable commercial uses in the Enterprise-Light Manufacturing (E-LM) district:

- A series of prospective tenants for the Maltex building on Pine Street, all intending to establish a bank in the building. This use is not presently permitted in the E-LM.
- An inquiry about expanding the size limit for performing arts centers in order to allow Arts Riot to expand into an adjacent space for its office/storage needs. A performing arts center is presently limited to 5,000 sq.ft. on properties along Pine Street.
- Burton's interest in repurposing one of their buildings on Industrial Parkway, to include a range of R&D, warehouse, and other commercial uses, including a performing arts center.

These requests, as well as a number of previous zoning amendment requests that have been approved in the last several years, relate to the long-standing concern that the E-LM standards are somewhat outdated, and utilize a one-size-fits-all approach despite the evolving nature of the South End. This concern is one of the underlying factors that prompted the creation of the draft *planBTV: South End Master Plan*, and a comprehensive update to the E-LM standards is one of the key recommendations of the draft plan. A comprehensive review of the district is likely in 2019, following the re-adoption of *planBTV: Comprehensive Plan*, which is anticipated to include *planBTV: South End Master Plan*.

Recent amendments to E-LM have begun to incorporate the approach discussed in *planBTV: South End* to consider the appropriateness of various art, commercial, and industrial uses within certain parts of the Enterprise Zone. A recent example is the provision of small grocery stores between Flynn & Home Avenues only. This amendment uses a similar approach to balance the timely consideration of the above requests brought before the Planning Commission, with the big picture guidance of *planBTV: South End*.

Details related to the proposed amendment can be found on the following pages.

Recommended Amendment

Amendment Type

Text Amendment	Map Amendment	Text & Map Amendment
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Purpose Statement

The purpose of the proposed amendment is to permit additional commercial uses in certain parts of the E-LM zoning district consistent with the vision for the South End articulated in the draft *planBTV: South End Master* plan. This includes permitting banks, removing the limitations on performing arts centers, and establishing requirement that a majority of the gross floor area on a lot south of Home Avenue be an industrial/manufacturing/warehouse use.

1. Allow banks as a permitted use north of Flynn Avenue
Add banks to the list of permitted uses within the E-LM, but prohibit drive-thrus.
2. Prioritize manufacturing, industry, R&D, and warehousing south of Home Avenue
planBTV: South End identifies the area south of Home Avenue as an important area to preserve for more traditional industrial uses. However, today the following commercial uses are also permitted or conditional uses in the E-LM zone, including south of Home Avenue. The proposed amendment limits these uses to a supporting role within the southernmost portion of the district in order to preserve space for industrial/manufacturing uses:
 - General Retail, specific retail types, General Office, Open Air Markets
 - Variety of auto, marine, bike, rail related sales and services
 - Health Clubs & Studios
 - Cafes & Bakeries
 - Community Center
 - Daycare & Preschools
 - Medical/Dental Offices
 - Animal care services
 - Variety of uses related to the arts
3. Leverage market-rate commercial uses to support industry/manufacturing
planBTV: South End recognizes the challenge of preserving industrial and manufacturing uses given the market realities of the South End, and identifies the need to come up with creative solutions to support and protect these uses. Therefore, this amendment is intended to leverage more traditional commercial uses that are compatible with and can help subsidize space for industrial/manufacturing uses. This is accomplished by allowing the uses identified above south of Home Avenue only when they are on the same lot as an industrial/manufacturing use, and by limiting the collective area of those uses to no more than 49% of the gross floor area on lot. This establishes two groups of uses:

Group A Use Types	Group B Use Types
Currently permitted or conditional uses in E-LM, including south of Home Ave, for which no change is recommended.	Currently permitted or conditional uses in E-LM. This proposal allows these uses south of Home Ave only when: - on a lot with one or more Group A uses - collective GFA of Group B uses is <49% of total GFA on the lot
Food & Beverage Processing	Animal Boarding & Kennel/Shelter, Vet/Animal Hospital
Medical/Dental Lab	Auto Repair/Body Shop, Auto/Marine Parts, Bicycle Repair, Boat Rental/Sales; Auto Sales, Car Wash, Rail Equip/Storage, RV Sales

Taxi/Bus Operations & Trucking Operations, Public Transit Terminal, Public Works Yard/Garage	General Office, Bank/Credit Union
Machine/Woodworking, Manufacturing & Tour-Oriented Manufacturing, Warehouse,	Appliance Sales/Service, Dry-cleaning service, Laundromat, Auction House, Garden Supply
Hazardous Waste Disposal, Solid Waste Facility, Recycling Center; Dry Cleaning Plant	Wholesale Sales General Retail (Large or Small) Open Air Markets
Retail Warehouse/Self Storage, Printing Plant, Distribution Center, Lumber Yard, Contractor Yard	Art Gallery Studio, Film Studio, Performing Arts Studio, Photo Studio & Photography, Radio/TV/Recording Studio, Performing Arts Center (currently limited to Pine St), Printing Studio Community Center, Park, Community Garden
Fire Station, Police Station, Post Office Distribution Center	Café/Bakery
Parking Lot/Garage	Medical/Dental Office
	Health Club/Studio, Indoor Recreation Facility
	Trade School, Daycare & Preschool (Large or Small)

Proposed Amendments

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

- Amend *Sec. 4.4.3* to establish the limitation on 'Group B' uses:

Sec. 4.4.3 Enterprise Districts

(a) – (b) *As written.*

(c) Permitted and Conditional Uses:

1. The principal land uses that may be permitted, or conditionally permitted pursuant to the requirements of Article 3, within the Enterprise districts shall be defined in Appendix A- Use Table.

2. Within the E-LM district, permitted or conditionally permitted retail, commercial, arts, education, and service uses not associated with industrial, manufacturing, R&D, and warehouse purposes are not permitted on lots south of Home Avenue except when:

- a. one or more industrial, manufacturing, R&D, and/or warehouse use(s) exist on the lot; and
- b. the combined gross floor area (GFA) of any general retail, commercial, arts, education, and/or service use(s) does not exceed 49% of the gross floor area on the lot.

Uses restricted by this provision are identified in Appendix A- Use Table.

(d) District Specific Regulations

1. Convenience Stores *As written*

2. Drive thrus are not permitted.

- Amend *Article 13* to modify manufacturing definitions:

Article 13: Definitions

~~Machine/Woodworking Shop:~~ ~~Shops less than 10,000 square feet where lathes, presses, grinders, shapers, and other wood and metal working machines are used such as blacksmith, tinsmith, welding, and sheet metal shops; plumbing, heating, and electrical repair shops; and overhaul shops. Includes stone cutting but excludes drop forge.~~

Manufacturing: The mechanical or chemical transformation of materials or substances into new products, including but not limited to the assembling of component parts, the creation of products, and the blending of materials including but not limited to oils, plastics, resins, metal, wood, stone, etc. ~~including. Includes drop forge. Manufacturing establishments are greater than or equal to 10,000 square feet., and incidental storage and distribution of products. A manufacturing use may include a show room and/or offer public tours that are incorporated into the facility's ordinary operations.~~

Manufacturing- Light: The manufacturing of finished products or parts from previously prepared materials using hand tools, mechanical tools, and electronic tools, including processing, fabrication, assembly, treatment, and packaging of products, as well as incidental storage, sales, and distribution of such products; as well as shops for overhaul and repair including for plumbing, HVAC, and electrical. A light manufacturing use may include a show room and/or offer public tours that are incorporated into the facility's ordinary operations.

~~Manufacturing-tour Oriented:~~ ~~A manufacturing and/or processing establishment in which public tours are accommodated and incorporated into the facility's ordinary operations and may include the accessory retail sale of products or goods produced on the premises.~~

- Amend *Appendix A- Use Table* (See Attached)
Reference new *Sec. 4.4.3 (c) 2* for 'Group B' uses, add new 'Manufacturing-Light' use, and delete 'Machine/Woodworking Shop' and 'Manufacturing-tour Oriented'. Further, add footnotes to limit the size of 'Manufacturing-Light' uses in neighborhood mixed-use districts, to require uses that offer public tours to be permitted by conditional use provisions, and to delete the footnote limiting Performing Arts Centers to Pine Street.
- Amend *Article 14 planBTV Downtown Code* (See Attached)
Amend *Sec. 14.3.4-H* and *Sec. 14.3.5-H* to reflect the updated use types for manufacturing consistent with the above two modifications.

ZA-19-07: Appendix A-Use Table – All Zoning Districts

	Urban Reserve	Recreation, Conservation & Open Space			Institutional	Residential			Downtown Mixed Use ^l	Neighborhood Mixed Use				Enterprise	
USES	UR	RCO - A	RCO - RG	RCO - C	I	RL/W	RM/W	RH	DW-PT ¹⁶	NMU	NAC	NAC-RC	NAC-CR	E-AE	E-LM
RESIDENTIAL USES	UR	RCO - A ¹	RCO - RG	RCO - C	I	RL/W	RM/W	RH	DW-PT ¹⁶	NMU	NAC	NAC-RC	NAC-CR	E-AE	E-LM
Single Detached Dwelling	N	N ¹	N	N	Y	Y	Y	N ³⁰	N	N ³⁰	N ³⁰	N ³⁰	N	N	N
Accessory Dwelling Unit (See Art.5, Sec.5.4.5)	N	N	N	N	Y	Y	Y	N	N	N	N	N	N		
Attached Dwellings - Duplex	N	N ¹	N	N	Y	CU ²	Y	Y	N	Y ³	N	Y	N	N	N
Attached Dwellings - Multi-Family (3 or more)	N	N ¹	N	N	CU	N	Y	Y	N	Y	Y	Y	Y	N	N
Attached Dwelling(s) – Mixed-Use ²⁶	N	N ¹	N	N	CU	CU	CU	CU	N	Y	Y	Y	Y	N	N
RESIDENTIAL SPECIAL USES	UR	RCO – A	RCO - RG	RCO - C	I	RL/W	RM/W	RH	DW-PT ¹⁶	NMU	NAC	NAC-RC	NAC-CR	E-AE	E-LM
Assisted Living	N	N	N	N	CU	CU	Y	Y	N	Y	Y	Y	Y	N	N
Bed and Breakfast ^{4, 6}	N	N	N	N	CU	CU	CU	CU	N	Y	Y	Y	N	N	N
Boarding House ⁶ (4 persons or less)	N	N	N	N	CU	CU	Y	Y	N	Y	Y	Y	N	N	N
Boarding House ⁶ (5 persons or more)	N	N	N	N	CU	CU	CU	CU	N	CU	CU	CU	N	N	N
Community House (See Sec.5.4.4)	N	N	N	N	CU	CU	CU	CU	N	CU	CU	CU	CU	N	N
Convalescent /Nursing Home	N	N	N	N	CU	CU	Y	Y	N	Y	Y	Y	Y	N	N
Dormitory ⁵	N	N	N	N	CU	N	N	N	N	N ²⁵	CU	CU	N	N	N
Emergency Shelter ³¹	N	N	N	N	N	CU	CU	CU	N	CU	CU	CU	CU	N	N
Group Home	N	N	N	N	Y	Y	Y	Y	N	Y	Y	Y	Y	N	N
Historic Inn (See Sec.5.4.2)	N	N	N	N	CU	CU	CU	CU	N	CU	Y	Y	Y	N	N
Mobile Home Park	N	N	N	N	N	CU	CU	N	N	N	N	N	N	N	N
Sorority/Fraternity ⁵	N	N	N	N	CU	N	N	N	N	N	N	N	N	N	N
NON-RESIDENTIAL USES	UR ²¹	RCO - A	RCO - RG	RCO - C	I	RL/W	RM	RH	DW-PT ¹⁶	NMU	NAC	NAC-RC	NAC-CR	E-AE	E-LM
Adult Day Care	N	N	N	N	CU	N	N	N	N	Y	Y	Y	Y	N	N
Agricultural Use ²⁰	N	Y	Y	CU	Y	N	N	N	N	N	N	N	N	Y	N
Amusement Arcade	N	N	N	N	N	N	N	N	N	N	CU	CU	CU	N	N
Animal Boarding/Kennel/Shelter	N	CU	N	N	N	N	N	N	N	N	CU	CU	CU	CU	CU ²⁷
Animal Grooming	N	N	N	N	N	N	N	N	N	Y	Y	Y	Y	CU	CU ²⁷
Animal Hospitals/Veterinarian Office ^{ee}	N	CU	N	N	CU	N	N	N	N	CU	CU	CU	CU	Y	Y ²⁷
Appliance Sales/Service	N	N	N	N	N	N	N	N	N	Y ²⁴	Y	Y	Y ²⁴	N	Y ²⁷
Aquarium	N	N	CU	N	CU	N	N	N	(See Sec.4.4.1(d) 2)	N	N	N	N	N	N
Art Gallery/Studio	N	N	N	N	Y	N	N	CU ¹³	(See Sec.4.4.1(d) 2)	Y	Y	Y	Y	Y	Y ²⁷

Proposed changes to Appendix A- Use Table for ZA-19-07

ZA-19-07: Appendix A-Use Table – All Zoning Districts

	Urban Reserve	Recreation, Conservation & Open Space			Institutional	Residential			Downtown Mixed Use ⁱ	Neighborhood Mixed Use				Enterprise	
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Auction House	N	N	N	N	N	N	N	N	N	N	Y	Y	N	N	CU ²⁷
Automobile Body Shop	N	N	N	N	N	N	N	N	N	N	N	Y	N	N	Y ²⁷
Automobile & Marine Parts Sales	N	N	N	N	N	N	N	N	(See Sec.4.4.1(d) 2)	CU	Y	Y	Y	N	Y ²⁷
Automobile/Vehicle Repair	N	N	N	N	N	N	N	N	N	CU ^{9, 12, 14}	CU ^{9, 12, 14}	CU ¹⁴	N	N	Y ²⁷
Automobile Sales – New & Used	N	N	N	N	N	N	N	N	N	N	Y	Y	N	N	CU ²⁷
Bakery	N	N	N	N	N	N ²²	N ²²	CU ¹³	N	Y	Y	Y	Y	Y	Y ²⁷
Bank, Credit Union	N	N	N	N	CU	N ²²	N ²²	N ²²	N	Y	Y	Y	Y	N	Y ²⁷
Bar, Tavern	N	N	N	N	N	N	N	N	N	CU	CU	CU	CU	N	N
Beauty/ Barber Shop	N	N	N	N	CU	N ²²	N ²²	CU ¹³	N	Y	Y	CU	Y	N	N
Bicycle Sales/Repair	N	N	N	N	CU	N	N	N	N	Y	Y	Y	Y	N	Y ²⁷
Billiard Parlor	N	N	N	N	N	N	N	N	N	CU	Y	CU	Y	N	N
Boat Repair/Service	N	N	CU	N	N	N	N	N	(See Sec.4.4.1(d) 2)	N	CU	CU	N	N	Y ²⁷
Boat Sales/Rentals	N	N	CU	N	N	N	N	N	(See Sec.4.4.1(d) 2)	N	Y	Y	N	N	Y ²⁷
Boat Storage	N	N	CU	N	N	N	N	N	N	N	CU	CU	N	N	Y ²⁷
Bowling Alley	N	N	N	N	N	N	N	N	N	CU	Y	Y	Y	N	N
Building Material Sales	N	N	N	N	N	N	N	N	N	N	Y ¹⁰	Y	N	N	Y ²⁷
Café	N	CU ¹⁷	CU	N	CU	N ²²	N ²²	CU ¹³	(See Sec.4.4.1(d) 2)	Y	Y	Y	Y	CU	CU ²⁷
Camp Ground	N	Y	Y	N	N	N	N	N	(See Sec.4.4.1(d) 2)	N	N	N	N	N	N
Car Wash	N	N	N	N	N	N	N	N	N	N	CU	Y	CU	N	CU ²⁷
Cemetery	N	N	Y	N	N	N	N	N	N	N	N	N	N	N	N
Cinema	N	N	N	N	Y	N	N	CU	N	CU ¹⁴	Y	N	Y ¹⁴	N	N
Club, Membership	N	N	Y	N	CU	N	Y	Y	N	CU	CU	N	CU	N	N
Community Center	N	N	CU	N	CU	CU ¹³	CU ¹³	Y ¹³	N	Y	Y	Y	Y	N	CU ²⁷
Community Garden	N	Y	Y	N	Y	Y	Y	Y	N	Y	Y	Y	Y	Y	Y ²⁷
Conference Center	N	N	N	N	CU	N	N	N	N	N	N	N	N	N	N
Composting	N	CU	N	N	N	N	N	N	N	N	N	N	N	N	N
Contractor Yard	N	N	N	N	N	N	N	N	N	N	N	Y ¹⁰	N	N	Y
Convenience Store (See Sec.5.4.3)	N	N	N	N	N	N	N	CU ¹²	N	Y ¹²	Y	Y	Y ¹²	N	Y ²⁷
Convention Center	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N
Courthouse	N	N	N	N	Y	N	N	CU	N	N	N	N	N	N	N
Crematory	N	N	N	N	N	N	N	N	N	N	N	CU	N	N	N
Crisis Counseling Center	N	N	N	N	CU	CU	CU	CU	N	Y	Y	Y	Y	N	N

Proposed changes to Appendix A- Use Table for ZA-19-07

ZA-19-07: Appendix A-Use Table – All Zoning Districts

	Urban Reserve	Recreation, Conservation & Open Space			Institutional	Residential			Downtown Mixed Use ¹	Neighborhood Mixed Use				Enterprise	
USES	UR	RCO - A	RCO - RG	RCO - C	I	RL/W	RM/W	RH	DW-PT ¹⁶	NMU	NAC	NAC-RC	NAC-CR	E-AE	E-LM
Daycare - Large (Over 20 children) (see Sec. 5.4.1)	N	N	N	N	CU	CU ¹³	CU ¹³	CU ¹³	N	Y	Y	Y	Y	N	CU ^{17, 27}
Daycare - Small (up to 20 children) (See Sec.5.4.1)	N	CU ⁸	CU ⁸	CU ⁸	CU	CU ¹³	CU ¹³	CU ¹³	N	Y	Y	Y	Y	CU	CU ^{17, 27}
Daycare – Family Home	N	N	N	N	Y	Y	Y	Y	N	Y	Y	Y	Y	N	N
Dental Lab	N	N	N	N	CU	N	N	N	N	Y	Y	Y	Y	N	Y
Distribution Center	N	N	N	N	N	N	N	N	N	N	N	CU	N	N	CU
Dry Cleaning Plant	N	N	N	N	N	N	N	N	N	N	N	CU	N	N	CU
Dry Cleaning Service	N	N	N	N	CU	N ²²	N ²²	N ²²	N	Y ²⁴	Y	Y	Y ²⁴	N	CU ²⁷
Film Studio	N	N	N	N	Y	N	N	N	N	N	CU	Y	CU	N	CU ²⁷
Fire Station	N	N	Y	N	Y	CU	CU	CU	N	Y	Y	Y	Y	Y	Y
Food & Beverage Processing ²⁷	N	N	N	N	N	N	N	N	N	CU ¹⁴	CU ¹⁴	CU	CU ¹⁴	Y	Y
Fuel Service Station ⁹	N	N	N	N	N	N	N	N	N	CU ¹¹	Y ¹¹	Y	N	N	N
Funeral Home	N	N	N	N	N	CU ⁷	CU ⁷	CU ⁷	N	CU	Y	Y	N	N	N
Garden Supply Store	N	N	N	N	CU	N	N	N	N	CU ²⁴	Y	Y	N	Y	Y ²⁷
General Merchandise/Retail – Small <4,000sqft	N	N	N	N	CU	N ²²	N ²²	N ²²	(See Sec.4.4.1(d) 2)	Y	Y	Y	Y	N	Y ²⁷
General Merchandise/Retail – Large ≥4,000sqft	N	N	N	N	N	N	N	N	(See Sec.4.4.1(d) 2)	N	CU ¹⁸	CU	CU	N	CU ^{17, 27}
Grocery Store – Small ≤10,000sqft	N	N	N	N	N	N	N	CU	N	Y	Y	Y	Y	CU	CU ²⁸
Grocery Store – Large >10,000sqft	N	N	N	N	N	N	N	N	N	N	Y	Y	N	N	CU ²⁸
Hazardous Waste Collection/Disposal	N	N	N	N	N	N	N	N	N	N	N	N	N	N	CU
Health Club	N	N	N	N	Y	N	N	CU	N	CU	Y	Y	Y	N	CU ²⁷
Health Studio	N	N	N	N	Y	N ²²	N ²²	CU	N	Y	Y	Y	Y	N	Y ²⁷
Hospitals	N	N	N	N	CU	N	N	CU	N	N	N	N	N	N	N
Hostel	N	N	N	N	Y	N	N	CU	N	Y	Y	Y	Y	N	N
Hotel, Motel	N	N	N	N	CU	N	N	N	(See Sec.4.4.1(d) 2)	N	Y	N	Y	N	N
Laundromat	N	N	N	N	CU	N ²²	N ²²	CU ¹³	N	Y ¹³	Y	Y	Y	N	Y ²⁷
Library	N	N	N	N	Y	CU	CU	Y	N	Y	Y	Y	Y	N	N
Lumber Yard	N	N	N	N	N	N	N	N	N	N	CU ¹⁰	Y	N	N	Y
Machine/Woodworking Shop Manufacturing- Light ^{27, 29}	N	N	N	N	N	N	N	N	N	CU ¹⁴	CU ¹⁴	CU	CU ^{14, 24}	CU	Y
Manufacturing ^{27, 29}	N	N	N	N	N	N	N	N	N	N	N	CU	N	CU	Y

ZA-19-07: Appendix A-Use Table – All Zoning Districts

	Urban Reserve	Recreation, Conservation & Open Space			Institutional	Residential			Downtown Mixed Use ¹	Neighborhood Mixed Use				Enterprise	
USES	UR	RCO - A	RCO - RG	RCO - C	I	RL/W	RM/W	RH	DW-PT ¹⁶	NMU	NAC	NAC-RC	NAC-CR	E-AE	E-LM
Manufacturing—Tour Oriented	N	N	N	N	N	N	N	N	N	N	N	CU	N	CU	CU
Marina	N	N	Y	N	N	N	N	N	(See Sec.4.4.1(d) 2)	N	N	N	N	N	N
Medical Lab	N	N	N	N	CU	N	N	N	N	CU	Y	Y	N	CU	CU
Mental Health Crisis Center	N	N	N	N	N	N	CU (See §5.4.11)	N	N	N	N	N	N	N	N
Museum—Small < 10,000 sqft	N	CU	CU	CU	Y	CU ¹³	CU ¹³	CU ^{8,13}	(See Sec.4.4.1(d) 2)	Y	Y	Y	Y	CU	Y ²³
Museum-Large >10,000 sqft	N	N	N	N	CU	N	N	N	(See Sec.4.4.1(d) 2)	N	CU	CU	N	CU	CU ²³
Office - General	N	N	N	N	N	N	N	N	N	Y	Y	Y	Y	CU	Y ²⁷
Office - Medical, Dental	N	N	N	N	CU	N ²²	N ²²	N ²²	N	Y	Y	Y	Y	N	Y ²⁷
Open Air Markets	N	Y	Y	N	Y	CU	CU	CU	(See Sec.4.4.1(d) 2)	Y	Y	Y	Y	Y	Y ²⁷
Operations Center – Taxi/Bus ⁹	N	N	N	N	N	N	N	N	N	N	N	CU ¹¹	N	N	Y
Operations Center - Trucking ⁹	N	N	N	N	N	N	N	N	N	N	N	Y ¹¹	N	CU ¹¹	CU
Park	N	Y	Y	Y	Y	Y	Y	Y	(See Sec.4.4.1(d) 2)	Y	Y	Y	Y	CU	CU ²⁷
Parking Garage ⁹	N	N	N	N	Y	N	N	CU	N	CU	Y	N	CU	N	CU
Parking Lot ⁹	N	N	N	N	N	N	N	N	N	N	CU	N	N	N	CU
Performing Arts Center	N	N	N	N	Y	N	N	N	(See Sec.4.4.1(d) 2)	CU	Y	N	CU	N	CU ^{27,27}
Performing Arts Studio	N	N	N	N	Y	N	N	CU ¹³	(See Sec.4.4.1(d) 2)	CU	CU	CU	Y	N	Y ²⁷
Pet Store ¹⁰	N	N	N	N	N	N	N	N	N	CU	Y	Y	Y	N	N
Pharmacy	N	N	N	N	CU	N ²²	N ²²	N ²²	N	Y	Y	Y	Y	N	N
Photo Studio	N	N	N	N	N	N ²²	N ²²	N	N	Y	Y	Y	Y	N	Y ²⁷
Photography Lab	N	N	N	N	N	N	N	N	N	CU	Y	Y	Y	CU	Y ²⁷
Police Station - Central	N	N	N	N	CU	N	N	N	N	Y	Y	Y	N	N	N
Police Station - Local	N	N	CU	N	Y	CU	CU	CU	N	Y	Y	Y	Y	Y	Y
Post Office – Central Distribution Center	N	N	N	N	N	N	N	N	N	N	Y	Y	N	N	Y
Post Office - Local	N	N	N	N	Y	N ²²	N ²²	N ²²	N	Y	Y	Y	Y	N	N
Printing Plant	N	N	N	N	N	N	N	N	N	N	N	CU	N	N	Y
Printing Shop	N	N	N	N	CU	N ²²	N ²²	N	N	CU	Y	Y	Y	N	Y ²⁷

Proposed changes to Appendix A- Use Table for ZA-19-07

ZA-19-07: Appendix A-Use Table – All Zoning Districts

	Urban Reserve	Recreation, Conservation & Open Space			Institutional	Residential			Downtown Mixed Use ⁱ	Neighborhood Mixed Use				Enterprise	
USES	UR	RCO - A	RCO - RG	RCO - C	I	RL/W	RM/W	RH	DW-PT ¹⁶	NMU	NAC	NAC-RC	NAC-CR	E-AE	E-LM
Public Transit Terminal	N	N	N	N	Y	N	N	N	(See Sec.4.4.1(d) 2)	N	CU	CU	Y	CU	Y
Public Works Yard/Garage ⁹	N	N	N	N	CU ¹¹	N	N	N	N	N	CU ¹¹	Y ¹¹	N	CU	Y
Radio & TV Studio	N	N	N	N	N	N	N	N	N	N	Y	Y	Y	N	Y ²⁷
Rail Equip. Storage & Repair	N	N	N	N	N	N	N	N	(See Sec.4.4.1(d) 2)	N	N	N	N	CU	CU ²⁷
Recording Studio	N	N	N	N	N	N	N	CU	N	CU	CU	Y	Y	N	Y ²⁷
Recreational Facility - Indoor	N	N	CU	N	CU	N	CU	CU	(See Sec.4.4.1(d) 2)	N	Y	CU	N	N	CU ²⁷
Recreational Facility - Outdoor Commercial	N	N	CU	N	CU	N	N	N	(See Sec.4.4.1(d) 2)	N	N	CU	N	N	N
Recreational Facility - Outdoor	N	N	Y	N	Y	N	N	N	(See Sec.4.4.1(d) 2)	N	Y	Y	CU	N	N
Recreational Vehicle Sales – New and Used	N	N	N	N	N	N	N	N	N	N	CU	CU	N	N	Y ²⁷
Recycling Center – Large ¹⁰ (above 2,000 sf)	N	N	N	N	N	N	N	N	N	N	N	N	N	CU	CU
Recycling Center - Small ¹⁰ (2,000 sf or less)	N	N	N	N	CU	N	N	N	N	CU	CU	CU	CU	CU	Y
Research Lab	N	CU	N	N	CU	N	N	N	(See Sec.4.4.1(d) 2)	N	CU	CU	CU ²⁴	CU	Y
Restaurant	N	N	N	N	N	N ²²	N ²²	CU ^{8, 13}	(See Sec.4.4.1(d) 2)	Y ¹³	Y	Y	Y ¹³	N	N
Restaurant – Take Out	N	N	N	N	CU ¹³	N ²²	N ²²	N	(See Sec.4.4.1(d) 2)	Y ¹³	Y	Y	Y ¹³	N	Y ^{13, 27}
Salon/Spa	N	N	N	N	CU	N ²²	N ²²	N	N	Y	Y	Y	Y	N	N
School - Post-Secondary &Community College	N	N	Y	N	CU	N	CU	CU	N	CU	CU	CU	CU	N	N
School – Preschool Large (over 20 children) (see Sec. 5.4.1)	N	N	N	N	CU	CU ¹³	CU ¹³	CU ¹³	N	Y	Y	Y	Y	N	CU ^{17, 27}
School – Preschool Small (up to 20 children) (see Sec. 5.4.1)	N	CU ⁸	CU ⁸	CU ⁸	CU	CU ¹³	CU ¹³	CU ¹³	N	Y	Y	Y	Y	CU	CU ^{17, 27}
School - Primary	N	N	N	N	CU	CU	CU	CU	N	CU	CU	CU	CU	N	N
School - Secondary	N	N	N	N	CU	CU	CU	CU	N	CU	CU	CU	CU	N	N
School, -Trade, or Professional	N	N	N	N	CU	N	N	N	N	CU	N	N	CU	N	CU ²⁷
Solid Waste Facility - Incinerator, Landfill, Transfer Station	N	N	N	N	N	N	N	N	N	N	N	N	N	CU	CU
Tailor Shop	N	N	N	N	N	N ²²	N ²²	CU	N	Y	Y	Y	Y	N	N
Warehouse	N	CU	N	N	CU	N	N	N	(See Sec.4.4.1(d) 2)	N	N	Y ¹⁵	N	Y	Y

Proposed changes to Appendix A- Use Table for ZA-19-07

ZA-19-07: Appendix A-Use Table – All Zoning Districts

	Urban Reserve	Recreation, Conservation & Open Space			Institutional	Residential			Downtown Mixed Use ⁱ	Neighborhood Mixed Use				Enterprise	
USES	UR	RCO - A	RCO - RG	RCO - C	I	RL/W	RM/W	RH	DW-PT ¹⁶	NMU	NAC	NAC-RC	NAC-CR	E-AE	E-LM
Warehouse, Retail ⁹	N	N	N	N	N	N	N	N	N	N	CU ¹⁵	CU ¹⁵	N	CU	CU
Warehouse, Self-Storage ⁹	N	N	N	N	N	N	N	N	N	N	N	Y ¹⁵	N	N	CU
Wholesale Sales ⁹	N	CU	N	N	N	N	N	N	N	N	N	Y ¹⁵	N	Y	Y
Worship, Place of	N	N	N	N	CU	CU	CU	Y	N	Y	CU	CU	CU	N	N

1. Residential uses are not permitted except only as an accessory use to an agricultural use.
2. Duplexes may be constructed on lots which meet the minimum lot size specified in Table 4.4.5-1.
3. Duplexes shall only be allowed as a result of a conversion of an existing single family home. New duplexes are prohibited.
4. No more than 5 rooms permitted to be let in any district where bed and breakfast is a conditional use. No more than 3 rooms permitted to be let in the RL district.
5. An existing fraternity, sorority, or other institutional use may be converted to dormitory use subject to conditional use approval by the DRB.
6. Must be owner-occupied.
7. Must be located on a major street.
8. Small daycare centers and small preschools in the RCO zones shall only be allowed as part of small museums and shall constitute less than 50% of the gross floor area of the museum.
9. Automobile sales not permitted other than as a separate principal use subject to obtaining a separate zoning permit.
10. Exterior storage and display not permitted.
11. All repairs must be contained within an enclosed structure.
12. No fuel pumps shall be allowed other than as a separate principal use subject to obtaining a separate zoning permit.
13. Permitted hours of operation 5:30 a.m. to 11:00 p.m.
14. Such uses not to exceed ten thousand (10,000) square feet per establishment.
15. Excludes storage of uncured hides, explosives, and oil and gas products.
16. See Sec.4.4.1(d) 2 for more explicit language regarding permitted and conditional uses in the Downtown Waterfront – Public Trust District.
17. Allowed only as an accessory use.
18. A permitted use in the Shelburne Rd Plaza and Ethan Allen Shopping Center.
19. [Reserved].
20. Accepted agricultural and silvicultural practices, including the construction of farm structures, as those practices are defined by the secretary of agriculture, food and markets or the commissioner of forests, parks and recreation, respectively, under 10 VSA §1021(f) and 1259(f) and 6 VSA §4810 are exempt from regulation under local zoning.
21. See Sec. 4.4.7 (c) for specific allowances and restrictions regarding uses in the Urban Reserve District.
22. See Sec. 4.4.5 (d) 6 for specific allowances and restrictions regarding Neighborhood Commercial Uses in Residential districts.
23. Allowed only on properties with frontage on Pine Street.
24. Such uses shall not exceed 4,000 square feet in size.
25. Dormitories are only allowed on properties contiguous to a school existing as of January 1, 2010.
26. The mixed uses shall be limited to those that are either permitted, conditional, or pre-existing nonconforming in the zoning district.
- ~~27. Performing arts centers in the ELM zone shall be limited to a total of 5,000 square feet in size and to properties with frontage on Pine Street. Performing arts centers may contain accessory space for preparation and serving food and beverages, including alcohol, provided this accessory space comprises less than 50% of the entire establishment. Use is permitted or conditionally permitted south of Home Avenue only when on a lot with one or more manufacturing, industrial, R&D, and/or warehouse use, and when the combined gross floor area of any use with this footnote does not exceed 49% of the Gross Floor Area on a lot.~~
- ~~28.~~
- ~~29-28.~~ Grocery Stores up to but not to exceed 30,000 square feet may be permitted subject to conditional use approval by the DRB in that portion of the Enterprise-Light Manufacturing District between Flynn and Home Avenue.
- ~~30-29.~~ Must be fully enclosed within a building.
- ~~34-30.~~ New single detached dwellings are not permitted. However, a pre-existing single detached dwelling may be reverted to a single family use regardless of its present use if the building was originally designed and constructed for that purpose.
- ~~31.~~ See special use standards of Sec. 5.4.13, Emergency Shelters.

Legend:	
Y	Permitted Use in this district
CU	Conditional Use in this district
N	Use not permitted in this district
Abbreviation	Zoning District
RCO – A	RCO - Agriculture
RCO – RG	RCO – Recreation/Greenspace
RCO – C	RCO - Conservation
I	Institutional
RL/W	Residential Low Density, Waterfront Residential Low Density
RM/W	Residential Medium Density, Waterfront Residential Medium Density
RH	Residential High Density
DW-PT	Downtown Waterfront-Public Trust
NMU	Neighborhood Mixed Use
NAC	Neighborhood Activity Center
NAC-RC	NAC – Riverside Corridor
NAC-CR	NAC – Cambrian Rise
E-AE	Enterprise – Agricultural Processing and Energy
E-LM	Enterprise – Light Manufacturing

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

14.3.4-H- USE TYPE

FD6

MANUFACTURING/ PRODUCTION/ STORAGE

Dental Lab	P
Food Processing	P
Machine/Woodworking Shop Manufacturing- Light ³	P
Manufacturing ³	P
Manufacturing – Tour Oriented ³	P
Medical Lab	P
Production Studio	P
Photography Lab	P
Printing Plant	P
Research Lab	P
Warehouse/Storage ³	P
Warehouse, Self-Storage ³	P

EDUCATION & DAY CARE

Day Care - Adult	P
Daycare - All (Sec. 14.6.6.b)	P
School - Post-Secondary & Community College	P
School - Primary	P
School - Secondary	P
School, -Trade, or Professional	P

14.3.4-H- USE TYPE

FD6

CIVIC

Courthouse	P
Fire Station	P
Library	P
Park	P
Police Station	P
Post Office	P
Worship, Place of	P

TRANSPORTATION & UTILITIES

Recycling Center - Small ³ (2,000 sf or less)	P
Public Transit Terminal	P
Operations Center – Taxi/Bus ³	P
Parking Structure	P

KEY

Permitted Use	P
Conditional Use	CU

END NOTES

³ Exterior storage and display not permitted.

14.3.5-H- USE TYPES

FD5

HOSPITALITY/ ENTERTAINMENT/ RECREATION

Aquarium	P
Art Gallery/Studio	P
Bar, Tavern	P
Billiards, Bowling & Arcade	P
Cafe	P
Cinema	P
Club, Membership	P
Community Center	P
Conference/Convention Center	P
Museum	P
Performing Arts Center	P
Performing Arts Studio	P
Recreational Facility - Indoor	P
Restaurant	P
Restaurant – Take Out	P

MANUFACTURING/ PRODUCTION/ STORAGE

Boat Storage ²	P
Dental Lab	P
Food Processing	P
Machine/Woodworking Shop Manufacturing- Light ²	P
Manufacturing ²	P
Manufacturing – Tour Oriented ²	P
Medical Lab	P
Production Studio	P
Photography Lab	P
Printing Plant	P
Research Lab	P
Warehouse/Storage ²	P
Warehouse, Self-Storage ²	P

14.3.5-H- USE TYPES

FD5

EDUCATION & DAY CARE

Day Care - Adult	P
Daycare - All (Sec. 14.6.6.b)	P
School - Post-Secondary & Community College	P
School - Primary	P
School - Secondary	P
School, -Trade, or Professional	P

CIVIC

Courthouse	P
Fire Station	P
Library	P
Park	P
Police Station	P
Post Office	P
Worship, Place of	P

TRANSPORTATION & UTILITIES

Recycling Center - Small ² (2,000 sf or less)	P
Public Transit Terminal	P
Operations Center – Taxi/Bus ²	P
Parking Structure	P

KEY

Permitted Use	P
Conditional Use	CU

END NOTES

¹Must be owner-occupied.

² Exterior storage and display not permitted.

- Amend *Table 8.1.8-1 Minimum Off-Street Parking Requirements* to account for the change to definitions above as follows:

<i>Table 8.1.8-1 Minimum Off-Street Parking Requirements</i>			
	Neighborhood Districts	Shared Use Districts	Downtown Districts
NON-RESIDENTIAL USES	Per 1,000 square feet of gross floor area (gfa) except as noted		
Machine Shop/Woodworking shop <u>Manufacturing- Light</u>	1.3, <u>plus 3 per 1,000 gfa devoted to patron use.</u>	1, <u>plus 2 per 1,000 gfa devoted to patron use.</u>	1
Manufacturing	1.3, <u>plus 3 per 1,000 gfa devoted to patron use.</u>	1, <u>plus 2 per 1,000 gfa devoted to patron use.</u>	1
Manufacturing- Tour Oriented	1.3, plus 3 per 1,000 gfa devoted to patron use.	1.3, plus 2 per 1,000 gfa devoted to patron use	1

Relationship to planBTV

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

Proposed Future Land Use & Density

The *2014 Municipal Development Plan (planBTV)* identifies the E-LM zone for encouraging light industry, creative arts and industry, manufacturing, and incubator space for new and emerging businesses in appropriate locations. The plan further calls for an evaluation of the district's future—as one that is commercial-industrial in nature, or one that is more mixed-use. The draft *planBTV: South End Master Plan* provides this evaluation, with the recommendation that the future land use for the southernmost portion of the E-LM is focused on supporting the needs of light industrial, R&D, and industrial arts/maker businesses. As such, the proposed changes place an emphasis on these uses, and creates a mechanism by which more traditional commercial uses are permitted only when on a lot with an industrial use. Therefore, the proposed amendment is consistent with the *2014 plan* and the draft *South End Master Plan*. The proposed amendment does not impact the permitted density or intensity of land uses.

Impact on Safe & Affordable Housing

The proposed amendment has no impact on the availability of safe and affordable housing. Housing is not presently permitted in the E-LM, and the proposed amendment does not change this.

Planned Community Facilities

The proposed amendment has no impact on planned community facilities.

Process Overview

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

Planning Commission Process				
Draft Amendment prepared by: Staff, by request	Presentation to & discussion by Commission 11/27/2018	Approve for Public Hearing 11/27/2018	Public Hearing 1/9/2019	Approve & forward to Council
				Continue discussion
City Council Process				
First Read & Referral to Ordinance Cmte	Ordinance Committee discussion	Ordinance Cmte recommends to Council [as is / with changes]	Second Read & Public Hearing	Approval & Adoption
				Rejected

Department of Planning and Zoning

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TO: Burlington Planning Commission
FROM: Scott Gustin, Principal Planner
DATE: January 3, 2019
RE: CDO Amendment ZA-19-04: Trees, Junkyards, and Cross Reference Correction

draft

Overview & Background

This amendment proposes corrections to three separate elements of the *Burlington Comprehensive Development Ordinance* that were discovered through the routine administration of the ordinance related to tree removal standards, Junkyards and Automobile/Vehicle Salvage Yards, and a cross reference to Article 5.

At their September 6, 2018 meeting, the Ordinance Committee reviewed the following three proposed amendments to the ordinance, and each was forwarded to the Planning Commission with recommendation to approve.

Proposed Amendment

Amendment Type

Text Amendment	Map Amendment	Text & Map Amendment
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Purpose Statement

The purpose of this amendment is to make a number of technical corrections to the *Burlington Comprehensive Development Ordinance*. These include, the relocation of language regarding tree removal standards from Article 3 to Article 5, and eliminating references to these standards that are duplicative and/or superseded by Article 14; the relocation of the zoning permit exemption for tree removal in city parks from Article 4 to Article 3, and the addition of "Civic" districts (created by Article 14) to those applicable districts exempt from a permit; creation of a new definition for Junkyards, deletion of Automobile Salvage/Junkyard definition, and amendment to the Vehicle Salvage Yard definition; and to address an incorrect reference within Sec.6.2.2 (p).

1. Tree Removal Standards- Changes to Articles 3, 4, and 5

The adoption of *Article 14, planBTV: Downtown Code*, affected the tree cutting provisions within the CDO. Sec. 3.1.2, *Zoning Permit Required*, (a) *Exterior Work* stipulates that tree removal of a certain degree requires the advance review and approval of the Development Review Board per the criteria in Article 6, *Part 2: Site Plan Design Standards*. Article 14 expressly supersedes Article 6 in the downtown form districts. As a result, reference to Article 6 is moot when considering tree cutting in the downtown form districts. Additionally, the actual standards for review of tree removal proposals are contained within the performance standards of Article 5, specifically Sec. 5.5.4, *Tree Removal*. Staff recommends

deletion of reference to Article 6 in the tree cutting provision of Sec. 3.1.2. The performance standards of Article 5: Part 5 expressly continue to apply within the downtown form districts. As reference to DRB review is made, staff proposes relocating that language to a more appropriate location in Sec. 5.5.4, *Tree Removal*.

One additional item related to tree cutting standards is the exemption under Sec. 4.4.6, *Recreation, Conservation, and Open Space Districts* (d) *District Specific Regulations*. Item 2 under this section exempts regular tree maintenance and removal in city parks from the requirement for a zoning permit. This exemption is more appropriately located with all other zoning permit exemptions under Sec. 3.1.2, *Zoning Permit Required* (c) *Exemptions*. Staff recommends deleting the exemption from Sec. 4.4.6 and relocating it under Sec. 3.1.2. Further, as Article 14, planBTV: Downtown Code, created a new district, Civic, which applies to city parks, a reference to this district is recommended to be added to this exemption.

2. Junkyards & Automobile/Vehicle Salvage Yards- Article 13 Definitions and Addition to Appendix A- Use Table

The CDO presently contains definitions for “automobile salvage/junkyard” and “vehicle salvage yard.” Both address essentially the same thing but are not identical. Staff recommends deleting the less specific “automobile salvage/junkyard.” Vehicle salvage yard is expressly targeted at junk vehicles. So as to keep automotive uses grouped together in *Appendix A – Use Table – All Zoning Districts*, the word “automobile” has been added to the term “vehicle salvage yard.”

The more general “junkyard” was defined in the 1994 Zoning Ordinance but is not defined in the CDO. Outdoor storage of trash is addressed in Article III, Division 1 of the city code of ordinances. There are several ongoing situations with properties filled with junk not necessarily including junk vehicles. Including a cross reference to the applicable section within the city code of ordinances within the definition of Junkyard would be helpful in enforcing against such properties. (For reference, this section of the code of ordinances is attached after proposed changes to *Appendix A- Use Table*.) The Ordinance Committee recommended adding such a definition.

Neither “Junkyard” nor “Automobile/Vehicle Salvage Yard” are included in *Appendix A – Use Table – All Zoning Districts*. In the 1994 Zoning Ordinance, “auto/junk/salvage yard” was included in the Use Table and was allowed only in the Enterprise Zone. The Committee recommended incorporation of the terms into the *Use Table*, and to prohibit them in all zones.

3. Cross Reference Correction

This item is simply a correction to a cross reference within Sec. 6.2.2 (p), to accurately point to the Performance Standards of Article 5.

Proposed Amendments

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

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

- Amend Sec. 3.1.2 Zoning Permit Required to relocate existing permit exemption in Article 4 for city parks and add Article 14 "Civic" district to exempted districts, and remove reference to Article 6 standards.

Sec. 3.1.2, Zoning Permit Required

(a) Exterior Work:

1-8 *As written.*

9. Tree removal involving six (6) or more trees, each of ten (10) inches or greater in caliper or the removal of ten (10) or more trees, each of which is three (3) inches or greater in caliper during any consecutive twelve (12) month period. ~~Such land development shall require the advance approval of the DRB under the criteria set forth in Article 6, Part 2 hereof before a zoning permit may be issued.~~

11 – 20 *As written.*

(b) Interior Work:

As written.

(c) Exemptions

1-2 *As written.*

3. Within any city park within an RCO zone or Civic district, regular tree maintenance and removal not otherwise associated with land clearing for new development or site improvements, and regular turf maintenance including re-grading and reseeding.

4-15 *As written, except renumbered to accommodate new number 3.*

- Amend Sec. 4.4.6 Recreation, Conservation and Open Space Districts to remove the relocated existing permit exemption for city parks.

Sec. 4.4.6, Recreation, Conservation and Open Space Districts

(a) – (c) *As written.*

(d) District Specific Regulations

The following regulations are district-specific exemptions, bonuses, and standards unique to the RCO districts. They are in addition to, or may modify, city-wide standards as provided in Article 5 of this ordinance and district standards as provided above in Tables 4.4.6-1 and 4.4.6-2.

1. Lot Coverage for Agricultural Structures.

The maximum allowable coverage may be increased to ten percent (10%) in the RCO-Agricultural District for agricultural structures not otherwise exempted from zoning review under V.S.A. 24 § 4413 (d), subject to approval by the DRB.

2. Exemptions for Tree removal and Turf Maintenance in City Parks.

Regular tree maintenance and removal not otherwise associated with land clearing for new development or site improvements, and regular turf maintenance including re-grading and reseeded shall be exempt from the requirement to obtain a zoning permit.

3. 2. Exemptions for low impact design (LID) stormwater management techniques

Due to the unique nature and critical importance of City Parks in the City's overall green infrastructure, LID stormwater management techniques (such as pervious pavement and asphalt, green roofs and rain gardens etc...) shall be credited against lot coverage as determined by the City's Stormwater Administrator pursuant to the requirements of Burlington Code of Ordinances Chapter 26.

4. 3. Pervious surface materials not included in impervious lot coverage calculations

Pervious surface materials, such as woodchips and clay or dirt playfields in City Parks shall not be included in impervious lot coverage calculations.

- Amend Sec 5.5.4 Tree Removal to add reference to DRB review of requests for tree removal to preface the performance standards list

Sec. 5.5.4, Tree Removal

Zoning permit requests for tree removal are subject to DRB review per the following criteria.

(a) – (b) As written.

- Amend Article 13 Definitions for Junkyards and Automobile/Vehicle Salvage Yards

Automobile Salvage/Junkyard: Land or buildings used for the collection, wrecking, dismantling, storage, salvaging, and sale of automobile parts from automobiles that are not in running condition.

Junkyard: Any place of outdoor storage or deposit that is maintained, operated, or used for storing, keeping, processing, buying, or selling garbage, trash, appliances, and/or furniture as articulated under Article III, Division 1, Sec. 18-111 of the City Code of Ordinances. Junkyard does not include a solid waste facility or a vehicle salvage yard as defined in this ordinance.

Automobile/Vehicle Salvage Yard: Land or buildings used for the collection, wrecking, dismantling, storage, salvaging, and sale of machinery, parts, or vehicles not in running condition. Three or more unregistered vehicles are considered an automobile/vehicle salvage yard. An automobile/vehicle salvage yard does not include automobile/vehicle repair as defined in this Article.

- Amend Appendix A- Use Table to add the above definitions as prohibited uses in all districts.

See attached Appendix A

Proposed ZA-19-04 Appendix A-Use Table – All Zoning Districts

	Urban Reserve	Recreation, Conservation & Open Space			Institutional	Residential			Downtown Mixed Use ^l	Neighborhood Mixed Use				Enterprise	
USES	UR	RCO - A	RCO - RG	RCO - C	I	RL/W	RM/W	RH	DW-PT ¹⁶	NMU	NAC	NAC-RC	NAC-CR	E-AE	E-LM
RESIDENTIAL USES	UR	RCO - A ¹	RCO - RG	RCO - C	I	RL/W	RM/W	RH	DW-PT ¹⁶	NMU	NAC	NAC-RC	NAC-CR	E-AE	E-LM
Single Detached Dwelling	N	N ¹	N	N	Y	Y	Y	N ³⁰	N	N ³⁰	N ³⁰	N ³⁰	N	N	N
Accessory Dwelling Unit (See Art.5, Sec.5.4.5)	N	N	N	N	Y	Y	Y	N	N	N	N	N	N		
Attached Dwellings - Duplex	N	N ¹	N	N	Y	CU ²	Y	Y	N	Y ³	N	Y	N	N	N
Attached Dwellings - Multi-Family (3 or more)	N	N ¹	N	N	CU	N	Y	Y	N	Y	Y	Y	Y	N	N
Attached Dwelling(s) – Mixed-Use ²⁶	N	N ¹	N	N	CU	CU	CU	CU	N	Y	Y	Y	Y	N	N
RESIDENTIAL SPECIAL USES	UR	RCO – A	RCO - RG	RCO - C	I	RL/W	RM/W	RH	DW-PT ¹⁶	NMU	NAC	NAC-RC	NAC-CR	E-AE	E-LM
Assisted Living	N	N	N	N	CU	CU	Y	Y	N	Y	Y	Y	Y	N	N
Bed and Breakfast ^{4, 6}	N	N	N	N	CU	CU	CU	CU	N	Y	Y	Y	N	N	N
Boarding House ⁶ (4 persons or less)	N	N	N	N	CU	CU	Y	Y	N	Y	Y	Y	N	N	N
Boarding House ⁶ (5 persons or more)	N	N	N	N	CU	CU	CU	CU	N	CU	CU	CU	N	N	N
Community House (See Sec.5.4.4)	N	N	N	N	CU	CU	CU	CU	N	CU	CU	CU	CU	N	N
Convalescent /Nursing Home	N	N	N	N	CU	CU	Y	Y	N	Y	Y	Y	Y	N	N
Dormitory ⁵	N	N	N	N	CU	N	N	N	N	N ²⁵	CU	CU	N	N	N
Emergency Shelter ³¹	N	N	N	N	N	CU	CU	CU	N	CU	CU	CU	CU	N	N
Group Home	N	N	N	N	Y	Y	Y	Y	N	Y	Y	Y	Y	N	N
Historic Inn (See Sec.5.4.2)	N	N	N	N	CU	CU	CU	CU	N	CU	Y	Y	Y	N	N
Mobile Home Park	N	N	N	N	N	CU	CU	N	N	N	N	N	N	N	N
Sorority/Fraternity ⁵	N	N	N	N	CU	N	N	N	N	N	N	N	N	N	N
NON-RESIDENTIAL USES	UR ²¹	RCO - A	RCO - RG	RCO - C	I	RL/W	RM	RH	DW-PT ¹⁶	NMU	NAC	NAC-RC	NAC-CR	E-AE	E-LM
Adult Day Care	N	N	N	N	CU	N	N	N	N	Y	Y	Y	Y	N	N
Agricultural Use ²⁰	N	Y	Y	CU	Y	N	N	N	N	N	N	N	N	Y	N
Amusement Arcade	N	N	N	N	N	N	N	N	N	N	CU	CU	CU	N	N
Animal Boarding/Kennel/Shelter	N	CU	N	N	N	N	N	N	N	N	CU	CU	CU	CU	CU
Animal Grooming	N	N	N	N	N	N	N	N	N	Y	Y	Y	Y	CU	CU
Animal Hospitals/Veterinarian Office	N	CU	N	N	CU	N	N	N	N	CU	CU	CU	CU	Y	Y
Appliance Sales/Service	N	N	N	N	N	N	N	N	N	Y ²⁴	Y	Y	Y ²⁴	N	Y
Aquarium	N	N	CU	N	CU	N	N	N	(See Sec.4.4.1(d) 2)	N	N	N	N	N	N
Art Gallery/Studio	N	N	N	N	Y	N	N	CU ¹³	(See Sec.4.4.1(d) 2)	Y	Y	Y	Y	Y	Y

Proposed ZA-19-04 Appendix A-Use Table – All Zoning Districts

	Urban Reserve	Recreation, Conservation & Open Space			Institutional	Residential			Downtown Mixed Use ¹	Neighborhood Mixed Use				Enterprise	
USES	UR	RCO - A	RCO - RG	RCO - C	I	RL/W	RM/W	RH	DW-PT ¹⁶	NMU	NAC	NAC-RC	NAC-CR	E-AE	E-LM
Auction House	N	N	N	N	N	N	N	N	N	N	Y	Y	N	N	CU
Automobile Body Shop	N	N	N	N	N	N	N	N	N	N	N	Y	N	N	Y
Automobile & Marine Parts Sales	N	N	N	N	N	N	N	N	(See Sec.4.4.1(d) 2)	CU	Y	Y	Y	N	Y
Automobile/Vehicle Repair	N	N	N	N	N	N	N	N	N	CU ^{9, 12, 14}	CU ^{9, 12, 14}	CU ¹⁴	N	N	Y
Automobile/Vehicle Salvage Yard	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N
Automobile Sales – New & Used	N	N	N	N	N	N	N	N	N	N	Y	Y	N	N	CU
Bakery	N	N	N	N	N	N ²²	N ²²	CU ¹³	N	Y	Y	Y	Y	Y	Y
Bank, Credit Union	N	N	N	N	CU	N ²²	N ²²	N ²²	N	Y	Y	Y	Y	N	N
Bar, Tavern	N	N	N	N	N	N	N	N	N	CU	CU	CU	CU	N	N
Beauty/ Barber Shop	N	N	N	N	CU	N ²²	N ²²	CU ¹³	N	Y	Y	CU	Y	N	N
Bicycle Sales/Repair	N	N	N	N	CU	N	N	N	N	Y	Y	Y	Y	N	Y
Billiard Parlor	N	N	N	N	N	N	N	N	N	CU	Y	CU	Y	N	N
Boat Repair/Service	N	N	CU	N	N	N	N	N	(See Sec.4.4.1(d) 2)	N	CU	CU	N	N	Y
Boat Sales/Rentals	N	N	CU	N	N	N	N	N	(See Sec.4.4.1(d) 2)	N	Y	Y	N	N	Y
Boat Storage	N	N	CU	N	N	N	N	N	N	N	CU	CU	N	N	Y
Bowling Alley	N	N	N	N	N	N	N	N	N	CU	Y	Y	Y	N	N
Building Material Sales	N	N	N	N	N	N	N	N	N	N	Y ¹⁰	Y	N	N	Y
Café	N	CU ¹⁷	CU	N	CU	N ²²	N ²²	CU ¹³	(See Sec.4.4.1(d) 2)	Y	Y	Y	Y	CU	CU
Camp Ground	N	Y	Y	N	N	N	N	N	(See Sec.4.4.1(d) 2)	N	N	N	N	N	N
Car Wash	N	N	N	N	N	N	N	N	N	N	CU	Y	CU	N	CU
Cemetery	N	N	Y	N	N	N	N	N	N	N	N	N	N	N	N
Cinema	N	N	N	N	Y	N	N	CU	N	CU ¹⁴	Y	N	Y ¹⁴	N	N
Club, Membership	N	N	Y	N	CU	N	Y	Y	N	CU	CU	N	CU	N	N
Community Center	N	N	CU	N	CU	CU ¹³	CU ¹³	Y ¹³	N	Y	Y	Y	Y	N	CU
Community Garden	N	Y	Y	N	Y	Y	Y	Y	N	Y	Y	Y	Y	Y	Y
Conference Center	N	N	N	N	CU	N	N	N	N	N	N	N	N	N	N
Composting	N	CU	N	N	N	N	N	N	N	N	N	N	N	N	N
Contractor Yard	N	N	N	N	N	N	N	N	N	N	N	Y ¹⁰	N	N	Y
Convenience Store (See Sec.5.4.3)	N	N	N	N	N	N	N	CU ¹²	N	Y ¹²	Y	Y	Y ¹²	N	Y
Convention Center	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N
Courthouse	N	N	N	N	Y	N	N	CU	N	N	N	N	N	N	N

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USES	UR	RCO - A	RCO - RG	RCO - C	I	RL/W	RM/W	RH	DW-PT ¹⁶	NMU	NAC	NAC-RC	NAC-CR	E-AE	E-LM
Crematory	N	N	N	N	N	N	N	N	N	N	N	CU	N	N	N
Crisis Counseling Center	N	N	N	N	CU	CU	CU	CU	N	Y	Y	Y	Y	N	N
Daycare - Large (Over 20 children) (see Sec. 5.4.1)	N	N	N	N	CU	CU ¹³	CU ¹³	CU ¹³	N	Y	Y	Y	Y	N	CU ¹⁷
Daycare - Small (up to 20 children) (See Sec.5.4.1)	N	CU ⁸	CU ⁸	CU ⁸	CU	CU ¹³	CU ¹³	CU ¹³	N	Y	Y	Y	Y	CU	CU ¹⁷
Daycare – Family Home	N	N	N	N	Y	Y	Y	Y	N	Y	Y	Y	Y	N	N
Dental Lab	N	N	N	N	CU	N	N	N	N	Y	Y	Y	Y	N	Y
Distribution Center	N	N	N	N	N	N	N	N	N	N	N	CU	N	N	CU
Dry Cleaning Plant	N	N	N	N	N	N	N	N	N	N	N	CU	N	N	CU
Dry Cleaning Service	N	N	N	N	CU	N ²²	N ²²	N ²²	N	Y ²⁴	Y	Y	Y ²⁴	N	CU
Film Studio	N	N	N	N	Y	N	N	N	N	N	CU	Y	CU	N	CU
Fire Station	N	N	Y	N	Y	CU	CU	CU	N	Y	Y	Y	Y	Y	Y
Food & Beverage Processing	N	N	N	N	N	N	N	N	N	CU ¹⁴	CU ¹⁴	CU	CU ¹⁴	Y	Y
Fuel Service Station ⁹	N	N	N	N	N	N	N	N	N	CU ¹¹	Y ¹¹	Y	N	N	N
Funeral Home	N	N	N	N	N	CU ⁷	CU ⁷	CU ⁷	N	CU	Y	Y	N	N	N
Garden Supply Store	N	N	N	N	CU	N	N	N	N	CU ²⁴	Y	Y	N	Y	Y
General Merchandise/Retail – Small <4,000sqft	N	N	N	N	CU	N ²²	N ²²	N ²²	(See Sec.4.4.1(d) 2)	Y	Y	Y	Y	N	Y
General Merchandise/Retail – Large ≥4,000sqft	N	N	N	N	N	N	N	N	(See Sec.4.4.1(d) 2)	N	CU ¹⁸	CU	CU	N	CU ¹⁷
Grocery Store – Small ≤10,000sqft	N	N	N	N	N	N	N	CU	N	Y	Y	Y	Y	CU	CU ²⁸
Grocery Store – Large >10,000sqft	N	N	N	N	N	N	N	N	N	N	Y	Y	N	N	CU ²⁸
Hazardous Waste Collection/Disposal	N	N	N	N	N	N	N	N	N	N	N	N	N	N	CU
Health Club	N	N	N	N	Y	N	N	CU	N	CU	Y	Y	Y	N	CU
Health Studio	N	N	N	N	Y	N ²²	N ²²	CU	N	Y	Y	Y	Y	N	Y
Hospitals	N	N	N	N	CU	N	N	CU	N	N	N	N	N	N	N
Hostel	N	N	N	N	Y	N	N	CU	N	Y	Y	Y	Y	N	N
Hotel, Motel	N	N	N	N	CU	N	N	N	(See Sec.4.4.1(d) 2)	N	Y	N	Y	N	N
<u>Junkyard</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>
Laundromat	N	N	N	N	CU	N ²²	N ²²	CU ¹³	N	Y ¹³	Y	Y	Y	N	Y
Library	N	N	N	N	Y	CU	CU	Y	N	Y	Y	Y	Y	N	N
Lumber Yard	N	N	N	N	N	N	N	N	N	N	CU ¹⁰	Y	N	N	Y

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USES	UR	RCO - A	RCO - RG	RCO - C	I	RL/W	RM/W	RH	DW-PT ¹⁶	NMU	NAC	NAC-RC	NAC-CR	E-AE	E-LM
Machine/Woodworking Shop	N	N	N	N	N	N	N	N	N	CU	CU	CU	CU ²⁴	CU	Y
Manufacturing	N	N	N	N	N	N	N	N	N	N	N	CU	N	CU	Y
Manufacturing - Tour Oriented	N	N	N	N	N	N	N	N	N	N	N	CU	N	CU	CU
Marina	N	N	Y	N	N	N	N	N	(See Sec.4.4.1(d) 2)	N	N	N	N	N	N
Medical Lab	N	N	N	N	CU	N	N	N	N	CU	Y	Y	N	CU	CU
Mental Health Crisis Center	N	N	N	N	N	N	CU (See §5.4.11)	N	N	N	N	N	N	N	N
Museum–Small < 10,000 sqft	N	CU	CU	CU	Y	CU ¹³	CU ¹³	CU ^{8,13}	(See Sec.4.4.1(d) 2)	Y	Y	Y	Y	CU	Y ²³
Museum-Large >10,000 sqft	N	N	N	N	CU	N	N	N	(See Sec.4.4.1(d) 2)	N	CU	CU	N	CU	CU ²³
Office - General	N	N	N	N	N	N	N	N	N	Y	Y	Y	Y	CU	Y
Office - Medical, Dental	N	N	N	N	CU	N ²²	N ²²	N ²²	N	Y	Y	Y	Y	N	Y
Open Air Markets	N	Y	Y	N	Y	CU	CU	CU	(See Sec.4.4.1(d) 2)	Y	Y	Y	Y	Y	Y
Operations Center – Taxi/Bus ⁹	N	N	N	N	N	N	N	N	N	N	N	CU ¹¹	N	N	Y
Operations Center - Trucking ⁹	N	N	N	N	N	N	N	N	N	N	N	Y ¹¹	N	CU ¹¹	CU
Park	N	Y	Y	Y	Y	Y	Y	Y	(See Sec.4.4.1(d) 2)	Y	Y	Y	Y	CU	CU
Parking Garage ⁹	N	N	N	N	Y	N	N	CU	N	CU	Y	N	CU	N	CU
Parking Lot ⁹	N	N	N	N	N	N	N	N	N	N	CU	N	N	N	CU
Performing Arts Center	N	N	N	N	Y	N	N	N	(See Sec.4.4.1(d) 2)	CU	Y	N	CU	N	CU ²⁷
Performing Arts Studio	N	N	N	N	Y	N	N	CU ¹³	(See Sec.4.4.1(d) 2)	CU	CU	CU	Y	N	Y
Pet Store ¹⁰	N	N	N	N	N	N	N	N	N	CU	Y	Y	Y	N	N
Pharmacy	N	N	N	N	CU	N ²²	N ²²	N ²²	N	Y	Y	Y	Y	N	N
Photo Studio	N	N	N	N	N	N ²²	N ²²	N	N	Y	Y	Y	Y	N	Y
Photography Lab	N	N	N	N	N	N	N	N	N	CU	Y	Y	Y	CU	Y
Police Station - Central	N	N	N	N	CU	N	N	N	N	Y	Y	Y	N	N	N
Police Station - Local	N	N	CU	N	Y	CU	CU	CU	N	Y	Y	Y	Y	Y	Y
Post Office – Central Distribution Center	N	N	N	N	N	N	N	N	N	N	Y	Y	N	N	Y
Post Office - Local	N	N	N	N	Y	N ²²	N ²²	N ²²	N	Y	Y	Y	Y	N	N
Printing Plant	N	N	N	N	N	N	N	N	N	N	N	CU	N	N	Y

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USES	UR	RCO - A	RCO - RG	RCO - C	I	RL/W	RM/W	RH	DW-PT ¹⁶	NMU	NAC	NAC-RC	NAC-CR	E-AE	E-LM
Printing Shop	N	N	N	N	CU	N ²²	N ²²	N	N	CU	Y	Y	Y	N	Y
Public Transit Terminal	N	N	N	N	Y	N	N	N	(See Sec.4.4.1(d) 2)	N	CU	CU	Y	CU	Y
Public Works Yard/Garage ⁹	N	N	N	N	CU ¹¹	N	N	N	N	N	CU ¹¹	Y ¹¹	N	CU	Y
Radio & TV Studio	N	N	N	N	N	N	N	N	N	N	Y	Y	Y	N	Y
Rail Equip. Storage & Repair	N	N	N	N	N	N	N	N	(See Sec.4.4.1(d) 2)	N	N	N	N	CU	CU
Recording Studio	N	N	N	N	N	N	N	CU	N	CU	CU	Y	Y	N	Y
Recreational Facility - Indoor	N	N	CU	N	CU	N	CU	CU	(See Sec.4.4.1(d) 2)	N	Y	CU	N	N	CU
Recreational Facility - Outdoor Commercial	N	N	CU	N	CU	N	N	N	(See Sec.4.4.1(d) 2)	N	N	CU	N	N	N
Recreational Facility - Outdoor	N	N	Y	N	Y	N	N	N	(See Sec.4.4.1(d) 2)	N	Y	Y	CU	N	N
Recreational Vehicle Sales – New and Used	N	N	N	N	N	N	N	N	N	N	CU	CU	N	N	Y
Recycling Center – Large ¹⁰ (above 2,000 sf)	N	N	N	N	N	N	N	N	N	N	N	N	N	CU	CU
Recycling Center - Small ¹⁰ (2,000 sf or less)	N	N	N	N	CU	N	N	N	N	CU	CU	CU	CU	CU	Y
Research Lab	N	CU	N	N	CU	N	N	N	(See Sec.4.4.1(d) 2)	N	CU	CU	CU ²⁴	CU	Y
Restaurant	N	N	N	N	N	N ²²	N ²²	CU ^{8, 13}	(See Sec.4.4.1(d) 2)	Y ¹³	Y	Y	Y ¹³	N	N
Restaurant – Take Out	N	N	N	N	CU ¹³	N ²²	N ²²	N	(See Sec.4.4.1(d) 2)	Y ¹³	Y	Y	Y ¹³	N	Y ¹³
Salon/Spa	N	N	N	N	CU	N ²²	N ²²	N	N	Y	Y	Y	Y	N	N
School - Post-Secondary &Community College	N	N	Y	N	CU	N	CU	CU	N	CU	CU	CU	CU	N	N
School – Preschool Large (over 20 children) (see Sec. 5.4.1)	N	N	N	N	CU	CU ¹³	CU ¹³	CU ¹³	N	Y	Y	Y	Y	N	CU ¹⁷
School – Preschool Small (up to 20 children) (see Sec. 5.4.1)	N	CU ⁸	CU ⁸	CU ⁸	CU	CU ¹³	CU ¹³	CU ¹³	N	Y	Y	Y	Y	CU	CU ¹⁷
School - Primary	N	N	N	N	CU	CU	CU	CU	N	CU	CU	CU	CU	N	N
School - Secondary	N	N	N	N	CU	CU	CU	CU	N	CU	CU	CU	CU	N	N
School, -Trade, or Professional	N	N	N	N	CU	N	N	N	N	CU	N	N	CU	N	CU
Solid Waste Facility - Incinerator, Landfill, Transfer Station	N	N	N	N	N	N	N	N	N	N	N	N	N	CU	CU
Tailor Shop	N	N	N	N	N	N ²²	N ²²	CU	N	Y	Y	Y	Y	N	N

Proposed ZA-19-04 Appendix A-Use Table – All Zoning Districts

	Urban Reserve	Recreation, Conservation & Open Space			Institutional	Residential			Downtown Mixed Use ⁱ	Neighborhood Mixed Use				Enterprise	
USES	UR	RCO - A	RCO - RG	RCO - C	I	RL/W	RM/W	RH	DW-PT ¹⁶	NMU	NAC	NAC-RC	NAC-CR	E-AE	E-LM
Warehouse	N	CU	N	N	CU	N	N	N	(See Sec.4.4.1(d) 2)	N	N	Y ¹⁵	N	Y	Y
Warehouse, Retail ⁹	N	N	N	N	N	N	N	N	N	N	CU ¹⁵	CU ¹⁵	N	CU	CU
Warehouse, Self-Storage ⁹	N	N	N	N	N	N	N	N	N	N	N	Y ¹⁵	N	N	CU
Wholesale Sales ⁹	N	CU	N	N	N	N	N	N	N	N	N	Y ¹⁵	N	Y	Y
Worship, Place of	N	N	N	N	CU	CU	CU	Y	N	Y	CU	CU	CU	N	N

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

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

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

4. No more than 5 rooms permitted to be let in any district where bed and breakfast is a conditional use. No more than 3 rooms permitted to be let in the RL district.

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

6. Must be owner-occupied.

7. Must be located on a major street.

8. Small daycare centers and small preschools in the RCO zones shall only be allowed as part of small museums and shall constitute less than 50% of the gross floor area of the museum.

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

10. Exterior storage and display not permitted.

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

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

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

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

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

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

17. Allowed only as an accessory use.

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

19. [Reserved].

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

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

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

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

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

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

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

27. Performing arts centers in the ELM zone shall be limited to a total of 5,000 square feet in size and to properties with frontage on Pine Street. Performing arts centers may contain accessory space for preparation and serving food and beverages, including alcohol, provided this accessory space comprises less than 50% of the entire establishment.

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

29. Must be fully enclosed within a building.

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

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

Legend:

Y	Permitted Use in this district
CU	Conditional Use in this district
N	Use not permitted in this district
Abbreviation	Zoning District
RCO – A	RCO - Agriculture
RCO – RG	RCO – Recreation/Greenspace
RCO – C	RCO - Conservation
I	Institutional
RL/W	Residential Low Density, Waterfront Residential Low Density
RM/W	Residential Medium Density, Waterfront Residential Medium Density
RH	Residential High Density
DW-PT	Downtown Waterfront-Public Trust
NMU	Neighborhood Mixed Use
NAC	Neighborhood Activity Center
NAC-RC	NAC – Riverside Corridor
NAC-CR	NAC – Cambrian Rise
E-AE	Enterprise – Agricultural Processing and Energy
E-LM	Enterprise – Light Manufacturing
- ⁱ For permitted and conditional uses within the Downtown and Waterfront Form Districts, refer to Article 14.
- Proposed changes to Appendix A- Use Table per ZA-19-04
- p. 6 of 6
- Page 30 of 175

Article 24-201. Purpose and scope of chapter. The purpose of this chapter is to provide for the health, safety and general welfare of the city of Chicago by establishing and enforcing standards for the construction, maintenance and use of buildings, structures, signs, and other structures.

18-111 Accumulation of garbage, trash, abandoned vehicles, appliances and furniture on any property within the city prohibited.

(a) It shall be unlawful for any landowner, and person leasing, occupying, or having charge or possession of any property in the city to keep, maintain, or deposit on such property any materials or items enumerated below, unless they are in compliance with this section or otherwise allowed by law. "Property" shall include the abutting area known as the "greenbelt" held to be that area of a public street located between the roadway edge and the sidewalk, or, if no sidewalk exists, between the roadway edge and the adjacent property line. (Charter §§ 48(6), 48(8), 48(23) and 211.)

(b) The following materials or items shall not be stored, kept, maintained or deposited on the property: concrete, asphalt, construction debris, brick foundations and flat work, unless being used for a building project which is in compliance with all city ordinances.

(c) The following materials or items shall not be stored, kept, maintained, deposited or allowed to remain outdoors and in plain view in the front yard of any property: (1) appliances such as refrigerators, stoves and microwave ovens; (2) sinks, toilets, cabinets, or other fixtures or equipment; (3) abandoned, discarded, or broken furniture; (4) furniture not constructed for outdoor use; and (5) lumber and other construction material. Lumber and other construction material is exempted from this provision if it is covered and stored neatly and is being used in conjunction with a building project in compliance with all city ordinances. Rubbish, junk, refuse, garbage, scrap metal, tin cans and recyclables shall only be allowed to remain outdoors and in plain view in the front yard of any property for the purpose of recycling and solid waste pickup for disposal and only if they are neatly kept, stored, maintained, or deposited in accordance with all minimum housing, health and solid waste ordinances and regulations.

(1) Owners of rental units with ten (10) or more units on a property shall be required to have covered wheeled recycling containers with a minimum capacity of sixty-five (65) gallons (hereinafter "toters") for curbside recycling pick up or an approved equivalency on or before October 1, 2013. At least one (1) such a container shall be provided for every three (3) units or portion thereof.

(2) Owners of rental units with eight (8) or nine (9) units on a property shall be required to have toters for curbside recycling pick up or an approved equivalency on or before September 1, 2017. At least one (1) such container shall be provided for every three (3) units or portion thereof.

(3) Owners of rental units with six (6) or seven (7) units on a property shall be required to have toters for curbside recycling pick up or an approved equivalency on or before March 1, 2018. At least one (1) such container shall be provided for every three (3) units or portion thereof.

(4) Owners of rental units with two (2) to five (5) units on a property shall be required to have toters for curbside recycling pick up or an approved equivalency on or before September 1, 2018. At least one (1) such a container shall be provided for every three (3) units or portion thereof.

(d) Subject to the limitations in this subsection, materials or items referred to in subsection (c) of this section may be kept on other portions of the property if they are stored, kept outdoors in plain view, maintained or deposited neatly, are covered, do not obstruct fire escapes, means of egress, fire lanes, or emergency services access, and do not pose a danger to invitees, including utility, delivery and postal service employees and police officers, firefighters, city and state officials, and public health and safety officials who may need to be present on the property in emergency situations, routine inspections or other lawful reasons. Materials or items referred to in subsection (c) of this section should not be stored, deposited, kept or maintained in violation of zoning setback regulations or cover a footprint of in excess of fifty (50) square feet, with a height limitation of six (6) feet (11.11 cubic yards). Two (2) such storages shall be allowed on the property. Rubbish, junk, refuse and garbage, scrap metal, tin cans, and recyclables shall be neatly kept, stored, maintained or deposited on property other than the front yard in accordance with all minimum housing, health, zoning and solid waste ordinance regulations.

(e) It shall be unlawful to keep, maintain, store or deposit any inoperative, abandoned or dismantled motor vehicles on any property in violation of Chapter 20, Article VI.

(f) Trailers and boats shall be neatly stored in accordance with zoning ordinances and regulations and in a manner which does not obstruct fire escapes, means of egress, fire lanes, or emergency services access and which does not pose a danger to invitees, including utility, delivery and postal service employees and police officers, firefighters and other public health and safety officials who may need to be present on the property in emergency situations, routine inspections or other lawful reasons.

(g) A copy of all orders issued pursuant to this section shall be posted by the enforcement officer or his/her delegate or inspector in a conspicuous place in a common area of the dwelling or building in which the dwelling unit is located. Such notice shall be in addition to the notice required under Section 18-26.

(h) Notwithstanding Section 18-31(a)(1), a second or subsequent violation of this section during a twelve (12) month period shall be deemed to be a civil offense and shall be punishable by a fine of two hundred dollars (\$200.00) and a waiver fine of one hundred fifty dollars (\$150.00).
(Ord. of 3-22-99; Ord. of 9-10-12(2); Ord. of 12-1-14(1); Ord. of 6-5-17; Ord. of 8-7-17(1))

- Amend Sec 6.2.2 (p) to correct cross reference to Article 5.

Sec. 6.2.2, Review Standards

(a) – (o) *As written.*

(p) Integrate infrastructure into the design:

Exterior storage areas, machinery and equipment installations, service and loading areas, utility meters and structures, mailboxes, and similar accessory structures shall utilize setbacks, plantings, enclosures and other mitigation or screening methods to minimize their auditory and visual impact on the public street and neighboring properties to the extent practicable.

Utility and service enclosures and screening shall be coordinated with the design of the principal building, and should be grouped in a service court away from public view. On-site utilities shall be placed underground whenever practicable. Trash and recycling bins and dumpsters shall be located, within preferably, or behind buildings, enclosed on all four (4) sides to prevent blowing trash, and screened from public view.

Any development involving the installation of machinery or equipment which emits heat, vapor, fumes, vibration, or noise shall minimize, insofar as practicable, any adverse impact on neighboring properties and the environment pursuant to the requirements of Article 5, Part 4 5 Performance Standards.

Relationship to planBTV

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

Compatibility with Proposed Future Land Use & Density

The proposed amendment has no impact on the proposed future land uses and densities within the *Municipal Development Plan (planBTV)*.

Impact on Safe & Affordable Housing

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

Planned Community Facilities

The proposed amendment has no impact on planned community facilities.

Process Overview

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

Planning Commission Process				
Draft Amendment prepared by: Staff, with PC OC recommendation	Presentation to & discussion by Commission	Approve for Public Hearing	Public Hearing	Approve & forward to Council
				Continue discussion
City Council Process				
First Read & Referral to Ordinance Cmte	Ordinance Committee discussion	Ordinance Cmte recommends to Council [as is / with changes]	Second Read & Public Hearing	Approval & Adoption
				Rejected

Department of Planning and Zoning

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Burlington, VT 05401
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Scott Gustin, AICP, CFM, Principal Planner
Mary O'Neil, AICP, Principal Planner
Ryan Morrison, Assistant Planner
Shaleigh Draper, Zoning Clerk
Layne Darfler, Planning Technician



TO: Burlington Planning Commission
FROM: Scott Gustin, Principal Planner
DATE: January 3, 2019
RE: CDO Amendment ZA-19-08: Dwelling Unit Definition

draft

Overview & Background

This amendment is proposed to clarify the term “dwelling unit” as presently defined in the *Comprehensive Development Ordinance (CDO)*. Dwelling units are used for residential purposes and should be defined as such. The term “family” is separately defined and relates to the occupancy limitations in the city’s residential zoning districts. Presently the term “dwelling unit” includes reference to family; however, dwelling units are allowed in most of the city’s zoning districts, but family occupancy limitations pertain only to the residential zones. By removing the reference to “family” in the definition of “dwelling unit,” we clearly define its residential purpose, and the occupancy limitations for the residential zones remain intact.

At their October 4, 2018 meeting, the Ordinance Committee discussed an amendment to the definition of “dwelling unit.” The amendment replaces reference to “family” with “residential.” The amendment clarifies the definitions associated with various dwelling units while leaving intact the term “family” and the associated occupancy limits of unrelated adults in the residential zones. The Ordinance Committee forwarded the amendment to the Planning Commission with a recommendation for adoption.

Proposed Amendment

Amendment Type

Text Amendment	Map Amendment	Text & Map Amendment
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Purpose Statement

The purpose of this amendment is to replace the reference to “family” within the definitions of various types of dwelling units with “residential,” and update the corresponding uses of various ‘single-family’ and ‘multi-family’ terms throughout the entire *Burlington Comprehensive Development Ordinance (CDO)*. This includes updating residential terms that are used throughout the *CDO*, but which aren’t defined in *Article 13*.

This amendment has no impact on the occupancy limits of unrelated adults in residential zones related to the definition of “Family,” as is intact in *Article 13* definitions and per *Sec 4.4.5 (d) 5. C*. This amendment only seeks to clarify that dwelling units are defined by their use for residential habitation, and relies on other sections of the ordinance to determine limits on occupation or type of residence.

Proposed Amendments

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

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

- Amend Article 13 Definitions

Dwelling Unit (or Housing Unit): A room or set of rooms fitted with a private bath, kitchen, and living facilities comprising an independent, self-contained dwelling space for residential use ~~occupied by a family~~ and where rooms are not let to individuals. Kitchen, living and shared bathroom facilities must be separate and distinct from bedroom facilities. Each bedroom must contain a minimum square footage consistent with the current minimum housing standards. Separate bathroom facilities will be deemed to exist only when it is possible to access such bathroom facilities without passing through a room which is designated as a bedroom. If there is more than one meter for any utility, address to the property, or kitchen; or if there are separate entrances to rooms which could be used as separate dwelling units; or if there is a lockable, physical separation between rooms in the dwelling unit such that a room or rooms on each side of the separation could be used as a dwelling unit, multiple dwelling units are presumed to exist; but this presumption may be rebutted by evidence that the residents of the dwelling share utilities and keys to all entrances to the property and that they (A) share a single common bathroom as the primary bathroom or (B) share a single common kitchen as the primary kitchen. (See also definition of Family and Rooming Unit)

Dwelling Unit, Single Detached: Free standing residential structure containing a single dwelling unit for residential use ~~occupied by a "family."~~ and where rooms are not let to individuals. ~~Also known as a single family residence (SFR). (See definition of Family)~~

Multi-~~Unit~~family, Attached Dwelling: Any building or part thereof containing three (3) or more dwelling units.

Accessory Dwelling Unit or Apartment: An efficiency or one-bedroom apartment that is clearly subordinate to a single ~~family~~ detached dwelling unit and has facilities for independent living, including sleeping, food preparation, and sanitation, provided the unit does not exceed 30 percent of the total habitable floor area ~~of the single family dwelling.~~

Duplex: A single structure containing two (2) separate dwelling units, regardless of the type of construction. For purposes of this ordinance, a single ~~family~~ detached dwelling unit ~~structure~~ with an accessory apartment shall not be considered a duplex.

- Update terminology throughout the *Comprehensive Development Ordinance* to be consistent with changes to Article 13 definitions and purpose of amendment:

Existing Term	Replacement Term
Dwelling Unit	<i>No change to term, only definition per above</i>
Dwelling Unit, single detached	<i>No change to term, only definition per above</i>
Multi-family, attached dwelling	Multi-Unit, Attached Dwelling <i>(see above)</i>
Single family detached structure <i>(not defined in Article 13)</i>	Dwelling Unit, Single Detached

Single family dwelling <i>not defined in Article 13)</i>	Dwelling Unit, Single Detached
Single family residence <i>not defined in Article 13)</i>	Dwelling Unit, Single Detached
Single family home <i>not defined in Article 13)</i>	Dwelling Unit, Single Detached

Relationship to planBTV

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

Compatibility with Proposed Future Land Use & Density

This amendment is a technical correction, and has no impact on the proposed future land use and densities proposed in the *Municipal Development Plan (planBTV)*.

Impact on Safe & Affordable Housing

This amendment is a technical correction, and has no impact on the provision of safe and affordable housing, or any policies regarding housing in the *Municipal Development Plan (planBTV)*.

Planned Community Facilities

This amendment is a technical correction, and has no impact on any planned community facilities.

Process Overview

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

Planning Commission Process				
Draft Amendment prepared by: [Staff, with PC OC]	Presentation to & discussion by Commission 1/9/2019	Approve for Public Hearing	Public Hearing	Approve & forward to Council
				Continue discussion
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Burlington Planning Commission

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Andy Montroll, Chair
Bruce Baker, Vice-Chair
Yves Bradley
Alexander Friend
Emily Lee
Harris Roen
Jennifer Wallace-Brodeur



Burlington Planning Commission Wednesday, December 5, 2018, 6:30 P.M. Contois Auditorium, City Hall, 149 Church Street Draft Minutes

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

I. Agenda

Call to Order	Time: 6:36pm
Agenda	Approved As Is

II. Presentation of draft 2019 update to planBTV

Action: No Action Required		
Motion by:	Second by:	Vote:
Type: Presentation	Presented by: M Tuttle	
Discussion/Notes: - A brief overview of the draft update was presented to give participants an idea of how the new plan is organized into two sections, <i>Our Plan for Action</i>, and <i>Our Future Land Use</i>. - The first half, <i>Our Plan for Action</i>, is divided into four themes of how Burlington is a Distinctive, Dynamic, Inclusive, and Connected city. These four themes each have an overview of what it's about, a vision statement, why it's important, and lastly policies and actions. - The second half, <i>Our Future Land Use</i>, identifies the different parts of the city that we intend to Conserve, Sustain, and Grow based on long-standing land use policies of the city. - The draft update is based on both an evaluation of what has been done over time and what the community identified as important actions to achieve in the next 10+ years.		

III. Public Hearing: Proposed MDP-19-01 2019 update to planBTV

Action:		
Motion by:	Second by:	Vote:
Type: Group activity/discussion	Presented by: M Tuttle	
The chair opened the public hearing at 7:03pm. The hearing included two parts: group discussions around the draft plan's goals, and an open public comment period time.		
Group Discussion Notes: Commissioners and attendees split up into 4 group discussions. Groups were asked to discuss what comes to mind when they think of Burlington being a Distinctive, Dynamic, Inclusive, and Connected city; to rank the policies they felt were most important; and to list reasons why they felt that particular policy was important to them. Summary of comments includes:		

This agenda is available in alternative media forms for people with disabilities. Individuals with disabilities who require assistance or special arrangements to participate in programs and activities of the Dept. of Planning & Zoning are encouraged to contact the Dept. at least 72 hours in advance so that proper accommodations can be arranged. For information, call 865-7188 (865-7144 TTY). Written comments may be directed to the Planning Commission at 149 Church Street, Burlington, VT 05401.

Draft planBTV Update Public Hearing Group & Written Feedback

DISTINCTIVE:

- Are we reaching all demographics of the city?
- Renewable, sustainable
- How to align projects w/ goals – 3 years
- How to hold projects accountable to goals?
- Legacy of Bernie is distinctive
- Preserve leadership of BTV and public cooperative ownership
- Coop Telecom
- Competitive neutrality
- UVM expansion takes away from living, artificially raises rent
- More pull back on UVM
- Colleges need to be more open to the public
- Distinctive feature is small businesses
- Nurturing local business and entrepreneurship

DYNAMIC:

- Move away from fossil fuels but need to avoid big hydro
- Net Zero in framework for development
- Why is there a premium on growth?
- What kind of growth is in the question?
- Focus on character
- Focus on retrofit (reuse) not new development
- Are the projections for students accurate?

INCLUSIVE

- Citizen involvement in their section
- Citizen engagement must be valued
- Government process isn't set up for meaningful citizen engagement
- How to engage neighborhoods, how to talk to everyone in neighborhood
- Engagement has to be meaningful
- Learn lessons for residents

CONNECTED

- Bus service needs to run more frequently to incentivize more people to ride bus

What's missing:

- Schools as drivers as some of this as community centers to serve neighborhoods
- Need a lot of funding
- Permitting process is inefficient and goes against goals trying to implement

Other topics/comments:

- How do we stick to the goals of this plan and what is in the plan?
- AFFD housing- really important- not in different buildings—have market rate and subsidized together. People in subsidized afraid to speak up about problems they're having
- Public endowment – create some mechanism for socially driven investment by business or residents of the city

- Invite each other to be generous
- Polluted sites- how to manage/use for renewable energy
- UVM student growth accounts for city's growth
- UVM Trinity for student housing then reuse housing for affordable housing
- Truly shared public spaces that aren't exclusive to individual neighborhoods
- Integrating spaces that bring people together
- Lake and foundation related to quality of life and identity
- "Wow location" with lake and mountains
- Make inclusionary/affordable housing beautiful
- Accessibility of waterfront and focus on waterfront
- Climate change is very important- the economy doesn't always speak for natural resources, and need to prioritize these, while recognizing Burlington can do it alone.
- Seizing the chance to make city hiring practices more inclusive
- Policy #14 should acknowledge "the support services necessary to support the economy" as part of the goal statement, otherwise the action items seem incongruent.
- Need off-street parking, no on-street parking so that roads can be used all for biking

Written Individual Comments:

"My experience is that planBTV will be used to justify whatever the city admin wants to do. Nothing in the last iteration of planBTV supported the zoning change for 14-story buildings even though the city said it did. The descriptive language in this latest draft is often turgid, vague. Lofty ideas about presentation of environment, preservation of uniqueness, character, and scale are at odds with several items that call for growth by increasing "predictability" for developers and "streamlining" of regulations. Schemes like form based code architecture are better suited to produce soviet-style cheap uniformity rather than architecture which "expands public art and place making within the built environment."

"Regarding planBTV South End, love the embrace of the mixed use direction that is happening but a little concerned that the plan splits the district into 3 sections that will have different rules. Let's keep the rules consistent for the entire E-LM zone, especially the Industrial Parkway area... don't break this out with more restrictive zoning vs the rest of the E—LM zone."

"More trees, especially if any have to be removed. Replace with more in each case. 20 more lights in city hall park, public restrooms, fix sidewalks!"

"UVM should keep at least 80% of under grad students on campus. Infill development should be complimentary or enhancing neighborhoods, not degrade them. Brownfield development even if it has to be subsidized should be incentivized, green fields are way overdeveloped. Citizen/community engagement is encouraged but The public is only listened to if it is consistent with the Mayor/City Council majority objective. Otherwise public expertise and opinion is routinely ignored. Advocate for County Executive so that each town/city might work together and not be in competition."

"Every community needs to grow and manage growth in a coordinated way. Love the added bike lanes/accessibility- keep it coming. The bump outs with flower boxes and posts can work but also not. Open to change these? Thinking the intersection at the top of Loomis. Make sure financially the city is protected as we develop new stuff if things go wrong."

Other Questions and Comments:

What is the timeline from now until this plan is adopted?

- After the Planning Commission Public Hearing, there will be several more workshops and events, similar to this one, for members of the public to comment and ask questions about the update to the plan. City Council will also be holding two public hearings before the plan is adopted.

Will there be a summary of this public hearing made available for public view?

- A summary of the feedback from this public hearing will be shared with the Planning Commission at the meeting, Tuesday, December 11th. They will discuss any edits that should be made, and ways to incorporate the feedback received.

How has UVM been involved and consulted with the new update to the plan?

- Staff has met with the institutions in the City to discuss any major plans for the coming years. There is not a substantial amount of new development in the plans as of now. Conversations regarding the Trinity Campus have been reflected in this update.

Is there a timeline for updating the Impact Fee Study? When was the most recent Study done?

- There is not a specific or definite timeline for updating either of those. The last Impact Fee Study was done in the 1990's.

One member of the public made the observation there are not many members of Ward 3 at the meeting, or attending other meetings to learn more about the plan. They would like to see more attendance at these meetings.

Another member of the public made a comment that the plan is not just #planBTV.

The chair closed the public hearing at 8:38pm.

IV. Adjourn

Adjournment	Time: 8:39pm
	Adjourned without objection

Burlington Planning Commission

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

www.burlingtonvt.gov/pz

*Andy Montroll, Chair
Bruce Baker, Vice-Chair
Yves Bradley
Alexander Friend
Emily Lee
Harris Roen
Jennifer Wallace-Brodeur*



Burlington Planning Commission Special Meeting Tuesday, December 11, 2018, 5:00 P.M. Conference Room 12, City Hall, 149 Church Street Draft Minutes

Members Present	A Montroll, Y Bradley, A Friend, H Roen, J Wallace-Brodeur
Members Absent	B Baker, E Lee
Staff Present	D White, S Draper, B Lowe, N Lunderville, W Ward

I. Agenda

Call to Order	Time: 5:07pm
Agenda	Approved As Is

II. Public Forum

Name	Comment	Commission Action?
No members of the public spoke		

III. Permit Reform

Action: Provide comments/recommendation for consideration by City Council		
Motion by: J Wallace-Brodeur	Second by: Y Bradley	Vote: Approved Unanimously
Type: Discussion	Presented by: D White	
Discussion/Notes: - D White outlines the proposal given to the charter change committee which is: Creation of a new Permitting & Inspections Department, mayoral appointment of the Director of Permitting & Inspections, mayoral appointment of the Zoning Administrative Officer, expansion of CEDO to include Chapter 117 planning functions subject to the Planning Commission, mayoral appointment of the Planning Director, and placement of the Planning Director within CEDO. - City Councilor Hartnett comments that the biggest resistance for the City Council is the merger of Planning and CEDO, for various reasons. - An alternative to the merger, would be a co-location for the two departments to work alongside one another. - From a staff perspective, the merger would be the ideal option, to be one department, with shared resources, under one authority. However, staff agree that a co-location is a sufficient compromise. - Commissioners question N Lunderville, Interim Director of CEDO, what the co-location would look like from a CEDO perspective. - N Lunderville explains the CEDO office will be renovated in the near future regardless of the result of the proposed merger. With the new renovations, there will be additional capacity in the space to accommodate Planning staff, as well as additional positions that need to be added for both departments. - A merger would allow for shared resources between both departments, ultimately allowing for broader work to be done by the combined department.		

- With a co-location, D White would continue to be Planning Director, and work as an equal authority with the CEDO Director. With a merger, D White would become a Deputy Director, that would work alongside other assistant directors, but with an elevated role.
- Suggestion is made to consider changing the name of CEDO to avoid a misconception that community development outweighs economic development in the city.
- Commissioners agree that a good short-term solution would be a co-location of Planning and CEDO.
- Commissioners strongly recommended to have a review process set in place to re-evaluate the co-location in one year, eighteen months, and two years. At which time, there could be conversations to merge the two departments if the co-location is working successfully.
- Commissioners remain apprehensive on changing the Planning Director appointment process, and conclude to recommend that change wait.
- Staff explain that a co-location would result in two departments, with two department directors, that have different reporting lines, may become a major problem down the line.
- Commissioners agreed to support the new permit reform department, a co-location of CEDO and Planning with a necessity for review at one year, eighteen months, and two years, to keep the appointment of the Planning Director with the Planning Commission, and to revisit the Planning Director's appointment process discussion during the co-location review periods.

IV. Adjourn

Adjournment	Time: 6:15pm	
Motion: H Roen	Second: A Friend	Vote: Approved Unanimously

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*Andy Montroll, Chair
Bruce Baker, Vice-Chair
Yves Bradley
Alexander Friend
Emily Lee
Harris Roen
Jennifer Wallace-Brodeur*



Burlington Planning Commission Tuesday, December 11, 2018, 6:30 P.M. Conference Room 12, City Hall, 149 Church Street Draft Minutes

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

I. Agenda

Call to Order	Time: 6:32pm
Agenda	Approved As Is

II. Public Forum

Name	Comment	Commission Action?
Marissa Yanez	UVM student job shadowing D White to learn more about Planning	

III. Report of the Chair

A Montroll	• No Report
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IV. Report of the Director

D White	- Working on the annual report for FY18, to be completed by the end of the week. - Many projects to come in the future, but none of which have been formally submitted yet.
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V. Reapprove Municipal Bylaw Report ZA-18-08 Form District 5 Boundaries

Action: Reapprove the Municipal Bylaw Amendment Report and forward comments to City Council		
Motion by: A Friend	Second by: J Wallace-Brodeur	Vote: Approved Unanimously
Type: Discussion	Presented by: D White	
Discussion/Notes: • This zoning amendment was previously referred by the Commission, and referred to the City Council Ordinance Committee, who then made a change to the Planning Commission's recommendation. • The Council Ordinance Committee chose to exclude one property in the Form District 5 boundary on Clark St that the Planning Commission had included, and not expand Specific Height Area "F" to the new properties added to FD5. • Commissioners had questions about why the Advance Music building (corner of Maple and S Champlain) was not included in the Specific Height Area "F" given that is already 4-stories. The City Attorney's Office was going to check their notes regarding the rationale for that change. • Commissioners supported the Council Ordinance Committee changes, and saw no need to amend the Municipal Bylaw Report that accompanies this amendment.		

VI. Reapprove ZA-18-05 Municipal Bylaw Amendment Report

Action: Refer to the Ordinance Committee for review and a recommendation		
Motion by: J Wallace-Brodeur	Second by: Y Bradley	Vote: Approved Unanimously
Type: Discussion	Presented by: D White	
Discussion/Notes:		
• This zoning amendment was previously referred by the Commission, and referred to the City Council Ordinance Committee, who then made a change to the Planning Commission's recommendation by striking the language in the amendment regarding the Front Yard Parking Restrictions. • The council felt it was not necessary to include that in this amendment, as it is already addressed in the ordinance. • Commissioners would like reassurance that this limitation is addressed adequately in the ordinance, and does not need to be included in this amendment. • Commissioners agree to refer this amendment to the Ordinance Committee for further review, and a recommendation.		

VII. 2019 planBTV Update

Action: Discuss proposed edits and direct staff to prepare edits before referring to City Council		
Motion by: Y Bradley	Second by: A Friend	Vote: Approved Unanimously
Type: Discussion (PDF version of draft comments and proposed edits posted online)		Presented by: D White
Discussion/Notes: - Commissioners and staff received positive feedback on the structure of the public hearing held on December 5th. - Attendees found it helpful to speak in smaller groups rather than as a large group, allowing for more people to participate that may not be inclined to speak during a formal hearing. - M Tuttle compiled a document with the comments and proposed edits received for the commission to review and discuss what changes, if any, should be made to the draft. - Commissioners agree with recommendations by M Tuttle on the various proposed edits to be included in the final draft. - It is suggested to include commuter rail as a future means of transportation in the plan. - Put a stronger emphasis on connectivity in Burlington through web-based connections, and connections with the rest of the world to highlight that Burlington is in no way an isolated community. - Commissioners question whether or not to separate the South End Plan from the master plan, and adopt the plans individually, but concluded to proceed adopting both plans simultaneously. - Commissioners agree to direct staff to prepare edits to the draft, send final draft to Planning Commissioners before the City Council meeting, and forward to council with recommendation for adoption.		

VIII. Committee Reports

Executive	No Report
Ordinance	Continuing discussion of the definition of accessory
Long Range	No Report

IX. Commissioner Items

Next Meeting	Next meetings are January 9, 2019 @ 6:30pm in Conference Room 12, City Hall, and January 15, 2019 @ 5:00pm in Contois Auditorium, City Hall, for a Joint Meeting with the DRB, DAB & Conservation Board.
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X. Minutes & Communications

Action: Approve the Minutes and Accept Communications		
Motion by: A Friend	Second by: J Wallace-Brodeur	Vote: Approved Unanimously
Changes to Minutes: N/A		
Communications Filed: • Certificate of Public Good authorizing the installation of telecommunications equipment at 9 University Terrace.		

XI. Adjourn

Adjournment		Time: 7:48pm
Motion: Y Bradley	Second: A Friend	Vote: Approved Unanimously



January 4, 2019

To: Burlington Planning Commission Members, David White, Megan Tuttle
RE: Proposed CDO Amendment ZA – 19 – XX
Commercial Uses in the E-LM Zone

Please allow this correspondence to serve as Burton's response to Planning Staff's memo dated 11/27/18 introducing the above-referenced proposed zoning amendment, in advance of the January 9, 2019 Public Hearing. As you are aware, the proposed amendment responds to several unrealized development initiatives within the E-LM zone, including Burton's desire to utilize vacant/underutilized space in our building at 152 Industrial Parkway to create a mixed-use "Hub" of activities, some of which are not currently permitted under the Ordinance.

We appreciate Planning Staff's responsiveness to the Commission's directive (voiced at its November 13th meeting) by presenting this proposed amendment at the November 27th meeting. The amendment as drafted would allow our project as currently envisioned to proceed, however it places significant new restrictions on our continued evolution and growth at our two Industrial Parkway properties that ignore the realities of our business, and the market realities in Burlington's south end. Therefore we are asking that the scope of the amendment be tightened, as the amendment penalizes Burton and other non-residential property owners south of Home Avenue (of which there are only 4) that choose to pursue mixed-use initiatives, compared to non-residential property owners in the rest of the Enterprise Zone.

The proposed amendment revises Footnote 27 in Appendix A-Use Table for the Enterprise Zone—and applies the footnote to a total of 58 uses—to state:

"Use is permitted or conditionally permitted south of Home Avenue only when on a lot with one or more manufacturing, industrial, R&D, and/or warehouse use, and when the combined gross floor area of any use with this footnote does not exceed 49% of the Gross Floor Area on a lot."

As drafted, the amendment creates a much more stringent set of zoning restrictions for non-residential, E-LM property owners south of Home Avenue, as it is applied to 58 land uses, many of which had previously been "permitted" (e.g., small retail; office), and some of which had previously been "conditionally permitted" (e.g., café; large retail; performing arts center; indoor recreation) under the Ordinance. In our view, the 49% threshold creates an unreasonable requirement that 51% of the space can be used only for manufacturing, industrial, R&D, and/or warehouse use. Given recent, current and emerging market trends in the Enterprise Zone (including the realities of Burton's global business model), this is simply not realistic.

We'd like to encourage the Planning Commission to consider (and hopefully embrace) the idea that the ability to lock in 'traditional' manufacturing is not practical; Burton's evolution and current situation illustrates this. Along Industrial Parkway, Burton owns approximately 147,000SF of space in two buildings located at 80 and 152 Industrial Parkway. We fully occupy 80 Industrial Parkway (88% general office, 12% retail), but have over 25,000SF of unoccupied or underutilized space in 152 Industrial Parkway. Despite our best efforts we have not been able to lease unused manufacturing/warehouse space at #152 to traditional



manufacturing uses. Indeed, our inability to find a manufacturing use for the high-bay space has led us to consider a performing arts venue, which was the trigger for the zoning amendment. However, if this amendment is passed as is, even WITH our plans to fully maintain our existing R&D/Manufacturing operations in the facility, we would NOT meet the 49% maximum of non-manufacturing uses, as our current plans would tip the non-manufacturing uses to slightly over half of the floor plan. Meanwhile, our building at #80 is approximately 70,000SF (note: there is no manufacturing, industrial, R&D and/or warehouse use), and if this amendment is passed, #80 would immediately be non-conforming. Further, it is our plan to relocate the retail store to our other building located #152 as part of the mixed-use “Hub” concept. While it is our intention to replace 12% retail with other uses (likely a combination of office, photo studio, and/or sales showroom space), the proposed amendment creates uncertainty about whether this would be allowed.

While preserving the opportunity for traditional “dirty” manufacturing is potentially an appropriate public policy goal, we believe it should not be at the expense of other, equally legitimate, 21st century land uses located on similarly zoned properties; and this should not be imposed on the 4 property owners ‘south of Home Avenue’ within the entire E-LM while hundreds of thousands of square feet of traditional “dirty” manufacturing space in the E-LM north of Home Avenue has been allowed to be converted to other more relevant/modern generators of jobs and economic activity. Further, there should also be a direct nexus between the stated goal and current practice as well as present/future market trends. While the draft *planBTV South End* document attempts to segment the Enterprise Zone into north/central/south districts, the distinctions described in the plan do not, in our opinion, relate to the reality of our business, or to market conditions. To realize this is true, one need look no further than many of our south end neighboring businesses, as Burlington has seen an exodus of traditional “manufacturing” uses from the Enterprise Zone and the conversion of premier manufacturing space to office and other “creative economy” uses of the 21st century. Examples include Specialty Filaments (now Dealer.com); Queen City Cotton Mill/General Dynamics (now Innovation Center); and currently, Blodgett Ovens (soon to be HULA Co-Working). Burton was on the early side of this trend when we moved our manufacturing operations out of our #80 building in 1996. Since that time, we have completely redeveloped #80 to house our Global Headquarters operation (as noted above, with zero traditional manufacturing use, but—we believe—of great value to the economy of Burlington and more broadly to the economy of Vermont).

Upon reading the significant ‘south of Home Avenue’ restrictions as currently drafted, we question if the contributions Burton continues to make to the Burlington economy are understood and embraced. The draft amendment sends a strong signal that the City would prefer to find a traditional “dirty” manufacturing operation for our buildings vs. 350+ jobs we have created (e.g., product development, engineering, sales, marketing, finance, IT, web development, HR, etc.).

The market trends that have impacted our decisions, as well as the decisions of other industrial property owners in Burlington, are both measurable and on the rise. Perhaps more importantly, most everyone would agree the local economy has benefited from the evolution in the entire South End. Given all of these data points, we question why the Enterprise Zone should be treated differently ‘south of Home Avenue’ where the traditional manufacturing market sector is equally vulnerable while Burton’s “Hub” target market embraces its proposed mixed-use concept?



As we recently shared with the Commission, we have spent the better part of the past year articulating our challenge with various City staff. Meanwhile, we have developed a viable business model to manage our occupancy at 152 Industrial Parkway with 3rd party partners who are eager to participate and further augment the south end's live/work/play creative/arts economy. With regards to advancing the proposed amendment currently under consideration quickly and efficiently, Burton offers two alternate versions of the proposed amendment which would allow our project to move forward, while reducing/eliminating the potentially damaging restrictions the current amendment places on the 'south of Home Avenue' area:

1. Preferred: Leave Footnote 27 language "as is" but apply ONLY to Performing Arts Center use. Remove Footnote #27 from all other uses on Appendix A.
 - Consider adding "restaurant" to list of permitted or conditional uses in E-LM
2. Acceptable: Leave Footnote 27 language "as is" but apply ONLY to uses marked as 'CU' (Conditional Use). Remove this footnote from all uses marked as 'Y'.
 - This would reduce the 'South of Home Avenue' restrictions from 58 to 18 uses.
 - Consider adding "restaurant" to list of permitted or conditional uses in E-LM

Further, we will continue our participation in the current *planBTV South End* planning process and comment/feedback process so that our perspective is captured in the final plan document. Thank you for your support, and we look forward to discussing this further at your earliest convenience. Please feel free to contact me any time at justinw@burton.com, 802-651-0499 (office) or 802-922-0713 (mobile).

Sincerely,

Justin Worthley
Senior Vice President, Burton Corporation

cc John Caulo, Kelly Devine, Ted Castle, Jim Foster

Resolution Relating to

RECEIVING AND REFERRING THE RECOMMENDATIONS
OF THE JOINT COMMUNITY DEVELOPMENT AND
NEIGHBORHOOD REVITALIZATION COMMITTEE AND
ORDINANCE COMMITTEE

RESOLUTION 5.0

Sponsor(s): Joint Committee:
Community Development &
Neighborhood Revitalization
Committee, Ordinance Commit
Introduced: 12/17/18
Referred to: _____
Action: amended; adopted
Date: 12/17/18
Signed by Mayor: 12/20/18

CITY OF BURLINGTON

In the year Two Thousand Eighteen
Resolved by the City Council of the City of Burlington, as follows:

- 1 That WHEREAS, on October 13, 2015, the City Council approved the Housing Action Plan (HAP)
2 composed of 22 proposals “to help reduce the cost of housing in Burlington for all residents” including t
3 proposal to “Consider Revisions to the Inclusionary Zoning (IZ) Ordinance to Better Meet Housing Goa
4 Better Complement the Housing Trust Fund;” and
5 WHEREAS, the City’s Community & Economic Development Office (CEDO) contracted with
6 consultants czb, LLC who undertook an Evaluation of Inclusionary Zoning, the final report of which wa
7 released in January 2017; and
8 WHEREAS, the City Council’s Community Development and Neighborhood Revitalization (CD
9 Committee and CEDO held initial public meetings related to the January 2017 IZ Report and discussed t
10 best course of action to thoroughly evaluate the report, its findings, and suggestions; and
11 WHEREAS, the CDNR Committee (Councilors Colburn, Ayres, and Roof) and CEDO proposed
12 formation of the IZ Working Group (IZWG) of subject-matter experts to take information from the Janu
13 2017 IZ Report, as well as any public comments on the report, and to review and make recommendation
14 the Administration and City Council; and
15 WHEREAS, on April 17, 2017, the City Council approved the formation of the IZWG composed
16 local experts as proposed by the CDNR Committee and they undertook a series of 13 meetings, beginnin
17 September 14th, 2017, and including a public hearing on June 11th, 2018, to develop the set of
18 recommendations provided herein; and
19 WHEREAS, at its July 16, 2018 meeting, the City Council accepted the IZWG report and referre
20 recommendations in the IZWG report that were related directly to the Inclusionary Zoning Ordinance to
21 joint committee comprised of two of the Council’s standing committees, the Community Development a
22 Neighborhood Revitalization Committee (“CDNR”) and the Ordinance Committee, to identify any
23 recommended changes to the City’s Inclusionary Zoning Ordinance; and

* * * * *

DISTRIBUTION:

I hereby certify that this resolution
has been sent to the following
department(s) on

ORIGINAL

RESOLUTION RELATING TO

.....

.....

.....

Adopted by the City Council

....., 20.....

..... Clerk

Approved....., 20.....

..... Mayor

Vol. Page

* * * * *

24 WHEREAS, the Joint Committee met four times and identified recommended changes to not only
25 Burlington's Inclusionary Zoning Ordinance but also identified more general recommendations outside of
26 direct ordinance change which it recommends should be referred to the CDNR Committee for further
27 consideration, and also held a public hearing on its full slate of recommendations ("the Report") on December
28 11th, 2018 and referred same as its Report back to the full City Council;

29 NOW, THEREFORE, BE IT RESOLVED that the City Council hereby accepts the attached Report of
30 the Joint Committee, and expresses its appreciation for their diligent and collaborative work on behalf of the
31 City; and

32 BE IT FURTHER RESOLVED that the City Council refers those recommendations specifically
33 identified in the Report of the Joint Committee pertaining to ordinance changes to the Planning Commission to
34 develop the recommended changes to Burlington's Inclusionary Zoning Ordinance and other relevant
35 ordinance provisions as required, **with a requested report back no later than April 1, 2019; and**

36 BE IT FURTHER RESOLVED that the City Council refers the additional, more general
37 recommendations of the Joint Committee Report (specifically identified for referral to the CDNR Committee
38 in the Report) to the CDNR Committee, for further work with the Administration to evaluate and prioritize
39 next steps for implementation of these Joint Committee recommendations.

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* * * * *

ORIGINAL

DISTRIBUTION:

I hereby certify that this resolution
has been sent to the following
department(s) on

RESOLUTION RELATING TO

Receiving And Referring The Recommendations Of The Joint Community
Development And Neighborhood Revitalization Committee And Ordinance

Planning Commission Members via Staffperson.....
CDNR Committee Members
City Attorney's Office, Linda Blanchard

as amended

Adopted by the City Council

December 17, 2018

Clerk

Approved: *[Signature]* 12-20-18

Mayor

Attest:

[Signature]
Lori Olberg

Licensing, Voting and Records Coordinator

Vol. Page

* * * * *

Joint Ordinance and CDNR Committee Recommendations Summary Re: Inclusionary Zoning (IZ) 12/12/18

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

Joint Ordinance and CDNR Committee Recommendations Summary Re: Inclusionary Zoning (IZ) 12/12/18

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

Joint Ordinance and CDNR Committee Recommendations Summary Re: Inclusionary Zoning (IZ) 12/12/18

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

Proposed designated areas for Inclusionary Zoning based on 80% AMI

Legend

- Census Tracts
- Census Block Groups
- 'Less Inclusive' (25% of residents are below 80% AMI)



2,000 1,000 0 2,000 4,000 6,000 Feet

Summary of Joint
Ordinance/Community Development &
Neighborhood Revitalization
Committee Inclusionary Zoning
Recommendations

December 11 public hearing

General background

- .IZ Working Group (IZWG) created by April 2017 City Council Resolution, started work in September 2017 and concluded in July 2018
- .Charged with reviewing recommendations in January 2017 consultant report, “Evaluation of the City of Burlington’s Inclusionary Zoning Ordinance”
 - oIdentify pros and cons, financial feasibility
 - oPrioritize recommendations
 - oIdentify supporting partners
 - oAddress other implementation issues
- .Council referred resolution to Ordinance and Community Development & Neighborhood Revitalization Committee. Met jointly 4 times

Membership of IZWG

Membership was stipulated in the April 2017 Resolution, appointments made by Council President in consultation with the Mayor.

- 1 City Council Member to serve as chair (Jane Knodell)
- 1 Representative from the Planning Commission (Bruce Baker)
- 2 For-Profit Developers (Erik Hoekstra, Eric Farrell)
- 2 Not-for-Profit Developers (Nancy Owens, Housing Vermont; Michael Monte, CHT)
- 2 Affordable Housing Advocates (John Davis, Brian Pine)
- 1 CEDO Director or designee (Noelle MacKay)
- 1 Planning & Zoning Director or designee (David White)

Burlington's Inclusionary Zoning Ordinance

Adopted in 1990; legislative intent:

- “Create housing opportunities for all of Vermont’s citizens as required by State law”;
- “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”; and
- “To improve the quality of life for all residents by having an economically integrated housing supply throughout the City”

Key elements of IZ ordinances

IZ ordinances require developers to include a certain # or % of all the homes in their projects that are “affordable” to low or moderate income households

In drafting an IZ ordinance, policy makers must decide

- Which projects are covered: Does the law apply to all projects, or only some projects?
- How many: How many affordable homes must be included?
- For whom: How should “affordable” be defined and for what duration?
- Other options: Can a developer meet the obligation in some way other than on-site affordable homes (payment in lieu, off-site affordable homes)?

Quick and dirty summary of consultant's recommendations

1. Which projects are covered: exempt more small projects from the requirement ("increase the threshold project size" that law applies to)
2. How many units/for whom: allow developers to build MORE units, but for higher-income households than in current law; or FEWER units, but for lower-income households than in current law
3. Other options: create a meaningful payment in lieu option (allow developer to meet obligation by making a payment to the City's Housing Trust Fund instead of building the required units on site)

Summary of recommendations: who is covered, and how many affordable homes?

- Which projects are covered: Joint Committee recommends no change to current law, which applies to any housing development of 5 or more units
- How many affordable homes: Joint Committee recommends no change to current law, which says 15% of all dwelling units in the project must meet affordability requirement. In Waterfront district, 25%. If project is targeted to very high end of market, 20-25% of all dwelling units must meet affordability requirement.

Summary of recommendations: how is “affordable” defined?

Affordable for whom?

- For rental units, Joint Committee recommends no change to current law. Price homes so they are affordable to households at 65% of Area Median Income (AMI).
- For owner-occupied units: Recommend reducing target income from 75% of AMI to 70% of AMI.

Summary of recommendations: other options to meet requirement

Payment in lieu option: current ordinance

- If Development Review Board finds that there are “unique, difficult, and/or challenging site conditions” that prevent the construction of on-site inclusionary units, then the DRB may allow the developer to make a payment instead, subject to approval of the City Council.
- The payment per required affordable home that is not built on site = approx. \$180,000.

Payment in lieu: what did the consultant say?

- Lower the payment in lieu. It is too high to be a true option (it is much higher than the cost to developer of building the on-site inclusionary unit), as shown by the fact that it has not been exercised in 10 years.
- It is an important option since it provides flexibility for developers, and the revenue can be used to support other affordable housing strategies through the City's Housing Trust Fund.

Payment in lieu, Joint Committee recommendation

- The Joint Committee agreed with the Consultant and IZWG that this is an important option, and one that has not been viable.
- Joint Committee agrees with the IZWG and recommends that the payment in lieu option should be available "by right", but on a restricted basis. "By right" means it is not subject to the discretion of a City board or official.
- Restrictions on the payment in lieu option are based on the size of the project and the location of the project.
- Regardless of size of project, no payment in lieu option in the Waterfront district – a continuation of the existing policy.

Payment in lieu recommendation

- The Joint Committee offers an innovative recommendation on the payment in lieu option that seeks to address two big issues:
- The challenging economics of the IZ requirement for small projects, given the significant fixed costs involved in developing new housing (costs that are about the same whether you are building 5 units or 50 units).
- The striking geographic concentration of IZ units built to date in parts of Burlington that already have a healthy mix of households across the income spectrum in their neighborhoods.

Payment in lieu, recommendation

- Small projects (5-16 units) have a payment in lieu option, except if the project is in the Waterfront district. The per unit payment is \$35,000.
- Medium (17-49 units) and large (50+ units) pay more per unit (\$70,000 and (\$85,000 respectively), recognizing their greater ability to absorb the cost of the inclusionary units. Only incremental units pay higher rate: 17-unit project pays \$35K for 2 units and \$70K for the 3rd IZ unit and so on.
- AND medium and large projects can **only** use the payment in lieu option for projects located in parts of the City that have inclusive neighborhoods today. *If their project is in a less inclusive part of the City, we want them to build their affordable homes on site.*

Rationale for Payment in Lieu proposal

- Addresses the difficult economics of IZ for small projects, while capturing resources from small projects for the Housing Trust Fund.
- Addresses lack of neighborhood inclusion shortcoming of IZ to date in Burlington: while it has succeeded in fostering inclusive projects/buildings, it has not fostered inclusive neighborhoods throughout the City.
- Allows payments from market-rate housing to be leveraged with other funding sources through the HTF to support the creation of more homes, and more deeply affordable homes, than would have been built on-site.

Density Bonus proposal

- Addresses the fact that many development projects are unable to utilize the existing density bonus despite being required to comply with IZ.
- The Joint Committee endorsed the IZWG recommendation that developers be granted by-right density bonuses.
- Final language from the Planning Commission should address the provision of by-right density, but still ensure opportunity for the DRB/DAB to seek other modifications to a project to address site plan concerns and architectural design standards.

Other recommendations

- Unit comparability – IZ units at par with market units
- Compliance monitoring – explore option to transfer duty to new dept.
- Increase funding for affordable housing – refer CDNR
- Accessory units – refer to CDNR
- Privately developed university housing built outside the Institutional Zoning District – draft an ordinance codifying Champlain College

CITY OF BURLINGTON INCLUSIONARY ZONING WORKING GROUP (IZWG)

Final Recommendation Report

This report summarizes the IZWG process including background information as well as the resources and analysis used by the group. For the detailed recommendations of the IZWG see the IZWG Recommendations section.



7/11/18
<https://www.burlingtonvt.gov/CEDO/IZWG>

IZWG – Final Recommendation Report

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Introduction

This report summarizes the process and recommendations of the Inclusionary Zoning (IZ) Working Group (IZWG) that was formed in 2017 by a City Council resolution to thoroughly evaluate the [Inclusionary Zoning Evaluation report](#) (consultant's report), its findings, and suggestions in order to make recommendations to the Administration and City Council. The report is part of the City's [Housing Action Plan](#) (HAP) and was undertaken in 2016 by an urban policy consulting firm, czb, LLC, to provide the first detailed review of the City's 26-year-old Inclusionary Zoning policy.

The IZWG is composed of 10 local experts who work in housing in different capacities including government, nonprofit and for profit developers, and housing advocates:

- 1 City Council Member to serve as chair (Jane Knodell)
- 1 Representative from the Planning Commission (Bruce Baker)
- 2 For-Profit Developers (Erik Hoekstra, Eric Farrell)
- 2 Not-for-Profit Developers (Nancy Owens, Housing Vermont; Michael Monte, CHT)
- 2 Affordable Housing Advocates (John Davis, Brian Pine)
- 1 CEDO Director or designee (Noelle MacKay)
- 1 Planning & Zoning Director or designee (David White)

Over 6 months the IZWG met 11 times and established 2 subcommittees to review specific aspects of IZ and refine recommendations. The group reviewed each recommendation from the IZ Evaluation Report and considered other ideas related to inclusion. The IZ evaluation report laid out three paths of recommendations, with varying levels of complexity and impact; 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.

Executive Summary

The committee's charge was to review the consultant's report recommendations, which were based on analysis of two decades of inclusionary projects including many recent and ongoing projects. The IZWG did not just respond to the consultant's report, but made recommendations based on their own experience and analysis. The robust discussion that resulted lead to several innovative ideas beyond those contained in the consultant's report. For example, while the report found IZ has been successful in creating socioeconomic integration, IZ units have been geographically concentrated in a few areas of the City, and thus geographic inclusion citywide became an overarching concern for the IZWG. This report includes recommendations for improving economic inclusion throughout the City.

The IZWG focused on four areas or levers that affect IZ policy:

Applicability: Should the law apply to all projects, or only some projects?

Quantity: How many affordable homes must be required?

Affordability: How should "affordable" be defined?

Other options: Can a developer meet the obligation in some way other than on-site affordable homes (payment in lieu, off-site affordable homes)?

Applicability

The consultant's report recommended increasing the number of units in a project that would trigger IZ (currently 5 units) because smaller projects have difficulty absorbing the associated costs. While the IZWG did acknowledge that the scale of a project does affect its ability to absorb the costs of IZ, the group decided to adopt a workable payment-in-lieu option for small projects instead of raising the threshold for IZ. This ensures that even small projects contribute to affordable housing.

Quantity

The IZWG determined that there be no change to the percentage of units required despite the consultant's recommendation to tie the quantity of units required to the level of affordability. The number of IZ units required would continue to be determined by the price of the market rate units and the location.

Affordability

IZ unit affordability has two components: the target rent/sale cost and the income eligibility of the residents. Currently the basis for these components is the HUD Area Median Family Income (AMI). The target rent/sale cost is currently set at a rate that is affordable for a household making 65% and 75% of AMI for rented and owner-occupied homes respectively. Currently income must be below 100% of AMI in order to be eligible for an IZ unit.

While the consultant's report recommended increasing the target rent cost up to 80% of AMI, the IZWG observed that there is a supply of market rate units affordable to households with incomes around 80% of AMI in Greater Burlington. Therefore, the IZWG recommends maintaining the rent cost at 65% where there is not an adequate supply of affordable rental housing. Owner-occupied units are different because they must compete with condos in and around Burlington that do not have restrictions on their resale as the IZ units do, therefore the IZWG recommends reducing the owner-occupied unit cost to 70% of AMI.

Payment in lieu

"Payment in lieu" means a developer makes a payment to the City's Housing Trust Fund instead of ("in lieu" of) creating on-site affordable units. Monies in the Housing Trust Fund are leveraged with other funding sources available to non-profit developers, and are used exclusively to support the creation or rehab of units that are permanently affordable to very low, low, and moderate income households. Currently the payment in lieu option requires approval of the Development Review Board as well as City Council, and it has not been used in 10 years as the per-unit cost is too high to be a true option. The consultant's report recommends reducing the payment in lieu fee and that it be made by right (that is, is not subject to discretion of a City board or official).

The IZWG recommends the adoption of a payment in lieu option that is either available by right, or not at all. Whether a project has a payment in lieu option depends on two factors:

- Size of project: if small, yes, and can be exercised anywhere in the City (except the waterfront)
- Location of project: if a medium or large project, can only be exercised on projects located in areas of the City that already have good economic integration (See [proposed map](#)). Otherwise, there is no payment in lieu option.

Due to the challenging economics of the IZ requirement for small projects, and given the significant fixed costs involved in developing new housing (costs that are about the same whether you are building 5 units or 50 units) the Payment in Lieu would be adjusted for the size of the project.

- A small project, defined as 5-16 units, would pay \$35,000 per unit.
- A medium project, 17-49 units, would pay \$70,000 per unit.
- A large project, 50 and more units, would pay \$85,000 per unit.

Off-Site Units

Similar to the payment in lieu requirements, to accommodate IZ units off-site currently requires approval from the Development Review Board and the number of required units must be multiplied by 1.5. The IZWG agreed with the consultant's report recommendation to eliminate the 1.5 unit multiplier and allow off-site units by right based on location criteria similar to the payment in lieu – where projects in less inclusive areas must build the units on site.

Density Bonuses

The consultant's report observed that this is a "critical part of the current ordinance that has failed to function as intended." While the IZ ordinance currently includes an allowance for additional height and mass, it has rarely been realized through the Development Review Board process. Additionally, on-site parking requirements make it difficult to accommodate additional units with limited lot space. The IZWG recommends changes to ensure the density bonuses are in fact by right, and eliminating the parking requirement for IZ units.

Conclusion

While this summary contains the main components of the recommendations, there are other recommendations contained in this report not outlined in this summary pertaining to unit comparability, monitoring of compliance, and a funding plan to boost production of affordable housing to name a few. Please see the [recommendations section](#) for more details.

The recommendations of the IZWG have been the result of considerable time and effort outlined in this report, but are the starting point for a more robust public conversation about IZ. The process up until now has included the IZWG meetings, a public hearing, and a follow up meeting of the IZWG. Any contemplated changes to the ordinance will require additional public process, including, but not limited to, City Council, Ordinance Committee, and Planning Commission actions.

The IZWG also acknowledges that there are many aspects that affect the success of inclusionary zoning policy that cannot be addressed through the ordinance and associated policies alone. To that end the group has included limited but important recommendations pertaining to other policies outside of IZ ordinance that relate to inclusion.

Inclusionary Zoning Background

In response to a housing affordability and availability crisis, Burlington adopted its inclusionary zoning program in 1990, and was the first locally initiated inclusionary zoning program to index its affordable housing set-aside to the price of the market-rate homes. The intent of the inclusionary zoning ordinance as written is:

- (a) To meet the specific mandates of 24 V.S.A. Chapter 117 related to housing opportunities for all of Vermont's citizens, particularly for those citizens of low or moderate income;
- (b) To ensure the provision of housing that meets the needs of all economic groups by precluding construction of only market rate housing on the limited supply of available land within the City;
- (c) To improve the quality of life for all residents by having an economically integrated housing supply throughout the City; and,
- (d) To prevent overcrowding and deterioration of the limited supply of affordable housing, and thereby promote the public health, safety and general welfare.

The current IZ rules and regulations are summarized in the infographic on the next page from the IZ Evaluation report. The full text of the current IZ ordinance can be found in the appendix.

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.



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



75% AMI



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

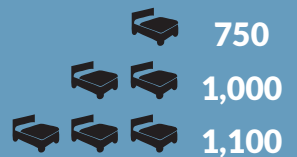
Off-site option: If a developer can demonstrate to the Development Review Board (DRB) that site conditions prevent the inclusionary units from being built on the same site as market-rate units, the requirement may be met off-site within the city at 1.5 times the on-site quantity. The sole exception is 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



Other notable features

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



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.



IZ Evaluation Report 2017

The [Housing Action Plan](#) (HAP) called for the Community & Economic Development Office (CEDO) working with the City Council Community Development & Neighborhood Revitalization (CDNR) Committee to hire “a consultant to evaluate the impact of the IZ Ordinance on new housing construction and to identify changes to the Ordinance that would render it a more effective tool for meeting both low-and moderate-income and workforce housing needs.” The evaluation was undertaken by czb, LLC, a Virginia-based urban planning consulting firm, represents the first detailed review of the City’s 26-year-old Inclusionary Zoning policy. On January 31, 2017, this [evaluation report](#) on Burlington’s Inclusionary Zoning Ordinance was presented to the CDNR Committee providing the following:

“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.”

IZ Evaluation Report Recommendations Outline

“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

- a) Increase Development Threshold
- b) Generalize Unit Comparability
- c) Monitoring

2) Fully Functional Inclusionary Zoning

- a) Provide density bonuses by right
- b) Lower the payment in lieu
- c) Offer a less restrictive off-site option for low-poverty receiving areas
- d) Adjust the income target for owner-occupied units from 75% of AMI to a flexible range of 80% to 100%

3) Moving the Needle

- a) Craft a funding plan that relies on local resources to boost production of affordable housing
- b) Achieve support for an affordable housing levy or bond from city voters
- c) Adjust income targets for rentals from 65% of AMI to a range of 50% to 80%
- d) Contribute levy resources to inclusionary homeownership
- e) [Additional Recommendations](#)
 - i) Address the intersection of affordable housing and college student housing
 - ii) Identify and address factors that limit the creation and utilization of accessory uni

Inclusionary Zoning Working Group (IZWG) Recommendations

This section is organized by the recommendations of the IZWG Evaluation Report and the three paths outlined in the recommendations section (Status Quo Plus; Fully Functional IZ; and Moving the Needle). The specific recommendations for each path are underlined with the detailed descriptions of the recommendations in italics. The responses of the IZWG to each recommendation are bulleted. At the end of this document are additional recommendations put forth for consideration by the working group.

Path 1: Status Quo Plus

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.

- The IZWG discussed this issue on 9/28/17, 11/9/17, 2/8/18, 5/14/18 devoting considerable time and effort to understanding the economics of projects at different scales. Smaller projects have been less prevalent for many reasons, but until recently the market did not support the associated development costs. Small projects also face unique challenges such as accommodating parking requirements on small lots, zoning, and having adequate lot coverage. For these reasons, raising the threshold at which IZ takes effect was considered, but the IZWG decided that a reduction in the payment in lieu fee for small projects would be a better way to address this issue.

IZWG Recommendation:

- While the threshold is recommended to remain at 5 units, the payment in lieu fees are adjusted to account for the scale of the project. Three project scales were established (small, medium, and large) through development cost analysis (see appendix) and correlate with the 'breaks' where additional IZ units are required per the formula i.e. at the 15% IZ rate a 16 unit project requires 2 IZ units but a 17 unit project requires 3 IZ units and thus forms the threshold for a small project. See [payment in lieu recommendations](#) for more details.
- Rather than raise the minimum IZ threshold as recommended in the report, the payment in lieu (PiL) option would be allowed by-right for small projects. This ensures that small projects are contributing to affordable housing, which a higher threshold would not accomplish.

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.

- The IZWG discussed this issue on 9/28/17 and 5/14/18 and determined that current housing projects typically have units smaller than the IZ minimum unit size, and thus size requirements and standards should be updated. The existing regulations regarding the unit mix, energy efficiency, and exterior appearance should remain the same. Additionally, the group recommended that amenities and access through the main entrance should be available to all tenants.

IZWG Recommendation:

Unit size	Current minimum sf	Proposed minimum sf
1 bedroom	750 sf	600 sf
2 bedroom	1000 sf	800 sf
3 bedroom	1100 sf	1000 sf
4 bedroom	1250 sf	1150 sf

- An IZ unit could be smaller than the minimum standard, so long as it is no smaller than the smallest market rate unit of equivalent bedroom size in the proposed project.
- Minimum bedroom size should be reduced to 100 sf.

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.

- In a [memo](#) dated October 23, 2017 CEDO presented an update and overview regarding monitoring for the IZWG meeting on October 26 2017. Per that memo, monitoring of IZ units has been a priority for this administration and CEDO staff have been working diligently for over a year to build systems which ensure that applicable projects are meeting the requirements of the IZ ordinance. The memo also outlines the next steps and ongoing efforts with an associated [Policies and Procedures for Monitoring IZ Units](#) document.

- Summary of monitoring efforts
 - Developed a monitoring system by going through files and ensuring complete information on all projects
 - Worked with city attorney to identify ambiguities in the ordinance
 - Reached out to private landlords to notify them of this effort
 - Updated property owners with the current IZ rents
 - Received occupancy reports from owners of projects with IZ units
 - Required income certification when an IZ unit turns over to a new occupant(s)

Path 2: Fully Functional Inclusionary Zoning

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.

- IZWG discussed this item on 9/28/17, 1/11/18, 4/12/18 and agreed that this is a critical part of the ordinance that has failed to function as intended. The report recommendation pertains to both the existing ‘allowance’ for increased density in the IZ ordinance as well as the ‘development bonus’ when providing additional inclusionary units beyond the requirement. Typically these have not been fully granted due to DRB design conditions and parking requirements that reduce the buildable area.

IZWG Recommendation:

- The allowance of additional height, mass, and lot coverage in Article 9.1.14 of the [Comprehensive Development Ordinance](#) (CDO) applying to any IZ project should include a limitation on the ability of the DRB to reduce the number of units allowed due to design factors.
- The density bonus in Article 4.4.5 of the CDO, for voluntarily increasing the IZ rate by 5% should be reviewed to determine that its effect is practicable and meaningful, and if so, allow it by-right.
- The parking requirement for IZ units should be eliminated. Currently there is a potential 50% parking waiver allowed at the discretion of the DRB for IZ units, which is not a bonus specific to IZ. Existing projects with affordable housing have demonstrated that onsite parking is considerably underutilized. Eliminating the parking requirement would have the effect of increasing the buildable area of the project potentially accommodating additional units or rearranging unit layout. For example a 20-unit project with a 4-unit IZ requirement this could be 1,000 sq. ft. of space that does not have to go towards parking and could be put to another purpose.
- The impact fee waiver in Article 3.3.3 of the CDO should be 100% for any IZ rental/homeownership unit.

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.

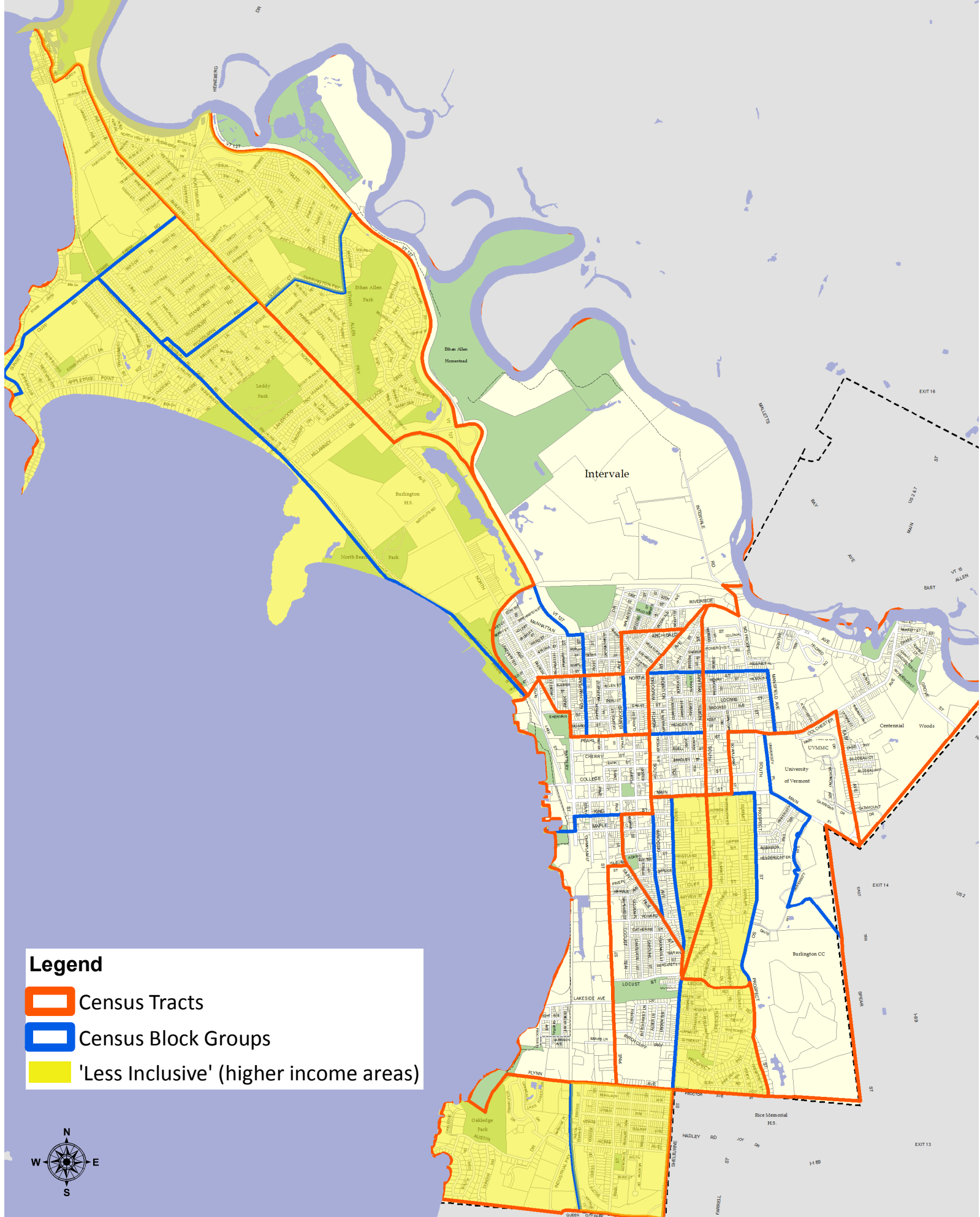
- The IZWG discussed this topic on 11/9/17, 2/8/18, 3/22/18, 4/12/18, 4/26/18 and agrees that the current payment in lieu (PiL) is too high to be a viable option and agrees that it is an important option for the reasons the report identifies. The IZWG was also struck by the geographic concentration of IZ units in low and moderate income areas, and the lack of inclusion in specific areas of the City. Use of PiL by-right should be allowed only for projects that meet the criteria outlined below. Further, PiL should be either allowed by-right or not at all. The PiL project size scales and the payment structure are designed to address the high fixed costs of small projects while ensuring broad participation in contributing to the creation of perpetually affordable housing. The fee amount is larger for larger projects recognizing their greater financial capacity.
- To address the lack of inclusion in specific areas of the City the IZWG recommends designating 'higher' income (less inclusive) and 'lower' income (more inclusive) areas, based on HUD AMI ([Area Median Income](#)) data in census block groups, to determine where PiL is allowed. For medium and large project sizes, PiL is not allowed in 'less inclusive' (higher income) areas but is allowed by-right in 'more inclusive' (lower income) areas.

IZWG Recommendation:

Project size	Per unit payment in lieu fee	Allowance
Small (5 - 16 units)	\$35,000/unit	Citywide (except waterfront)
Medium (17 - 49 units)	\$70,000/unit	Only in 'more inclusive' areas*
Large (50 + units)	\$85,000/unit	Only in 'more inclusive' areas*

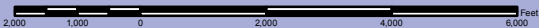
*Payment in lieu is not allowed for medium or large projects in 'less inclusive' areas w/o exception.

- 'More/less inclusive' areas are defined using HUD Low/Mod Income Summary Data at the census block group level (see [Figure 1](#) on next page). Low/mod income is defined by HUD as having an income below 80% AMI. The calculations are based on the 5-year American Community Survey and updated periodically.
 - If at least 51% of the area's residents are low/mod income the census block group is designated as 'more inclusive' as described in these recommendations.
 - If less than 51% of the area's residents are low/mod income the census block group is designated as 'less inclusive' as described in these recommendations.
 - <https://www.hudexchange.info/programs/acs-low-mod-summary-data/acs-low-mod-summary-data-summarized-block-groups>
 - <https://www.huduser.gov/portal/datasets/il.html> (HUD Income Limits)
- PiL should not be allowed in the waterfront zoning districts
- Note that the PiL funds from projects in 'more inclusive' areas can be used in areas of the city that are in need of more affordable units, strengthening inclusion citywide. These funds can be used to create units affordable to households at a lower income than the IZ ordinance requires. These PiL funds will be managed by the Housing Trust Fund Administrative Committee, as part of the Housing Trust Fund (HTF).



Legend

-  Census Tracts
-  Census Block Groups
-  'Less Inclusive' (higher income areas)



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.

- The IZWG discussed this topic on 3/22/18, 4/12/18, 4/26/18, 5/14/18 and determined that the off-site option, similar to the payment in lieu option, should be offered by-right in certain areas. The payment in lieu alternative may provide a better option in many cases, but there was also discussion about the desire to accommodate IZ units in existing buildings where appropriate.

IZWG Recommendation:

- IZ units should be allowed off-site by-right if the project is located in a ‘more inclusive’ area, with the IZ units to be accommodated in either a ‘more’ or ‘less’ inclusive income area. This option should not be allowed in ‘less inclusive’ areas including the waterfront. Off-site option not allowed on waterfront.
- Further consideration should be given to accommodating off-site IZ units in a separate existing building.
- The 1.5 unit multiplier should be removed in order to simplify use.

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

- The IZWG discussed this on 11/9/17, 4/12/18, 5/14/18, and determined the report recommendation is not viable as these affordable homeownership units must compete with similarly priced market rate condos outside Burlington. There is a perceived reduced value due to a shared equity model where resale value is restricted as the unit must remain affordable. Shared equity homes are easier to sell in desirable locations in the City, but generally require additional subsidy beyond what the developer pays to build the unit.

IZWG Recommendation:

- Reduce the target sale price from 75% of AMI to 70% of AMI to make the unit more competitive in the condo market, and to reduce amount of additional subsidy required.

Path 3: Moving the Needle

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.

- The IZWG discussed this item on 5/14/18 and recommends coordinating with other housing initiatives to determine use of revenue and funding as much as possible, such as the City's [Consolidated Plan](#) and the [Assessment of Fair Housing](#) as well as the Neighborhood Project.

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?

- The IZWG discussed this item on 5/14/18 and recommends returning the HTF levy to a full penny of the property tax as originally intended, and further discuss/research the possibility of a housing bond. As part of this research there should be an analysis of the overall housing need for different groups and types of housing. Additionally it would be necessary to assess how much housing could be created with a bond, and how much funding could be leveraged, similar to the housing bond at the state level.

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.

- The IZWG discussed adjusting the IZ rent targets on 1/11/18, 3/22/18 and determined there is significant need for affordable housing at the 65% of AMI level that is not being addressed by the market. There is a supply of market rate units affordable to the 80% AMI level despite requiring a high proportion of household income, while housing affordable to households with incomes at 65% AMI is rare in the marketplace. In addition, IZWG noted that a target IZ rent at 80% of AMI would result in IZ rents that are very close to, if not higher than, the average level of market rents in Chittenden County. Having a range of different IZ rent targets would be prohibitively difficult to administer and monitor.

IZWG Recommendation:

- The 65% of AMI IZ rent target should remain in place. In addition the group recommends narrowing the household income eligibility rather than the rent price. Currently a unit with a rent affordable to a household at 65% of AMI may be rented or sold to households earning less than 100% AMI. It is recommended to reduce the renter and buyer income eligibility threshold to households earning less than 80% AMI.

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.

- The IZWG recommends that payment in lieu funds, as well as any other new funding sources to the HTF, could be used for down payment assistance as part of a shared equity housing program in areas zoned for residential low density that are higher income and lack inclusion.

Additional Recommendations

These recommendations were included in the report as part of Path 3: Moving the Needle. The IZWG discussed this section on 4/26/18 and 5/14/18, currently there is an exemption for student housing developed by an educational institution in the Institutional zone. A per bed fee as recommended in item 1 below would provide a contribution from student housing projects and simplify how IZ requirements are met for student housing projects outside the Institutional zone. Ongoing projects through the Housing Action Plan address items 2 and 3.

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:

1. 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.
 - The IZWG recommends a per-bed fee as an alternative to the IZ unit requirement in cases where a development is built expressly as student housing, and rented to students, but not exempt under the current ordinance. If the project were to convert to regular rental it would have to comply with IZ unit requirements at that time. Ongoing monitoring will be required for compliance.
2. 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.

- The City is addressing this on an ongoing basis with the Universities through PILOT agreements.
- Per the City's Housing Action Plan (HAP) the Neighborhood Project is examining housing conditions in near campus neighborhoods and strategies to address code violations and price escalation.

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

- Per the City's HAP a study of Accessory Dwelling Units (ADUs) in Burlington is currently underway to review existing ADUs as well as best practices for ADU policy.

Other recommendations of the IZWG pertaining to inclusion

Parking

- Make on-site parking requirements based on the number of bedrooms rather than the number of units. For example a 5 bedroom unit has the same parking requirement as a studio apartment, thus there's an incentive to create larger units. Instead the requirement should incentivize small units with no (or a small) parking requirement.
- Encourage developers to unbundle the cost of parking from the price so that those without cars are not subsidizing the cost of parking for those that do. This should reduce the per-unit cost to the renter/owner and therefore make it more affordable and increase buying power.

Infill development

- Review potential for infill development along transportation corridors within low density areas, and at intersections with these transportation corridors that are more appropriate for multi-family buildings.

Income Standards

- The HUD AMI includes several counties around Burlington, and is likely not reflective of Burlington residents' incomes. Additional analysis could consider alternative standards. However, the reason that HUD AMI was selected as the standard is because it is used for most housing programs, which reduces complexity of financing.

APPENDIX

1. Resolution Relating to the Formation of Inclusionary Zoning Working Group

1 That WHEREAS, the City Council’s Community Development and Neighbor Revitalization (CDNR)
2 Committee and the City’s Community and Economic Development Office (CEDO) worked in concert to hold
3 initial public meetings related to the January 2017 Inclusionary Zoning (IZ) Report and have discussed the
4 best course of action to thoroughly evaluate the report, its findings, and suggestions; and

5 WHEREAS, the outgoing CDNR Committee (Councilors Colburn, Ayres, and Roof) and CEDO have
6 proposed the formation of a diverse working group of subject-matter experts to take information from the
7 January 2017 IZ Report, as well as any public comments on the report, and to review and make
8 recommendations to the Administration and City Council;

9 NOW, THEREFORE, BE IT RESOLVED that the City Council approves the formation of an IZ
10 Working Group (IZWG), to be appointed by the City Council President in consultation with the Mayor; and

11 BE IT FURTHER RESOLVED that the composition of the IZWG shall be as follows:

- 12 • 1 City Council Member, who will chair the IZWG
- 13 • 1 Representative from the Planning Commission
- 14 • 2 For-Profit Developers
- 15 • 2 Not-for-Profit Developers
- 16 • 2 Affordable Housing Advocates
- 17 • 1 CEDO Director or designee
- 18 • 1 Planning & Zoning Director or designee; and

19 BE IT FURTHER RESOLVED that the purpose and goals of the IZWG are to:

- 20 • For each of the recommendations in Part 3 of the Report (Choices and Recommendations),
21 identify the pros and cons; evaluate financial feasibility; propose a timeline and supporting
22 partners, including which entity would play a leading role; and address any other
23 implementation issues;

- Prioritize the recommendations of the Report, and any other suggestions raised by the Committee members, taking public input into account, and identify next steps for implementation;
- Identify any data/information gaps;
- Gather public input on the IZWG recommendations by convening at least one public hearing before the final report is presented to the City Council as well as providing public comment time during the IZWG meetings; and

BE IT FURTHER RESOLVED that CEDO will provide staffing support for the IZWG, the IZWG will start its work in September 2017, and the IZWG will report back to the Administration and the City Council by April 1, 2018.

lb/RWH/Resolutions 2017/CEDO – Inclusionary Zoning Working Group – Formation of Group
4/12/17

2. Inclusionary Zoning Ordinance

(Article 9 of the Comprehensive Development Ordinance amended January 12, 2018)

ARTICLE 9. INCLUSIONARY AND REPLACEMENT HOUSING

Introduction: This Article of the Burlington Comprehensive Development Ordinance establishes requirements for including affordable housing units within certain residential developments, and ensures the replacement of housing units that may be lost as a result of redevelopment.

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PART 1: INCLUSIONARY ZONING

Sec. 9.1.1 Intent

The intent of these regulations is:

- (a) To meet the specific mandates of 24 V.S.A. Chapter 117 related to housing opportunities for all of Vermont's citizens, particularly for those citizens of low or moderate income;
- (b) To ensure the provision of housing that meets the needs of all economic groups by precluding construction of only market rate housing on the limited supply of available land within the City;
- (c) To improve the quality of life for all residents by having an economically integrated housing supply throughout the City; and,
- (d) To prevent overcrowding and deterioration of the limited supply of affordable housing, and thereby promote the public health, safety and general welfare.

Sec. 9.1.2 Authority

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

Sec. 9.1.3 Inclusionary Units, General Description

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

- (a) Selling price or rent level;
- (b) Marketing and initial occupancy; and,
- (c) Continued requirements pertaining to re-sale, rent or carrying cost increases, as specified in this article.

Sec. 9.1.4 Miscellaneous Definitions

“Affordable housing” or “Affordable” shall refer to a housing that is owned or rented by its inhabitants whose gross annual household income does not exceed 80 percent of the county median income or 80 percent of the standard metropolitan statistical area (MSA) income, as defined by the US Department of Housing and Urban Development, and the total cost of the housing, including principal, interest taxes and insurance and condominium association fees, if owned housing, or the total cost of the housing, including rent, utilities and condominium association fees, if rental housing, is not more than thirty per cent (30%) of the household's gross annual income.

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

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

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

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

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

Sec. 9.1.5 Applicability

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

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

- (a) The creation of five (5) or more residential units through new construction and/or substantial rehabilitation of existing structures, including the development of housing units utilizing development provisions other than those specified in **Sec 9.1.5 (b)**.
- (b) Where units are created using the Adaptive Reuse or Residential Conversion criteria pursuant to the provisions of **Art 4, Sec 4.4.5**, this article shall be applicable when at least ten (10) or more dwelling units are created.

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

Sec. 9.1.6 Exemptions

Exempt from the requirements of this article are:

- (a) Projects that are located within an Institutional (I) zoning district that are developed by an educational institution for the exclusive residential use and occupancy by that institution's students;
- (b) Those dwelling units in a covered project that are produced as "replacement units," pursuant to **Article 9, Part 2** and which do not produce any net new units; and,
- (c) Projects created using the Senior Housing Development Bonus pursuant to the provisions of **Article 4**.

Sec. 9.1.7 Certificate of Inclusionary Housing Compliance

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

Sec. 9.1.8 Inclusionary Units, Rental and Sales

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

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

Table 9.1.8-1 Inclusionary Zoning Percentages	
If the average sale and rental price of project units is affordable to a household earning:	The percentage of units which are subject to rent and sales prices as per Sec. 9.1.9 and are subject to marketing and continued affordability provisions (Sec. 9.1.10 and Sec. 9.1.11) shall be:
Less than 139% of median income	15%
140%-179% of median income	20%

Development in any Waterfront district (RM-W, RL-W, NAC-CR and DW) or 180% of median income and above in any other district	25%
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Sec. 9.1.9 Percentage of Inclusionary Units

All covered projects shall meet the percentage requirements for inclusionary units as specified above, calculated as follows:

Using the units/acre allowed for a covered project (i.e. 46 in the RH, 24 in the RM or 5.5 in the RL), the total number of units proposed is multiplied by the required percentage of Inclusionary units (15%, 20% or 25%, depending on the rent/selling price of the units).

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

Sec. 9.1.10 Income Eligibility

Inclusionary Units required under this Article, shall be marketed for purchase or rent to households earning less than the median income for the Burlington Metropolitan Statistical Area, adjusted for household size, as specified in [Sec 9.1.12](#). The median income shall be determined on the basis of the data which is most recent to the time that the units are ready for occupancy.

Sec. 9.1.11 Calculating Rents and Selling Prices

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

- (a) Inclusionary rental units shall be rented at a price which is affordable for a household with an annual income that is sixty-five percent (65%) of median income adjusted for household size;
- (b) Inclusionary units for sale, including cooperative units and the carrying costs associated therewith, shall be sold at a price which is affordable for a household with an annual income that is seventy-five percent (75%) of median income adjusted for household size;
- (c) In calculating the rents or carrying charges of inclusionary units, the following relationship between unit size and household size shall apply:

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

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

- (d) An available fixed-rate thirty-year mortgage, consistent with a “blended rate” for Burlington banks plus the Vermont Housing Finance Agency as determined and declared semi-annually (January and July) by the Housing Trust Fund Manager. A lower rate may be used in calculating affordable prices if the developer can guarantee the availability of a fixed-rate thirty-year mortgage at this lower rate from the Vermont Housing Finance Agency for all of the required inclusionary units;
- (e) A down payment of no more than five percent (5%) of the purchase price;
- (f) Annual property taxes; and
- (g) Homeowner insurance, homeowner association fees or condo fees. Homeowner association fees shall be calculated in the same manner as the fees for the market units in the same development.

Sec. 9.1.12 Additional Density and Other Development Allowances

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

- (a) Any covered project shall be entitled to an increase in the maximum coverage allowed for the site on which the project is located following the calculation of density, height, lot coverage, setbacks, and parking improvements for the site. Calculations for these entitlements shall be based on the following tables:

Table 9.1.12-1 Density/Intensity Allowance Table			
Zoning District	Additional Allowance	Maximum Units/Acre	FAR
RH	15%	46	n/a
RM, RM-W	20%	25	n/a
RL, RL-W	25%	8.75	n/a
D, DT, DW	n/a	n/a	0.5 FAR+10' height set back 10' along street facade
NMU, NAC, NAC-R, NAC-CR, BST	n/a	n/a	0.5FAR+10' height set back 10' along street facade

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

- (b) Other possible allowances for the provision of Inclusionary Units may include:
1. A waiver of up to 50% waiver of parking spaces as outlined in **Article 8, Sec. 8.1.14**,
 2. A waiver of a portion of the impact fees associated with the Inclusionary units, pursuant to the **Art. 3, Part 3 Impact Fee Administrative Regulations**.
- (c) The allowances provided for herein may be declined at the option of the applicant;
- (d) With the approval of the DRB, units added to a project as market rate units may be substituted by nonresidential uses wherever such nonresidential uses are otherwise permitted in the district where the project is located. Approved substitution for nonresidential uses shall occur at the following rate: 1 market-rate dwelling unit = 1,500 square feet nonresidential space
- (e) All provisions of **Sec. 9.1.8** through **9.1.11** shall apply, without exception, to any inclusionary units that are constructed.

Sec. 9.1.13 Off-Site Option

The DRB, upon a finding that unique, difficult and/or challenging site conditions exist that prevent the inclusionary units from being constructed upon the same site as the market units, may allow any developer of a covered project to comply constructing inclusionary units on a site within the City of Burlington other than that on which the covered project is located, subject to the following conditions:

- (a) The number of inclusionary units to be provided by the developer or by the developer's designee through off-site development shall be no fewer than 1.5 times the number otherwise required by this Article;
- (b) No additional development provisions as outlined in this Article shall be granted to the units constructed off-site or to the project;
- (c) Off-site inclusionary units must be located within the City of Burlington;
- (d) All of the provisions of Sections 9.1.8 through 9.1.11 shall apply without exception to off-site inclusionary units under the provisions of this section;
- (e) Waiver of provisions from the HTF with regard to minimum square footage and bedroom count relative to average size and bedroom count in a covered project is not permitted; and
- (f) Should the City Council decide that a payment in lieu is acceptable in exchange for not providing the inclusionary units on or off of the site, the payment shall be \$100,000, adjusted annually in accordance with the CPI, commencing January 1, 2007, per the number of units required in (a) above.

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

Sec. 9.1.14 General Requirements for Inclusionary Units

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

- (a) In order to assure an adequate distribution of inclusionary units by household size, the bedroom mix of inclusionary units in any project shall be in the same ratio as the bedroom mix of the non-inclusionary units of the project;
- (b) Inclusionary units may differ from the market units in a covered project with regard to interior amenities and gross floor area, provided that:
 - 1. These differences, excluding differences related to size differentials, are not apparent in the general exterior appearance of the project's units; and
 - 2. These differences do not include insulation, windows, heating systems, and other improvements related to the energy efficiency of the project's units; and
- (c) The gross floor area of the inclusionary units is not less than the following minimum requirements, unless waived by the DRB using the following criteria:

1. All of the units being provided with a specific bedroom count are smaller than the standards outlined below;
2. More than the required number of inclusionary units are provided on site, not all shall be subject to bedroom mix and size requirement; or,
3. The units have an efficient floor plan (meaning that less than 5% of the square footage is devoted to circulation) and the bedroom size(s) is a minimum of 144sf or 12'x12'.

One bedroom	750	square feet
Two bedroom.....	1,000	square feet
Three bedroom.....	1,100	square feet
Four bedroom	1,250	square feet

- (d) Upon demonstration of inability to sell units to income eligible residents earning 75% of the median income, the Manager of the HTF may extend income eligibility to allow priority in the sale of inclusionary units to households earning as much as eighty percent (80%) of median income, adjusted for household size and to households residing in Burlington at the time that these units are offered for sale or lease;
- (e) Except for household income limitations as set forth herein, occupancy of any inclusionary unit shall not be limited by any conditions that are not otherwise applicable to all units within the covered project unless required under federal law, e.g. local use of the Low Income Housing Tax Credit, or in conflict with the stricter bylaws of the designated housing agency; and
- (f) The final calculations for the number of inclusionary units shall be determined by the Manager prior to the issuance of the zoning permit. If there is any change in the project due to sales prices for these units that increases the number of inclusionary units required, such modifications shall be determined by the Manager and communicated to the administrative officer prior to the issuance of a certificate of occupancy for the covered project. The rental or sales price of the inclusionary units shall also be determined by the Manager prior to the issuance of a certificate of occupancy.

Sec. 9.1.15 Marketing of Inclusionary Units

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

(a) Trust Fund Notification.

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

(b) Trust Fund Option.

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

(c) Trust Fund Waiver.

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

(d) Time of Closing.

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

(e) Transfer of Option.

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

(f) Rentals.

In the case that the inclusionary units are being offered for rent rather than for sale, the Manager shall also be notified in the manner prescribed by subsection [\(a\)](#) regarding Trust Fund Notification, and the Manager and developer shall cooperate in order to rent such units to individuals meeting the income guidelines of [Sec 9.1.11\(a\)](#).

Sec. 9.1.16 Continued Affordability Requirements

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

(a) 99-Year Requirement.

All inclusionary units shall remain affordable for a period of no less than ninety-nine (99) years commencing from the date of initial occupancy of the units.

Where a developer can establish that regulatory or other considerations make it impossible to provide the required inclusionary units if subject to the full extent of this requirement, the development review board may modify the duration of the period of continued affordability only to the extent necessary to render the development feasible;

(b) Deed Restrictions.

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

(c) Resale Restrictions.

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

(d) Rent Increases

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

(e) Purchase Option

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

(f) Sublet Restrictions.

Provisions for continued affordability of inclusionary units shall prohibit subletting rental units for a price exceeding that which is affordable for a household with an annual income that is seventy-five percent (75%) of median for

the County or the City, whichever is less, consistent with the relationship between unit size and household size set forth in **Section 9.1.11**.

Sec. 9.1.17 Review of Proposal for Phasing

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

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

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

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

Sec. 9.1.19 Enforcement

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

Sec. 9.1.20 Administration

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

PART 2: HOUSING PRESERVATION AND REPLACEMENT/DEMOLITION AND CONVERSION

Sec. 9.2.1 Intent

The intent of these regulations is:

- (a) To prevent the demolition and conversion to a nonresidential use of residential structures, many of which contain the city's most affordable housing, and to maintain housing that meets the needs of all economic groups within the city;
- (b) To meet the specific mandates of **24 V.S.A. Section 4302** related to housing opportunities for all of Vermont's citizens, particularly for those citizens of low or moderate income;
- (c) To support the retention of housing units in the city;
- (d) To preserve the residential character of neighborhoods in which the expansion of commercial, professional or educational activities is likely to eliminate existing housing units;
- (e) To offset the loss of housing by requiring replacement of housing units with new construction, conversion, or creation of assisted housing; and
- (f) To mitigate the impact on tenants displaced or threatened with displacement by demolition or conversion to a nonresidential use.

Sec. 9.2.2 Applicability

Except as otherwise provided for in **Section 9.2.10**, this Part is applicable to the loss, demolition, or conversion to a nonresidential use of any housing unit in the City, including those demolished or declared unfit for habitation pursuant to any order, decision or other action of the city's office of inspection services.

The conversion to a nonresidential use of any housing unit located on the ground floor of a building within a mixed-use zoning district shall be exempt from the provisions of this Part.

Sec. 9.2.3 Approval

Notwithstanding any other provision of this ordinance, a person who proposes to remove, demolish, or to convert to a nonresidential use, any housing unit or units, in a zone where such a use is otherwise permitted, must obtain approval pursuant to all applicable provisions of this Ordinance.

In addition to the permit application requirements contained in **Article 3**, the applicant must also submit:

- (a) A statement certifying the number of housing units to be demolished or converted to a nonresidential use and the number of bedrooms existing within each of these units; and
- (b) A list containing the name of each tenant currently residing in the housing units to be demolished or converted, as well as verification by affidavit of compliance with the tenant notice requirements of this section.

Sec. 9.2.4 Relocation Requirements; Notice and Relocation Costs

Prior to demolition or conversion, the owner shall:

- (a) Deliver to every tenant who occupies a housing unit slated for demolition or conversion, written notice to vacate the unit due to the owner's intent to demolish or convert the unit to nonresidential use. The notice to tenants shall consist of the written notice that an owner is required to send by certified mail and by regular mail or hand delivery to the current tenants of any housing unit that is slated for demolition or conversion to a non-residential unit, announcing the owner's intent to demolish or convert the unit to non-residential use, required under the Federal Uniform Relocation Act. As previously noted, this notice to tenants shall be sent certified mail, return receipt requested, and by either regular mail or hand delivery, and shall provide the tenant not less than one hundred eighty (180) days to vacate the rental unit. Evidence of receipt of notice to each affected tenant shall be required prior to approval by the development review board; and
- (b) Be responsible for paying the costs of relocation for any tenant(s) displaced from any housing unit demolished or converted to a nonresidential use. The costs that are included and the manner in which these costs are paid shall be identical to the relocation services that are required for displaced persons under **Section 18-2 of the Burlington Code of Ordinances**.

Sec. 9.2.5 Housing Replacement Requirement

Notwithstanding the housing replacement in-and-of-itself does not require Development Review Board review and approval, an owner shall replace any housing units that are demolished or converted to a nonresidential use in accordance with and subject to all other applicable requirements of the Comprehensive Development Ordinance.

Replacement units may be provided by the owner or by the owner's designee fully in any of the following ways:

- a. New Construction. Construction of housing units within a new structure or new addition;
- b. Residential Conversion. Conversion of all or a portion of a nonresidential building to residential use; or,
- c. Subsidy. Creation of affordable housing units that have not been affordable to low-income households for the twenty-four (24) months preceding the date of application for conditional use approval.

An applicant may use any of the three methods to partially fulfill their replacement requirements, until the total requirement is met.

Sec. 9.2.6 Replacement Unit Requirements

In addition to the foregoing, all replacement units must meet the following requirements:

- (a) Each unit shall have at least the same number of bedrooms as the unit being replaced;
- (b) These units must be provided within the City of Burlington;
- (c) These units must be ready for occupancy within eighteen (18) months of the date on which the conditional use approval is granted;
- (d) These units must remain assisted housing, as either rental housing or limited equity housing, for a period of not less than ten (10) years from the date of first occupancy;
- (e) These units must be sold or leased to prospective occupants who qualify as low-income households at the time they first lease or purchase the unit; and
- (f) These units shall contain at least the same number of accessible units being replaced, or the number of accessible units that may otherwise be required by statute or regulation, or one accessible unit, whichever is greater.

Sec. 9.2.7 Performance Bond

Owners must post a performance bond, letter of credit, or other security acceptable to the city attorney in an amount equivalent to the estimated cost of producing the replacement unit(s) required by this section, as determined by the administrative officer. Should the owner fail to provide the replacement unit(s) required within the time period specified in **Section 9.2.6(c)**, the performance bond, letter of credit or other security shall be forfeited and the proceeds placed in the city's Housing Trust Fund.

Sec. 9.2.8 Adjustment for Increased Units

A downward adjustment of fifty percent (50%) in the number of years that replacement units must remain assisted housing may be approved by the Zoning Administrative Officer where the owner creates on site, through new construction or by the conversion of a nonresidential building to residential use, at least twice the number of housing units as the number being lost through units required by this Article.

Sec. 9.2.9 Relief

Any owner who has applied for approval for demolition or conversion of a housing unit or units may apply to the DRB for relief from the housing replacement requirements of **Section 9.2.5**. Such relief may be a downward adjustment of up to fifty percent (50%) of the owner's housing replacement obligation if the owner establishes to the board's satisfaction that:

- (a) The literal interpretation and strict application of the housing replacement requirement would be impossible for the owner;
- (b) The requested relief would be consistent with the spirit and purpose of this Article; and
- (c) The requested relief does not constitute a grant of special privilege inconsistent with the limitations upon similar properties.

The DRB must make positive findings on each of the three (3) criteria above in order for any such adjustment to be valid.

Sec. 9.2.10 Exemptions

This article shall not be applicable to:

- (a) A loss or change of use lasting less than one (1) year, where residential use is restored within that same one (1) year period, shall not be subject to the replacement requirements of this Part.
- (b) Any housing unit ordered demolished or declared unfit for habitation by the office of inspection services because of damage caused by civil commotion, malicious mischief, vandalism, natural disaster or other causes beyond the owner's control shall not be subject to these regulations. Any housing unit ordered demolished, or declared unfit for human habitation, by the office of inspection services because of deterioration caused by neglect or deferred maintenance by the existing or prior owner(s) shall not be exempt. A determination of neglect or deferred maintenance shall be made by the administrative officer based on evidence of one or more of the following:
 1. The deterioration of exterior walls or other vertical support;
 2. The deterioration of roofs or other horizontal members;
 3. The deterioration of external chimneys;
 4. The deterioration or crumbling of exterior mortar;
 5. The ineffective waterproofing of exterior walls, roofs and/or foundations; and/or
 6. The existence of broken windows or doors.

In the event that any unit is demolished prior to obtaining conditional use approval, enforcement action in accordance with **Article 2** shall commence immediately and the requirements of this Article shall apply in addition to any enforcement penalties.

- (c) The demolition or conversion to a nonresidential use of a single attached or detached housing unit or duplex that is occupied by the owner as his or her primary residence for the twelve-(12) month period preceding the date of application for conditional use approval. Nor shall this section be applicable in its replacement requirement to that portion of a multi-unit building of three (3) units

or more that is occupied by the owner as his or her primary residence for the thirty-six-(36) month period preceding the date of application for conditional use approval. Any exemption allowed under this provision shall be void if the owner sells any of the applicable units within twenty-four (24) months of the date of conditional use approval; and,

- (d) The demolition or conversion of a housing unit that has rented, for the twenty-four (24) months preceding the date of application for conditional use approval, for a monthly charge in excess of twice the HUD Fair Market Rent for the Burlington MSA, adjusted for unit size.

3. Questions from the IZWG and supporting data

Significant Pieces of Research NOT Found in the IZ Report which are Needed by the IZ Working Group Before Recommending Changes

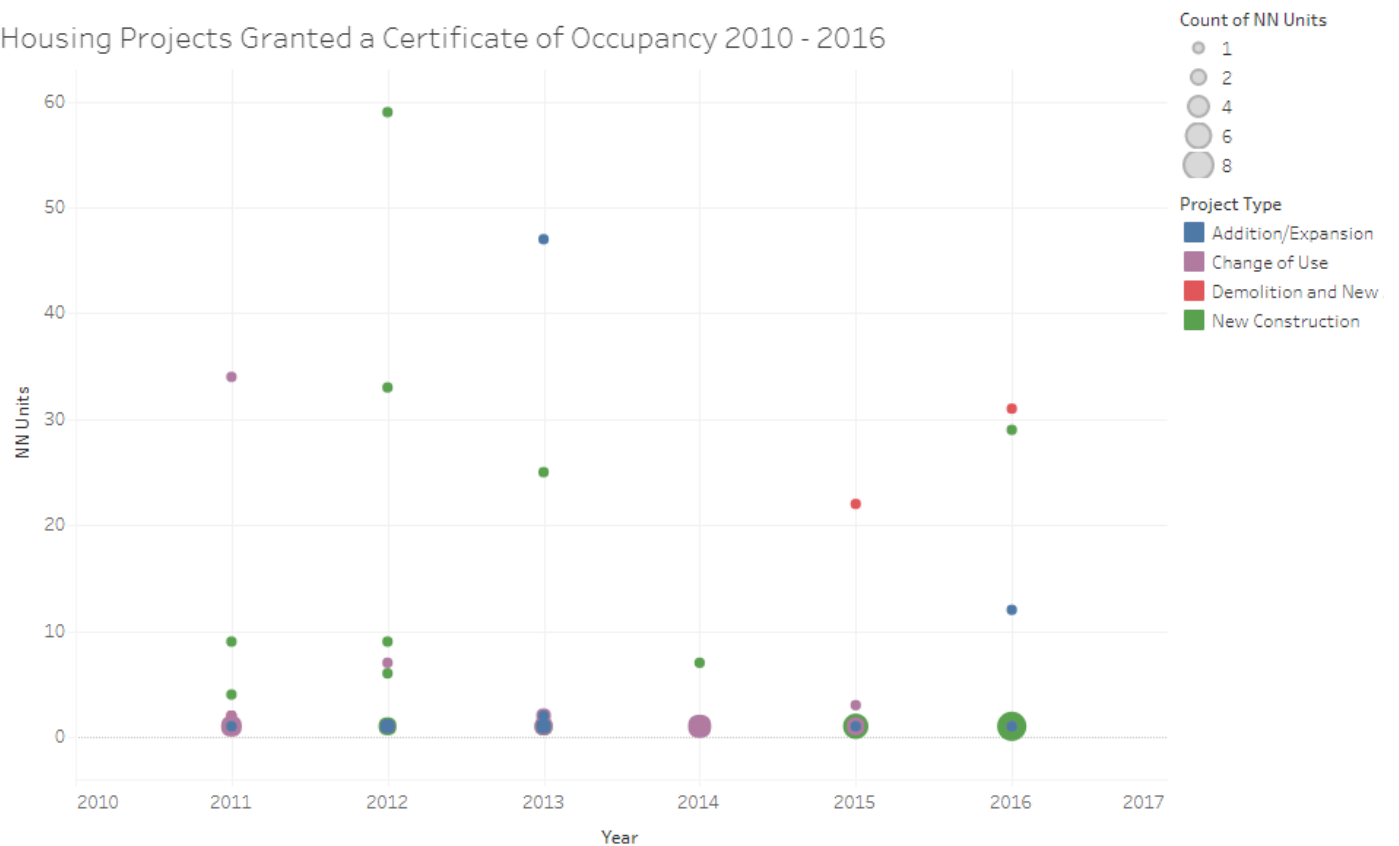
(1.) In the last 20 years, what is the distribution in the SIZE of the residential projects approved by the City for new construction or adaptive reuse?

Number of total units in project*	Number of projects
5-9	16
10-14	8
15-19	6
20-24	5
25-35	10
36-45	3
46-55	0
56-65	0
66-75	1
76-85	4
86-95	0
95-105	1
105+	1
Total	55

*projects which triggered IZ only (1990 - present)

ALL housing projects (2010 – 2016) including those below the IZ threshold (distribution chart below by Net New Units)

Housing Projects Granted a Certificate of Occupancy 2010 - 2016



Source: City of Burlington

2. How many of these projects were new construction and adaptive reuse? 7050

(2010 – 2016)

37 New construction projects: 210 units
3 Demo and new build projects: 55 units
32 Renovation/Expansion projects: 135 units

(3.) Between 1990 and 2015, 76% of all the housing units produced in Burlington were forced to comply with the IZ ordinance. That means another 545 units (24%) were NOT covered by the ordinance, presumably because they slipped below the 5-unit threshold for new units or the 10-unit threshold for adaptive reuse. A counter-factual analysis should be done asking how many FEWER projects/units would have been subject to IZ and how many FEWER IZ units would have been produced if the threshold had been higher – say 1.5 times higher, 2 times higher, or 2.5 times higher.

- If threshold was set at 8 and above then:
 - 7 fewer projects would trigger IZ
 - 8 fewer IZ units
- If threshold was set at 10 and above then:
 - 16 fewer projects would trigger IZ
 - 18 fewer IZ units
- If threshold was set at 15 and above then:
 - 24 fewer projects would trigger IZ
 - 32 fewer IZ units

(4.) Since the inception of the IZ ordinance in 1990, what changes have occurred in the GAP between the “affordable” price of an IZ rental unit or IZ homeownership unit versus the market price/market rent for those same units.

5. How would the comparative profile described in #4 be altered if the standard used to set the “affordable price” in an IZ unit was NOT the median income for the MSA but a standard closer to what lower-income households in BURLINGTON actually earn.

(6.) What would a \$75K contribution to the Housing Trust Fund “buy” in the way of writing down the cost of a market-rate unit to the point where a household earning 65% of AMI can rent it or a household earning 75% of AMI can buy it? If \$75K is too little, what amount would be necessary to achieve this affordability target?

4. IZ Max Rent Figures 2018

Approved by the Housing Trust Fund Administrative Committee on 5/18/18.

Effective 5/18/18

2018-2019 Inclusionary Zoning Income Limits & Max Rent Calculations:

2018 HUD AMI (updated 4.1.18)	1 person	2 person	3 person	4 person	5 person	6 person	7 person	8 person
65% AMI*	\$41,795	\$47,775	\$53,755	\$59,670	\$64,480	\$69,225	\$74,035	\$78,780
75% AMI**	\$48,225	\$55,125	\$62,025	\$68,850	\$74,400	\$79,875	\$85,425	\$90,900
80% AMI	\$50,350	\$57,550	\$64,750	\$71,900	\$77,700	\$83,450	\$89,200	\$94,950
100% AMI	\$64,300	\$73,500	\$82,700	\$91,800	\$99,200	\$106,500	\$113,900	\$121,200

household size based on 1.5 person/bedroom	1 person	1.5 person	3 person	4.5 person		6 person	7.5 person
	Efficiency/Studio	1 BR	2 BR	3 BR		4 BR	5 BR
65% AMI adjusted for # of persons per bedroom	\$41,795	\$44,785	\$53,755	\$62,075		\$69,225	\$76,408

2018-19 Inclusionary Zoning Maximum Gross* IZ Rent	\$1,045	\$1,120	\$1,344	\$1,552		\$1,731	\$1,910
increase/decrease from previous year (below)	11.4%	11.4%	11.4%	11.4%		11.4%	11.4%

*assumes property owner pays all utilities except cable and telecom

2015-18 Inclusionary Zoning Rent Limits

	Efficiency	1 BR	2 BR	3 BR		4 BR	5 BR
2017-18 Inclusionary Zoning Maximum Gross IZ Rent (landlord pays utilities)	\$938	\$1,005	\$1,206	\$1,393		\$1,554	\$1,714
2016-17 Inclusionary Zoning Maximum Gross IZ Rent (landlord pays utilities)	\$956	\$1,024	\$1,229	\$1,420		\$1,584	\$1,748
2015-16 Inclusionary Zoning Maximum Gross IZ Rent (landlord pays utilities)	\$933	\$978	\$1,199	\$1,331		\$1,545	\$1,651

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

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

5. IZ Inventory Figures (10/13/17)

	B	C	D	E	F	G	H	I	J	K	L	M	N	O	P	Q	R	S	T
1	Inclusionary Zoning Unit Inventory--Completed and Underway (Dated 10/13/2017)																		
2																			
3	Note #1: This inventory has been updated from the version used for the "Evaluation of the City of Burlington's Inclusionary Zoning Ordinance dated January 2017."																		
4																			
5	Note #2: Units are only counted on this inventory after project is complete or when the project is fully permitted and construction is underway																		
6																			
7	Note #3: This inventory is subject to change as new information is becomes available.																		
8																			
9	Completed Units																		
10		CEDO Listed Permit Year (applied for)	Cert of Occupancy Year	Address	Name of project	Affordable Non-Profit - IZ Units	Private Developer - IZ Units	Affordable Non-Profit partnership with Private Developer - IZ units	Condo Total Units	Condo IZ Units	Rental Total Units	Rental IZ units	Co-op Total Units	Co-op IZ Units	Single Family Total Units	Single Family IZ units	IZ Units	On/Off Site	Notes
11		1990	1990*	220 Riverside Ave.	Salmon Run	12					80	12					12	On	
12		1990	1990*	72 Heineberg Rd.	Heineberg Senior	12					81	12					12	On	
13		1990	1990*	Hildred Drive (1 - 422 Hildred Drive)	River Watch		30		213	30							30	On	
14		1990	1990*	Valade Park (18-120 Valade St)	Valade Park		10		68	10							10	On	
15		1991	1991*	161 Austin Dr.	Red Rocks		15		103	15							15	On	
16		1992	1992	700 Riverside Ave.			1				8	1					1	On	
17		1992	1992	85 Archibald St.(formerly 83 Archibald)	Thelma Maple Co-op	3							20	3			3	On	
18		1992	1993	288 Flynn Ave.	Flynn Ave Coop	4							28	4			4	On	
19		1993	1993*	Queen City Park	Queen City Park	2			11	2							2	Off	Offsite units located at 34 Valade Park & 65 Venus Ave.
20		1993	1993*	693 Riverside Ave.		2					13	2					2	On	
21		1995	1995*	20 & 24 High Grove Ct.	High Grove Court		2		13	2							2	On	
22		1994	1997	33 North Ave.	Commodore Point		2		16	2							2	On	
23		1994	1998	1 Steele St. (aka 1 Main St.)	Main Street Landing		2		8	2							2	On	
24		1992	1998	325 Ethan Allen Parkway	Ethan Allen				13	0							0		Project received a variance from Zoning Board of Adjustment - no inclusionary units required.
25		1996	1998	40 College St. (formerly 74)	College & Battery				81	0							0	Off	This was the first "payment-in-lieu" project - the IZ requirements were written into the zoning agreement. In-Lieu payment was \$165,000 for 16 units.
26		1999	1999*	125 St. Paul St. (aka 117-135 St. Paul)	Park Place	5					34	5					5	On	
27		1999	1999*	130 Mansfield Ave.	McAuley Square (3)	3					19	3					3	On	
28		1995	1999	25-31 North Champlain St.	Monroe Place	2					16	2					2	On	
29		2000	2001*	284 Grove St. (aka 300 Grove)			2				15	2					2	On	
30		1997	2001	78 Rose St. (aka 72-82 Rose)	Rose St. Artists Co-op	2							12	2			2	On	
31		2004	2003	1144 North Ave.			1				6	1					1	On	
32		2003	2003/06*	1044 North Ave.			1		9	1							1	Off	Offsite - unit transferred to 354 Manhattan Dr. see note below.
33		2002	2003	300 Lake St.	Waterfront Housing	10					40	10					10	On	
34		2002	2003*	84 North Ave.	ECHO	1					8	1					1	On	
35		2001	2004	106 Rose St.			1		6	1							1	On	
36		2001	2004	68 Pearl St.(aka 64 Pearl)	Bove's/Pearl	5					34	5					5	On	
37		2004	2005	187 South Winooski Ave.	Hood Plant		1		8		1	1					1	On	
38		2005	2005	272 Church St.	Converse Home	3					21	3					3	On	
39		2000	2006	140 Venus Ave. (original address)	Venus Ave	1									8	1	1	On	

	B	C	D	E	F	G	H	I	J	K	L	M	N	O	P	Q	R	S	T
		CEDO Listed Permit Year (applied for)	Cert of Occupancy Year	Address	Name of project	Affordable Non-Profit - IZ Units	Private Developer - IZ Units	Affordable Non-Profit partnership with Private Developer - IZ units	Condo Total Units	Condo IZ Units	Rental Total Units	Rental IZ units	Co-op Total Units	Co-op IZ Units	Single Family Total Units	Single Family IZ units	IZ Units	On/Off Site	Notes
10																			
40		2005	2006	81 South Willams St.			3		23	3							3	On	
41		2003	2007	354 Manhattan Dr.	Manhattan Hts.		1		15	1							1	On/Off	1 IZ unit onsite transferred from 1044 North Ave. HTF paid \$25,000 in lieu of 1 additional IZ unit.
42		2002	2008	235 Park St.	Benway Common		1		7	1							1	On	
43		2007	2009	180 East Ave./East Village Dr	East Village Co-Housing	5							31	5			5	On	
44		2008	2009	40 Red Maple Ln.	Sophies Place	2					11	2					2	On	
45		2010	2010*	50 Barrett St.	Millview Court Condominium		1				8	1					1	On	
46		2005	2011	35 Cherry St.	Westlake		0		43	0							0	Off	In lieu of payment of \$371,250 for 8 IZ units, with additional fees total payment of \$400,000
47		2012	2012	1189-1193 North Ave. (aka 1191 North Ave)	(Thayer) Avenue Apts			17			85	17					17	On	
48		2008	2012	155 Plattsburgh Ave.			1				9	1					1	On	
49		2007	2012	88 King St.	King Street Housing			5			20	5					5	On	3 units were triggered as part of the 20 units of new housng in this building. 2 additional units were transferred from 161 161 St. Paul St.
50		2012	2013	144 North Champlain St.			1				6	1					1	On	
51		2010	2013	23 Church St.			1				6	1					1	On	
52		2006	2013	237 North Ave.	Packard Lofts		4				25	4					4	On	
53		2012	2013	30-42 King St.		2					14	2					2	On	
54		2012	2013*	371 Pearl St.			2				7	2					2	On	
55		2007	2014	183-187 St. Paul St. (aka 193 St. Paul)	Stratos		5		33	5							5	On	
56		2013	2015	200 North St.	Abe's Corner		1				6	1					1	On	
57		2014	2015	237 N. Winooski Ave.	Maiden Lane		4				28	4					4	On	
58		2000	2015	343 North Winooski Ave.	Bus Barns	4					25	4					4	On	
59		2015	2016	140 Grove St.	Bayberry Apartments		13				85	13					13	On	Temporary Cert. of Occupancy for Phase 1A,1B, 2A, 2B, and 3A. 232 units (and 35 IZ units) planned in all phases.
60		2009	2016	161 St. Paul St.	Hinds Lofts		0		15	0							0	On/Off	Offsite - 2 units located at 88 King St.
61		2013	2016	179 Elmwood Ave.			1				9	1					1	On	
62		2015	2016	247-249 Pearl St.			4				29	4					4	On	
63		2015	2016	289 College St.			2				12	2					2	On	
64		2013	2016	258-260 N. Winooski Ave.	Silversmith Comons		3				22	3					3	On	
65		2014	2016	33-43 Bright St.	Bright Street Cooperative	6					40	6					6	On	
66			2017*	185-195 College Street			5				33	5					5	On	
67					Completed Unit Totals	86	121	22	685	75	856	139	91	14	8	1	229		
68				* Provisional date. Project is permitted and complete, but records are unclear about precise closeout date. CEDO staff are seeking additional information.															
69																			
70				Completed				Completed											
71				IZ Condos			75	32.75%	Affordable Non-Profit - IZ Units			86	37.55%						
72				IZ Rental			139	60.70%	Private Developer - IZ Units			121	52.84%						
73				IZ Co-op			14	6.11%	Affordable Non-Profit partnership with Private Developer - IZ units			22	9.61%						
74				IZ Single family			1	0.44%				229	100.00%						
75				Grand Total IZ Units			229	100.00%											

	B	C	D	E	F	G	H	I	J	K	L	M	N	O	P	Q	R	S	T
		CEDO Listed Permit Year (applied for)	Cert of Occupancy Year	Address	Name of project	Affordable Non-Profit - IZ Units	Private Developer - IZ Units	Affordable Non-Profit partnership with Private Developer - IZ units	Condo Total Units	Condo IZ Units	Rental Total Units	Rental IZ units	Co-op Total Units	Co-op IZ Units	Single Family Total Units	Single Family IZ units	IZ Units	On/Off Site	Notes
10																			
76																			
77				Total Units	1640	14%													
78																			
79		Units Underway (In Construction)																	
80		2015		140 Grove St.	Bayberry Apartments		31				204	31					29	On	Construction is underway. Temporary Cert. of Occupancy for Phase 1A and 1B.
81		2014		194 St. Paul St.	Eagle's Landing		17				115	17					17		Construction is underway
82		2015		185-195 College Ave.	Burlington Free Press Building		5				32	5					5		Construction is underway
83					Totals	0	53	0	0	0	351	53	0	0	0	0	51		
84																			
85				Completed and Underway				Completed and Underway											
86				IZ Condos	75	26.60%		Affordable Non-Profit - IZ Units			86	30.50%							
87				IZ Rental	192	68.09%		Private Developer - IZ Units			174	61.70%							
88				IZ Co-op	14	4.96%		Affordable Non-Profit partnership with Private Developer - IZ units			22	7.80%							
89				IZ Single family	1	0.35%					282	100.00%							
90				Grand Total IZ Units	282	100.00%													
91																			
92				Total Units	1991	14%													
93																			
94																			
95		Units In Development																	
96				351 North Ave.	Cambrian Rise														
97				75 Cherry St.	Burlington Town Center														
98				316-322 Flynn Ave.															
99				66-96 Colchester Ave.															
100																			
101																			
102		Projects permitted prior to enactment of Inclusionary Zoning in 1990, but which were built after 1990:			Total Number of Units														
103				200 Lake St	19														
104				Northshore	60														
105				Calarco Ct.	5														
106				Birch Ct.	18														
107				River's Edge	60														
108				216 Lake St.	15														
109				Grey Meadows	35														
110				Strathmore	83														
111				Haven	60														
112				Total	355														

6. Sub Committee Economic Feasibility Analysis

Borrowing capacity												
Developer carrying own IZ												
	one bed		two bed		Three bed			NOTES				
	Market Rate	IZ 65%	Market Rate	IZ 65%	Market Rate			Sources	Percent			
Rents	\$ 1,500	\$ 907	\$ 1,710	\$ 1,081	\$ 2,400			Bank Debt	80	80% LTV		
80% of rents	\$ 1,200	\$ 726	\$ 1,368	\$ 865	\$ 1,920	60% of rent		Equity	20			
Avg Op Expense (no utilities)	\$ 500	\$ 500	\$ 500	\$ 500	\$ 500							
Available for Debt Service	\$ 700	\$ 226	\$ 868	\$ 365	\$ 1,420			Ten year horizon to exit				
Debt Assumptions								Cap Rate	6.6%			
Interest Rate	5.25%	5.25%	5.25%	5.25%	5.25%			ROI	8%			
Term	25	25	25	25	25							
Available for Debt Service	\$ 700	\$ 226	\$ 868	\$ 365	\$ 1,420							
Debt capacity	\$ (116,813)	\$ (37,656)	\$ (144,848)	\$ (60,843)	\$ (236,964)							
Cost to develop	\$ 230,000	\$ 230,000	\$ 248,000	\$ 248,000	\$ 268,000							
Equity needed	\$ 113,187	\$ 192,344	\$ 103,152	\$ 187,157	\$ 31,036							
ROI	\$ 3,600	\$ 2,177	\$ 4,104	\$ 2,594	\$ 5,760							
	3%	1%	4%	1%	19%							
Gross Rent	\$ 18,000	\$ 10,885	\$ 20,520	\$ 12,969	\$ 28,800							
Operating Expense	\$ 6,000	\$ 6,000	\$ 6,000	\$ 6,000	\$ 6,000							
NOI	\$ 12,000	\$ 4,885	\$ 14,520	\$ 6,969	\$ 22,800							
Cap Rate	6.6%	6.6%	6.6%	6.6%	6.6%							
Value	\$ 181,818.2	\$ 74,011.4	\$ 220,000.0	\$ 105,590.9	\$ 345,454.5							
Cost To Develop	\$ 230,000.0	\$ 230,000.0	\$ 248,000.0	\$ 248,000.0	\$ 268,000.0							
	\$ (48,181.82)	\$ (155,988.64)	\$ (28,000.00)	\$ (142,409.09)	\$ 77,454.55							
Allen and Brooks	New Construction											
	Low	High	Average	Observed								
Studio	\$ 1,200	\$ 1,400	\$ 940									
One	\$ 1,250	\$ 1,500	\$ 1,046	\$ 1,485								
One plus	\$ 1,500	\$ 1,695		\$ 1,575								
Two	\$ 1,650	\$ 1,900	\$ 1,286	\$ 1,850								
Two plus Two baths	\$ 1,775	\$ 2,260										
Three Bedroom			\$ 1,903	\$ 2,400								

	1 person	2 person	3 person	4 person	5 person	6 person	7 person	8 person
100% of median income	57700	\$66,000	\$74,200	\$82,400	\$89,000	\$95,600	\$102,200	\$108,800
80%	46160	52800	59360	65920	71200	76480	81760	87040
50%	28850	33000	37100	41200	44500	47800	51100	54400
140%	80780	92400	103880	115360	124600	133840	143080	152320
household size based on unit size	1 person	1.5 person	3 person	4.5 person		6 person	7.5 person	
	efficiency	1 BR	2 BR	3 BR		4 BR	5 BR	
Adjusted to 65% income by # of bedrooms	37505	40203	48230	55705		62140	68575	
Max. gross IZ rent	938	1005	1206	1393	0	1554	1714	
Net IZ rent without utlilties	848	885	1055	1215		1291	1414	
Gross 140% AMI rent with utilities	1855	2121	2387	2650	2863	3077	3287	
BHA High-efficiency Utility allowance								
Heating	42	56	69	84		152	176	
Cooking	4	5	7	8		11	12	
Electric	26	37	49	56		60	67	
Water heating	18	22	26	30		40	45	

New Construction in Burlington		800 sf									
Avg Cost		248,516				KK appraisal		Acq price per unit			
# of units	10	30	60	100		Burlington Vt		12,000 - 50,000			
Avg Sq Ft area	9,600	30,000	60,000	100,000							
Covered parking ?	no	yes	yes	yes		Soft cost variable as % of Const.		10	30	60	100
Elevator ?	no	yes	yes	yes		construction loan interest		3%	3%	3%	3%
Const cost PSF	155	160	170	170		loan fees		0.50%	0.50%	0.50%	0.50%
Land Acquisition	450,000	840,000	1,320,000	1,800,000		architect/engr		10.0%	8.5%	7.0%	5.0%
Const. Cost	1,488,000	4,800,000	10,200,000	17,000,000		permitting fees		5.5%	5.5%	5.5%	5.5%
Const. Contingency	148,800	384,000	510,000	850,000		Developer fee		12.0%	10.0%	8.0%	8.0%
Soft cost variable	483,600	1,368,000	2,550,000	3,893,000		Insurance and taxes		1.5%	1.0%	1.0%	0.9%
Soft cost fixed	46,000	46,000	46,000	46,000		TOTAL		32.5%	28.5%	25.0%	22.9%
Soft cost contingency	20,000	30,000	50,000	100,000							
Total Dev't Cost	2,636,400	7,468,000	14,676,000	23,689,000		Construction Contingency		10.0%	8.0%	5.0%	5.0%
Total per unit cost	263,640	248,933	244,600	236,890		Soft cost fixed					
						appraisal		6000			
						Phase 1 study		5000			
						survey		8000			
						title/legal		20000			
						cost estimates		3500			
						market study		3500			
						Total		46000			

* Burlington's IZ ordinance has been an integral way for CHT to help provide affordable homeownership						
* Only issue is that on recent Cambrian Rise Condo development CHT needed to secure additional funding						
to ensure affordability of the 30 Units						
* CHT's fear is that VHCB funds may not be available for the next project						
* In CHT's experience the disconnect in what Ordinance calculates as affordable and what CHT buyers can afford is due to the fact that the Ordinance assumes 1.5 per bedroom. Across 30 years and 1,100 transactions, CHT buyers average .97 people per bedroom.						
* CHT suggests two possible solutions:						
1) Adjust Ordinance for homeownership to assume 1 person per bedroom						
2) Keep the 1.5 person/bedroom assumption, but adjust the formula so that all IZ homes are affordable to those at 65% AMI.						
CAMBRIAN RISE						
# BR	Sq. Footage	# of Homes	Market Value	IZ Price (Purchase Price From Eric Farell -80% AMI)	VHCB Subsidy	Net Price from Buyer
1	755	8	\$238,000	\$176,551	\$36,551	\$140,000
2	1040	19	\$291,000	\$218,345	\$58,345	\$160,000
3	1220	3	\$341,000	\$257,742	\$77,742	\$180,000
	29460	30	\$8,456,000	\$6,334,189	\$1,634,189	\$4,700,000
Option 1 - Set homes affordable to those at 70% AMI						
	# of People	Monthly Income - 100%	Monthly Income 70% AMI	Max Price 70% AMI	Max Price Current IZ Ordinance	
1 BR	1.5	\$ 5,154	\$ 3,608	\$138,350	\$156,435	
2 BR	3	\$ 6,183	\$ 4,328	\$163,380	\$185,075	
3 BR	4.5	\$ 7,141	\$ 4,999	\$184,922	\$209,979	
Option 2 - Set assumption of 1 person per bedroom						
	# of People	Monthly Income - 100%	Monthly Income 75% AMI	Max Price		
1 BR	1	\$ 4,808	\$ 3,606	\$138,224		
2 BR	2	\$ 5,500	\$ 4,125	\$149,127		
3 BR	3	\$ 6,183	\$ 4,637	\$159,556		
# of IZ homes	75% AMI Price	Total Cost to Developer	Total Cost to Developer - 70% AMI	# of homes at 70% With same cost as current	Total Cost to Developer - 1 person/BR	# of homes 1 person/BR With same cost as current
1	\$185,075	\$ 64,925	\$ 86,620	0.75	\$ 100,873	0.64
5	\$185,075	\$ 324,624	\$ 433,100	3.75	\$ 504,365	3.22
10	\$185,075	\$ 649,247	\$ 866,201	7.50	\$ 1,008,731	6.44
15	\$185,075	\$ 973,871	\$ 1,299,301	11.24	\$ 1,513,096	9.65
Proposal						
* CHT recommends either option in changing the calculation for the affordable price so that additional funds are not needed to sell the homes.						
* If the goal of the working group is to keep the costs to the developer the same under the current ordinance and a new one then:						
Option 1 would mean the IZ homes required under the new proposal would be 75% of the current requirement						
Option 2 would mean the IZ homes required under the new proposal would be 64% of the current requirement						

7. IZWG Meeting Minutes



CITY OF BURLINGTON, VERMONT

Inclusionary Zoning Working Group

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

IZWG Members Present: City Council President Jane Knodell (Chair), Mike Monte, Eric Farrell, Bruce Baker, Brian Pine, Erik Hoekstra, Noelle Mackay (Director, CEDO), David White (Director, Planning & Zoning)

IZWG Members Absent: Nancy Owens and John Davis

Staff Support Present: Gillian Nanton, Ian Jakus

Thursday September 14, 2017

8:00 AM – 10:00 AM

City Hall Conference Room 12 (CR 12)

MEETING MINUTES

I. Agenda

J. Knodell called the meeting to order at 8:05 a.m., and requested an amendment of the Agenda, to include a public forum. M. Monte made a motion to accept the amended Agenda and is seconded by B. Pine.

II. Public Forum

No members of the public spoke.

III. IZWG - Organization and Operating Procedures

Members reviewed the 'IZWG Operating Procedures' document that was distributed. J. Knodell observed the following:

The goal is to reach consensus on the issues, rather than take a vote.

All materials of the IZWG should be placed on a special landing page on CEDO's website.

Members should decide and advise G. Nanton which email address they wished to use for communicating on IZWG matters, being mindful that information held in private email accounts (such as "gmail" or "hotmail") can be subject to FOIA requests. All emails should be copied to Gillian Nanton: gnanton@burlingtonvt.gov.

IV. IZWG – Duties and Responsibilities

J. Knodell observed that the IZWG's 'Duties and Responsibilities' were broadly outlined in the 'Operating Procedures' document.

N. Mackay noted that, in some instances, interpreting the existing Inclusionary Zoning (IZ) ordinance, was not always clear and technical changes were needed for greater clarity. In particular, she referenced the 'monitoring and enforcement' aspects of the ordinance and its policy intent.

D. White also suggested that Planning & Zoning would have some technical recommendations with regard to the IZ ordinance.

J. Knodell acknowledged that there might be technical aspects of the current IZ ordinance to be dealt with, but didn't wish the IZWG to become an ordinance committee. Rather, such matters could be done at the Ordinance Committee, she opined.

V. Work Planning

J. Knodell suggested that the IZWG should begin its work by going through the recommendations of the January 2017 draft IZ Evaluation report and determining where there is consensus among the Group. Additionally, the IZWG could offer other ideas and recommendations, not contained in the consultant's report.

E. Hoekstra raised the question of the intent of the IZ ordinance. He opined that, while IZ is a great policy tool for providing affordable housing, it ought to be tailored to the particular market and its implementation should not constrain housing development.

E. Hoekstra also made reference to a number of IZ studies produced by the [Lincoln Institute](#) and [Urban Land Institute](#) and encouraged members to review these documents.

B. Pine mentioned a 2012 RAND Corporation study in which Burlington had participated, along with 10 other jurisdictions. The study, which looked at the socially inclusive aspects of IZ policies, found that the typical IZ home is located in a low-poverty neighborhood and its effect on educational outcomes is positive.

D. White referenced IZ studies on [Policy Link](#). He observed that the housing market was different in 1990, when the IZ ordinance was adopted. He added that, regulations must be flexible and IZ policy monitored periodically, to ensure it is meeting current needs.

M. Monte referenced the IZ studies produced by [Grounded Solutions Network](#).

It was agreed that the referenced IZ studies would be posted on the IZWG landing page, for members to review.

The IZWG agreed on the following upcoming meeting dates, beginning at 8:00 a.m., with location to be determined:

Thursday, September 28th, 2017

Thursday, October 26th, 2017

Thursday, November 9th, 2017

Thursday, December 7th, 2017

J. Knodell proposed that members should undertake the following tasks for the next meeting of the IZWG:

- (i) Review the January 2017 draft IZ Evaluation report
- (ii) Review the current IZ ordinance
- (iii) Review related IZ studies and reports

The IZWG began reviewing the first recommendation, in 'Part 3 – Choices & Recommendations' of the January 2017, draft IZ Evaluation report, that is, under *Status quo plus*: **Increase development threshold**.

The IZWG discussed the pros and cons of this recommendation, noting that increasing the threshold trigger improves the economic viability of projects in larger developments, as cost of IZ units are spread over more units. Further, it was noted that, the production of IZ units works best when non-profit partners are participating in the proposed housing development. Private developers, on their own, are unable to generate sufficient return to make the project viable, as cost off-sets (e.g. density bonuses) do not work.

It was agreed that a sub-committee of the IZWG will prepare a brief, demonstrating the economics of inclusionary development and why IZ is easier with larger developments.

The findings of the draft IZ Evaluation report indicate that a lot of IZ units have been built in RH zones or mixed-use areas. The question was raised as to whether or not the threshold for inclusionary zoning might be linked to zoning classification. Further, the meeting observed that the IZ policy is failing in certain sections of the city, for example, the Old North End, which is broadly integrated. As well, because the South End is zoned RL, it will never be fully integrated.

It was suggested that a sliding scale could be used in determining the number of IZ units to be produced. Also, for smaller developments within a particular range where IZ units won't be required, a payment in lieu might be made to the Housing Trust Fund.

Reference was made to the 'aggregation' concept in the existing IZ Ordinance (Section 9.1.5). It was agreed that this should be deleted.

It was agreed that an increase in the supply of market rate housing will increase the inclusionary housing stock in Burlington. Further, it was noted that IZ is just one tool in a suite of policies outlined in Burlington's Housing Action Plan intended to address the affordable housing challenge.

The IZWG agreed that the threshold for inclusionary zoning should be increased, however, the question remained as to the appropriate level. While it was also agreed that the right number of units (e.g. 10 units? 20 units?) to trigger the inclusionary policy will be dependent on other elements, including maximum household income, it was decided to table this recommendation and continue working through the remainder.

VI. Any Other Business

VII. Adjournment

The meeting adjourned at 9:35 a.m.



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IZWG Members Present: City Council President Jane Knodell (Chair), Mike Monte, Eric Farrell, Bruce Baker, Brian Pine, Erik Hoekstra, Noelle Mackay (Director, CEDO), Nancy Owens, John Davis

IZWG Members Absent: David White (Director of Planning)

Staff Support Present: Gillian Nanton

Public: Erhard Mahnke

Thursday September 28, 2018

8:00 AM – 10:00 AM

City Hall Conference Room 12 (CR 12)

MEETING MINUTES

I. Agenda

J. Knodell called the meeting to order at 8:12 a.m. E. Hoekstra made a motion to accept the Agenda and is seconded by M. Monte.

II. Public Forum

No members of the public spoke.

III. Approval of Minutes – 09/14

B. Pine made a motion to approve the minutes of the IZWG of September 14, 2017. This was seconded by B. Baker.

IV. Recommendations – January 2017 draft IZ Evaluation Report

J. Knodell recalled how the IZWG was going to carry out its work. It had been decided to walk through the recommendations of the January 2017 draft IZ Evaluation report and determine where there is consensus among the Group. Additionally, the IZWG could offer other ideas and recommendations, not contained in the consultant's report.

J. Knodell also noted that the Working Group had not reached closure on the appropriate level to which the threshold for inclusionary zoning should be increased, although it was agreed it should be increased.

It was noted that certain data, including the distribution in the size of residential projects, number of housing units produced which complied with the IZ ordinance and those not covered by the ordinance, needed to be analyzed to determine how many fewer IZ units would have been produced if the threshold had been higher.

It was observed that CEDO has several data sets, including all permitted and completed projects over a 25-year period, which will be shared. The data was collected in preparation for stepped- up monitoring of inclusionary units being undertaken by CEDO immediately after the draft IZ Evaluation report had been released, and this was one recommendation.

It was suggested that the appropriate threshold to trigger IZ units could be linked to a range of housing units produced and this could encourage more units. The importance of undertaking pro forma analysis which would demonstrate the economics of inclusionary development was underscored. The Group should determine who will undertake this work.

The view was shared that IZ should be made more attractive with various types of development incentives to offset the economic impacts the inclusionary policy has on developers. These included: elimination of parking requirements and the provision of density bonuses by right.

The question of sustaining a significant level of market-rate development as the most important factor in determining the success of IZ policies, was raised. It was noted that boosting the production of affordable housing is dealt with in recommendations contained in *'Moving the needle,'* the third path of Part 3 – Choices & Recommendations, of the Report.

The lack of clarity with regard to interpreting certain aspects of the IZ ordinance was discussed. For example, it was observed that there's a lack of clarity around 'rounding up or rounding down' when the percentage requirements for inclusionary units carries a decimal point. Further, the lack of clarity in interpreting the IZ ordinance had led to unpredictability for developers. The view was taken that there ought to be internal policies and procedures which provide guidance for implementation of the IZ ordinance.

J. Knodell in summing up this particular discussion noted the following:

- (i) CEDO would provide data on the completed and permitted projects it has compiled.
- (ii) A sub-committee comprising E. Farrell, E. Hoekstra and N. Owens will develop pro formas (new construction and conversion projects), with the view to

demonstrating the economics of housing production and its intersection with inclusionary zoning.

The IZWG discussed the second recommendation contained in the draft IZ Evaluation report
‘Generalize unit comparability.’

The IZWG agreed that the current square footage minimum requirements of bedroom sizes were too large and these minimums should be eliminated.

The view was shared that comparability between market-rate and affordable units should be maintained, particularly as this relates to size and exterior appearance, e.g. doors and windows and bed-room mix.

Specifically, on bed-room mix, it was noted that while there should be comparability with market-rate units, there ought to be flexibility, given the demand from New Americans families for larger size housing units. In this regard, it was observed that maintaining comparability between market-rate and affordable units may not necessarily align with current needs.

The IZWG agreed that inclusionary units should be dispersed rather than concentrated in residential housing projects, although the view was shared that locational differences ought to be allowed within ‘permitted projects,’ that is, IZ units don’t have to be in areas with prominent views, etc.

The IZWG observed that amenities and common areas in residential housing projects should be accessible to all tenants in the building. As well, inclusionary housing units should have the same energy efficiency and sound proofing as market-rate units.

The IZWG agreed that parking should be treated as an amenity, although it was observed that it might be available to all for a fee. However, it was noted that parking has never been part of affordable housing calculations costs. There was no final determination on this item by the IZWG.

V. Any other Business

J. Davis shared a one-pager on data and research requirements captioned: ‘Significant Pieces of Research NOT Found in the IZ Report which are Needed by the IZ Working Group Before Recommending Changes.’

The next meeting of the IZWG will take place on Thursday, October 26th beginning at 8:00 a.m., in Conference Room 12, City Hall.

VI. Adjournment

The meeting adjourned at 9:40 a.m.



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c/o Community & Economic Development Office

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IZWG Members Present: Michael Monte, Eric Farrell, Bruce Baker, Erik Hoekstra, Noelle MacKay, Nancy Owens, John Davis, David White

IZWG Members Absent: City Council President Jane Knodell, Brian Pine

CEDO staff members: Ian Jakus, Todd Rawlings

Other attendees: Earhard Mahnke

Inclusionary Zoning Working Group Meeting
Thursday, October 26th 2017
8:30 – 9:30 AM
City Hall Conference Room 12 (CR 12)
Meeting Minutes

1. Approve Agenda

- Noelle MacKay moved to adopt the agenda seconded by Nancy Owens

2. Approve minutes

- Michael Monte moved to approve the minutes and Eric Farrell seconded
- No one opposed or abstained

3. Discussion of IZ Monitoring Efforts

- CEDO staff Todd Rawlings began by giving an overview of the IZ monitoring memo.
 - CEDO has devoted significant resources to IZ monitoring in the past year:
 - Building monitoring systems by going through files and ensuring complete information on all projects
 - Working with city attorney to identify ambiguities in the ordinance
 - Reached out to private landlords to notify them of this effort
 - Property owners are now being updated with the current IZ rents
- A discussion ensued around property owners who have IZ units and their compliance. Todd Rawlings explained that while Champlain Housing Trust (CHT) owns the vast majority of IZ units, some private owners may be unaware of the IZ compliance issues, especially where a property has changed hands, despite the fact that it would be included in the title. Some of the units don't have a specific IZ covenant because there are other covenants that ensure compliance, so we wouldn't know when those turn over.

Currently changes in ownership are best be captured in annual reporting. CEDO is working on developing a system to ensure that new owners understand the requirements of IZ.

- IZ rent levels and income limits were discussed, that while the rent level is set to what is affordable to a household making 65% of Area Median Income (AMI), the income limit is set at 100% AMI which is slightly higher than the 'typical' standard of 80% AMI for affordable housing. The city supplies the rent limits and the property owner is required to comply with the income limit at initial occupancy. If an occupant's income subsequently increases over the limit, CEDO's policy is that they remain in compliance. In regards to section 8 occupants, it is safe to assume those units are in compliance due to federal standards.
- Michael Monte expanded on this point of income limit compliance, explaining that CHT has a threshold when an income increase is too much, and then the unit reverts to market rent, and the next available unit becomes an IZ unit. While this system works for CHT where all units are roughly equivalent, this could be problematic for private developments where some units may be designed to be high-end, causing the owner to take a loss.
- Responding to questions about how the zoning permit process is carried out, Todd Rawlings explained that CEDO has improved the process. In order to release the permit, notice that the applicant met with CEDO is required with a plan to execute the housing subsidy covenant.
- Michael Monte raised an issue on security and compliance, that tenant information needs to be secured and cannot be at risk of becoming public information. This includes the tenant name which would be necessary to verify compliance. Todd Rawlings assured that this was already being done for compliance with the federal HOME program.
- Michael Monte asked for clarification in a situation where CHT is operating/developing IZ units on behalf of a developer, who would be held legally responsible for a violation? It was agreed that legal should look into this issue further.
- Eric Farrell asked if there is a mechanism to buy out a rental or ownership restriction using payment in-lieu? It was pointed out that housing value could exceed the cost of buying out resulting in an incentive that would reduce the number of affordable units. Then because it gets harder to build new units the City would essentially lose a unit. John Davis called on the group to remember that the purpose is inclusion not production, and there was debate on how the report acknowledged this.
- The discussion of further data needs for the IZ Working Group was moved to the agenda for the next meeting that would be an hour and a half.



CITY OF BURLINGTON, VERMONT

Inclusionary Zoning Working Group

c/o Community & Economic Development Office

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IZWG Members Present: City Council President Jane Knodell, Brian Pine, Michael Monte, Eric Farrell, Bruce Baker, Erik Hoekstra, Noelle MacKay, Nancy Owens, John Davis, David White

IZWG Members Absent: None

CEDO staff members: Ian Jakus

Other attendees: Earhard Mahnke

Inclusionary Zoning Working Group Meeting

Thursday, November 9th 2017

8:00 – 9:30 AM

City Hall Conference Room 12 (CR 12)

Meeting Minutes

1. Approve Agenda

- President Knodell moved to adopt the agenda seconded by Nancy Owens
- No one opposed or abstained

2. Public Comment

- None

3. Approve minutes

- Michael Monte moved to approve the minutes and Eric Farrell seconded
- No one opposed or abstained

4. Data/research to fill gaps in January 2017 draft Inclusionary Zoning (IZ) Report – Responses to John Davis' one-page of follow up questions

- John Davis explained that the one page of questions he submitted was based off of the recommendations in the Inclusionary Zoning report.
- The group reviewed initial submitted responses to those questions and began with question #1 and #2 - what is the distribution in the **SIZE** of the residential projects approved by the City for new construction or adaptive reuse?
 - It was requested that the pipeline for projects in progress be included in this analysis

- The group moved on to Question #3 addressing the option of raising the threshold at which IZ is required (currently the 5-unit threshold for new construction or the 10-unit threshold for adaptive reuse). Specifically the question asks how many FEWER projects/units would have been subject to IZ if the threshold had been higher – say 1.5 times higher, 2 times higher, or 2.5 times higher.
 - John Davis stated that the location of these units that would be lost at different thresholds is important because ‘inclusion’ of low-income housing is the goal of the ordinance and the amount of low-income housing varies by neighborhood.
 - It was requested that these results be mapped to ensure the lost units are not predominately located in high-income neighborhoods
- A discussion arose around the issue of so called ‘Naturally Occurring Affordable Housing’ (NOAHs). These are units of housing that are rented at affordable prices without subsidy.
 - Erik Hoekstra stated that NOAHs have been lost due to a lack of supply of new housing units, which is due in part to inclusionary zoning costs that deter development. Secondly, he stated that the affordable housing units developed by non-profit entities were likely to be built regardless of whether IZ existed. He explained that while IZ can work at the individual project level it is not working to increase the supply of affordable units city-wide.
 - Bruce Baker added that in his experience for projects of 10 or less units adding IZ units is not financially feasible. Additionally, the historic preservation restrictions have prevented him from pursuing projects in Burlington.
 - Michael Monte responded that NOAHs have disappeared due to students impacting the rental market and raising prices. Additionally, in regards to the suggestion that non-profits would build housing without IZ, he explained that these projects happened faster because of IZ and that the commitment to affordability is deeper, for example including units dedicated to homeless populations. The non-profits are doing this in a completely different way in cooperation with the Housing Authority. Not just meeting the threshold and moving on. An important tradeoff to consider is the potential for more affordability versus more units.
 - Chair Jane Knodell clarified the question to be answered – if we didn’t have IZ how many NOAHs would have been preserved if there had been new housing to better meet market demand.
 - Brian Pine again raised that if inclusion was the goal of the ordinance rather than production, then we need to keep this in mind.
- Question #6 was discussed regarding the In-Lieu-Fee (where the developer pays a fee in-lieu of building an IZ unit as part of the development) of \$75,000 per unit that was recommended in the IZ report and what that contribution to the Housing Trust Fund can accomplish.
 - Mr. Davis explained that the fee was originally intended to cover the gap in development cost between market rate units and affordable units that would allow for a unit to be purchased and made affordable.
 - Chair Knodell asked if developers are not using the in-lieu fee option then does that mean it’s not working, or it is working? Should the fee be adjusted to allow for construction of affordable units or should it be reduced?
 - Mr. Davis explained the original concern with the fee is that it would lead to developers buying out of the requirement. Also it could allow for separating low-income housing to be physically separate, defeating the inclusionary aspect in areas that are in need of low-income housing.

- David White stated that the in-lieu fee payments must be closely monitored, that it shouldn't be the case that nobody is using it. There needs to be an established threshold where, for example, no more than 25% of the units should be paying the in-lieu fee, and adjust the cost accordingly.
 - Mr. Pine added that in Boulder Colorado the in-lieu fees are considerably higher and are a linkage fee is required for office projects.
 - Mr. Monte suggested that 'in-lieu' payments could have a spatial component. For example in areas where there exists adequate low-income housing units the in-lieu fee would be preferable. For example, the downtown and the waterfront are locations where additional low-income housing is desired and thus the in-lieu fee should not be encouraged.
 - The question was raised regarding whether for-sale units should have a different fee than for-rent units. Erik Hoekstra offered that it should be kept simple with just two tiers.
 - Noelle MacKay gave an example where the Housing Trust Fund was used to build two homeownership projects for \$150,000.
 - Nancy Owens proposed another alternative to consider, where the payment in-lieu would be lower for smaller projects to address financing issues at the smaller scale.
- A general point was raised that much of what affects housing production and thus the production of IZ units is not actually contained within the ordinance. For example parking may be the biggest obstacle to development in the downtown but that it is regulated outside the ordinance. Density bonus in practice reaches beyond the ordinance.
 - Chair Knodell explained that the IZWG should think about these issues as a package that can be voted on collectively. For example a suite of recommendations that deals with payment in lieu and density bonus among others.
 - Mr. White asked how the density bonus gets accounted for given that the form based code no longer provides a density limit in the downtown.
- A discussion around question #4 addressed the IZ rents and how the rents for homeownership and rental units actually compares with market prices.
 - One issue was that income in Burlington is different than the Area Median Income, which is used to set the IZ rents, leading to higher rents.
 - Ms. Owens recommended that if the IZ rents are greater than the HUD Fair Market Rent than it should revert to the FMR.
 - Mr. Pine referenced a project that had an anomaly where homeownership condos were priced below the inclusionary prices.
 - Michael Monte explained that CHT had to further subsidize IZ homeownership units. The IZ homeownership rents are higher than condos in the surrounding areas outside of Burlington.
 - The next meeting is scheduled for December 7th and the following two meetings were scheduled for January 11th and February 8th
 - The meeting was adjourned at 9:30 A.M.



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IZWG Members Present: City Council President Jane Knodell, Brian Pine, Michael Monte, Eric Farrell, Bruce Baker, Erik Hoekstra, Noelle MacKay, Nancy Owens, John Davis, David White

IZWG Members Absent: None

CEDO staff members: Todd Rawlings, Ian Jakus

Other attendees: Erhard Mahnke

Thursday December 7, 2017

8:00 – 9:30 AM

City Hall Conference Room 12 (CR 12)

MEETING MINUTES

1. Approve Agenda

- Michael Monte moved to adopt the agenda seconded by Noelle MacKay
- No one opposed or abstained

2. Public Comment

- None

3. Approve minutes

- Brian Pine moved to approve the minutes and John Davis seconded
- No one opposed or abstained

4. Discussion of IZ report recommendation: 'Adjust the income target for owner-occupied units from 75% of AMI to a flexible range of 80% to 100%'

- The working group resumed discussion of the recommendations from draft IZ evaluation report beginning with the recommendation to adjust the income target for owner-occupied units from 75% of AMI to a flexible range of 80% to 100%. To review, under the current ordinance, the maximum price is what would be affordable to a hypothetical household earning 75% of median income adjusted for household size. For the purposes of this calculation the household size is tied to the number of bedrooms per a formula in the ordinance. "Affordable", for the purposes of this calculation, is based on the household paying 33% of this hypothetical household income on principal, interest, taxes, and insurance.
- The current IZ inventory is roughly 60% rental units and 40% owner occupied units

- Discussion centered on the need for greater subsidy for these units than is currently provided by the IZ ordinance as well as the difficulty that developers have in financing projects that require IZ units because of the loss of revenue.
- Champlain Housing Trust currently manages the majority of IZ homeownership units which they use their shared equity model to maintain as perpetually affordable units. For these units CHT typically provides additional subsidy to further reduce costs. This is partly due to the fact that the resale price restriction reduces the perceived value, and they have to compete with cheaper condos in surrounding region.
- It was noted that while CHT has managed these units and the City has is in the process of doing compliance on these, so it would be possible to ensure long term affordability absent CHT.
- There was an interest in further exploring the idea that the IZ ordinance could be adjusted to provide a greater subsidy for less units, thus not requiring as much additional subsidy by CHT. The subcommittee will consider this possibility and report back.

Condo Development

- It was pointed out that there is also a need for affordable housing at higher AMI levels including the 'missing middle' up to 125% AMI. Erik Hoekstra felt there is a market for these units priced at the 100% AMI level, potentially allowing developers to sell these units without additional subsidy. Although there is flexibility in the current ordinance that allows someone to qualify while making up to 100% AMI.
- Constraints on condo financing, specifically the requirement for pre sales (70% have to be sold), already make it very difficult to develop condos. Even if a bank is willing to do less than 70% pre sales then they want a highly qualified buyer for the mortgage.
- Redstone is building high-end units, which are more expensive, making the affordable standard even more difficult to meet. He said that the issues with condo production have very little to do with IZWG -- it has to do with availability of capital.
- Chair Jane Knodell stated if we keep on the same path we are not likely to get many more of these homeownership units.
- John Davis stated the ordinance was not created to stimulate development. Also in the original ordinance there was a provision to allow developers to open their books if the IZ requirement was to make the project infeasible, but this piece of the ordinance was removed.

Condo Fees

- Todd Rawlings explained that an additional challenge for calculating the IZ unit price is taking into account the condo fees because if condo fees are higher, then the sales price has to be lower. For example, if condo fees are 150/month for a two bedroom unit, then the max sales price dips to \$215,000 compared to a two bedroom single family home max IZ sale price of about \$248,000.
- There was general consensus that there needs to be a plan on how to address condo fees including the potential issue where the fees start off unrealistically low and then are subsequently raised to an unaffordable level.
- There was debate over how much condo fees should be taken into account when calculating the IZ price, where certain maintenance fees are being taken into account through condo fees that are not included in other shared equity affordability calculations. Also the issue of luxury amenities included in the fees could be a problem when calculating the price.
- It was suggested that there could be a set % of the condo fees for the IZ unit price calculation. Higher fees would require a proportionally higher discount. This was thought to be preferable than making it purely discretionary.

Next Meeting

- January 11th is the next meeting.
- The group decided to add a March 8th meeting.
- Chair Jane Knodell stated that the next meeting we are moving on to the 'moving the needle' recommendations from the IZ report. The subcommittee should report at the next meeting regarding development costs. This should inform what the threshold should be. This needs to be done in a way that is easy to understand.
- Noelle MacKay said we still need to have a conversation about what data we need and why.



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IZWG Members Absent: None

CEDO staff members: Todd Rawlings, Ian Jakus

Thursday January 11th, 2018

8:00 – 9:30 AM

City Hall Conference Room 12 (CR 12)

MEETING MINUTES

1. Approve Agenda

- Brian Pine moved to amend the agenda with unanimous agreement to include a report from the development finance subcommittee

2. Public Comment

- None

3. Approve minutes

- Nancy Owens moved to approve the minutes and Eric Farrell seconded
- No one opposed or abstained

4. Review of initial work by sub committee focused on establishing a development cost model and understanding financial feasibility of projects:

- A draft financial model was developed by subcommittee members Nancy Owens, Michael Monte, Erik Hoekstra and Eric Farrell. This took into local knowledge of costs as well as secondary data. The purpose of this model is to have a greater understanding of the levers for cost feasibility, and how Inclusionary Zoning requirements interact with those levers
- The draft model demonstrates the cost of development versus the returns on rent for a one, two and three bedroom rental unit. The figures shown in the

model are calculated on a per unit basis and do not take into account how the scale and unit mix of a project affects the development costs

- The market rate rent numbers come from Allen & Brooks assuming tenants are paying utilities and are newly built units
- The model takes into account borrowing capacity but is subject to change based on changes in interest rates, cap rates, etc...
- The total costs include assumptions on soft costs and fixed costs
- Market rent assumptions are on the higher end whereas development costs are conservative
- There are differing opinions on the different assumptions but everyone agrees most costs are trending upwards
- The model should have implications for determining the proper payment in lieu
- Todd Rawlings will confirm IZ rent numbers are correct
- In order to better understand how other costs beyond IZ affect development Nancy Owens recommended examining the [Berkeley Turner Center Housing Development Dashboard](#)

Financial feasibility of current development

- Erik Hoekstra stated that much of what we are seeing developed in Burlington requires collaborations of private developers and non-profits. A few developers benefitted from already owning the land. Large-scale developments such as BTC Mall Redevelopment are backed by global investment firms, and there are a few micro developers who can stay under the IZ threshold. Redstone is able to make their projects work only through creative financing; on 30 year terms instead of 20 years, using community loan funding as well
- Eric Farrell asked if we could we conduct a 'break even' analysis where a private developer could make a project feasible without a non-profit partner? Threshold would be higher and the number of units would be lower
- Bruce Baker stated that for micro projects of 2,4, or 8 units there is uncertainty on permitting and the profits are so marginal that threshold should be increased
- John Davis responded that there are expectations about income in the future that developers take into account so some developers are willing to take a loss leader
- Michael Monte asked how many units of each type required to make up for the per unit financial deficit as described in this model

Density

- The model is indifferent to density but density is always better cost wise. It also does not take into consideration density bonus and that needs to be illustrated here, as density bonus changes are part of the recommendations under review

- Erik Hoekstra raised the point that low density areas zoned for single-family detached homes are by nature exclusionary. Even if the threshold is increased any downtown development will be above the threshold due to the nature of the sites there
- There was general agreement that with large sections of the city under low-density zoning this can be a restraint to realizing inclusion
- David White stated that Accessory Dwelling Units are one way to address this in low-density areas, but there is concern about these because of student renters
- Bruce Baker said that there is infill capacity in the RH zoning district but restrictions on lot coverage and parking requirements make it difficult to realize
- David White explained that the parking requirement affects unit mix –suburban standards and dimensions often don't work for multi-family projects. This leads to more 3 bedroom units with high rents rather than studios or one bedrooms where the parking requirement would be higher. Despite public perception many parking garages are underutilized
- The group agreed that parking should be examined further in relation to inclusion

5. IZ Evaluation Recommendations

'Moving the Needle' - adjusting income targets for renters

- Michael Monte stated that housing choices do exist for folks at 80 -100% of median income, but for ownership that does require getting a down payment which is especially difficult for those who have student loans. The people between 30 – 60% of AMI who cannot get a Section 8 voucher have the most difficulty finding housing. For any housing that is set at a price for people below 50% median income there needs to be further rent subsidy
- Eric Farrell suggested allowing smaller affordable efficiency units in the market rate projects. There was interest by several committee members in looking into the size of affordable units more
- Jane Knodell summarized that
 - An income range isn't going to work because the high-end will generally be chosen
 - The potential to move the threshold % based on the scale of the project should be considered

'Moving the Needle' – increasing the Housing Trust Fund

- Jane Knodell asked what we can do outside IZ by increasing the HTF
- John Davis responded that you could buy elderly owner-occupied properties as they are coming on the market

- Michael Monte stated that if vacancy rises there may be some units that are disinvested then and sold, creating a loss of 'Naturally Occurring Affordable Housing'. If we had money to renovate disinvested multi family properties and rent them to those making 80% of median it would improve housing stock and stabilize rents
- John Davis agreed that this would make a difference for production and inclusion

Next steps

- Next meeting is February 8th Meeting
 - Further report from subcommittee
 - Comments on 'Basket of Ideas' list
 - Further conversation on considering outside factors



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IZWG Members Absent: Bruce Baker

CEDO staff members: Todd Rawlings, Ian Jakus

Public: City Councilor Karen Paul

Thursday February 8, 2018

8:00 – 9:30 AM

City Hall Conference Room 12 (CR 12)

MEETING MINUTES

1. Approve Agenda

- Brian Pine moved to approve the agenda with unanimous agreement

2. Public Comment

- Brian Pine said he met with a staff member from Vermont Legal Aid about the IZWG. They said that the constraints or challenges facing their clients, in relation to housing, are not being abated. Their perspective is that the Inclusionary Zoning (IZ) requirements for affordable housing need to be strengthened.

3. Approve minutes

- Minutes from January 11th were tabled as there were no copies of the minutes distributed.

4. Recommendations - 2017 draft IZ Evaluation Report – Discussion Continued

- Chair Jane Knodell began by saying that the group should aim to come to a consensus on recommendations coming out of the working group.
- David White explained that the ordinance was changed so that inclusionary housing is not a conditional use subject to review. There are also design criteria. The goal ultimately should be predictability in terms of the IZ regulations and process.
- Nancy Owens stated it would be helpful to reduce conditional uses more broadly as they create a high degree of unpredictability.

- The group began to revisit key ideas discussed based on each recommendation included in the 2017 IZ evaluation report to see where there was consensus.

Increase Development Threshold:

- There was broad agreement that the threshold to trigger IZ should be raised, but no specific agreement as to what the threshold(s) should be. The group decided to focus on what the base threshold should be as a starting point:
 - Erik Hoekstra suggested 60 units because that is a single building project. He said that his projects have been between 20 – 70 units; these single building projects do not allow for partnership with non-profits and all costs for IZ have to be absorbed by the developer. The next project that Redstone is doing will be the last they can do with Vermont Community Loan Fund, which is helping make these projects feasible, because they have loan limits per borrower. Interest rates are rising rapidly and Redstone will be unable to continue to develop, and no one else is currently developing new housing at that scale.
 - Nancy Owens suggested that there would need to be a dedicated loan source with a lower interest rate moving forward. She suggested the IZ percentage be based on the project size where there would be less units on the low end and more on the high end.
 - Erik Hoekstra said that from his perspective the Housing Trust Fund (HTF) is non-profit money and he cannot access it as a for-profit developer. There is also not enough funding in the HTF for this use.
 - Michael Monte pointed out that looking at what has been built there isn't much that has been over 60 units, so that threshold would lead to a large loss of affordable units. Several others agreed that 60 units was too high of a threshold.
 - There was a discussion about a methodology to determine a threshold, that one can look back at what has been built in the past, but that would not tell us about the future conditions for feasibility.
 - Chair Jane Knodell pointed out that the subcommittee analysis did not include feasibility based on the scale of the project, only on a per unit basis. She asked where the frontiers of development are in Burlington.
 - Erik Hoekstra responded that development will take place primarily in the Residential High Density zones and the Neighborhood Activity Center zones. That you cannot build a duplex on any less than 2 acres under the current RL zoning.
 - The idea of linking the threshold for triggering Inclusionary Zoning to the zoning district was raised, but it was determined that just raising the overall threshold would accomplish the same desired result which is to ensure small infill projects continue to be financially feasible.
- Discussion began about the lack of inclusion in low density areas, and that this is largely a zoning issue. Parcel sizes in RL zoning districts are only appropriate for single family and duplexes and therefore these areas will not contain developments of the scale that triggers IZ:

- Nancy Owens suggested that there could be areas within low density neighborhoods where increased density would make sense, such as street junctions.
 - Brian Pine stated that there should be more explicitly defined core areas within residential areas.
 - David White said that these are the transit corridors and are already typically denser.
 - John Davis said that in order to increase inclusion, especially in low density areas, it is a question of regular zoning as much as inclusionary zoning.
 - Chair Jane Knodell noted that this is an issue that goes beyond the IZ ordinance but that should be included in any further analysis or document related to the IZWG, regarding how to spread inclusion to other parts of the City.
- The discussion shifted to the Payment In Lieu (PIL) (See [IZ Ordinance](#) Sec. 13) and whether or not it could be more widely utilized and a more effective way of providing inclusion rather than requiring each development to include the units on-site. Currently the Development Review Board must determine there is an impediment to developing IZ units on-site in order to allow PIL.
 - Michael Monte suggested making the PIL option 'by right'.
 - Noelle MacKay asked if it was done on a per building basis if that would prevent inclusion and how we could monitor that.
 - David White said that the HTF could prioritize IZ units in a certain area in need of inclusion with the payment in lieu funds but there would need to be a clear policy process for determining the use of PIL funds.
 - Michael Monte suggested that PIL funds could also be used for home ownership units that could help inclusion in residential neighborhoods. He suggested something similar to VHCB's [HOMELAND](#) program, that would increase inclusion in single family neighborhoods.
 - Noelle MacKay stated that it may take a while for the HTF to fill up enough to fund a feasible project in a particular area which is different than how the HTF currently operates.
 - John Davis said that there would need to be a clear way to measure any changes to PIL to ensure that they're consistent with inclusion. Also there should be something in the ordinance that clearly lays out the intent.
 - Chair Jane Knodell brought the group back to determining the IZ unit thresholds, and asked about also adjusting the income thresholds.
 - Noelle MacKay suggested creating a draft table summarizing the different options at different thresholds. This would include the unit thresholds, the IZ rate (15%, 20%, 25%), the Payment in Lieu. CEDO will work on a draft table to distribute at the next meeting to begin a discussion on specifics.
 - Michael Monte suggested coming up with a loose framework in an intuitive manner, adjusting the actual requirements iteratively. He requested also adding the target income and sale price.

- Erik Hoekstra said that the income requirement for all rental units should be set to 80% of Area Median Income (AMI) because if you go below 65% you're overlapping with the affordable market served primarily by the Low Income Housing Tax Credit projects, and designated areas for Act 250 also uses the 80% AMI threshold.
- Reducing impact fees was discussed, in terms of how much the City does this currently, and whether it could be used as an additional lever. Currently there is a waiver of an impact fee for an affordable unit based on the level of affordability of that unit. A 100% waiver of impact fees exists for units that are rented below the 50% AMI limit, more typical for a non-profit project and a 50% fee waiver is more typical for private projects with IZ units that rent below the 65% AMI limit. It was not clear that this would make a significant difference in feasibility.
- The group decided the next meeting will be scheduled for March 8th and hold March 22nd as an alternative.
- The meeting was adjourned at 9:30



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IZWG Members Present: City Council President Jane Knodell, Brian Pine, Michael Monte, Noelle MacKay, Nancy Owens, David White, Bruce Baker

IZWG Members Absent: Erik Hoekstra, Eric Farrell, John Davis

CEDO staff members: Todd Rawlings, Ian Jakus

Public: City Councilor Karen Paul

Thursday March 22, 2018

8:00 – 9:30 AM

City Hall Conference Room 12 (CR 12)

MEETING MINUTES

1. Approve Agenda

- Brian Pine moved to approve the agenda with unanimous agreement

2. Public Comment

- None

3. Approve minutes (Rescheduled from last meeting) 1/11 and minutes from 2/8

Michael Monte moved to approve minutes for both meetings with unanimous agreement.

4. Recommendations - 2017 draft IZ Evaluation Report – Discussion Continued

Chair Jane Knodell stated the working group will not meet the original April deadline but should discuss what it's going to take to get to the final report. She added that the subcommittee examining development costs had updated their analysis.

Nancy Owens stated that previously the subcommittee submitted a table examining development costs. As requested the group followed up with a pro forma style analysis based on the scale of the development by order of magnitude.

Michael Monte explained that the figures are not precise as there are many variables, such as interest rates that are always changing. The committee's work has confirmed the assumption

that developers may have financial capacity to accommodate IZ units for larger scale projects, but the analysis demonstrates how tight the margins are for smaller and medium sized projects.

Jane Knodell said it makes sense to acknowledge the economies of scale in the ordinance which has been the consensus to date. For smaller projects a lower percentage of IZ units could be required than for larger projects.

Nancy Owens said that the big variables subject to change are interest rates and capitalization rates. If we are focused on inclusion and only small projects are allowed in certain neighborhoods, and we are reducing the IZ units required for these projects, then the Housing Trust Fund will have to be used to ensure affordability in those neighborhoods.

David White stated that the land use policy perspective also needs to be examined in how it effects inclusion in these neighborhoods.

Jane Knodell responded that further considering the land use implications on inclusion will be included in final recommendations.

IZ rent target income

Jane Knodell shifted the topic to the IZ rent targets that currently are set at a rate affordable to households making 65% AMI rate – leading to rents that are below market. She suggested the target income should stay at 65% for projects of all scales.

Michael Monte agreed that new and renovated properties are already serving the market for households making 80% - 100% AMI that still have disposable income even if housing costs are a high percentage of their income. However, at a lower overall income the disposable income after rent is much smaller in real dollars. Raising the IZ rent target to 80% AMI will lead to all projects serving only that 80% AMI market without addressing the much greater need at lower income levels. At 80% AMI in order to keep the balance of incomes additional subsidy would be needed. He added that this year there were 900 housing units developed in the county and only 65 were affordable.

Nancy Owens stated that while the price may be available to someone around median income there is still a general shortage of desired housing.

Noelle MacKay reminded the group that around 25% of the housing stock in Burlington is already permanently affordable.

Payment in Lieu

Jane Knodell said the number was originally based on the actual cost of constructing a unit and asked if the current in lieu payment structure should be maintained.

Brian Pine added that the number was set in 2009 around \$100,000 per unit, adjusted for inflation thereafter.

Nancy Owens asked if we could set the amount the same as the HOME standards.

Todd responded that the HOME program per unit maximum is now higher than the current IZ ordinance in-lieu fee.

Jane Knodell asked if the payment in-lieu funds should be distributed to low poverty receiving areas.

David White said that we should be clear about defining the geography of inclusion. He has heard that it is often impractical to include all IZ units in the same building.

Michael Monte said that inclusion is most important on a neighborhood basis rather than a per building basis. For CHT affordable housing projects being able to utilize payment in-lieu funds would be beneficial.

Noelle MacKay stated that we also don't want to build a project where the low income units are separate, and low income people are stigmatized.

Bruce Baker said that many developers have their buildings in the same neighborhood, and if you allow a developer to meet IZ unit requirements in a separate building in the same neighborhood that flexibility could help to produce more units.

David White agreed that if a developer were to convert an existing market rate unit to an affordable unit the result will be the same. He said that in some of the residential districts building IZ units off-site is currently allowed, but in a waterfront district you cannot produce your units off-site.

Todd Rawlings said that in the current ordinance there is a multiplier of 1.5 for IZ units if you go off-site.

Bruce Baker said that if you have an 8 unit project you can probably find \$20,000 for an in-lieu payment but probably not the roughly \$200,000 to build an IZ unit. He added that the analysis is different for private and nonprofit developers.

Noelle MacKay suggested that maybe these larger projects should not have the option for payment in-lieu.

Michael Monte suggested we should look at the map in the report to better understand where IZ units are being constructed. He said that the current payment in-lieu is too high.

Jane Knodell said the payment in-lieu amount should scale as the project gets bigger and that we want to make sure it promotes inclusion.

Todd Rawlings asked whether the payment should be set in between the two extremes where no one takes a payment in-lieu or everyone takes payment in-lieu.

Michael Monte suggested that based on the sub committee's assumptions the in-lieu payment can be determined based on what is financially feasible. Another possibility is to change the

minimum size requirement of the units in order to incentivize the units on-site. Currently the size of any IZ units must be comparable to the market rate units in the building.

Todd Rawlings said that South Burlington is considering incentivizing 3-4 bedroom units in their draft IZ ordinance that allows a 4 bedroom unit to count as 2 IZ units.

Bruce Baker said that he cannot build a one bedroom unit if 2 parking spaces are required for each unit. He was able to build 13 one bedroom units on College Street through interim zoning.

David White suggested that there could be an exemption of parking requirements for the IZ units.

Jane Knodell stated she would like to create a sub-committee to pull together recommendations based on the group discussion and sub-committee analysis and then bring them back to the group. She suggested that herself, Noelle MacKay and/or Todd Rawlings, Nancy Owens and Erik Hoekstra would form the committee and Ian Jakus from CEDO could provide staffing support. The other subcommittee on financial feasibility will provide recommendations specific to the homeownership aspects of IZ.

Two times were held for the next meetings:

April 12th @ 8:15 - 10:00 — CH CR 12

April 26th 8:15 - 10:00 - CH CR 12

The meeting was adjourned at 9:30 AM



CITY OF BURLINGTON, VERMONT

Inclusionary Zoning Working Group

c/o Community & Economic Development Office

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IZWG Members Present: City Council President Jane Knodell, Brian Pine, Michael Monte, Noelle MacKay, David White, Bruce Baker

IZWG Members Absent: John Davis, Nancy Owens

CEDO staff members: Todd Rawlings, Ian Jakus

Public: None

Thursday April 12, 2018

8:15 AM – 9:30 AM

City Hall Conference Room 12 (CR 12)

MEETING MINUTES

1. Approve Agenda

Brian Pine moves to approve agenda, Michael Monte seconds – unanimous approval.

2. Public Comment

None.

3. Approve minutes 3/22

Brian Pine moves to approve the minutes, Erik Hoekstra seconds – unanimous approval.

4. Recommendations - 2017 draft IZ Evaluation Report – Discussion Continued

Chair Jane Knodell began by explaining, per the previous meeting, two subcommittees were asked to develop draft recommendations for discussion, based on the work of the IZWG, for both rental unit projects and homeownership projects respectively.

IZ rental unit recommendations

Chair Knodell outlined the recommendations agreed on in the subcommittee regarding the IZ rental unit policy. The two biggest changes recommended are establishing 3 project size categories and changes to the payment in lieu rules:

- The recommended percentage of rental units required is the same formulation as in the current ordinance; 15% / 20% / or 25% depending on the price of the market rate units
- The recommended higher percentage for the waterfront was retained and did not add in a higher percentage for the downtown
- The recommended project size categories are based on the financial analysis provided by the previous development subcommittee:
 - Small (5 – 19 units)
 - Medium (20 – 49 units)
 - Large (50+ units)
- The recommended payment in lieu structure is determined by the following factors to be defined below:
 - Per unit cost determined by project size
 - Small projects (\$25,000 / unit)
 - Medium and Large projects (\$75,000/unit)
 - Project location - applies to medium and large projects
 - Payment in lieu funds could be used to establish affordable units in areas that are in the greatest need of inclusion
 - 'Lower-income areas', determined to be more inclusive, would allow for payment in lieu 'by-right'
 - 'Higher-income areas', determined to be in need of more inclusion, would not allow payment in lieu
 - Approval process
 - Payment in lieu is allowed by-right for small projects – to be determined by HTF administrator
 - Payment in lieu eligibility shall be determined by some combination of the Housing Trust Fund (HTF) Committee and the HTF administrator within CEDO

Erik Hoekstra explained that the current payment in lieu cost per unit is roughly \$150,000 / unit.

Eric Farrell asked why the waterfront IZ rate is higher under the current regulations.

Michael Monte responded that most of the development along the waterfront was high end.

David White added that the waterfront area still has the highest land values.

Chair Knodell asked whether medium sized projects in 'higher income' areas will have payment in lieu, or whether it should not be an option as it is with the large projects. She asked if the working group will spell out the use of payment in lieu for the HTF?

Michael Monte suggested that the determination criteria should be developed as part of the HTF policy – including the roles of the HTF administrator and the HTF committee.

Noelle MacKay commented that the HTF administrator would make a determination of eligibility, according to the policy, for payment in lieu in all cases. Payment in lieu funds received should come with a direction for the HTF to prioritize inclusion in other parts of the city. She also

said that Todd Rawlings and herself will work on the HTF use conditions, including the potential conditions for allowing payment in lieu for medium sized projects in 'higher income' areas.

Erik Hoekstra stated that any determination of 'higher income' or 'lower income' areas should have clear objective criteria and not be discretionary.

David White suggested the criteria be based on data that will change over time to reflect current conditions.

Brian Pine suggested that, as discussed previously, the payment in lieu funds be used to subsidize homeownership in low density areas without affordable housing.

Todd Rawlings asked if, under the recommendations, projects can still go to the city council for a determination of payment in lieu if it is in a low poverty area or is it completely prohibited.

Chair Knodell the intent behind recommended payment in lieu policy changes would allow the resulting HTF dollars to be leveraged more effectively for financing affordable housing projects, including a deeper affordability for units therein.

Bonuses

Chair Knodell stated the density bonus, as it stands in the ordinance, has rarely been used.

David White confirmed that the main reason the density bonus is not used is because meeting additional parking requirements is difficult.

Parking and lot coverage

Bruce Baker said the main issue is parking because it requires additional lot coverage, limiting flexibility for development. He suggested a 100% waiver of parking requirements for IZ units if an applicant can demonstrate that the proposed project is an improvement from what is on site.

David White responded that if the on-site parking requirements for the IZ units are eliminated then it is up to the developer to meet the needs of their tenants, and it reduces the lot coverage required to accommodate extra parking allowing for more flexibility in design.

Erik Hoekstra explained that the current density bonus deals with Floor Area Ratio. He has used a bonus in a NMU zone, but in all zones except NMU the bonuses are discretionary. He suggested this density bonus be applied by-right everywhere. He suggested this would apply only for projects that include the IZ units on site - NOT for projects utilizing payment in lieu.

Bruce Baker raised the issue of converting existing market rate units that are offsite in the same neighborhood as a project that triggers IZ in order to meet the IZ requirements.

Noelle MacKay responded that conversion of off-site units could be a condition that the HTF committee reviews and takes into account in the policy.

Minimum unit size

Erik Hoekstra said the size minimums apply only to the IZ units, but they can be smaller if the market rate units are below the minimum.

Todd Rawlings and Brian Pine agreed that they were unsure why the provision was necessary.

Eric Farrell stated that the affordable units should be allowed to be smaller.

Michael Monte proposed that a developer could be allowed to build an equivalent number of bedrooms – but with a different unit mix. For example choose to build two 1-bedroom units or one 2-bedroom. The choice could allow for building smaller units.

Bruce Baker reiterated that he cannot build small units with only one bedroom because of the parking requirements.

David White stated that having parking spaces tied to bedrooms rather than units is being contemplated generally.

Increase in FY 2018 HUD income limits

Chair Jane Knodell raised the issue of a significant increase in the new HUD income limits affecting Burlington.

Erik Hoekstra suggested both a floor and a ceiling for annual changes in IZ rents.

Todd Rawlings explained that currently no rent increase can take effect until the HTF committee approves it. The FY 18 rent increase is about 11% over last year.

Jane Knodell asked if the IZ rents are still below market?

Erik Hoekstra replied that it is well below market rent for new units that typically is over \$1,500 a month for a 2 bedroom.

Brian Pine suggested setting the IZ rent based on HUD median income and have it only adjust based on CPI. He explained that the argument against using the Burlington City median family income as the basis for IZ rents is that the city exists in a regional economy. He added that the rent should never be allowed to decrease as that could cause budget shortfalls for projects.

Eric Farrell proposed restricting rent changes on units with existing occupancy, allowing for rent changes to be instituted only when the units change occupancy. He suggested leaving the IZ rent set to the HUD income limit.

Erik Hoekstra responded that a simple floor and ceiling across the board may be easier to administer than managing changes in rents for individual units.

Homeownership Units

Michael Monte presented initial recommendations for policy changes related to IZ homeownership units based on the experience that CHT has had with affordable homeownership and IZ homeownership projects:

- Burlington's IZ ordinance has been an integral way for CHT to help provide affordable homeownership
- On recent Cambrian Rise Condo development CHT needed to secure additional funding to ensure affordability of the 30 Units
- Vermont Housing & Conservation Board funds may not be available for the next project
- In CHT's experience the disconnect in what the IZ ordinance calculates as affordable and what CHT buyers can afford is due to the fact that the IZ ordinance assumes 1.5 persons per bedroom. Across 30 years and 1,100 transactions, CHT buyers average .97 people per bedroom.
- Two possible solutions:
 - Adjust Ordinance for homeownership to assume 1 person per bedroom.
 - Keep the 1.5 person/bedroom assumption, but adjust the formula so that all IZ homes are affordable to those at 65% AMI.

Michael Monte continued that for homeownership CHT is serving people who can't get a private mortgage – so the higher it is priced the less likely a homeowner is to opt for the shared equity program where there is limited appreciation in value, and there are other lower priced options in the regional market.

Chair Knodell asked where there is potential in Burlington for more homeownership projects? Also there needs to be better communication to the public about the financial contribution that developers are making to make these affordable units.

Michael Monte replied that there are many options in terms of sites for homeownership units in Burlington.

Next steps

Chair Knodell stated the goal will be to come to agreement and send forward these proposals to city council. In the case where recommendations are not unanimously adopted there will be provision made for dissenting opinions. Full details regarding specific language may be left to the ordinance committee. CEDO staff will write up a final report that will be approved by email after the final meeting scheduled for April 26th – 8:15 AM – 10:00 AM.

The meeting was adjourned at 9:41 A.M.



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IZWG Members Present: Chair Jane Knodell, Brian Pine, Michael Monte, Noelle MacKay, David White, Bruce Baker, John Davis, Nancy Owens

IZWG Members Absent: Eric Farrell

CEDO staff members: Todd Rawlings, Ian Jakus

Public: None

Thursday April 26, 2018

8:15 AM – 10:00 AM

City Hall Conference Room 12 (CR 12)

MEETING MINUTES

1. Approve Agenda

Nancy Owens moved to approve the agenda and Noelle seconds – unanimous approval.

2. Public Comment

None.

3. Approve minutes 3/22

Michael Monte moved to approve the minutes, Brian Pine seconds – unanimous approval.

4. Recommendations - 2017 draft IZ Evaluation Report – Discussion Continued

IZ rents and Payment In Lieu

Chair Jane Knodell summarized the recommendations to this point, explaining that the recommended changes around the payment in lieu (PIL) were the major component. She expressed concern that the small project scale as previously discussed (5 - 19 units) needed to be reduced on the upper end. She noted that based on information from CEDO the current payment in lieu regulations lead to a payment that is effectively \$182,208.75 per unit. The concern is that in reducing the PIL significantly it would become too attractive.

Erik Hoekstra pointed out that the data has shown we have seen few projects at the small scale below 20 units.

There was agreement that the current multiplier of 1.5 for the number of IZ units when calculating payment in lieu was unnecessary and confusing and rather to just have a single dollar amount.

David White said that the current PIL cost of over \$180,000 is not feasible for developers which is why no one is using it. He suggested determining the delta here between what it costs to build one unit and the payment in lieu fee and monitoring that difference over time.

There was a discussion about the project scales, and where the breaks occur. For example a 9 unit project at 15% IZ rate requires 1 unit and a 10 unit project requires 2 units. By determining where these breaks are the project size ranges were set to line up with these.

Chair Jane Knodell suggested increasing the small and large project PIL fee and proposed the following:

- Small Project (5 - 16 units) \$35,000 / unit – by right in ‘higher’ or ‘lower’ income areas (TBD)
- Medium Project (17 - 49 units) \$70,000 / unit - by right in ‘lower’ income areas
- Large Project (50+ units) \$85,000 / unit – by right in ‘lower’ income areas

The substantial rehab component from the IZ ordinance will be kept as is.

John Davis asked for a case in which a project in a high income area to be able to use payment in lieu.

The group agreed that there would be no payment in lieu option for projects in ‘higher income’ areas at the medium or large scale.

John Davis expressed concern that the inclusionary units are not serving the low-income population as intended as the market conditions have changed significantly over the years. If using the HUD Area Median Family Income (AMI) estimate (that is calculated using data from several counties) it may not serve those people who live in Burlington who have lower incomes. Additionally using the family income standard versus the household income standard yields different results.

Michael Monte stated that the IZ rent be reduced to 60% of Area Median Family Income because that is the rate used for federal tax credits.

Brian Pine clarified that while the IZ rent price is set at the 65% of AMI standard, the units can be rented to families that are making up to 100% AMI. Also he recommended the Vermont Housing Finance Agency standards be examined to determine if IZ standards can be tied to theirs.

Noelle MacKay suggested allow renting of IZ units to a narrower income standard such as 80% AMI which received general agreement.

Nancy Owens pointed out that the recommendations from the IZ Evaluation Report allowed for raising the target rents but the IZWG is not proposing this.

Provision for offsite units

Erik Hoekstra provided a hypothetical project where the IZ unit requirement is met offsite through a Champlain Housing Trust affordable housing project that was being built separately. In this case the developer would pay CHT for the units. This would not go through the Housing Trust Fund, but would be an arrangement between the developer and their designee.

Todd Rawlings expressed concern that this could be a work around where a developer could negotiate favorable terms for the units as part of an affordable housing project that was already being built. He suggested that this only be allowed in cases where the project would not take place 'but for' the offsite IZ funds.

Michael Monte and Erik Hoekstra felt that determining when a project would happen using the 'but for' standard is quite difficult because often projects are scrambling to get funding until the very end. Michael Monte explained that CHT can offer an increased value when leveraging developer offsite funds and suggested that the required amount be less than the payment in lieu.

Jane Knodell pointed out that the payment for offsite units will never be bigger than payment in lieu because developers would just opt to use that option instead.

Nancy Owens pointed out that in the case of Cambrian Rise the perpetually affordable units in the CHT building are not considered offsite units because they are part of the original project site.

Geography of Inclusionary Zoning

There was concern about allowing payment in lieu in lower income neighborhoods as leading to gentrification, such as the Old North End.

Michael Monte said most of the housing currently being developed in the city is not 'high income' but marketed to middle income renters, including Redstone projects.

Erik Hoekstra pointed out that such a large number of perpetually affordable units are located in the Old North End that it will remain predominately low income and there will always be a commitment to serving this population by the nonprofits. He suggested Burlington conduct a gentrification study similar to what was done recently in Winooski.

Nancy Owens said that if the newly constructed homes are market rate, then the lower income people will remain in the worst condition apartments.

Noelle MacKay said that making the PIL by-right would add significant funds to the HTF which would then be used for furthering affordable housing projects in key areas.

Nancy Owens stated that the HTF funds could be in part used for down payment assistance as part of a shared equity homeownership program in single family areas of the city that lack perpetually affordable housing.

John Davis made the point that calculations to determine the 'higher' income/ 'lower' income areas in Burlington should be based on family income and not household income for consistency.

Michael Monte raised that he doesn't understand why institutions are exempt from IZ.

David White responded that the exemption is for student housing within the institutional zone which is much larger than campus. With a project like 194 Saint Paul the inclusion kicks in if Champlain College is no longer managing the property for the use of their students.

Chair Knodell asked if the exclusion for educational institutions that are building housing off campus should be removed.

Chair Knodell suggested David White quickly discuss the IZ bonuses.

David White said that if there was a desire to have a conversation about allowances for greater height or lot coverage that would allow for the density bonus to be truly by-right without significantly up zoning. He said he would follow up with more details as part of the summary of recommendations.

Next Steps

John Davis suggested staff should go through each recommendation in the report to determine what the working group decided and why.

Noelle MacKay said that having a minority report is not ideal, that the group should be unanimous in its core recommendations. Other general recommendations can be passed on.

There was agreement that an additional meeting was needed for a comprehensive review of the recommendations and where the IZWG ended up on them.

Monday May 14th @ 8:15 - 10:00 AM

Monday June 11th to be held for a public hearing

By May 4th a draft comprehensive review of the IZ Evaluation Report recommendations for rental and homeownership should be composed with the IZWG response to each recommendation and rationale.



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IZWG Members Present: Chair Jane Knodell, Michael Monte, Noelle MacKay, David White, Bruce Baker, John Davis,

IZWG Members Absent: Eric Farrell, Nancy Owens, Brian Pine

CEDO staff members: Todd Rawlings, Ian Jakus

Public: None

Thursday May 14, 2018

8:15 AM – 10:00 AM

City Hall Conference Room 12 (CR 12)

MEETING MINUTES

1. Approve Agenda

Michael Monte moved to approve the agenda and Noelle MacKay seconds – unanimous approval.

2. Public Comment

None.

3. Approve minutes 4/26

Erik Hoekstra moved to approve the minutes, John Davis seconds – unanimous approval.

4. Recommendations - 2017 draft IZ Evaluation Report – Discussion Continued

There was discussion about the process for the IZWG moving forward, and this should be the final meeting before a public hearing. There was agreement that the IZWG may not get to a definitive recommendation on each item, that in the interest of time they must move forward, allowing some recommendations to be further refined down the road, for example in ordinance committee.

The group went through the recommendations of the IZ Evaluation Report providing comments as necessary.

The following minutes are organized by the report recommendation in italics:

Increase Development Threshold

Michael Monte and John Davis commented that the reason that smaller housing projects have not been built are due to many factors such as the housing market, zoning, lot availability, and parking. These should be noted.

Generalize unit comparability

The group discussed removing the minimum size requirement versus decreasing the requirement because they are no longer in line with what the market is building, and are too large. There was a preference for a decreased minimum area for IZ units for simplicity. It was suggested there could be an exception where an IZ unit could be smaller than the minimum standard, to match the size of the smallest equivalent market rate unit of equivalent bedroom size.

Erik Hoekstra explained that the group should be careful in requiring general comparability of IZ units with market rate units, where comparable high end fixtures in IZ units would be cost prohibitive. The minimum housing code would still ensure quality and energy efficiency standards would still apply.

Michael Monte raised the issue of ensuring that IZ units are treated equally with market rate units in terms of their exterior appearance and access to the building through the main entrance.

Noelle MacKay reviewed notes from the subcommittee where the following minimum unit sizes were recommended:

1 bed 600 sf
2 bed 800 sf
3 bed 1000 sf
Reduce minimum bedroom size to 100 sf

The group agreed to recommend these minimums.

Provide density bonuses by right

David White explained that there is a density bonus when voluntarily increasing the IZ unit % as well as an 'allowance' for additional density and lot coverage as part of the IZ ordinance. These two bonuses are often not fully realized due to parking requirements and design factors determined through the Development Review Board process. To remedy this language could be included to limit the ability of the DRB to scale the back the project. For example form based code puts an absolute limit on what the DRB can restrict. Removing the IZ parking requirements was discussed previously.

There was agreement that the article 6 design standards should not be able to supersede the number of units allowed in a project.

Bruce Baker raised the point that the requirement for on-site parking limit the ability to utilize joint parking facilities, and may hinder small development projects.

David White had also suggested that the cost of a parking space not be included in rent if the tenant is not utilizing it.

Michael Monte felt that it would be logistically too difficult for developers to separate parking costs from rent.

David White said that this should be at least encouraged and should go in the additional recommendations.

Impact Fee Waiver

It was explained that Section 3.3.3.C of the CDO established that impact fees may be partially or entirely waived for IZ units based on the degree of affordability of the IZ target rent. There are three tiers of waiver 25%, 50%, and 100%.

Erik Hoekstra stated that it sounds onerous to administer, and that it might be simpler to allow for any unit that meets the IZ affordability requirement to be afforded a full waiver of the impact fee.

The group agreed that the recommendation should be to consider a full waiver for units that meet the affordability requirements of IZ units.

Lower the Payment in Lieu

It was agreed the recommendations should include the methodology to establish income criteria and a map of 'lower' income and 'higher' income areas affecting where the payment in lieu is allowed.

Offer a less restrictive off-site option for low-poverty receiving areas

It was agreed that the off-site option should be made by-right for projects of any size in designated 'lower income' areas; the offsite location being in either 'lower' or 'higher' income areas. Offsite units would not be allowed in 'higher' income areas or on the waterfront.

Erik Hoekstra asked about deed restricting existing market rate units that are offsite to meet the IZ requirement as previously discussed.

There was not agreement on what would specifically qualify as an IZ unit in terms of offsite existing properties.

David White suggested that the group recommend in concept this is a good idea, to be analyzed further.

Adjust the income target for owner-occupied units from 75% of AMI to a flexible range of 80% to 100%

Michael Monte clarified the two components of homeownership; the sale price and the income eligibility of buyers. He said CHT is generally selling to families making less than 80% AMI and the units require significant subsidy at the current 75% of AMI price target. He explained that due to market competition and a perceived reduced value due to shared equity restrictions, the report recommendation is not viable. He added that the location of the condos within Burlington greatly effect the price at which they are able to be sold. The subcommittee's recommendation is to reduce the target price of homeownership units to a target price of 70% AMI.

John Davis stated that right now the city trusts CHT to market the unit to the lower income families, rather than at the top of the income range.

Michael Monte responded that it is fair to assume that CHT will be continue to be involved in most homeownership projects.

Craft a funding plan that relies on local resources to boost production of affordable housing

Noelle MacKay made the point that there are existing plans for housing need in the City that already identify needs for funding. Cities' consolidated plan for HUD, the Affirmatively Furthering Fair Housing report, and the Neighborhood Project should be used here as much as possible to identify funding needs and priorities.

John Davis added that the HTF has ordinance language that limits how you use the money that needs to be taken into account.

Achieve support for an affordable housing levy or bond from city voters

Todd Rawlings noted that the contribution to the Housing Trust Fund was reduced from a full penny levy on property taxes to a half penny with the difference being made up from the general fund. This effectively makes the full funding of the Housing Trust Fund discretionary.

Noelle MacKay stated that the recommendations should include the history of how the funding was reduced after a reassessment and that the recommendation is to return the levy to the full penny.

Michael Monte suggested a clear case be made for the HTF calculating how much housing can be created.

Erik Hoekstra said in regards to a potential affordable housing bond, the State just issued one because the cost to borrow is cheap right now.

Michael Monte responded that while borrowing was cheap, also stakeholders demonstrated how many dollars could be leveraged and how much housing it could build.

It was agreed that the recommendation would be to return the levy to a full penny, and further discuss/research the possibility of a housing bond.

Adjust income targets for rentals from 65% of AMI to a range of 50% to 80%

Jane Knodell said that increasing the IZ rents beyond 65% would not serve those least likely to be able to afford the market rents, whereas people that are making 80% AMI can still find units on the market.

John Davis said if we are going from 75% to 70% on homeownership, why not go from 65% to 60% on rental?

Michael Monte responded that homeownership is easier to manage because it doesn't require ongoing management and operations like a rental unit.

John Davis asked how the IZ rent prices are moving in relation to the housing market?

Jane Knodell responded that it is important to remember these are new construction units, where the cost (and thus rent) is considerably higher than the average affordable rents based on regional AMI. When comparing IZ rents to newly constructed unit rents the IZ rents are well below market.

John Davis stated this should be explained better, that while IZ rents may compare to some existing housing, the difference is that IZ units are newly built units.

Contribute levy resources to inclusionary homeownership

John Davis asked to clarify that any homeownership assistance would be through a shared equity model like CHT currently employs, not just down payment assistance with no long term benefit that shared equity provides.

Address the intersection of affordable housing and college student housing

The group discussed what qualifies as student housing and the recommended per bed fee as an alternative to IZ units in these developments. The consensus was that a development marketed to students could qualify but would require monitoring.

David White said that if the project was no longer dedicated to student housing, they would need to transition to meet the full IZ requirement.

Next Steps

There was discussion of the timeline of the recommendations and having a public hearing at city council on June 11th and a subsequent IZWG meeting tentatively scheduled for June 18th at 8:15 AM – 10:00 AM.

The group discussed important context to include in the recommendation report up front. A major focus should be on the geographic aspects of inclusion, that IZ has not been effective in some areas of the city, and that the recommendations aim to address that fact. Additionally the IZWG tried to strike a balanced approach on the recommendations and address community concerns about increasing rents; despite report recommendations, increasing the threshold for IZ and increasing the rent/sale price for IZ units were not recommended.

The meeting was adjourned at 10:15 AM.



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IZWG Members Present: Councilor Jane Knodell, Councilor Brian Pine, Michael Monte, Todd Rawlings, Nancy Owens, David White, John Davis

IZWG Members Absent: Erik Hoekstra, Eric Farrell, Bruce Baker

Staff: Ian Jakus

Attendees: Councilor Richard Deane, Councilor Adam Roof, Allyson Laackman, Ted Wimpey, Regina Mahoney, Sandy Wynne, Barbara Wynroth, Vikas Mangipudi, Erhard Mahnke, Gillian Nanton, Joe Speidel, Katie Jickling

Monday June 11th, 2018

5:30 PM – 7:00 PM

City Hall Conference Room 12 (CR 12)

DRAFT MEETING MINUTES

1. Adoption of Agenda

Michael Monte moves to approve the agenda. Councilor Brian Pine seconds.

2. Presentation of Draft IZWG Recommendations

Chair Jane Knodell presented on the IZWG recommendations (presentation found [HERE](#)):

- General background of IZWG
- Membership of IZWG
- Burlington's Inclusionary Zoning Ordinance
- Key Elements of IZ ordinances
 - Applicability: Does the law apply to all projects, or only some projects?
 - How many: How many affordable homes must be included.
 - For whom: How should "affordable" be defined.
 - Other options: Can a developer meet the obligations in some way other than on-site affordable homes?
- Summary of recommendations
 - Applicability
 - How many affordable homes must be included
 - How to define "affordable"
 - Payment in lieu
 - Off-site option

- Density Bonuses
- Other recommendations

3. Public Hearing

Allyson Laackman, Executive Director, Burlington Housing Authority, asked how the City is monitoring compliance with Inclusionary Zoning units?

Todd Rawlings responded that the requirement is that the tenant be income eligible at time of purchase or initial renting. After that initial income certification the city is not looking at the income eligibility for that property until it is sold again or the lease is not renewed.

Allyson Laackman stated that the IZ policy seems geared to middle-income not low-income. She asked if the money raised from the payment in lieu would be used for very low-income housing?

Michael Monte responded that the payment in lieu funds would go into the City's Housing Trust Fund (HTF), which has often gone to a non-profit developer such as CHT or the Committee on Temporary Shelter, that serve very low-income people as part of their projects.

Allyson Laackman followed up asking if the IZWG has taken into account the large housing projects that are about to come on line.

Michael Monte responded that in the past two years running 700 units have been built in the county, which has been more than the past ten years combined. This has not affected the rents significantly. The need is still there at all levels; there has not been any easing of the need based on new market supply.

Councilor Adam Roof stated he is concerned about those who qualify for IZ units based on their income at initial rental or purchase, but whose income subsequently increases. He asked if there is a way we could do surveying or exit interviews to determine how to ensure that housing is reaching the right people. It would be good to know if these units are serving the purpose of providing upward mobility.

Todd Rawlings said he has done research on how other jurisdictions administer their ordinances. Some require income certification every year and are comfortable displacing folks who are beyond that level. Burlington is completing the first phase of monitoring and found 80% of the households in the inventory are income eligible. Further analysis could demonstrate how income breaks down.

John Davis said it would also be useful to know how long people are staying in the units. When the ordinance was created the intention was to create perpetually affordable housing not perpetually eligible people, thus ongoing income eligibility is not required.

Councilor Adam Roof stated that HUD Area Median Income is a standard currently in use is problematic because it includes multiple counties around Burlington.

Chair Jane Knodell responded that IZWG had many discussions on the income standard because inclusionary rents are increasing 11% this year, which is a large increase, and should be prevented in the future. Burlington incomes are lower than the county and surrounding area.

Brian Pine suggested rent changes could be pegged to either the change in HUD AMI, or the Consumer Price Index, whichever is lower. This would create more stability for the owners and renters.

Nancy Owens said we should make sure there are both a cap and a floor on changes in IZ rents. In the past we have seen the AMI go down and developers had to reduce rents and change their projects, but the reason we ended up using the HUD AMI, is that this is the same standard used for most housing programs.

John Davis stated he would like to acknowledge in the report that using HUD AMI is problematic because it is not reflective of incomes specific to Burlington and requested additional analysis as part of the City Councils review of the ordinance.

Erhard Mahnke, Vermont Affordable Housing Coalition, made the following points:

- He did not see any confirmation of the consultants finding that we have been successful at inclusion. He would like to see that in the recommendations. Also that IZ was intended not a mechanism to spur development but create inclusion.
- The table of contents picks up the consultants recommendations making it seem like those are the recommendations of the IZWG.
- The hourly wage required for a 1.5 person household (1 bedroom apartment) to afford an IZ rent at 65% of AMI is \$20 an hour.
- To afford a 2 bedroom apartment a household needs to be \$25.84 / hour. If that's a single parent with children that is quite high.
- He recommended that CEDO staff do further analysis of what Burlington incomes are compared to the rest of the county.
- Consider lowering 65% to 60% - at this lower rate a 1 person household would need to make \$19.88 / hr to afford a one bedroom IZ unit.
- Regarding payment in lieu and the off-site option he recommends disallowing this for the Central Business District, because we want more affordable housing there.

John Davis responded that if CEDO cannot recommend an alternative income eligibility standard then the IZWG should consider reducing the IZ rent target to 60% AMI.

Barbara Wynroth stated that 'low income' is not always 'affordable' and that this definition is too subjective and confusing.

Vikas Mangipudi asked what the goal is for usage of the payment in lieu. He noted this runs counter to the stated goal of inclusionary zoning.

Jane Knodell responded that we know there are areas that have achieved a decent amount of economic integration. The payment in lieu option should support affordable housing where IZ units don't exist right now.

Vikas Mangipudi asked how much the payment in lieu should be used, 0% or 100%?

Michael Monte responded that the high payment in lieu fee was preventing smaller developers from doing projects. This proposal would incentivize more development to occur to give more money for affordable housing that wasn't available before. More developers would pay more into the Housing Trust Fund that could be leveraged to create additional affordable housing.

Nancy Owens stated there are many single-family neighborhoods that haven't benefited from IZ. The \$35,000 payment in lieu fee for small project could be used for down payment assistance for someone purchasing a home in a single-family neighborhood, and that would be significant.

Vikas Mangipudi asked what the City is doing to encourage infill for smaller projects less than 5 units.

John Davis responded that the only recommendation was that we should look into removing barriers to accessory units, and this should be examined and removes obstacles.

Councilor Richard Deane asked regarding the current downtown form based code how the development bonuses for IZ apply.

David White responded that there are two types of bonuses; the first is entitled under the inclusionary zoning provisions. Typically lot coverage and density to go with it. Article 9 does include extra FAR and a ten story building height. There's another bonus, when adding additional IZ units beyond the required amount, you get more density; that is not applicable under the form-based code.

Councilor Richard Deane asked how much diversity of opinion among members of the committee, are these very strong recommendations?

Councilor Brian Pine responded that the IZWG aimed to be unanimous in its decision. The developers wanted to go further but some affordable housing advocates may feel we didn't go far enough.

Michael Monte stated the IZWG included small, medium and large developers whose perspective was taken into account. He believes these developers will have some significant issues about changing the income standards. Moving to an effective payment in lieu option eased a lot of stress for the developers. He believes the group recommendations were balanced in retaining quite a bit of affordability with potential to create more affordable housing with the HTF dollars.

Jane Knodell stated that the payment in lieu recommendations provided sensible way forward rather than raising the threshold. From there the group built a consensus, and has stuck together.

Katie Jickling asked what the IZWG metrics of success are, and what the mechanisms in place are to measure the effectiveness of this policy?

Jane Knodell responded that it will be important to track where the projects are built, and how much new resources are generated for the HTF and how they are leveraged. The HTF is where we will see a lot of impact, because funds will get leveraged with strong multiplier effects.

David White said the recommendations are not so much about increasing production, but to promote inclusion geographically throughout the City.

Katie Jickling asked if inclusion is measured only by income.

John Davis responded that this ordinance strictly addresses economic inclusion. It has been successful promoting economic integration. We now want to address the geographic aspect of inclusion.

Sandy Wynne gave examples of current units in development or on the market that have very small square footages, and said that the minimum square footages need to be further reduced. She also pointed out that the minimum square footage does not distinguish efficiency units. She made the following points:

- In terms of rents and income how does the student population plug into these numbers?
- The Battery Street Condos cut a deal for affordable housing, and got away with a cheap check, I want to make sure that cant happen again.
- As a real estate agent I see many illegal rentals. I don't know how to stop it but this is a concern.
- I'd like to see more pressure on other municipalities to have Inclusionary Zoning policies at the regional level.

Ted Wimpey, Executive Director, CVOEO, stated that while IZ only addresses the income aspect of inclusivity there's a reasonable presumption that affordable units create more opportunities for those under protected classes under fair housing law, such as persons with a disability who tend to be lower income.

Regina Mahoney, Planning Program Manager, CCRPC, asked if the density bonuses are really going far enough. While the intent of the ordinance is not to build more housing, we do need more housing in totality, and if this ordinance can help us get to more that would be important.

4. Next Steps

Chair Jane Knodell said the next meeting will be Monday June 18th 8:15 AM – 10:00 AM in CR 12, City Hall. The IZWG will distribute minutes, discuss and incorporate changes.

Michael Monte moved to adjourn the meeting. Councilor Brian Pine seconded. The meeting was adjourned at 7:15 PM.



CITY OF BURLINGTON, VERMONT

Inclusionary Zoning Working Group

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

IZWG Members Present: Chair Jane Knodell, Brian Pine, Michael Monte, Todd Rawlings, Nancy Owens, David White, Bruce Baker, Erik Hoekstra, John Davis

IZWG Members Absent: Eric Farrell, John Davis

CEDO staff members: Ian Jakus

Public: Erhard Mahnke

Monday June 18th, 2018
8:15 AM – 10:00 AM
City Hall Conference Room 12 (CR 12)

DRAFT MEETING MINUTES

I. Adoption of Agenda

Nancy Owen moved to adopt the agenda. Unanimous approval.

II. Public Forum

No members in attendance at this time.

III. Approval of Minutes – 5/14 & 6/11

Erik Hoekstra moved to approve the minutes on 5/14. Unanimous approval.

There was a discussion of changes in the public hearing minutes, approval was tabled for revisions.

IV. Recommendations - January 2017 draft IZ Evaluation Report – Discussion including public hearing feedback

Discussed changes to be made based on feedback from the public hearing:

Change table of contents so they are reflective of the general topics and not the specific recommendations of the IZWG Evaluation Report.

The group wanted to add a one or two page executive summary of the recommendations.

Discussed how the group will measure success and how to include that in the recommendations.

Michael Monte said we should track where projects are built to address the geographic inclusion aspect. He suggested we should state in the recommendations that there are places in the City that are exclusionary due to zoning.

John Davis said as CEDO monitors residents in IZ units they should build in standards for success and the IZWG should come back in one or two years to review this.

There was a discussion about having an annual report on IZ monitoring.

Bruce Baker suggested tracking the use of the payment in lieu in relation to financial feasibility of projects, so we may understand why it is or is not working.

Brian Pine said we should make sure that market trends are not conflated with causes related to IZ.

Todd Rawlings suggested an analysis of census block groups as a measure of economic inclusion in the city.

The group discussed the scenario where developers who split up a parcel into lots can avoid complying with IZ

Brian Pine said that this was the case with Staniford Farms, where the lots were split up for single family homes.

David White said that in a situation like this, is the affordability tied to the lot or only the housing units that could be built on it.

Michael Monte said the City could put a covenant on the land that would affect whatever is built on it.

Erhard Mahnke said that IZ should apply to subdivisions. He pointed out that in the Residential Low Density zone the as-built density is a lot higher than what is currently allowed. He would suggest recommending to the planning commission to see if patterns of development in these areas should be increased.

John Davis said that many of the neighborhoods that people love could not be built under current zoning.

David White said that Portland Maine readjusted the zoning based on what's actually there and that included allowing Accessory Dwelling Units.

IZ Income Standards

Erhard Mahnke suggested using Household Income not Family Income as the basis for IZ, because Household Income includes single person households.

John Davis said it is important to note that regarding income the recommendation was that we don't hold up the report, but we acknowledge we had a conversation about this, we don't know what the analysis should be as it gets to City Council.

Michael Monte said some projects have 5 different income sources each with a different income requirement, that for simplicity IZ should use a common standard such as HUD AMI as it currently uses.

Next steps with the report is to make changes to the draft and have a resolution for City Council in July.

The meeting was adjourned at 9:40 AM

Burlington Planning Commission

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Andy Montroll, Chair
Bruce Baker, Vice-Chair
Yves Bradley
Alexander Friend
Emily Lee
Harris Roen
Jennifer Wallace-Brodeur



Burlington Planning Commission

Wednesday, January 9, 2019, 6:30 P.M.

Conference Room 12, City Hall, 149 Church Street

Minutes

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

I. Agenda

Call to Order	Time: 6:31pm
Agenda	Approved As Is

II. Public Forum

Name	Comment	Commission Action?
No members of the public spoke		

III. Update on ZA-18-08 Form District 5 Boundaries

Action: No Action Required		
Motion by:	Second by:	Vote:
Type: Update	Presented by: M Tuttle	
Discussion/Notes: M Tuttle noted that the Council Ordinance Committee changed parcels between S. Champlain, King and Maple streets to not be in special height area E, but did include the Advanced Music Site. Referred back to Commission by statute for opportunity to comment.		

IV. Public Hearing: ZA-19-07 Commercial Uses in the E-LM

Action: No Action Taken		
Motion by:	Second by:	Vote:
Type: Public Hearing	Presented by: M Tuttle	
Discussion/Notes: • This amendment is working to address several requests brought to the commission to reconsider certain allowable commercial uses in the Enterprise-Light Manufacturing (E-LM) district. • The amendment proposes to permit additional commercial uses in certain parts of the E-LM zoning district, while making a stronger connection to preserving manufacturing uses, consistent with the vision articulated in the draft planBTV: South End Master Plan.		

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- This includes permitting banks, removing the limitations on performing arts centers, and establishing a requirement that a majority of the gross floor area on a lot south of Home Avenue be an industrial/manufacturing/warehouse use.

Public Comments:

- Justin Worthley (Burton)- The new amendment would allow Burton to move forward with their project plans; however, the additional restrictions that the amendment would impose would not be worth moving forward, particularly limits on the company's office building. Provided memo in packet suggesting alternative routes for the amendment.
- Jim Foster (Edlund Manufacturing)- Concerned that the amendment is too restrictive. Owns additional property near current facility that has been on the market for several years, has had trouble finding potential buyers in that zone. Encourages increased flexibility in the E-LM.
- Ted Castle (Rhino Foods)- Against the amendment as written, and supportive of Burtons plans. Would like to see growth in the community in the E-LM, not necessarily only manufacturing.
- Ben Traverse (residential property owner)- Concerns regarding how the potential changes will affect the residential area. Would like an opportunity to meet with Burton to learn more about their projects and discuss the concerns. Suggests putting the amendment on hold to give the community members time to have those discussions.
- Kelly Devine (BBA)- Would like to continue promoting manufacturing within the city, but would like to see more flexibility for uses that will create more jobs and provide more community involvement. Agrees that the impacts on the residential community needs to be discussed further.
- Mary Deloche (residential property owner)- Concerns for the proposed use of Burton, and how it will affect the residential area (traffic, noise, etc.).

Commissioner Comments:

- More flexibility for allowed uses in the E-LM is needed to promote growth, perhaps look at the definition of manufacturing, percent for manufacturing as a limiting factor.
- Need to treat issues of manufacturing and allowing performing arts venues separately, and look at what are the impacts on the district and the neighborhood. Important to allow the district to evolve, but not become another downtown.
- Making existing uses non-conforming is a problem. Amendment should do no harm.
- Suggestion that Burton have neighborhood meetings and outreach to address the concerns from the homeowners and community members.
- Continue discussing at Jan 29 meeting after more staff work on this amendment.

V. Proposed CDO Amendment ZA-19-04: Trees, Junkyards, Cross Reference

Action: Approve the Municipal Bylaw Amendment Report and warn for public hearing		
Motion by: H Roen	Second by: A Friend	Vote: Approved Unanimously
Type: Discussion		Presented by: M Tuttle, S Gustin
Discussion/Notes: • The purpose of this amendment is to make a number of technical corrections to the Burlington Comprehensive Development Ordinance related to tree removal standards, Junkyards and Automobile/Vehicle Salvage Yards, and a cross reference to Article 5. • The standards are not being changes, the amendment is only clarifying the standards and cross references.		

VI. Proposed CDO Amendment ZA-19-08: Dwelling Unit

Action: No Action Taken		
Motion by:	Second by:	Vote:
Type: Discussion	Presented by: S Gustin, K Sturtevant	

Discussion/Notes:

- This amendment is proposed to clarify the term “dwelling unit”.
- Presently the term “dwelling unit” includes reference to family; however, dwelling units are allowed in most of the city’s zoning districts, but family occupancy limitations pertain only to the residential zones. By removing the reference to “family” in the definition of “dwelling unit”, we clearly define its residential purpose, and the occupancy limitations for the residential zones remain intact.
- Commissioners asked questions about whether there are unintended impacts of removing the reference to family in the definition in terms of the residential occupancy limitations.
- A Commissioner asked a question about the intended applicability of the residential occupancy limitations in various zoning districts. It was clarified that it was residential zones only, as the standards appear within the residential standards of the ordinance and because the amendment was expanded to apply in RH in addition to RL and RM.
- The Commission agreed that any discussion expanding the applicability of the occupancy limits is a separate question that should be taken up as a separate matter.
- Agree to continue discussion at the next meeting.

VII. Committee Reports

Executive	No Report
Ordinance	Next Meeting, February 7, 2019
Long Range	No Report

VIII. Commissioner Items

Next Meeting	Joint meeting with the DRB, DAB, & Conservation Board on January 15, 2019 @ 5:00pm in Contois Auditorium, City Hall
Chair Report	The draft planBTV was presented to City Council on Monday, January 7. They will hold their first public hearing in February, and the second in March.
Director Report	Appointed as the interim CEDO Director, as well as continuing position as Planning & Zoning Director. Will continue to work on projects for both departments.
B Baker	Encourages commissioners to read through the Inclusionary Zoning Working Group Report included in the agenda packets. The committee looked at it in great detail and was well done.

IX. Minutes & Communications

Action: Approve Minutes & Accept Communications		
Motion by: A Friend	Second by: Y Bradley	Vote: Approved Unanimously
Changes to Minutes: N/A		
Communications Filed: • Burton’s comments to the proposed CDO Amendment ZA-19-07 Commercial Uses in the E-LM • Inclusionary Zoning Joint Committee Resolution, Recommendations, Presentation, and Final Report • Email communications regarding the proposed CDO Amendment ZA-19-07 • Burlington Business Association comments on the proposed CDO Amendment ZA-19-07		

X. Adjourn

Adjournment	Time: 8:15pm	
Motion: J Wallace-Brodeur	Second: H Roen	Vote: Approved Unanimously



Signed: January 30, 2019

Andy Montroll, Chair



Shaleigh Draper, Planning and Zoning Clerk