

Burlington Planning Commission

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Burlington Planning Commission

REGULAR MEETING

Tuesday, October 28, 2014 - 6:30 P.M.

Conference Room #12, Ground Floor, City Hall, 149 Church Street

AGENDA

Note: times given are approximate unless otherwise noted.

I. Agenda

II. Public Forum - Time Certain: 6:35 pm

The Public Forum is an opportunity for any member of the public to address the Commission on any relevant issue.

III. Proposed Zoning Amendment (45 min)

The Commission will consider the following proposed amendment to the Comprehensive Development Ordinance:

- Subdivision and Conditional Use Review Changes

IV. Downtown Form-Based Code Review Process Discussion (15 min)

The Commission will discuss the review process for proposed downtown form-based code with regards to the resolution passed by City Council on Monday, October 20, 2014.

V. Committee Reports (5 min)

VI. Commissioner Items (5 min)

VII. Minutes/Communications (2 min)

The Commission will review communications and approved minutes from the September 23 and October 14, 2014 meetings.

VIII. Adjourn (8:00 p .m.)

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Burlington Comprehensive Development Ordinance

PROPOSED: ZA-15-1 – Conditional Use Review

As recommended by the Planning Commission Ordinance Committee on July 10, 2014

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

Purpose: The purpose of this amendment is to eliminate redundant and unnecessary steps, costs and complexity to the development review process by:

- disconnecting Conditional Use Review from development that does not actually involve an identified conditional use (Sec. 3.5.2 (a) and Sec. 3.5.3);
- revising the Conditional Use Review criteria to focus more specifically on the aspects of the development that may actually be effected by a proposed conditional use (Sec. 3.5.6 (a) and (b)); and,
- clarifying the scope of conditions that may be imposed under Conditional Use Review and Major Impact Review (Sec. 3.5.6 (c)).

ARTICLE 3. APPLICATIONS, PERMITS AND PROJECT REVIEWS

PART 5. CONDITIONAL USE AND MAJOR IMPACT REVIEW

Sec. 3.5.1 Purpose

These conditional use regulations are enacted to provide for a more detailed consideration of development proposals which may present a greater impact on the community

Additionally, it is the intent of these regulations through the creation of a major impact review:

- (a) To ensure that projects of major significance or impact receive a comprehensive review under established criteria; and,
- (b) To ensure that the city's natural, physical and fiscal resources and city services and infrastructure are adequate to accommodate the impact of such developments, both individually and cumulatively.

Sec. 3.5.2 Applicability

(a) Conditional Use Review:

Conditional Use Review shall be required for the approval of all development subject to the following provisions of this ordinance:

1. any use identified under **Article 4** and **Appendix A – Use Table** as a “Conditional Use” or “CU;”

2. any Special Use specifically identified as being subject to conditional use review under **Article 5, Part 3**;
- ~~3. any application subject to Article 9 — Inclusionary and Replacement Housing;~~
- ~~4. all applications for an Institutional Parking Management Plan pursuant to the provision of Article 8, Part 3;~~
- ~~5. all applications subject to Article 10 — Subdivision; and;~~
- ~~6. all applications subject to Article 11 — Planned Development.~~

Comment [DEW1]: IZ housing in and of itself does not constitute a conditional use. Addressed in unit trigger below as applicable for major impact.

Comment [DEW2]: Subdivision of land in and of itself does not constitute a conditional use. Addressed in lot trigger below as applicable for major impact.

Comment [DEW3]: PUD's in and of themselves do not constitute a conditional use. Addressed in unit and lot trigger below as applicable for major impact.

(b) Major Impact Review:

Unchanged

Sec. 3.5.3 Exemptions

Conditional Use and Major Impact Review shall not apply to applications involving one or more of the following:

~~(a) Single family dwellings;~~

~~(b)(a)~~ Temporary structures that do not otherwise involve a conditional use;

~~(c)(b)~~ Substantial rehabilitation that does not expand the floor area of an existing building or the structural capacity of existing development;

~~(d)(c)~~ Projects that do not result in a change of use or increased parking demand ~~as determined by the administrative officer~~; and,

~~(e)(d)~~ Subsurface site improvements including but not limited to underground utility lines and subsurface drainage ways.

Sec. 3.5.4 and Sec. 3.5.5

Unchanged

Sec. 3.5.6 Review Criteria

The application and supporting documentation submitted for proposed development involving Conditional Use and/or Major Impact Review, including the plans contained therein, shall indicate how the proposed use and associated development will comply with the review criteria specified below:

(a) Conditional Use Review Standards:

Approval shall be granted only if the DRB, after public notice and public hearing, determines that the proposed conditional use and associated development shall not result in an undue adverse effect on each of the following general standards:

1. Based on the scale and characteristics of the proposed use and its development, the proposal is consistent with the purpose and intent of the zoning district and specifically stated policies and standards of the municipal development plan;

- ~~2. The proposed use will not have nuisance impacts from noise, odor, dust, heat, and vibrations greater than typically generated by other permitted uses allowed by right in the same zoning district;~~
- ~~3. The transportation system is capable of supporting the proposed use in addition to the existing uses in the area. Evaluation factors include street designations and capacity; level of service and other performance measures; access to arterial roadways; connectivity; transit availability; parking and access; impacts on pedestrian, bicycle and transit circulation; safety for all modes; and adequate transportation demand management strategies; and,~~
- ~~4. The capacity of existing or planned public community utilities, facilities or services are capable of supporting the proposed use in addition to the existing uses in the area.;~~
- ~~2. The character of the area affected as defined by the purpose or purposes of the zoning district(s) within which the project is located, and specifically stated policies and standards of the municipal development plan;~~
- ~~3. Traffic on roads and highways in the vicinity evaluated in terms of increased demand for parking, travel during peak commuter hours, safety, contributing to congestion, as opposed to complementing the flow of traffic and/or parking needs; if not in a commercial district, the impact of customer traffic and deliveries must be evaluated;~~
- ~~4. Any standards or factors set forth in existing City bylaws and city and state ordinances;~~
- ~~5. The utilization of renewable energy resources; and,~~

~~In addition to the General Standards specified above, the DRB;~~

- ~~1. shall consider the cumulative impact of the proposed use. For purposes of residential construction, if an area is zoned for housing and a lot can accommodate the density, the cumulative impact of housing shall be considered negligible;~~
- ~~2. in considering a request relating to a greater number of unrelated individuals residing in a dwelling unit within the RL, RL-W, RM and RM-W districts than is allowed as a permitted use, in addition to the criteria set forth in Subsection (a) hereof, no conditional use permit may be granted unless all facilities within the dwelling unit, including bathroom and kitchen facilities are accessible to the occupants without passing through any bedroom. Additionally, each room proposed to be occupied as a bedroom must contain at least one hundred twenty (120) square feet. There must also be a parking area located on the premises at a location other than the front yard containing a minimum of one hundred eighty (180) square feet for each proposed adult of the dwelling unit in excess of the number of occupants allowed as a permitted use. All other green space standards must be observed.~~

Comment [DEW4]: this does not belong here. moved to Sec 4.4.5 (d)5C

- ~~3. may control the location and number of vehicular access points to the property, including the erection of parking barriers.~~
- ~~4. may limit the number, location and size of signs.~~
- ~~5. may require suitable mitigation measures, including landscaping, where necessary to reduce noise and glare and to maintain the property in a character in keeping with the surrounding area.~~
- ~~6. may specify a time limit for construction, alteration or enlargement of a structure to house a conditional use.~~
- ~~7. may specify hours of operation and/or construction to reduce the impact on surrounding properties.~~
- ~~8. may require that any future enlargement or alteration of the use return for review to the DRB to permit the specifying of new conditions.~~
- ~~9. may consider performance standards, should the proposed use merit such review.~~
- ~~10. may attach such additional reasonable conditions and safeguards, as it may deem necessary to implement the purposes of this chapter and the zoning regulations.~~

Comment [DEW5]: a sign issue – doesn't belong here

(b) Major Impact Review Standards:

Before a major impact development may receive approval, the DRB must be satisfied, based on documentation provided by appropriate city agencies, experts, interested parties and/or the applicant that the proposed development, ~~in addition to meeting the review standards for conditional use review above~~, shall:

1. Not result in undue water, air or noise pollution;
2. Have sufficient water available for its needs;
3. Not unreasonably burden the city's present or future water supply or distribution system;
4. Not cause unreasonable soil erosion or reduction in the capacity of the land to hold water so that a dangerous or unhealthy condition may result;
5. Not cause unreasonable congestion or unsafe conditions on highways, streets, waterways, railways, bikeways, pedestrian pathways or other means of transportation, existing or proposed;
6. Not cause an unreasonable burden on the city's ability to provide educational services;
7. Not place an unreasonable burden on the city's ability to provide municipal services;
8. Not have an undue adverse effect on rare, irreplaceable or significant natural areas, historic or archaeological sites, nor on the scenic or natural beauty of the area or any part of the city;
9. Not have an undue adverse effect on the city's present or future growth patterns nor on the city's fiscal ability to accommodate such growth, nor on the city's investment in public services and facilities;

10. Be in substantial conformance with the city's municipal development plan and all incorporated plans;
11. Not have an undue adverse impact on the present or projected housing needs of the city in terms of amount, type, affordability and location; and/or
12. Not have an undue adverse impact on the present or projected park and recreation needs of the city.

(c) Conditions of Approval:

Comment [DEW6]: not review standards so moved to their own section

In addition to imposing conditions of approval necessary to satisfy the General Standards specified in (a) or (b) above, the DRB may also impose additional conditions of approval relative to any of the following:

1. mitigation measures, including but not limited to screening, landscaping, where necessary to reduce noise and glare and to maintain the property in a character in keeping with the surrounding area.
2. time limits for construction.
3. hours of operation and/or construction to reduce the impact on surrounding properties.
4. that any future enlargement or alteration of the use return for review to the DRB to permit the specifying of new conditions; and,
5. such additional reasonable performance standards, conditions and safeguards, as it may deem necessary to implement the purposes of this chapter and the zoning regulations.

Sec. 4.4.5 Residential Districts

(d) District Specific Regulations:

5. Residential Density
- C. Residential Occupancy Limits.

In all residential districts, the occupancy of any dwelling unit is limited to members of a family as defined in **Article 13**. Notwithstanding the following, the minimum square footage requirements shall be reduced by ten (10%) percent in situations where the residential premises are owner occupied.

Subject to Conditional Use approval by the DRB, a dwelling unit may be occupied by more than four (4) unrelated adults if it contains at least twenty-five hundred (2,500) square feet excluding its attic and basement pursuant to the following:

- (i) If in a RL district, the dwelling unit also contains at least an additional two hundred fifty (250) square feet and one (1) additional parking space per

adult occupant in excess of four (4); or,

- (ii) If in a RM district, the dwelling unit also contains at least an additional two hundred (200) square feet and one (1) additional parking space per adult occupant in excess of four (4).
- (iii) If in a RH district, the dwelling unit also contains at least an additional 150 square feet and 1 additional parking space per adult occupant in excess of four (4).

In considering a request relating to permitting a greater number of unrelated individuals residing in a dwelling unit within a residential zoning district, no conditional use permit may be granted unless all facilities within the dwelling unit, including bathroom and kitchen facilities are accessible to the occupants without passing through any bedroom. Each room proposed to be occupied as a bedroom must contain at least one hundred twenty (120) square feet.

Comment [DEW7]: relocated from conditional use section.

PROPOSED: ZA-15-01 Conditional Use Review
Part 2 Housing

Purpose: The purpose of this amendment is to eliminate redundant and unnecessary steps, costs and complexity to the development review process by:

- removing the requirement that inclusionary housing can only be applicable for subdivisions and PUD per recent statutory amendment (Sec. 9.1.5 and 9.1.12);
- removing the requirement for Conditional Use approval by DRB for any project involving Inclusionary Housing (Sec. 9.1.8 and 9.1.12); and,
- removes the requirement for Conditional Use approval by DRB for any project involving Replacement Housing (Sec. 9.2.3, 9.2.5, 9.2.9 and 9.2.10).

ARTICLE 9. INCLUSIONARY AND REPLACEMENT HOUSING
PART 1: INCLUSIONARY ZONING

Sec. 9.1.1- Sec. 9.1.4

Unchanged

Sec. 9.1.5 Applicability

This ordinance provision applies to ~~all subdivisions and planned unit development (PUD) pursuant to Articles 10 and 11 respectively. Any development of five or more residential units in a single structure shall be considered "minor" planned unit developments and~~ 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

Unchanged

Sec. 9.1.7 Certificate of Inclusionary Housing Compliance

Unchanged

~~Sec. 9.1.8 Conditional Use Approval~~

~~A covered project, except subdivisions approved by the DRB pursuant to the provisions of the Article 10, must first receive approval of such board under conditional use criteria pursuant to the requirements of Article 3, Part 5.~~

~~Sec. 9.1.9-8 – Sec. 9.1.1211~~

Unchanged – re-numbered only.

~~Sec. 9.1.13-12 Additional Density and Other Development Allowances~~

All covered projects, ~~except as outlined under (b) below,~~ 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 9.1.13-1 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, BST	n/a	n/a	0.5FAR+10' height set back 10' along street facade

Table 9.1.13-2 Lot Coverage Allowance Table		
Zoning District	Additional Allowance	Maximum Lot Coverage
RH, NMU, NAC, NAC-R	15%	92%
RM-W	20%	72%
RM	20%	48%
RL, RL-W	25%	44%

~~(b)~~ Major and Minor PUD shall be treated as follows:

- ~~1. "Minor" PUD shall be exempt from the standards of Article 11, but shall be subject to the requirements of this article and all development standards as otherwise required by this ordinance.~~
- ~~2. "Major" PUD as described in Sec. 11.1.3, shall be subject to the provisions of this Article and Article 11, Planned Unit Development. No additional allowances under the provisions of this article shall be permitted for the construction of the required inclusionary units. Inclusionary units in any major PUD shall be provided in accordance with Table 9 A.~~

~~(e)~~(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.

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

~~(e)~~(d) With the approval of the DRB, ~~applying conditional use criteria,~~ 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

~~(f)~~(e) All provisions of Sec. 9.1.9-8 through 9.1.12-11 shall apply, without exception, to any inclusionary units that are constructed.

Sec. 9.1.1413 Off-Site Option

Unchanged – re-numbered only.

Sec. 9.1.1514 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 (see [Sec 9.1.1615\(e\)](#)); and
- (f) The final calculations for the number of inclusionary units shall be determined by the ~~Manager DRB~~ 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. 9.1.1615 - Sec. 9.1.17-16

Unchanged – re-numbered only.

Sec. 9.1.18-17 DRB 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 ~~DRB~~ 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 ~~to the DRB~~ 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.

Comment [DEW1]: DRB review may not always be required – depends on other aspects of the proposed development

Sec. 9.1.1918 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 ~~by the DRB~~ in **Sec. 9.1.1817**.

Sec. 9.1.2019 - Sec. 9.1.2120

Unchanged – re-numbered only.

PART 2: HOUSING PRESERVATION AND REPLACEMENT/DEMOLITION AND CONVERSION

Sec. 9.2.1 – Sec. 9.2.2

Unchanged

Sec. 9.2.3 ~~Conditional Use 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 ~~first obtain conditional use approval from the development review board~~ pursuant to ~~the all applicable~~ provisions of ~~Article 3, Part 5~~ 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

Unchanged

Sec. 9.2.5 Housing Replacement Requirement

In addition to all other applicable requirements ~~for a conditional use of this Ordinance, the DRB shall require, as a condition of approval, that~~ an owner shall replace any housing units that are demolished or converted to a nonresidential use.

~~An owner shall meet the replacement requirement by creating new housing units pursuant to a plan approved by the DRB. The plan shall be in accordance with the provisions of this Article.~~ 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, ~~subject to approval by the DRB~~.

Sec. 9.2.6 – Sec. 9.2.8

Unchanged

Sec. 9.2.9 Relief

Any owner who has applied for ~~conditional use~~ 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, ~~except for **Section 9.2.4** pertaining to conditional use approval,~~ shall not be applicable to:

- (a) – (d) *Unchanged*

PROPOSED: ZA-15-01 Conditional Use Review
Part 3 Planned Development

Purpose: The purpose of this amendment is to eliminate redundant and unnecessary steps, costs and complexity to the development review process by:

- removing the requirement that inclusionary housing can only be applicable for subdivisions and PUD per recent statutory amendment and the necessity of having Major and Minor PUD's (Sec. 11.1.3);
- disconnecting PUD's from Subdivision review in cases where no actual subdivision of land is being proposed (Sec. 11.1.3); and,
- clarifies the scope of flexibility for development standards afforded by the PUD Review process (Sec. 11.1.4, 11.1.5 and 11.1.6).

ARTICLE 11. PLANNED DEVELOPMENT
PART 1. – PLANNED UNIT DEVELOPMENT

Sec. 11.1.1 – Sec. 11.1.2

Unchanged

~~**Sec. 11.1.3 – Major and Minor Planned Unit Development**~~

~~A minor Planned Unit Development shall include any development consisting of:~~

~~5 or more units in a single structure, prompting the requirements of **Article 9** Inclusionary and Replacement Housing.~~

~~redevelopment of existing carriage houses and other out buildings meeting density of the underlying zoning district;~~

~~development of accessory units in a detached structure.~~

~~Minor PUD's shall be exempt from the requirements and standards of this article, but shall be subject to the development standards as otherwise required by this ordinance.~~

~~All other development consisting of one or more lots, tracts or parcels of land to be developed as a single entity subject to the provisions of **Sec. 11.1.4** below shall be considered a major PUD and shall be subject to the review processes and requirements as defined under this Article.~~

Sec. 11.1.43 – General Requirements and Applicability.

Any development involving multiple lots, tracts or parcels of land to be developed as a single entity, or seeking to place multiple structures and/or uses on a single lot where not otherwise permitted, may be permitted as a PUD subject to the provisions of this Article.

(a) ~~redevelopment of carriage houses and other accessory buildings existing as of January 1, 2007 for a residential use;~~

Comment [DEW1]: Moved to Sec 4.4.5

A planned unit development may be permitted subject to ~~the provisions of this Article~~ minimum project size as follows in the following districts:

Districts	Minimum Lot -Project Size
RH, RM, RM-W, Downtown and Neighborhood Mixed Use, Institutional ¹	No minimum lot -project size.
RL, RL-W ² , RCO-R/G ¹	2 acres or more

Comment [DEW2]: Confusing – Really a minimum "project" size as it refers to the minimum size of the property (or combination of properties) to be developed as a PUD

~~1. Subject to Conditional Use Review pursuant to Art 3, Part 5.~~

~~2.1. The two acre minimum may be waived by the DRB for the conversion of an accessory structure existing as of January 1, 2007 to a residential use.~~

Comment [DEW3]: This is redundant to what's allowed as a minor PUD

~~Planned unit developments are not authorized for non residential uses except as provided for under Sec. 11.1.7. A planned unit development must receive a certificate of appropriateness under the design review provisions of Article 3, Part 4, the development review standards of Article 6, and final subdivision plat approval in accordance with Article 10.~~

Comment [DEW4]: Why not – they are encouraged and allowed to be mixed use.

Comment [DEW5]: Duplicative to the requirements contained in 11.1.6.

Sec.11.1.54 Modification of Regulations.

With the approval of the DRB after a public hearing, ~~and subject to the limitations of Sec. 11.1.6~~, the following modifications of the requirements of the underlying zoning may be altered within a planned unit development:

- ~~• density, frontage, lot coverage, and and setback regulations~~ requirements may be altered for a planned unit development may be met as calculated across the entire project rather than on an individual lot-by-lot basis;
- required setbacks may apply only to the periphery of the project rather than on an individual lot-by-lot basis;
- More more than one principal use and more than one principal structure may be permitted on a single lot; ~~At the discretion of the DRB the and,~~
- dwelling buildings units may be of varied types including single detached, attached, duplex or apartment construction.

-Any proposed modifications of regulations shall be listed in a statement accompanying the plat application submission and such modifications shall be subject to the provisions of Sec. 11.1.65 and Sec. 11.1.67.

Sec. 11.1.56 Approval Requirements.

The following requirements shall be met for the DRB to approve a planned unit development:

- ~~(a) Lot coverage requirements of the district shall be met;~~
- ~~(b) The minimum setbacks required for the district shall apply to the periphery of the project;~~
- ~~(c)(a)~~ The minimum ~~parcel~~ project size requirements of Sec 11.1.3 shall be met ~~if the project is located in a RL or RL-W districts;~~
- ~~(d)(b)~~ The project shall be subject to design review and site plan review of ~~Article 3, Part 4~~ and the standards of Art. 6;
- ~~(e)(c)~~ The project shall meet the requirements of ~~Article 10~~ for subdivision review ~~where applicable;~~
- ~~(f)(d)~~ ~~The minimum setbacks required for the district shall apply to~~ have been met at the periphery of the project;
- ~~(e) density, frontage, and lot coverage requirements of the underlying zoning district have been met as calculated across the entire project;~~
- ~~(f) All other dimensional, density, and use requirements of the underlying zoning district shall have been~~ be met as calculated across the entire project;
- ~~(g) Any proposed accessory uses and facilities shall meet the requirements of Sec. 11.1.6 below;~~
- (h) – (k) *Unchanged*

Comment [DEW6]: Is a reference to Sec. 11.1.4 above - the minimum "project" size, not the size of individual parcels being created.

Sec. 11.1.76 Accessory Facilities.

- (a) A planned unit development may contain a building or buildings intended for non-residential uses such as but not limited to ~~as~~ a community center, recreation facility, child care center and/or business office if the DRB determines that such use or uses are compatible with the intended principle residential use and will not contribute to parking problems on site or in the surrounding area.

(b) *Unchanged*

Resolution Relating to

RESOLUTION _____

Sponsor(s): Councilors Paul, Blais, Tracy, Ayres, Shannon, Mason, Hartnett, Legrand, Brennan, Bushor
Introduced: _____
Referred to: _____
Action: _____
Date: _____
Signed by Mayor: _____

PURPOSE AND INTENT OF BURLINGTON FORM-BASED CODE AS A PORTION OF THE *BURLINGTON COMPREHENSIVE DEVELOPMENT ORDINANCE (CDO)* TO IMPLEMENT THE COMMUNITY VISION ESTABLISHED BY THE *PLANBTV: DOWNTOWN MASTER PLAN*

CITY OF BURLINGTON

In the year Two Thousand Fourteen

Resolved by the City Council of the City of Burlington, as follows:

1 That WHEREAS, the City of Burlington completed the development of *planBTV-Downtown & Waterfront*
2 *Master Plan* which is the result of a two-year, collaborative effort and an inclusive community engagement
3 process involving thousands of residents, businesses, and organizations who participated in over 50 public
4 meetings and workshops; and

5 WHEREAS, the themes that emerged during the *planBTV* planning process reflect our common desire
6 to have a walkable, connected, dense, compact, mixed use and diverse urban center that allows us to have a
7 balance of residential, commercial, recreational, civic, hospitality, entertainment and social services that are all
8 necessary to sustain our downtown's economic vitality, and the resulting plan emphasized that it is the
9 underutilized sites that represent the greatest unmet potential for this future mixed use and residential
10 development; and

11 WHEREAS, on June 10, 2013, with unanimous co-sponsorship of the Burlington City Council, the
12 Council enthusiastically and unanimously adopted the *planBTV-Downtown & Waterfront Master Plan*,
13 making it part of the *Burlington Municipal Development Plan* and requested that “all efforts be made by city
14 departments, as well as boards and commissions, to implement the ideas presented in *planBTV-Downtown &*
15 *Waterfront Plan;*” and

16 WHEREAS, in order to continue to build that vibrant economy, one of the principle recommendations
17 of the *planBTV-Downtown & Waterfront Plan* was "to facilitate infill, allow for a more diverse range of unit
18 and building types, and (to) simplify the public approvals process by creating a form-based zoning code for
19 the downtown and waterfront area;” and

20 WHEREAS, over the fifteen months since the adoption of *planBTV*, significant and material efforts
21 have been made by City Departments, the Planning Commission, and this Council toward the implementation
22 of the Plan’s many recommendations, including the careful drafting of a new form-based zoning code with the
23 help of a national consultant; and

Resolution Relating to

PURPOSE AND INTENT OF BURLINGTON FORM-BASED CODE AS A PORTION OF THE *BURLINGTON COMPREHENSIVE DEVELOPMENT ORDINANCE* (CDO) TO IMPLEMENT THE COMMUNITY VISION ESTABLISHED BY THE *PLANBTV: DOWNTOWN AND WATERFRONT MASTER PLAN*

24 WHEREAS, according to the Form Based Codes Institute, a form-based code is a type of land
25 development regulation that fosters more predictably built results and a high-quality public realm by using
26 physical form (rather than a separation of land uses) as its organizing principle; it addresses the relationship
27 between building facades and the public realm, the form and mass of buildings in relation to one another, and
28 the scale and types of streets and blocks; and, is keyed to a regulating plan that designates the appropriate
29 locations for varying forms and scales of future development, rather than predominantly designating
30 distinctions between land-use types; and

31 WHEREAS, in Burlington a new form based code will be initially limited in application to the City's
32 Downtown and Waterfront area, and will pay particular attention to the intended form and character of place
33 to ensure that new development makes a positive contribution to the urban environment, and will secondarily
34 regulate land uses that are carefully chosen to maximize compatibility between uses and the intended physical
35 form; and

36 WHEREAS, as currently drafted, the Purpose Statement of the Burlington Form-Based Code reads as
37 follows:

38 The Burlington Form-Based Code is adopted as a portion of the *Burlington Comprehensive*
39 *Development Ordinance* (CDO) to implement the community vision established by
40 the *planBTV: Downtown and Waterfront Master Plan* for the purpose of:

- 41 · encouraging and facilitating new infill and adaptive reuse that enhances Burlington's role
42 as a dynamic and vibrant regional economic center; reflects the diversity of scale and form
43 that permeates the downtown; adds visual interest and complexity to the urban
44 environment; and creates new opportunities for people to live, work, and play;
- 45 · emphasizing active uses at the street level to support the creation of a dynamic, engaging
46 and pedestrian-oriented streetscape;
- 47 · facilitate the building of a greater choice of housing opportunities by allowing for a more
48 diverse range of unit and building types to support job creation, sustain retail and
49 entertainment, and reduce driving, traffic congestion and parking demand;
- 50 · respecting historical development patterns and architecture; protecting valuable natural,
51 historic, and recreational resources; developing lively cultural events, resources and
52 activities; and putting the needs of City residents above the desires of visitors; and
- 53 · enlivening the waterfront year-round with a mix of uses, activities, attractions and amenities
54 for all;

55
56 NOW, THEREFORE, BE IT RESOLVED that the Burlington City Council hereby supports and
57 endorses this overall purpose of the proposed form-based code to promote and advance new infill

Resolution Relating to

PURPOSE AND INTENT OF BURLINGTON FORM-BASED CODE AS A PORTION OF THE *BURLINGTON COMPREHENSIVE DEVELOPMENT ORDINANCE* (CDO) TO IMPLEMENT THE COMMUNITY VISION ESTABLISHED BY THE *PLANBTV: DOWNTOWN AND WATERFRONT MASTER PLAN*

58 development and adaptive re-use in the Downtown and Waterfront areas that reflects Burlington’s character
59 and sense of place while taking advantage of limited opportunities for new development at modestly larger
60 scales and densities where appropriate; and

61 BE IT FURTHER RESOLVED that the City Council recognizes and endorses the proposed form-
62 based code as a significant step forward in advancing shared goals for reforming and modernizing
63 Burlington’s permitting process with a regulatory tool that combines clear and objective regulatory standards
64 with a timely and predictable review process; and

65 BE IT FURTHER RESOLVED that the City Council endeavors to closely collaborate with the
66 Planning Commission to ensure a smooth and efficient review and adoption, placing it among our highest
67 priorities for completion in the current term; and

68 BE IT FURTHER RESOLVED that the City Council President will appoint 3 members of the Council
69 to be joined by 3 members of the Planning Commission appointed by the Commission Chair to form a Joint
70 Committee to inform and engage the public; to review and revise as necessary the proposed Downtown and
71 Waterfront Form-Based Code; and to bring a final joint recommendation to both bodies for formal adoption no
72 later than 1 April 2015; and

73 BE IT FURTHER RESOLVED that the City Council requests that the Administration, City
74 departments and involved boards and commissions continue to keep the Council apprised of the development
75 of this Code with regular updates, allowing for an open and collaborative process on a project that affects all
76 Burlingtonians and our future as a City.

77

78

79 lb/KJS/Resolutions 2014/P & Z – Form-Based Code as part of the Comprehensive Development Ordinance re PlanBTV Downtown & Waterfront
80 Master Plan

81 10/15/14

Burlington Planning Commission

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Bruce Baker, Vice-Chair
Andrew Saba
Lee Buffinton
Harris Roen
Andy Montroll
Jennifer Wallace-Brodeur
Vacant, Youth Member*



Burlington Planning Commission Minutes

Tuesday, September 23, 2014 - 6:35 pm

PC Present: L. Buffinton, H. Roen, J. Wallace-Brodeur, Y. Bradley, A. Montroll

Absent: B. Baker, E. Lee

Staff: D. White, E. Tillotson, K Sturtevant

I. Agenda

No changes.

II. Public Forum

N. Hoover: Working as an intern with Champlain Housing Trust and Local Motion, interested in the planning commission in playing a role and could be available about 10 hours a month.

III. Report of the Chair

The Chair presented the following:

- There wasn't a quorum at the last meeting. Please if you know you are not going to make it, let everyone know in advance and we ought to cancel the meeting if we have no quorum.

A. Montroll – If there is not a quorum for a meeting, should we cancel the meeting or keep it on the schedule?

Y. Bradley - Still thinks we shouldn't meet, because discussions will need to happen again anyway.

IV. Report of the Director

The Director presented the following:

- The permitting folks in the department have been very busy.
- S. Thibault gave an update on planBTV South End. The Active Living Workshop starts this Thursday night and continues through Saturday morning. The Consultant team has been hired with Goody Clancy leading the charge. Staff is working with them in developing the public engagement plan and finalizing details on their scope of work.
- Budget for next year FY2016 – looking at 3 years out not just one year. What priorities are as a group with other departments?
- Resolution around permit reform last night at Council – not much conversation with department and Mayor's office so the issue and discussion was more tense than needed to be. Request to the administration to give a report on what has happened in the past few years to improve the process.

V. Parking Studies Update

N. Wildfire – Gave an update on Downtown Parking Management Study, On-Street Residential Parking Program. CEDO cares about parking because that is the second most important issue that the business or organizations mentioned as most challenging to deal with and reducing their success. Goal is to improve the customer experience for parking in the downtown.

As approved by the Burlington Planning Commission on.

Issues

1. Need to carry change in the car, which is a problem.
2. Cannot find space because they don't know where they are.
3. No technology to find or pay using credit card or cell phones.

Held a "Parking Summit" last year and then went to council with resolution giving guidance to staff to prepare the studies. Parking convening was also great with 9 other city parking experts.

C. Spencer gave an update on the three studies.

Three Studies

Residential Parking Program is looking at an overall of the program completely. Consultants are doing parking counts and assessment in three areas right now and the study will be done in April.

Downtown Parking Management – Desman Associates are the consultants and they are doing data collection now. This study should be finished by March 2015. Following that study will come Phase 2 of parking improvements. The consultants are also looking at parking minimums in the downtown and will provide the City with a recommendation.

Transportation Demand Management – How to expand CATMA's programs downtown? City employees are the focus for now but the study will also look at expanding to other businesses in the downtown.

J. Wallace-Brodeur – Will you push the meters back from the curb?

C. Spencer – Not right not but will look at that with street design guidelines later on as we redo streets.

H. Roen – I assume there will be signage to let people know where the available parking is located.

C. Spencer – The wayfinding system will be built very soon with electronic smart signs at parking garages to help direct people when parking is full.

N. Wildfire – Fortunate to get a second grant to send cities back to Burlington to look at public/private partnerships to manage parking. Develop different model agreements for sharing of parking.

J. Wallace-Brodeur - Who do you envision taking the lead for parking in the future?

N. Wildfire – The consultants will bring recommendations forward. Parking management district often managed by a Business Improvement District, or parking authority that could grow out of Public Works Department OR private vendor.

J. Wallace-Brodeur – The entity should benefit from the management of the parking to always want to improve the system. How do you envision working with us?

N. Wildfire – We can come back as often as you want to present. We work closely with P&Z staff. We'll provide you with the data to back up your proposed changes to the zoning regulations.

D. White – Commission has come out of the box with proposed changes. Policy will be part of the system that we move forward.

B. Baker – In the zoning we look at parking on a lot by lot basis which doesn't work in the downtown. And it doesn't allow sharing of the resources.

VI. Proposed Zoning Amendments

ZA-15-01 Garage Size and Orientation

On a motion by A. Montroll, seconded by B. Baker, the Commission unanimously warns ZA-15-01 for public hearing on October 28, 2014.

As approved by the Burlington Planning Commission on.

Inclusionary Zoning for Institutional Zoning Districts

D. White – Language exemption for inclusionary housing for institution managed housing outside of the institutional zoning districts. If housing changes back to market housing they would have to come back and meet the inclusionary housing requirements.

A. Montroll – His concern is the focus on exclusively student housing usage. What if they want to open it up to others in the community?

B. Pine – This is not housing available to the community. It is financed as such as well. The institutions will work together to fill the beds in those developments.

A. Montroll – The other situation where this could be an issue, would be if a student lives with their family. Or what if professors would live in with students?

E. Lee – Not sure why the institutions should be getting around the inclusionary housing requirements. Why would they get the exemption and not others?

A. Montroll – By allowing this exemption it takes tremendous pressure off other housing for other people in the community.

B. Baker – Inclusionary housing ordinance, to do an overall review would take years to work on. This opens up more opportunity for institutions to build more housing which we need.

B. Pine – This exemption is brought forward because calculating how students might qualify for inclusionary housing is very difficult because of how students pay for their housing through their tuition.

E. Lee – Why aren't we calling these dorms and allowing them off campus instead? Should we add language to regulate and mandate non-students to live there to deal with behavior issues?

A. Montroll – Those issues are not zoning related but zoning should try to address behavior issues.

D. White – Tweak and add "affiliates", keep exclusively.

B. Baker – Always says that the project needs to be exclusively residential. We might want some mixed use.

On a motion by L. Buffinton, seconded by A. Montroll, the Commission unanimously sends this amendment back to staff for modification of the wording.

Parking Spaces Dimensions

D. White – Parking dimensional requirements are larger in Burlington then elsewhere in the County. Study from Calgary Canada where they did a study to understand the actual size needed. We also looked at FBCs elsewhere in the country and they all match with this. This is right-sizing the parking dimensional requirements. Practical impact is that some developers might be able to fit more spaces on their lots and reduces the cost of development by the same token. Examples for Calgary, Cincinnati and Miami are included in the packet.

H. Roen: In general, likes the concept of not basing everything on the larger cars that exist.

D. White – This is just a minimum, they can do bigger spaces too. This is for parking lots and garages only, not for on-street.

J. Wallace-Brodeur – What is the main goal of this?

Y. Bradley - Financially, developers can fit more cars and allows for smaller developments, so reducing costs. Municipalities can gain more revenues as well.

J. Wallace-Brodeur – No harm in setting a smaller minimum then needed.

A. Montroll – This came up at ordinance committee. Makes sense to use a thoughtful process to determine size. If people don't park their cars correctly and take more space could we run into the problem of getting cars stuck in the lane?

As approved by the Burlington Planning Commission on.

L. Buffinton – Better enforcement could take care of the issue mentioned by A. Montroll. She likes the increase allowance for more compact cars.

E. Lee – Supports that for residential uses but not for municipal uses, such as libraries, etc.

H. Roen – His Street is tight and hard to navigate sometimes but acts as traffic calming which is a good thing.

E. Lee – What about making it different for residential versus commercial and public uses?

On a motion by E. Lee, seconded by A. Montroll, the Commission unanimously sends this amendment back to staff for modification to allow small parking space dimensions for residential uses only.

Subdivision and Conditional Use Review

Discussion postponed until next meeting.

VII. Committee Reports

Ordinance Committee – Working on air B&B

Executive Committee – Met last week.

LRPC – Will schedule a meeting to discuss planBTV South End.

VIII. Commissioner Items

L. Buffinton – Request that as a commission we seriously look at lot coverage comprehensively throughout the city, keeping in mind views of the water and environmental perspectives.

IX. Minutes/Communications

On a motion by A. Montroll, seconded by L. Buffinton, the Commission unanimously recommended approval of the minutes of August 12 and accepted the meeting notes from September 9, 2014.

X. Adjourn

On a motion by L. Buffinton, seconded by J. Wallace-Brodeur, the Commission unanimously adjourned at 8:34pm.

Y Bradley, Chair

Date

S. Thibault, recording secretary

As approved by the Burlington Planning Commission on.

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Burlington Planning Commission Minutes

Tuesday, October 14, 2014 - 6:30 P.M.

PC Present: B. Baker, E. Lee, H. Roen, Y. Bradley, A. Montroll

Absent: L. Buffinton, J. Wallace-Brodeur

Staff: D. White

I. Agenda - 6:45 pm

No changes

II. Public Forum

Adam Brooks from SEABA: SEABA is very excited about planBTV: South End and thankful for the opportunities and that their voices will be heard. They are concerned about potential impacts and gentrification, and want to be part of the conversation.

III. Downtown Form-Based Code Review

The Commission began its in-depth review of the proposed downtown form-based code. Staff provided an overview of the proposed organizational framework and table of contents. Staff then explained the proposed Regulating Plan and the Form Districts.

IV. Committee Reports

None

V. Commissioner Items

H. Roen – Has heard very good feedback on the AARP event a couple of weeks ago – it was well run and lots of great input was offered.

VI. Minutes/Communications

None

VII. Adjourn

On a motion by A. Montroll, seconded by E. Lee, the Commission unanimously adjourned at 8:10pm.

Y Bradley, Chair

Date

D. White, recording secretary

As approved by the Burlington Planning Commission on.