

Department of Planning and Zoning

149 Church Street
Burlington, VT 05401
Telephone: (802) 865-7188
(802) 865-7195 (FAX)
(802) 865-7142 (TTY)

www.burlingtonVT.gov/pz

David E. White, AICP, Director
Ken Lerner, Assistant Director
Sandrine Thibault, AICP, Comprehensive Planner
Jay Appleton, Senior IT/GIS Programmer
Scott Gustin, AICP, Senior Planner
Mary O'Neil, AICP, Senior Planner
Nic Anderson, Planning & Zoning Clerk
Elsie Tillotson, Administrative Assistant



MEMORANDUM

TO: Planning Commission
FROM: David E. White, AICP, Director of Planning & Zoning
DATE: Thursday, January 08, 2015
RE: Proposed Zoning Amendments regarding Conditional Use Review, PUD and Subdivision Review

For your consideration you will please find attached a series of proposed amendments to the *Burlington Comprehensive Development Ordinance* coming at the recommendation of the Planning Commission Ordinance Committee. You will recall this proposals were first presented to and discussed by the Planning Commission in February 2014.

This collection of amendments seek to simplify and clarify the otherwise cumbersome, lengthy and complex nature of development review in Burlington. Many of the issues we are seeking to address were raised and discussed during the planBTV planning process as measures we could take to support more infill development across the city. The changes being offered will simplify the process without negatively affecting the scope or quality of the City's review or the public's ability to participate.

Taken together this collection of amendments will eliminate redundant and unnecessary steps, costs and complexity to applicants, the Planning staff and the reviewing boards by:

- Disconnecting Conditional Use Review from development that does not actually involve an identified conditional use.
- Revise 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.
- Clarify the scope of conditions that may be imposed under Conditional Use Review.
- Disconnect Inclusionary Zoning from PUD Review in response to recent statutory changes.
- Disconnect PUD from Subdivision review in cases where no actual subdivision of land is being proposed.
- Clarify the scope of flexibility for development standards afforded by the PUD Review process.

Why?

Historically Burlington's ordinance has used "Conditional Use Review" as a catch-all requirement for any development that may not otherwise appear straightforward – when in doubt, make it subject to conditional use. This approach dates back to before the creation of Design Review where the only opportunity to look closely at the scale and design of a project was to put it through a public hearing and attach specific conditions of approval.

Today however Burlington has a number of sophisticated tools in its ordinance that enable either staff or the DAB and DRB to review and make modifications to the design of a proposed development making conditional use review often unnecessary and redundant in cases that do not include a true "conditional" use. Therefore we are proposing to disconnect conditional use review from PUD's, subdivisions, inclusionary housing projects, parking management plans and other situations unless they actually involve a listed conditional use. In addition we are proposing to revise the conditional use criteria themselves to reflect more objective standards relative to impacts on transportation, community facilities and nuisances, and remove criteria that reflect more subjective design issues that are already considered under the Design Review process.

Additionally, while PUD's may often be associated with the creation of new lots, it isn't always the case. Making a PUD follow the subdivision review process when it doesn't actually involved a change to property boundaries adds a significant time and cost burden on the applicant and staff, and is a significant waste of effort for everyone.

Finally, state enabling legislation was changed in 2014 allowing municipalities to apply inclusionary housing requirements to projects other than only PUD's and subdivisions. This change allows us to remove the "major" and "minor" PUD distinction which was put in place solely to satisfy the previous statutory requirement.

We look forward to discussing these proposals further with you at your next meeting. Thank you.