

TO: Burlington Planning Commission
FROM: Charles Dillard, AICP, Principal Planner
Sarah Morgan, Planner
DATE: July 23, 2024
RE: Proposed ZA-24-04 Neighborhood Code Part 2

Overview & Background

The City Council adopted ZA-24-02 (Neighborhood Code) at its March 25, 2024 meeting. This amendment creates a new framework for the city's residential zoning districts that enables a range of housing types, including single-family, ADUs, duplex through four-unit developments, and townhouses and small multi-unit buildings. These amendments enable greater flexibility for existing homes as well as a range of housing options within neighborhoods, create new zoning standards along transportation corridors identified in *planBTV*, and comply with Act 47 of 2023 of the VT Legislature.

During its discussion of the proposed Neighborhood Code amendments in fall and winter 2023, the Joint Neighborhood Code Committee bifurcated the Code to facilitate discussion of the Code's core concepts while reserving later discussion for a second package of amendments. Part One, those amendments adopted in March, addresses substantive changes to Article 4 and Appendix A, as well as other sections. Those changes evolved the residential zoning district standards, allowable uses, and district boundaries. This amendment, ZA-24-04, addresses the first series of additional amendments to incorporate the Neighborhood Code into other sections of the CDO, as well as to address technical corrections from ZA-24-02.

Neighborhood Code Part 2 Amendments

A number of related standards need to be addressed throughout the CDO. Many of these were originally included in the "Relationship of Core Zoning Recommendations to other Ordinance Details" chart used in Joint Committee discussions, and some have emerged from additional public discussion at the hearings for Part 1 as well as from inquiries following the adoption of the code.

The purpose of Part 2 of the Neighborhood Code is to explore technical details and related standards necessary for implementing neighborhood-scale infill development across Burlington. Unlike Part 1 of the Neighborhood Code, recommendations will come from the Planning Commission as four or more separate amendments, detailed below. Using the general direction from past discussions of the Joint Committee, the Planning Commission, either as a body or through its Ordinance Committee, can review or make recommendations for these related standards within each proposed amendment.

Neighborhood Code Part 2-A: Secondary Structures, Planned Unit Developments, and Technical Corrections

Per the request of the City Council on March 25th, the Commission has discussed considerations related to the allowance of secondary structures in the Residential Districts, including but not limited to the following topics:

- Height of secondary structures relative to primary structures
- The context of secondary buildings in historic districts or on a lot with a listed structure
- The relationship between secondary buildings allowed in the residential standards and citywide provisions for Accessory Dwelling Units (ADUs)
- Considerations for allowing existing non-conforming and non-residential buildings that are encroaching in setbacks to be converted and/or vertically expanded through additional height

This amendment currently includes modifications to the Planned Unit Development (PUD) standards, including consideration of a threshold for lot/project size in the Residential districts, as well as development intensity, permitted uses, and other topics as identified. However, at its July 9 meeting, the Commission discussed deferring action on amendments to PUD standards to the upcoming Neighborhood Code Part 2B amendments. An ultimate decision on this question will be made at the July 23 meeting.

Lastly, this initial amendment will provide clarifications and corrections relevant to the process and implementation of Neighborhood Code Part 1, including:

- Additional miscellaneous definitions to clarify and support consistent implementation of new standards, including what is counted with the maximum "building footprint"
- Consolidation of the applicability of Design Review and the Design Review Overlay zone into one section that provides clearer expectations of what is subject to review
- Possible situations where exceptions to maximum building footprint standards may be considered
- Technical Corrections, including clarifying the Residential Corridor Zone purpose statement to require frontage on a major thoroughfare; updating zoning for Starr Farm Park; internal reference correction

During the course of several meetings, the Commission has discussed the aforementioned proposed Part 2-A topics. Ultimately, the Neighborhood Code Part 2A amendment addresses the standards outlined below and issues while leaving some existing and previously adopted standards unchanged.

Neighborhood Code Part 2-B: Lot Subdivisions

There is a demand to provide housing typologies such as Cottage Courts and townhouses, as well as unique subdivision types that could create land use efficiencies and facilitate infill housing development. This amendment package will focus on the following topics:

- Flag Lot and fee-simple small lot standards, including site and lot dimensions, frontage, and access
- Other standards that allow subdivision to facilitate fee-simple ownership of lots under duplex, townhouse, and cottage court housing types
- Cottage Court standards, including site and lot dimensions, frontage, access, development intensity, open space, and other topics as identified
- Townhouse and fee-simple duplex standards, including site, lot and building dimensions, frontage, access, development intensity and other topics as identified

Neighborhood Code Part 2-C: Residential Corridors and Neighborhood Commercial Uses

The Neighborhood Code initiative focuses on housing standards. However, consistent with *planBTV's* call for appropriate and contextual neighborhood evolution and following requests to expand allowable uses within residential districts, this amendment will explore the following topics related to non-residential uses and the transitions between residential districts and mixed-use development.

- The potential expansion of what factors warrant Residential Corridor zone designation and the identification of other applicable locations for this district
- Consideration of the transition of heights/intensities of development and mixed-use allowances of existing mixed-use districts adjacent to the new Residential Corridor district (i.e. neighborhood mixed-use and neighborhood activity center districts)
- Re-visit use table allowances for residential districts across the city

As noted below under "Other Relevant Topics + Related Planning Projects," the upcoming *planBTV*: New North End will be an opportunity to explore expanded mixed-use and commercial development within New North End neighborhoods. Zoning amendments specific to the New North End should be informed by that planning process, which will commence in fall 2024, with anticipated completion in 2026.

Neighborhood Code Part 2-D: Residential Parking Standards

This amendment will explore parking standards, including potential additional flexibility to allow stacked parking (3+ cars in a row) for residential developments and/or consideration of infill-related parking impacts in neighborhoods with high parking demand. This amendment will also provide an opportunity to implement recommendations following the Citywide Transportation Options Study.

Other Relevant Topics + Related Planning Projects

Throughout the Joint Committee discussions, a number of questions and related issues were raised that are not within the core focus of the Neighborhood Code or relate to issues that staff strongly recommends should be discussed in other plans and studies on the near horizon before the Commission provides recommendations. These upcoming planning projects, anticipated start dates, and requested discussion topics include the following:

- The impact on infill implementation resulting from existing regulations for historic properties (*planBTV*: Historic Preservation Plan, Fall 2024)
- Opportunities for expanded mixed-use and neighborhood commercial development in the New North End, including building scale and land use mix for the topics below (*planBTV*: New North End, fall 2024).
 - Large site redevelopment along the North Avenue Corridor, including the overall scale of development and mix of uses
 - Potential for small mixed-use and/or commercial nodes within neighborhoods and/or within close proximity to the Burlington Greenway
- How to ensure access to greenspace across all of Burlington's neighborhoods, including corridors and greenways that provide connectivity and mobility for both people and wildlife (*Open Space Plan*, Summer 2024)

Finally, some requested discussion topics must be carried out in conjunction with other departments. These topics are broad in scope and involve policies outside of, but adjacent to, the purview of the Planning Commission. In most cases, conversations are already underway with other departments and community stakeholders to strategize how to effectively accomplish these goals.

- Stormwater and wastewater impacts resulting from infill development, including consideration of the need for development review criteria and whether change to Chapter 26 (stormwater) may be needed to address and accelerate residential-scale and neighborhood-green stormwater infrastructure solutions (Note: this must be undertaken in conjunction with DPW-Water division)
- Consideration for whether or not Article 9 Inclusionary Zoning should apply to lots with two structures exceeding 5 units, where the number of units in each building individually would not require IZ (Note: several IZ updates are under consideration currently, and the discussion should include how this question relates to IZ updates)
- Solutions to address implementation feasibility and homeownership opportunities, including:
 - Technical and financial assistance for "small" developers/homeowner developers to help build new homes at this scale
 - Homeownership incentives (funding and other policies not in the purview of zoning) to support first-time homebuyers and owner occupancy of multi-unit infill developments
 - Consider whether building/fire code exceptions/alternative approaches have applicability for implementing middle housing types (i.e. sprinklers, stairs, etc.)
 - Review the role that condo conversion plays in prohibiting homeownership

Proposed Amendment: ZA-24-04

Amendment Type

Text Amendment	Map Amendment	Text & Map Amendment
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Purpose Statement

This amendment augments Neighborhood Code Part 1 by making technical corrections to various standards for Residential Districts, clarifies the relationship between secondary buildings allowed in the residential standards and citywide provisions for secondary structures, streamlines ordinance sections related to Design Review applicability, and addresses standards for Planned Unit Developments and residential development bonuses.

Proposed Amendments

The following amendments to the *Burlington Comprehensive Development Ordinance* are included in this proposal:

1) Amends Article 3 – Application, Permits, and Project Reviews and Article 4 - Zoning Maps and Districts to clarify design review standards and expectations

- Consolidates the applicability of Design Review and the Design Review Overlay zone into one section that provides clearer expectations of what is subject to review. In doing so, the amendment amends Sec. 3.4.2, deletes Sec. 4.5.1 Design Review Overlay District and moves Map 4.5.1-1 Design Review Overlay to become Map 3.4.2-1.

2) Amends Article 4 – Zoning Maps and Districts to make the following technical corrections and clarifications:

- Amends Sec. 4.3.1 to confirm that the Residential Corridor (RC) district, where mapped, apply only to properties with frontage on North Avenue, Colchester Avenue or Shelburne Street.
- Corrects the description of the Residential Corridor district in Sec. 4.4.5 to confirm the maximum building height of 4 stories.
- Makes a technical correction to replace an undefined term, "face," with the defined term, "Elevation," in order to facilitate project review and provide clarity.
- Corrects mapping error on Maps 4.3.1-1 Base Zoning Districts & 4.4.5-1 Residential Zoning Districts.
- Confirms that existing structures in excess of the building footprint limits in Table 4.4.5-2 shall not be considered non-conforming and cross-references provisions in Articles 5 and 11 that would allow for their reuse and/or expansion.
- Updates density & intensity standards that apply to projects utilizing Residential Development Bonuses to be consistent with standards used in Tables 4.4.5-1 & 4.4.5-2 and Article 11
- Re-names Section Sec. 4.4.5 (d) 1. B. (i) and Table 4.4.5-4 to "Senior Housing and Housing for Individuals with Disabilities" bonus.
- Corrects Map 4.5.1-1 Design Review Overlay to reflect Downtown Form Code boundaries, removing the applicability of design review from the areas

3) Amends Article 3 – Applications, Permits, and Project Reviews, Article 4 – Zoning Maps and Districts and Article 5 – Citywide General Regulations to clarify the relationship of Accessory Dwelling Units to Secondary Structures

- Clarifies that the creation of an Accessory Dwelling Unit as described in Sec 4.4.5 (d) 4. D. is exempt from impact fees.
- Clarifies the relationship between secondary buildings allowed in the residential standards and citywide provisions for Accessory Dwelling Units (ADUs).
- Creates a new Miscellaneous Standard allowing for single additional dwelling units to be constructed on a lot with an existing owner-occupied Principal Structure under administrative review and with a waived impact fee.
- Removes the exception to lot cover related to Accessory Dwelling Units, which was taken into consideration when modestly increasing lot cover standards in ZA-24-02.

4) Amends Article 7 – Signs to reflect changes made in ZA-24-02

- Modifies Table 7.2.1-B Sign Types Permitted by Form/Zoning District by correcting column headers with updated Residential Districts
- Creates a new column for the RC district, which is proposed to equated with the NMU district's sign standards, reflecting the potential for mixed-use development along the corridors

5) Amends Article 11 – Planned Development to establish standards for Planned Unit Development in the RL and RM districts.

- Modifies Table 11.1.3-1 Planned Unit Development Project Size Standards to establish a new minimum size for PUDs in the RL and RM districts.
- Creates a new Table 11.3.1-2 Planned Unit Development Standards that creates new regulations for lot size, setbacks, Floor Area Ratio, building height, building footprint and building elevations.
- Establishes a process wherein the Design Review Board may grant an expansion beyond this Section's maximum building footprint standards when a project proposes an addition to existing buildings.

6) Amends Article 13 Definitions to create new definitions for Building Footprint and Elevation

- Creates a new definition for Building Footprint to clarify how building mass is measured as regulated in Table 4.4.5-2.
- Creates a new definition for Elevation to clarify how building offset standards in Table 4.4.5-2 are applied.

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).

Theme:	Dynamic	Distinctive	Inclusive	Connected
Land Use:	Conserve	Sustain	Grow	

Compatibility with Proposed Future Land Use & Density

The proposed amendment is consistent in many respects with the Land Use and Density-related policies of *planBTV*. Generally, the slow pace of housing construction and rising housing costs are noted as one of the biggest challenges facing Burlington. Since the Plan's adoption, these challenges have become more pronounced. The foundational policy response to this challenge is the Plan's call to "identify and address unintended or unnecessary barriers to creating new housing and commercial spaces within parts of the city that are suitable to accommodate additional development." To that end, these amendments are largely technical in nature and are intended to clarify for the public and staff the standards and processes regulating residential construction in Burlington's neighborhoods.

The "Sustain" theme intends to "anticipate small and incremental change that is consistent with existing development patterns, building scale and neighborhood character." The amendment's primary substantive changes address the topic of Planned Unit Development in the residential districts. These standards allow for more intensive infill development while remaining consistent with established built character on similar sites within Burlington's residential districts through the regulation of scale in various contexts.

Specific policy goals and objectives, and their nexus with the amendment, are provided below:

- A primary and foundational change proposed in the amendment is to provide additional clarity and specificity to the form-based approach established in Neighborhood Code Part 1. This change is supported by Objective 2.2.
- Objective 8.1 directs the community to "enable the development of additional housing at all income levels by reducing regulatory barriers and disincentives to development, and encouraging infill and redevelopment of underutilized sites."

Impact on Safe & Affordable Housing

The amendment addresses safe and affordable housing in the following ways:

- In creating additional opportunities in some areas for developments where five or more homes are constructed, the amendment will help produce more purpose-built affordable homes through the Article 9 Inclusionary Zoning standards.

- In removing barriers to housing construction for all developers, including affordable housing developers, the amendment significantly expands the areas where such developers may operate and provide homes at scale.
- In facilitating the creation of more homes throughout the city, the amendment should help to slow the growth in housing costs as they relate to an undersupply.
- In facilitating greater choice in the housing market, the amendment will create expanded opportunities for aging-in-place, homes for individuals with disabilities who may require on-site assistance, and other types of supportive housing.
- Confirms established zoning standards facilitating Accessory Dwelling Unit construction, which are consistent with Objective 9.1.

Planned Community Facilities

This amendment has no direct impact on planned community facilities, aside from facilitating growth within the city’s neighborhoods and thereby expanding the population of individuals with proximate access to such 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 6/25/24	Presentation to & discussion by Commission Various Dates*	Approve for Public Hearing 7/23/24	Public Hearing	Approved & forwarded to Council
City Council Process				
First Read & Referral to Ordinance Cmte	Ordinance Cmte discussion Various Dates*	Ordinance Cmte recommend	Second Read & Public Hearing	Council Approval & Adoption

* The Planning Commission met on the following dates within 2024: 4/23, 5/14, 5/28, 6/11, 6/25, 7/9, 7/23