



South Burlington Planning Commission

575 Dorset Street
South Burlington, VT 05403
(802) 846-4106
www.sburl.com

Meeting Tuesday, October 13, 2020

7:00 pm

IMPORTANT:

This will be a fully electronic meeting, consistent with recently-passed legislation. Presenters and members of the public are invited to participate either by interactive online meeting or by telephone. There will be no physical site at which to attend the meeting.

Participation Options:

Interactive Online Meeting (audio & video): <https://www.gotomeet.me/SBCity/pc-2020-10-13>

By Telephone (audio only): Phone # (571) 317-3122; Access Code: 568-695-653

AGENDA:

1. **Agenda: Additions, deletions or changes in order of agenda items (7:00 pm)**
2. **Open to the public for items not related to the agenda (7:02 pm)**
3. **Announcements and staff report (7:10 pm)**
4. ***Proposed Amendments to Land Development Regulations: review proposed amendments and consider and possibly approve Planning Commission Report & Warning of Public Hearing on same: (7:15 pm)**
 - a. LDR-17-13A: Allow for increase in maximum building and lot coverage on properties with land in the Urban Design Overlay District via installation of an on-site civic space
 - b. LDR-17-13B: Allow for increase in maximum lot coverage on properties with land in the Urban Design Overlay District via use of Transferable Development Rights from designated Sending Areas
 - c. LDR-19-06: Modify Table of Open Space Types (Appendix F) and Applicability in the City Center Form Based Code District
 - d. LDR-20-18A: Eliminate requirement for submission of paper copies of applications under the Land Development Regulations
5. **Work Session on Land Development Regulation Amendments (7:28 pm)**
 - a. *Continue review of [Forested Habitat Block applicability and related possible zoning district amendments](#)
6. **Other Business (8:58 pm)**
 - a. *Burlington Planning Commission [public hearing](#) on Comprehensive Development Ordinance Amendments, Tuesday, October 13, 6:45 pm via Zoom <https://us02web.zoom.us/j/87568033583>
 - b. *Williston Planning Commission [public hearing](#) on Unified Development Bylaw amendments, Tuesday, October 20, 7:00 pm via Zoom: zoom.us/join Meeting ID 158 006 871
7. **Minutes (8:59 pm):** *[September 22](#)
8. **Adjourn (9:00 pm)**

Respectfully submitted,



Paul Conner, AICP,
Director of Planning & Zoning

** item has attachments*

South Burlington Planning Commission Meeting Participation Guidelines

1. The Planning Commission Chair presents these guidelines for the public attending Planning Commission meetings to ensure that everyone has a chance to speak and that meetings proceed smoothly.
2. Initial discussion on an agenda item will generally be conducted by the Commission. As this is our opportunity to engage with the subject, we would like to hear from all commissioners first. After the Commission has discussed an item, the Chair will ask for public comment. Please raise your hand to be recognized to speak and the Chair will try to call on each participant in sequence.
3. Once recognized by the Chair, please identify yourself to the Commission.
4. If the Commission suggests time limits, please respect them. Time limits will be used when they can aid in making sure everyone is heard and sufficient time is available for Commission to conduct business items.
5. Side conversations between audience members should be kept to an absolute minimum. The hallway outside the Community Room is available should people wish to chat more fully.
6. Please address the Chair. Please do not address other audience members or staff or presenters and please do not interrupt others when they are speaking.
7. Make every effort not to repeat the points made by others.
8. The Chair will make reasonable efforts to allow everyone who is interested in participating to speak once before speakers address the Commission for a second time.
9. The Planning Commission desires to be as open and informal as possible within the construct that the Planning Commission meeting is an opportunity for commissioners to discuss, debate and decide upon policy matters. Regular Planning Commission meetings are not "town meetings". A warned public hearing is a fuller opportunity to explore an issue, provide input and sway public opinion on the matter.
10. Comments may be submitted before, during or after the meeting to the Planning and Zoning Department. All written comments will be circulation to the Planning Commission and kept as part of the City Planner's official records of meetings. Comments must include your first and last name and a contact (e-mail, phone, address) to be included in the record.



MEMORANDUM

TO: South Burlington Planning Commission
FROM: Paul Conner, Director of Planning & Zoning
SUBJECT: Proposed LDR Amendments: LDR-17-13A, LDR-17-13B, LDR-19-06, LDR-20-18A
DATE: October 13, 2020 Planning Commission Meeting

Enclosed please find a series of amendments to the Land Development Regulations. The Commission may want a public hearing on any or all of the enclosed amendments. Staff recommends Tuesday, November 10th at 7:00 pm. The amendments include:

- a. *LDR-17-13A: Allow for increase in maximum building and lot coverage on properties with land in the Urban Design Overlay District via installation of an on-site civic space*
- b. *LDR-17-13B: Allow for increase in maximum lot coverage on properties with land in the Urban Design Overlay District via use of Transferable Development Rights from designated Sending Areas*

These amendments would be two options for allowing increased lot coverage as described as discussed at your meeting last month.

- c. *LDR-19-06: Modify Table of Open Space Types (Appendix F) and Applicability in the City Center Form Based Code District*

This amendment was initially reviewed by the Commission in the summer of 2019. Two of the Open Space Types created/modified by that amendment are directly linked to LDR-17-13A and so must be adopted simultaneously.

A brief reminder: A public hearing was held at that time on proposed amendments to allow for additional refinement and flexibility in the City Center FBC, and to set the stage for future use under Site Plans and PUDs. The Commission elected not to advance the amendments at that time following receipt of a handful of comments. The comments included requests for additional flexibility in the size of playground, applicability of sun terraces, and flexibility in the uses associated with restaurant seating. The first two have been modified. Staff recommends that the third be reviewed further by the FBC Subcommittee when it is re-initiated.

In addition, two open space types were proposed to be added at that time: Neighborhood Park and Dog Walk & Play Area. Both are being reviewed in greater detail as part of the PUD project and are not included in this draft.

- d. *LDR-20-18A: Eliminate requirement for submission of paper copies of applications under the Land Development Regulations*

Staff is recommending the removal of the requirement for submittal of paper copies of applications for development. This has been practice since March 2020, when staff began to work remotely. Staff had already put the pieces in place to manage this, including establishing a digital repository and creating a relationship with a local printing company to print large-scale plots if needed. Digital copies can be made available to the public for review at any time and we are able to send the files to various printers upon request of residents at their expense.

Elimination of the requirement in the LDRs would codify this practice and take an additional step towards the City's sustainability goals. Full-size roll plans consume a lot of paper!

LDR-17-13A: Allow for increase in maximum lot coverage on properties with land in the Urban Design Overlay District via installation of an on-site civic space

LDR-17-13B Allow for increase in maximum lot coverage on properties with land in the Urban Design Overlay District via use of Transferable Development Rights from designated Sending Areas

2.02 Definitions

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Transferrable Development Rights. The development potential of a parcel of land assigned by these regulations ~~and measured in dwelling units per gross acre,~~ which may be severed from a parcel, the sending parcel, and which may be transferred to and used on another parcel, the receiving parcel. To the extent that the development potential of a sending parcel is used on a receiving parcel, rights or interests in the parcel created by a legal instrument in perpetuity, conserving the sending parcel and limiting the possible uses of the sending parcel to agriculture, forestry, natural area and/or outdoor non-motorized recreation shall be granted to the City, a State agency or a Qualified Organization, as defined in 10 V.S.A. section 6301a, as amended from time to time.

10.06 Urban Design Overlay District (UDO)

A. Purpose. It is the purpose of the Urban Design Overlay District to recognize the impact of simple design principles and to reflect a design aesthetic that fosters accessibility and creates civic pride in the City's most traveled areas and gateways, while furthering the stated goals of the City's Comprehensive Plan. The Urban Design Overlay District aids in fulfilling the City's vision ~~for the Southwest quadrant, which is~~ to enable infill and conversion development, encourage pedestrian movement, serve local and regional shopping and employment needs, and make use of existing public transportation. The City intends for the applicable areas to provide safe and inviting access to adjacent neighborhoods.

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D. Allowance for Increase Lot Coverage via supplemental On-Site Civic Space or Transferable Development Rights. For parcels with land laying within the Urban Design Overlay District, the maximum lot coverage may be increased by up to ten (10) percentage points using one of the two methods described below. Such allowance shall apply only to the subject lot with land within the Urban Design Overlay District and not any adjacent lots and must be approved in conjunction with a site plan or Planned Unit Development for the subject lot.

Example: For a lot in a zoning district where the maximum lot coverage as identified in Appendix C is 70%, the maximum lot coverage for said lot may be increased to 80%.

(1) On-Site Civic Space Option. The applicant shall demonstrate compliance with each of the following standards as part of any proposal to increase lot coverage under this subsection:

- (a) For each additional increment of lot coverage, an area on the site equal to thirty (30) percent of said increment shall be designated on the site plan for of the subject parcel as one or more Snippets/Parklets and/or Pocket/Mini-Parks as enumerated in Appendix F;
- (b) The selected Civic Space type(s) must comply with all guidelines for as indicated in Appendix F;

(c) All elements of the applicable open space type shall be constructed prior to the issuance of a certificate of occupancy;

(d) Where elements of such open space type are pre-existing, they may be used to qualify under this section; and,

(e) Impervious areas within an approved Civic Space shall not be considered lot coverage for the purposes of these Regulations.

(2) Transfer of Development Rights Option. The applicant shall demonstrate compliance with each of the following standards as part of any proposal to increase lot coverage under this subsection:

(a) Provision of Options to acquire all necessary TDRs from a designated Sending Area as part of any application to the Development Review Board or Administrative Officer in accordance with Article 9 of these Regulations.

(b) Recording of required documentation demonstrating completed transfer(s) of all necessary TDR, in a form acceptable to the City Attorney, shall be required prior to issuance of any zoning permit enabling use of increased lot coverage.

(c) Transferable Development Rights must be transferred in increments of not less than 2,500 s.f.

(d) Transferable Development Rights may only be transferred in the minimum quantity required to satisfy the requirements of the site plan or Planned Unit Development application, rounded to the nearest increment. Any remainder of full increments shall be noted in the decision and may be applied in a subsequent application with no additional TDR transfer.

(3) Combined Applications. In no case shall the options listed above be used in combination or in addition to one another.

Transfer of Development Rights

9.05 Transfer of Development Rights; ~~Sending & Receiving Areas and Residential Density~~

The planned maximum residential build-out in the SEQ District has long been limited to approximately 3,800 dwelling units, plus an allowance for affordable housing density bonuses. In order to maintain this limitation on the overall development of the SEQ District and to encourage both well-planned residential development in clusters and the preservation or protection of open space, natural resources, scenic views and agricultural uses, the Transfer of Development Rights is hereby authorized within the SEQ District. To allow for the redistribution of development to areas priority development areas outside the SEQ District, the Transfer of Development Rights to land within the Urban Design Overlay District is also authorized as enumerated in this Section.

A. Sending and Receiving Areas. The Transfer of Development Rights (TDRs) is comprised of two parts: sending areas and receiving areas. Sending areas are those from which TDRs can be exported, and receiving areas are those to which TDRs can be imported.

(1) Sending Areas. Lands within the following areas designated as Sending Areas:

(a) Lands within the SEQ-NRP and SEQ-NRT sub-districts

(2) Receiving Areas. Lands within the following areas designated as Receiving Areas:

(a) Lands within the SEQ-NR, SEQ-NRT, SEQ-NRN, SEQ-VR and SEQ-VC sub-districts;

(b) Parcels with land located within the Urban Design Overlay District

- ~~(1) Lands within the SEQ-NR, SEQ-NRN, SEQ-VR and SEQ-VC sub-districts are designated as receiving areas.~~
- ~~(2) Lands within the SEQ-NRP sub-district are designated as sending areas.~~
- ~~(3) Lands within the SEQ-NRT sub-district area designated both as sending areas and receiving areas.~~

B. Assigned Density: For the purposes of the Transfer of Development Rights, all land in the SEQ District is provided an Assigned Density based on the maximum residential build-out of the SEQ District. The maximum assigned density of a parcel shall be one point two (1.2) dwelling units and/or lots per gross acre.

- (1) **SEQ-VC:** Lots in the SEQ-VC sub-district that were in existence as of the effective date of this Article and that are two acres or less in size shall be allowed an assigned residential density of four (4) dwelling units to the acre.

C. Allowable Density for Development that does not Include a Transfer of Development Rights: If a PUD does not include Transferrable Development Rights, the number of dwelling units that may be developed, or the number of single family house lots that may be created, in the PUD shall not exceed an average density and a maximum number of units per structure as follows:

- (1) In the SEQ-NRP sub-district, the provisions of Section 9.12 shall apply.
- (2) In the SEQ-NRT, SEQ-NR, SEQ-NRN and SEQ-VR sub-districts: One point two (1.2) dwelling units to the acre and four (4) dwelling units per structure.
- (3) In the SEQ-VC Subdistrict:
- (a) For lots that were in existence as of the effective date of this Article and that are two acres or less in size: four (4) dwelling units per acre
 - (b) For all other lots: One point two (1.2) dwelling units to the acre and four (4) dwelling units per structure.

D. Allowable ~~Residential~~ Density for Development that Includes a Transfer of Development Rights

- (1) If a PUD in the Southeast Quadrant Zoning District uses Transferrable Development Rights, the number of dwelling units that may be located on, or the number of single-family house lots that may be created within, a contiguous development parcel subject to a single PUD or Master Plan approval shall be increased to a maximum average density as follows:
- (a) In the SEQ-NRT and SEQ-NR sub-districts: Four (4) dwelling units to the acre and four (4) dwelling units per structure.
 - (b) In the SEQ-NRN sub-district: Four and two-thirds (4.67) dwelling units to the acre and four (4) dwelling units per structure.
 - (c) In the SEQ-VR and SEQ-VC sub-districts: Eight (8) dwelling units to the acre and six (6) dwelling units per structure.

Such average densities may be achieved only as part of a Planned Unit Development application.

Where a structure has been approved as part of a Master Plan prior to January 9, 2012 with a greater number of dwelling units than those permitted in these Regulations, such approved number of units in a structure shall remain in effect.

(2) If a site plan or PUD outside the Southeast Quadrant Zoning District uses Transferrable Development Rights, the amount of development density that may be located on a development parcel subject to a site plan or PUD approval shall be increased as follows:

(a) In the Urban Design Overlay District, lot coverage indicated in Section 10.06 of these Regulations.

E. Development Rights Necessary to Obtain Density Increase

To obtain the increased density allowable in a receiving area, transferrable development rights must be acquired from 0.83 acres of land in a sending area for each unit of increased development within a additional dwelling unit approved for development on the rReceiving Area parcel beyond the maximum average density that would be allowable on that parcel if the PUD-application did not use transferrable development rights. A unit of increased development is defined as:

- (1) A residential dwelling unit (excluding accessory apartments), or;
- (2) Lot coverage of 10,000 s.f.

Appendix F: SEE LDR AMENDMENT #LDR-19-06

LDR-19-06 Modify Table of Open Space Types (Appendix F) and Applicability in the City Center Form Based Code District

8.08 Open Space Requirements

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C. Qualifying Civic/Open Space. Qualifying Civic/Open Space is defined per the palette of options included in Appendix F Table 8-2, and specifically *excludes* areas also intended for motor vehicular use, such as parking areas, driveways, travel lanes, etc.

Table 8-2. Qualifying Open Space

Transect Zone	Allowable Open Space (see Appendix F for standards)
T5	Pocket/Mini Park
	Plaza/Square
	Outdoor café/restaurant seating (not within the public right-of way)
	Sun Terrace (as restricted in Appendix F)
	Courtyard
	Pedestrian Pass
	Indoor Park / Atrium
T4	All Open Space listed as allowable in T5 and;
	Playgrounds
	Green (residential and campus style development only)
	Community gardens
	Rain Gardens (as restricted in Appendix F)
	Wooded area (as restricted in Appendix F)
	Enhanced or recreational Wetlands/Stormwater Treatment Area (as restricted in Appendix F)
T3/T3+	Pocket/Mini Park
	Courtyard
	Green – residential with more than 7 units only
	Private yard space (respecting common space requirement indicated in Table 8-1)
	Playground
	Community gardens
	Wooded area (as restricted in Appendix F)

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E. Open Space Location

(1) Locating Open Space Off-Site

(a) Qualifying open space may be located off-site, or on a parcel other than the one where the subject use is located, in areas designated in Table 8-1. Designated off-site qualifying open space must be located within City Center FBC District boundaries and must meet the standards articulated herein. Designated off-site open space must qualify under the palette of options listed in [Table 8-2](#) [Appendix F](#).

G. Landscaping Requirements

(2) Within the City Center FBC District, the minimum landscaping budget may be applied to non-bulb perennial vegetation, or other amenities, as detailed in Table 8-[23](#) and Appendix F, as part of a cohesive landscaping plan for the site that provides adequate planting of trees and shrubs appropriate to the site.

Table 8-[23](#). Landscaping Options**8.09 Uses Allowed and Changes of Use.**

A. General Provisions. Within the Transect Zones, all uses shall be allowed except as specified in Table 8-[34](#), Table of Uses, these Land Development Regulations, other applicable City ordinances and regulations and by state statute or applicable state regulation. In Table 8-[34](#) below (Transect Zone Table of Uses), where a use is not listed as prohibited within a specific Transect Zone, it is allowed in that Transect Zone pursuant to these Land Development Regulations.

B. Nonconforming structures. Table 8-[34](#), Transect Zone Table of Uses, indicates uses that are prohibited in each Transect Zone for structures that are not in full compliance with the applicable Building Envelope Standards. See also Section 8.11 for nonconformities.

Table 8-[34](#). Transect Zone Table of Uses**APPENDIX F: CIVIC/OPEN SPACE TYPES**

SEE ATTACHED TABLE

	Plaza/Square	Green	Pocket/Mini Park	Playground	Outdoor Café/ Restaurant Seating	Sun Terrace	Indoor Park/Atrium	Courtyard	Wooded Area	Community Shared Garden Space
Applicability	All FBC Districts	T3, T3+, T4	All FBC Districts, Parcels with land in Urban Design Overlay District	All FBC Districts	All FBC Districts (must be associated with a restaurant)	Buildings having 3 or more stories in T4 and T5	T4, T5	All FBC Districts	Onsite in FBC T3 and T3+ unless counting as off-site open space for T4 and T5 and meeting all of the requirements and limitations of 8.08E.	All FBC districts.
Description & Service Intent	Primarily hard-surface space. <u>Intended to serve public, allowing people to congregate, sit, walk, or access adjacent businesses. Should be context-sensitive.</u>	Informal and centralized public, civic space or common/shared private space for residential use or campus-style development.	Small open area. <u>May be tucked adjacent to or between buildings, or adjacent to roadway, on a separate lot or portion of a lot. Intended to primarily serve public or residents within 1/4 mile radius.</u>	Programmed space and/or structure that serves the <u>active</u> recreational needs of children in the immediate vicinity.	An open-air seating area provided by a restaurant located on the subject or adjoining property, where restaurant patrons can eat or drink	Accessible and open area on upper story with seating and gathering amenities.	Interior open space where at least one wall facing the street consists entirely of glass.	Common Open Space area on a portion of a lot.	Naturally occurring area with predominance of canopy trees with enhancement and public access.	Land set aside and maintained for production of food to be used primarily for participating gardeners.
Size	Minimum 5,000 sq.ft.	Residential: 0.25-2 acres; Campus-style Development: 0.5-3 acres.	2,000- 40 <u>25,000</u> sq. ft.	Total p Play area shall be a minimum of <u>1,500 2400</u> square feet. <u>Play space should include a buffer area around any play structures.</u>	Minimum 100 sq. ft.	500-3,000 sq.ft; total area shall not count as more than 50% of the minimum required qualifying open space.	Minimum area 1,500 sq.ft. Minimum ceiling height 20'. Area to be counted as qualifying open space shall not exceed twice the area of the glass wall projected- onto the floor plane--	5,000-20,000 sq. ft.	2,500 sq. ft. minimum; Shall include the land of the improvement (such as enhanced path, viewing platform, etc) and no more than 50 feet to either side; total area shall not count as more than 50% of the minimum required qualifying open space.	Minimum 400 square feet. Encouraged to serve at least 20% of units in multifamily developments.
Location & Access	Outdoors and within Public Realm. High Visibility from public rights of way. Accessible from a public street at grade or 3' above or below street level connected to street with wide, shallow stairs. May include space for a farmer's market	For residential: Centralized; Accessible to all tenants/residents via pedestrian walkway or direct frontage (cottage court development). For campus-style development: Centralized; Accessible from a public right-of-way via direct walkway; Access from several locations encouraged.	Fronts on and is accessed from a street right-of-way. Pedestrian accessible.	Accessible from Public Right-of-Way or adjacent to private sidewalk. Should be centrally located and visually accessible to the greatest extent practicable.	Highly visible, directly adjacent to public right of way. See additional public realm standards below.	Second floor or above. Encourage location in places which have spectacular views. Accessible directly from the sidewalk or public corridors. For T5 Non-Residential, must provide adequate signage about location and accessibility in hallways and elevators.	Building interior adjacent to sidewalk or public open space. Direct access from street level. Provide several entrances to make the space available and inviting to the general public.	Physically defined by surrounding buildings on three sides (outer)- or four sides (inner)	Must be accessible, at minimum, by residents, tenants, or customers of site. Must be onsite. Offsite wooded areas shall not be considered qualifying open space even where the LDR permit open space to be located off-site.	May not be located in any class wetland or wetland buffer. Shall have proper drainage.
Seating*, Tables, Etc.	Minimum one seating space for each 500 sq.ft. of plaza area. Minimum 10 seats. <u>Seating is encouraged to be of a variety of types and socially oriented.</u>	Provide formal and informally arranged seating, on sculptured lawn. Moveable chairs desirable. Three seats per quarter acre, rounded up.	One seat for each 750 sq.ft. of park size. Must include amenities which differentiate the space from basic lawn area. Examples include benches, bike racks, trash receptacles, gazebos, playgrounds- fixed play equipment , or public picnic tables.	Must provide benches or formal seating areas at one space for each 500 square feet, rounding up, as well as at least 200 square feet of level, grassed, informal seating.	Seating material shall be of moderate to high quality in order for café space to be considered qualifying open space.	One seating space for every 50 sq.ft. of terrace area.	Provide one seat for every 100 sq.ft. of floor area, one table for every 400 sq.ft. of floor area. At least one half of seating to consist of movable chairs.	One seating space for each 500 sq.ft. of courtyard area, with a minimum of <u>10 3-</u>	Light enhancement expected. Must include improvements, including cleared paths and benches.	None required.
Landscaping, Design-	Landscape is secondary to architectural elements. Use trees to strengthen spatial definition. Shall include attractive paving material or pattern to create unique space. Encouraged use of lush, dense plant material. Shall incorporate art, sculpture and/or water feature.	Provide lush landscape setting with predominantly lawn surfaces and planting such as: trees, shrubs, ground cover, flowers. Canopy trees should provide substantial shade.	Turf and landscape plantings. to- <u>Should</u> promote shade over <u>at least 25% a portion of the</u> area.	Appropriate ground material- rubber or woodchips. Plantings for articulation of space <u>to complement active play ingredients encouraged</u> . Flat paved or concrete area for wheeled toys encouraged. Paved areas including space for basketball or other sport courts are encouraged and may be counted towards minimum required area of qualifying open space. Shade shall be provided in consultation with the Recreation Director	For optional separated seating areas, use planting boxes of interesting patterns of plants, open fences of less than 3 feet in height, or decorative and moveable bollards with decorative chain connectors.	Terrace may take one of the following forms: complex architectural setting which may include art works; flower garden; space with trees and other planting. Planted roofs are permitted provided area is also a functional seating space.	Provide attractive paving material to create interesting patterns. Use rich plant material. Incorporate sculpture and/or water feature.	If paved, area shall be amended throughout with substantial planted areas or large planters of trees and lush greenery. If grassed, area should be articulated at perimeter with lush greenery.	Majority of area must be covered with canopy trees. Light enhancement expected. Must include cleared paths, benches, and/or other amenities.	Must have adequate planting soils, tested for pH balance, drainage, nutrients, etc. (proof provided prior to Certificate of Occupancy). Where they are inadequate, soils shall be amended for more suitable farming. Shall have water service directly to gardens. <u>Raised planters or other semi-permanent infrastructure encouraged.</u>
Commercial Services, Food	20% of space may be used for restaurant/cafe seating, taking up no more than 20% of the sitting facilities provided.	20% of space may be used for restaurant seating taking up no more than 20% of the sitting facilities provided.	Not permitted	Permitted but n Not counted towards open space requirement.	May serve as seating area for adjacent restaurant/food service, or be space provided for those bringing their own meals.	Dependent on Transect, may possibly be used up to 100% for commercial food services. See Table 8-1.	30% of area may be used for restaurant seating taking up no more than 30% of the seating and tables provided.	Not permitted	Not permitted.	Not permitted.
Sunlight and Wind	Sunlight to most of the occupied area from mid-morning to mid-afternoon.	Sunlight to most of the occupied area from mid-morning to mid-afternoon. Shelter from wind.	No requirements	Sunlight to most of the occupied area from mid-morning to mid-afternoon. Mix of sun and shade.	Sunlight encouraged to most of the occupied area at lunchtime.	No requirements	No requirements except as noted for street façade to be wall of glass. Encouraged to be south-facing.	Sunlight to sitting areas for most of day.	No requirements	Full sunlight.
Other				Shall include minimum components: 3 low-child-sized swings; 1 toddler-sized swing; 2 slides; one or more play houses. Shall include added amenities specifically intended for play by toddlers and young children, to the satisfaction of the Administrative Officer in consultation with the Director of Recreation and Parks. Creativity in design strongly encouraged.						<u>Plan shall be established and submitted to ensure continual use and maintenance of the gardens, whether by residents, association, property owner or property manager.</u>
Notes:										
Seating dimensions:	*Required dimensions for one seating space or one seat are as follows:	Height: 12" to 36"; ideally 17"; must allow user to bend knees and have feet below knees	Depth: 14" one-sided; 30-36" double-sided	Width: 30" of linear seating are counted as one seat						
Materials	All products installed in qualifying open spaces shall be of high quality materials intended to be used for commercial application.									

	Rain Garden	Snippet/ Parklet	Pedestrian Pass	Streetfront Open Space	Enhanced or Recreational Wetlands/Stormwater Treatment Area	Private Yard Space
Applicability	All FBC districts	All FBC districts; Parcels with land within the Urban Design Overlay District	T4, T5	All FBC districts	Onsite in FBC T3 and T3+ unless counting as off-site open space for T4 and T5 and meeting all of the requirements and limitations of 8.08E.	T-3 and T3+
Description, & Service Intent	A shallow depression planted with native plants that captures rainwater runoff from impervious urban areas.	Small sitting area clearly intended to provide welcoming respite between or adjacent to buildings. May serve general public, employees, residents, or customers.	Narrow pedestrian right of ways that cut through blocks in residential and/or commercial areas.	Liner open space area to secondary streets, as permitted per the Regulations.	An existing wetland buffer or new stormwater treatment area which offers public amenities that exceed those minimally necessary for water resource management.	Private yard space associated with residential units
Size	Maximum size of 3,500 sf; shall not count as more than 50% of minimum required qualifying open space.	600-4,000 sq. ft	8' minimum width; 24' maximum width.	50' minimum depth from closest public street line; or if private, 50' minimum depth from edge of pavement or sidewalk as applicable.	Shall include the land of the improvement (such as enhanced path, viewing platform, etc) and 50 feet to either side; total area shall not count as more than 50% of minimum required qualifying open space.	As directed by minimum requirements.
Location & Access	The garden should be positioned near a runoff source like a downspout, driveway or sump pump to capture rainwater runoff and stop the water from reaching the sewer system.	Must be directly adjacent to public right of way and sidewalk or operable building entry. Applicants are encouraged to consider lighting and safety in design.	No vehicular traffic. Must connect two public streets. Storefronts and restaurants are highly encouraged to access the pedestrian pass.	Must be immediately adjacent to qualifying secondary street. See Chapter 8 for additional regulations. Must be on each side of roadway, unless a complying building is located on the opposite side.	Must be visible to public or tenants and users of building. Direct pedestrian access from adjacent public street type.	Directly adjacent to and accessible to at least one entry of dwelling unit it is associated with.
Seating*, Tables, Etc.	The space must serve as a visual amenity which can be enjoyed through paths or seating. Adjacent seating, proportionate with the size of the garden and number of users intended to enhance the garden is are required and can be counted as part of the required open space.	Seating must be the main focus of the space. Seating must be present year-round and composed of high quality materials. Fixed seating is required unless the applicant demonstrates that moveable seating will meet the stated goals of the type.	One seating space for each 150 sq.ft.	Seating is encouraged, but there shall be no minimum requirement.	If functional for sitting and viewing, seating can be ledges, benches, and/or stairs.	No requirements.
Landscaping, Design-	Deep rooted native plants and grasses.	Landscaping shall also be a primary component of the space. Because the space is inherently small, it shall be carefully landscaped in a higher proportion than larger spaces. Landscaping should not interfere with seating, but instead complement it. Spaces should appear warm and inviting and permanent rather than temporary.	If paved, area shall provide trees or large potted plants at no more than 530 foot intervals. If grassed, area shall be accented with intermittent trees or public art.	Slight, gentle, and undulating berms from 1-3 feet in height are encouraged to block views of parking areas. Ever-green landscaping is required. Include canopy trees whose branches are above the average visual line of sight, located throughout the space, with no more than 40 feet between any two such trees or between a tree and the street or parking area. Landscaping should aim to distract from parking beyond, but should not create dense walls of shrubbery or trees. Artwork is also highly encouraged.	LID techniques; no fencing permitted.	No requirements. Landscaping, lawns, or planned seating/dining areas (patios and decks) are encouraged.
Commercial Services, Food	Not permitted.	Permitted	40% of area may be used for restaurant seating taking up no more than 30% of the seating and tables provided.	Not permitted.	Not permitted.	Not permitted.
Sunlight and Wind	Appropriate to the plant species selection.	No requirements	Sunlight to most of the occupied area at lunchtime. Shelter from wind.	No requirements.	Appropriate to the plant species selection.	Exterior to building.
Other	See LID language for additional standards.	Bicycle parking may be permitted within these areas; however, the space dedicated to bicycle parking shall not count towards meeting the open space requirements.		Separate travelled way from parking areas; shall create pedestrian environment.	Must be located on applicant-owned property.	
Notes:						
Seating dimensions:						
Materials						

LDR-20-18A: Eliminate requirement for submission of paper copies of applications under the Land Development Regulations

Appendix E:

Submittal requirement:
Completed application form; one (1) full-sized, one (1) reduced [11" x 17"], and one (1) digital copy of plans; and a list of the owners or record of abutting property owners



South Burlington Planning Commission Proposed Land Development Regulations Amendment & Adoption Report Planning Commission Public Hearing November 10, 2020

In accordance with 24 V.S.A. §4441, the South Burlington Planning Commission has prepared the following report regarding the proposed amendments and adoption of the City's Land Development Regulations.

Outline of the Proposed Overall Amendments

The South Burlington Planning Commission will hold a public hearing on **Tuesday, November 10, 2020** at 7:00 pm, via GoToMeeting electronic platform, to consider the following amendments to the South Burlington Land Development Regulations:

- A. *LDR-17-13A: Allow for increase in maximum lot coverage on properties with land in the Urban Design Overlay District via installation of an on-site civic space*
- B. *LDR-17-13B: Allow for increase in maximum lot coverage on properties with land in the Urban Design Overlay District via use of Transferable Development Rights from designated Sending Areas*
- C. *LDR-19-06: Modify Table of Open Space Types (Appendix F) and Applicability in the City Center Form Based Code District*
- D. *LDR-20-18A: Eliminate requirement for submission of paper copies of applications under the Land Development Regulations*

Accessing the Hearing:

This will be a fully electronic meeting, consistent with recently passed legislation. There will be no physical site at which to attend the meetings. The City is presently using GoToMeeting as our service. Members of the public are welcome to call in by telephone, join by interactive internet service (with video conferencing and screen sharing capability), or both.

Interactive Online Meeting (audio & video): <https://www.gotomeet.me/SBCity/pc-2020-11-10>
Telephone (audio only): (872) 240-3212; **Access Code:** 928-311-013

Brief Description and Findings Concerning the Proposed Amendments

The proposed amendments have been considered by the Planning Commission for their consistency with the text, goals, and objectives of the City of South Burlington's Comprehensive Plan, adopted February 1, 2016. For each of the amendments, the Commission has addressed the following as enumerated under 24 VSA 4441(c):

"...The report shall provide a brief explanation of the proposed bylaw, amendment, or repeal and shall include a statement of purpose as required for notice under section 4444 of this title, and shall include findings regarding how the proposal:

- (1) Conforms with or furthers the goals and policies contained in the municipal plan, including the effect of the proposal on the availability of safe and affordable housing.*
- (2) Is compatible with the proposed future land uses and densities of the municipal plan.*
- (3) Carries out, as applicable, any specific proposals for any planned community facilities."*

A. LDR-17-13A: Allow for increase in maximum lot coverage on properties with land in the Urban Design Overlay District via installation of an on-site civic space

Brief explanation of the proposed bylaw

The amendment would allow for an increase in allowable lot coverage of up to ten (10) percentage points for any parcel with land in the Urban Design Overlay District with the provision of an on-site Civic Space equal to thirty (30) percent of the area being added as impervious surface.

- (1) Conforms with or furthers the goals and policies contained in the municipal plan, including the effect of the proposal on the availability of safe and affordable housing.*

The amendment would allow for additional lot coverage in areas designated in the Comprehensive Plan as priority areas for development and re-development. The amendment would have limited effect on the availability of safe and affordable housing other than to provide additional development flexibility, generally, within the Urban Design Overlay District; if any applicant did make of the provision for affordable housing, a minimum amount of civic space would be installed to serve users of the property

- (2) Is compatible with the proposed future land uses and densities of the municipal plan.*

The amendment is consistent with the Comprehensive Plan's objectives to support development re-development along the Shelburne and Williston Road corridors and to do so in a manner than supports pedestrian-scale design and amenities.

- (3) Carries out, as applicable, any specific proposals for any planned community facilities.*

The amendments do not impact specific proposals for any planned community facilities.

B. LDR-17-13B: LDR-17-13B: Allow for increase in maximum lot coverage on properties with land in the Urban Design Overlay District via use of Transferable Development Rights from designated Sending Areas

Brief explanation of the proposed bylaw

The amendment would allow for an increase in allowable lot coverage of up to ten (10) percentage points for any parcel with land in the Urban Design Overlay District with the use of Transferable Development Rights. The amendment would designate properties with land in the Urban Design Overlay District as a Receiving Area and allow existing Sending Areas to direct TDRs to these locations.

- (1) *Conforms with or furthers the goals and policies contained in the municipal plan, including the effect of the proposal on the availability of safe and affordable housing.*

The amendment would allow for additional lot coverage in areas designated in the Comprehensive Plan as priority areas for development and re-development. The amendment would have limited effect on the availability of safe and affordable housing other than to provide additional development flexibility, generally, within the Urban Design Overlay District.

- (2) *Is compatible with the proposed future land uses and densities of the municipal plan.*

The amendment is consistent with the Comprehensive Plan's objectives to support development re-development along the Shelburne and Williston Road corridors. Furthermore, it is consistent with the objective to support conservation of land within areas designed as "very low intensity, principally conservation" in the Comprehensive Plan by expanding the market for use of Transferable Development Rights

- (3) *Carries out, as applicable, any specific proposals for any planned community facilities.*

The amendments do not impact specific proposals for any planned community facilities.

C. LDR-19-06: Modify Table of Open Space Types (Appendix F) and Applicability in the City Center Form Based Code District

The proposal would amend Chapter 8 (City Center Form Based Code District) and the related Appendix F to provide for additional qualifying open space types, amend some minor details and clarify expectations of approved types, and provide for greater organization of the text related to applicability.

- (1) *Conforms with or furthers the goals and policies contained in the municipal plan, including the effect of the proposal on the availability of safe and affordable housing.*

The amendments would not have a direct impact on the availability of safe and affordable housing. The amendments do continue to further several goals and policies within the 2016 Comprehensive Plan, including objective 33 related to the provision of varied recreational areas and facilities and objective 35 relating to a targeted open space to population service standard.

- (2) *Is compatible with the proposed future land uses and densities of the municipal plan.*

The amendments are not anticipated to impact proposed future land uses and densities as outlined in the Comprehensive Plan.

- (3) *Carries out, as applicable, any specific proposals for any planned community facilities.*

The amendments do not impact specific proposals for any planned community facilities. The requirements for qualifying open spaces are largely intended to be private spaces and not community-funded, though there could be the potential for large projects with related large open spaces to provide for identified or planned public parks or related community facilities.

D. LDR-20-18A: Eliminate requirement for submission of paper copies of applications under the Land Development Regulations

Brief explanation of the proposed bylaw

The proposed amendment would eliminate requirements for submittal of paper copies of applications to the Development Review Board and Administrative Officer. Digital versions of all documents will continue to be required. They can be provided via digital means to any interested person and can also be sent to a local printer for reduced or full-sized copies upon request. When the City's offices are open to the public, applications can also be made available for review in person on a public computer

- (1) *Conforms with or furthers the goals and policies contained in the municipal plan, including the effect of the proposal on the availability of safe and affordable housing*
The amendments will reduce paper waste, furthering the City's objectives for energy efficiency.
- (2) *Is compatible with the proposed future land uses and densities of the municipal plan.*
The amendment has no impact on proposed future land uses or densities.
- (3) *Carries out, as applicable, any specific proposals for any planned community facilities."*
The amendment does not impact specific proposals for any planned community facilities.



MEMORANDUM

TO: South Burlington Planning Commission
FROM: Paul Conner, Director of Planning & Zoning
SUBJECT: Continue Review of Forested Habitat Block Applicability
DATE: October 13, 2020 Planning Commission meeting

At the Commission's Special Meeting on September 29, staff was asked to perform an area-by-area review of the mapped Forested Habitat Blocks from the 2020 Arrowwood Environmental Report. Staff was asked to review context, known existing/planned development, and natural resource considerations, and to provide the Commission recommendations in order to facilitate discussion.

The review and recommendations for consideration are based on the Commission's overall guidance to retain contiguous forested areas and identify areas where "fingers" of forested habitat areas exist and should be reviewed.

Staff has prepared this review using an ArcGIS StoryMap.

Instructions:

1. Click here to begin: <https://arcg.is/1bHey0>
2. A new webpage will open.
3. On the left is a map. You can zoom in and out of the map, or move it around at any time
4. On the right is text with an analysis and/or recommendations.
5. On the far right are an up and down arrow, and a series of dots.
6. You can advance the Story by either scrolling up or down with the wheel on your mouse while it's hovering over the black text, by clicking on the up or down arrow, or selecting a dot
7. Each time you scroll up or down, new text appears and a new (zoomed in) part of the City Map appears. New information is added to accompany that map segment
8. As with the first map, you can always zoom in or out of the map (using the +/- signs, or the wheel on your mouse while it is hovering over the map).
9. The map contains a legend. Click there to see what each color represents.
10. Any underlined text in the "Story" is a link to an outside document, such as a report or approved plans.

Reviewing the Maps & Recommendations:

The StoryMap contains 33 maps covering 20 areas in the City, so please take your time as you go through. Staff recommends Commissioners be prepared to share feedback on each area at the meeting.

Meeting Objective:

To obtain feedback on recommendations in order for staff to prepare draft of the Forest Block applicability map for public review next month.



City of Burlington, VT
149 Church Street, 3rd Floor
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www.burlingtonvt.gov/plan

TO: South Burlington Planning Director
Colchester Planning Director
Winooski Planning & Zoning Manager
Chittenden County Regional Planning Director
VT Department of Housing and Community Development
FROM: Meagan Tuttle, AICP, Comprehensive Planner, City of Burlington
DATE: September 25, 2020
RE: Burlington Comprehensive Development Ordinance Amendments

Enclosed, please find proposed amendments to the *City of Burlington Comprehensive Development Ordinance*:

- ZA-21-01: Daycare & Preschool in RCO
- ZA-21-01: Temporary Tents

The Planning Commission will hold a public hearing on the proposed amendments on Tuesday, October 13, 2020 at 6:45 pm via a virtual meeting on the platform Zoom.

Please ensure this communication is forwarded to the chairs of your respective Planning Commissions. Submit any communications for the Planning Commission's consideration at the hearing to me by close of business on October 12, 2020.

Thank you.

CC: Andy Montroll, Burlington Planning Commission Chair
David White, FAICP, Director, City Planning
Scott Gustin, AICP, Principal Planner, Department of Permitting & Inspections
Kimberlee Sturtevant, Assistant City Attorney

Burlington Planning Commission

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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-21-01 Daycares & Preschools in RCO** **ZA-21-02 Temporary Tents**

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). Per Act 92, Secs. 5 and 6, the public hearing will take place during the Planning Commission meeting on **Tuesday, October 13, 2020 beginning at 6:45pm**. **You may access the hearing/meeting as follows:**

To join from a Computer, please click this URL to join, and enter the password if prompted:
<https://us02web.zoom.us/j/87057586208>

To join by phone, dial this number and enter the Webinar ID when prompted:
Number: +1 312 626 6799 Webinar ID: 870 5758 6208

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

Statement of purpose:

The purpose of the proposed amendments are as follows:

- **ZA-21-01:** To eliminate the distinction between small and large Day Care Centers and small and large Preschools, and to eliminate the GFA limit on these facilities in RCO districts.
- **ZA-21-02:** To allow for placement of structural tents for non-residential purposes without review or zoning permit required for up to 180 days with Fire Marshal permit.

Geographic areas affected:

These amendments apply to the following areas of the city:

- **ZA-21-01:** Eliminating the distinction between small and large facilities applies to all zoning districts, but changes what is presently allowed in RCO and E-AE zoning districts. Change to footnote 8 impacts only RCO zoned areas.
- **ZA-21-02:** Applies to all parts of the city.

List of section headings affected:

The proposed amendments modify the following sections of the *Burlington Comprehensive Development Ordinance*:

- **ZA-21-01:** Modifies *Sec. 5.4.1, Table 8.1.8-1*, some definitions in *Article 13*, and *Appendix-A Use Table*
- **ZA-21-02:** Modifies *Sec. 5.1.2 (f) Temporary Structures*

The full text of the *Burlington Comprehensive Development Ordinance* is available online at www.burlingtonvt.gov/DPI/CDO. The proposed amendment can be reviewed in hard copy posted on the first floor of City Hall, 149 Church Street, Burlington or on the department's website at <https://www.burlingtonvt.gov/DPI/CDO/Proposed-Amendments-Before-the-Planning-Commission>



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Phone: (802) 865-7144

www.burlingtonvt.gov/plan

TO: Burlington Planning Commission
FROM: Meagan Tuttle, Comprehensive Planner, City Planning
DATE: August 27, 2020
RE: Proposed CDO Amendment: ZA-21-01 Day Care & Preschool in RCO Districts

Overview & Background

This amendment originates from a request made by the Winooski Valley Parks District (WVPD) on behalf of its tenants, the Ethan Allen Museum and the Forest Preschool. The preschool has operated at the Homestead Barn and WVPD property since 2015. Due to the critical need for childcare in the City and state, the preschool has maintained a waiting list for enrollment. As a result of COVID-19, the preschool is experiencing a significant increase in the demand for space in the program, as well new standards to re-open under modified guidelines for staff and classroom space. While the WVPD has space to expand to meet both the increased need for space at the current enrollment, as well as the preschool's needs under expanded enrollment, the zoning ordinance presently limits this expansion in two ways—by limiting the gross floor area (GFA) of the facility and the enrollment to 20 children.

Presently, the CDO separately defines Small Day Care Center and Large Day Care Center and Small Preschool and Large Preschool. The distinction between large and small facilities in both of these cases is based on the number of children served in a facility—small is limited to 20 children, while large is more than 20 children. A zoning amendment that predates the current 2008 CDO made the distinction between Small and Large Daycares. An amendment to enable a small childcare to operate in conjunction with the facilities at the WVPD property was approved in 2015. These thresholds then informed a series of more recent amendments which established the same distinction between Large and Small Preschools, and a series of other changes related to these uses.

The distinction between large and small facilities is relevant only within the RCO and E-AE zoning districts. Within these districts, Small Day Cares and Small Preschools are allowed as a Conditional Use, but only in conjunction with Small Museums and are limited to 50% of the GFA of the museum. However, neither Large Day Care nor Large Preschool are permitted in these districts. Within all other zoning districts, large and small facilities of both types are treated exactly the same in terms of where they are allowed, any applicable footnotes, and their minimum parking requirements (as proposed by ZA-20-04, which is scheduled for public hearing before the Council).

In order to enable the preschool to respond to its underlying and COVID-19 driven needs for expanded enrollment, the WVPD has requested an amendment to the ordinance to address these limitations. It is staff's recommendation that the CDO be amended to eliminate the distinction between large and small day care and preschool facilities, as there is no material difference between them except for within the RCO and Enterprise-Ag districts, and to remove the 50% GFA limit on their size relative to museums within the RCO districts.

Proposed Amendment

Amendment Type

Text Amendment	Map Amendment	Text & Map Amendment
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Purpose Statement

This amendment proposes to eliminate the distinction between small and large Day Care Centers and small and large Preschools, and to eliminate the gross floor area limitation on these facilities within the RCO zoning districts.

Proposed Amendments

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

- 1. Update Sec. 5.4.1 to reflect updated uses**
 - Remove references to small and large day care centers and preschools, and replace with "Day Care Center" and "Preschool."
- 2. Update Table 8.1.8-1 regarding minimum parking for updated uses**
 - Remove references to small and large day care centers and preschools, and replace with "Day Care Center" and "Preschool." Utilize minimum parking standards as proposed by ZA-20-04, which are consistent across all uses.
- 3. Modify definitions in Article 13 to change uses**
 - Revise Small Day Care Center and Large Day Care Center to Day Care Center
 - Revise Small Preschool and Large Preschool to Preschool
- 4. Update Appendix A- Use Table to reflect updated uses, amend Footnote 8 (attached to this memo)**
 - Update the uses within Appendix A to be consistent with the above changes
 - Utilize existing Small Day Care Center provision for new Day Care Center use, and existing Small Preschool provisions for new Preschool use regarding where facilities are permitted or conditional use.
 - Amend Footnote 8 to remove the 50% GFA limit for Daycares and Preschools within the RCO Districts relative to Small Museums

****BEGIN PROPOSED AMENDMENTS****

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

Sec. 5.4.1 ~~Small and Large~~ Day Care Centers and ~~Small and Large~~ Preschools

In addition to the provisions of Art 3, Part 5 for conditional uses, and applicable site and design review standards in Art 6, the following additional regulations shall be applicable to an application involving a ~~small~~ day care center or, large day care center, small preschool, ~~or large preschool~~ where such uses are treated as conditional uses pursuant to Appendix A – Use Table:

- (a) No playground equipment shall be located within the front yard;
- (b) [Reserved]
- (c) The site plan review shall insure adequate and safe drop-off and pickup space is provided and that traffic problems are not created;
- (d) Any additions, signage, or site improvements shall be residential in character;
- (e) The facility shall be licensed by the State of Vermont;

- (f) No more than one residential unit may be converted for the creation of a single ~~small~~ day care center, ~~large day care center~~, ~~small preschool~~, or ~~large~~ preschool. Such a conversion shall be exempt from the requirements of **Article 9, Part 2- Housing Replacement**; and,
- (g) The neighborhood is not overburdened with other ~~small~~ day care centers, ~~large day care centers~~, ~~small preschools~~, or ~~large~~ preschools.

Sec. 8.1.8 Minimum Parking Requirements

Parking for all uses and structures shall be provided in accordance with Table 8.1.8-1.

- (a) – (c) As written.

Table 8.1.8-1 Minimum Off-Street Parking Requirements			
	Neighborhood Districts	Shared Use Districts	Downtown Districts
NON-RESIDENTIAL USES	Per 1,000 square feet of gross floor area (gfa) except as noted		
<i>**All prior uses As Written**</i>			
Daycare Large (Over 20 children) (per two (2) employees)	1 plus 1 drop-off per 5 children	1 plus 1 drop-off per 5 children	2 drop-off <u>0</u>
Daycare Small (20 children or less) (per two (2) employees)	<u>1</u>	<u>1</u>	<u>1</u>
School – Preschool Large (over 20 children) (per two (2) employees)	1 plus 1 drop-off per 5 children	1 plus 1 drop-off per 5 children	1 plus 1 per 5 children <u>0</u>
School Preschool Small (up to 20 children) (per two (2) employees)	<u>1</u>	<u>1</u>	<u>1</u>
<i>**All following uses As Written**</i>			

Sec. 13.1.2 Definitions

All other definitions as written.

Day Care Center: (See **Article 5** for specific provisions.)

- (a) **Family Day Care Home:** For the purposes of this ordinance, family day care home shall have the same meaning as that set forth in 24 V.S.A. sec. 4412 (5).
- (b) **Small Day Care Center:** A state licensed daycare facility, ~~serving no more than twenty (20) full-time children in total.~~
- ~~(c) **Large Day Care Center:** A state licensed facility providing day care services for more than twenty (20) full-time children.~~

School: The academic space and accessory uses for the teaching of children or adults.

- (a) **Primary:** elementary school, inclusive of grades K-8.
- (b) **Secondary:** a high school and/or vocational center for attendance after elementary/primary school, granting a high school diploma for levels of education inclusive of grades 9-12.

- (c) **Post-Secondary:** after high school, including colleges, community colleges, universities, or continuing education.
- (d) **Trade or Professional:** a school that offers instruction in skilled trades.
- (e) **Small Preschool:** a school providing educational services for children from 3 years of age until their admission to first grade and that may include kindergarten, ~~serving no more than twenty (20) full-time children in total.~~
- (f) ~~**Large Preschool:** a school providing educational services to children from 3 years of age until their admission to first grade and that may include kindergarten, for more than twenty (20) full-time children in total.~~

****END PROPOSED AMENDMENTS****

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).

Impact on Safe & Affordable Housing

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

Compatibility with Proposed Future Land Use & Density

The proposed amendment removes arbitrary standards limiting the size of a day care or preschool facility in an area of the city where these uses are otherwise permitted as a conditional use. This change is consistent with *planBTV* policy 14.4 which identifies the need to "expand the number and quality of spaces available for, and funding sources to support, child care close to where residents live and work in order to ensure that all Burlington families have access to these services regardless of income or background."

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, resident request	Planning Commission Discussion 8/26/2020	Approved for Public Hearing 8/26/2020	Public Hearing 9/23/2020	Approve & forward to Council
				Continue discussion
City Council Process				
First Read & Referral to Ordinance Cmte	Ordinance Committee discussion	Ordinance Cmte recommends to Council	Second Read & Public Hearing	Approval & Adoption
				Rejected

Excerpt of Appendix A-Use Table for Proposed ZA-21-01

	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
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
**	**	**	**	**	**	**	**	**	**	**	**	**	**	**	**
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
**	**	**	**	**	**	**	**	**	**	**	**	**	**	**	**
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
**	**	**	**	**	**	**	**	**	**	**	**	**	**	**	**
Daycare – Large (Over 20 children) (see Sec. 5.4.1)	N	N	N	N	CU	CU¹³	CU¹³	CU¹³	N	Y	Y	Y	Y	N	CU^{17,27}
Daycare – Small (up to 20 children) Day Care Center (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
**	**	**	**	**	**	**	**	**	**	**	**	**	**	**	**
School – Preschool Large (over 20 children) (see Sec. 5.4.1)	N	N	N	N	CU	CU¹³	CU¹³	CU¹³	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}
**	**	**	**	**	**	**	**	**	**	**	**	**	**	**	**

Footnotes (1) – (7) As Written.

~~8.—8. Small daycare Day Care~~ centers and ~~small~~ preschools in the RCO zones shall only be allowed ~~as part of when a~~ small museum ~~is the principal uses, and shall constitute less than 50% of the gross floor area of the museum.~~

Footnotes (9) – (32) As Written.

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

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



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www.burlingtonvt.gov/plan

TO: Burlington Planning Commission
FROM: Meagan Tuttle, Comprehensive Planner, City Planning
DATE: August 27, 2020
RE: Proposed CDO Amendment: ZA-21-02 Temporary Tents

Overview & Background

During the COVID-19 State of Emergency, since mid-March of this year, the City has established programs such as the "Making Space" initiative to expand areas of public rights of way available for restaurant and retail recovery to occur safely, and to adhere to social distancing requirements. This effort has included the installation of temporary tents, awnings, tables and chairs, parklets, and other infrastructure to create designated spaces for commercial activity. Many other programs and establishments have moved their activities outdoors into what is considered a safer environment to reduce the risk of COVID-19 transmission. As these activities have taken place within public rights of way, the Burlington CDO has not applied, and a streamlined process for review and approval by the Department of Public Works has been established.

As we move into the fall and winter months, and particularly as we prepare for the anticipated return of in-person classes both in the Burlington School District and the higher education institutions, we expect that temporary outdoor venues will play an even more significant role in the safe and successful operations of commercial and civic establishments. Through the City's COVID-19 Analytics Team, we understand that the Burlington School District, and other childcare and youth programming providers are planning to utilize outdoor spaces as a complement to their indoor facilities and programming. Over the summer, the Permitting & Inspections Department has received zoning permit applications from Burlington City Arts, churches and other establishments in the city seeking to erect tents on private property where the CDO does apply.

As such, this amendment seeks to amend the zoning ordinance to provide additional flexibility in the Temporary Structure Provisions to exempt Tents as defined in Chapter 3 of NFPA 101 from requiring a zoning permit for up to 180 days, contingent upon the Fire Marshal issuance of a temporary tent permit.

Proposed Amendment

Amendment Type

Text Amendment	Map Amendment	Text & Map Amendment
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Purpose Statement

The proposed amendment provides for the placement of structural tents for non-residential purposes without review or required zoning permit for up to 180 days, provided that the tent is approved by the Burlington Fire Marshal.

Proposed Amendments

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

1. Amend Sec. 5.1.2 (f) Temporary Structures

- Add an exemption for Tents from review and required permit for up to 180 days within any 12-month period.

****BEGIN PROPOSED AMENDMENTS****

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

Sec. 5.1.2 Structures

Except as otherwise provided by law or by this ordinance, no structure in any district shall be created, removed or altered except in conformance with the provisions of this Article and the requirements of the district in which such land or structure is located.

(a) - (e) *As Written.*

(f) Temporary Structures:

The administrative officer may approve a temporary structure that is incidental and accessory to a principal use subject to the following:

No Review or Permit Required	Site Plan Review: Zoning Permit & COA	Review as per Underlying Zoning
A structure placed up to 10 consecutive days or 30 days within any 12-month period at the same location.	A structure placed from 11-31 consecutive days or 31-60 days within any 12 month period at the same location.	A structure placed over 31 consecutive days or more within any 12 month period at the same location, is no longer considered a temporary structure.
Tents used for recreational non-commercial camping purposes.		
<u>Tents as defined in Chapter 3 of NFPA 101 for non-residential purposes, as approved by the Burlington Fire Marshal, placed up to 180 days within any 12-month period at the same location.</u>		

****END PROPOSED AMENDMENTS****

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).

Impact on Safe & Affordable Housing

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

Compatibility with Proposed Future Land Use & Density

The proposed amendment has no impact on proposed future land use and densities in *planBTV*.

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, resident request	Planning Commission Discussion 8/26/2020	Approved for Public Hearing 8/26/2020	Public Hearing 9/23/2020	Approve & forward to Council
				Continue discussion
City Council Process				
First Read & Referral to Ordinance Cmte	Ordinance Committee discussion	Ordinance Cmte recommends to Council	Second Read & Public Hearing	Approval & Adoption
				Rejected

11.10.5 Air-Supported and Air-Inflated Structures.

11.10.5.1 General. In addition to the general provisions of 11.10.1, the requirements of 11.10.5 shall apply to air-supported and air-inflated structures.

11.10.5.2 Pressurization (Inflation) System. The pressurization system shall consist of one or more operating blower units. The system shall include automatic control of auxiliary blower units to maintain the required operating pressure. Such equipment shall meet the following requirements:

- (1) Blowers shall be powered by continuous-rated motors at the maximum power required.
- (2) Blowers shall have personnel protection, such as inlet screens and belt guards.
- (3) Blower systems shall be weather protected.
- (4) Blower systems shall be equipped with backdraft check dampers.
- (5) Not less than two blower units shall be provided, each of which has capacity to maintain full inflation pressure with normal leakage.
- (6) Blowers shall be designed to be incapable of overpressurization.
- (7) The auxiliary blower unit(s) shall operate automatically if there is any loss of internal pressure or if an operating blower unit becomes inoperative.
- (8) The design inflation pressure and the capacity of each blower system shall be certified by a professional engineer.

11.10.5.3 Standby Power System.

11.10.5.3.1 A fully automatic standby power system shall be provided. The system shall be either an auxiliary engine generator set capable of running the blower system or a supplementary blower unit that is sized for 1 times the normal operating capacity and is powered by an internal combustion engine.

11.10.5.3.2 The standby power system shall be fully automatic to ensure continuous inflation in the event of any failure of the primary power. The system shall be capable of operating continuously for a minimum of 4 hours.

11.10.5.3.3 The sizing and capacity of the standby power system shall be certified by a professional engineer.

11.10.6 Maintenance and Operation.

11.10.6.1 Instructions in both operation and maintenance shall be transmitted to the owner by the manufacturer of the tensioned-membrane, air-supported, or air-inflated structure.

11.10.6.2 Annual inspection and required maintenance of each structure shall be performed to ensure safety conditions. At least biennially, the inspection shall be performed by a professional engineer, registered architect, or individual certified by the manufacturer.

11.10.7 Services.

11.10.7.1 Fired Heaters.

11.10.7.1.1 Only labeled heating devices shall be used.

11.10.7.1.2 Fuel-fired heaters and their installation shall be approved by the authority having jurisdiction.

11.10.7.1.3 Containers for liquefied petroleum gases shall be installed not less than 60 in. (1525 mm) from any temporary membrane structure and shall be in accordance with the provisions of NFPA 58, *Liquefied Petroleum Gas Code*.

11.10.7.1.4 Tanks shall be secured in the upright position and protected from vehicular traffic.

11.10.7.2 Electric Heaters.

11.10.7.2.1 Only labeled heaters shall be permitted.

11.10.7.2.2 Heaters used inside a temporary membrane structure shall be approved.

11.10.7.2.3 Heaters shall be connected to electricity by electric cable that is suitable for outside use and is of sufficient size to handle the electrical load.

11.11 Tents.

11.11.1 General.

11.11.1.1 The provisions of Section 11.1 shall apply.

11.11.1.2 Tents shall be permitted only on a temporary basis.

11.11.1.3 Tents shall be erected to cover not more than 75 percent of the premises, unless otherwise approved by the authority having jurisdiction.

11.11.2 Flame Propagation Performance.

11.11.2.1 All tent fabric shall meet the flame propagation performance criteria contained in Test Method 2 of NFPA 701, *Standard Methods of Fire Tests for Flame Propagation of Textiles and Films*.

11.11.2.2 One of the following shall serve as evidence that the tent fabric materials have the required flame propagation performance:

- (1) The authority having jurisdiction shall require a certificate or other evidence of acceptance by an organization acceptable to the authority having jurisdiction.
- (2) The authority having jurisdiction shall require a report of tests made by other inspection authorities or organizations acceptable to the authority having jurisdiction.

11.11.2.3 Where required by the authority having jurisdiction, confirmatory field tests shall be conducted using test specimens from the original material, which shall have been affixed at the time of manufacture to the exterior of the tent.

11.11.3 Location and Spacing.

11.11.3.1 There shall be a minimum of 10 ft (3050 mm) between stake lines.

11.11.3.2 Adjacent tents shall be spaced to provide an area to be used as a means of emergency egress. Where 10 ft (3050 mm) between stake lines does not meet the requirements for means of egress, the distance necessary for means of egress shall govern.

11.11.3.3 Tents not occupied by the public and not used for the storage of combustible material shall be permitted to be erected less than 10 ft (3050 mm) from other structures where the authority having jurisdiction deems such close spacing to be safe from hazard to the public.

11.11.3.4 Tents, each not exceeding 1200 ft² (112 m²) in finished ground level area and located in fairgrounds or similar open spaces, shall not be required to be separated from each other, provided that safety precautions meet the approval of the authority having jurisdiction.

11.11.3.5 The placement of tents relative to other structures shall be at the discretion of the authority having jurisdiction, with consideration given to occupancy, use, opening, exposure, and other similar factors.



3.3.262 Specification.

3.3.262.1* Design Specification. A building characteristic and other conditions that are under the control of the design team. (SAF-FUN)

3.3.262.2 Input Data Specification. Information required by the verification method. (SAF-FUN)

3.3.263 Staff (Residential Board and Care). Persons who provide personal care services, supervision, or assistance. (SAF-BCF)

3.3.264 Stage. A space within a building used for entertainment and utilizing drops or scenery or other stage effects. (SAF-AXM)

3.3.264.1 Legitimate Stage. A stage with a height greater than 50 ft (15 m) measured from the lowest point on the stage floor to the highest point of the roof or floor deck above. (SAF-AXM)

3.3.264.2 Regular Stage. A stage with a height of 50 ft (15 m) or less measured from the lowest point on the stage floor to the highest point of the roof or floor deck above. (SAF-AXM)

3.3.265* Stair.

3.3.265.1 Aisle Stair. A stair within a seating area of an assembly occupancy that directly serves rows of seats to the side of the stair, including transition stairs that connect to an aisle or a landing. (SAF-AXM)

3.3.265.2 Outside Stair. A stair with not less than one side open to the outer air. (SAF-MEA)

3.3.266 Stakeholder. An individual, or representative of same, having an interest in the successful completion of a project. (SAF-FUN)

3.3.267 Storage Occupancy. See 3.3.190.15.

3.3.268* Stories in Height. The story count starting with the level of exit discharge and ending with the highest occupiable story containing the occupancy considered. (SAF-FUN)

3.3.269* Story. The portion of a building located between the upper surface of a floor and the upper surface of the floor or roof next above. (SAF-FUN)

3.3.269.1 Occupiable Story. A story occupied by people on a regular basis. (SAF-FUN)

3.3.270 Street. A public thoroughfare that has been dedicated for vehicular use by the public and can be used for access by fire department vehicles. (SAF-MEA)

3.3.271* Street Floor. A story or floor level accessible from the street or from outside the building at the finished ground level, with the floor level at the main entrance located not more than three risers above or below the finished ground level, and arranged and utilized to qualify as the main floor. (SAF-MER)

3.3.272* Structure. That which is built or constructed. (SAF-FUN)

3.3.272.1 Air-Inflated Structure. A structure whose shape is maintained by air pressure in cells or tubes forming all or part of the enclosure of the usable area and in which the occupants are not within the pressurized area used to support the structure. (SAF-IND)

3.3.272.2* Air-Supported Structure. A structure where shape is maintained by air pressure and in which occupants are within the elevated pressure area. (SAF-IND)

3.3.272.3 Limited Access Structure. A structure or portion of a structure lacking emergency openings. (SAF-IND)

3.3.272.4 Membrane Structure. A building or portion of a building incorporating an air-inflated, air-supported, tensioned-membrane structure; a membrane roof; or a membrane-covered rigid frame to protect habitable or usable space. (SAF-IND)

3.3.272.5 Multilevel Play Structure. A structure that consists of tubes, slides, crawling areas, and jumping areas that is located within a building and is used for climbing and entertainment, generally by children. (SAF-AXM)

3.3.272.6* Open Structure. A structure that supports equipment and operations not enclosed within building walls. (SAF-IND)

3.3.272.7* Parking Structure. A building, structure, or portion thereof used for the parking, storage, or both, of motor vehicles. [88A, 2015] (SAF-IND)

3.3.272.7.1 Assisted Mechanical Type Parking Structure. A parking structure that uses lifts or other mechanical devices to transport vehicles to the floors of a parking structure, where the vehicles are then parked by a person. [88A, 2015] (SAF-IND)

3.3.272.7.2 Automated Type Parking Structure. A parking structure that uses computer controlled machines to store and retrieve vehicles, without drivers, in multi-level storage racks with no floors. [88A, 2015] (SAF-IND)

3.3.272.7.3 Enclosed Parking Structure. Any parking structure that is not an open parking structure. [88A, 2015] (SAF-IND)

3.3.272.7.4 Open Parking Structure. A parking structure that meets the requirements of 42.8.1.3 (SAF-IND).

3.3.272.7.5 Ramp Type Parking Structure. A parking structure that utilizes sloped floors for vertical vehicle circulation. [88A, 2015] (SAF-IND)

3.3.272.8 Permanent Structure. A building or structure that is intended to remain in place for a period of more than 180 days in any consecutive 12-month period. (SAF-FUN)

3.3.272.9 Temporary Structure. A building or structure not meeting the definition of permanent structure. (See also 3.3.272.8, Permanent Structure.) (SAF-FUN)

3.3.272.10 Tensioned-Membrane Structure. A membrane structure incorporating a membrane and a structural support system such as arches, columns and cables, or beams wherein the stresses developed in the tensioned membrane interact with those in the structural support so that the entire assembly acts together to resist the applied loads. (SAF-IND)

3.3.272.11* Underground Structure. A structure or portions of a structure in which the floor level is below the level of exit discharge. (SAF-IND)

3.3.272.12 Water-Surrounded Structure. A structure fully surrounded by water. (SAF-IND)

3.3.273 Suite.

3.3.273.1 Guest Suite. An accommodation with two or more contiguous rooms comprising a compartment, with or without doors between such rooms, that provides living, sleeping, sanitary, and storage facilities. (SAF-RES)

3.3.273.2 Non-Patient-Care Suite (Health Care Occupancies). A suite within a health care occupancy that is not intended for sleeping or treating patients. (SAF-HEA)

3.3.273.3 Patient Care Non-Sleeping Suite (Health Care Occupancies). A suite for treating patients with or without patient beds not intended for overnight sleeping. (SAF-HEA)

3.3.273.4 Patient Care Sleeping Suite (Health Care Occupancies). A suite containing one or more patient beds intended for overnight sleeping. (SAF-HEA)

3.3.273.5 Patient Care Suite (Health Care Occupancies). A series of rooms or spaces or a subdivided room separated from the remainder of the building by walls and doors. (SAF-HEA)

3.3.274 System.

3.3.274.1 Elevator Evacuation System. A system, including a vertical series of elevator lobbies and associated elevator lobby doors, an elevator shaft(s), and a machine room(s), that provides protection from fire effects for elevator passengers, people waiting to use elevators, and elevator equipment so that elevators can be used safely for egress. (SAF-MEA)

3.3.274.2 Site-Fabricated Stretch System. A system, fabricated on-site, and intended for acoustical, tackable, or aesthetic purposes, that is comprised of three elements: (1) a frame (constructed of plastic, wood, metal, or other material) used to hold fabric in place, (2) a core material (infill, with the correct properties for the application), and (3) an outside layer, comprised of a textile, fabric, or vinyl, that is stretched taut and held in place by tension or mechanical fasteners via the frame. (SAF-INT)

3.3.275 Technically Infeasible. A change to a building that has little likelihood of being accomplished because the existing structural conditions require the removal or alteration of a load-bearing member that is an essential part of the structural frame, or because other existing physical or site constraints prohibit modification or addition of elements, spaces, or features that are in full and strict compliance with applicable requirements. (SAF-FUN)

3.3.276 Temporary Platform. See 3.3.211.1.

3.3.277 Temporary Structure. See 3.3.272.9.

3.3.278 Tensioned-Membrane Structure. See 3.3.272.10.

3.3.279* Tent. A temporary structure, the covering of which is made of pliable material that achieves its support by mechanical means such as beams, columns, poles, or arches, or by rope or cables, or both. (SAF-IND)

3.3.279.1 Private Party Tent. A tent erected in the yard of a private residence for entertainment, recreation, dining, a reception, or similar function. (SAF-AXM)

3.3.280 Thermal Barrier. See 3.3.31.3.

3.3.281 Tower. An enclosed independent structure or portion of a building with elevated levels for support of equipment or occupied for observation, control, operation, signaling, or similar limited use. (SAF-IND)

3.3.281.1 Air Traffic Control Tower. An enclosed structure or building at airports with elevated levels for support of equipment and occupied for observation, control, operation, and signaling of aircraft in flight and on the ground. (SAF-IND)

3.3.282 Two-Family Dwelling Unit. See 3.3.66.3.

3.3.283 Uncertainty Analysis. See 3.3.17.2.

3.3.284 Underground Structure. See 3.3.272.11.

3.3.285 Verification Method. A procedure or process used to demonstrate or confirm that the proposed design meets the specified criteria. (SAF-FUN)

3.3.286* Vertical Opening. An opening through a floor or roof. (SAF-FIR)

3.3.287 Vomitory. An entrance to a means of egress from an assembly seating area that pierces the seating rows. (SAF-AXM)

3.3.288 Wall.

3.3.288.1 Fire Barrier Wall. A wall, other than a fire wall, that has a fire resistance rating. (SAF-FIR)

3.3.288.2 Proscenium Wall. The wall that separates the stage from the auditorium or house. (SAF-AXM)

3.3.289* Wall or Ceiling Covering. A textile-, paper-, or polymeric-based product designed to be attached to a wall or ceiling surface for decorative or acoustical purposes. (SAF-INT)

3.3.290 Water-Surrounded Structure. See 3.3.272.12.

3.3.291 Weathered-Membrane Material. See 3.3.171.5.

3.3.292 Yard. An open, unoccupied space other than a court, unobstructed from the finished ground level to the sky on the lot on which a building is situated. (SAF-MEA)

Chapter 4 General

4.1* Goals.

4.1.1* Fire. A goal of this *Code* is to provide an environment for the occupants that is reasonably safe from fire by the following means:

- (1)*Protection of occupants not intimate with the initial fire development
- (2) Improvement of the survivability of occupants intimate with the initial fire development

4.1.2* Comparable Emergencies. An additional goal is to provide life safety during emergencies that can be mitigated using methods comparable to those used in case of fire.

4.1.3* Crowd Movement. An additional goal is to provide for reasonably safe emergency crowd movement and, where required, reasonably safe nonemergency crowd movement.

4.2 Objectives.

4.2.1 Occupant Protection. A structure shall be designed, constructed, and maintained to protect occupants who are not intimate with the initial fire development for the time needed to evacuate, relocate, or defend in place.

4.2.2 Structural Integrity. Structural integrity shall be maintained for the time needed to evacuate, relocate, or defend in place occupants who are not intimate with the initial fire development.

4.2.3 Systems Effectiveness. Systems utilized to achieve the goals of Section 4.1 shall be effective in mitigating the hazard or condition for which they are being used, shall be reliable, shall be maintained to the level at which they were designed to operate, and shall remain operational.

Memorandum

TO:

Vermont Department of Housing and
Community Development
City of South Burlington Planning Commission
Town of Essex Planning Commission
Town of Hinesburg Planning Commission
Town of Jericho Planning Commission

Chittenden County Regional Planning
Commission
Town of Richmond Planning Commission
Town of Shelburne Planning Commission
Town of St. George Planning Commission
Village of Essex Junction Planning Commission

FROM: Matt Boulanger, AICP, Planning Director

DATE: October 2, 2020

SUBJECT: **Town of Williston Unified Development Bylaw – proposal to amend the following chapters:**

Chapter 29 Watershed Health

1-2 line description

Chapter 14 Parking

1-2 line description

Chapters 1-46 and Appendices A-I

1-2 line description

The Town of Williston is considering revising the portions of its development regulations related to parking requirements and watershed protection buffers. In addition to policy changes in these two areas of the bylaw, the Town is also considering changes throughout the document to correct errors and omissions, incorrect citations, and to add clarifying language to some existing policies.

The Williston Planning Commission will hold a public hearing to consider the proposed amendments to the *Williston Unified Development Bylaw* on Tuesday, October 20, 2020 at 7:00 PM via a Zoom meeting (Meeting ID 158-006-871 on zoom.us/join or 1-646-558-8656). Public comment at this hearing is welcomed and encouraged.

The proposed amendments to the Town's *Unified Development Bylaw* are intended to reduce parking requirements and encourage shared parking wherever possible and to address nonconformities on currently developed properties within the Town's watershed protection buffers. Proposed changes include:

Parking

- Reduce parking minimums by 20%.

- Reduce parking requirements for Accessory Dwelling Units and multifamily residential developments
- Allow further reduction in parking minimums through shared parking arrangements as well as the use of a new shared parking tool.

Watershed Protection Buffers

- Amend the watershed protection buffer regulations (WDB 29) to allow flexibility for existing nonconforming residential properties that were constructed prior to the 2009 adoption of watershed protection standards

Additional information can be obtained by contacting Matt Boulanger, Director of Planning at the Williston Planning Office by calling (802) 878-6704, or by email to mboulanger@willistonvt.org.

Attachments: Planning Commission Reporting Form for Municipal Bylaw Amendments
Copy of Public Notice
Williston Unified Development Bylaw Document with Proposed Changes

**Town of Williston, Vermont
7900 Williston Road
Williston, VT 05495**

**Planning Commission Reporting Form
for Municipal Bylaw Amendments**

The Town of Williston, Vermont is proposing changes to the town's development regulations contained in the *Williston Unified Development Bylaw*. This report summarizes the proposed changes to the chapters of the *Unified Development Bylaw* being considered.

This report is in accordance with 24 V.S.A. §4441 (c) which states:

“When considering an amendment to a bylaw, the planning commission shall prepare and approve a written report on the proposal. A single report may be prepared so as to satisfy the requirements of this subsection concerning bylaw amendments and subsection 4384(c) of this title concerning plan amendments..... The report shall provide (:)

a) brief explanation of the proposed bylaw, amendment, or repeal andinclude a statement of purpose as required for notice under section §4444 of this title,

The Town of Williston is considering revising the portions of its development regulations related to parking requirements and watershed protection buffers. In addition to policy changes in these two areas of the bylaw, the Town is also considering changes throughout the document to correct errors and omissions, incorrect citations, and to add clarifying language to some existing policies. These changes will:

- Amend the watershed protection buffer regulations (WDB 29) to allow flexibility for existing nonconforming residential properties that were constructed prior to the 2009 adoption of watershed protection standards
- Amend the parking standards (WDB 14) to 1) allow flexibility for new and redeveloping properties to minimize the area devoted to surface parking while still ensuring that there is a reasonable supply of parking, 2) encourage shared parking, and 3) and provide clarity around bicycle parking and end-of-trip facility requirements
- Correct typographical errors and incorrect citations, as well as provide clarity to existing standards and definitions contained in WDB 1-46

b) and shall include findings regarding how the proposal:

1. Conforms with or furthers the goals and policies contained in the municipal plan, including the effect of the proposal on the availability of safe and affordable housing:

1. Objective 4.2.3 of the Williston 2016-2024 Comprehensive Plan calls for the Town of Williston to:

“Minimize the Surface Area Devoted to Parking. The town will continue to require adequate parking and to require shared parking where feasible to create “park once” conditions in the growth center. The “park once” concept requires a system that allows people to park their car once and circulate throughout the business district through a network of interconnected walking paths or transit. For both design and water quality reasons, the town will limit the number of spaces to no more than the number required. The town will also consider reducing or eliminating parking minimums.”

2. Policy 3.7.1, Refine Watershed Protection Buffers to Address Nonconforming Development, states:

“There are a number of existing houses built prior to the town’s current development regulations that were built within what are now watershed protections areas or buffers. The town currently does not have a mechanism for allowing any flexibility for these properties to have any additional development on a limited basis. The town shall consider amending its current regulations to try to accommodate some of these properties.”

2. Is compatible with the proposed future land uses and densities of the municipal plan:

The proposed changes do not alter any of the allowed uses of land or densities in the Unified Development Bylaw. The reduced parking requirements proposed may help property owners achieve the desired residential densities and provision of housing through accessory dwelling units as called for in the 2017 Williston Comprehensive Plan.

3. Carries out, as applicable, any specific proposals for any planned community facilities.

This is not applicable, these bylaw sections do not call for the construction of any community facilities.

Certification of Service

Vermont Agency of Commerce and Community Development
One National Life Drive
Deane C. Davis Building, 6th Floor
Montpelier, VT 05620-0501

Chittenden County Regional Planning Commission
110 West Canal Street, #202
Winooski, VT 05404

City of South Burlington Planning Commission
575 Dorset Street
South Burlington, VT 05403

Town of Essex Planning Commission
81 Main Street
Essex Junction, VT 05452

Town of Hinesburg Planning Commission
10632 Route 116
Hinesburg, VT 05461

Town of Jericho Planning Commission
P O Box 39
Jericho, VT 05465

Town of Richmond Planning Commission
P O Box 285
Richmond, VT 05477

Town of Shelburne Planning Commission
P O Box 88
5420 Shelburne Road
Shelburne, VT 05482

Town of St. George Planning Commission
1 Barber Road,
St. George, VT 05495

Village of Essex Junction Planning Commission
2 Lincoln St.
Essex Junction, VT 05452

Notice of Public Hearing

TOWN OF WILLISTON

October 20, 2020, 7:00 PM

To participate: zoom.us/join or call (646) 558-8656

Zoom Meeting ID 158 006 871

The Williston Planning Commission will hold a public hearing to consider amendments to the *Williston Unified Development Bylaw* on October 20, 2020 at 7:00 PM. The public hearing will be held virtually on Zoom. Public comment at this hearing is welcomed and encouraged.

The proposed amendments to the town's *Unified Development Bylaw* include:

- Amend the watershed protection buffer regulations (WDB 29) to allow flexibility for existing nonconforming residential properties that were constructed prior to the 2009 adoption of watershed protection standards
- Amend the parking standards (WDB 14) to 1) allow flexibility for new and redeveloping properties to minimize the area devoted to surface parking while still ensuring that there is a reasonable supply of parking, 2) encourage shared parking, and 3) and provide clarity around bicycle parking and end-of-trip facility requirements
- General clean up to correct typographical errors and incorrect citations, as well as provide clarity to existing standards and definitions

View the proposed changes online: <http://bit.ly/willistonbylaw2020>

Contact Matt Boulanger at the Williston Planning Office at (802) 878-6704 or mboulanger@willistonvt.org for additional information.

**Town of Williston, Vermont
7900 Williston Road
Williston, VT 05495**

**Planning Commission Reporting Form
for Municipal Bylaw Amendments**

The Town of Williston, Vermont is proposing changes to the town’s development regulations contained in the *Williston Unified Development Bylaw*. This report summarizes the proposed changes to the chapters of the *Unified Development Bylaw* being considered.

This report is in accordance with 24 V.S.A. §4441 (c) which states:

“When considering an amendment to a bylaw, the planning commission shall prepare and approve a written report on the proposal. A single report may be prepared so as to satisfy the requirements of this subsection concerning bylaw amendments and subsection 4384(c) of this title concerning plan amendments..... The report shall provide (:)

c) brief explanation of the proposed bylaw, amendment, or repeal andinclude a statement of purpose as required for notice under section §4444 of this title,

The proposed amendments to the Town’s *Unified Development Bylaw* are intended to focus the collection and expenditure of Town Transportation Impact fees on Town projects that will reduce the congestion that will otherwise be created by new development. Changes include:

- Raising the fee from \$700.00 per PM Peak Hour Vehicle Trip to \$2000.00 per PM Peak-Hour Vehicle Trip.
- Exempting units that will be perpetually affordable at 80% of the area median Income from the requirement to pay a transportation impact fee.
- Exempting new child care facilities from the requirement to pay the fee.
- Clarifying how developments that have constructed or contributed to the construction of impact fee projects will be able to credit that construction or contribution against impact fee liability.

d) and shall include findings regarding how the proposal:

2. Conforms with or furthers the goals and policies contained in the municipal plan, including the effect of the proposal on the availability of safe and affordable housing:

4. Objective 14.1 of the Williston 2016-2024 Comprehensive Plan calls for the Town of Williston to:

“revise its bylaws to be consistent with the policies adopted in this plan. These revisions will take the form of a unified development bylaw. These proposed changes will help

ensure that the town's development regulations are consistent with this recently adopted version of the town's comprehensive plan."

5. Policy 6.6.2, Monitor and Evaluate the Transportation Impact Fee, states:

"Williston has charged transportation impact fees since 1987, raising more than \$2 million. The current impact fee of \$700 per peak hour trip end was updated in 2008. The town will monitor and evaluate the effectiveness of the impact fee program and consider revising it to reflect current costs and match the priorities for improvements adopted in this plan."

6. The revised fee contains specific exemptions from the fee for perpetually-affordable housing units.

2. Is compatible with the proposed future land uses and densities of the municipal plan:

The revised list of transportation improvements upon which impact fee monies may be spent is focused on the construction of or improvements to the grid street network in the Town's state-designated Growth Center at Taft Corners, along with some funds to encourage the development of a multi-use path connecting Williston Village Designated Village Center to the Growth Center, in keeping with the land use goals of the 2016 Williston Comprehensive Plan and the 2018 amendment to that plan, the Williston Village Master Plan.

7. Carries out, as applicable, any specific proposals for any planned community facilities.

The list of impact fee projects is taken directly from policy goals and projects outlined in section 6.4 of the Williston Comprehensive Plan, with a heavy focus on projects the Town will be responsible for constructing.

**SOUTH BURLINGTON PLANNING COMMISSION
MEETING MINUTES
22 SEPTEMBER 2020**

The South Burlington Planning Commission held a regular meeting on Tuesday, 22 September 2020, at 7:00 p.m., via Go to Meeting remote technology.

MEMBERS PRESENT: J. Louisos, Chair; B. Gagnon, T. Riehle, M. Ostby, M. Mittag, D. Macdonald, P. Engels

ALSO PRESENT: P. Conner, Director of Planning and Zoning; C. & A. Long, D. Long, C. Trombley, V. Bolduc, M. Abrams, S. Dooley, J. Weith

1. Agenda: Additions, deletions or changes in order of agenda items:

No changes were made to the agenda.

2. Open to the public for items not related to the Agenda:

Mr. Abrams expressed concern with development projects in his neighborhood and asked that they be stopped until there is a change in the regulations that would grandfather long-standing neighborhoods. Mr. Conner explained that once a Preliminary Plat has been submitted, that project can proceed under the rules then in effect. There is no action that Planning Commission can take to go backwards. The Planning Commission can consider potential future projects. Mr. Abrams requested that his proposal be considered as soon as possible so that people are not being blind-sided.

3. Planning Commissioner announcements and staff report:

Mr. Conner advised that the City Council received an update on the I-89 Corridor Study. There was also a presentation from the South Burlington Land Trust regarding using sewer capacity to control development as well as a presentation from the Energy Committee.

4. Work Session on Land Development Regulation Amendments:

- a. Environmental Protection Standards in PUDs**
- b. Continued review of Forested habitat Block applicability**

Mr. Conner reviewed the history and noted the Commission is bringing together conservation and development standards (i.e., how standards would apply in a subdivision). Tonight's focus is on Conservation PUDs and possible decisions the Commission is ready to make.

Mr. Conner noted that in considering site plans and zoning permits, the standards in Articles 10 and 12 would apply. The regulations try to give more guidance as to what a developer needs to present up front.

Mr. Mittag questioned the merging of Level 1 and Level 2 resources. Mr. Conner said the feedback from the Commission was that all resources should be regulated. There are still distinctions between Level 1 and Level 2 for density calculations.

Mr. Mittag noted that the FEMA map has indicated a 500 year flood plain from the Golf Course to Shelburne Bay, and he felt this should be a Level 1. Mr. Conner noted that the only limitation in the current regulations for a 500 year flood plain is that critical facilities (e.g., jails, hospitals, day cares) cannot be put there. Mr. Riehle asked how often that particular land has flooded. Mr. Conner said 500 year flood plains did flood elsewhere in the State but not in South Burlington. Mr. Gagnon said that with greater frequency of rain events, it may be more proactive to add more restrictions to the 500 year flood plain. He felt it would be interesting to see what is left to develop there. Mr. Conner said he can come back with information on that.

After a brief discussion members agreed to separate levels 1 and 2.

With regard to Subdivision and TND/NCD PUDs, the standards for Articles 10 and 12 would apply. Newly created lot would need to be arranged to exclude hazards, etc. In a standards subdivision, the buildable area would house the minimum civic space and would be the area of land from which the parcel based density is calculated.

Mr. Gagnon said he thought they were going to differentiate how habitat block core areas and edges were dealt with. Mr. Conner said he didn't want to do that until there is further discussion. Mr. Mittag suggested using the term "habitat block buffer." Mr. Conner said noted that in the Arrowwood map "edge" represents 300 feet from the Interstate, etc. He felt they need a better word. Ms. Ostby said there may be some edges that are important, others that might be questioned. She felt they would need to go into great detail.

Mr. Gagnon said there are some invasive species that should be taken out. He didn't want to regulate 300 feet of invasives. Mr. Conner said the challenge is that this is a policy based tool, and there is an opportunity for 2 experts to disagree. Ms. Ostby said that if a landowner can demonstrate that what the map says is inaccurate, the landowner should have the right to go through a verification process. If the landowner turns out to be right, there shouldn't have to be an alternate plan made. Mr. Conner said that where there is a lack of clarity, the applicant has the right to proceed. It would have to be very clear where the lines are. Ms. Ostby suggested offering landowners some time to challenge where lines are drawn. Mr. Gagnon said as an alternative they could do that during a development plan. He suggested the possibility of a "guidance manual" with input from stakeholders.

Mr. Gagnon noted that Arrowwood admitted that a lot of their lines were drawn from a vehicle, not from work on the ground. He felt there needs to be as solid justification as possible with the lines the Commission draws. Mr. MacDonald agreed.

Mr. Bolduc noted that he agreed with the direction of this conversation. He said that in the Open Space Committee, they were reminded how quickly lines can change, partly because of invasive species. The Audubon Society wants to get rid of the invasives. Mr. Bolduc stressed that if the Commission is

planning for 10 years, the lines could look much different 10 years down the road. He said there has to be a process to recognize that some of the lines are “very soft.”

Mr. Mittag said they have to work with what is there now. Mr. Gagnon said they need verification as well so an owner can challenge a line that is drawn. He then added that they need to see what they can do to improve on Arrowwood when there is no scientific verification.

Members then considered Conservation PUDs. Mr. Conner presented 2 options to consider:

Option 1: A minimum percentage (e.g. 70%) of the total area of property must be set aside as conserved space. Conserved land would include hazards and Level 1 and Level 2 resources that are needed to reach the minimum percentage. If hazards are less than 70% of the property, the applicant must assign at least the minimum percentage of land from Level1/Level2 resources as conservation land. The applicant and DRB are guided based on a priority order. Regulations could include incentives to conserve additional land as well in exchange for additional density on the non-conserved land. If hazards are more than 70% of the property, then all hazard areas must be conserved. Standards would allow for the balance of land to be treated as “buildable land” with guidance to the applicant and DRB as to how to manage development.

Option 2: Instead of requiring the conservation of 70% of the total area of the parcel, hazards could be separated from Level1/Level 2 resources. All hazards must be set aside and conserved. A minimum percentage of the identified Level1/Level2 resources would also be required to be set aside.

Mr. Gagnon liked the Option 1 approach. Ms. Ostby agreed but felt that as the acreage increased, the percentage should be 80% instead of 70%. Mr. Conner said that for a very large property, it would be beneficial to the applicant to do a TND for the developable area instead of a conservation PUD. In some communities, there is a requirement to be a Conservation PUD. Staff is recommending an option as there is not much downside to that.

Ms. Ostby asked for some consideration to have someone look at habitat blocks so critical parts are protected. Mr. Conner said the DRB can be given guidance as to priorities for what can be built on.

Ms. Louisos cited the importance of connectors and felt that shouldn't be lost. Ms. Ostby said she would rank habitat block edge higher than Class 3 wetland buffers.

Mr. Conner said he is hearing a preference for Option 1. Regarding density with that option, there are possible options:

- a. The same amount of development as allowed today
- b. Allow full transfer of density from conserved Level1/Level2 land within the parcel to the buildable area
- c. Allow partial transfer of density from hazards and full transfer of Level1/Level 2 to the buildable area
- d. Transfer of Level 2 land first; if that is not enough, some of Level 1

Mr. Gagnon said he liked Option “b.” Mr. Macdonald liked Option “c” to incentivize more. If someone goes beyond, they should be rewarded. Ms. Ostby favored letting people build more densely if they conserved the rest of the land.

Mr. Gagnon said an applicant could decide between a TND and a Conservation PUD and go with the standards that apply to that option.

Members generally supported Option 1 and Option “b” with some additional discussion.

Mr. Conner suggested a special Commission meeting next week to get into the other items on the agenda. Members agreed.

5. Continue review of amendment to permit an increase in lot/building coverage within the Urban Design Overlay District:

Mr. Conner outlined possible options in addition to the previously discussed park option if the Board chooses to allow the additional lot coverage requested by Mr. Shearer:

- a. A payment to the open space fund in an amount to be determined based on the assessed value of the land
- b. Use of TDRs – this would be a pilot program. The sending areas would be the same as if transferring a residential unit. The recipient would get a certain number of additional square feet of lot coverage. This could apply at first in one area and see how it works, then consider it city-wide.
- c. A small park on the property or on a nearby property.

Ms. Ostby favored doing the TDR version to help the TDR marketplace.

Mr. Gagnon favored keeping it simple with a payment.

Mr. Macdonald was OK with the payment method but favored the TDRs to create more of a market.

Mr. Mittag noted the timing issue for Mr. Shearer and felt the buyout would be much quicker for him, but he also wanted to leave the TDR route on the table. Mr. Riehle also noted that Mr. Shearer has been waiting a long time and didn’t want to hold him up longer. Ms. Louisos and Mr. Gagnon also agreed to keep the TDR route as an option. Mr. MacDonald suggested offering an option but making the TDR more appealing by making the payment higher.

Mr. Conner noted there is leg work and legal work with the TDR method.

Mr. Weith spoke on Mr. Shearer's behalf and said his preference is to keep it as simple and affordable as possible, possibly a menu of options so people can use what works best for them. He suggested options such as the park, TDR and payment in lieu and maybe even enhanced beautification of the property. He said every property is different, and these are areas where the City wants growth. Payment in lieu is simpler and more predictable. With TDRs you don't know the cost down the road.

In a straw poll, Mr. Gagnon and Mr. Macdonald favored leaving all the options. Mr. Mittag favored two options with the buyout and TDRs. Ms. Ostby and Mr. Engels favored only the TDR. Ms. Louisos favored the TDRs and park options. Other members said they could support that.

6. Meeting Minutes of 25 August 2020:

Mr. Gagnon moved to approve the Minutes of 25 August as written. Mr. Macdonald seconded. Motion passed unanimously.

7. Other Business:

a. Shelburne Planning Commission public hearing on proposed amendments to Zoning Bylaw, October 8, 2020:

No action was taken on this item.

As there was no further business to come before the Commission, the meeting was adjourned by common consent at 9:40 p.m.

Clerk