CITY OF BURLINGTON INCLUSIONARY ZONING WORKING GROUP (IZWG)

Draft Recommendation Report

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

6/4/18

https://www.burlingtonvt.gov/CEDO/IZWG

IZWG - Draft Recommendation Report

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Introduction

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

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

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

Over 6 months the IZWG met 11 times and established 2 subcommittees to review specific aspects of IZ and refine recommendations. The group reviewed each recommendation from the IZ Evaluation Report and considered other ideas related to inclusion. The IZ evaluation report laid out three paths of recommendations, with varying levels of complexity and impact; The first path representing a course of minor tinkering, the second path achieving a fully-functioning inclusionary zoning policy, and the third path leveraging local resources and a functional IZ policy to significantly boost the city's supply of affordable and market-rate housing.

The draft recommendations of the IZWG have been the result of considerable time and effort outlined in this report, but are the starting point for a larger discussion and process. The process will include public hearing, a follow up meeting of the IZWG, and further work of boards and committees to refine the recommendations with public input. The IZWG also acknowledges that there are many aspects that effect the success of inclusionary zoning policy that cannot be addressed through the ordinance and associated policies. The group has included limited but important recommendations pertaining to other policies outside of IZ ordinance that relate to inclusion.

This report summarizes the background of the current inclusionary zoning policy, the deliberations of the IZWG group including the associated materials, and their draft recommendations to the City Council.

Inclusionary Zoning Background

A combination of limiting geography, conservation efforts by local residents and a thriving job market has led to a persistent "housing affordability and availability crisis." In response, Burlington adopted its inclusionary zoning program in 1990, and was the first locally initiated inclusionary zoning program to index its affordable housing set-aside to the price of the market-rate homes. The intent of the inclusionary zoning ordinance as written is:

(a) To meet the specific mandates of 24 V.S.A. Chapter 117 related to housing opportunities for all of Vermont's citizens, particularly for those citizens of low or moderate income;

(b) To ensure the provision of housing that meets the needs of all economic groups by precluding construction of only market rate housing on the limited supply of available land within the City;

(c) To improve the quality of life for all residents by having an economically integrated housing supply throughout the City; and,

(d) To prevent overcrowding and deterioration of the limited supply of affordable housing, and thereby promote the public health, safety and general welfare.

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

Development threshold

The ordinance applies to any development of 5 or more dwelling units, including new construction or substantial rehabilitation. With adaptive reuse, the threshold is 10 units.

New Construction & Substantial Rehab
5 UNITS

Adaptive Reuse
10 UNITS

Proportional requirement

15% of all dwelling units must be affordable at the ordinance's income targets if the average sale or rental price within the development is affordable to households at or below 139% of area median income (AMI). That base requirement rises to 20% if the development's average unit is affordable between 140% and 179% of AMI, and to 25% if the development is in a waterfront district or if the average unit is affordable at 180+% of AMI.

Average price range of units	% of units to be income restricted
0-139% of AMI	15%
140-179% of AMI	20%
180+% of AMI, or waterfront district	25%

Income targets

There are two income targets: 65% of AMI for rental housing and 75% of AMI for purchasable units.

65% AMI

RENT

75% AMI

SALE

Cost offsets

Developers that comply with the ordinance are entitled to density and lot coverage bonuses of between 15% and 25%, depending on the zoning district. They are also entitled to a waiver of up to 50% of required parking spaces and a waiver of a portion of the impact fees tied to the inclusionary units.

15-25%
added density & lot coverage

Up to
50%
waiver of required parking spaces

Compliance options

Off-site option: If a developer can demonstrate to the Development Review Board (DRB) that site conditions prevent the inclusionary units from being built on the same site as market-rate units, the requirement may be met off-site within the city at 1.5 times the on-site quantity. The sole exception is that this option is not available for projects in a waterfront district.

Payment in lieu: At City Council's discretion, a per-unit payment in lieu may be made in exchange for not providing the required number of inclusionary units. That per-unit fee was set at $100,000 in 2007 and is indexed to inflation (2016 value: $115,000).

Unit comparability

To ensure that inclusionary units are comparable to their market-rate counterparts, the ordinance requires a similar bedroom mix between a development's market-rate and affordable units. It also sets minimum square footages for units (750 square feet for one-bedroom units, 1,000 for two-bedroom, 1,100 for three-bedroom, and 1,250 for four-bedroom).

Minimum SQ FT

750
1,000
1,100

Other notable features

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

99 YRS

City's right to purchase: When purchasable units are produced, the manager of the city's Housing Trust Fund has the right of first refusal for a 120-day period.

Administration

The Manager of the Housing Trust Fund, an employee of the city's Community and Economic Development Office (CEDO), oversees compliance activities.

IZ Evaluation Report 2017

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

> "A look back at the performance of Burlington's inclusionary zoning policy since 1990 and a look forward at the policy's potential to help the city substantially address a critical problem suggests that the community has roughly three ways to think about the policy's future. This assumes that doing nothing at all or repealing the ordinance are not true options because they go against the grain of Burlington's values and the community's interest in continuous self-improvement."

IZ Evaluation Report Recommendations Outline

> "The following three paths are presented in ascending order of effort and reward – with the first path representing a course of minor tinkering, the second path achieving a fully-functioning inclusionary zoning policy, and the third path leveraging local resources and a functional IZ policy to significantly boost the city's supply of affordable and market-rate housing. Recommendations listed under the second and third paths are contingent upon making existing cost offsets work and providing an additive layer of developer incentives."

1) Status Quo Plus

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

2) Fully Functional Inclusionary Zoning

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

3) Moving the Needle

a) Craft a funding plan that relies on local resources to boost production of affordable housing
b) Achieve support for an affordable housing levy or bond from city voters
c) Adjust income targets for rentals from 65% of AMI to a range of 50% to 80%
d) Contribute levy resources to inclusionary homeownership

e) Additional Recommendations

i) Address the intersection of affordable housing and college student housing
ii) Identify and address factors that limit the creation and utilization of accessory uni

Inclusionary Zoning Working Group (IZWG) Draft Recommendations

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

Path 1: Status Quo Plus

Increase Development Threshold

Ordinances across the country have thresholds for inclusionary zoning (the size of a project that triggers the inclusionary policy) that range in size from as low as one to as high as 20 or more. Burlington's current threshold of five units is at the low end of this range. In a city where small infill projects will constitute a considerable share of future development and redevelopment work, raising this threshold from five to 10 will decrease the likelihood that small projects – which generally have a harder time absorbing the inclusionary mandate than larger ones – will be rendered infeasible. But increasing it much higher than 10 would surrender the city's potential to make mid-sized projects inclusive.

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

IZWG Recommendation:

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

Generalize Unit Comparability

The ordinance currently prescribes minimum square footages for rental units, which is a blunt and somewhat outdated way of ensuring that inclusive units are well-blended within a development – especially when the levels set in 1990 (such as 1,000 square feet for a two-bedroom apartment) are on the high side of market-rate expectations today. A more flexible approach that is commonly practiced today can be seen in ordinances that require general comparability between market-rate and affordable units in terms of size, appearance, and bedroom-mix, and that inclusionary units be dispersed rather than concentrated. Instead of re-calibrating the square footage minimums, the language in Burlington's ordinance should be simplified and generalized.

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

IZWG Recommendation:

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

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

Monitoring

CEDO, the city agency that oversees the administration of inclusionary zoning, is currently in the process of developing a monitoring protocol to guide future efforts to keep track of inclusionary units and to whom they are rented and sold. Options in this regard include yearly auditing of a certain percentage of inclusionary projects – those not already monitored by a non-profit agency – or outsourcing those monitoring duties to a qualified non-profit.

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

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

Path 2: Fully Functional Inclusionary Zoning

Provide density bonuses by-right:

As a critical part of the current ordinance that has failed to function as intended, density bonuses need to be addressed by ensuring that developers receive what they are eligible, by law, to receive. This can be achieved in a few ways. One path is for the Development Review Board to have an internal policy prioritizing the granting of density bonuses and striving to maintain them throughout the course of the review process. Another is for City Council to request that the Development Review Board furnish a "Production Impact Statement" for all inclusionary projects, describing the proposed density of the project, a detailed rationale if the approved project had a lower density than originally proposed, and a statement of the number of housing units surrendered by the review process.

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

IZWG Recommendation:

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

Lower the payment in lieu

The fact that the payment in lieu option has not been exercised in ten years is a sign that it has been poorly calibrated and that, while strong, the market is not strong enough (or has too many relief valves in the form of surrounding jurisdictions) for a $115,000 payment per unit to be a true option. It is an important option, though, for a few reasons: (1) It provides a basic level of flexibility for developers,

especially those who do not wish to be limited by the permanent affordability restriction on inclusive units, and (2) the revenue from the payments in lieu can be flexibly allocated not just to support production but to support other affordable housing activities. czb recommends that the city experiment by decreasing the payment to $75,000 – roughly one-third of the cost of developing a new market-rate unit – and reassessing this level every two years. If it becomes the go-to option for developers, it should probably be increased. If it's never utilized, additional decreases should be considered.

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

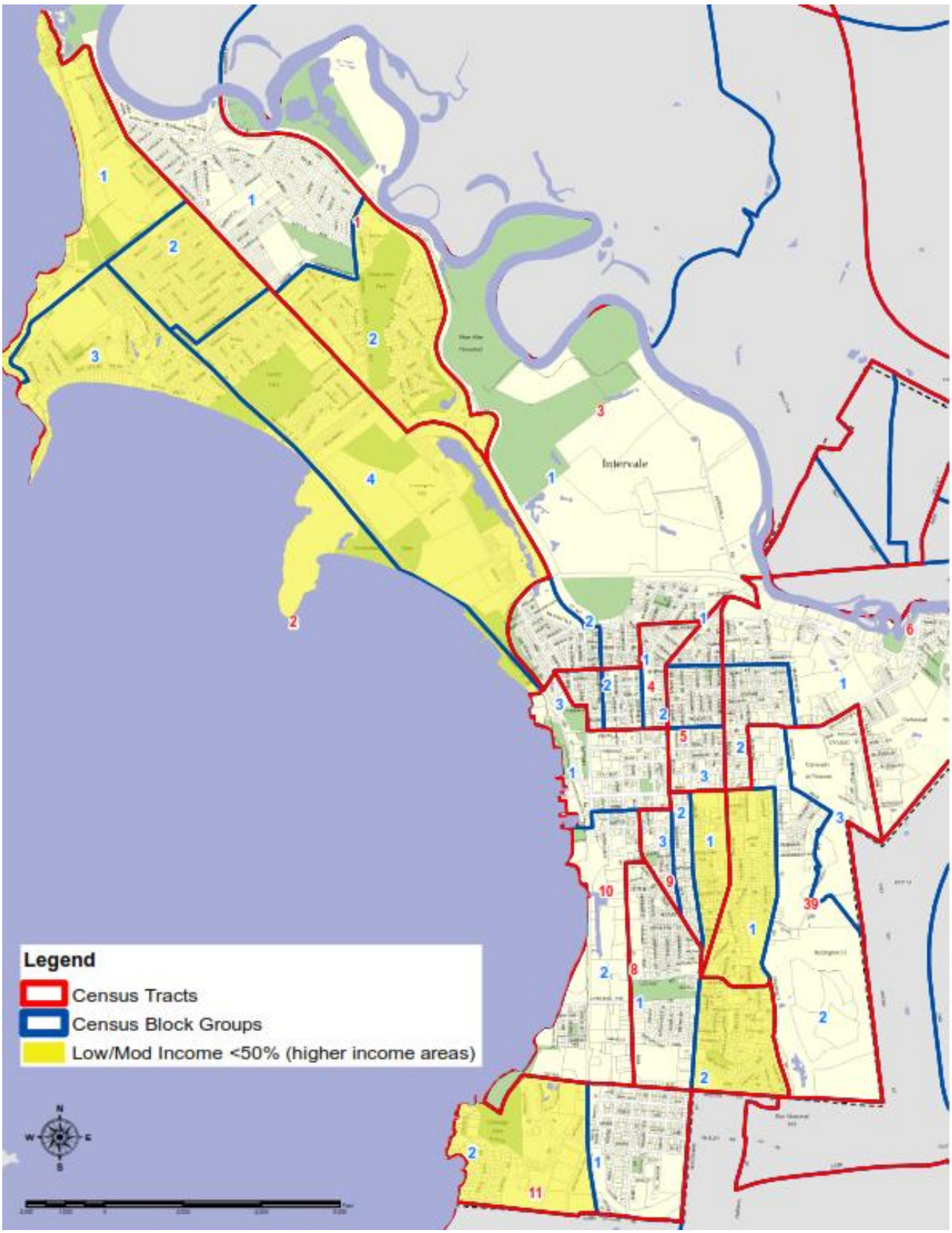
IZWG Recommendation:

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

*Higher/lower income areas based on HUD AMI data (see map below). Payment in lieu is not allowed for medium or large projects in higher income areas w/o exception.

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

Figure 1 DRAFT MAP OF INCOME AREAS



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

Currently, exercising the off-site option involves proving that the chosen site for a project cannot accommodate the inclusionary units – and then building them elsewhere at 1.5 times the original requirement. To provide greater flexibility, this could be modified to allow common use of the off-site option, at a one-for-one unit exchange, when the census block group receiving the inclusionary units has a poverty rate of less than 10% – thus achieving the desired outcome of economically integrated housing. This change could be made while leaving the waterfront district exception in place.

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

IZWG Recommendation:

- IZ units should be allowed offsite by-right if the project is located in a 'lower' income area, with the IZ units to be accommodated in either a 'lower' or 'higher' income area. This option should not be allowed in 'higher' income areas including the waterfront. Off Site option not allowed on waterfront.
- Further consideration should be given to accommodating offsite IZ units in a separate existing building.
- Remove the 1.5 unit multiplier in order to simplify use.

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

A household at 80% of AMI ($67,200) can afford to spend roughly $1,700 per month on housing – which matches the current median monthly homeownership cost in Burlington. That should be the floor for inclusionary for-sale units. At the same time, a household at 100% of AMI ($84,000) has purchasing power nearly equal to the median home value. That should be the ceiling for inclusionary for-sale units. This floor and ceiling, though currently forming the 80% to 100% range, should be monitored regularly to ensure that it remains appropriate to the Burlington market. For buyers within this range, a second mortgage and down payment assistance could be offered within a shared equity arrangement through the Champlain Housing Trust

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

IZWG Recommendation:

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

Path 3: Moving the Needle

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

As with the model outlined in Part 2 of this report, craft a plan that would use revenue provided by an affordable housing levy or bond to provide resources across a wide range of initiatives – including incentives for inclusionary unit development.

- The IZWG discussed this item on 5/14/18 and recommends utilizing existing plans to determine use of revenue and funding as much as possible, such as the City's Consolidated Plan and the Assessment of Fair Housing as well as the Neighborhood Project.

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

A citywide referendum on a levy or bond issue to support a carefully crafted funding plan will be a true test for the city. Are Burlington's citizens willing to invest in a strategy that has the potential to boost supply and affordability in a substantial way – and point the city in the direction of catching-up and keeping-up with demand? Or is affordable housing only a mid-tier priority to be addressed primarily by dwindling federal resources?

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

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

Having functional bonuses and incentives in place for inclusionary zoning would make it feasible to go below the current target of 65% of AMI while extending up to 80% for greater flexibility. This new range would be tied to incentives for developers at different points on the range – recognizing that building a unit with rent capped at 50% of AMI is a significantly greater cost burden than a unit with rent capped at 80% of AMI. Operating within this broader range would also provide an opportunity to vary the required proportion of inclusionary units – which is now set at a base level of 15%. Within a 50% to 80% range, the proportion could vary between 10% of units at 50% AMI, to 15% of units at 65% AMI, to 20% of units at 80% AMI. Along with other changes, this would provide more flexibility on a project by-project basis.

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

IZWG Recommendation:

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

Contribute levy resources to inclusionary homeownership

Within the new for-sale range of 80% to 100% of AMI (see option #2), consider contributing levy resources to bolster second mortgage and down payment assistance, toward per-unit development subsidies for units at 80% of AMI (but no higher), and to providing funding to aid Champlain Housing Trust in exercising the city's right of first refusal to purchase inclusionary units that are sold or resold.

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

Additional Recommendations

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

Address the intersection of affordable housing and college student housing

The off-campus student population in Burlington is one of the biggest drivers of low vacancy and tight supply. The inclusionary zoning ordinance exempts dwelling units developed in institutional zones (including college dorms and apartments), but the city should consider addressing student housing in two other ways:

1. Treat privately developed student housing as a special case and a payment in lieu revenue source: *Many communities with large student populations feature apartment-style developments that are built by for-profit developers and geared towards student populations – without any involvement – financial or otherwise – from a university or college. Development of this kind in Burlington should be treated differently from typical residential development. Instead of a normal inclusionary requirement, consider a per-bed fee on such facilities, with revenues going into the Housing Trust Fund to help rehabilitate rental properties deteriorated by long-term student use.*

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

2. Prevent cost-shifting: *Consider negotiating a PILOT agreement with the University of Vermont designed specifically to help the city deal with housing conditions (from code violations to price*

escalation) exacerbated by a large off-campus student population. Base the annual payment on the number of undergraduates living off campus in private housing – this will add revenue to the Housing Trust Fund for projects that promote affordable housing and give UVM an incentive to develop more on-campus housing or support the development of off campus housing that takes students out of the private rental market.

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

Identify and address factors that limit the creation and utilization of accessory units:

Lifting inclusionary zoning's development threshold from 5 units to 10 will make it less likely that inclusionary projects will happen in lower-density residential neighborhoods – but those are areas where accessory units can play a vital role in supplementing the city's affordable housing stock and making ownership more feasible through a stream of rental income. Identify and review factors, such as off-street parking requirements that may be limiting the full potential of this segment of the housing market

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

Other recommendations of the IZWG pertaining to inclusion but not specific to the IZ ordinance

Parking

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

Infill development

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

APPENDIX

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

Resolution Relating to

FORMATION OF INCLUSIONARY ZONING WORKING GROUP

RESOLUTION_____
Sponsor(s): Councilors Knodell, Roof
Introduced: _____
Referred to: _____
Action: _____
Date: _____
Signed by Mayor: _____

CITY OF BURLINGTON

In the year Two Thousand Seventeen ……

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

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

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

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

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

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

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

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

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

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

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

2. Inclusionary Zoning Ordinance

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

ARTICLE 9. INCLUSIONARY AND REPLACEMENT HOUSING

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

PART 1: INCLUSIONARY ZONING

Sec. 9.1.1 Intent

The intent of these regulations is:

(a) To meet the specific mandates of 24 V.S.A. Chapter 117 related to housing opportunities for all of Vermont's citizens, particularly for those citizens of low or moderate income;

(b) To ensure the provision of housing that meets the needs of all economic groups by precluding construction of only market rate housing on the limited supply of available land within the City;

(c) To improve the quality of life for all residents by having an economically integrated housing supply throughout the City; and,

(d) To prevent overcrowding and deterioration of the limited supply of affordable housing, and thereby promote the public health, safety and general welfare.

Sec. 9.1.2 Authority

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

Sec. 9.1.3 Inclusionary Units, General Description

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

(a) Selling price or rent level;

(b) Marketing and initial occupancy; and,

(c) Continued requirements pertaining to re-sale, rent or carrying cost increases, as specified in this article.

Sec. 9.1.4 Miscellaneous Definitions

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

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

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

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

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

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

Sec. 9.1.5 Applicability

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

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

(a) The creation of five (5) or more residential units through new construction and/or substantial rehabilitation of existing structures, including the development of housing units utilizing development provisions other than those specified in Sec 9.1.5 (b).

(b) Where units are created using the Adaptive Reuse or Residential Conversion criteria pursuant to the provisions of Art 4, Sec 4.4.5, this article shall be applicable when at least ten (10) or more dwelling units are created.

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

Sec. 9.1.6 Exemptions

Exempt from the requirements of this article are:

(a) Projects that are located within an Institutional (I) zoning district that are developed by an educational institution for the exclusive residential use and occupancy by that institution's students;

(b) Those dwelling units in a covered project that are produced as "replacement units," pursuant to Article 9, Part 2 and which do not produce any net new units; and,

(c) Projects created using the Senior Housing Development Bonus pursuant to the provisions of Article 4.

Sec. 9.1.7 Certificate of Inclusionary Housing Compliance

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

Sec. 9.1.8 Inclusionary Units, Rental and Sales

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

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

Table 9.1.8-1 Inclusionary Zoning Percentages

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

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

Sec. 9.1.9 Percentage of Inclusionary Units

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

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

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

Sec. 9.1.10 Income Eligibility

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

Sec. 9.1.11 Calculating Rents and Selling Prices

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

(a) Inclusionary rental units shall be rented at a price which is affordable for a household with an annual income that is sixty-five percent (65%) of median income adjusted for household size;

(b) Inclusionary units for sale, including cooperative units and the carrying costs associated therewith, shall be sold at a price which is affordable for a household with an annual income that is seventy-five percent (75%) of median income adjusted for household size;

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

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

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

(d) An available fixed-rate thirty-year mortgage, consistent with a "blended rate" for Burlington banks plus the Vermont Housing Finance Agency as determined and declared semi-annually (January and July) by the Housing Trust Fund Manager. A lower rate may be used in calculating affordable prices if the developer can guarantee the availability of a fixed-rate thirty-year mortgage at this lower rate from the Vermont Housing Finance Agency for all of the required inclusionary units;

(e) A down payment of no more than five percent (5%) of the purchase price;

(f) Annual property taxes; and

(g) Homeowner insurance, homeowner association fees or condo fees. Homeowner association fees shall be calculated in the same manner as the fees for the market units in the same development.

Sec. 9.1.12 Additional Density and Other Development Allowances

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

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

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

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

(b) Other possible allowances for the provision of Inclusionary Units may include:

1. A waiver of up to 50% waiver of parking spaces as outlined in Article 8, Sec. 8.1.14,
2. A waiver of a portion of the impact fees associated with the Inclusionary units, pursuant to the Art. 3, Part 3 Impact Fee Administrative Regulations.

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

(d) With the approval of the DRB, units added to a project as market rate units may be substituted by nonresidential uses wherever such nonresidential uses are otherwise permitted in the district where the project is located. Approved substitution for nonresidential uses shall occur at the following rate: 1 market-rate dwelling unit = 1,500 square feet nonresidential space

(e) All provisions of Sec. 9.1.8 through 9.1.11 shall apply, without exception, to any inclusionary units that are constructed.

Sec. 9.1.13 Off-Site Option

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

(a) The number of inclusionary units to be provided by the developer or by the developer's designee through off-site development shall be no fewer than 1.5 times the number otherwise required by this Article;

(b) No additional development provisions as outlined in this Article shall be granted to the units constructed off-site or to the project;

(c) Off-site inclusionary units must be located within the City of Burlington;

(d) All of the provisions of Sections 9.1.8 through 9.1.11 shall apply without exception to off-site inclusionary units under the provisions of this section;

(e) Waiver of provisions from the HTF with regard to minimum square footage and bedroom count relative to average size and bedroom count in a covered project is not permitted; and

(f) Should the City Council decide that a payment in lieu is acceptable in exchange for not providing the inclusionary units on or off of the site, the payment shall be $100,000, adjusted annually in accordance with the CPI, commencing January 1, 2007, per the number of units required in (a) above**.**

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

Sec. 9.1.14 General Requirements for Inclusionary Units

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

(a) In order to assure an adequate distribution of inclusionary units by household size, the bedroom mix of inclusionary units in any project shall be in the same ratio as the bedroom mix of the non-inclusionary units of the project;

(b) Inclusionary units may differ from the market units in a covered project with regard to interior amenities and gross floor area, provided that:

1. These differences, excluding differences related to size differentials, are not apparent in the general exterior appearance of the project's units; and
2. These differences do not include insulation, windows, heating systems, and other improvements related to the energy efficiency of the project's units; and

(c) The gross floor area of the inclusionary units is not less than the following minimum requirements, unless waived by the DRB using the following criteria:

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

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

(d) Upon demonstration of inability to sell units to income eligible residents earning 75% of the median income, the Manager of the HTF may extend income eligibility to allow priority in the sale of inclusionary units to households earning as much as eighty percent (80%) of median income, adjusted for household size and to households residing in Burlington at the time that these units are offered for sale or lease;

(e) Except for household income limitations as set forth herein, occupancy of any inclusionary unit shall not be limited by any conditions that are not otherwise applicable to all units within the covered project unless required under federal law, e.g. local use of the Low Income Housing Tax Credit, or in conflict with the stricter bylaws of the designated housing agency; and

(f) The final calculations for the number of inclusionary units shall be determined by the Manager prior to the issuance of the zoning permit. If there is any change in the project due to sales prices for these units that increases the number of inclusionary units required, such modifications shall be determined by the Manager and communicated to the administrative officer prior to the issuance of a certificate of occupancy for the covered project. The rental or sales price of the inclusionary units shall also be determined by the Manager prior to the issuance of a certificate of occupancy.

Sec. 9.1.15 Marketing of Inclusionary Units

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

(a) Trust Fund Notification.

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

(b) Trust Fund Option.

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

(c) Trust Fund Waiver.

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

(d) Time of Closing.

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

(e) Transfer of Option.

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

(f) Rentals.

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

Sec. 9.1.16 Continued Affordability Requirements

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

(a) 99-Year Requirement.

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

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

(b) Deed Restrictions.

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

(c) Resale Restrictions.

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

(d) Rent Increases

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

(e) Purchase Option

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

(f) Sublet Restrictions.

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

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

Sec. 9.1.17 Review of Proposal for Phasing

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

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

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

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

Sec. 9.1.19 Enforcement

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

Sec. 9.1.20 Administration

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

PART 2: HOUSING PRESERVATION AND REPLACEMENT/DEMOLITION AND CONVERSION

Sec. 9.2.1 Intent

The intent of these regulations is:

(a) To prevent the demolition and conversion to a nonresidential use of residential structures, many of which contain the city's most affordable housing, and to maintain housing that meets the needs of all economic groups within the city;

(b) To meet the specific mandates of 24 V.S.A. Section 4302 related to housing opportunities for all of Vermont's citizens, particularly for those citizens of low or moderate income;

(c) To support the retention of housing units in the city;

(d) To preserve the residential character of neighborhoods in which the expansion of commercial, professional or educational activities is likely to eliminate existing housing units;

(e) To offset the loss of housing by requiring replacement of housing units with new construction, conversion, or creation of assisted housing; and

(f) To mitigate the impact on tenants displaced or threatened with displacement by demolition or conversion to a nonresidential use.

Sec. 9.2.2 Applicability

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

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

Sec. 9.2.3 Approval

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

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

(a) A statement certifying the number of housing units to be demolished or converted to a nonresidential use and the number of bedrooms existing within each of these units; and

(b) A list containing the name of each tenant currently residing in the housing units to be demolished or converted, as well as verification by affidavit of compliance with the tenant notice requirements of this section.

Sec. 9.2.4 Relocation Requirements; Notice and Relocation Costs

Prior to demolition or conversion, the owner shall:

(a) Deliver to every tenant who occupies a housing unit slated for demolition or conversion, written notice to vacate the unit due to the owner's intent to demolish or convert the unit to nonresidential use. The notice to tenants shall consist of the written notice that an owner is required to send by certified mail and by regular mail or hand delivery to the current tenants of any housing unit that is slated for demolition or conversion to a non-residential unit, announcing the owner's intent to demolish or convert the unit to non-residential use, required under the Federal Uniform Relocation Act. As previously noted, this notice to tenants shall be sent certified mail, return receipt requested, and by either regular mail or hand delivery, and shall provide the tenant not less than one hundred eighty (180) days to vacate the rental unit. Evidence of receipt of notice to each affected tenant shall be required prior to approval by the development review board; and

(b) Be responsible for paying the costs of relocation for any tenant(s) displaced from any housing unit demolished or converted to a nonresidential use. The costs that are included and the manner in which these costs are paid shall be identical to the relocation services that are required for displaced persons under Section 18-2 of the Burlington Code of Ordinances.

Sec. 9.2.5 Housing Replacement Requirement

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

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

a. New Construction. Construction of housing units within a new structure or new addition;

b. Residential Conversion. Conversion of all or a portion of a nonresidential building to residential use; or,

c. Subsidy. Creation of affordable housing units that have not been affordable to low-income households for the twenty-four (24) months preceding the date of application for conditional use approval.

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

Sec. 9.2.6 Replacement Unit Requirements

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

(a) Each unit shall have at least the same number of bedrooms as the unit being replaced;

(b) These units must be provided within the City of Burlington;

(c) These units must be ready for occupancy within eighteen (18) months of the date on which the conditional use approval is granted;

(d) These units must remain assisted housing, as either rental housing or limited equity housing, for a period of not less than ten (10) years from the date of first occupancy;

(e) These units must be sold or leased to prospective occupants who qualify as low-income households at the time they first lease or purchase the unit; and

(f) These units shall contain at least the same number of accessible units being replaced, or the number of accessible units that may otherwise be required by statute or regulation, or one accessible unit, whichever is greater.

Sec. 9.2.7 Performance Bond

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

Sec. 9.2.8 Adjustment for Increased Units

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

Sec. 9.2.9 Relief

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

(a) The literal interpretation and strict application of the housing replacement requirement would be impossible for the owner;

(b) The requested relief would be consistent with the spirit and purpose of this Article; and

(c) The requested relief does not constitute a grant of special privilege inconsistent with the limitations upon similar properties.

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

Sec. 9.2.10 Exemptions

This article shall not be applicable to:

(a) A loss or change of use lasting less than one (1) year, where residential use is restored within that same one (1) year period, shall not be subject to the replacement requirements of this Part.

(b) Any housing unit ordered demolished or declared unfit for habitation by the office of inspection services because of damage caused by civil commotion, malicious mischief, vandalism, natural disaster or other causes beyond the owner's control shall not be subject to these regulations. Any housing unit ordered demolished, or declared unfit for human habitation, by the office of inspection services because of deterioration caused by neglect or deferred maintenance by the existing or prior owner(s) shall not be exempt. A determination of neglect or deferred maintenance shall be made by the administrative officer based on evidence of one or more of the following:

1. The deterioration of exterior walls or other vertical support;
2. The deterioration of roofs or other horizontal members;
3. The deterioration of external chimneys;
4. The deterioration or crumbling of exterior mortar;
5. The ineffective waterproofing of exterior walls, roofs and/or foundations; and/or
6. The existence of broken windows or doors.

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

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

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

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

3. Questions from the IZWG and supporting data

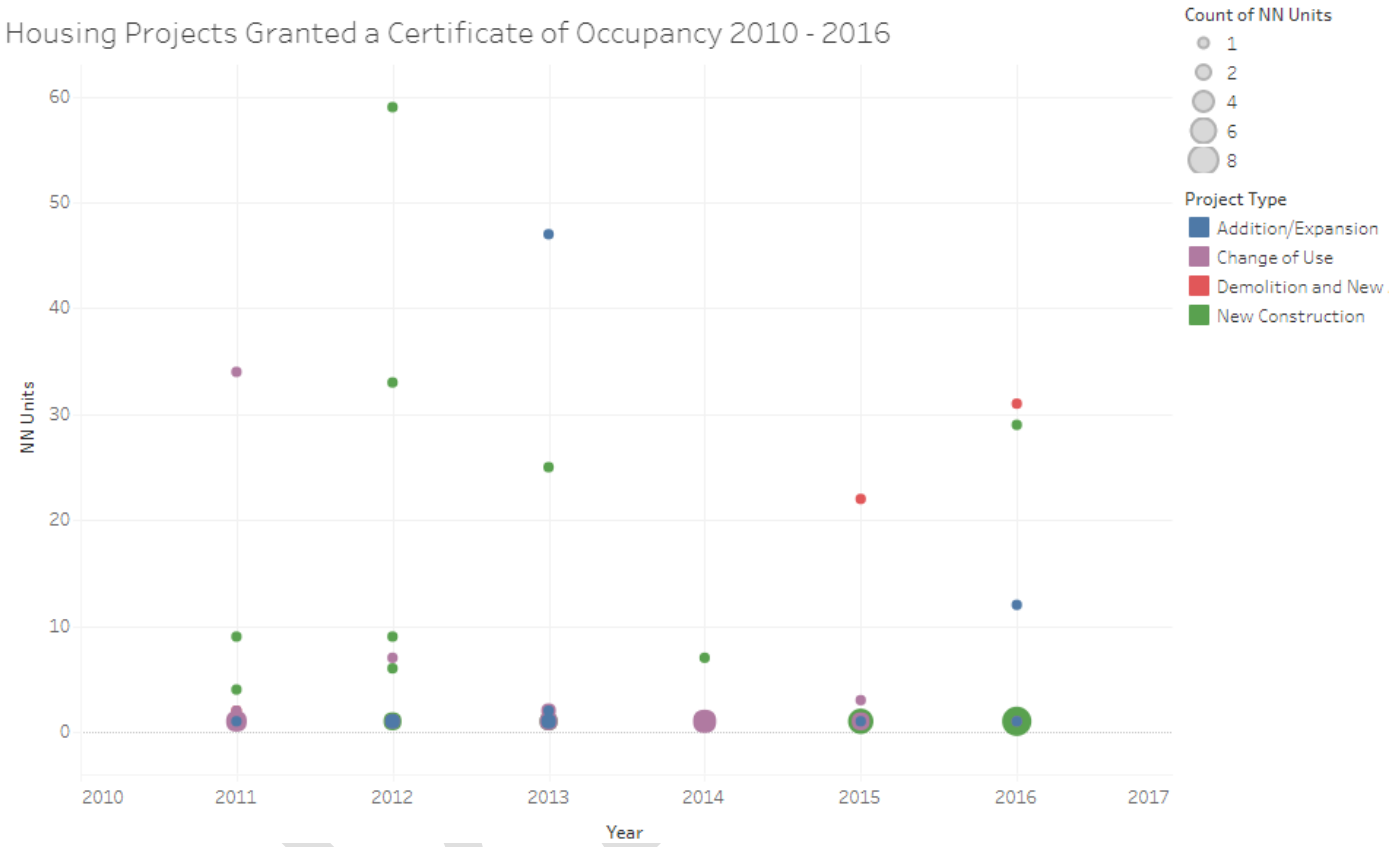
Significant Pieces of Research NOT Found in the IZ Report which are Needed by the IZ Working Group Before Recommending Changes

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

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

*projects which triggered IZ only (1990 - present)

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



Source: City of Burlington

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

(2010 – 2016)

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

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

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

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

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

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

4. IZ Max Rent Figures 2018

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

Effective 5/18/18

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

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

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

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

*assumes property owner pays all utilities except cable and telecom

2015-18 Inclusionary Zoning Rent Limits

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

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

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

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

Inclusionary Zoning Unit Inventory--Completed and Underway (Dated 10/13/2017)

Note #1: This inventory has been updated from the version used for the "Evaluation of the City of Burlington's Inclusionary Zoning Ordinance dated January 2017."

Note #2: Units are only counted on this inventory after project is complete or when the project is fully permitted and construction is underway

Note #3: This inventory is subject to change as new information is becomes available.

Completed Units

CEDO Listed Permit Year (applied for)	Cert of Occupancy Year	Address	Name of project	Affordable Non-Profit - IZ Units	Private Developer - IZ Units	Affordable Non-Profit partnership with Private Developer - IZ units	Condo Total Units	Condo IZ Units	Rental Total Units	Rental IZ units	Co-op Total Units	Co-op IZ Units	Single Family Total Units	Single Family IZ units	IZ Units	On/Off Site	Notes
1990	1990*	220 Riverside Ave.	Salmon Run	12					80	12					12	On	
1990	1990*	72 Heineberg Rd.	Heineberg Senior	12					81	12					12	On	
1990	1990*	Hildred Drive (1 - 422 Hildred Drive)	River Watch		30		213	30							30	On	
1990	1990*	Valade Park (18-120 Valade St)	Valade Park		10		68	10							10	On	
1991	1991*	161 Austin Dr.	Red Rocks		15		103	15							15	On	
1992	1992	700 Riverside Ave.			1				8	1					1	On	
1992	1992	85 Archibald St.(formerly 83 Archibald)	Thelma Maple Co-op	3							20	3			3	On	
1992	1993	288 Flynn Ave.	Flynn Ave Coop	4							28	4			4	On	
1993	1993*	Queen City Park	Queen City Park	2			11	2							2	Off	Offsite units located at 34 Valade Park & 65 Venus Ave.
1993	1993*	693 Riverside Ave.		2					13	2					2	On	
1995	1995*	20 & 24 High Grove Ct.	High Grove Court		2		13	2							2	On	
1994	1997	33 North Ave.	Commodore Point		2		16	2							2	On	
1994	1998	1 Steele St. (aka 1 Main St.)	Main Street Landing		2		8	2							2	On	
1992	1998	325 Ethan Allen Parkway	Ethan Allen				13	0							0		Project received a varience from Zoning Board of Adjustment - no inclusionary units required.
1996	1998	40 College St. (formerly 74)	College & Battery				81	0							0	Off	This was the first "payment-in-lieu" project - the IZ requirements were written into the zoning agreement. In-Lieu payment was $165,000 for 16 units.
1999	1999*	125 St. Paul St. (aka 117-135 St. Paul)	Park Place	5					34	5					5	On	
1999	1999*	130 Mansfield Ave.	McAuley Square (3)	3					19	3					3	On	
1995	1999	25-31 North Champlain St.	Monroe Place	2					16	2					2	On	
2000	2001*	284 Grove St. (aka 300 Grove)			2				15	2					2	On	
1997	2001	78 Rose St. (aka 72-82 Rose)	Rose St. Artists Co-op	2							12	2			2	On	
2004	2003	1144 North Ave.			1				6	1					1	On	
2003	2003/06*	1044 North Ave.			1		9	1							1	Off	Offsite - unit transferred to 354 Manhattan Dr. see note below.
2002	2003	300 Lake St.	Waterfront Housing	10					40	10					10	On	
2002	2003*	84 North Ave.	ECHO	1					8	1					1	On	
2001	2004	106 Rose St.			1		6	1							1	On	
2001	2004	68 Pearl St.(aka 64 Pearl)	Bove's/Pearl	5					34	5					5	On	
2004	2005	187 South Winooski Ave.	Hood Plant		1		8		1	1					1	On	
2005	2005	272 Church St.	Converse Home	3					21	3					3	On	
2000	2006	140 Venus Ave. (original address)	Venus Ave	1									8	1	1	On	

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

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

6. Sub Committee Economic Feasibility Analysis

IZ Rental Project Finances

Borrowing capacity						
Developer carrying own IZ						
	one bed		**two bed**		**Three bed**	
	Market Rate	**IZ 65%**	**Market Rate**	**IZ 65%**	**Market Rate**	
Rents	$ 1,500	$ 907	$ 1,710	$ 1,081	$ 2,400	
80% of rents	$ 1,200	$ 726	$ 1,368	$ 865	$ 1,920	60% of rent
Avg Op Expense (no utilities)	$ 500	$ 500	$ 500	$ 500	$ 500	
Available for Debt Service	$ 700	$ 226	$ 868	$ 365	$ 1,420	
Debt Assumptions						
Interest Rate	5.25%	5.25%	5.25%	5.25%	5.25%	
Term	25	25	25	25	25	
Available for Debt Service	$ 700	$ 226	$ 868	$ 365	$ 1,420	
Debt capacity	$ (116,813)	$ (37,656)	$ (144,848)	$ (60,843)	$ (236,964)	
Cost to develop	$ 230,000	$ 230,000	$ 248,000	$ 248,000	$ 268,000	
Equity needed	$ 113,187	$ 192,344	$ 103,152	$ 187,157	$ 31,036	
ROI	$ 3,600	$ 2,177	$ 4,104	$ 2,594	$ 5,760	
	3%	1%	4%	1%	19%	
Gross Rent	$ 18,000	$ 10,885	$ 20,520	$ 12,969	$ 28,800	
Operating Expense	$ 6,000	$ 6,000	$ 6,000	$ 6,000	$ 6,000	
NOI	$ 12,000	$ 4,885	$ 14,520	$ 6,969	$ 22,800	
Cap Rate	6.6%	6.6%	6.6%	6.6%	6.6%	
Value	$ 181,818.2	$ 74,011.4	$ 220,000.0	$ 105,590.9	$ 345,454.5	
Cost To Develop	$ 230,000.0	$ 230,000.0	$ 248,000.0	$ 248,000.0	$ 268,000.0	
	$ (48,181.82)	$ (155,988.64)	$ (28,000.00)	$ (142,409.09)	$ 77,454.55	

NOTES				
Sources	**Percent**			
Bank Debt	80	80% LTV		
Equity	20			
Ten year horizon to exit				
Cap Rate	6.6%			
ROI	8%			

Allen and Brooks	**New Construction**			
	Low	**High**	**Average**	**Observed**
Studio	$ 1,200	$ 1,400	$ 940	
One	$ 1,250	$ 1,500	$ 1,046	$ 1,485
One plus	$ 1,500	$ 1,695		$ 1,575
Two	$ 1,650	$ 1,900	$ 1,286	$ 1,850
Two plus Two baths	$ 1,775	$ 2,260		
Three Bedroom			$ 1,903	$ 2,400

IZ Rent Worksheet

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

New Construction Cost Assumptions

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

Homeownership Project Finances

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

CAMBRIAN RISE				IZ Price (Purchase Price		Net Price
# BR	Sq. Footage	# of Homes	Market Value	From Eric Farell -80% AMI)	VHCB Subsidy	from Buyer
1	755	8	$238,000	$176,551	$36,551	$140,000
2	1040	19	$291,000	$218,345	$58,345	$160,000
3	1220	3	$341,000	$257,742	$77,742	$180,000
	29460	30	$8,456,000	$6,334,189	$1,634,189	$4,700,000

Option 1 - Set homes affordable to those at 70% AMI

		Monthly	Monthly Income	Max Price	Max Price
	# of People	Income - 100%	70% AMI	70% AMI	Current IZ Ordinance
1 BR	1.5	$ 5,154	$ 3,608	$138,350	$156,435
2 BR	3	$ 6,183	$ 4,328	$163,380	$185,075
3 BR	4.5	$ 7,141	$ 4,999	$184,922	$209,979

Option 2 - Set assumption of 1 person per bedroom

		Monthly	Monthly Income	
	# of People	Income - 100%	75% AMI	Max Price
1 BR	1	$ 4,808	$ 3,606	$138,224
2 BR	2	$ 5,500	$ 4,125	$149,127
3 BR	3	$ 6,183	$ 4,637	$159,556

# of IZ	75% AMI Price	Total Cost to	Total Cost to	# of homes at 70%	Total Cost to Developer -	# of homes 1 person/BR
homes	2 BR	Developer	Developer - 70% AMI	With same cost as current	1 person/BR	With same cost as current
1	$185,075	$ 64,925	$ 86,620	0.75	$ 100,873	0.64
5	$185,075	$ 324,624	$ 433,100	3.75	$ 504,365	3.22
10	$185,075	$ 649,247	$ 866,201	7.50	$ 1,008,731	6.44
15	$185,075	$ 973,871	$ 1,299,301	11.24	$ 1,513,096	9.65

Assumptions	
Tax 1 BR	320
Tax 2 BR	400
Tax 3 BR	480
Assoc Fee - 1 BR	200
Assoc Fee - 2 BR	240
Assoc Fee - 3 BR	280
Insurance	20
Total Non Mtg - 1 BR	540
Total Non Mtg - 2 BR	660
Total Non Mtg - 3 BR	780

Appraised Value of Home	
1 BR	$220,000
2 BR	$250,000
3 BR	$300,000

Proposal

* CHT recommends either option in changing the calculation for the affordable price so that additional funds are not needed to sell the homes.
* If the goal of the working group is to keep the costs to the developer the same under the current ordinance and a new one then:
  Option 1 would mean the IZ homes required under the new proposal would be 75% of the current requirement
  Option 2 would mean the IZ homes required under the new proposal would be 64% of the current requirement

7. IZWG Meeting Minutes

CITY OF BURLINGTON, VERMONT
Inclusionary Zoning Working Group
c/o Community & Economic Development Office
City Hall, Room 32 • 149 Church Street • Burlington, VT 05401
802-865-7144 VOX • 802-865-7024 FAX • www.burlingtonvt.gov/cedo

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IZWG Members Present: City Council President Jane Knodell (Chair), Mike Monte, Eric Farrell, Bruce Baker, Brian Pine, Erik Hoekstra, Noelle Mackay (Director, CEDO), David White (Director, Planning & Zoning)
IZWG Members Absent: Nancy Owens and John Davis
Staff Support Present: Gillian Nanton, Ian Jakus

Thursday September 14, 2017
8:00 AM – 10:00 AM
City Hall Conference Room 12 (CR 12)

MEETING MINUTES

I. Agenda

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

II. Public Forum

No members of the public spoke.

III. IZWG - Organization and Operating Procedures

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

> The goal is to reach consensus on the issues, rather than take a vote.
> All materials of the IZWG should be placed on a special landing page on CEDO's website.
> Members should decide and advise G. Nanton which email address they wished to use for communicating on IZWG matters, being mindful that information held in private email accounts (such as "gmail" or "hotmail") can be subject to FOIA requests. All emails should be copied to Gillian Nanton: gnanton@burlingtonvt.gov.

IV. IZWG – Duties and Responsibilities

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

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

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

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

V. Work Planning

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

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

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

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

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

M. Monte referenced the IZ studies produced by Grounded Solutions Network.

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

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

Thursday, September 28th, 2017
Thursday, October 26th, 2017
Thursday, November 9th, 2017
Thursday, December 7th, 2017

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

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

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

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

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

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

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

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

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

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

VI. Any Other Business

VII. Adjournment

The meeting adjourned at 9:35 a.m.

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IZWG Members Present: City Council President Jane Knodell (Chair), Mike Monte, Eric Farrell, Bruce Baker, Brian Pine, Erik Hoekstra, Noelle Mackay (Director, CEDO), Nancy Owens, John Davis
IZWG Members Absent: David White (Director of Planning)
Staff Support Present: Gillian Nanton
Public: Erhard Mahnke

Thursday September 28, 2018
8:00 AM – 10:00 AM
City Hall Conference Room 12 (CR 12)

MEETING MINUTES

I. Agenda

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

II. Public Forum

No members of the public spoke.

III. Approval of Minutes – 09/14

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

IV. Recommendations – January 2017 draft IZ Evaluation Report

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

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

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

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

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

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

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

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

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

(i) CEDO would provide data on the completed and permitted projects it has compiled.

(ii) A sub-committee comprising E. Farrell, E. Hoekstra and N. Owens will develop pro formas (new construction and conversion projects), with the view to

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

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

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

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

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

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

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

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

V. Any other Business

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

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

VI. Adjournment

The meeting adjourned at 9:40 a.m.

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IZWG Members Present: Michael Monte, Eric Farrell, Bruce Baker, Erik Hoekstra, Noelle MacKay, Nancy Owens, John Davis, David White
IZWG Members Absent: City Council President Jane Knodell, Brian Pine
CEDO staff members: Ian Jakus, Todd Rawlings
Other attendees: Earhard Mahnke

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

1. Approve Agenda
   - Noelle MacKay moved to adopt the agenda seconded by Nancy Owens

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

3. Discussion of IZ Monitoring Efforts

   - CEDO staff Todd Rawlings began by giving an overview of the IZ monitoring memo.
     - CEDO has devoted significant resources to IZ monitoring in the past year:
       - Building monitoring systems by going through files and ensuring complete information on all projects
       - Working with city attorney to identify ambiguities in the ordinance
       - Reached out to private landlords to notify them of this effort
       - Property owners are now being updated with the current IZ rents

   - A discussion ensued around property owners who have IZ units and their compliance. Todd Rawlings explained that while Champlain Housing Trust (CHT) owns the vast majority of IZ units, some private owners may be unaware of the IZ compliance issues, especially where a property has changed hands, despite the fact that it would be included in the title. Some of the units don't have a specific IZ covenant because there are other covenants that ensure compliance, so we wouldn't know when those turn over.

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

- IZ rent levels and income limits were discussed, that while the rent level is set to what is affordable to a household making 65% of Area Median Income (AMI), the income limit is set at 100% AMI which is slightly higher than the 'typical' standard of 80% AMI for affordable housing. The city supplies the rent limits and the property owner is required to comply with the income limit at initial occupancy. If an occupant's income subsequently increases over the limit, CEDO's policy is that they remain in compliance. In regards to section 8 occupants, it is safe to assume those units are in compliance due to federal standards.

- Michael Monte expanded on this point of income limit compliance, explaining that CHT has a threshold when an income increase is too much, and then the unit reverts to market rent, and the next available unit becomes an IZ unit. While this system works for CHT where all units are roughly equivalent, this could be problematic for private developments where some units may be designed to be high-end, causing the owner to take a loss.

- Responding to questions about how the zoning permit process is carried out, Todd Rawlings explained that CEDO has improved the process. In order to release the permit, notice that the applicant met with CEDO is required with a plan to execute the housing subsidy covenant.

- Michael Monte raised an issue on security and compliance, that tenant information needs to be secured and cannot be at risk of becoming public information. This includes the tenant name which would be necessary to verify compliance. Todd Rawlings assured that this was already being done for compliance with the federal HOME program.

- Michael Monte asked for clarification in a situation where CHT is operating/developing IZ units on behalf of a developer, who would be held legally responsible for a violation? It was agreed that legal should look into this issue further.

- Eric Farrell asked if there is a mechanism to buy out a rental or ownership restriction using payment in-lieu? It was pointed out that housing value could exceed the cost of buying out resulting in an incentive that would reduce the number of affordable units. Then because it gets harder to build new units the City would essentially lose a unit. John Davis called on the group to remember that the purpose is inclusion not production, and there was debate on how the report acknowledged this.

- The discussion of further data needs for the IZ Working Group was moved to the agenda for the next meeting that would be an hour and a half.

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IZWG Members Present: City Council President Jane Knodell, Brian Pine, Michael Monte, Eric Farrell, Bruce Baker, Erik Hoekstra, Noelle MacKay, Nancy Owens, John Davis, David White
IZWG Members Absent: None
CEDO staff members: Ian Jakus
Other attendees: Earhard Mahnke

Inclusionary Zoning Working Group Meeting
Thursday, November 9th 2017
8:00 – 9:30 AM
City Hall Conference Room 12 (CR 12)

Meeting Minutes

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

2. Public Comment
   - None

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

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

- John Davis explained that the one page of questions he submitted was based off of the recommendations in the Inclusionary Zoning report.

- The group reviewed initial submitted responses to those questions and began with question #1 and #2 - what is the distribution in the **SIZE** of the residential projects approved by the City for new construction or adaptive reuse?

    - It was requested that the pipeline for projects in progress be included in this analysis

- The group moved on to Question #3 addressing the option of raising the threshold at which IZ is required (currently the 5-unit threshold for new construction or the 10-unit threshold for adaptive reuse). Specifically the question asks how many FEWER projects/units would have been subject to IZ if the threshold had been higher – say 1.5 times higher, 2 times higher, or 2.5 times higher.

    - John Davis stated that the location of these units that would be lost at different thresholds is important because 'inclusion' of low-income housing is the goal of the ordinance and the amount of low-income housing varies by neighborhood.
    - It was requested that these results be mapped to ensure the lost units are not predominately located in high-income neighborhoods

- A discussion arose around the issue of so called 'Naturally Occurring Affordable Housing' (NOAHs). These are units of housing that are rented at affordable prices without subsidy.

    - Erik Hoekstra stated that NOAHs have been lost due to a lack of supply of new housing units, which is due in part to inclusionary zoning costs that deter development. Secondarily, he stated that the affordable housing units developed by non-profit entities were likely to be built regardless of whether IZ existed. He explained that while IZ can work at the individual project level it is not working to increase the supply of affordable units city-wide.
    - Bruce Baker added that in his experience for projects of 10 or less units adding IZ units is not financially feasible. Additionally, the historic preservation restrictions have prevented him from pursuing projects in Burlington.
    - Michael Monte responded that NOAHs have disappeared due to students impacting the rental market and raising prices. Additionally, in regards to the suggestion that non-profits would build housing without IZ, he explained that these projects happened faster because of IZ and that the commitment to affordability is deeper, for example including units dedicated to homeless populations. The non-profits are doing this in a completely different way in cooperation with the Housing Authority. Not just meeting the threshold and moving on. An important tradeoff to consider is the potential for more affordability versus more units.
    - Chair Jane Knodell clarified the question to be answered – if we didn't have IZ how many NOAHs would have been preserved if there had been new housing to better meet market demand.
    - Brian Pine again raised that if inclusion was the goal of the ordinance rather than production, then we need to keep this in mind.

- Question #6 was discussed regarding the In-Lieu-Fee (where the developer pays a fee in-lieu of building an IZ unit as part of the development) of $75,000 per unit that was recommended in the IZ report and what that contribution to the Housing Trust Fund can accomplish.

    - Mr. Davis explained that the fee was originally intended to cover the gap in development cost between market rate units and affordable units that would allow for a unit to be purchased and made affordable.
    - Chair Knodell asked if developers are not using the in-lieu fee option then does that mean it's not working, or it is working? Should the fee be adjusted to allow for construction of affordable units or should it be reduced?
    - Mr. Davis explained the original concern with the fee is that it would lead to developers buying out of the requirement. Also it could allow for separating low-income housing to be physically separate, defeating the inclusionary aspect in areas that are in need of low-income housing.

- David White stated that the in-lieu fee payments must be closely monitored, that it shouldn't be the case that nobody is using it. There needs to be an established threshold where, for example, no more than 25% of the units should be paying the in-lieu fee, and adjust the cost accordingly.
- Mr. Pine added that in Boulder Colorado the in-lieu fees are considerably higher and are a linkage fee is required for office projects.
- Mr. Monte suggested that 'in-lieu' payments could have a spatial component. For example in areas where there exists adequate low-income housing units the in-lieu fee would be preferable. For example, the downtown and the waterfront are locations where additional low-income housing is desired and thus the in-lieu fee should not be encouraged.
- The question was raised regarding whether for-sale units should have a different fee than for-rent units. Erik Hoekstra offered that is should be kept simple with just two tiers.
- Noelle MacKay gave an example where the Housing Trust Fund was used to build two homeownership projects for $150,000.
- Nancy Owens proposed another alternative to consider, where the payment in-lieu would be lower for smaller projects to address financing issues at the smaller scale.

- A general point was raised that much of what affects housing production and thus the production of IZ units is not actually contained within the ordinance. For example parking may be the biggest obstacle to development in the downtown but that it is regulated outside the ordinance. Density bonus in practice reaches beyond the ordinance.
  - Chair Knodell explained that the IZWG should think about these issues as a package that can be voted on collectively. For example a suite of recommendations that deals with payment in lieu and density bonus among others.
  - Mr. White asked how the density bonus gets accounted for given that the form based code no longer provides a density limit in the downtown.

- A discussion around question #4 addressed the IZ rents and how the rents for homeownership and rental units actually compares with market prices.
  - One issue was that income in Burlington is different than the Area Median Income, which is used to set the IZ rents, leading to higher rents.
  - Ms. Owens recommended that if the IZ rents are greater than the HUD Fair Market Rent than it should revert to the FMR.
  - Mr. Pine referenced a project that had an anomaly where homeownership condos were priced below the inclusionary prices.
  - Michael Monte explained that CHT had to further subsidize IZ homeownership units. The IZ homeownership rents are higher than condos in the surrounding areas outside of Burlington.
- The next meeting is scheduled for December 7th and the following two meetings were scheduled for January 11th and February 8th
- The meeting was adjourned at 9:30 A.M.

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IZWG Members Present: City Council President Jane Knodell, Brian Pine, Michael Monte, Eric Farrell, Bruce Baker, Erik Hoekstra, Noelle MacKay, Nancy Owens, John Davis, David White
IZWG Members Absent: None
CEDO staff members: Todd Rawlings**,** Ian Jakus
Other attendees: Erhard Mahnke

Thursday December 7, 2017
8:00 – 9:30 AM
City Hall Conference Room 12 (CR 12)

MEETING MINUTES

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

2. Public Comment
   - None

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

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

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

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

Condo Development

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

Condo Fees

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

Next Meeting

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

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IZWG Members Present: City Council President Jane Knodell, Brian Pine, Michael Monte, Eric Farrell, Bruce Baker, Erik Hoekstra, Noelle MacKay, Nancy Owens, John Davis, David White
IZWG Members Absent: None
CEDO staff members: Todd Rawlings**,** Ian Jakus

Thursday January 11th, 2018
8:00 – 9:30 AM
City Hall Conference Room 12 (CR 12)

MEETING MINUTES

1. Approve Agenda

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

2. Public Comment

- None

3. Approve minutes

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

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

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

model are calculated on a per unit basis and do not take into account how the scale and unit mix of a project affects the development costs
- The market rate rent numbers come from Allen & Brooks assuming tenants are paying utilities and are newly built units
- The model takes into account borrowing capacity but is subject to change based on changes in interest rates, cap rates, etc…
- The total costs include assumptions on soft costs and fixed costs
- Market rent assumptions are on the higher end whereas development costs are conservative
- There are differing opinions on the different assumptions but everyone agrees most costs are trending upwards
- The model should have implications for determining the proper payment in lieu
- Todd Rawlings will confirm IZ rent numbers are correct
- In order to better understand how other costs beyond IZ affect development Nancy Owens recommended examining the Berkeley Terner Center Housing Development Dashboard

Financial feasibility of current development

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

Density

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

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

5. IZ Evaluation Recommendations

'Moving the Needle' - adjusting income targets for renters

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

'Moving the Needle' – increasing the Housing Trust Fund

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

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

Next steps

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

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IZWG Members Present: City Council President Jane Knodell, Brian Pine, Michael Monte, Eric Farrell, Erik Hoekstra, Noelle MacKay, Nancy Owens, John Davis, David White
IZWG Members Absent: Bruce Baker
CEDO staff members: Todd Rawlings**,** Ian Jakus
Public: City Councilor Karen Paul

Thursday February 8, 2018
8:00 – 9:30 AM
City Hall Conference Room 12 (CR 12)

MEETING MINUTES

1. Approve Agenda

- Brian Pine moved to approve the agenda with unanimous agreement

2. Public Comment

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

3. Approve minutes

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

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

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

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

Increase Development Threshold:

- There was broad agreement that the threshold to trigger IZ should be raised, but no specific agreement as to what the threshold(s) should be. The group decided to focus on what the base threshold should be as a starting point:

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

- Discussion began about the lack of inclusion in low density areas, and that this is largely a zoning issue. Parcel sizes in RL zoning districts are only appropriate for single family and duplexes and therefore these areas will not contain developments of the scale that triggers IZ:

- Nancy Owens suggested that there could be areas within low density neighborhoods where increased density would make sense, such as street junctions.
- Brian Pine stated that there should be more explicitly defined core areas within residential areas.
- David White said that these are the transit corridors and are already typically denser.
- John Davis said that in order to increase inclusion, especially in low density areas, it is a question of regular zoning as much as inclusionary zoning.
- Chair Jane Knodell noted that this is an issue that goes beyond the IZ ordinance but that should be included in any further analysis or document related to the IZWG, regarding how to spread inclusion to other parts of the City.

- The discussion shifted to the Payment In Lieu (PIL) (See IZ Ordinance Sec. 13) and whether or not it could be more widely utilized and a more effective way of providing inclusion rather than requiring each development to include the units on-site. Currently the Development Review Board must determine there is an impediment to developing IZ units on-site in order to allow PIL.

  - Michael Monte suggested making the PIL option 'by right'.
  - Noelle MacKay asked if it was done on a per building basis if that would prevent inclusion and how we could monitor that.
  - David White said that the HTF could prioritize IZ units in a certain area in need of inclusion with the payment in lieu funds but there would need to be a clear policy process for determining the use of PIL funds.
  - Michael Monte suggested that PIL funds could also be used for home ownership units that could help inclusion in residential neighborhoods. He suggested something similar to VHCB's HOMELAND program, that would increase inclusion in single family neighborhoods.
  - Noelle MacKay stated that it may take a while for the HTF to fill up enough to fund a feasible project in a particular area which is different than how the HTF currently operates.
  - John Davis said that there would need to be a clear way to measure any changes to PIL to ensure that they're consistent with inclusion. Also there should be something in the ordinance that clearly lays out the intent.
  - Chair Jane Knodell brought the group back to determining the IZ unit thresholds, and asked about also adjusting the income thresholds.
  - Noelle MacKay suggested creating a draft table summarizing the different options at different thresholds. This would include the unit thresholds, the IZ rate (15%, 20%, 25%), the Payment in Lieu. CEDO will work on a draft table to distribute at the next meeting to begin a discussion on specifics.
  - Michael Monte suggested coming up with a loose framework in an intuitive manner, adjusting the actual requirements iteratively. He requested also adding the target income and sale price.

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

- The group decided the next meeting will be scheduled for March 8th and hold March 22nd as an alternative.
- The meeting was adjourned at 9:30

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IZWG Members Present: City Council President Jane Knodell, Brian Pine, Michael Monte, Noelle MacKay, Nancy Owens, David White, Bruce Baker
IZWG Members Absent: Erik Hoekstra, Eric Farrell, John Davis
CEDO staff members: Todd Rawlings**,** Ian Jakus
Public: City Councilor Karen Paul

Thursday March 22, 2018
8:00 – 9:30 AM
City Hall Conference Room 12 (CR 12)

MEETING MINUTES

1. Approve Agenda

- Brian Pine moved to approve the agenda with unanimous agreement

2. Public Comment

- None

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

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

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

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

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

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

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

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

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

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

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

<u>IZ rent target income</u>

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

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

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

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

<u>Payment in Lieu</u>

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Two times were held for the next meetings:

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

The meeting was adjourned at 9:30 AM

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IZWG Members Present: City Council President Jane Knodell, Brian Pine, Michael Monte, Noelle MacKay, David White, Bruce Baker
IZWG Members Absent: John Davis, Nancy Owens
CEDO staff members: Todd Rawlings**,** Ian Jakus
Public: None

Thursday April 12, 2018
8:15 AM – 9:30 AM
City Hall Conference Room 12 (CR 12)

MEETING MINUTES

1. Approve Agenda

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

2. Public Comment

None.

3. Approve minutes 3/22

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

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

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

IZ rental unit recommendations

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Bonuses

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

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

Parking and lot coverage

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

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

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

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

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

Minimum unit size

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

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

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

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

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

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

Increase in FY 2018 HUD income limits

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

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

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

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

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

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

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

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

Homeownership Units

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

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

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

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

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

Next steps

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

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

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IZWG Members Present: Chair Jane Knodell, Brian Pine, Michael Monte, Noelle MacKay, David White, Bruce Baker, John Davis, Nancy Owens
IZWG Members Absent: Eric Farrell
CEDO staff members: Todd Rawlings**,** Ian Jakus
Public: None

Thursday April 26, 2018
8:15 AM – 10:00 AM
City Hall Conference Room 12 (CR 12)

MEETING MINUTES

1. Approve Agenda

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

2. Public Comment

None.

3. Approve minutes 3/22

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

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

IZ rents and Payment In Lieu

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

Erik Hoekstra pointed out that the data has shown we have seen few projects at the small scale below 20 units.
There was agreement that the current multiplier of 1.5 for the number of IZ units when calculating payment in lieu was unnecessary and confusing and rather to just have a single dollar amount.

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

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

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

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

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

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

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

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

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

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

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

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

Provision for offsite units

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

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

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

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

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

Geography of Inclusionary Zoning

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

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

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

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

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

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

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

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

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

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

Chair Knodell suggested David White quickly discuss the IZ bonuses.

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

Next Steps

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

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

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

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

Monday June 11th to be held for a public hearing

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

CITY OF BURLINGTON, VERMONT
Inclusionary Zoning Working Group
c/o Community & Economic Development Office
City Hall, Room 32 • 149 Church Street • Burlington, VT 05401
802-865-7144 VOX • 802-865-7024 FAX • www.burlingtonvt.gov/cedo

IZWG Members Present: Chair Jane Knodell, Michael Monte, Noelle MacKay, David White, Bruce Baker, John Davis,
IZWG Members Absent: Eric Farrell, Nancy Owens, Brian Pine
CEDO staff members: Todd Rawlings**,** Ian Jakus
Public: None

Thursday May 14, 2018
8:15 AM – 10:00 AM
City Hall Conference Room 12 (CR 12)

MEETING MINUTES

1. Approve Agenda

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

2. Public Comment

None.

3. Approve minutes 4/26

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

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

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

The group went through the recommendations of the IZ Evaluation Report providing comments as necessary.
The following minutes are organized by the report recommendation in italics:

Increase Development Threshold

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

Generalize unit comparability

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

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

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

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

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

The group agreed to recommend these minimums.

Provide density bonuses by right

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

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

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

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

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

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

Impact Fee Waiver

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

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

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

Lower the Payment in Lieu

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Contribute levy resources to inclusionary homeownership

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

Address the intersection of affordable housing and college student housing

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

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

Next Steps

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

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

The meeting was adjourned at 10:15 AM.