



## COMMUNITY & ECONOMIC DEVELOPMENT OFFICE

149 CHURCH STREET • ROOM 32 • CITY HALL • BURLINGTON, VT 05401  
(802) 865-7144 • (802) 865-7024 (FAX)  
[www.burlingtonvt.gov/cedo](http://www.burlingtonvt.gov/cedo)

### Memorandum

TO: Burlington City Councilors

FROM: Peter Owens, Director, CEDO  
David E. White, Director, Planning & Zoning

DATE: December 11, 2014

RE: Response to 12-1-14 Memo from Councilors Colburn, Knodell and Tracy regarding Questions about Burlington Town Center Development Agreement Public Process

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#### **QUESTIONS ABOUT THE PUBLIC PROCESS:**

- 1. In Step 4 of the proposed process, what criteria will be developed for evaluating the project, as it relates to public input? Will the administration define criteria? The developer? Or the public themselves? Will the public be engaged in the definition of the goals, or in the best ways to achieve pre-determined goal? Are the "City goals" understood to be fully captured by Plan BTV: Downtown and Waterfront Master Plan? This document does not include other types of goals (other than land use), such as improving employment outcomes for unemployed and underemployed Burlington residents. At what point, if any, would additional goals such as this one come on the table?**

The "City goals" and criteria used in evaluating this project are largely a result of the three-year planning and community engagement effort that concluded in the unanimous adoption by the City Council of *planBTV: Downtown and Waterfront Master Plan*. This plan provides the broad outlines and objectives within which the redevelopment of the BTC should fit and specifically identified a mixed-use, dense redevelopment of the mall as one of the plan's major priorities. We would anticipate that the first phase (Step 4) of the proposed process would include refining more detailed community goals and objectives within the framework provided by planBTV, and considering municipal goals beyond land use policies (such as those noted above) that could be advanced by the successful redevelopment of the mall. There will be explicit and robust public engagement as part of this work. The work in Step 4 will in turn inform the negotiation of the Development Agreement in Step 5.

**2. Why is there no involvement anywhere of our Development Review Board? Is the DRB involved after this process is completed?**

The DRB is a quasi-judicial regulatory body, and as such their formal role is in the final review and permitting process under the applicable regulations in effect when BTC files its application for a zoning permit. As such, it is inappropriate for the DRB to participate in the process. Given the complexity and scale of the proposed redevelopment, the aim of this process is to add an opportunity for meaningful public input and review prior to the more constrained and formal DRB hearings. After any agreements between the City and BTC have been negotiated and finalized, BTC will go through the full permitting process like all other projects.

**3. This is touted as a “transparent” process, one unlike previous development agreements (p 3). In Step 5, Development Agreement Negotiations, will these meetings between City & its Technical Team and BTC also be public, open, and transparent?**

Yes – these meetings will be publically warned, and the public will have an opportunity to attend and participate as appropriate.

**4. When would the TIF debt-issuance vote take place?**

The BTC property is within the Waterfront TIF District and adjacent to the Downtown TIF District. If the City decides to pursue TIF investments related to the BTC redevelopment, a public vote on the use of TIF can only take place after an agreement has been approved by the City Council and following all required state and City review and approval processes. This will not happen in time for a Town Meeting Day 2015 vote.

**5. As BTC is paying for the City’s “technical team”, how independent from BTC will they really be? The 11/24/14 document (prepared by whom/which department/s? authorship is not identified) says that “this payment could be counted towards any future development application and review fees required by the City”, but the draft resolution simply says that Devonwood will be providing this. Please clarify.**

Under the proposed resolution, BTC will provide funding to the City which the City would use to hire technical team members. The technical team will have professional and contractual responsibility to the City only. As for how this payment might be “counted towards any future development application and review fees required by the City,” ultimately that is a matter to be negotiated as part of the process, and the City has made no commitments in this regard.

This proposal was drafted jointly by Peter Owens from CEDO and David E. White from Planning, and is conceptually based on a similar process currently codified by state statute and in use in Chapel Hill, NC. It further was guided by several long conversations with the Assistant Town Manager who coordinated the process for several large projects in Chapel Hill.

6. Is it fair to say that the public process in Step 4 will inform to some extent the City's positions and demands in Step 5?

Yes – as noted in the response to Q1.

7. How does this project fit into overall CEDO priorities? In light of the various projects and planning processes already under way or in their early stages (New Moran, Southern Railyard, South End BTV, Farrington Mobile Home Park, Housing Action Plan), which projects will be higher, and which lower, on the list of priorities?

All of these projects and public processes are high priorities. Numerous City departments are currently engaged in the work of actively advancing all of these priorities, and the Administration does not intend to deprioritize any of these projects or processes if we decide to move forward with the BTC development agreement process. If this process is approved, the City will expand its capacity to engage the BTC project through the hiring of the Technical Team.

**QUESTIONS ABOUT THE PROJECT AS CURRENTLY PROPOSED:**

1. Is there market research that the City has reviewed supporting the need for another hotel and/or conference center of this size?

While the City has not evaluated any specific market analysis for this site and proposed uses at this stage, work completed as part of the *planBTV: Downtown and Waterfront Master Plan* included a Retail Market Analysis for the entire downtown. This work echoed and reinforced many other similar analyses and anecdotal assessments from various market and economic development experts of the strength, breadth and potential of our downtown real estate market including the market for additional hotel rooms. We would anticipate that the viability of the specific scale and mix of uses will be further analyzed and assessed both by the developer and by our Technical Team as part of the proposed process.

2. What parking infrastructure will be required to support the expansion and proposed functions? Especially a large-capacity conference center?

Parking infrastructure and management will be a key part of the project. The City is currently completing a downtown-wide parking management study. The Technical Team will include parking and transportation expertise. Evaluation and design of parking infrastructure is another example of a specific issue that will be considered as part of the process and with the assistance of our Technical Team.

3. What's the nature of the proposed housing? Rental? Homeowners? # of units? Affordable and low income? Will it be necessary to develop high-end housing only among the non-inclusionary units for the developer to recoup his investment and earn his target rate of return? Is the developer fully aware of the provisions of our inclusionary zoning ordinance? Are changes to that ordinance among the regulatory changes contemplated for this project?

The City is pleased that Devonwood is interested in adding housing to the mall site as explicitly contemplated in planBTV. Devonwood has made no specific proposal for the mix of housing that might be included. Devonwood is clearly aware of the City's Inclusionary Zoning requirements. No changes to the Inclusionary Zoning Ordinance are contemplated for this project at this time.

- 4. What's the vision for proposed retail expansion? Has market research been done, that the City has reviewed, supporting the need for the amount of contemplated new retail space? Are there any strategies on the table for incentivizing small or local businesses? Will it be necessary to develop predominantly high-end retail for the developer to recoup his investment and earn his target rate of return?**

As noted in Q1 above, a Retail Market Analysis for the entire downtown was completed as part of the *planBTV: Downtown and Waterfront Master Plan* and found existing capacity for a 10-20% expansion of the City's approximately one million square feet of retail space. Any discussion and consideration regarding the specific types and mix will need to be part of the negotiation process and based on additional market information.

- 5. What's the amount of TIF financing being proposed, and for what aspects of the project? How does this relate to and/or compete with other TIF priorities in the waterfront district? What are the anticipated changes to zoning that will be required to complete the project?**

There are no specific requests or proposals regarding the need and extent of public financing or regulatory changes at this time. Any discussion and consideration regarding specific public funding sources and amounts will need to be part of the negotiation process. Any discussion and consideration regarding specific regulatory changes will need to be based on the final outcome of the community design process and how it conforms to the existing regulations (or not), and included as part of the negotiation process.

**QUESTIONS ABOUT THE DEVELOPER AND HIS COMPANY:**

- 1. Please provide a description of the due diligence the City has performed on Mr Sinex and Devonwood, and its results.**

The City has completed an initial due diligence process on Mr. Sinex and Devonwood. The process included but was not limited to web searches, phone inquiries, and other research into his professional background, project experience (in particular those with public-private component), financial capacity, and past relationships. While this process is still on-going, we initially have found Devonwood to be a solid and dependable partner in its interactions with the City to date. This is evidenced by Mr. Sinex's delivery of his commitment to secure L.L. Bean in conjunction with City Council resolution last spring and his acquisition of the property where other parties had previously failed.

- 2. Please provide a resume of, and third-party references from, the projects that Mr Sinex has managed, from start to finish. Of particular interest are public-private partnerships such as the one contemplated here, and projects that include housing development, and affordable housing in particular.**

Please see Devonwood supplemental document.

- 3. Please provide professional references for Mr Sinex.**

Please see Devonwood supplemental document.

- 4. Please provide information on Mr Sinex's/Devonwood's financial capacity to complete this project. Are the terms of his financing placing pressure on the timeline for the development agreement? How was his purchase of BTC financed, and how will the proposed \$200 m investment be financed?**

It is our understanding that Mr. Sinex financed the acquisition and the renovation of the BTC with traditional mortgage debt and equity from Devonwood. The investment made to date in the BTC is reported to be approximately \$34 million, with \$24 million being traditional debt and approximately \$10 million being equity.

The proposed re-development of the BTC as conceptually envisioned by Mr. Sinex would cost approximately \$200 million. The actual final cost will vary depending on the terms of the development agreement and the development plan that emerges after the completion of the design, permitting, and development processes. Whatever the final cost, Mr. Sinex expects the project to be financed using a standard combination of traditional commercial bank debt plus equity.

Equity will be contributed by Devonwood as well as other equity sources. There are multiple interested lenders, including the lenders that have financed other projects and the lender who made the initial loan to Mr. Sinex as part of his acquisition of the BTC.

While there are no known financing terms that place any specific pressure on the approval timeline, it is important to note that until the project is approved, permitted, and ready to be built, it is not possible to have the commitment of any full third party (lender or equity source) for the BTC re-development project.

- 5. Has the City discussed the advantages of Devonwood partnering with local for- and non-profit development organizations?**

We have encouraged the developer to familiarize themselves and, where appropriate, consider partnering with local development organizations. They are already using a number of local contractors, design professionals and attorneys, and have reached out to groups such as UVM, UVMC (FAHC), the Burlington Farmers' Market, and the YMCA.

**QUESTIONS ABOUT PUBLIC RISKS VS BENEFITS AND ALTERNATIVE PATHS:**

1. **What is the Administration's assessment of the risks versus the benefits of moving forward as proposed?**

Please see attached letter from Mayor Weinberger.

2. **Presumably, when Plan BTV: Downtown and Waterfront Master Plan was written, we did not think that implementing that vision depended on a \$200 m investment from a then-unidentified non-local developer. We presumably believed that that vision could be implemented through a combination of local public and private investment. How does this way of implementing Plan BTV (e.g., partnering with Devonwood) compare with alternative approaches? What are the pros and cons of moving forward as the Administration proposes?**

The *planBTV: Downtown and Waterfront Master Plan* very clearly and explicitly understands that much of the vision proposed cannot and will not be achieved without the significant contribution of private property owners. The City does not own or control the BTC site and, therefore, ultimately cannot make progress on this key site on its own short of radical public intervention. We see no viable alternative approaches to redeveloping the site other than working with the current property owner.

Please see the attached letter from Mayor Weinberger for further discussion of the pros and cons of pursuing the proposed public process for reaching a development agreement.