



City of Burlington, VT  
149 Church Street, 3<sup>rd</sup> Floor  
Burlington, VT 05401  
Phone: (802) 865-7144

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**TO:** Burlington City Council  
Mayor Miro Weinberger  
**FROM:** Meagan Tuttle, AICP, Planning Director  
Charles Dillard, AICP, Principal Planner  
**DATE:** January 30, 2023  
**RE:** Proposed CDO Amendment – ZA-23-01: South End Innovation District Overlay

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## **Overview & Background**

### ***District Intent & Overview***

The South End Innovation District Overlay is intended to facilitate the redevelopment of a core area of the South End's Enterprise-Light Manufacturing (E-LM) district. The vision for this overlay is based in [planBTV: South End](#) and calls for transforming the area's surface parking lots and contaminated and underutilized sites into an accessible, mixed-use hub of economic activity that draws on both the South End's legacy of manufacturing and arts as well as its burgeoning office and innovation sector. As enclosed, the overlay enables the creation of a wide range of commercial uses, which differs from the initial staff recommendation to prioritize those arts, manufacturing, and office uses that define the character of the South End today. The amendment also permits the creation of new homes. The overlay includes provisions for the scale and massing of new buildings to guide the redevelopment of large sites, and seeks to create an accessible and sustainable urban district.

### ***Background on Housing in the South End***

A substantial portion of the work to prepare *planBTV South End* occurred in 2014 and 2015; after thorough revisions in collaboration with the Planning Commission, the plan was ultimately adopted through its incorporation in the City's Comprehensive Plan update in 2019. In the nearly decade since the community conversation began about *planBTV: SE*, and the nearly 4 years since its adoption, the city has continued to experience a multi-faceted housing crisis. The lack of housing availability is among the highest priority issues for many residents, including for the South End's artists, makers, office workers, and other businesses. At the time of its preparation and adoption, there was much debate about allowing housing in portions of the South End E-LM district. While the adopted plan did not recommend housing in the E-LM, it did stress that continued conversations about the appropriate location and type of housing in the South End was necessary, especially as conditions in our community change. One of the plan's housing strategies included:

***Continue community discussions regarding housing in the South End.*** *Continuing this discussion will be important to ensuring that the rules for the future development of the South End match community needs. As our community and its neighborhoods continue to evolve, it is necessary to periodically revisit land use and zoning policies to ensure that change is sustainable and occurring in the appropriate locations, including within the Enterprise Zone*

- *Provide forums for continued community discussion and information sharing as part of efforts to update zoning, implement partnerships, and facilitate redevelopment.*
- *Dept. of Planning & Zoning, Planning Commission; property owners; SEABA; non-profit housing organizations; South End residents*

Recent discussions around the South End Innovation District Overlay have provided such an opportunity. This question was initially re-introduced to the Planning Commission in summer 2021 by HULA representatives, as a request to consider the creation of a Neighborhood Activity Center in a portion of the E-LM. Following early discussions with the Commission, the opportunity to allow

housing opportunities in a portion of the E-LM through the creation of this Overlay was included as a priority strategy in the city's [2021 Housing Action Plan](#). ***Input informing this amendment*** As part of that Action Plan, the HULA representatives and a number of non-profit organizations and other South End property owners signed onto an MOU to work with Planning and CEDO to inform the development of this proposed district and participate in engagement sessions. Additionally, staff from multiple city departments, including City Planning, CEDO, Business & Workforce Development, Permitting & Inspections, BCA, and DPW have been engaged to inform perspectives on this amendment as well as to discuss other planning considerations for the area.

This [summary](#) outlines key areas of feedback during public engagement activities that took place in the spring and summer 2022. In-person and online forums provided opportunities for more in-depth discussions about the [nuances of an innovation district](#)—including specifics about allowable land uses and their mix, building scale and massing, and other characteristics of new development. Input from both the public discussions and the stakeholder working group has informed this proposed ordinance.

### ***Key Planning Commission Changes***

The Commission's final discussion focused on the amendment's land use framework. Specifically some Commissioners were concerned that the ground floor non-residential use standards and the Primary/Secondary land use framework would be a barrier to development in a tumultuous economic climate. Ultimately, the Commission voted 4-2 to eliminate the Primary and Secondary Permitted Use distinctions proposed by staff, and instead combine these use categories into one list of permitted uses. Additional detail about the Primary/Secondary land use framework and the related ground-floor non-residential use requirement are described in greater detail below.

### Primary/Secondary Land Use Framework

Prior to its removal, this land use framework would have required the incorporation of certain Primary non-residential uses in order to enable development of certain Secondary non-residential uses. This was intended as a means to prioritize and foster the South End's traditional arts and light manufacturing sectors and its burgeoning office sector. Primary uses included those staff and public input considered inherent to *planBTV's* vision for a South End Innovation District (e.g. arts, light manufacturing, community services and office space). Secondary uses were those that, while important to a vibrant, mixed-use district, are not intrinsic to the notion of "innovation," but rather are more general commercial uses. The Commission's recommendation to remove this framework reflects concern among some members that the Primary/Secondary distinction is unnecessary micromanagement and would ultimately require projects to incorporate uses that may not be viable.

Below are two example development programs that illustrate how the now-removed Primary/Secondary land use framework could have worked:

#### Example Development A

- 50,000 sf residential
- Primary Uses (1,000 square feet)
  - 1,000 sf artist studio(s)

- Secondary Uses (2,000 square feet)

- 1,000 sf restaurant
- 1,000 sf café

#### Example Development B

- 50,000 sf residential
- Primary Uses (30,000 square feet)
  - 15,000 sf office
  - 15,000 sf daycare
- Secondary Uses (60,000 square feet)
  - 30,000 sf hotel
  - 10,000 sf cinema

- 5,000 sf pharmacy
- 5,000 sf general retail
- 5,000 sf general retail
- 1,000 sf restaurant A
- 1,000 sf restaurant B
- 1,000 sf bar/tavern
- 1,000 sf health studio
- 500 sf café
- 500 sf salon

With the simplification of this land use framework into one general set of allowable uses, developments could in theory incorporate only the mix of residential and secondary uses outlined in these examples. While not necessarily undesirable outcomes for development within the city, they may not be exemplary outcomes with regard to the primary intent of the Innovation District.

In revising the proposed land use framework consistent with the Planning Commission recommendation, there were several uses that had previously been proposed to be allowed as Secondary Uses that staff no longer recommends be allowed within this district. Additionally, the Council should discuss whether to allow hotels in this district. While limited to one per lot, this was an area of debate and discussion among the public and the Commission. With a simplified framework of allowed uses, staff feels this warrants additional consideration.

Ground Floor Non-Residential Uses in the SEID

The amendment proposes to require that at least 80 percent of a building's ground floor contain non-residential uses when on a "primary" block frontage, and 20 percent when on a "secondary" frontage. The amendment proposes to allow property owners to determine which block frontages are primary and secondary, with the only requirement being that at least one of a block's frontages must be primary. However, since initially presenting the draft amendment to the Commission in August, staff has acknowledged that high vacancy rates are a problem in mixed-use developments across the United States, and some recent local projects have similarly struggled to fill new ground floor commercial space. For this reason, staff included provisions that would exempt development from some or all of these ground floor non-residential use requirements in exchange for related community benefits, including open space, affordable non-residential space, detached non-residential space and family-sized (i.e. 2- and 3-bedroom units). While there were concerns about requiring an overabundance of non-viable non-residential space on the ground floor of buildings, the Commission ultimately agreed that this serves an important urban design function, and recommended these provisions remain. .

The Planning Commission's rationale for recommending against the Primary/Secondary use framework is captured in their accompanying memo. In light of the Commission's focus on ground floor non-residential use viability, the amendment's relationship to and furtherance of planBTV: South End's recommendations, and public input on priorities for land uses in this district, staff recommends that the City Council consider and discuss the various approaches to regulating land use that are outlined in the Commission's memo.

**Proposed Amendment**

**Amendment Type**

Text Amendment	Map Amendment	<b>Text &amp; Map Amendment</b>
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**Purpose Statement**

This amendment creates an Overlay Zone that applies to a portion of the South End Enterprise-Light Manufacturing zone, to facilitate the development of a mixed-use urban district that fosters the continued growth and sustainability of the South End's arts and innovation economy and also provides access to housing.

**Proposed Amendments**

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

- 1. Amends Article 4 – Zoning Maps and Districts to create a new South End Innovation District overlay within a portion of the Enterprise-Light Manufacturing District**

Creates a new Sec. 4.5.8 to establish an overlay district with a portion of the South End E-LM zone, including a map of parcels and specific zoning standards for development.

**2. Creates specific regulations for land uses and urban form in the Overlay**

Establishes standards for development within the proposed overlay, including:

- Land Use standards that allow for a range of residential and non-residential uses, including arts, innovation, office and other non-residential uses, as well as other district-supportive but non-essential commercial uses.
- Standards that govern lot coverage and ground floor uses in order to guide the development of a walkable, dense and human-scaled urban district.
- Standards that require buildings be close to streets and occupy the majority of a block’s frontage, while providing a greater degree of flexibility than the downtown form code districts.
- Standards for building height which range from four up to eight stories, while limiting overall building size and requiring upper story variation to create a high quality and livable urban form that facilitates residential and economic growth.
- Parking standards that limit surface parking and guide the development of parking in a way that mitigates the negative impacts of car utilization.
- Requires that residential developments within the overlay comply with Inclusionary Housing standards in *Article 9*, including that a minimum of 15% of units meet affordability limits.

**3. Amends Article 11 – Planned Development**

Amends Sec. 11.1.3 to allow for Planned Unit Developments with the Enterprise-Light Manufacturing district.

**4. Amends Article 13 - Definitions to define various terms**

Amends and provides definitions for specific land uses, construction techniques, and stormwater management best practices to address questions and provide clarity for administration of the ordinance. New and amended definitions include:

- Amend definition of bowling alley
- Create definition for Block, Block Perimeter, Co-Housing, Constructed Wetland, Green Stormwater Management, Mass Timber Construction, Passive House, Perimeter Building, Pervious Pavement and Suspended Pavement

**5. Amends Appendix A – Use Table to establish land use regulations within the E-ID**

Amends the Use Table to make reference to district-specific land use standards contained within the proposed *Section 4.5.8.*, and adds Co-Housing.

**Relationship to planBTV**

*This following discussion of conformance with the goals and policies of planBTV is prepared in accordance with the provisions of 24 V.S.A. §4441(c).*

<b>Theme:</b>	<b>Dynamic</b>	<b>Distinctive</b>	<b>Inclusive</b>	<b>Connected</b>
<b>Land Use:</b>	<b>Conserve</b>	<b>Sustain</b>	<b>Grow</b>	

Compatibility with Proposed Future Land Use & Density

The proposed overlay would implement a key land use policy adopted in 2019 with *planBTV: South End*, and amended through the *2021 Housing Action Plan* which directed the city to explore the inclusion of housing.

The proposed amendment would, in the words of *planBTV South End*, “Reinforce and growth the South End as a center for innovative businesses and Institutions.” However, in order to “expand the visibility of the arts district to preserve and enhance its vibrancy,” the primary tools available within the proposed amendment to prioritize artist, maker and office spaces in this new district amount to exemptions from the proposed ground floor activation requirements, which may not be sufficient to facilitate this goal on their own.

Regarding density, the proposed amendment is consistent with and supports the 2021 Action Plan by proposing to allow dense, multifamily housing for the first time in the core of the South End. The proposed amendment guides development on largely undeveloped and underutilized land in a way that should create meaningful housing supply and contribute to the City’s commitment to build significant amounts of housing by 2026.

Impact on Safe & Affordable Housing

The proposed amendment creates significant positive impacts toward the creation of affordable housing. Through the proposed Inclusionary Zoning standard, the overlay would facilitate potentially hundreds of units of affordable housing. As a center of the City’s arts community, the Innovation District would also create affordable housing in an area where artists are increasingly unable to afford the rising costs of housing. Regarding safe housing, the proposed amendment seeks to create a vibrant urban mixed-use district that is accessible and supports the livelihoods of all residents.

Planned Community Facilities

The proposed amendment would cover a significant land area that includes important community facilities. In facilitating the redevelopment of large contaminated properties, the proposed amendment would support public and ecological health. Through its rigorous stormwater standards, the amendment would support the health of nearby waterbodies, including Englesby Brook, the Barge Canal and Lake Champlain. In terms of transportation, the overlay will guide development along the planned Champlain Parkway in a way that supports that facilities goal to create a more accessible transportation corridor in Burlington’s South End. Furthermore, in promoting a dense, accessible urban form on currently inaccessible properties, the proposed amendment would improve the area’s pedestrian and bicycle facilities in ways that are consistent with *planBTV and planBTV: South End*

**Process Overview**

The following chart summarizes the current stage in the zoning amendment process, and identifies any recommended actions:

<b>Planning Commission Process</b>				
Draft Amendment prepared by: Staff	<b>Presentation to &amp; discussion by Commission</b> 8/23/22, 9/13/22, 9/27/22, 10/11/22, 1/10/23; 1/19/23, 1/24/23	Approve for Public Hearing	Public Hearing 11/15/2022, 12/13/2022	Approved & forwarded to Council 1/24/2023
<b>City Council Process</b>				
<b>First Read &amp; Referral to Ordinance Cmte</b> 2/6/2023	Ordinance Cmte discussion	Ordinance Cmte recommend	Second Read & Public Hearing	Council Approval & Adoption