

Burlington Planning Commission

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*Yves Bradley, Chair
Bruce Baker, Vice-Chair
Lee Buffinton
Emily Lee
Andy Montroll
Harris Roen
Jennifer Wallace-Brodeur
vacant, Youth Member*



Burlington Planning Commission Special Meeting

Tuesday, July 19, 2016, 6:30-8:30 P.M.
Public Works Conference Room, 645 Pine Street, Burlington

AGENDA

*Note: times given are
approximate unless
otherwise noted.*

I. Agenda

II. Report of the Chair (5 min)

III. Report of the Director (5 min)

IV. Proposed CDO Amendment: Downtown Mixed Use Core Overlay

The Planning Commission will continue to discuss a draft communication to the City Council regarding the proposed CDO Amendment to establish a Downtown Mixed Use Core Overlay. The language of the proposed amendment and the report required by statute, have been transmitted to City Council. Included in this agenda packet are:

- DRAFT Memo to City Council RE: Proposed DMUC Amendment (p. 2)
- DRAFT Chart of Planning Commission Comments on the DMUC amendment (p. 7)
- Proposed DMUC amendment language with technical notes to reflect PC Comments (p. 12)
- Communication RE: Memo & Chart (p. 27)

V. Proposed CDO Amendment: Neighborhood Activity Center- Cambrian Rise

The Planning Commission will receive a brief update from staff regarding the proposed CDO Amendment to establish a new Neighborhood Activity Center zoning district, and apply this district to the former Burlington College property.

VI. Public Forum

The Public Forum is an opportunity for any member of the public to address the Commission on any relevant issue.

VII. Adjourn (8:30 pm)

Upcoming Meetings

- **August 9, 2016, 6:30pm:** City Hall Conference Room 12
- **August 23, 2016, 6:30pm:** City Hall Conference Room 12

This agenda is available in alternative media forms for people with disabilities. Individuals with disabilities who require assistance or special arrangements to participate in programs and activities of the Dept. of Planning & Zoning are encouraged to contact the Dept. at least 72 hours in advance so that proper accommodations can be arranged. For information, call 865-7188 (865-7144 TTY). Written comments may be directed to the Planning Commission at 149 Church Street, Burlington, VT 05401.

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TO: JANE KNODELL, COUNCIL PRESIDENT
BURLINGTON CITY COUNCILORS
FROM: BURLINGTON PLANNING COMMISSION
DATE: date
RE: PLANNING COMMISSION TRANSMITTAL OF ZA-16-14 DOWNTOWN MIXED USE CORE OVERLAY

The Planning Commission strongly supports the adoption of an amendment to ~~create a Downtown Mixed Use Core Overlay District to~~ facilitate the redevelopment of underutilized sites within the downtown core, including the Burlington Town Center. The area included in the proposed Downtown Mixed Use Core Overlay (DMUC) District is ~~one of the most grossly~~ underdeveloped, and is an appropriate location for additional height and greater density within the City. The Commission believes that the current zoning for these sites is inadequate to facilitate ~~the their~~ redevelopment ~~of these sites~~ in a way that significantly advances the vision of *planBTV: Downtown and Waterfront*, ensures a high level of design enhancing the pedestrian experience, and meets the City's aspirations for sustainable buildings.

The Planning Commission ~~is hereby transmitting~~ has transmitted *ZA-16-14 Downtown Mixed Use Core Overlay*, a proposed amendment to the *Burlington Comprehensive Development Ordinance*, which the Commission believes to be consistent with the ordinance summary approved by Council in the Predevelopment Agreement. Prior to warning the public hearing, the Commission has made modifications to certain elements of the proposed amendment text for which it felt it had clear discretion. For those elements that were clearly articulated in the summary approved as part of the PDA, or for those elements which the Planning Commission could not reach consensus, additional comments and perspective are included below herein for the Council's consideration. In addition, attached are a series of technical changes for your consideration that the Commission discussed but were not complete in time for the public hearing not incorporated in the proposed ordinance text transmitted to Council.

Consistency with the *Predevelopment Agreement- Exhibit D*

Through the approval of the Predevelopment Agreement (PDA) for the redevelopment of the Burlington Town Center Mall, the Planning Commission was asked to ~~advance consider~~ the proposed Downtown Mixed Use Core Overlay (DMUC) zoning amendment. The PDA articulates the City's and BTC Mall Owner's acknowledgements and agreements regarding Municipal Zoning in Section 3 of the approved document. Additionally, a summary of the key elements of a proposed zoning amendment, entitled "Exhibit D: Burlington Comprehensive Development Ordinance, PROPOSED Downtown Mixed Use Core Overlay," was approved as part of the PDA. Per this summary, the Planning Commission was tasked with providing a proposed amendment to the City Council which includes the following elements, all of which have been incorporated in *ZA-16-14 Downtown Mixed Use Core Overlay*:

- Creation of a new Overlay District, known as the Downtown Mixed Use Core Overlay District (DMUC District);
- Boundaries for this DMUC District;
- By-right height and mass limits of: 3 stories minimum; 14 stories, not to exceed 160 ft. maximum (5% allowed variation in height to account for grade changes); and maximum 9.5 Floor Area Ratio (FAR);

Draft for Planning Commission Review 07/19/2016

- Projects within the DMUC District which include frontage on Church Street may include structures not to exceed 4 stories or 45 ft in height, and may be built to the maximum height permitted within the zoning district so long as there is a 10 ft upper-story setback for every 10 ft in height above 45 ft.;
- Exemption from existing upper story setback requirements; instead, new prescriptive design standards to ensure good urban design, façade articulation, and street activation;
- Requirement to participate in emerging downtown parking initiatives being developed under the newly adopted *Downtown Transportation and Parking Plan*;
- Requirement to develop a Master Sign Plan to be approved by the DRB;
- and, amendments to the City's Official Map to include 60 ft wide extensions of St. Paul and Pine Street between Cherry and Bank Streets as public streets to accommodate pedestrians, bicycles and vehicles in accordance with the depiction of these streets in Exhibit B of the approved PDA.

In order to advance the amendment to Council in a timely manner, this memorandum ~~and attached chart~~ contains additional comments from the Planning Commission that the Council may wish to consider during its own deliberations. ~~The Commission has made modifications to certain elements of the proposed amendment text for which it felt it had clear discretion. For those elements that were clearly articulated in the summary approved as part of the PDA, or for those elements which the Planning Commission could not reach consensus, comments are included herein.~~

Conformity with *Municipal Development Plan* and *planBTV: Downtown & Waterfront*

~~As the~~The attached report ~~accompanying the proposed amendment~~, submitted in accordance with the provisions of 24 V.S.A. §4441(c), indicated ~~ds that~~, the Planning Commission ~~has found inds~~ the proposed amendment to conform with the goals and policies contained within the City's Municipal Development Plan regarding the availability of safe and affordable housing, future land uses and densities, and proposed community facilities. In particular, the proposed DMUC Overlay advances the following Municipal Development Plan policies:

- Encourage a healthier regional balance of affordable housing in each community, proximate to jobs and affording mobility and choice to low income residents.
- Support the development of additional housing opportunities within the city, with concentrations of higher-density housing within neighborhood activity centers, the downtown and institutional core campuses.
- Encourage mixed-use development patterns, at a variety of urban densities, which limit the demand for parking and unnecessary automobile trips, and support public transportation.
- Strengthen the City Center District (CCD) with higher density, mixed-use development as part of the regional core while ensuring that it serves the needs of city residents, particularly those in adjacent neighborhoods.
- Target new and higher density development in the Downtown, Downtown Waterfront, Enterprise District, Institutional Core and the Neighborhood Activity Centers.

Furthermore, the Planning Commission finds the proposed DMUC Overlay to further many of the goals identified in *planBTV: Downtown & Waterfront*. Specifically, this amendment:

- targets an area of the downtown core, including the site of the BTC Mall which was identified as an opportunity for intensive, mixed use redevelopment;
- encourages infill, redevelopment, and adaptive reuse to provide additional housing;
- incorporates urban design standards to ensure projects within the DMUC district adhere to *planBTV's* core principles of walkability, connectivity, scale, density, diversity and mixed-use; ~~and~~.
- ~~and~~, amends the Official Map to include rights of way for future public streets, a community facility that the City has long aspired to reintroduce.

Comment [MT1]: Staff note: this section is derived directly from the Municipal Bylaw Amendment Report that the Commission transmitted to Council with the proposed ordinance text.

Planning Commission ~~Recommendations~~Comments

~~While the Commission finds this proposed amendment to be in conformance with the City's Municipal Development Plan,~~ The Commission offers the following comments to the City Council to consider in its deliberations. These comments refer to elements that were clearly articulated in the summary approved as part of the PDA for which the Commission would like to offer alternatives, or for those elements which the Planning Commission could not reach consensus. ~~In addition, attached are a series of technical changes for your consideration that the Commission discussed but were not complete in time for the public hearing incorporated in the proposed ordinance text transmitted to Council.~~

Boundaries

The Commission supports this area of the downtown core as one that is appropriate for redevelopment that incorporates greater height and density. However, the Commission has not reached a consensus opinion regarding the boundaries in this proposed amendment. Some Commissioners feel that the boundaries are appropriate, while others offer opinions to amend these boundaries as follows:

- People's Bank Site (not currently included in the boundary): Including this site could better reflect future potential for redevelopment within this area. Excluding this site is more consistent with the Form Based Code Committee's recommendation, and provides for a better transition in potential future building height, particularly when considering the terminal view looking west along Bank Street.
- College Street Garage (currently included in the boundary): Including this site is appropriate as a site for redevelopment, and its location within the center of a block allows for height to be further stepped back from the pedestrian view. Excluding this site is more consistent with the Form Based Code Committee's recommendation and reduces impact on neighboring properties' view sheds.

Official Map

The Commission as a whole enthusiastically supports the amendment to the Official Map to include new street ROW at St. Paul and Pine Streets. The Commission ~~recommends~~ however that the location of these ROW on the Official Map be modified slightly to better align with existing intersections in order to facilitate safe connectivity of the street grid, and allow ample width for both active and passive public space.

Height and Massing

Without additional tools available to further study ~~of~~ potential scenarios for the redevelopment of the DMUC District according to the proposed height and massing in the amendment, the Commission has not been able to reach a clear consensus on these issues. Accordingly, ~~it~~ individual Commissioners offers these following opinions:

- The proposed maximum height of 14 stories, not to exceed 160 ft, may be appropriate when considered in conjunction with the limits on massing of upper stories and the urban design requirements.
 - In particular, the proposed amendment reduces the maximum FAR of floors as a building gets taller, which helps preserve light and air both to the building and to the streets, and encourages a building's mass to be more vertically oriented where it is less visible from a pedestrian's view at the street level.
- The maximum height of the proposed DMUC District may be able to be lowered, without significantly impacting the proposed maximum FAR, by reconsidering the tiers for allowable FAR per floor. While the model method of reducing the allowable FAR of floors as a building gets taller is appropriate, it could be less dramatic.

- This could be adapted to permit larger floor plates in each of the tiers of height than currently proposed. ~~Of course~~ However, these changes must be carefully considered in conjunction with setback requirements ~~in order to that~~ minimize impacts of shadows and visibility from a pedestrian's perspective, providing floorplates supportive of upper story residential, and reducing the bulk of the redevelopment overall.
- The absolute maximum height of the DMUC District should be 160 feet, inclusive of any variation for grade changes on sites and mechanical equipment.
 - This could include a maximum occupied building height of 146 feet, with the additional 14 feet permitted for these variations.
- Retain the current maximum height of 65 feet with options for additional height, with bonuses, up to limit of 105 feet.

Additionally, the Commission does not believe that it is necessary at this time to include the proposed changes to the height and setback requirements for Church Street within this ordinance. Because these changes are outside of the proposed DMUC district, they should be considered as part of the eventual review of the draft Form-Based Code.

"By-right" Maximum Height

The Commission understands that the City's current bonus system was not often utilized and, therefore, was not been effective at encouraging development which provided additional public benefits sought. In general, the Commission supports the rationale for moving away from discretionary requirements, toward an ordinance that is explicit about the provisions/restrictions associated with each zoning district.

Comment [MT2]: Per comments from E Lee & L Buffinton, Commission should discuss/vote on level of agreement with this statement.

The Commission supports a DMUC Overlay which is more inclusive of the goals associated with the existing bonuses, particularly by encouraging additional density within well-designed, mixed-use projects which provide housing and jobs, and decreases SOV dependency in the downtown core. However, it also recognizes that all projects are not one-size-fits-all. The Commission and offers the following ideas for the Council to consider regarding maximum height:

- Maximum height conditional upon provision of public ROW at St. Paul & Pine Streets
 - The amendment to the Official Map provides the City with the right to acquire ROW to establish new street connections. The Commission feels that it is critically important to retain the ability for street connections to be established at St. Paul and Pine Streets in the event that the current proposed redevelopment project is not successful, ~~or in the event that the City does not have means to acquire ROW should it be offered.~~ Some of the Commissioners recommend ed that there be a condition of approval provision in the ordinance requiring that no buildings or structures be built within areas identified as future public ROW in order for a project to be built to the maximum height even in the event that the City does not have means to acquire ROW through the Official Map process.
- Location of Parking Structures
 - The Commission as a whole strongly encourages parking structures to be located below ground or behind a liner-building. However, in cases where this is infeasible and parking is proposed to be located on in an above ground structure, some of the Commissioners recommend ed that there be a condition of approval requirement that a developer must demonstrate all alternatives that have been considered and that no other viable alternatives exist in order for a project to be built to the maximum height.
- Housing Diversity
 - The Commission as a whole feels that achieving the *planBTV* goals for diversifying housing types and expanding availability of affordable and senior housing downtown are essential. However, some of the Commissioners offers suggested that ~~the~~ permitting the maximum height by right, without requiring additional inclusionary housing and senior housing, ~~are run~~ counter to these *planBTV* goals.

Urban Design Standards

The Commission as a whole feels that the standards for urban design are the most important elements to ensure projects within the proposed DMUC area meet the community's vision as articulated through *planBTV*. The urban design standards prioritize the pedestrian experience and ensure that projects engage with and generate street life and pedestrian activity. The Commission supports these standards as they are largely based on the draft *Form Based Code*, which has been carefully developed through the work of the Joint Form-Based Code Committee over the past 18 months.

In particular, the permitted locations and design treatments for structured parking is seen by the Commission to be of the utmost importance. The Commission as a whole strongly prefers that all parking for projects within the DMUC area be provided below ground or behind a liner building as contemplated in *planBTV*. ~~Some Commissioners feel that stronger language is needed to require underground or wrapped parking for all developments in the DMUC, while others. However, in the case feel that there are cases in which this that this is may not be practical or feasible. In cases where underground parking is not feasible, the Commission as a whole feels that,~~ the urban design standards are key to assuring that there is no discernable difference between the façade treatment on floors containing parking and other uses in the building. Additionally, the Commission feels strongly that surface parking should not be permitted within the DMUC Overlay; ~~accordingly, the proposed ordinance as transmitted does not permit surface parking.~~

Green Buildings

The Commission has indicated that there must be a high, measurable standard and a mechanism to ensure compliance, to meet the goals of *planBTV* and to meet community expectations. As such, the Commission has suggested re-introducing the requirements of the "Green Building Bonus" that was adopted as part of the 2008 Zoning Rewrite but has since expired. A version of this, recommended as a requirement rather than a bonus, has been included in the technical changes attached.

Post-Secondary & Community Colleges

The Commission is uncomfortable with the remote possibility that this district could become a post-secondary school/campus, and recommends that the CDO's Use Table not be modified as proposed and, rather, the use remain permitted subject to Conditional Use Review.

Conclusion

In conclusion, the Planning Commission strongly supports the redevelopment of underutilized sites within the downtown core, including the Burlington Town Center. The adoption of an amendment creating a Downtown Mixed Use Core Overlay District offers an important tool to facilitate this redevelopment and to help implement many of the central objectives of the *planBTV: Downtown and Waterfront Master Plan*.

Thank you for the opportunity to offer our perspective and comments to this important undertaking, and please feel free to call on us should you have any questions.

PROPOSED ZA-16-14: DMUC Overlay – Summary of PC Comments & Actions- Updated for July 12, 2016 Meeting

This proposed zoning amendment comes at the request of the City Council. It is very important that the Commission return with a recommendation in early July in order for the Council to be able to give it their due consideration to meet their timeline as indicated in the Predevelopment Agreement (PDA). Below is a chart summarizing the key elements included within the proposed amendment ZA-16-14.

- In the “Staff Notes & Comments” section, it is noted when an element was described in the summary of the DMUC Overlay that was approved as part of City Council’s Predevelopment Agreement.
- The “PC Comments & Recommended Action” column includes a summary of the Commission’s comments on each of these key elements. More detail on the Commission’s recommendations can be found in the documents that follow.

	<u>Key Elements:</u>	<u>Staff Notes & Comments:</u>	<u>PC Comments & Action</u>
1	Create a new Overlay District, known as the Downtown Mixed Use Core (DMUC) Overlay District (the “DMUC District”)	<p>The map of the potential district boundary was included in the summary of the amendment that the City Council approved as part of the PDA.</p> <p>Exact boundaries still TBD. Proposed map comes from the current draft of the FBC. PC may want to fine-tune.</p>	<p>The Commission has not reached a consensus on whether or not the College Street Garage and/or the People’s United Bank properties should be included within the boundary.</p> <p>Action: This has been included as a comment in the enclosed memo.</p>
2	Expand the Official Map to include 60-ft. wide extensions of St. Paul Street and Pine Street between Cherry and Bank Streets.	<p>The map of the street connections was included in the summary of the amendment that the City Council approved as part of the PDA. This summary indicated that the locations of these ROW should be consistent with Exhibit B of the PDA.</p> <p>These come directly from the recommendations of <i>planBTV: Downtown and Waterfront Master Plan</i></p> <p><u>Staff</u> strongly recommends that the street boundaries shown on the Official Map coincide with those shown on plans proposed for redevelopment of the mall, and recommends this <u>as proposed</u>.</p>	<p>The Commission would prefer the streets to be aligned with the existing grid, regardless of existing property lines and buildings.</p> <p>The Commission has also recommended that the absence of building within the areas indicated as future ROW, regardless of City’s action to acquire ROW, be made a condition of approval for the maximum height.</p> <p>Action: Regarding condition of approval, staff is advised that this is not a legal condition; however, both of these concepts have been included in the enclosed memo at the Commission’s request.</p>
3	New development in the DMUC District will be exempt from seeking building height bonuses from the DRB pursuant to BCDO Sec. 4.4.1 (d) 7; instead, the DMUC District will establish the following new, by-right height and massing limits and requirements:		<p>The Commission understands the limitations associated with bonuses and the rationale for moving away from them in this Overlay, and generally agrees that provisions/restrictions should be explicit; however, there are several items that the some Commissioners feels should continue to be included as bonuses/conditions of approval in order for projects to reach a maximum height:</p> <ul style="list-style-type: none"> • the condition regarding buildings within a ROW on the Official Map (#2) • demonstration of economic infeasibility of below-ground parking (#12) • providing housing diversity, particularly for inclusionary, senior, workforce and young professional housing (#15) <p>Action: See notes in #2, #12, #15</p>

	<u>Key Elements:</u>	<u>Staff Notes & Comments:</u>	<u>PC Comments & Action</u>
4	<ul style="list-style-type: none"> 3 stories min., 14 stories max. not to exceed 160 ft. max. 	<p>The minimum and maximum height was included in the summary of the amendment that the City Council approved as part of the PDA.</p>	<p>The Commission has not reached a consensus on the proposed maximum height, and offers the following opinions for Council to consider:</p> <ul style="list-style-type: none"> The proposed maximum height is appropriate in this location, particularly when considered in conjunction with the limits on massing of upper stories, the urban design requirements and the anticipated community benefits from redevelopment. The maximum height of the proposed DMUC District could be lowered to a height that the community is more comfortable with, without significantly impacting the proposed maximum FAR, by reconsidering the tiers for allowable FAR per floor. While the model of reducing the allowable FAR of floors as a building gets taller is appropriate, it could be less dramatic. Set the maximum height at 146ft, with allowance for maximum height up to 160ft inclusive of variation for site's grade and mechanical systems. Retain current maximum height of <u>65 ft, up to 105ft with bonuses</u>, to conform with illustrations in <i>planBTV Downtown & Waterfront</i>. <p>Action: Each of these comments is represented in the enclosed memo.</p>
5	<ul style="list-style-type: none"> Overall height allowed variation of 10% of the total allowable height (but no additional floor area) to account for grade changes across the site. 	<p>Comes from the proposed standards found in the current draft of the FBC. Applicable beyond proposed overlay but a very important element of flexibility for all development. PC may want to fine-tune.</p>	<p>The Commission has recommended striking this item.</p> <p>Action: This has been noted in the comments on the marked up version of the proposed DMUC Overlay text.</p>
6	<ul style="list-style-type: none"> 4 stories not to exceed 45-ft max on Church Street, with a 10-foot upper story setback required for every 10-feet of height above 45-feet 	<p>The proposed changes to height and setbacks on Church Street were included in the summary of the amendment that the City Council approved as part of the PDA.</p> <p>These standards come from the proposed standards found in the current draft of the FBC.</p> <p><u>Staff strongly recommends this as proposed.</u></p>	<p>The Commission feels that it is not necessary to include this as part of an <u>the</u> amendment to establish a DMUC Overlay <u>at this time</u>, but rather, that it should be considered as part of the Form-Based Code. Therefore, the Commission has recommended that this be removed from the proposed amendment.</p> <p>Action: This has been included as a comment in the enclosed memo.</p>

	<u>Key Elements:</u>	<u>Staff Notes & Comments:</u>	<u>PC Comments & Action</u>
7	<ul style="list-style-type: none"> Maximum FAR of 9.5 	The maximum FAR was included in the summary of the amendment that the City Council approved as part of the PDA.	<p>The Commission has offered alternative scenarios for how the overall FAR for sites in the DMUC can be organized. See notes in #4.</p> <p>In response, staff proposes minor modifications to the maximum permitted FAR of each floor within the proposed overlay. This encourages building sq.ft. to be arranged on lower levels of buildings, de-emphasizing bulk at higher levels.</p> <p>Action: This has been noted in the comments on the marked up version of the proposed DMUC Overlay text.</p>
8	New developments in the DMUC District will be exempt from the existing upper story setback requirement pursuant to BCDO Sec. 4.4.1 (d) 4 A; instead, new prescriptive design standards will be used to ensure good urban design, façade articulation and especially street activation including but not limited to:	PC may want to fine-tune, but all come from the proposed standards found in the current draft of the FBC, and Staff recommends this largely as proposed.	The Commission has identified these standards as incredibly important to ensuring successful projects in the proposed DMUC area. Except where noted, the Commission concurs with these design standards as proposed.
9	<ul style="list-style-type: none"> Façade Articulation: <ul style="list-style-type: none"> Finer-grained surface relief within the façade plane (use of material changes, balconies, belt courses, columns, lintels, etc) Creation of architectural bays to provide regular and strong vertical changes in the horizontal plane of a façade particularly within the lower 3-5 stories. Horizontal changes in the vertical plane of a façade (articulated base, stepbacks of upper stores, and clearly defined top) 		
10	<ul style="list-style-type: none"> Street Activation at the ground floor: <ul style="list-style-type: none"> Location, frequency and operability of primary entrances 		<p>The Commission has indicated that it is important to ensure that the language in the following sections is strengthened to ensure compliance with street activation requirements on both primary and secondary frontages:</p> <p>Action: Changes have been noted in the comments on the marked up version of the proposed DMUC Overlay text-- remove references to secondary frontages, encourage additional pedestrian connections from parking structures and other details related to street activation. See sections: 2.B.v., 2.C.i., 2.C.iv., and 4.iv.</p>
	<ul style="list-style-type: none"> Proportion of and distance between openings (doors and windows) 		
	<ul style="list-style-type: none"> Transparency of glazing 		

	<u>Key Elements:</u>	<u>Staff Notes & Comments:</u>	<u>PC Comments & Action</u>
	<ul style="list-style-type: none"> ○ Visual access within spaces 		<p>The Commission supports the language regarding the urban design treatment of parking floors. The Commission feels that if parking is permitted in these areas, high standards are needed regarding the screening of cars and lights <u>to ensure parking levels are indistinguishable from other floors from the pedestrian view.</u></p> <p>Action: Changes have been noted in the comments on the marked up version of the proposed DMUC Overlay text. See Section 4.5.8 (c)-: 2.C.iv. and 4.v.d.</p>
11	<ul style="list-style-type: none"> ● Acceptable primary and accent façade materials 		<p>The Commission has indicated that additional clarification is needed in the language for the following items related to materials and alternative compliance:</p> <ul style="list-style-type: none"> ● 2.D.iii (alternative materials) ● 2.E.iii (alternative compliance) <p>Action: Direct staff on whether any additional modifications to the proposed text, or comments in the memo, regarding these issues are needed. These changes have been noted in the marked up version of the DMUC Overlay text.</p>
12	<p>Projects within the DMUC District will be required to participate in the emerging downtown parking initiatives being developed under the newly adopted <i>Downtown Transportation and Parking Plan</i>, provided that private owners of parking lots or parking structures shall not be required to participate in any parking initiatives to the extent that such initiatives impose or result in any material obligation or cost to the such owners.</p>	<p>This was included in the summary of the amendment that the City Council approved as part of the PDA.</p>	<p>The Commission recommends <u>strongly prefers</u> that for all projects in the DMUC District, parking be underground or set behind a liner building at all levels. The Commission feels parking up to the façade is not appropriate and deadens the street even if it's located on upper floors. Therefore, the <u>Some Commissioners recommends no parking structures at the perimeter of a building at all, while others feel that parking above on the ground and the second floors fronting streets, and reiterates the importance of the utilize high design and screening requirements to ensure that any parking located in above-ground structures floors are is</u> indistinguishable from other floors of a building from the street view. Furthermore, the Commission has recommended that surface parking not be permitted anywhere in the DMUC district.</p> <p>The Some Commissioners has also recommended felt that projects proposing parking in structures above ground submit information to demonstrate that all alternative options for off-site or underground parking have been tested, and that project design meets all other standards regarding parking management.</p> <p>Action: Regarding parking design standards and location, changes have been noted in the comments on the marked up version of the proposed DMUC Overlay text <u>and the memo</u>. See Section 4.5.8 (c)- 4.i.a., 4.i.c, 4.v.a., and 4.v.d. Regarding demonstration of below-ground parking feasibility, this comment has been included in the memo enclosed.</p>

	<u>Key Elements:</u>	<u>Staff Notes & Comments:</u>	<u>PC Comments & Action</u>
13	Mixed use projects within the DMUC District will be required to develop a Master Sign Plan which provides for flexibility from some individual sign requirements/limits subject to DRB approval.	<p>This was included in the summary of the amendment that the City Council approved as part of the PDA.</p> <p>Comes from the proposed Sign Type standards found in the current draft of the FBC, but PC may want to fine-tune.</p>	<p>The Commission concurs with these sign standards as proposed.</p> <p>Action: No changes.</p>
14	<u>Green Buildings and Stormwater Management</u>	<p>This was included in the summary of the amendment that the City Council approved as part of the PDA.</p> <p>The current draft ordinance requires projects to be built to LEED Gold Certification, evidenced by a checklist submitted by a LEED AP, and 3rd party commissioning of the building envelope and mechanical systems prior to issuance of Final Certificate of Occupancy (CO).</p> <p>New development/redevelopment is required to capture 100% of the 1-year storm event for stormwater runoff.</p>	<p>The Commission has indicated that there must be a high, measurable standard and a mechanism to ensure compliance, to meet the goals of <i>planBTV</i> and meet community expectations.</p> <p>Action: A potential change per the Commission’s discussion has been included in the comments in the marked up version of the proposed DMUC Overlay text. See Section 6.</p>
15	<u>Inclusionary Housing</u>	.	<p>A Commissioner has indicated concern at the loss of the additional Inclusionary Housing bonus, but no specific recommendation has been made on this issue.</p> <p>Action: This has been included as a comment in the enclosed memo.</p>
16	<u>Use- Post-Secondary & Community Colleges</u>	Change this use from Conditional Use to Permitted Use	<p>The Commission is uncomfortable with the remote possibility that this district could become a post-secondary school/campus. The Commission recommends that the CDO’s Use Table not be modified as proposed.</p> <p>Action: Changes have been noted in the comments on the marked up version of the proposed DMUC Overlay text. These changes have been noted in the memo and the marked up version of the DMUC Overlay text.</p>
17	<u>Purpose</u>		<p>A Commissioner offered that the purpose of the district is also to enhance pedestrian connectivity between Church St. and the waterfront.</p> <p>Action: Changes have been noted in the comments on the marked up version of the proposed DMUC Overlay text. See Section 4.5.8 (a).</p>
18	<u>Model</u>		<p>Several Commissioners feel that the ability to evaluate the proposed height and massing has been hindered by the lack of a physical model of the DMUC area and its surroundings.</p>

Burlington Comprehensive Development Ordinance

PROPOSED: ZA-16-14 – Downtown Mixed Use Core Overlay

As revised by the Planning staff ~~–June 15, to reflect Planning Commission comments & concerns– July 1~~ 2016.

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

Purpose: This amendment is to facilitate the redevelopment of a portion of the former Urban Renewal District with higher density mixed use development in the core of the downtown, and in so doing substantially and significantly help the City to implement many of the central goals and objectives found in the *planBTV: Downtown and Waterfront Master Plan* unanimously adopted in June 2013 to guide the future development and economic vitality of the downtown and waterfront area. It creates an overlay district to encompass a 1-2 block area in the core of the downtown area to enable taller Building Height without the necessity of a “bonus” from the DRB. It also establishes a number of building form requirements to ensure street-level activation and façade variation.

Article 4: Zoning Maps and Districts, Part 2: Official Map

Sec. 4.2.1 Authority and Purpose

A map entitled “The Official Map of the City of Burlington” and as depicted on Map 2.2.1-1 below is hereby established pursuant to 24 VSA 4421 that identifies future municipal utility and facility improvements, such as road or recreational path rights-of-way, parkland, utility rights-of-way, and other public improvements. The intent is to provide the opportunity for the city to acquire land identified for public improvements prior to development for other use, and to identify the locations of required public facilities for new subdivisions and other development under review by the city.

Map 4.2.1-1 Official Map of the City of Burlington (unchanged)

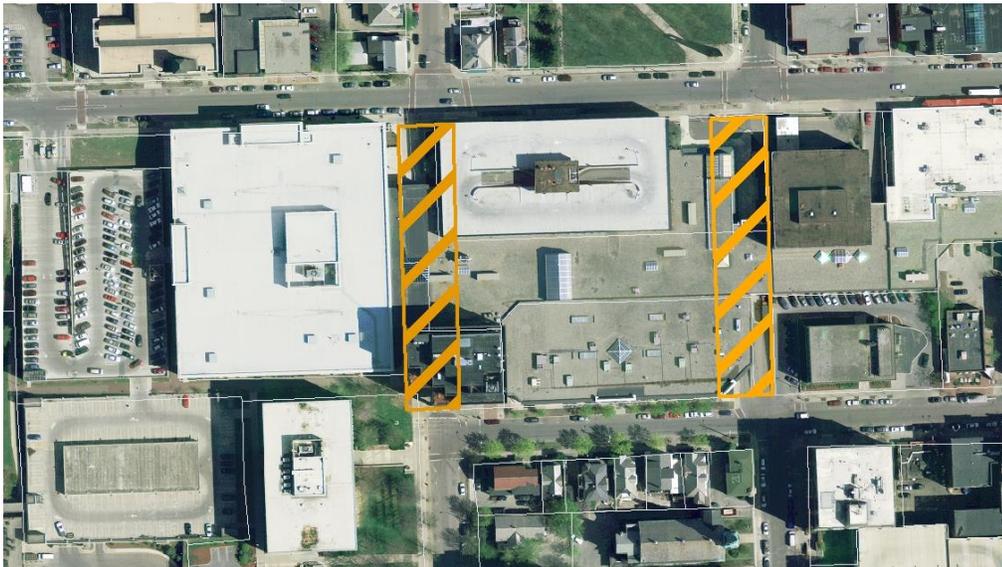
Sec. 4.2.2 Downtown and Waterfront Core Official Map Established

A map entitled “The Official Map of the Downtown and Waterfront Core” and as depicted on Map 2.2.2-1 below is established as part of the Official Map established above. The proposed streets, public ways, public parks and other public lands and visual corridors contained therein are more particularly described as follows:

- (a) A pedestrian easement thirty (30) feet in width along the center line of Main Street extended to Lake Champlain west of the Union Station building;
- (b) A waterfront pedestrian easement fifty (50) feet in width abutting the ordinary high water mark of Lake Champlain from Maple Street extended to College Street;

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- (c) A waterfront pedestrian easement one hundred (100) feet in width abutting the ordinary high water mark of Lake Champlain from College Street extended to the north property line of the city-owned lands designated as “urban reserve” and formerly owned by the Central Vermont Railway;
- (d) Visual corridors and/or pedestrian ways sixty (60) feet in width along the center lines of Bank, Cherry, Pearl and Sherman streets extended west to Lake Champlain and visual corridors above the fourth floor along Main Street and College Street;
- (e) The following existing streets remain: Maple and King Streets and as extended to Lake chaplain; Main street; College Street and as extended to Lake Champlain; Lake Street from Main Street to College Street; Depot Street; and Battery Street;
- (f) An easement for pedestrians and bicycles twenty (20) feet in width, located adjacent to and west of the old Rutland railway right-of-way and owned by the State of Vermont running between the King Street Dock and College Street;
- (g) Lake Street (north) modified: The portion of Lake Street is a street seventy (70) feet in width, the center line of which commences on the north line of College Street thence running northerly following the center line of existing Lake to a point intersecting the northerly property line of the Moran Generating Station extended east.
- (h) The re-establishment of St Paul Street between Cherry and Bank streets as a public street with a right-of-way sixty (60) feet in width to accommodate pedestrians, bicycles and vehicles; and,
- (i) The re-establishment of Pine Street between Cherry and Bank streets as a public street with a right-of-way sixty (60) feet in width to accommodate pedestrians, bicycles and vehicles.



Comment [DEW1]: This will ensure that the proposed north-south connectivity on Pine and St. Paul streets envisioned in planBTV is accomplished. The City will have 120-days to initiate proceedings to acquire any land within this area that may be proposed for new development.

This is necessary for compliance with the Pre-DA

Comment [DEW2]: This is necessary for compliance with the Pre-DA

PC expressed preference for these to be in alignment with City urban street grid.

(temporary illustration of the proposed addition)

Map 4.2.2-1 Official Map of the Downtown and Waterfront Core

Article 4: Zoning Maps and Districts, Part 3: Zoning Districts Established

Sec. 4.3.2 Overlay Districts Established:

Overlay districts are overlaid upon the base districts established above, and modify certain specified development requirements and standards of the underlying base district. Properties within an Overlay District may be used and developed in a manner permitted in the underlying district only if and to the extent such use or alteration is permitted as may be modified by the applicable overlay district. The following districts are established as overlay districts as further described in **Part 5** below:

- (a) A **Design Review Overlay (DR)** district;
- (b) A series of five (5) **Institutional Core Campus Overlay (ICC)** districts, as follows:
 - UVM Medical Center Campus (ICC-UVMCMC);
 - UVM Central Campus (ICC-UVM);
 - UVM Trinity Campus (ICC-UVMT)
 - UVM South of Main Street Campus (ICC-UVMS); and,
 - Champlain College (ICC-CC);
- (c) An **RH Density Bonus Overlay (RHDB)** district;
- (d) A series of four (4) **Natural Resource Protection Overlay (NR)** districts, as follows:
 - Riparian and Littoral Conservation Zone;
 - Wetland Protection Zone;
 - Natural Areas Zone; and,
 - Special Flood Hazard Area;
- (e) A **RL Larger Lot Overlay (RLLL)** district;
- (f) A **Mouth of the River Overlay (MOR)** district;
- (g) A **Centennial Woods Overlay (CWO)** district; and,
- (h) A **Downtown Mixed Use Core (DMUC)** district.

Sec. 4.4.1 Downtown Mixed Use Districts

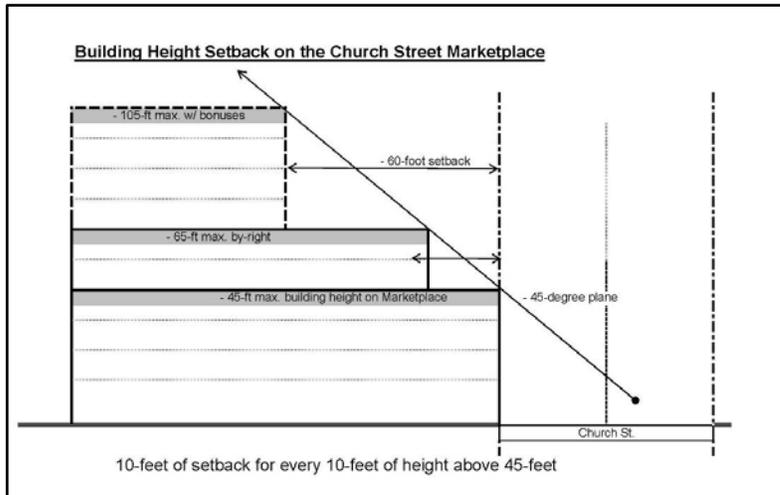
(d) District Specific Regulations, 4. Building Height Setbacks

A. - unchanged

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B. Church Street Buildings:

For the purposes protecting the historic character and scale of buildings along the Church Street Marketplace, the maximum height of any building fronting on Church Street shall be limited to 4-stories not to exceed 45-feet. Any portion of a building exceeding 45-feet shall be set-back a minimum of 10-feet for every 10-feet of additional building height above 45-feet.



Comment [DEW3]: While outside of the proposed new overlay, this change is already envisioned as part of the currently proposed form-based code to provide better compatibility of building heights on Church Street.

This is necessary for compliance with the Pre-DA.

PC does not see need to include this at this time and recommends removal.

Figure 4.4.1-2 Measuring Height Limits for Church Street Buildings

C. - unchanged

Sec. 4.5.8 Downtown Mixed Use Core Overlay (DMUC) District

(a) Purpose:

The Downtown Mixed Use Core Overlay (DMUC) district is intended to facilitate the redevelopment of a portion of the former Urban Renewal Area in order to provide for a more walkable, connected, dense, compact, mixed use and diverse urban center. The area should support a diversity of residential, commercial, recreational, educational, civic, hospitality, and entertainment activities, and create opportunities to better connect the street grid for enhanced mobility for automobiles, pedestrians, and bicyclists in order to sustain and advance the economic vitality Burlington’s downtown urban core.

This overlay allows larger scale development than is typically found in the underlying district, and development with larger and taller buildings. Development should be designed to support the diverse mixed-uses, activate and enrich the street and sidewalk for pedestrian activity, and encourage mobility throughout the district and adjacent districts for pedestrians and bicyclists with reduced reliance on automobiles.

(b) Areas Covered:

The Downtown Mixed Use Core Overlay (DMUC) district includes those portions of the Mixed Use Downtown (D) District as delineated on [Map 4.5.8-1](#).



Map 4.5.8-1: Downtown Mixed Use Core Overlay (DMUC) district

Comment [DEW4]: Boundary of this area needs to consider existing and potential development in this area which has generally been supported in planBTV and by the Joint FBC Committee as the part of the downtown where greater height could be appropriate.

This is necessary for compliance with the Pre-DA.

PC has not been able to reach a consensus regarding either: add People’s Bank or remove College St Garage.

(c) District Specific Regulations: Downtown Mixed Use Core Overlay (DMUC) district;

1. Dimensional Standards:

The maximum Building height and mass shall be as prescribed in Table 4.5.8-1 below. Building height and mass in excess of 65-feet and 5.5 FAR shall be allowed by-right and without the necessity of the DRB granting of Development Bonuses/Additional Allowances pursuant to Sec 4.4.1 (d)7.

The Dimensional Standards within the DMUC Overlay District shall be as follows:

Table 4.5.8-1 Downtown Mixed Use Core Overlay (DMUC) District Dimensional Standards	
Building Height	3 stories min. 14 stories not to exceed 160-ft max
FAR	9.5 FAR total max per lot

Comment [DEW5]: This is necessary for compliance with the Pre-DA.

Comment [DEW6]: This is necessary for compliance with the Pre-DA.

PC has not been able to reach a consensus regarding maximum height.

Comment [DEW7]: This is necessary for compliance with the Pre-DA

Floorplate:	
Floors 1-5	100% of lot max.
Floors 6- 7 ⁸	75 ⁸⁰ % of lot max.
Floors 8-11 ⁹⁻¹²	55% of lot max.
Floors 12 ¹³ +	15, 000 sf max per individual floorplate, with individual towers separated by a minimum of 60-ft measured orthogonally.
The floorplate of any floor may not be larger than the floor below.	
Pervious Area¹	10% min
Setbacks:	
- Front	0-ft min, 10-ft max. In no event shall a Building be closer than 12' from the curb.
- Side/Rear	0-ft min, 12-ft max.
Occupied Build-to Zone²	100%
Ground Floor Height (floor to floor)	14-ft min
Arcades³	10-ft clear depth min 14-ft clear height min

Comment [DEW8]: These comes out of the proposed form based code. The gradual reduction on upper floors is done to ensure that taller buildings are tapered as they go taller and reduce the perceived bulk of new buildings from the street level.
Revised per AM comments

Comment [DEW9]: This comes directly out of the proposed form based code. See footnote regarding Pervious Area as a preferred alternative to lot coverage limitations. This will ensure improved stormwater management over existing.

Comment [DEW10]: Revised per EL comments

Comment [DEW11]: This comes directly out of the proposed form based code in order to define a building wall along the street and create enclosure within a dense urban environment

Comment [DEW12]: This comes directly out of the proposed form based code in order to ensure appropriately sized first floor spaces

Comment [DEW13]: This comes directly out of the proposed form based code to ensure a spacious opening for pedestrians and outdoor activity

¹ Pervious Area is the area of a lot covered by surfaces or materials that allow for the movement or passage of water into soils below. Pervious areas include, but are not limited to, areas of a lot covered by soil/ mulch, vegetative matter, permeable pavers/pavement, bio-retention areas, or other materials that allow for the infiltration of at least the first inch (1”) of rainfall. For these purposes, green roofs that capture and attenuate at least the first inch (1”) of rainfall are also considered pervious area.

² Occupied Build-to Zone is the proportion of the linear distance between the maximum and minimum front setback along a front property line that must be occupied by a Building façade. In lieu of a Building façade, a streetscreen between 3.5 and 8 feet in height or active public use or activity (such as outdoor cafes) occupying no more than the lesser of 20 feet or 20% of the Build-to Zone may be included.

³ An Arcade is where only the ground floor level of the Building facade is set back from the front property line. The Building facade for the upper floors is at or near the front property line within the Build-to Zone, and is supported by a colonnade with habitable space above.

2. Urban Design Standards:

The following urban design standards shall apply to all Buildings in the DMUC Overlay, and the DRB shall make a final determination regarding strict compliance with these standards except as provided for in E below. These standards and requirements shall take precedence without limitation over any duplicative or conflicting provisions of Article 6, and compliance with Article 6 shall be presumed where a Building is in compliance with these design standards as determined by the DRB.

A. **Overall Design:** Proposed Buildings shall present an architecturally significant design as follows:

Comment [DEW14]: These come directly out of the proposed form based code. The process to incorporate role of DRB in making a final determination is a hybrid of current discretionary review process with more prescriptive FBC standards.

This is necessary for compliance with the Pre-DA in concept but not individual detail.

Comment [DEW15]: Pretty subjective and primary place for DRB discretionary review to focus. Ultimately following standards provide some objective measure of satisfying these

- i. Step backs, horizontal and vertical variation, selection of materials and other architectural design techniques are used to reinforce the street wall, create transitions from adjacent buildings of a smaller mass and height, and reduce the perceived height and mass of the upper stories from the street level;
- ii. Proposed Buildings provide visual interest and human scale at the pedestrian level through the use of a variety of scales, materials, fenestration, massing or other architectural design techniques;
- iii. Upper story proportions of Buildings emphasize vertically-oriented proportions to assure a rich visually interesting experience as viewed within the context of the downtown skyline, reinforce opportunities for establishing points of reference for visual orientation, and retain opportunities for a view of the sky between individual Building elements.

B. **Façade Articulation:** All ~~primary and secondary~~ street-facing Building facades shall be articulated as follows:

- i. Building facades shall incorporate surface relief through the use of elements such as bay windows, cladding materials, columns, corner boards, cornices, door surrounds, moldings, piers, pilasters, sills, belt courses, sign bands, windows, balconies and/or other equivalent architectural features at least three (3) of which must either recess or project from the average plane of the facade by at least four (4) inches.
- ii. Buildings with facades between seventy-five (75) feet and one hundred and fifty (150) feet in width shall include vertical changes through the horizontal plane of the façade by dividing the facade into a series of architectural and/or structural bays between six (6) feet and sixty-five (65) feet in width involving up to a minimum of 50% of the height of the façade.
- iii. Buildings with facades greater than one hundred and fifty (150) feet in width must include a more substantial change in the horizontal plane of the façade where for every one hundred and fifty (150) feet in facade width, one (1) or more architectural bay as required above must either recess or project by at least four (4) feet involving the full height of the façade from the average plane of the street wall portion of the facade. Such bays shall occur no closer than fifty (50) feet from the Building's corner.
- iv. Required Building Height Setbacks pursuant to Sec 4.4.1 (d) 4 shall not be applicable. Instead, upper stories of any ~~primary and secondary~~ street-facing Building ~~façades~~facade exceeding six (6) stories in height shall be setback as follows:
 - a. An upper story setback at least ten (10) feet from the primary plane of the façade below shall occur within the first 60-ft of Building height at either the 3rd, 4th, or 5th story in order to provide a change in the vertical plane of the façade. Such a change shall involve the full width of the Building façade, but does not have to occur in the same story. Additional upper story setbacks may occur in order to provide additional terraces, taper and visual interest to taller Buildings.

Comment [DEW16]: Remaining sections include detailed and prescriptive form standards.

- b. For Buildings exceeding ten (10) stories in height a second upper story setback at least ten (10) feet from the primary plane of the façade below shall occur at either the 10th, 11th, or 12th story in order to provide another change in the vertical plane of the façade. Such a change shall involve the full width of the Building façade, but does not have to occur in the same story. Additional upper story setbacks may occur in order to provide additional terraces, taper and visual interest to taller Buildings.
 - c. Setbacks must be visually set off from the stories below by a balustrade, parapet, cornice and/or similar architectural feature, and are encouraged to be activated as an outdoor amenity space for Building occupants.
 - d. The upper stories beyond a setback may be visually differentiated from the stories below by a change in color, materials and/or pattern of fenestration in order to reduce the actual or perceived massing of the Building overall.
 - v. Where visible, the raised foundation or basement of a Building shall not exceed 4-ft as measured from the exterior finished grade to the finished floor of the Story above, and must be visually differentiated from the stories above by a horizontal expression line and change in color, material, and/or pattern of fenestration;
 - vi. The lower one to five stories of a Building must be visually differentiated from the stories above by a horizontal expression line, belt courses, banding, sign band, cornice and/or equivalent architectural feature, and include a change in color, material, and/or pattern of fenestration across a majority of the façade; and,
 - vii. The top one to five stories of a Building must be visually differentiated from the stories below by a horizontal expression line, belt courses, banding, sign band, cornice and/or equivalent architectural feature, and include a change in color, material, and/or pattern of fenestration across a majority of the façade
 - viii. The top of a Building must have a cornice, parapet, pitched or shaped roof form and/or other equivalent architectural feature involving a projection from the average plane of the façade by at least six (6) inches to serve as an expression of the Buildings top.
- C. Street Activation:** All Buildings shall activate the street as follows:
- i. Buildings shall have one or more principal entrances for pedestrians at street level that are clearly identified as such along the street frontage or at a corner where a corner lot.
 - ii. The linear distance along the street frontage between ground floor entries shall not exceed 60-feet, and such doors must be open and operable by residential occupants at all times and non-residential occupants and customers during business hours.
 - iii. Building entrances shall be defined and articulated by architectural elements such as lintels, pediments, pilasters, columns, canopies, awnings, transoms, sidelights and/or other design elements appropriate to the architectural style and details of the Building as a whole. Bays including a principal entrance should be expressed

Comment [DEW17]: added per J W-B comments

vertically, and may have little or no horizontal expression required below any required upper story setback,

- iv. Requirements regarding openings and the transparency of glazing ~~in a primary and secondary~~ on a street-facing Building facade shall be as follows:

	Ground Floor	Upper Floors
Rough openings for windows and doors (per floor)	70% min, 80% of which shall be concentrated between 3-10 feet above the adjacent sidewalk	20% min
- Horizontal and vertical distance between rough openings	20' max.	
Transparency: - applicable to 80% of the glazing on each floor.		
- VLT - Visible Light Transmittance ¹	60% min	40% min
- VLR - Visible Light Reflectance	15% max	15% max

¹May be reduced to 50 and 30% respectively to meet the requirements of a High Performance Building Energy Code or equivalent program as determined by the DRB.

- v. Street-facing, street-level windows must allow views into a ground story non-residential use for a depth of at least 3 feet for the first 4 feet above the level of the finished sidewalk in order to provide for a window display, and for a depth of at least 8 feet for the next 4 feet above the level of the finished sidewalk in order to provide a view into the interior of the space. Windows cannot be made opaque by window treatments (except operable sunscreen devices within the conditioned space). External security shutters are not permitted.

D. Materials:

The following requirements regarding the selection and use of Building materials is intended to improve the physical quality and durability of buildings, enhance the pedestrian experience, and protect the character of the downtown area.

- i. Primary Materials: Not less than 80 percent of each street-facing facade shall be constructed of primary materials comprised of high quality, durable, and natural materials. For facades over 100 square feet, more than one primary material shall be used. Changes between primary materials must occur only at inside corners. The following are considered acceptable primary materials:
 - a. Brick and tile masonry;
 - b. Native stone;
 - c. Wood – panels, clapboard or shingles;
 - d. Glass curtain wall; and,
 - e. Cementitious siding;

Comment [DEW18]: This is necessary for compliance with the Pre-DA in concept but not individual detail.

- ii. Accent Materials: The following accent materials may make up no more than 20% of the surface area on each street-facing façade. Accent materials are limited to:
 - a. Pre-cast masonry (for trim and cornice elements only);
 - b. External Insulation Finishing System - EIFS (for upper story trim and cornice elements only);
 - c. Gypsum Reinforced Fiber Concrete (GFRC—for trim elements only);
 - d. Metal (for beams, lintels, trim elements and ornamentation, and exterior architectural metal panels and cladding only);
 - e. Split-faced block (for piers, foundation walls and chimneys only); and
 - f. Glass block.
- iii. Alternate Materials: Alternate materials, including high quality synthetic materials, may be approved by the ~~Planning Director~~administrative officer after seeking input from the Design Advisory Board. New materials must be considered equivalent or better than the materials listed above and must demonstrate successful, high quality local installations. Regionally-available materials are preferred.
- iv. Other:
 - a. The use of recycled and/or regionally-sourced materials is strongly encouraged.
 - b. With the exception of natural wood siding or shingles such as cedar or redwood intended to gradually weather with time, all exposed wood and wood-like products (e.g. fiber-cement) shall be painted or stained. Exterior trim shall be indistinguishable from wood when painted.
 - c. Any synthetic siding and finish products shall be smooth-faced with no artificial grain texturing.
- E. **Alternative Compliance:** Relief from any non-numerical standard above, and any numerical standard with the exception of building height and FAR by no more than 20% of such requirement, may be granted by the Development Review Board-after review and comment by the Design Advisory Board and administrative officer. In granting such relief, the DRB shall find that:
 - i. the relief sought is necessary in order to accommodate unique site and/or Building circumstances or opportunities;
 - ii. the relief if granted is the minimum necessary to achieve the desired result;
 - iii. the property will otherwise be developed consistent the purpose of this ordinance, the purpose of the underlying Zoning District and this Overlay District, the purpose of the section that the relief is being sought, and all other applicable standards;
 - iv. the relief if granted will not impose an undue adverse burden on existing or future development of adjacent properties; and,

Comment [DEW19]: This comes directly out of the proposed form based code in order to provide some guided flexibility/relief from the prescriptive standards where necessary.

- v. the relief if granted will yield a result equal to or better than strict compliance with the standard being relieved.

3. Use

Schools - Post-Secondary & Community College shall be allowed as a Permitted Use, and any application requiring Major Impact Review pursuant to Sec. 3.5.2 (b) shall not also be subject to Conditional Use Review unless a use specifically identified in Appendix A – Use Table as a “Conditional Use” or identified as “CU” is also proposed.

Comment [DEW20]: Another amendment is in process to add Schools - Pre-school to the CDO’s use table.

PC **very** uncomfortable with the possibility (~~albeit remote~~) of the entire district becoming a post-secondary school. Prefer that it be limited to a Conditional Use.

4. Parking

- i. All onsite parking shall be provided ~~either:~~
 - i. in one or more of the following:
 - a. an underground parking structure (strongly preferred);
 - b. a parking structure separated from the public street by a liner building a minimum of 20-ft in depth; or,
 - c. ~~within~~ a mixed-use building with parking located underground, setback a minimum of 20-ft behind the façade of building at the ground level and second story, and/or above the groundsecond floor.
 - ii. All onsite parking shall participate in any Downtown Parking and Transportation Management District.
 - iii.ii. Entrances in order to minimize the amount of parking areas provided and structures shall be located along a secondary street frontage where available. maximize the efficiency of its utilization.
 - iv.iii. ~~The paved portion of~~ Vehicular entrances to parking ~~areas and~~ structures shall not exceed 24-ft clear width, and ~~entrances to parking structures shall not exceed~~ 16-ft clear height at the street frontage.
 - v. At least one pedestrian route from all parking ~~areas and~~ structures shall lead directly to a street frontage (i.e., not directly into a Building).
 - vi.iv. ~~Any surface parking not within~~ Where a parking structure shall be setback a minimum of 5 feet from any side or rear property line fronts on multiple streets, more than one such route is strongly encouraged.
 - vii.v. All structured parking with frontage on any portion of a public street shall be treated as follows:
 - a. The required setback between the parking and the public street at the ground level must be occupied by an active use (such as, but not limited to, residential lobby, retail, office, recreational or services). This requirement shall not apply to parking located either entirely below-grade or above the groundsecond floor where parking may extend out to the building’s perimeter.

Staff note: May want to consider (with GFA limit – 10k?): Civic Use: Places of public assembly that provide ongoing governmental, educational and cultural services to the public

Comment [DEW21]: This comes directly out of the proposed form based code in order to specifically address the challenging urban design concerns associated with parking.

Comment [DEW22]: Strong preference to underground parking added by PC

Comment [DEW23]: revised per EL comments

Comment [DEW24]: This is necessary for compliance with the Pre-DA.

Comment [DEW25]: revised per J W-B comments

Comment [DEW26]: revised per EL comments

- b. All floors of a parking structure fronting a public street must be level (not inclined), and any sloped ramps between parking levels must be setback a minimum of 20-ft from the street-facing building façade and shall not be discernible along the perimeter of the parking structure.
- c. Where upper stories of structured parking are located at the perimeter of a building, parked vehicles, vehicle headlights and interior lighting shall be screened from view from the street and adjacent properties.
- d. In addition to the Urban Design Standards required above, facade treatments (materials, fenestration patterns, and architectural detailing) must be continued on stories containing parking in a manner consistent with the overall architectural design of the Building- **and such that levels of parking are not clearly distinguishable from other uses in a building.**

Comment [DEW27]: revised per extensive PC discussion

5. Signs

A master sign plan pursuant to Article 7 Part 3 is required for all sites occupied by more than three tenants where all signs must meet the requirements of the master sign plan. The master sign plan must establish standards of consistency as applicable of all signs to be provided on the subject property with regard to:

- Colors;
- Letter/graphics style;
- Location and Sign Type;
- Materials;
- Methods of illumination; and/or
- Maximum dimensions and proportion.

In addition to the flexibility from the requirements of Article 7 provided under Sec. 7.3.4, the following shall also be permitted when incorporated as part of a master sign plan in the DMUC Overlay:

- i. The area of projecting signs, marques, canopies and awnings shall not be deducted from the maximum allowed signage area permitted for signage under Sec 7.2.3.
- ii. Projecting Signs: One projecting sign may be permitted for each ground floor use provided each sign:
 - a. does not exceed **8 square feet in area;**
 - b. does not project more than 4 feet from the building façade on which it is attached;
 - c. has its lowest edge at least eight (8) feet above any pedestrian way;
 - d. has its highest edge no more than eighteen (18) feet above any pedestrian way; and,
 - e. Any encroachment into the public right-of-way must also be approved by the City Council.

Comment [DEW28]: This is necessary for compliance with the Pre-DA in concept but not individual detail.

This come directly out of the proposed form based code to provide greater clarity and specificity regarding size, placement and design of certain sign types.

Comment [DEW29]: Consistent with Church Street Marketplace and proposed FBC. Currently limited to only 4 sf.

- iii. Marquee Signs: One marquee sign per ~~primary~~ street frontage may be permitted provided such sign:
 - a. is located above the principal Building entrance;
 - b. projects a minimum of 6 feet from the building façade on which it is attached but in no event more than 10 feet and 3 feet from the curb;
 - c. has its lowest edge at least 9’6” above any pedestrian way;
 - d. has its highest edge no more the lesser of the floor level of the third story or 35 feet above any pedestrian way;
 - e. is no more than 40 feet in width;
 - f. may contain an area for manual changeable copy that does not exceed 30 percent of the area of the sign face on which it is located or 32 square feet, whichever is less; and,
 - g. Any encroachment into the public right-of-way must also be approved by the City Council.

- iv. Canopies and Awnings: Where provided, awnings and canopies placed on a building facade shall meet the following specifications:
 - a. Awnings and canopies shall provide 8’ minimum clear height above the finished grade, and shall project a minimum of 6’ from the building façade to a maximum of 2’ from the curb. 14’ minimum clear height above the finished grade shall be provided above any area used for parking or circulation. Any encroachment into the public right-of-way must also be approved by the City Council.
 - b. Awnings and canopies shall be placed, sized, shaped and proportioned to match the associated openings.
 - c. Awnings and canopies that span across an entire building façade shall be fixed no higher than the top of the top of the first story.
 - d. Except as provided below, awnings and canopies shall not be internally illuminated or backlit, however they may contain lighting fixtures intended to illuminate the ground beneath.
 - e. Awnings shall have a metal structure covered with non-translucent canvas, synthetic canvas or painted metal, and shall have no soffit or sides. Retractable awnings are encouraged.
 - f. Awnings shall be rectangular in elevation and triangular in cross-section with straight edges. The valance of the awning shall be no more than 12” in height.
 - g. Canopies shall be constructed of wood and/or metal, and shall be cantilevered or supported from above. The face of the canopy shall be no more than 24” in height.
 - h. Signage placed on an awning or canopy shall be limited to the windows and doors on the first (ground) floor, and shall not extend outside the overall length or width.
 - i. Signage placed on a canopy shall be limited to the face or may project above and may be backlit.
 - j. Signage placed on an awning or canopy shall be limited to:

- i. 75% of the valance or canopy face and/or 25% of the sloping plane max.
- ii. The height of lettering shall be limited to: 5” min - 10” max on the valance; 18” max on the sloping plane; or 24” max on or above the canopy.

6. Green Buildings and Stormwater Management

New ~~development~~ and substantial redevelopment in the DMUC Overlay shall be built to the standard of LEED Gold Certification ~~as evidenced by the submission of a completed LEED checklist by a LEED AP at the time of application, and shall use all reasonable efforts to obtain such final certification upon project completion. The submission of a completed LEED checklist by a LEED AP and the 3rd party commissioning of the building envelope and mechanical systems shall be required as evidence of compliance prior to the release of any Final Certificate of Occupancy.~~ or nationally recognized equivalent as determined by the administrative officer.

Comment [DEW30]: This is necessary for compliance with the Pre-DA in concept but not individual detail.

- i. ~~New development and substantial redevelopment in the DMUC Overlay shall capture 100% of the 1 year storm event~~The submission of a completed LEED checklist by a LEED AP shall be required at the time of application along with documentation of registration with the U.S. Green Building Council (USGBC).
- ii. ~~Prior to the issuance of a zoning permit, a security in a form acceptable to the city attorney shall be posted for an amount equal to five (5) times the applicable building permit fees for the project as an assurance that the project is completed as proposed. The bond or escrowed funds will be released when the project receives its LEED green building certification from the USGBC. If however the project fails to meet LEED Gold Certification, the full amount of the security shall be released to the City. Additionally, such failure shall be regarded as a zoning violation which may be enforced and remedied by the City to the same extent as any other zoning violation.~~
- ±iii. ~~The submission of a revised LEED checklist by a LEED AP, and the results of 3rd party commissioning of the building envelope and mechanical systems shall be required prior to the release of any Final Certificate of Occupancy.~~

Comment [DEW31]: revised per PC discussion.

Taken from original 2008 CDO height bonus provisions that have since expired.

Sec. 5.2.6 Building Height Limits

(a) *unchanged*

(b) Exceptions to Height Limits

1. Additions and new construction on parcels created prior to January 1, 2008 that contain a non-conforming Principal Building exceeding the maximum permitted Building height may exceed the maximum permitted Building height of the zoning district subject to the design review provisions of Art. 3 and 6, but in no event shall exceed the height of the existing non-conforming Principal Building.
2. In no case shall the height of any structure exceed the limit permitted by federal and state regulations regarding flight paths of airplanes.
3. Ornamental and symbolic architectural features , including towers, spires, cupolas, belfries and domes; greenhouses, garden sheds, gazebos, rooftop gardens, terraces, and similar features; and fully enclosed stair towers, elevator towers and mechanical rooms, where such features are not used for human occupancy or commercial identification, are exempt from specific height limitations but shall be subject to the design review provisions of Art. 3 and 6. Such features and structures shall be designed and clad in a manner consistent and complimentary with the overall architecture of the Building.
4. Exposed mechanical equipment shall be allowed to encroach beyond the maximum building height by no more than 15-feet provided that portion exceeding the height limit does not exceed 20% of the roof area.

Exposed mechanical equipment shall be fully screened on all sides to the full height of the equipment, and positioned on the roof to be unseen from view at the street level. Screening may consist of parapets, screens, latticework, louvered panels, and/or other similar methods.

Where mechanical equipment is incorporated into and hidden within the roof structure, or a mechanical penthouse setback a minimum of 10-ft from the roof edge, no such area limit shall apply and the structure shall be considered pursuant with 4 above.
5. All forms of communications equipment including satellite dish antennae shall not be exempt from height limitations except as provided in Sec 5.4.7 of this Article.
6. The administrative officer may allow for up to a 10% variation in the maximum building height to account for grade changes across the site. In no event however, shall such additional height enable the creation of an additional story beyond the maximum permitted.

Comment [DEW32]: Not specific to the DMUC however, important changes to screening requirements for rooftop equipment and flexibility in amount and numerical building height limits.

Much of this come directly out of the proposed form based code in order to provide stronger guidance around screening of mechanicals and flexibility regarding ornamental and architectural features.

Comment [DEW33]: This come directly out of the proposed form based code in order to provide some guided flexibility/relief from the prescriptive standards where necessary.

PC recommends removal.

Staff note: Make this a maximum amount instead – no more that 5-ft?

July 6th, 2016

Fellow Planning Commissioners,

We are concerned that the Public Hearing on the Downtown Mixed Use Overlay is premature and does not meet legal requirements under Vermont Law. Furthermore, many of the documents in the meeting packet contain errors and/or omissions in regard to the Planning Commission's positions.

Vermont Law States:

"When considering an amendment to a bylaw, the Planning Commission shall prepare and approve a written report on the proposal...The report shall provide a brief explanation of the proposed bylaw, amendment, or repeal and shall include a statement of purpose as required for notice under section 4444 of this title, and shall include findings regarding how the proposal:

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

This mandatory Planning Commission report must be completed 15 days prior to a public hearing in order to meet certified notice requirements. The Planning Commission has not prepared and approved a written report as required by law. Nor have we had a comprehensive discussion on the proposed amendments' conformance with municipal policies, including the availability of affordable housing. Furthermore, we have not reached consensus on these issues. Indeed, some Commissioners have raised concerns that certain regulations do not conform to the goals and policies of our municipal plan. For instance, at our last meeting commissioners expressed universal opposition to the proposed regulation that would permit a college campus to occupy the Burlington Town Center site, emphasizing it would be contrary to Plan BTV which calls for mixed uses and a variety of housing types. Clearly, the Planning Commission need to carefully assess the proposed overlay district and its many regulations for conformance with the goals of Plan BTV, which is the Municipal Development Plan.

For instance, in order to comply with the law we are asked to consider the *effect of the proposal on the availability of safe and affordable housing*. We have not considered the number of affordable units the proposal without height bonuses would create compared to the existing bonus structure. Nor have we factored the impact of allowing student housing, which may be exempt from the low income housing requirement, into that equation. Without more specifics and study we cannot assume that this proposed amendment furthers our goals and policies regarding affordable housing

The Burlington Planning Commission Report Municipal Bylaw Amendment found on page 43 of the July 6th Planning Commission packet, was written by Planning and Zoning staff and not the Commission. The Commission members are seeing it for the first time in the packet and have never discussed its contents nor voted on it. It does not accurately represent the views of the Commission. Nor, does it satisfy our legal requirement to deliberate and write our own report.

The Summary of Planning Commission Comments & Actions in our packet for July 6th public hearing needs corrections and additions to truly reflect the positions taken by members of the Planning Commission at recent meetings as follows:

Key Elements #3 as written: "The Commission understands the limitations associated with bonuses and the rationale for moving away from them in this overlay, and generally agrees that provisions/restrictions should be explicit"

Note: *The Commission has not voted on this and this is not the unanimous opinion of the Commission.*

Key Element #4 as written: "Retain current maximum height of 105ft to conform with illustrations in planBTV Downtown & Waterfront."

Correction: The current maximum height is 65' and only with bonuses can a building be 105'. We suggest changing the language to reflect one member's stated preference to "Retain maximum height of 65 feet by right with options for additional height with bonuses."

Note: *Members of the Commission are not able to make an informed decision on the appropriate height and massing for this site because of a lack of appropriate visual tools such as a physical model and sufficient time to review and debate the change. The Planning Commission needs more time in order to make the legally required assessment for conformity to the municipal plan regarding height and massing.*

Key Element 11 as written: "The Commission supports the language regarding the urban design treatment of parking floors. The Commission feels that if parking is permitted in these areas, high standards are needed regarding the screening of cars and lights."

Note: *Some members of the Commission want stronger language regarding compliance with Plan BTV's emphasis on underground or completely wrapped parking, so that exterior design treatment and screening of cars and lights would not be needed at all.*

Conclusion in Key Element 12 as written: "Therefore, the Commission recommends no parking structures at the perimeter of a building on the ground and second floors fronting streets, and reiterates the importance of the design and screening requirements to ensure that any parking located in above-ground structures is indistinguishable from other floors of a building from the street view."

Note: *The Commission has not voted on this element. There were suggestions by members of the Commission to have the parking completely wrapped by a liner building or off site in order to be in conformance with Plan BTV that should be added to the letter.*

Key Element 16 as written: "The Commission is uncomfortable with the remote possibility that this district could become a post-secondary school/campus. The Commission recommends that the CDO's use table not be modified as proposed."

Correction: The Commission is uncomfortable with post-secondary school/ campus being an allowed use on the use table because it is not consistent with Plan BTV. The Commission recommends that the CDO's use table not be modified as proposed, allowing post-secondary schools/colleges as conditional uses only.

Note: *The term "remote possibility" is an editorial comment that does not reflect the opinion of the Commission.*

Many of the above errors and omissions are also present in the letter to City Council written by Planning and Zoning staff that suggests that the Planning Commission "strongly supports" the adoption of the Downtown Mixed Use Core Overlay District amendment". In fact, The Planning Commission has not voted on this matter. This letter goes on to states that, "The Planning Commission finds the proposed amendment to conform with the goals and policies contained within the City's Municipal Development Plan regarding the availability of safe and affordable housing, future land uses and densities, and proposed community facilities." In fact, the Planning Commission has not come to this conclusion and we have not chosen to delegate this decision-making to others.

In summary, due to our above mentioned concerns about the Public Hearing, We respectfully ask that the Public Hearing be postponed until we as a Planning Commission are able to perform the due diligence required to meet our legal obligations.

Thank you.

Emily Lee
Lee Buffinton