AGENDA

I. Agenda

II. Public Forum See details on pg 3 of packet for participating remotely.

III. Chair’s Report

IV. Director’s Report

V. Proposed CDO Amendment: Public Art
   The Commission will review a draft amendment to the Comprehensive Development Ordinance that is responsive to the request by the Planning Commission’s Ordinance Committee to exempt public art from zoning permit requirements provided guarantees of safety, appropriateness, accessibility, urban design, compatibility with historic resources, and conformity with local and state ordinances. The items are included on page 8 of the agenda packet.
   
   **Staff Recommendation:** Ask questions and provide feedback on the draft amendment. Approve warning of public hearing for June 28 meeting.

VI. Proposed CDO Amendment: UVM Trinity Campus Zoning
   Staff will give a presentation to outline potential zoning changes that respond to a UVM request to enable greater infill within the Trinity campus. The items are included on page 21 of the agenda packet.

   **Staff Recommendation:** Ask questions and provide feedback on the proposed zoning changes outline.

VII. Commissioner Items
   a. Upcoming Meetings will be hybrid/online unless otherwise noted – June 14, at 6:30 pm
   b. Committee Reports - none
VIII. Minutes & Communications
   a. The minutes of the May 10 meeting are enclosed in the agenda packet on page 4.
   b. Communications are enclosed in the agenda packet on page 21.

IX. Adjourn
Guidance for Participating in a Virtual Planning Commission Meeting

As social distancing measures to preserve public health and safety continue to be required to prevent the spread of COVID-19, or are recommended as a standard practice, the Office of City Planning will be supporting the Planning Commission to conduct their meetings online via Zoom. Here is information about how to join a virtual meeting, and what to expect while participating.

General Guidance for Public Participation

Please remember that in this digital meeting environment, meetings are open to the public and anyone may be watching or listening even if you cannot see them. Meetings will be recorded, and both the recording and chat content of the meeting will be maintained as a public record.

Please ensure your display photo and screen name are professional, such as using your first and last name. Please test your audio and video prior to the start of a meeting, and familiarize yourself with how to join a meeting by your chosen method. And finally, please be patient with us. Technology doesn’t always work as planned, and we are all learning how to hold a successful virtual meeting!

How to Join a Virtual Meeting

Zoom allows participation via either computer or telephone. Each agenda for a meeting that will be conducted virtually will include details about how to join via either of these options, including a web address, phone number, Meeting ID, and password.

If you participate via computer, you have the option of seeing Commissioner videos and any presentation materials that may be shared. If you use either a standard phone or cell phone to call in, you will only hear the audio portion of the meeting. If you join via a smartphone, you may have the option to download the Zoom app, which will enable you to see and hear the meeting.

How to Participate in a Virtual Meeting

During meetings, only Planning Commission members and limited staff members will be viewed on video. Members of the public attending a meeting will be muted, except when invited to speak during public forum or a public hearing. Whether members of the public can speak at other times during the meeting is the discretion of the Chair.

If you want to speak during public forum, please take the following steps to assist us in making this process run as smoothly as possible:

- Email staff at mtuttle@burlingtonvt.gov by 5pm on the day before a meeting to indicate your interest in speaking. You do not need to provide your comments. Staff will enable your microphone as your name is called from a list of interested speakers.
- During a meeting, you can use the “Raise Hand” feature, or indicate in a chat message that you wish to speak during public forum. Staff will enable your microphone as your name is called.
- If you are interested in submitting your comments in writing instead of speaking during the meeting, you may do so by 5pm the day before a meeting, they will be forwarded to the Commissioners ahead of the meeting.
Members Present  | A Montroll, A Friend, E Lee, Y Bradley, B Baker, M Gaughan, B. Martin,  
Staff Present   | M. Tuttle, C. Dillard, B. Pine, J. Olson  
Public Attendance | S. Bushor

I. **Agenda**

Call to Order  | Time: 6:33pm  
Agenda  | No change

II. **Public Forum**

<table>
<thead>
<tr>
<th>Name(s)</th>
<th>Comment</th>
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<tbody>
<tr>
<td>S. Bushor</td>
<td>Voiced reservations with the possibility of administrative approval for emergency temporary shelters. Asked how the concerns that arise from the neighborhood meeting(s) get resolved when the permit is administratively approved. Also asked how the public would be notified if their concerns were addressed in the administrative approval.</td>
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</table>

III. **Chair’s Report**

A Montroll  | No report.

IV. **Director’s Report**

M Tuttle  | APA Planning Conference Recap  
New Planner, Sarah Morgan, starting in new role with the City of Burlington this week.  
M Tuttle will present at the Board of Finance next week to present the Planning Department’s budget for FY23. All City Departments were asked to make budget cuts but these cuts should not affect the Planning Department’s operations overall. The full presentation will be shared after this BoF meeting.  
Two new initiatives for FY23:  
Preparing the Historic Preservation Plan  
Preparing PlanBTV New North End  
Some projects, including the CDM Study, will carry over into the next fiscal year.

V. **248a Waiver – Redstone Water Tower Rehabilitation**

Motion by: A. Friend  | Second by: E. Lee  | Vote: 6-0
Commissioner discussion:
- AT&T is requesting to waive a non-statutory 30 day comment period required in the 248a procedures order.
- AT&T is seeking a certificate of public good because they have to move a large amount of telecommunication equipment off the Redstone Water Tower in order for DPW to conduct rehabilitation work on the Water Tower.
- The waiver essentially removes the 30-day period where the public gets to weigh in on aspects of Act 250 requests.
- The temporary tower is anticipated to be live for 3-6 months, depending on when the rehabilitation contractor is able to start their work.
- Ultimately, the Mayor will sign the waiver, but the Planning Commission is being asked to approve a motion to grant the waiver.
- This is being asked on an urgent basis to accommodate the rehabilitation work that needs to start this summer or it will be pushed back to summer 2023.

VI. Proposed CDO Amendment: Burlington High School Zoning

Motion by: M. Gaughan  Second by: B. Baker  Vote: 6-0

Commissioner discussion:
- Burlington High School is trying to amend zoning from RCO (Recreation Conservation) to Institutional Zone with Burlington High School specific overlay on top of that zoning.
- The Design team (J Weith and R Burnett) are now ready with more details specific to the conceptual design of the high school. Three details have been modified:
  - Being asked to allow for buildings up to 60 feet in height and potentially up to 80 feet in height as you move 100 feet or more away from North Avenue. This helps address the sloped lot and the Ordinance requiring that building height be set in intervals.
  - Clarifying language asks that the Institutional Zone primarily promote school usage, K-12. The scope has been narrowed to include uses commonly associated with Burlington Technical Center or community use of school spaces.
  - The High school site spans two different parking districts. The School district requests that parking be calculated in a different way: to use parking district where majority of the site is located.
  - A Commissioner asked if the school cafeteria needed to be accessible to the public, does this language properly address a café use? Right now it’s worded that a café is only allowed for educational use, which can be limiting. Planning proposed that language be modified to include “part of an educational program or located in a school facility” so it is more flexible for café use.
  - A Commissioner asked what happened with Option D for the conceptual design plan. Survey results found Options C and D were the most popular, but Option D was polarizing with negative feedback as well. Relocating the road and the cost associated with Option D were considered negative features of this plan.
  - Option C has a proposed future expansion piece with a footprint closer to North Avenue.
  - The designers decided on the 100 foot setback from North Ave before going up to 80 feet in building height based on the size of the lot and the layout decision to have BHS on East side of the building and the Tech Center on the West side.
  - The 100 foot setback also addresses future expansion concerns as it allows flexibility with adding another story to the building rather than having to expand onto the footprint of the lot.
  - The Commission decided to move forward with approving the report and warn a public hearing.
VII. Proposed CDO Amendment: Interim Emergency Shelters

<table>
<thead>
<tr>
<th>Motion by: E. Lee</th>
<th>Second by: A. Friend</th>
<th>Vote: 4-3, Gaughan, Baker, Bradley opposed</th>
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</thead>
<tbody>
<tr>
<td>Type: Discussion</td>
<td>Presented by: M Tuttle, Brian Pine</td>
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</table>

Commissioner discussion:
- CEDO took into account two areas of modified language
- Removing Recreation and Conservation districts from the list of possible zones where temporary emergency shelters are allowed, with the exception to allow temporary shelters in the campground areas (potentially seasonally).
- Adding a scheduled interval of community meetings to discuss challenges and opportunities between re-application periods. This must be included in any organization’s operational plan.
- B Pine shared a draft of the community guidelines to be considered by the DRB. Standards include verbiage around smoking, weapons, guest policies, etc.
- The emergency shelter definition is intended to be broad and allows for flexibility, i.e. a tent may be the most temporary while a pod could be used for a longer period of time. However, the key part of the definition is that the site is managed.
- Commissioners raised concerns on a lack of community involvement with the decision on temporary emergency shelter site locations, a precedence for overwhelming administrative power, and the inclusion of City Parks, specifically the North Beach campground, in the zoning.
- Because North Beach has been used for a similar use in the past, it was determined to keep that site as a potential location based on the existing infrastructure.
- A Commissioner raised the point that because the definition is broad, this zoning can apply to other situations besides housing homeless people, like natural disasters.
- Previously, emergency shelter was established at North Beach because of a Governor’s Emergency Order. Under City Ordinance, this (North Beach), and other locations like Sears Lane, were technically considered zoning violations without the Governor’s Order superseding those violations.
- The 3 year benchmark for the “emergency” zoning was a result of the existing housing stock issues in Burlington.
- A Montroll asked to either warn this for a public hearing, make changes and delay warning, or say no to the administrative approval.
- E Lee made a motion to warn a public hearing and approve the report.

VIII. Commissioner Items
- The next meeting is May 25 at 6:30pm

IX. Minutes and Communications
Action: Approve the minutes and accept the communications
<table>
<thead>
<tr>
<th>Motion by: A Friend</th>
<th>Second by: B. Martin</th>
<th>Approved Unanimously</th>
</tr>
</thead>
</table>
Minutes Approved: April 12, 2022
Communications Accepted: in the agenda packet and posted at
https://www.burlingtonvt.gov/CityPlan/PC/Agendas

X. Executive Session
Action: Approve motion to leave the Executive Session
| Motion by: E. Lee | Second by: A. Friend | Approved Unanimously |
Communications Accepted: in the agenda packet and posted at https://www.burlingtonvt.gov/CityPlan/PC/Agendas

XI. Adjourn

<table>
<thead>
<tr>
<th>Adjournment</th>
<th>Time: 8:15pm</th>
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<tbody>
<tr>
<td>Motion: M Gaughan</td>
<td>Second: E Lee</td>
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</table>
Overview & Background
Public art is an important element of Burlington’s built environment and cultural identity. In fact, planBTV states that public art “enhances the overall quality of the built environment,” and that, “these creative expressions should continue to be encouraged.” Consistent with the Plan, Burlington’s longstanding support for and inclusion of public art in the built environment remains strong. However, following the adoption of the planBTV Downtown Code, the City currently operates with no standards governing or related to public art.

Prior to the adoption of the Downtown form code, the Comprehensive Development Ordinance governed public art in the following ways:
• Bonus height provisions were offered in exchange for qualifying public art installations,
• Permitted public art as an acceptable encroachment in the required waterfront setback
• Provided standards and guidance on public art funding, location and maintenance

Recognizing public art’s valued contribution to Burlington’s built environment and residents, the Planning CDO proposes a zoning amendment to define public art in the CDO and amend the ordinance to exempt public art from zoning permit requirements provided six standards relating to safety, appropriateness, historic resources, urban design, accessibility and compliance with local and state law. In summary, the proposed amendment would provide needed transparent public art standards that encourage and facilitate public art.

Proposed Amendment

<table>
<thead>
<tr>
<th>Amendment Type</th>
<th>Map Amendment</th>
<th>Text &amp; Map Amendment</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Purpose Statement</strong></td>
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<tr>
<td>The purpose of this amendment is to define public art in the Comprehensive Development Ordinance and establish language exempting public art from standards requiring a zoning permit for its installation.</td>
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<tr>
<td><strong>Proposed Amendments</strong></td>
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</tr>
<tr>
<td>The following amendments to the Burlington Comprehensive Development Ordinance are included in this proposal:</td>
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</table>

1. **Define Public Art**
   Provides a new definition for public art that recognizes the broad applications and settings for these installations.

2. **Establish public art as exempt from the requirement to obtain a zoning permit**
   Establishes six standards that must be provided for compliance with the zoning permit exemption. The six standards are summarized as follows:
• Public Art shall meet applicable building code to protect public health and safety;
• No public art that is insulting, threatening, discriminatory, hateful, violent or personally insulting shall be installed;
• Public art installed on or near historic resources shall ensure the continued integrity and preservation of such historic structures;
• Public art shall not cause or increase non-conformity to required urban design standards;
• Public art shall be accessible and not obstruct any paths, ingress, or egress, and;
• Public art shall conform to local and state ordinances.

"Begin proposed amendments"

Section 13.1.2 Definitions

Public Art: Public art is a general term for forms of community expression. Public Art may be located in the public domain (rights-of-way), or on private property yet available for community viewing. Public art may be cast, carved, built, assembled, or painted, and include murals, sculpture, memorials, integrated architectural or landscape architectural work, painting, tapestry, mosaics, ceramics, stained glass, community art, digital new media, Earthworks, assemblage, installation art and performance. Installations may be transient or permanent.

Sec. 3.1.2 Zoning Permit Required
(c) Exemptions
The following shall be exempt from the requirements of this Ordinance and shall not be required to obtain a zoning permit:

1. 1-18 as written
19. Public art on private property
   a. The installation meets applicable building code for wind load, structural stability, mounting and any anchoring, to protect public health and safety;
   b. The specific installation shall not be insulting, threatening based on characteristics that are protected under antidiscrimination laws, represent hate, violence, or direct personal insults that are so offensive they are likely to provoke violence;
   c. If mounted on a historic structure, shall be installed so as to avoid damage to historic materials and shall be removable without causing permanent damage or diminish the integrity of the structure. If mounted to a masonry building, the fasteners shall penetrate mortar rather than masonry units so as to be repairable.
   d. Within the Form Districts, the proposed art may not cause or increase any non-conformity to required dimensional standard under Section 14.4.13, Urban Design Standards (including, but not limited to Façade voids, transparency of glazing) nor under Section 14.3.13 Shopfront (Ground floor façade voids.)
   e. Any public art installation shall not obstruct any path of ingress or egress, nor any identified ADA accessible route.
   f. Any public art installation shall comply with all standards and factors set forth in existing City Bylaws and city and state ordinances.

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. 54441(c).

<table>
<thead>
<tr>
<th>Theme:</th>
<th>Dynamic</th>
<th>Distinctive</th>
<th>Inclusive</th>
<th>Connected</th>
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</thead>
<tbody>
<tr>
<td>Land Use:</td>
<td>Conserve</td>
<td>Sustain</td>
<td></td>
<td>Grow</td>
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</table>
Compatibility with Proposed Future Land Use & Density
Public art is an integral component of many land use types in Burlington, particularly to the extent that it supports and promotes Burlington’s character as a cultural and arts center. As stated in planBTV, public art, “enhances the overall quality of the built environment.” Further, the Plan promotes public art as, “personalizing the city and activating its streets, providing a sense of community, and offering seeds for contemplation and conversation.” The amendment promotes public art that is consistent with a wide range of built environment types.

Impact on Safe & Affordable Housing
The proposed amendment has no impact on housing safety and affordability.

Planned Community Facilities
The proposed amendment has an important impact on the continued encouragement and facilitation of public art, a defining characteristic of the city as established in planBTV. One of the Plan’s goals is to, “strengthen the city’s role as a cultural and arts center, and supporting efforts to expand public art and placemaking within the built environment.” Burlington City Arts also promotes public art at a variety of locations throughout the community. The proposed amendment provides necessary transparency to the development and installation of public art on both public and private property.

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

<table>
<thead>
<tr>
<th>Planning Commission Process</th>
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<tbody>
<tr>
<td>Draft Amendment prepared by:</td>
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<tr>
<td>Staff, upon request of PC Ordinance Committee</td>
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<tr>
<td><strong>Presentation to &amp; discussion by Commission</strong></td>
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<tr>
<td>3/3/22 (OC), 4/7/22 (OC), 5/25/2022</td>
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<tr>
<td>Approve for Public Hearing</td>
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<tr>
<td>Public Hearing</td>
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<tr>
<td>Approved &amp; forwarded to Council</td>
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<tr>
<th>City Council Process</th>
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<tbody>
<tr>
<td>First Read &amp; Referral to Ordinance Cmte</td>
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<tr>
<td>Ordinance Cmte discussion</td>
</tr>
<tr>
<td>Ordinance Cmte recommend</td>
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<tr>
<td>Second Read &amp; Public Hearing</td>
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<tr>
<td>Council Approval &amp; Adoption</td>
</tr>
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</table>
MEMORANDUM

To: Planning Commission Ordinance Committee
From: Mary O’Neil, AICP, Principal Planner
Date: March 3, 2022
RE: Public Art

Staff has recently received a communication from a city resident/DAB member with concerns about installed and proposed art installations around the City. His email came on the heels of a Burlington Free Press article announcing finalists for a downtown mural. The issue highlighted the absence of language relative to Public Art within the ordinance since the adoption of the Form Code.

Previously in the Comprehensive Development Ordinance, there existed bonus provisions that included Public Art; providing guidance on review, funding, placement and maintenance of any public art. With the adoption of Article 14 (Form Code), any language reference or regulations regarding Public Art are gone.

The Planning Commission Ordinance Committee is invited to consider the submission of Mr. Jay White, the existing absence of regulations within the Comprehensive Development Ordinance, and potential formulation of review standards for the installation of Public Art.

The language that previously addressed Public Art has been included for consideration, with the opportunity to utilize similar process and standards if deemed appropriate.
To: Planning Commission Ordinance Committee  
From: Mary O’Neil, AICP, Principal Planner  
Date: April 7, 2022  
RE: Public Art

On March 3, 2022, the Planning Commission Ordinance Committee began a discussion of Public Art. The Committee ultimately disagreed with the Zoning Manager’s assessment that omission from Article 14 was the equivalent of dis-allowance, and after discussion requested staff assemble language that would favor no zoning permit requirement, however implement requirements relative to public health and safety and typical restrictions related to discriminatory or inflammatory representations consistent with sign messaging.

The attached draft document attempts to coalesce those Committee directives, with the addition of a definition of Public Art and segregation between Art that is installed in the public domain and that on private property.

Staff submits these for comment and revision as necessary.
Burlington Planning Commission
Ordinance Committee Meeting Minutes

Thursday, April 7, 2022 @ 5:15 PM
Remote Meeting

Attendance
- **Committee Members:** Yves Bradley, Leo Sprinzen, and Bruce Baker
- **Absent:** Emily Lee, Caitlin Halpert
- **Staff:** Mary O’Neil & Scott Gustin (Permitting & Inspections)
- **City Planning:** Charles Dillard

1. **Continued discussion of Public Art; its absence from the CDO since the adoption of the Form Code.**

Mary O’Neil (staff) reviewed the prior discussion of March 3, 2022, and presented draft language for an exemption from permitting for Public art, given the refinements outlined in the last meeting. Mary also added the concern raised by Jay White relative to avoiding obstruction of any path of ingress/egress, which may relate to ADA access. Also in the PCOC packet are a draft definition of Public Art (intended for Article 13), and a memo overview of the March discussion.

The participating PCOC members initially discussed whether the 3 / 4 conditions under the proposed permit exemption might be covered in other parts of the ordinance. Mary suggested that those seeking information about the permit exemption might not otherwise be aware of compliance issues elsewhere in city regulation.

Leo raised concern about the potential for noise in a performance based installation. Scott indicated that the City has a noise ordinance, and added that a permit is typically for a physical alteration.

Bruce Baker suggested that language be added that would remind the property owner that nothing shall relieve them for compliance with any other applicable city or state regulation. The rest of the City Code of Ordinances would be applicable.

General discussion occurred about avoidance of the regulation of content but prohibition of “hate” speech, and identification of more succinct language to insert under the conditioned exemption from a zoning permit. Scott and Mary will review Article 7 for similar language as it pertains to Signs.
Bruce asked the revised draft(s) be forwarded to the Planning Commission for their review.

2. Adjournment

The Committee adjourned at 5:45 PM.
Where is Public Art mentioned in the Comprehensive Development Ordinance?

Article 4:
Section 4.4.1 Downtown Mixed Use Districts (FD6, FD5, and Downtown Waterfront Public Trust)

* Note! None of this section currently applies. It is provided for information purposes.

C. Permitted Encroachments
The DRB may approve one or more of the following within the required waterfront setback: structures such as walkways, planters, benches, fountains, public art, sitting walls and other improvements which will enhance the pedestrian environment and enjoyment of the waterfront; and public marinas, public recreational piers, ferry docks, lake excursion facilities, and open-air markets, provided pedestrian circulation is not unreasonably impaired.

4.4.1 5. D. Public Art (bonuses)

D. Public Art:

An additional 10 feet of building height and corresponding FAR may be permitted at the discretion of the DRB for the construction or rehabilitation of buildings that incorporates a commitment to public art.

(i) In order to qualify for the public art bonus, projects must:

1) include artworks that visually instigate pedestrian interest by reinventing the design of everyday functional elements (i.e. lighting, benches, pavement/hardscape), creating visual or thematic links to other artworks or design projects within 3 blocks, visually telling a story, and/or integrating texture, color, light, transparency or movement/activity into the design.

2) commit no less than two (2%) percent of their total construction costs, or $40,000, whichever is greater, to the public art features per each 10 feet of height or 1.0 FAR allowance up to a maximum of 20 feet or 2.0 FAR. For the purposes of this bonus, total construction costs mean the sum of all construction costs shown on all building permits associated with the project. For projects involving the expansion and/or rehabilitation of buildings, total construction costs shall mean the combined costs of new construction and the costs of improvements to the property as shown on all building permits associated with the project.

3) attend a Pre-Application Conference with the City Arts Public Art Committee (CAPAC), where they shall present an Art Plan for CAPAC review. The Art Plan must:

a. Present a budget detailing the proposed expenditure of funds on the project’s Public Art features relative to total construction costs.

b. Describe in detail the applicant’s process for selection of artist(s) and artwork(s) and how that process will foster collaboration among artist(s)
and other building design team members.

c. Identify the intended site(s), media, and materials of artwork(s).

d. Describe the qualifying artwork, including artist concept drawings.

e. Detail the schedule for the selection, fabrication and installation of the artwork.

No Pre-Application conference with CAPAC shall be held until the applicant has submitted a fee in the full amount determined by City Arts as part of that department’s customary fee-setting process.

4) receive formal approval of the Art Plan by CAPAC, CAPAC’s formal approval of the Art Plan shall be conveyed in a memo to the DRB, including any and all Public Art Conditions of Approval. The Public Art Conditions of Approval shall be accepted by the applicant and recorded in a Covenant between the applicant and the City.

(ii) The installation of all Public Art features required as Public Art Conditions of Approval shall be complete before a Certificate of Occupancy is granted. Prior to receiving a Certificate of Occupancy, the applicant must submit a final written report to CAPAC, including visual documentation (slide, photos, etc.) of all Public Art features and a detailed statement of project expenses. Copies of contracts with art consultant(s) and artist(s) must be attached. No Certificate of Occupancy shall be granted without the issuance of a Final Approval Notice from CAPAC.

If the CAPAC determines it impossible for the applicant to complete installation of all required Public Art features prior to granting the Certificate of Occupancy, a Conditional CO may be granted. In such an event, the Conditional Certificate of Occupancy shall be granted only when the applicant posts a performance bond in the full amount dedicated for the Public Art. In addition, CAPAC must approve, in writing to the Building Inspector, a timeline for completion of the Public Art project.

(iii) The following City of Burlington Public Art Standards shall guide the CAPAC’s and DRB’s review of all applications seeking to utilize the Public Art Bonus. These standards are basic principles that help clarify the nature of Public Art as it relates to the comprehensive development ordinance of the City of Burlington. They are a series of concepts about reviewing Public Art Bonus proposals, and about designing new, or maintaining, repairing, or replacing existing Public Art Bonus eligible or permitted features through the design review process.
1) Eligible Art Expenditures

Eligible art expenditures include: The work of art itself; design fees for artists invited to submit proposals; selected artist(s)' operating costs; travel related to the integration of the art with the project; transportation of the work to the site; installation of the artwork; identification plaques and labels, frames, mats, mountings, anchors, containments, pedestals, or materials necessary for the installation, location or security of the artwork(s); photographs of completed works.

2) Ineligible Art Expenditures

Ineligible art expenditures include: Art exhibitions and educational activities; architect's fees; land costs; utility fee associated with electrical, water, or mechanical services used to activate the works of art; and, in connection with the works of art, registration, dedication, unveiling, security and publicity after selection.

3) Location of Art

Maximum visibility of the art is of primary concern. Art must be sited on the exterior of the building and/or at locations(s) clearly visible and freely accessible by the public from the sidewalk during daylight hours. The applicant will guarantee public access to the artwork(s). The art is a permanent part of the development and must remain in place for the life of the building. Works may be portable, as well as fixed, as long as the art is always at or adjacent to the site and accessible to the public.

4) Maintenance

Art must be maintained and repaired as necessary in accordance with accepted curatorial standards set forth in the Public Art Conditions of Approval by CAPAC. Stolen or vandalized art must be replaced or repaired as close as possible to its original form. So far as practical, in the event repair of a work is required, the responsible artist(s) shall be notified and given the opportunity to complete the repair for a reasonable fee. If the original artist is not available, a qualified professional, such as an art conservator, shall conduct any necessary repairs. Installation, future preservation, maintenance, and replacement if necessary, of the public art provided within this bonus program, or replacement Public Art features that have undergone the same process outlined in this ordinance, is assured for, through the covenant with the City, for as long as the building or buildings should stand.

The City Council may supplement this provision with regulations implanting it which may promulgate from time to time by Resolution. Such regulations must be consistent with the requirement of this provision.
Article 7 Signs

Section 7.1.3 (Exemptions)

(j) Murals: Non-commercial artistic expression in the form of a unique hand-produced work of visual art which is tiled, painted directly upon, or otherwise affixed or placed directly onto an exterior wall of a building or structure provided that the Mural:

1. does not contain any advertising copy, symbols, lettering, logos or other such recognized branding related to products or services provided on the premises where the mural is located except where otherwise permitted and incorporated into a permitted Sign Type as provided in Secs. 7.2.2 through 7.2.14 Sign Types;

2. is placed on a Secondary Frontage or non-street-facing side or rear elevation of a Building or Structure; and,

3. is not illuminated.

Article 14 (States Section 4 of Article 4 doesn’t apply)

14.1.3 - APPLICABILITY
This planBV Downtown Code shall be applicable to all lands within the Downtown and Waterfront District as mapped or described on the Burlington Regulating Plan (Section 14.2), as such may be changed from time to time, pursuant to Section 14.2 - Regulating Plan. Any and all subdivision of land, development, and construction or modification of all Improvements, land, Buildings, and Structures in the Downtown and Waterfront District shall occur only in accordance with this Article 14 planBV Downtown Code as in effect on the date of acceptance of the completed application for approval of the applicable Project Plan submitted pursuant to Section 14.7 Administration and Procedures.

To the extent applicable, and not otherwise in conflict with this Article 14-planBV Downtown Code, the following sections of the Burlington Comprehensive Development Ordinance (CDO) shall also continue to apply:

a) Article 1 - General Provisions
b) Article 2 - Administrative Mechanisms,

c) Article 3 - Applications, Permits and Project Reviews, Parts. 1, 2, 3, 5 and 6;

d) Article 4 - Zoning Maps and Districts, Parts 1, 2, 3, and Part 5 Sec. 4.5.4;

e) Article 5 - Citywide General Regulations, Parts 1, 2, 3, Sec. 5.4.7, Sec. 5.4.8, and 5;

f) Article 7 - Signs

g) Article 9 - Inclusionary and Replacement Housing;

h) Article 10 - Subdivision Review;

i) Article 12 - Variances and Appeals; and,

j) Article 13 - Definitions.

In each case, the standards and requirements applicable to the Downtown and Waterfront District Regulating Plan and this Article 14 shall take precedence without limitation over any duplicative or conflicting provisions of the other Articles of the Burlington Comprehensive Development Ordinance (BCDO).

If there is any conflict between the provisions of this Article 14 and any provisions of any other existing City codes, ordinances, regulations or standards (the "Existing Local Codes"), the provisions of this Article 14 shall take precedence over such conflicting provisions except for City and state Building, Fire, Health and Safety Codes.
Email from Jay White, 1.10.2022:

Hi Mary,

Would you have a few minutes tomorrow before or after the DAB meeting when we could discuss a few design issues and how I might get involved with resolving them? I’m willing to volunteer to write letters on behalf of the City in these matters if it would help.

The issue is added items on projects that were not in the approved design and how these issues should be addressed:

77 Pine has several 6” diameter, 20’ high angled bright yellow pipes acting as a “sculpture” of some kind in the front walk. Please drive by and look at it on your way in tomorrow. I was not on the committee when 77 Pine was approved, but I find it difficult that these sloping bright yellow pipes would have been approved, or that they meet seismic structural or ADA standards. Blind people will hit their heads on them. I think the City should require these tall, sloping yellow pipes to be removed or included in a new permit if they were not in the approved design.

Arts Riot indicated they would remove their ugly cow-watering troughs they used as planters with their tall 6x6 posts coming out of the “planters” when they came before DAB and showed their new wood elevations that we approved. Instead of removing them, they put them all on the sidewalk, blocking needed pedestrian space. Last summer they were still using them as planters (although mostly with weeds) and the cow watering troughs are conflicting with the newly approved wall dividers and are blocking needed pedestrian access. Drive by that project too. They look terrible and add clutter. Can the City ask that they be removed or that they apply for a permit to keep them?

The State Arts Council is sponsoring what I think I remember is a $20,000 “Art in Public Buildings” project on the John Zampieri Courthouse on the Cherry Street side. But they are treating it as an Arts On Public Buildings.

Finalists include: 2-story wall sculptures: one with about six, 10 foot high vertical signs projecting signs on the east wall near Cherry Street advertising a dozen or so social programs — and the other one with several bright 3-foot diameter “flowers” made of three dimensional fiberglass combined with brightly painted lime green “leaves” and “stems” painted directly on the red bricks and concrete bands, “growing” nearly all the way to the roof on the left side of the Cherry Street entrance — to new stained glass walls blocking off both major alcoves. Lots of clear glass in that one that will kill hundreds of birds if it wins the competition.

Doesn’t this kind of “graffiti” have to go through DAB before this landmark building is seriously and permanently damaged? The original architect of the Zampieri Building would be aghast. And as you know as a preservationist, paint on red brick is not reversible.

I love Burlington and how strong our permit system is with your team’s significant skill.
But I think some areas are in distress and some important areas are needing stronger control to reduce unnecessary clutter and with little regard for historic preservation or design consistency with the surrounding character of historic neighborhoods. I’m not sure what to do about it, so I’m asking for help so I perhaps can become less frustrated about it and the sense of uncontrolled clutter can get more tame with more class.

Jay White, AIA
(DAB Member)
Background
In December 2021, Mayor Weinberger announced the "10 Point Housing Action Plan," to serve as a roadmap with two main goals: to double the rate of housing production within the city over the next 5 years, and end chronic homelessness in Burlington. The action plan includes a number of financial investments, resource expansion, and zoning policy changes to achieve these goals. The plan continues to build on nearly a decade of work to address housing availability and affordability—including many policy reforms the Planning Commission has previously been engaged in. In particular, the plan builds on and expands objectives from the 2015 Housing Action Plan and the 2019 Housing Summit.

The 2021 plan identifies three major zoning policy amendments to support its overarching goals, including "opening new on-campus University of Vermont (UVM) student housing opportunities by rezoning the former Trinity Campus to reduce UVM’s pressure on the housing market."

Reviewing the applicability of the Trinity Campus overlay zoning district for this part of UVM’s campus has been discussed periodically in recent years, planBTV: Comprehensive Plan, updated in 2019, identifies the institutions’ campuses and the major thoroughfares that function as the city’s eastern gateways as special growth areas. planBTV states that these areas are an essential focus for the growth of the institutions within their campuses, particularly to create new and additional housing options for students. planBTV also notes this area of campus as being important to help “better balance on-campus housing opportunities between the north and south of the core academic areas of campus.”

Trinity Campus Overlay Zoning District
The Burlington Comprehensive Development Ordinance (CDO) includes five Institutional Core Campus Overlay Districts, which apply to sub areas of the Institutional zoning district. These overlay districts are intended to provide for growth within the core of the institutions’ campuses, by allowing an increased development intensity than would typically be found in the underlying zoning district, and providing transitions between sections of campus and the surrounding neighborhoods.

The UVM Trinity Campus (UVMT) overlay zone applies to a parcel on UVM’s campus along Colchester Avenue on the north side of the intersection of Colchester and East Avenues. A map of the current Institutional Core Campus Overlay zones, and the existing CDO standards that apply to this part of campus are attached to this memo.

The parcel is currently home to a number of UVM residence halls such as McAuley and Mercy Halls. UVM intends to create additional graduate and undergraduate beds in the vicinity of these existing residence halls, and has identified a number of limitations under the current UVMT overlay zone.

UVM representatives will attend the Planning Commission meeting to provide background on campus housing trends, plans for the Trinity Campus, and specific requests for the Planning Commission’s consideration regarding the UVMT overlay district.
7. **Uses:**

Within the ICC-UVM District, Schools - Post-secondary and Schools -Community Colleges shall be treated as permitted uses.

**(e) District Specific Regulations: UVM Trinity Campus (ICC -UVMT):**

1. **Lot Coverage**

Lot coverage within the ICC-UVMT district shall not exceed 40% except as may be allowed under the inclusionary housing provision of Article 9, Inclusionary Housing.

Maximum lot coverage shall be applied to the aggregate of all lots owned by a single entity and located within the ICC-UVMT district.

2. **Setbacks:**

Development in the ICC-UVMT shall be subject to the setback requirements as specified under the provisions of the underlying zoning district.

Minimum side and rear yard setbacks shall not be applicable between parcels under the same ownership within the ICC-UVMT district, but shall apply along the perimeter of the district.

**Colchester Avenue Buffer.** Within the ICC-UVMT no development of new surface parking or new structures, except for ancillary structures no larger than 200 square feet, shall be permitted within a setback of 115 feet from the front property line on Colchester Avenue.
3. Surface Parking

No new outdoor surface parking spaces shall be permitted in the ICC-UVMT district unless the number of the new outdoor surface parking spaces is offset by the corresponding removal of outdoor surface parking spaces in the ICC-UVMT district existing as of January 1, 2002 and the Development Review Board has approved such offset in issuing a certificate of appropriateness.

4. Height:

Additions and new construction may be built to a height that does not exceed the greater of thirty-five feet (35’) or the height of existing structures located on the same parcel within the ICC-UVMT district, but in no instances shall any building exceed fifty-five feet (55’) in height as measured from finished grade.

5. Density:

In the ICC-UVMT district, the restrictions on residential density set forth in the underlying zoning district, and in Article 9 (Inclusionary Housing) shall apply to all development, including changes in use.

Unless replaced on site no housing unit in a residential structure located within the ICC-UVMT shall be demolished or converted to a nonresidential use, except for housing units that are exempt from the provisions of Article 9, Part 2 - Housing Preservation and Replacement/Demolition and Conversion.

6. Uses:

Within the ICC-UVMT, only the following uses shall be permitted or conditionally permitted:

<table>
<thead>
<tr>
<th>Permitted Uses:</th>
<th>Conditional Uses:</th>
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<tbody>
<tr>
<td><strong>Residential</strong></td>
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<tr>
<td>Assisted Living</td>
<td>Bakery – Retail</td>
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<td>Attached Dwelling(s) – Mixed-Use</td>
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<tr>
<td>Attached Dwellings - Multi-Family</td>
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<tr>
<td>Attached Dwellings – Duplex</td>
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<td>Boarding House</td>
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<td>Convalescent /Nursing Home</td>
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<tr>
<td>Single Detached Dwelling</td>
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<tr>
<td><strong>Non-Residential</strong></td>
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<tr>
<td>Bed and Breakfast,</td>
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<td>Community Center</td>
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<tr>
<td>Daycare – Large, Daycare - Small</td>
<td>Café</td>
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<tr>
<td>Dormitory</td>
<td>Convenience Store</td>
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<tr>
<td>Health Care Hospitality</td>
<td>Credit Union</td>
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<td>Health Club</td>
<td>Dental Lab</td>
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<tr>
<td>Health Studio</td>
<td>Dry Cleaning Service</td>
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<tr>
<td>Historic Inn</td>
<td>General Merchandise/Retail – Small &lt;4,000sqft</td>
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</table>
All non-residential uses are Permitted Uses within buildings existing as of January 1, 2002; and are Conditional Uses if located within a new building to be constructed after January 1, 2002.

No permitted or conditional use in the ICC-UVMT District may include drive-through facilities, gas pumps or canopies.

7. **Parking:**

   Parking for all uses and structures shall be in accordance with the provisions of Article 8, Part 3 Institutional Parking Plans.

8. **Review Requirements:**

   Within the ICC-UVMT, any new construction or any change in use of 15,000 square feet or more (including any cumulative change of use or new construction of 15,000 square feet or more within a twelve month period) shall be subject to the conditional use major impact review criteria (Article 3).

(f) **District Specific Regulations: UVM South of Main Street Campus (ICC-UVMS):**

1. **Lot coverage**

   Maximum lot coverage shall be applied to the aggregate of all lots located within the ICC-UVMS District. Lot coverage shall not exceed 60%.

2. **Setbacks**

   Side and rear yard setback requirements as stipulated in the underlying zoning district shall be applicable only along the perimeter of the ICC-UVMS District.

   A front yard setback defined by the existing building line as of January 1, 2008 shall be maintained along the South Prospect Street and Main Street frontages of the ICC-UVMS District.

3. **Development Buffer**

   No new structures or surface development shall be permitted within the designated ICC-UVMS Development Buffers as delineated on Map 4.5.2-5 below. These areas shall be maintained as open greenspace, however landscaping, outdoor lighting, street
Agenda

- Review of UVM Housing Goals
- Review of UVM’s commitment to housing its students
- Current Zoning Restrictions on Trinity Campus
- Proposal for Housing Expansion and Enhancement on Trinity Campus
- Discussion
UVM Housing Goals for Trinity Campus

- Build new undergraduate residence halls
- Build new graduate apartments
- Upgrade some existing residence halls
- Expand dining hall
- Enhance sense of community on the campus
- Secure zoning changes from the City in order to accomplish the above goals
Trinity Campus Zoning Constraints

<table>
<thead>
<tr>
<th>Current Zoning Allowances</th>
<th>Requested Zoning Allowances</th>
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<tbody>
<tr>
<td>40% lot coverage within ICC (current lot coverage ~38%)</td>
<td>60%</td>
</tr>
<tr>
<td>115’ Colchester Avenue Buffer Setback (15’ for neighboring properties)</td>
<td>25’ setback</td>
</tr>
<tr>
<td>55’ Height Limit</td>
<td>45’ within 115’ of Colchester Ave 80’ beyond 115’ (Mann Hall to the north)</td>
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