

# Burlington Planning Commission

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Andy Montroll, Chair  
Bruce Baker, Vice-Chair  
Yves Bradley  
Alexander Friend  
Michael Gaughan  
Emily Lee  
Julia Randall

## Burlington Planning Commission Tuesday, January 24, 2023, 6:30 P.M. Hybrid Meeting via Zoom and in the Bushor Conference Room Draft Minutes

Members Present	A. Montroll, J. Randall, B. Baker, A. Friend, E. Lee, Y. Bradley
Staff Present	M. Tuttle, C. Dillard, S. Morgan
Public Attendance	S. Bushor, C. Bates, B. Pine, E. Farrell

### I. Agenda

Call to Order	Time: 6:30pm
Agenda	No changes.

### II. Public Forum

Name(s)	Comment
S. Bushor	Speaking about the inclusionary zoning amendment. Wants to know why 15.5% for the IZ requirement as opposed to 16 or 17%. Assumes is that if you meet trigger, all other categories would automatically meet the requirement. The other point is category of student housing on the IZ table, which is linked to number of beds – what does that trigger? That does need to be clarified to provide developer flexibility for different sized rooms. There should be some kind of guidance for developers within legislation. How do you allow student housing to qualify? Concerned about larger residential component of SEID.
C. Bates	Sent Charles an updated version of Calahan Park view. Shared view of Calahan Park from C. Dillard. Concerned about the view of Calahan park, feels as if the views in the pictures are purposefully at the bottom of the hill, and wants to know why CD didn't move to middle of soccer or baseball fields. Wants to preserve the view because this would block views of lake from residents. Concerned about lake views, mentions that this will impact residential housing prices and ruin Five Sisters neighborhood. Encourages commission to study issue more.

### III. Chair's Report

A. Montroll	No report.
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### IV. Director's Report

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M. Tuttle	Reported to executive committee and discussed how office work has transitioned from smaller amendments to larger more complex amendments that require a lot more discussion over the last year. As we look ahead to upcoming quarter, we do anticipate moving through two items on agenda to make space for smaller amendments, as well as the next parking study.
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**V. V. Proposed CDO Amendment: ZA-23-01 South End Innovation District (SEID)**

Action 1: Combine primary and secondary uses in this overlay district.		
Motion by: B. Baker	Second by: Y. Bradley	Vote: 4 - 2
Action 2: Refer to council as amended with a memo		
Motion By: E. Lee	Seconded by: B. Baker	Vote: Unanimous
Type: Discussion + Action		Presented by: Charles Dillard
<p>Introduction:</p> <ul style="list-style-type: none"> <li>• This has come back to commission for final discussion</li> <li>• There is a memo that staff has written that summarizes discussion from past meeting that states commission supports amendment, but commission recommends that council discusses the land use component of amendment.</li> </ul> <p>Commissioner Discussion</p> <ul style="list-style-type: none"> <li>• B. Baker: Would like memo to reflect that Land Use framework is substantial impediment to residential development. States that the zoning ordinance is a tough place to fine tune what the marketplace can do, and that the city is entering into a challenging phase of when residential developments can occur given interest rates doubling construction costs in the last 18 months. Would like conversation for enterprise zone to be exempt to Act 250 – finds it redundant and expensive.</li> <li>• Y. Bradley: Does not believe that what is suggested has any basis in reality, developers should have the choice. Does not feel that we have reached a consensus.</li> <li>• M. Tuttle: Points out that there is nothing in the ordinance that would mandate a building be residential, and that staff has been concerned about the opposite – that this area would be built out as exclusively residential without any commercial uses. On the scale of the tools that staff could use to ensure a mix of uses, they have tried to take a light touch compared to the rest of the city (ie: Downtown Form Code). Acknowledges that after the last substantial conversation about land uses, there were three pretty different suggestions offered. Staff went back and looked at how to provide greater flexibility in Land Use framework as well as a companion memo to council. Changes include no longer requiring 1-to-1 uses, with new 1-to-2 relationship between uses. Re: act 250, there are a lot of legislators in session and encourages PC to reach out to legislators. Act 250 exemption is limited, and there aren't current pathways under city control to get projects of a certain nature out of act 250 review.</li> <li>• C. Dillard: The exemptions for ground floor uses would allow residential buildings to be built without any non-residential component. There are four pathways for exemption. For example, if the building is on a secondary street, there is no requirement for those ground floor uses. It's only on the primary uses where there is a requirement and that requirement can be reduced from a significant amount.</li> <li>• E. Lee: Agrees with Yves on this conversation. This is a large piece of property that should be its own thing. Is not concerned with it being overly-residential. There is already a lot of forced commercial space. Doesn't feel like there is rhyme or reason to use table. Would like to see uses open up to give more flexibility. Also wants to comment that the pictures being shown are a lot of seasonal views, and there will be more lake views created by this development. These lake views are held by most affluent communities, and does not have tolerance for preserving lake views of private, affluent properties that prevent density and affordable housing in the midst of a climate and housing.</li> </ul>		

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- J. Randall + A. Friend echo E. Lee's comments related to views.
- C. Dillard: Clarified something about use table. Without structured land use approach, goals of PlanBTV South End would not be fulfilled. Looking at uses in primary use column do strike a balance and promote arts and innovation while easily allowing for secondary uses. Trying to create a dynamic district based on existing arts and innovation. There are also a few uses that have large footprints that could facilitate a good amount of these uses.
- M. Tuttle: The actual table in ordinance language modifies the broader use table for that overlay area. These are proposed to be permitted uses, with the only limit being that area ratio.
- A. Montroll asks if we are ready to take action on this.
- J. Randall wants to clarify why there is a distinction between bakeries as a primary use while cafés are a secondary use.
  - C. Dillard: There is an artisanal component for a bakery, while not necessarily in a café.
- J. Randall: Thinks that this mix of uses is important to promote, does not feel comfortable going further in flexibility. If the amendment becomes more flexible, it will lose sight of its original intent. In order for this district to blend into fabric of existing area, a tightly knit mixed use district will help this be more organically integrated as opposed to clustering or segmented uses. Feels the proposed is in line with goals of district.
- A. Montroll asks if there is a motion to refer and what next steps are.
- B. Baker: How large is SEID vs ELM?
  - C. Dillard: Innovation district is 65 acres, approximately 25-30% of ELM.
- A. Montroll: The overlay is underdeveloped portion of enterprise zone. There are a few well established buildings, but a lot of open space, which is why PC is open to greater changes. There are not a lot of enterprise zone activities happening in this area in comparison to other parts of the area.
- M. Tuttle: As a commission there was a recommendation to look at ELM in terms of incentivizing uses. This is, in a lot of ways, a blank canvas with a lot of opportunities for re-envisioning how land uses work together. More flexibility for land uses is awkward considering original intent of Plan BTV South End
- B. Baker: Echoes what Emily said -- Every time we want to do housing somewhere, we find a good reason to restrict it. The more barriers to development, the less likely residential development is. Recommends removing primary and secondary use categories and instead merge the two as both permitted uses.
- E. Lee: Agrees with B. Baker about merging the two uses, doesn't see rhyme or reason and it is limiting and complex when it doesn't need to be.
- B. Baker makes motion to merge the uses, seconded by Y. Bradley
- E. Lee asks what we are afraid of if we merge the uses. Finds it limiting and complex.
  - J. Randall: Office is already part of the district and should be prioritized in the future. Concerned arts uses would be crowded out if we combined the categories. Feels like proposal in the packet allows for flexibility of commercial and different types of structures.
  - M. Tuttle: Staff is balancing more flexibility with concerns heard from others including the community. Recommendation is already a sweeping change for ELM district due to bringing housing into district. The staff and commission are not necessarily afraid of anything, but are instead responding to concerns.
- A. Friend: This version discussed tonight is already a compromise. The market conditions might change and we should move forward.
- B. Baker: If we force someone building a large building to rent a big portion at a lower rate that building might never get built.
  - C. Dillard: Asks B. Baker if he is concerned with the requirement of non-residential on the ground floor or land use table or both equally
  - B. Baker: Prescribing the land uses will prevent housing from being built, especially if commercial use that is required may not lease.
  - Y. Bradley: You're prescribing a use without knowing what the environment looks like.

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- C. Dillard: Suggests taking a step back and looking at requirements of GFU and block standards. The district establishes block perimeter of 1600 sqft. We propose one block face must be designated primary, but that's as far as we go. On a primary frontage street, the ground floor nonresidential use is 80%, secondary street is 30%. There are then additional pathways to exemption, which includes detached nonresidential exemption as well as open space. Some of this ground floor space can be small dimensionally. This is a balance between urban form and land use component
- B. Baker: There is a tipping point, especially considering that IZ will already cause developer to lose money.
- A. Montroll: If the primary permitted and secondary permitted were folded together, are there any of the secondary ones that should be eliminated?
  - M. Tuttle: Yes. We are in a position where our use table is incredibly prescriptive, which is making this difficult. If we were to combine these, staff would recommend certain ones not be included. We have also heard concerns similar to Bruce's from non-profits because nonprofit developers do not support building commercial. It seems more like there is more a concern about the ground floor activation standards. Listening to this conversation, her recommendation is that Commission considers activation standards as opposed to the ground floor uses.
  - J. Randall agrees with M. Tuttle.
- M. Tuttle: That would look like 4.5.8-2, 3<sup>rd</sup> column. It would instead eliminate the frontage thresholds, and point B and the sub-bullets would be eliminated as well. There would be activation standards in the sense that buildings come close to setback and maintain point on entry.
- A. Montroll wants the commercial uses on the ground floor because it creates more synergy between building/sidewalks/streets. Still prefers non-residential uses on first floor that engage people from street.
- E. Lee: Market is demanding residential – is staff worried spaces that could be residential be turned over to commercial? Doesn't feel that is a real threat.
  - M. Tuttle: The reason this alternative was proposed is because she is hearing that there is a concern that the current market may not want to build anything if there's a requirement that the ground floor has to contain commercial uses.
- B Baker: If commercial uses are broad enough, the live/work/play would happen organically. Likes the commercial activation of use, but doesn't want to restrict it to something that may not exist in the marketplace in 4 years. If commercial uses were broadened, it would activate the streetscape and figure out how to make the entirety work by giving broad array of commercial uses to them. Some commercial uses do support Performa of rest of building.
- J. Randall: if there is a developer looking at residential development and they provide commercial uses, it seems like that's compatible with what's on the use table.
  - C. Dillard: Only non-residential uses unlock secondary permitted uses.
- B. Baker: This prescriptive use makes the developers uneasy.
- Y. Bradley: They [developers] don't want to be told they have to build it. This is not NYC, this is Burlington. We're talking about commercial uses on lightly travelled streets. Foot traffic will not be heavy, and there aren't a lot of people living here. Businesses are not making high profits on side streets. There is no visibility, and its completely destination.
- C. Dillard: Not requiring ground floor activation would be more to the intent of PlanBTV south end, and removing the primary/secondary components of land use will remove the planning foundation for this district.
- A. Montroll: The big concern he is hearing is that on the first floor there is required for non-residential. Suppose this distinction between primary/secondary. Could you do ground floor as any use and then more prescriptive for the rest of the building?
  - M. Tuttle: That is moving away from this discussion.
- B. Baker: It sounds like Meagan's idea is more aligned with Yves.
- E. Lee: The work we did with form based code – we said that we wanted infrastructure and activation style of commercial uses to suggest we want retail there, but we didn't require the

- use. Would like flexibility to make sure that buildings get built. Sees things across the city not happening. We can't force business location, but we can make sure infrastructure exists.
- M. Tuttle clarifying question: Is it more important to keep ground floor activation requirement?
    - E. Lee says yes, but wants to provide flexibility for use.
  - A. Montroll, A. Friend, and J. Randall want to support housing, and feel conflicted.
  - A. Montroll wants ground floor to be non-residential, but is less concerned about what that non-residential use is. Uses on first floor change all the time based on the market. Wants to make sure it's not stuck as being empty. There's a fear that if it's stuck as empty, it won't get built.
  - B. Baker: If it were a 3 story area, that would be different than 8. If we have support for it, eliminating distinction would be what he supports.
  - A. Montroll supports the merge, but Meagan and Charles should go through the use table to remove any uses that shouldn't be there.
  - M. Tuttle: There has been a lot of discussion on this topic, if PC is interested in staff making changes to the use table, would prefer it if its recommended and on its way to council while staff reviews uses
  - MOTION from B. Baker: Combine primary and secondary uses in this overlay district.
    - Yes: A. Friend, E. Lee, B. Baker, A. Montroll.
    - No: Yves, J. Randall
  - Motion: Refer to council in the condition that while use table is combined, MT and CD will provide memo to city council and also removes specific uses to be removed from permitted uses.
    - B. Baker seconded
  - A. Friend: Would like to hear why Yves voted no on motion he seemed to be a compromise in his favor.
    - Y. Bradley: Down the street from South Union Street there was a boat repair stop, fire station, general store next to rotary. Those are all residential now. Market decided against small things in community, and now there is a swing back. Had felt better when market was determining what is on ground floor, so businesses could change. Most businesses cannot survive without foot traffic. Innovation center won't support a café because there aren't enough people there.
  - M. Tuttle: Does memo refer to staff report? Packet already has memo sharing with council there are other ways to consider the land use framework.
    - A. Montroll: Suggests that PC states staff had recommendation, this was a big part of discussion, and there has been a change.
  - E. Lee: On Shelburne road there are a lot of newer apartments buildings behind the Starbucks, and now its all residential back there. Very insular and no reasons to go there. Wants to avoid that – supports lots of flexibility but wants to avoid something like that. Feels the infrastructure put in the building matters, allowing change in the future.
  - A. Friend is still confused about why Yves voted no on a motion he seconded.
    - Y. Bradley: Wants no regulations.
  - VOTE to refer to council with memo as amended: Unanimous vote.

**VI. Proposed CDO Amendment: ZA-23-02 Inclusionary Zoning**

Action: Refer this to a public hearing		
Motion by: A. Friend	Second by: J. Randall	Vote: Unanimous
Type: Action	Presented by: C. Dillard	
<ul style="list-style-type: none"> <li>• To quickly summarize, there were three recommended parts of this amendment. The first has been struck because the second provision covers what the first would have. Regarding number 2, there was discussion that Michael raised about projects where the ground floor area of IZ units does not exceed the percent required, and if there is an alternative pathway for proposed projects. Staff determined that at this time they wouldn't recommend addressing those projects with the ground floor area less than that. For example, if an IZ requirement is less than 15% and</li> </ul>		

<p>the IZ units ground floor area represents 14.5%, staff wouldn't say there is an alternative compliance in terms of bedroom mix or unit size. Staff recommends proceeding with time sensitive amendment and revisiting if Michael's concern comes up.</p> <ul style="list-style-type: none"> <li>• The second change regarding unit size is related to guard rails against units that are inadequately sized. There is nothing in the ordinance today that would require minimum unit size.</li> <li>• A. Montroll wanted to answer S. Bushor's question that asked about why 15.5% GFA,             <ul style="list-style-type: none"> <li>○ M. Tuttle: reason for that is because envisioning % of GFA would correspond with % of IZ units required. 15% is the base, and 15.5% is to make sure that its greater than 15%.</li> </ul> </li> <li>• A. Montroll: There are other IZ issues that have come up in these discussions, but the time sensitivity of this makes us stick with issues presented in proposed amendment.</li> <li>• E. Lee questions what would prevent a developer from building really large 1 bedroom units, which are more expensive to build?             <ul style="list-style-type: none"> <li>○ C Dillard: This amendment contemplates non-profit developers, and the interest in the affordable housing developer to react to the market.</li> <li>○ M Tuttle: This doesn't remove underlying requirement for number of units.</li> </ul> </li> </ul> <p>A. Friend makes motion to refer this to a public hearing. J. Randall seconds motion as proposed in the amendment.</p> <ul style="list-style-type: none"> <li>• B. Baker: a two bedroom in places across city is a lot. Recommends lowering from 750.</li> <li>• A. Montroll: There will be time to look at numbers now or after public hearing, B. Baker said after hearing is fine.</li> <li>• MOTION passes unanimously.</li> </ul>
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**VII. Commissioner Items**

Action: n/a		
Motion by: n/a	Second by: n/a	Vote: n/a
Type: n/a	Presented by: n/a	
Request by Y. Bradley to change date for planning commission on the 16 <sup>th</sup> . Request granted by staff.		

**VIII. Minutes and Communications**

Action: Approve the minutes and accept the communications		
Motion by: J. Randall	Second by: A. Friend	Approved: Unanimously
Minutes Approved: January 10 <sup>th</sup> Communications Accepted: in the agenda packet and posted at <a href="https://www.burlingtonvt.gov/CityPlan/PC/Agendas">https://www.burlingtonvt.gov/CityPlan/PC/Agendas</a>		

**IX. Adjourn**

Adjournment		Time: 8:30 pm
Motion: B. Baker	Second: Y. Bradley	Vote: Approved Unanimously