



City of  
Burlington, Vermont  
645 Pine Street

## Zoning Determination – Findings

**ZP #:** 22-222

**Tax ID:** 049-1-145-000

**Issue Date:** April 20, 2022

**Decision:** Adverse

**Property Address:** 77 Pine Street

**Description:** Determination request regarding compliance with inclusionary zoning requirements of condition 4, ZP # 20-0453CA, specifically payment in lieu.

This determination is in regard to the above-referenced property, specifically your request that the City of Burlington concur with your proposal to comply with condition 4 of zoning permit 20-0453CA for redevelopment of the 77 Pine Street property.

The redevelopment project includes 49 residential units and, therefore, requires 7 inclusionary housing units per the CDO standards of Article 9. Of the 7 required inclusionary housing units, 5 will be provided onsite as dwelling units within the development. The remaining 2 will be addressed via the payment in lieu option per Sec. 9.1.13 (b) of the CDO. The City concurs that a combination of on-site inclusionary units and payment in lieu option is acceptable for meeting the requirements of Article 9.

The payment in lieu option includes three tiers:

- Projects with 5-16 dwelling units pay in lieu \$35,000 per dwelling unit
- Projects with 17-49 dwelling units pay in lieu \$70,000 per dwelling unit
- Projects with 50 or more dwelling units pay \$85,000 per dwelling unit

A marginal fee approach shall be used in payment of the in lieu fees. For example, a 17-unit project would pay a total of \$140,000 (\$35,000 for each of the first two inclusionary units and \$70,000 for the third inclusionary unit).

The 49-unit redevelopment of 77 Pine Street is in the middle tier. Payment in lieu for the 2 inclusionary units not provided onsite is \$70,000 per dwelling unit. Your proposal to pay the first tier payment in lieu fee of \$35,000 per dwelling unit is inconsistent with this standard and with Zoning Administrative Interpretation 21-02. If just 1 inclusionary unit were to be provided onsite and the rest addressed with payment in lieu, the payment in lieu fee would be \$35,000 for the first unit and \$70,000 for the remaining five units. In your case, 5 inclusionary units will be provided onsite with just 2 addressed via payment in lieu.

The City reviewed the following documents/evidence to form its determination:

- Zoning permit 20-0453CA and all related documentation
- The City's 2008 Comprehensive Development Ordinance as amended
- Zoning Administrative Interpretation 21-02
- Determination request of Liam L. Murphy, Esq dated April 6, 2022

Partial use of payment in lieu to satisfy the inclusionary housing requirements of Article 9 is acceptable. Your proposal to pay \$35,000 in lieu for 2 of 7 required inclusionary housing units is not acceptable.

An interested person may appeal a decision of the Zoning Administrator to the Development Review Board within 15 days after the decision date per Sec. 12.2.2, *Appeals of Administrative Officer Decisions*. Appeals may be filed online at [burlingtonvt.viewpointcloud.com/categories/1098](https://burlingtonvt.viewpointcloud.com/categories/1098) or in-person at 645 Pine Street, Burlington, Vermont. <https://www.burlingtonvt.gov/DPI/Appealing-a-Zoning-Decision>