

## Burlington Planning Commission

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## Joint Form-Based Code Committee

### Staff notes and Recommendations – 9/14/17 meeting

#### Green and High Performance Building Requirement:

- Current Proposed Amendment:

“b) **Green and High Performance Buildings:** Any new Building over 50,000 GFA, or a major renovation involving an area over 50,000 GFA of an existing Building, shall be required to be built to an approved high performance Building standard as listed in this section, and be able to connect to any future district energy system without a substantial redesign and capital investment. This requirement is applicable in all Form Districts, and for the purposes of this section “major renovation” shall mean extensive alterations and/or improvements to the exterior shell, primary structural components, and/or core and peripheral MEP and service systems.

Any Historic Building renovation, or any expansion where an Historic Building represents greater than 40% of the gross floor area, shall be exempt from this requirement but is otherwise encouraged to implement similar performance standards to the greatest extent possible.

The following Green and High Performance Building Standard systems shall be used to satisfy this requirement:

- Gold Certification or higher under a LEED for Building Design and Construction system as administered by Green Business Certification, Inc (GBCI);
- Petal or Net Zero Energy Certification under the Living Building Challenge as administered by International Living Future Institute (INFI);
- Passive House Certification as administered by Passive House Institute (PHI or PHIUS); or,
- Another nationally recognized equivalent quantifiable high performance building system or standard as may be approved by the Planning Commission.

#### **Council Questions:**

- What is an appropriate threshold for triggering the requirement below (e.g. 25,000, 50,000 gfa or something in between) – the concern is that we not unnecessarily burden smaller infill development where the economy of scale may not be there to absorb the up-front certification and construction costs, but be sure to include as much future development as possible.
- What about including a lesser Green and High Performance Building requirement for smaller buildings – below the threshold set above, is there a lesser standard that we should consider to get smaller buildings participating in reaching our net-zero goals?
- Adding “nationally recognized” to the Planning Commission’s determination of “equivalent quantifiable systems or standards” – while we don’t want to put ourselves in a position of having to create our own local system, there may be combinations of national and state/local performance standards that could perform equally or better than national programs like LEED alone. I feel that

having some flexibility is very important, and fear that adding “nationally recognized” could put us in a box that precludes the ability to also include combinations of standards that meet the same result.

- The appropriateness of including requirement to be capable to connect to any future district energy system at this time – we want to be sure that new buildings that may get built do not preclude the opportunity to connect, but what does that mean? Given the many questions raised during the BTC Redevelopment Development Agreement negotiations, is this premature?

### **Substantial Modification definition**

During the Planning Commission deliberations an important question was raised regarding the definition of “Substantial Modification” – the feeling being that it may be overly broad and could be construed to include such modest things as carpet or lighting replacement if it affected >50% of the building square footage.

Current Draft:

Substantial Modification: Any demolition, deconstruction, relocation, rehabilitation or redevelopment of an existing Building, Structure, Frontage, Development, Sign, Improvement or other appurtenance thereto that affects or exceeds fifty percent (50%) of the area, square footage or pre-development assessed value of the Structure, Building or Lot as determined by the Zoning Administrative Officer.

The term is used as a trigger to bring non-conformities into compliance with the new code under Sec. 14.7.2. As a result, it needs to be applicable to changes that may involve a Building, Structure, lot, or Façade, and therefore simply linking to the assessed value of a building (per the current CDO) is insufficient.

Proposed Recommendation:

Substantial Modification: Any demolition, deconstruction, relocation, rehabilitation, or redevelopment of an existing Building, Structure, Frontage, Development, Improvement, Site, Lot, or other appurtenance thereto that, as determined by the Zoning Administrative Officer: (1) exceeds fifty percent (50%) or more of the pre-development assessed value of the Structure or Building; (2) involves an improvement or modification of fifty percent (50%) or more of the Lot Area exclusive of any Building or Structure; or, (3) modifies thirty percent (30%) or more of a Building Façade located within the maximum required Front Setback.

This term does not include normal maintenance or repairs or any modifications required to correct violations of state or local health, sanitary, or building code specifications which have been identified by a code enforcement or building official, and which are the minimum necessary to correct such violations.

### **Clarifying the review process for Historic Buildings**

During the Planning Commission deliberations, a question was raised regarding the review process and requirements regarding Historic Buildings. Sec. 14.6.5 of the proposed amendment address this in so far as ensuring any potential conflict between the required form and design standards and the ability to maintain the historic integrity of the building are resolved through the process of seeking Alternative Compliance from the DRB under Sec 14.7.3b).

However, the language of Sec. 14.6.5 remains ambiguous as to the actual review process to be undertaken (i.e. does it follow the new process for administrative review under the form based code or revert to the current process involving the DAB and DRB under the CDO?). The intention is that the review standards and decision-making process involving the DAB and DRB under the current CDO would continue to apply at

least for now. The regulation of historic buildings and the resulting review process remains a very important issue to be carefully considered for revision, and the recommendations emerging from the Permit Reform Initiative provide an important direction to follow in order to make this aspect of the development review process more predictable.

Recommendation:

1. Sec. 14.6.5 should be revised to include a reference to the review process for receiving a Certificate of Appropriateness outlined in Art. 3 Part 2 of the CDO; and,
2. Sec. 14.7.1e) should be revised to add to both i and ii: "Applications involving an Historic Building shall follow the process for receiving a Certificate of Appropriateness in Art. 3 Part 2 of the CDO."