



January 4, 2019

To: Burlington Planning Commission Members, David White, Megan Tuttle
RE: Proposed CDO Amendment ZA – 19 – XX
Commercial Uses in the E-LM Zone

Please allow this correspondence to serve as Burton’s response to Planning Staff’s memo dated 11/27/18 introducing the above-referenced proposed zoning amendment, in advance of the January 9, 2019 Public Hearing. As you are aware, the proposed amendment responds to several unrealized development initiatives within the E-LM zone, including Burton’s desire to utilize vacant/underutilized space in our building at 152 Industrial Parkway to create a mixed-use “Hub” of activities, some of which are not currently permitted under the Ordinance.

We appreciate Planning Staff’s responsiveness to the Commission’s directive (voiced at its November 13th meeting) by presenting this proposed amendment at the November 27th meeting. The amendment as drafted would allow our project as currently envisioned to proceed, however it places significant new restrictions on our continued evolution and growth at our two Industrial Parkway properties that ignore the realities of our business, and the market realities in Burlington’s south end. Therefore we are asking that the scope of the amendment be tightened, as the amendment penalizes Burton and other non-residential property owners south of Home Avenue (of which there are only 4) that choose to pursue mixed-use initiatives, compared to non-residential property owners in the rest of the Enterprise Zone.

The proposed amendment revises Footnote 27 in Appendix A-Use Table for the Enterprise Zone—and applies the footnote to a total of 58 uses—to state:

“Use is permitted or conditionally permitted south of Home Avenue only when on a lot with one or more manufacturing, industrial, R&D, and/or warehouse use, and when the combined gross floor area of any use with this footnote does not exceed 49% of the Gross Floor Area on a lot.”

As drafted, the amendment creates a much more stringent set of zoning restrictions for non-residential, E-LM property owners south of Home Avenue, as it is applied to 58 land uses, many of which had previously been “permitted” (e.g., small retail; office), and some of which had previously been “conditionally permitted” (e.g., café; large retail; performing arts center; indoor recreation) under the Ordinance. In our view, the 49% threshold creates an unreasonable requirement that 51% of the space can be used only for manufacturing, industrial, R&D, and/or warehouse use. Given recent, current and emerging market trends in the Enterprise Zone (including the realities of Burton’s global business model), this is simply not realistic.

We’d like to encourage the Planning Commission to consider (and hopefully embrace) the idea that the ability to lock in ‘traditional’ manufacturing is not practical; Burton’s evolution and current situation illustrates this. Along Industrial Parkway, Burton owns approximately 147,000SF of space in two buildings located at 80 and 152 Industrial Parkway. We fully occupy 80 Industrial Parkway (88% general office, 12% retail), but have over 25,000SF of unoccupied or underutilized space in 152 Industrial Parkway. Despite our best efforts we have not been able to lease unused manufacturing/warehouse space at #152 to traditional



manufacturing uses. Indeed, our inability to find a manufacturing use for the high-bay space has led us to consider a performing arts venue, which was the trigger for the zoning amendment. However, if this amendment is passed as is, even WITH our plans to fully maintain our existing R&D/Manufacturing operations in the facility, we would NOT meet the 49% maximum of non-manufacturing uses, as our current plans would tip the non-manufacturing uses to slightly over half of the floor plan. Meanwhile, our building at #80 is approximately 70,000SF (note: there is no manufacturing, industrial, R&D and/or warehouse use), and if this amendment is passed, #80 would immediately be non-conforming. Further, it is our plan to relocate the retail store to our other building located #152 as part of the mixed-use “Hub” concept. While it is our intention to replace 12% retail with other uses (likely a combination of office, photo studio, and/or sales showroom space), the proposed amendment creates uncertainty about whether this would be allowed.

While preserving the opportunity for traditional “dirty” manufacturing is potentially an appropriate public policy goal, we believe it should not be at the expense of other, equally legitimate, 21st century land uses located on similarly zoned properties; and this should not be imposed on the 4 property owners ‘south of Home Avenue’ within the entire E-LM while hundreds of thousands of square feet of traditional “dirty” manufacturing space in the E-LM north of Home Avenue has been allowed to be converted to other more relevant/modern generators of jobs and economic activity. Further, there should also be a direct nexus between the stated goal and current practice as well as present/future market trends. While the draft *planBTV South End* document attempts to segment the Enterprise Zone into north/central/south districts, the distinctions described in the plan do not, in our opinion, relate to the reality of our business, or to market conditions. To realize this is true, one need look no further than many of our south end neighboring businesses, as Burlington has seen an exodus of traditional “manufacturing” uses from the Enterprise Zone and the conversion of premier manufacturing space to office and other “creative economy” uses of the 21st century. Examples include Specialty Filaments (now Dealer.com); Queen City Cotton Mill/General Dynamics (now Innovation Center); and currently, Blodgett Ovens (soon to be HULA Co-Working). Burton was on the early side of this trend when we moved our manufacturing operations out of our #80 building in 1996. Since that time, we have completely redeveloped #80 to house our Global Headquarters operation (as noted above, with zero traditional manufacturing use, but—we believe—of great value to the economy of Burlington and more broadly to the economy of Vermont).

Upon reading the significant ‘south of Home Avenue’ restrictions as currently drafted, we question if the contributions Burton continues to make to the Burlington economy are understood and embraced. The draft amendment sends a strong signal that the City would prefer to find a traditional “dirty” manufacturing operation for our buildings vs. 350+ jobs we have created (e.g., product development, engineering, sales, marketing, finance, IT, web development, HR, etc.).

The market trends that have impacted our decisions, as well as the decisions of other industrial property owners in Burlington, are both measurable and on the rise. Perhaps more importantly, most everyone would agree the local economy has benefited from the evolution in the entire South End. Given all of these data points, we question why the Enterprise Zone should be treated differently ‘south of Home Avenue’ where the traditional manufacturing market sector is equally vulnerable while Burton’s “Hub” target market embraces its proposed mixed-use concept?



As we recently shared with the Commission, we have spent the better part of the past year articulating our challenge with various City staff. Meanwhile, we have developed a viable business model to manage our occupancy at 152 Industrial Parkway with 3rd party partners who are eager to participate and further augment the south end's live/work/play creative/arts economy. With regards to advancing the proposed amendment currently under consideration quickly and efficiently, Burton offers two alternate versions of the proposed amendment which would allow our project to move forward, while reducing/eliminating the potentially damaging restrictions the current amendment places on the 'south of Home Avenue' area:

1. Preferred: Leave Footnote 27 language "as is" but apply ONLY to Performing Arts Center use. Remove Footnote #27 from all other uses on Appendix A.
 - Consider adding "restaurant" to list of permitted or conditional uses in E-LM
2. Acceptable: Leave Footnote 27 language "as is" but apply ONLY to uses marked as 'CU' (Conditional Use). Remove this footnote from all uses marked as 'Y'.
 - This would reduce the 'South of Home Avenue' restrictions from 58 to 18 uses.
 - Consider adding "restaurant" to list of permitted or conditional uses in E-LM

Further, we will continue our participation in the current *planBTV South End* planning process and comment/feedback process so that our perspective is captured in the final plan document. Thank you for your support, and we look forward to discussing this further at your earliest convenience. Please feel free to contact me any time at justinw@burton.com, 802-651-0499 (office) or 802-922-0713 (mobile).

Sincerely,

Justin Worthley
Senior Vice President, Burton Corporation

cc John Caulo, Kelly Devine, Ted Castle, Jim Foster