



# Unified Sustainable Development Ordinance

**ANNUAL REPORT & MEMORANDUM**



City of Albany Common Council Planning, Economic Development  
& Land Use Committee

Department of Planning & Development

September 10, 2025

# TABLE OF CONTENTS

INTRODUCTION .....	04
EXECUTIVE SUMMARY .....	06
<b>CHAPTER 1 – ADMINISTRATIVE PROCEDURES</b> .....	<b>08</b>
Zoning Clearance	
Administrative Adjustments	
Zoning Compliance Certificates	
Nonconformity Determinations	
Lot Modification	
Revocable Right-of-Way Privilege	
<b>CHAPTER 2 – DEVELOPMENT REVIEW PROCEDURES</b> .....	<b>11</b>
Development Plan Review (DPR)	
Conditional Use Permit (CUP)	
Certificate of Appropriateness (COA)	
Area Variance (AV)	
Use Variance (UV)	
Other Development Reviews and Procedures	
<b>CHAPTER 3 – POLICY DECISIONS</b> .....	<b>34</b>
Zoning Text Amendments	
Zoning Map Amendments	
<b>CHAPTER 4 – INCLUSIONARY ZONING</b> .....	<b>44</b>
<b>CHAPTER 5 – PROSPECTIVE POLICY DEVELOPMENT</b> .....	<b>50</b>
Accessory Dwelling Units (ADU)	
Cottage Courts	
<b>CHAPTER 6 – RECOMMENDATIONS</b> .....	<b>55</b>

# INTRODUCTION

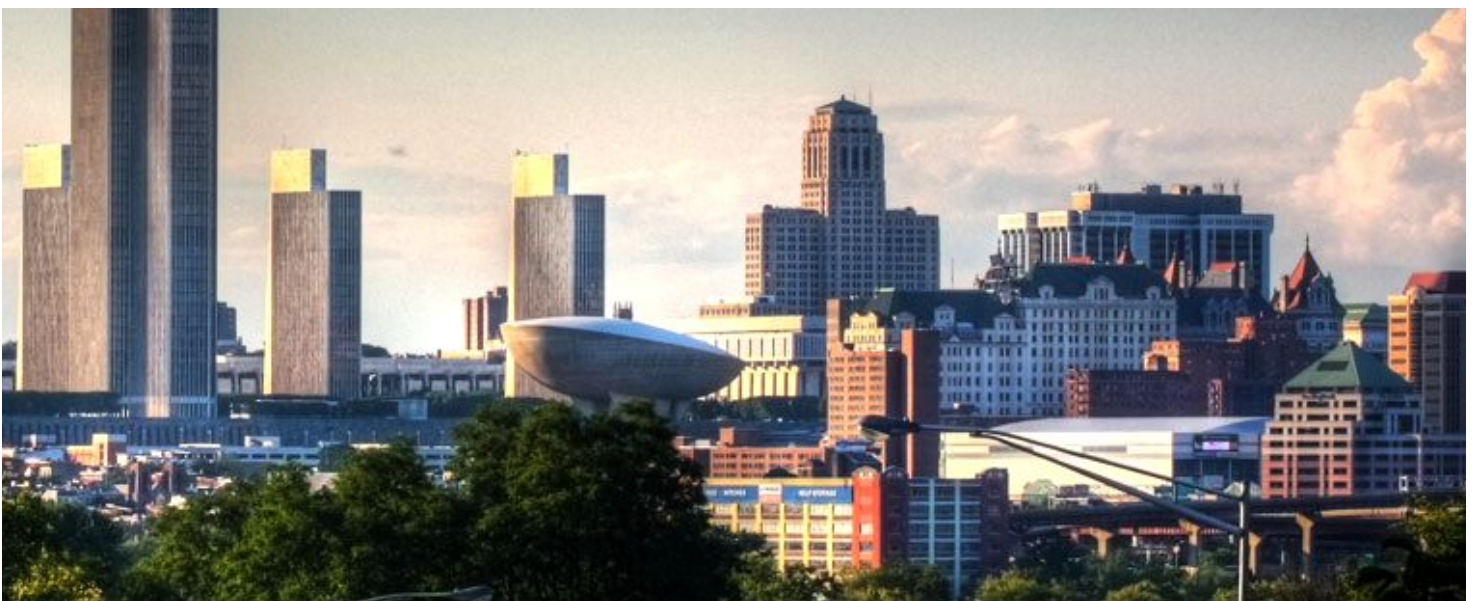
The City of Albany's Unified Sustainable Development Ordinance (USDO) consolidates all development-related regulations into a single code, providing a consistent, logical, and efficient framework for project review and long-term planning.

The USDO is primarily administered by the Department of Planning and Development, in collaboration with the Board of Zoning Appeals, Planning Board, and Historic Resources Commission. These bodies review projects, uphold historic preservation, and ensure land use compliance, while other City departments collaborate to ensure projects meet code requirements and contribute positively to the built environment.

This memo serves as the Annual Report to the Common Council and includes all items required under the USDO, including

- Area variances and outcomes
- Use variances and outcomes
- Conditional use permits
- Development Plan Reviews
- Approved Accessory Dwelling Units
- Affordable housing units produced
- Housing studies
- Proposed zoning text/map changes

In addition to these requirements, the Annual Report analyzes development activity, tracks trends, highlights emerging issues, and recommends refinements to keep the USDO current, equitable, and aligned with best practices and the City's Comprehensive Plan.



Source: Google Images

# INTRODUCTION

Several appointed boards and the Common Council share responsibility for administering and implementing the USDO:

**Planning Board** (five members): Reviews major development plans, subdivisions, conditional use permits, demolition reviews, and tall building design; provides recommendations on zoning amendments; and may assist in preparing or updating the Comprehensive Plan.

**Board of Zoning Appeals (BZA)** (five members): Decides on use, area, and floodplain variances, and hears appeals of administrative decisions by the Chief

Planning Official, Chief Building Official, and other City agencies.

**Historic Resources Commission (HRC)** (seven members): Reviews major Certificates of Appropriateness and historic hardship waivers, and makes recommendations on designations of historic or archaeological districts and landmarks.

**Common Council:** As the City's elected legislative body, adopts amendments to the USDO and holds final authority on zoning map changes and historic/archaeological designations. In 2024, 11 policy-oriented proposals were submitted for Council consideration.



Source: Google Images

# EXECUTIVE SUMMARY

The following outlines the administrative and discretionary tools used to implement land use regulations in the City of Albany, together with the number of such applications processed or reviewed by DPD staff annually from 2017 through 2024.

These years correspond with the City's adoption of the USDO. The tables, together with the subsequent sections offer a more detailed analysis of specific types of approvals, closely parallel the Procedure Summary Chart in [§375-502](#) of the USDO.

**Table 1 - Administrative Procedures**

Application Type	2017	2018	2019	2020	2021	2022	2023	2024
Zoning Clearance (Building Permit)	366	359	472	358	298	379	472	548
Zoning Compliance Certificates	110	202	159	209	307	268	286	251
Determination of Nonconformity	n/a	n/a	n/a	n/a	n/a	2	16	3
Lot Modification	23	27	35	11	28	32	36	30
Administrative Adjustment	1	5	0	2	2	0	0	1
Revocable Right-of-Way Privilege (Sidewalk Café)	n/a	n/a	52	61	72	n/d	41	33

**Table 2- Development Review Procedures**

Application Type	2017	2018	2019	2020	2021	2022	2023	2024
Development Plan Review, Minor	9	9	21	10	14	11	22	28
Development Plan Review, Major	12	16	13	18	13	11	17	17
Certificate of Appropriateness, Minor	77	203	200	121	155	54	92	158
Certificate of Appropriateness, Major	16	134	18	35	29	7	6	37
Major Subdivision of Land	0	0	0	0	1	0	0	0
Conditional Use Permit	6	15	6	10	17	7	14	16
Demolition Review	36	33	27	13	17	4	22	2
District plan approval	1	2	1	0	0	0	0	0
Design review of tall buildings	0	1	0	0	0	0	0	0
Area Variance	28	14	19	6	34	30	47	19
Use Variance	0	0	0	0	0	0	0	0
Floodplain variance	0	0	0	0	0	0	0	0
Historic property hardship waiver	0	0	0	0	0	0	0	0

# EXECUTIVE SUMMARY

**Table 3 - Policy Decisions**

Application Type	2017	2018	2019	2020	2021	2022	2023	2024
Zoning Text Amendment	0	5	3	3	5	1	4	7
Zoning Map Amendment	0	2	3	3	2	0	3	4
Interpretation	3	1	0	1	0	0	0	0
Designation of a historic landmark, historic district or archaeological district	0	0	0	0	0	0	0	1

In 2024, the Department of Planning and Development (DPD) reviewed **1,155 applications** under the USDO, the highest volume since its adoption. Of these, **91 were referred** to the Planning Board, Board of Zoning Appeals, or Historic Resources Commission.

In addition, 11 policy-oriented proposals were submitted for consideration by the Common Council, the City’s elected legislative body. In addition to adopting legislative changes through amendments to the USDO text, the Council holds final decision-making authority on Zoning Map Amendments and the designation of historic or archaeological districts and landmarks.

**Key observations from 2024 include:**

- **Sustained demand:** More than 1,100 submissions demonstrate continued development interest in Albany.
- **Housing pressures:** While new projects are delivering additional units, overall housing production remains modest relative to demand.

- **Procedural-inefficiencies:** Processes such as nonconformity determinations, lot consolidations, and residential conversions continue to add burdens without clear public benefit.
- **Regulatory refinements:** Targeted updates, including signage and development review thresholds, are improving predictability and reducing unnecessary variances.
- **Takeaway:** The USDO continues to serve as a strong framework for guiding development. However, ongoing updates are critical. Aligning the ordinance with best practices, principles of equity, and emerging development patterns will help ensure that Albany’s land use regulations promote neighborhood stability, economic vitality, and long-term resilience.

# CHAPTER 1

# ADMINISTRATIVE

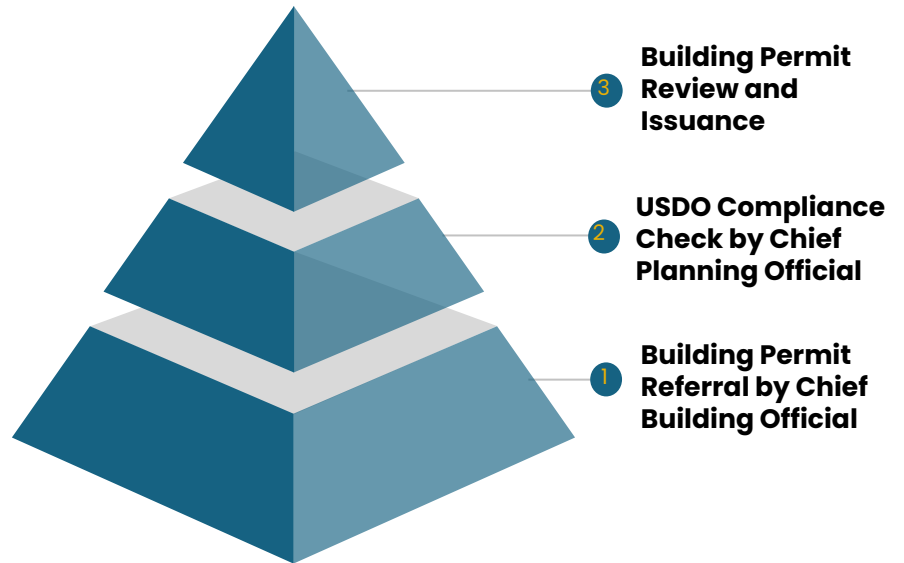
# PROCEDURES

# ADMINISTRATIVE PROCEDURES

## Zoning Clearance

A zoning clearance is performed when a building permit application is referred to the Department of Planning and Development (DPD) for review. This process ensures that the proposed work complies with the standards set forth in the USDO, as well as any existing approvals applicable to the property.

Fig. 1.1 Zoning Clearance Process Pyramid



Permits Reviewed (2024)

**548**

## Administrative Adjustments

Fig. 1.2 Administrative Adjustment



Administrative Adjustments allow the Chief Planning Official to approve minor modifications to zoning standards when specific criteria are met. This tool provides targeted flexibility to address site constraints without requiring a variance or Board review and is typically processed alongside site development permits to streamline approvals.

Determinations Issued (2024)

**1**



# ADMINISTRATIVE PROCEDURES

## Zoning Compliance Certificates

DPD reviews requests for verification that property uses comply with applicable zoning regulations. These requests are often submitted in connection with the sale or refinancing of a property. Applicants provide basic information about the property's use, and the Chief Planning Official issues a formal letter of determination in response.

Fig. 1.3 Development Permit Process Pyramid

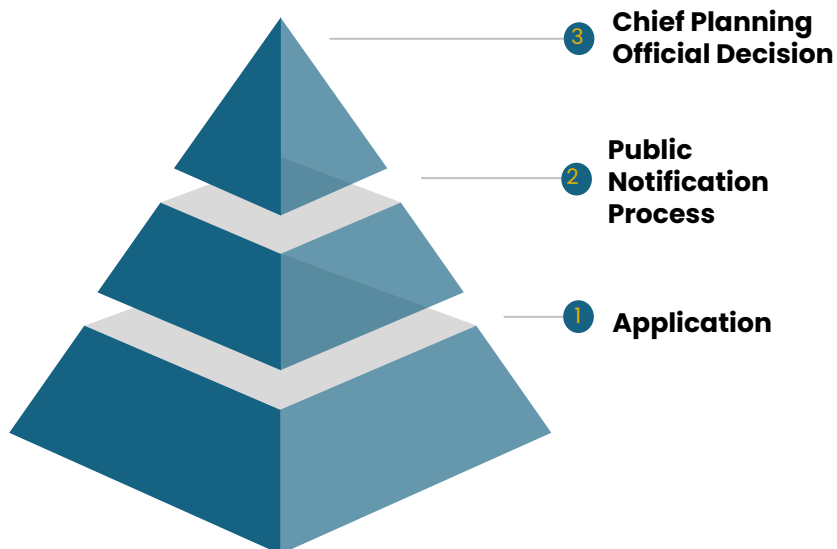


Certificates Issued (2024)

251

## Nonconformity Determinations

Fig. 1.4 Nonconformity Determination Process Pyramid



When a property does not comply with current zoning regulations, the owner may request a determination from the Chief Planning Official to establish whether the noncompliant condition predates the applicable regulations and qualifies as a legal nonconformity, thereby rendering it compliant under the USDO.

Determinations Issued (2024)

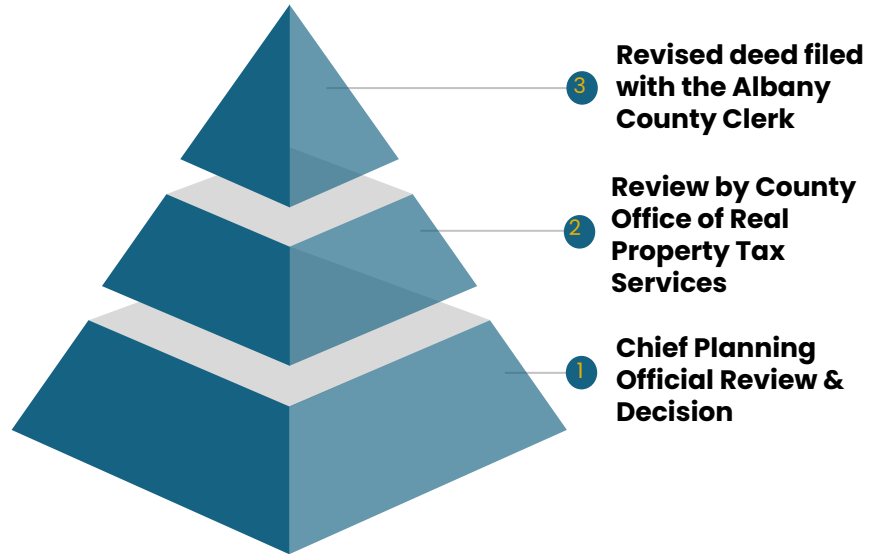
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# ADMINISTRATIVE PROCEDURES

## Lot Modification

DPD reviews requests to adjust or relocate lot lines to ensure that the resulting boundaries and developed conditions comply with the requirements of the USDO. This process is coordinated with Albany County to update official tax parcel maps and ensure that revised deeds are properly filed with the Office of the County Clerk.

Fig. 1.5 Development Permit Process Pyramid



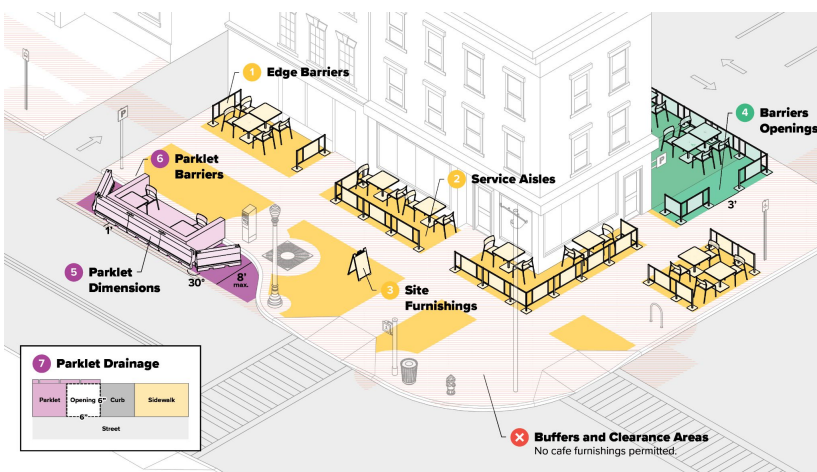
No. of Applications  
(2024)

30

## Revocable Right-of-Way Privilege

The revocable right-of-way process is used to review and authorize certain temporary activities within the public right-of-way. This process ensures a balance between public and private interests, secures appropriate compensation for use of the right-of-way, and requires liability insurance to protect the City from potential risks.

Fig. 1.6 Example Outdoor Cafe Plan Drawing



No. of Applications  
(2024)

33

# CHAPTER 2

# DEVELOPMENT REVIEW

# PROCEDURES

# DEVELOPMENT PLAN REVIEW

## When and how site plans are reviewed for compliance

A **development plan** is a compilation of drawings and renderings that illustrate the arrangement, layout, and design of proposed uses and buildings on a given site. These plans, along with corresponding technical reports, are evaluated for compliance with the development standards set forth in Article IV of the USDO.

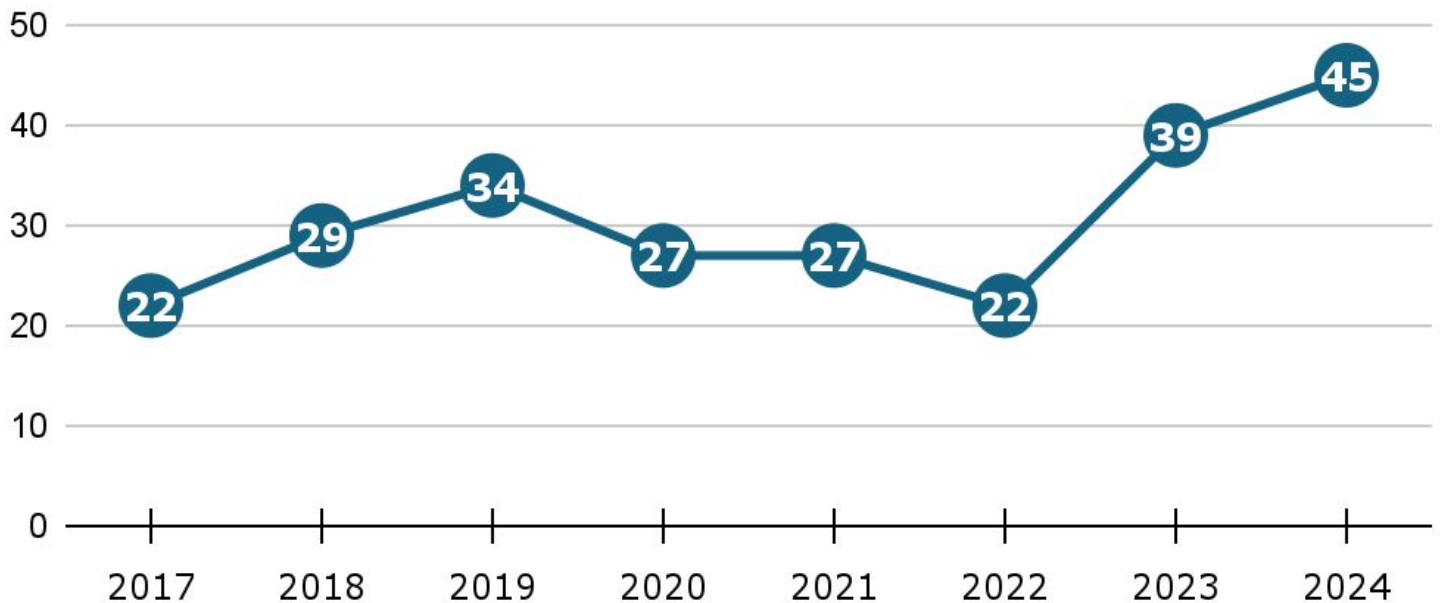
*“The setting of criteria upon which the community can judge the merits of proposals submitted for review are necessary to reduce the possibility of arbitrary decisions and to **maintain good will between the developer and the community.** The site development plan regulations should, therefore, include **standards as the basis for judging the merits of all proposals** sent to it for review and action.”*

**- NYSDOS James A. Coon Local Government Technical Series, Site Plan Review**

### DEVELOPMENT PLAN REVIEW CRITERIA

- Will not create significant adverse impacts on the surrounding neighborhood, or any significant adverse impacts will be limited to a short period of time;
- Will not create risks to public health or safety;
- Is consistent with the Comprehensive Plan; and
- Is consistent with any provisions of this USDO and the Albany City Code
- Additional criteria are applied for applications involving clear-cutting and new development within existing cluster subdivisions.

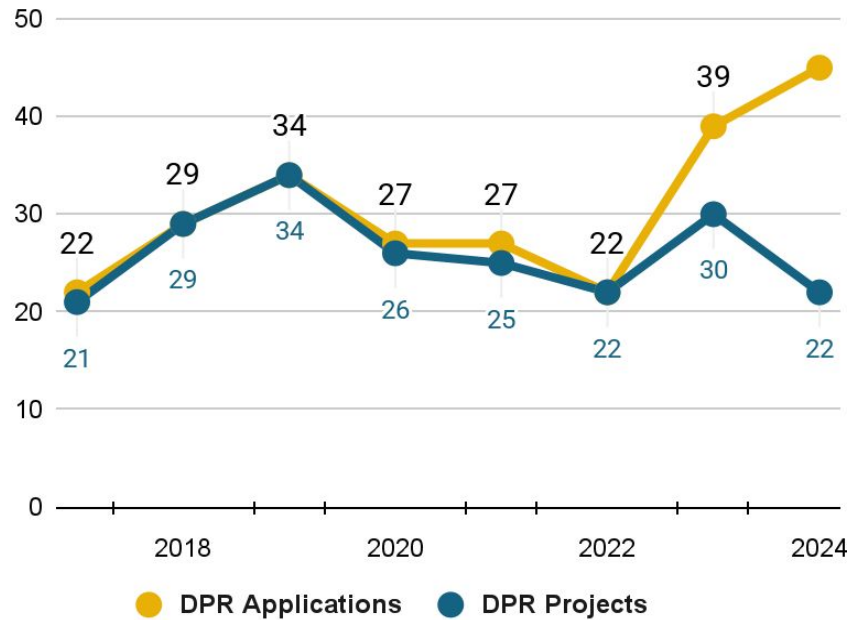
Fig. 2.1 Number of Development Plan Review Applications since USDO Application



# DPR: AS AN INDICATOR OF OVERALL DEVELOPMENT ACTIVITY

A total of 45 applications for **Development Plan Review (DPR)** were submitted in calendar year 2024, marking the highest number recorded in any single year since the adoption of the USDO. This increase is partly attributable to projects involving a common developer and funding source but distributed across multiple, non-contiguous sites, commonly referred to as “scatter-site” projects. Each contiguous site within these projects requires individual review. However, when viewed collectively, the total number of distinct projects remains comparable to previous years.

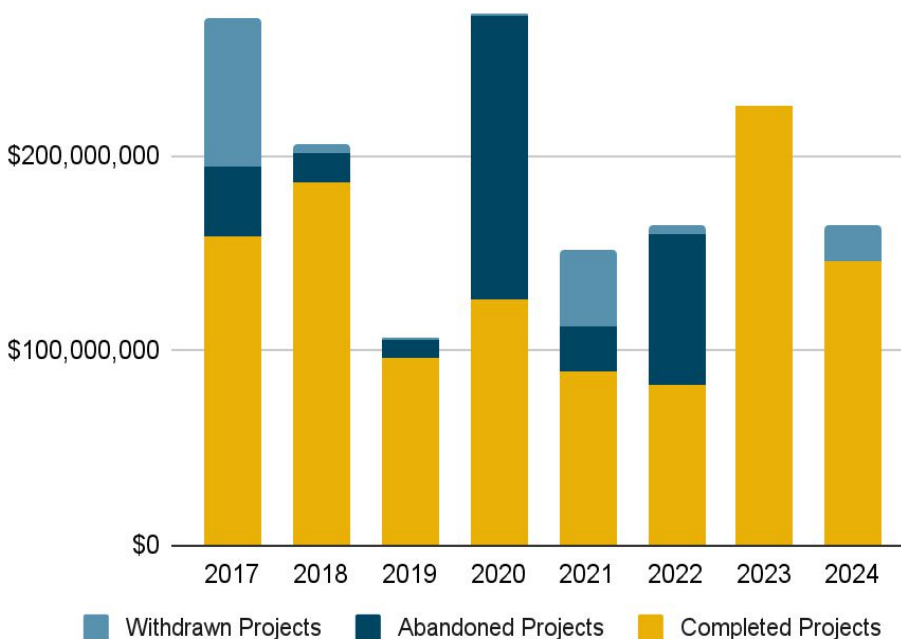
Fig. 2.2 - Number of DPR Projects (2017-2024)



Average DPR Project Cost

**\$5,731,356**

Fig. 2.3 - Total Value of All Projects



Because many large-scale projects require DPR the cumulative value of these projects provides a meaningful metric for assessing development activity over time. Figure 2.3 details the aggregate value of projects that have submitted applications for development review, offering insight into investment levels and the overall scale of development within the City.

# DPR: AS AN INDICATOR OF OVERALL DEVELOPMENT ACTIVITY

Fig. 2.4 presents the total gross floor area associated with projects subject to Development Plan Review (DPR). All new construction requires DPR, while only certain renovation projects are subject to this review, which limits the utility of renovation data. The chart shows a decline in activity - particularly new construction - between 2020 and 2022, likely attributable to the impacts of the COVID-19 pandemic, followed by a rebound in subsequent years. Excluding the pandemic period, the City averages 763,550 square feet of newly constructed floor area per year.

Fig. 2.4 - Annual Total Constructed Floor Area

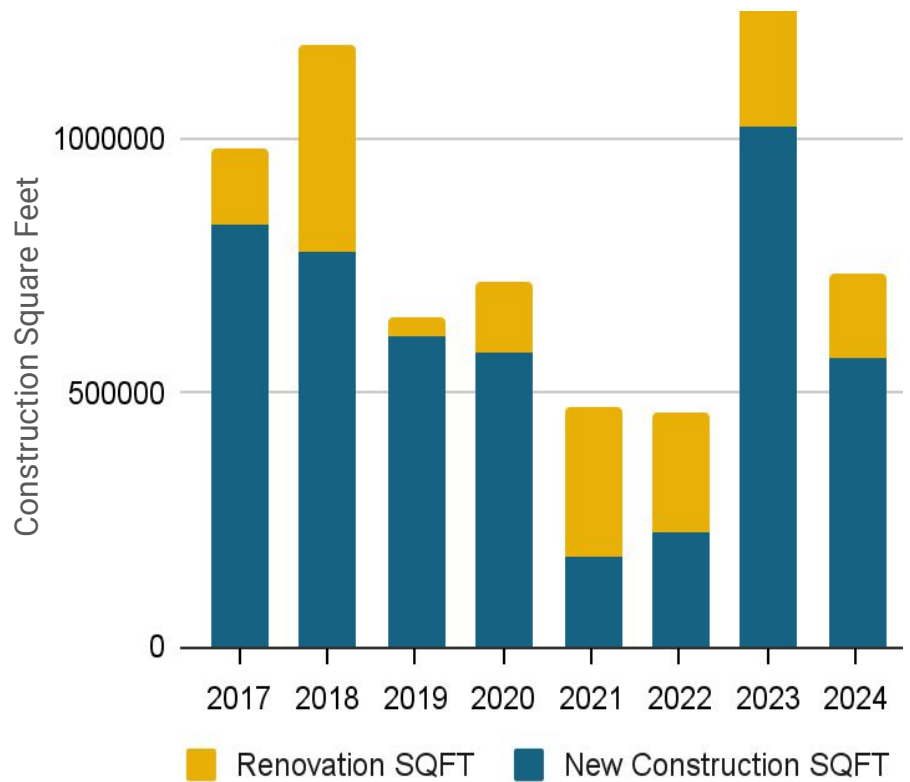
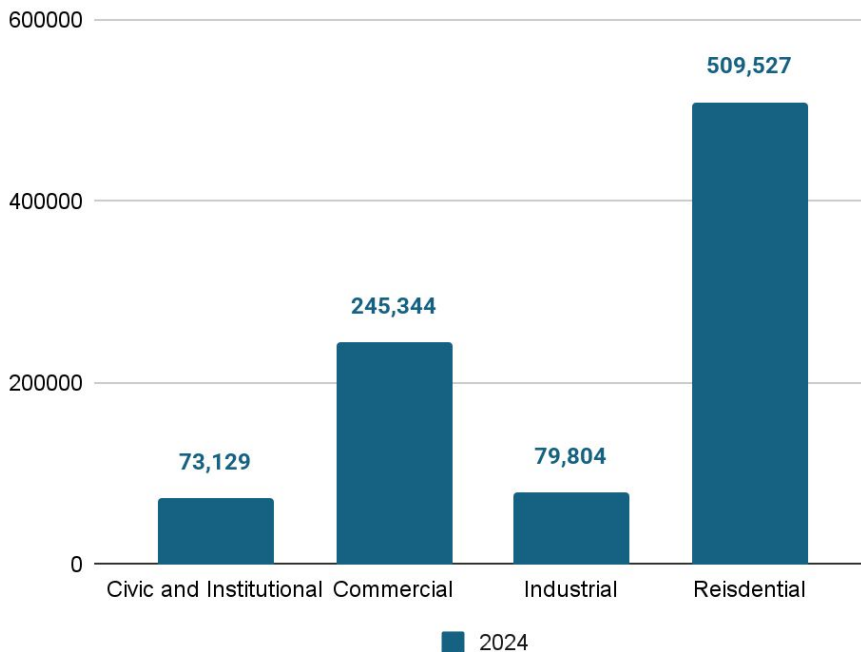


Fig. 2.5 - 2024 DPR Projects by Principal Use Class



As seen in Figure 2.5, over 900,000 square feet of development was reviewed in 2024. Residential projects accounted for 56%, followed by commercial at 27%, industrial at 9%, and civic/institutional at 8%. This distribution reflects the fact that most projects reviewed included a residential component as the primary use.

# DPR: APPLICATIONS and OUTCOMES

As shown in figure 2.6, the number of Development Plan Review (DPR) applications submitted in 2024 exceeded those of prior years.

An analysis of DPR applications submitted between 2017 and 2024 indicates that the median duration from submission to resolution is approximately 130 days, or just over four months.

Several factors influence the review timeline including compliance with the State Environmental Quality Review Act (SEQRA), referral to the Albany County Planning Board (ACPB), required public hearings, and reviews by City agencies as mandated by **§ 375-502** of the USDO.

Median Review Duration  
for a DPR, 2017-2024

**130 DAYS**

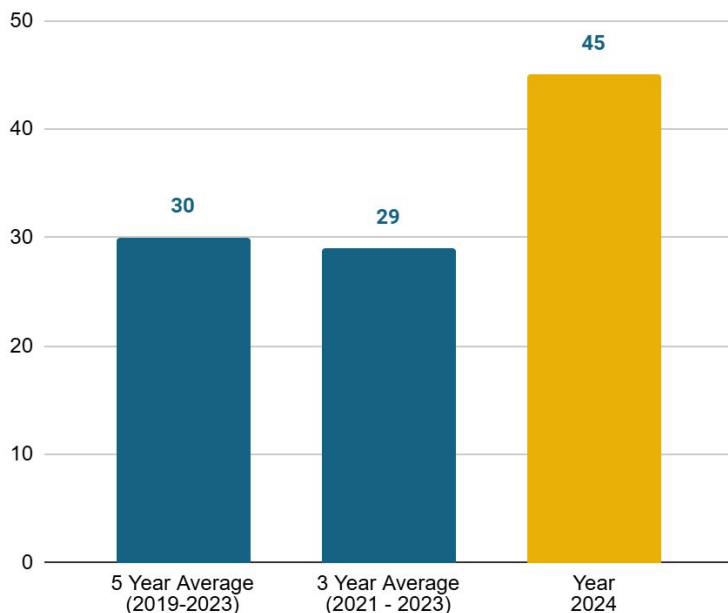


Fig. 2.6 - DPR Application Resolutions (2024)

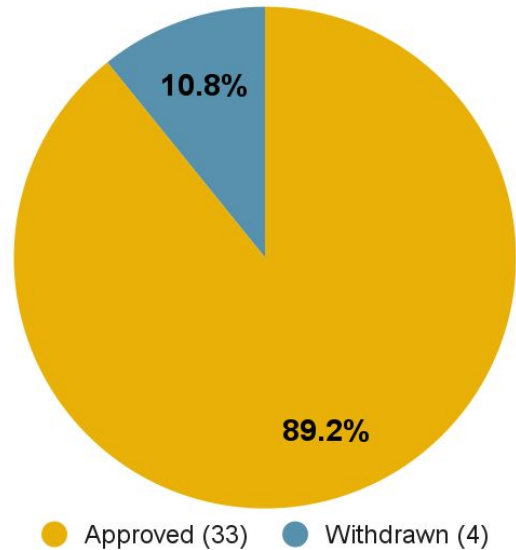


Fig. 2.7 - DPR Application Resolutions (2024)

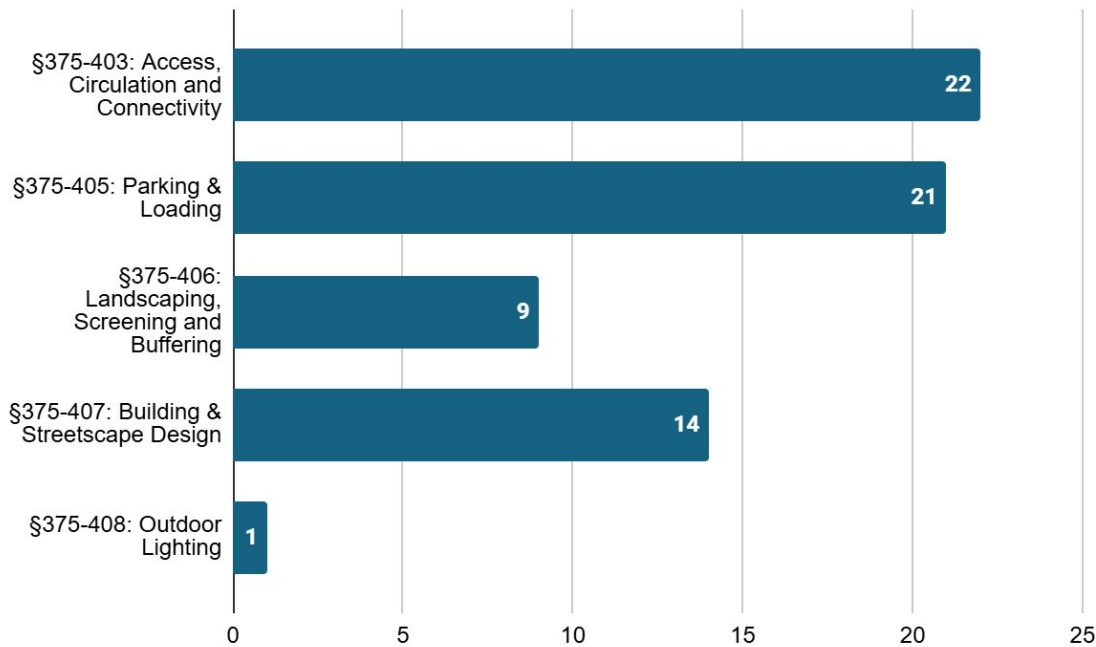
Of the DPR cases resolved as of this writing, 89.2% have been approved, while the remaining 10.8% were withdrawn. While formal denials are rare, this should not be interpreted as a lack of scrutiny or rigor in the process. DPR is intended to ensure that proposed projects conform to the clearly defined standards set forth in Article IV of the USDO. Applicants are often required to revise or refine their proposals through multiple rounds of feedback to achieve compliance. Requests to deviate from explicit standards are addressed through other procedures, such as variances or waivers. In some cases, an application withdrawal may suggest that a project was unable to respond to concerns raised during the review process.

# DPR: WAIVERS OF DEVELOPMENT STANDARDS

The USDO allows for waivers from the development standards in Article IV, subject to review and approval by the Planning Board. Since the waiver process was formalized in 2020, 67 waivers have been granted. Approximately 20% of DPR projects

request at least one waiver, and those projects typically seek an average of three. Figure 2.8 and Table 2.1 below provide a breakdown of waiver requests by code section, detailing both the types and frequency of waivers sought.

**Fig. 2.8 - Waivers by Development Review Standard (2020 - 2024)**



The individual sections of code most commonly prompting a waiver request are outlined below.

**Table 2.1 - Most common waivers by Code Section (2020 - 2024)**

Code Section	Description	Requests
§375-403(5)(b)(i)	Properties with frontage of 50 linear feet or more shall install a bench, bicycle rack, planter, trash receptacle, or piece of public art per 50 feet of frontage.	8
§375-406(4)(a)(i)	At least one shade tree shall be planted per 35 linear feet of street frontage.	7
§375-403(5)(a)(i)	A sidewalk of at least five feet in width shall be installed along each frontage.	6
§375-405(2)(c)(i)	Minimum or maximum off-street parking requirement	6
§375-403(6)(f)	Right-of-way access to individual lots shall not exceed 20 feet in width	4
§375-403(6)(b)(ii)	Right-of-way access locations shall be at least 60 feet from any intersection.	3
§375-405(5)(b)(i)	Off-street parking and vehicle maneuvering areas shall be provided behind the front wall plane of new and redeveloped buildings, or shall be located within the principal building or within a garage structure.	3



# CONDITIONAL USE PERMITS

## When and how specific uses are granted approval

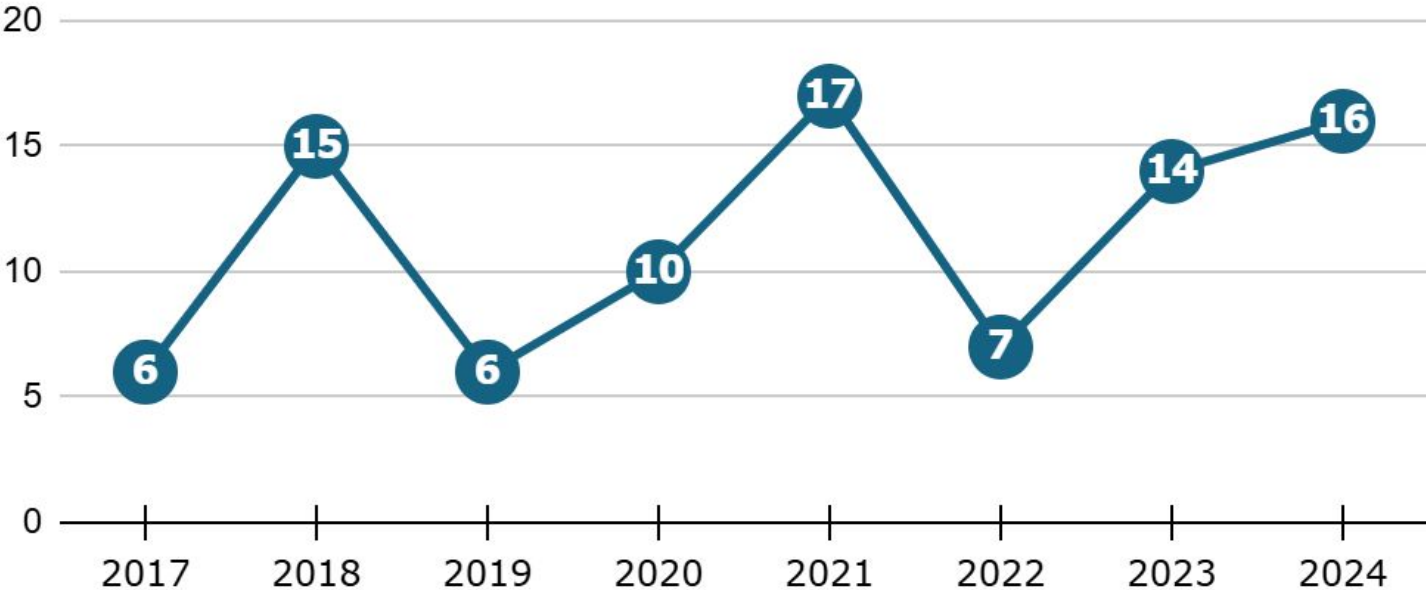
A **Conditional Use Permit (CUP)** is an authorization of a particular land use on a case-by-case basis, often subject to specific requirements imposed to ensure that the use will not adversely affect the surrounding areas or neighborhood. A CUP is the equivalent of a Special Use Permit under NYS General City Law. The Planning Board is empowered by the USDO to review CUP applications. Following a public hearing, the Board may approve a CUP if the proposed use meets all applicable review criteria.

Conditions imposed must be directly related to the use authorized by the permit and must address specific impacts or concerns arising from that use. They must also be reasonable, proportionate, and within the authority of the reviewing body.

### CUP REVIEW CRITERIA

- Is consistent with any provisions of this USDO and the Albany City Code;
- Will not result in a random pattern of development with little relationship to existing or planned development;
- Will not cause negative environmental impacts on adjacent properties
- Is consistent with the purposes and objective of the zoning district and the applicable use specific standards;
- Will not result in harmful cumulative effects or impacts of aggregate similar conditional uses;
- Will not place excessive burden on public improvements, facilities, services, and
- Will provide a necessary service in the interest of public and will contribute to the welfare of the community.

Fig. 2.9 Number of CUP Applications since USDO Application



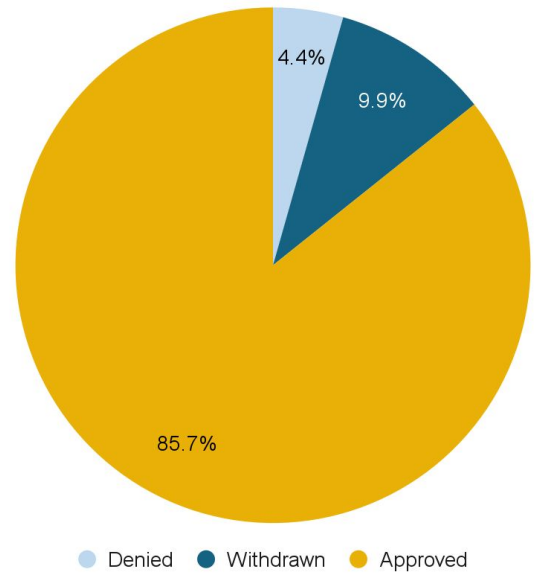
# CUP: APPLICATIONS and OUTCOMES

In 2024, a total of 16 CUP applications were submitted for review, surpassing both the three- and five-year historical averages. The average review period for a CUP application is approximately 106 days, or roughly 3.5 months.

Since the adoption of the Unified Sustainable Development Ordinance (USDO), approximately 86% of CUP applications have been approved. The approval rate for 2024 remains consistent with these historical trends.

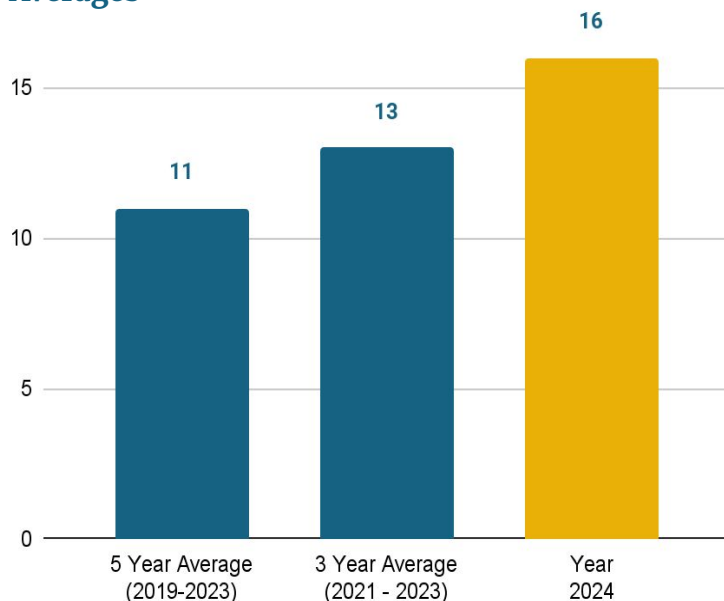
The average review period for a CUP is 106 days, or roughly 3.5 months. Notably, 66% of CUP approvals were without any conditions.

**Fig. 2.10 - CUP Application Resolutions (2017-2024)**



Average Review Duration for a CUP, 2017-2024  
**106 DAYS**

**Fig. 2.11 2024 DPR Applications vs. Prior Year Averages**



Altogether, 57% of Conditional Use Permit (CUP) applications submitted between 2017 and 2024 were for non-residential uses, with the remaining 43% for residential uses.

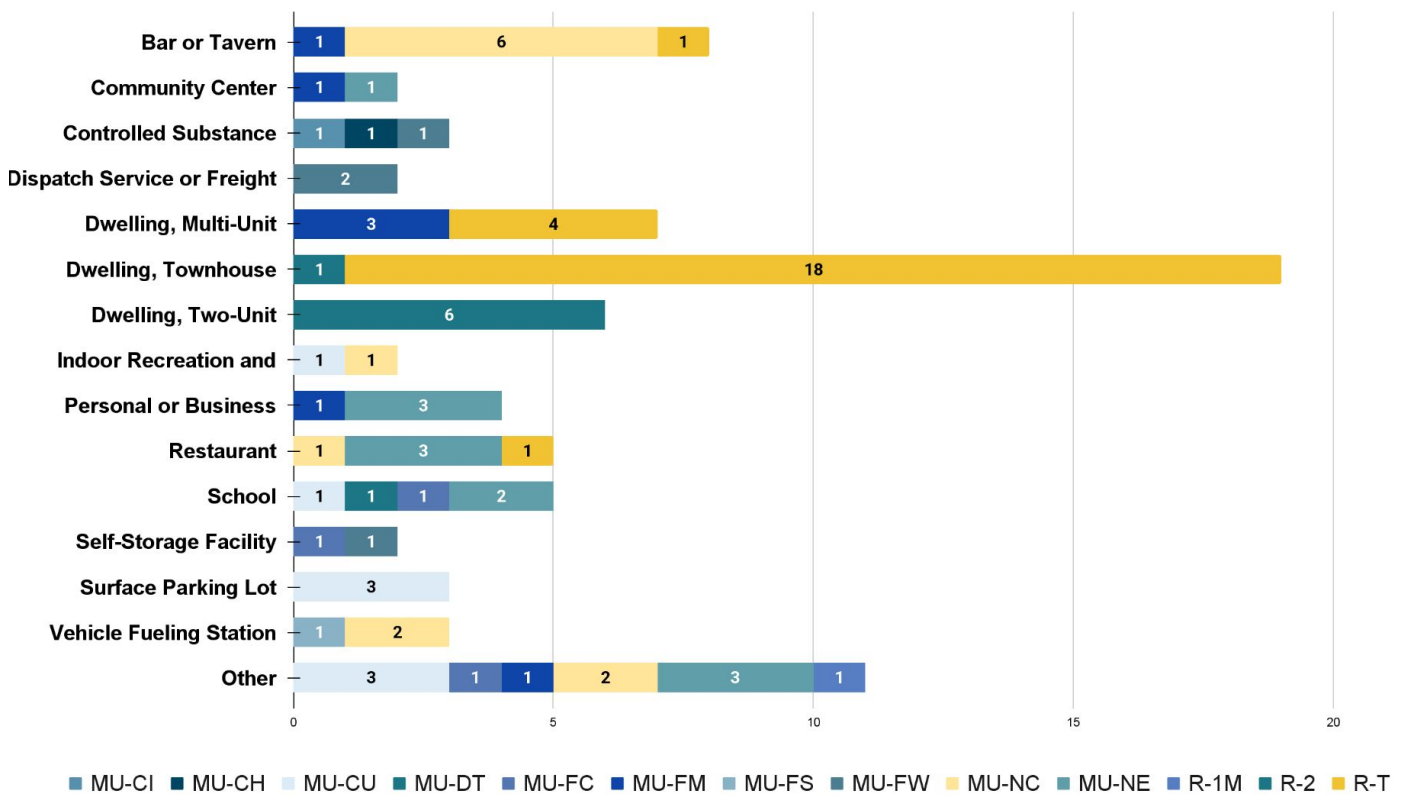
As detailed in the following pages, a notable share (30%) of all CUP applications involve the conversion of existing residential structures to increase the number of dwelling units.

# CUP: APPLICATIONS and OUTCOMES

Fig. 2.12 illustrates the types of uses CUPs requested, organized by application volume and zoning district. Notably, the most frequently cited use type is townhouse dwellings. CUPs are typically required either to increase the number of dwelling units within an existing

townhouse or to permit new townhouse construction in areas predominantly zoned for detached homes. Between 2017 and 2024, all but one CUP application fell under the category of conversion. This trend is examined in more detail on the following page.

**Fig. 2.12 CUP Application Resolutions (2017-2024)**



Other notable CUP requests during the study period include:

- Conversion of single-unit dwellings to add a second unit in the R-2 district (6)
- The establishment of new bars or taverns in the MU-NC district (6)
- Re-occupancy of existing nonresidential building types as multi-unit dwellings in the R-T district (4)
- Construction of new multi-unit dwellings in the MU-FM district (3)
- Personal/business service and restaurant use in the MU-NE district (3 each)
- Creation of surface parking lots in the MU-CU district (3)

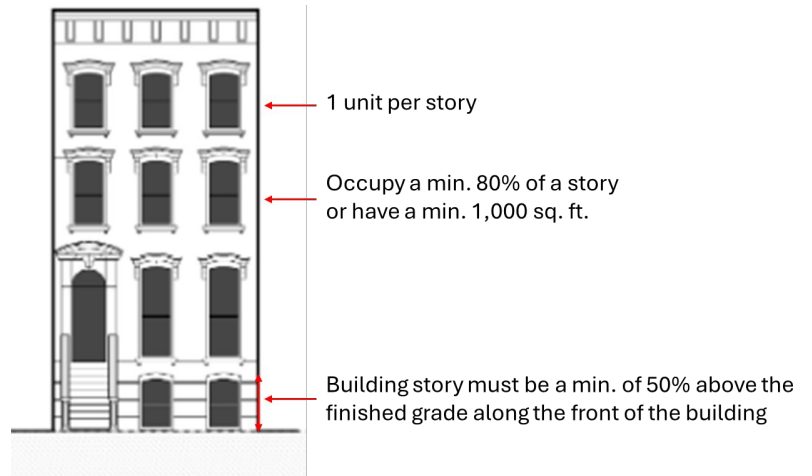
Excluding the dominant number of townhouse conversion requests, the **MU-NE and MU-NC districts recorded the highest number of CUPs, with 12 each.**

# CUP: INCREASING THE NUMBER OF UNITS WITHIN AN EXISTING STRUCTURE

A significant portion of CUPS involve requests to add dwelling units to existing single- or two-unit residential buildings within the R-2 (Two-unit) and R-T (Townhouse) zoning districts. Since 2017, approximately 27% of all CUP applications have been for this purpose - yet only 1 out of 26 has been denied. Notably, the sole denial resulted from noncompliance with the use-specific standards, not discretionary judgement.

This exceptionally high approval rate suggests that the CUP process may be functioning as a procedural formality rather than a meaningful tool for land use review. This issue is particularly evident given that residential conversions are already subject to some of the most detailed and prescriptive use-specific standards within the USDO. These include requirements related to lot size, unit size, building configuration, and compatibility with neighborhood design character, all of which must be met for an application to qualify for a CUP. When these objective criteria are satisfied, there is effectively no discretionary basis for denying the permit. As a result, the CUP process adds unnecessary time, cost, and uncertainty without delivering a corresponding public benefit.

**Fig. 2.13 CUP Residential Conversion requirements illustrated**



**Fig. 2.14 CUP Residential Conversion illustrations**



Source: Google Maps

# CERTIFICATES OF APPROPRIATENESS

## How proposed changes are reviewed in historic districts

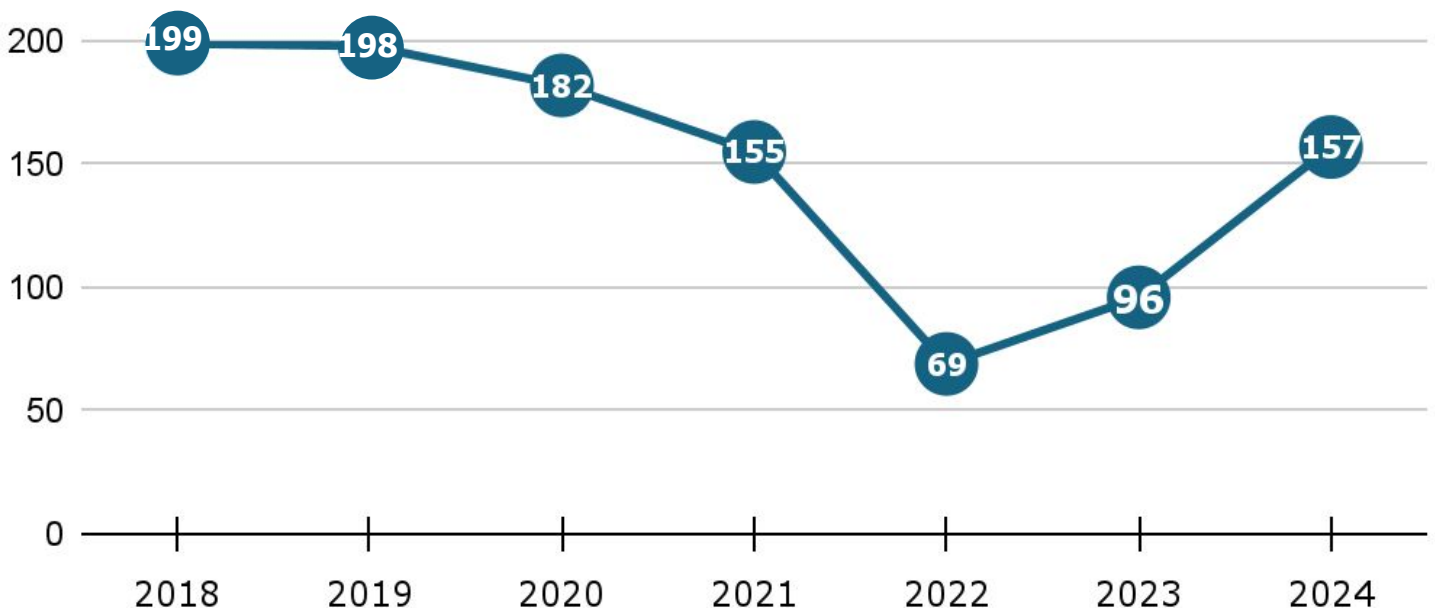
A **Certificate of Appropriateness (COA)** is a formal approval required for any proposed work that may alter the exterior appearance of a property located within a historic district or designated as a historic landmark. The purpose of the COA is to ensure that such work is consistent with the historic, architectural, and aesthetic character of the property and its surrounding context. Alterations subject to review are limited to areas of the property visible from the public right-of-way; interior changes and exterior alterations not visible from public view are not subject to review.

Generally, staff is responsible for reviewing work that involves repair or in-kind replacement, while the **Historic Resources Commission (HRC)** must approve new construction or work that deviates from established historic guidelines.

### COA REVIEW CRITERIA

- Is compatible with the general design, scale, and character of the existing structure and the historic district;
- Relates appropriately to surrounding buildings in terms of height, massing, rhythm, and setbacks;
- Utilizes materials, textures, and colors that are consistent with those historically found in the district;
- Maintains visually harmonious proportions of facades, window and door openings, roof shapes, etc.
- Employs compatible colors and materials that reflect the architectural vocabulary of the area;
- Avoids the use of inappropriate contemporary materials that mimic historic elements without authenticity

Fig. 2.15 Number of COA Applications since USDO Application

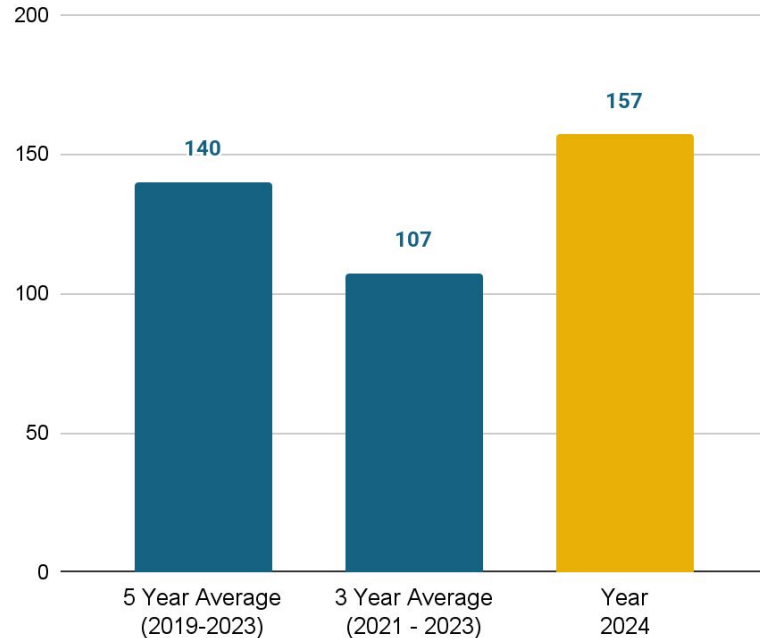


# COA: APPLICATIONS AND OUTCOMES

In 2024, a total of 157 COA were submitted, exceeding both the five-year and the three-year average (107). The average review period for a COA application is approximately 30 days, or roughly 1 month.

Since the adoption of the USDO, the COA process has maintained a consistently high approval rate with only 3 denials over a seven-year period. As detailed in the following pages, a 2022 policy change in the USDO, removing paint as a standalone application type, contributed to a notable reduction in Minor COA applications in the years that followed.

Fig. 2.16 - COA Applications



## DID YOU KNOW?

Albany is the oldest continuing settlement in the nation and still serves under its original charter, dating back to July 22, 1686.

## Average Review Period for a COA (Days)

**30 DAYS**

Fig. 2.17 - COA Application Resolutions (2024)

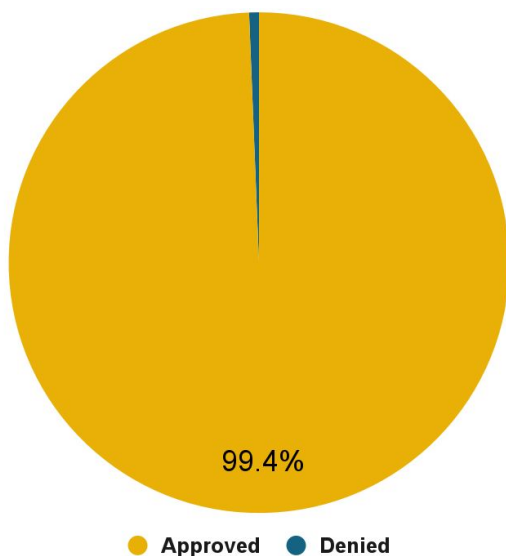
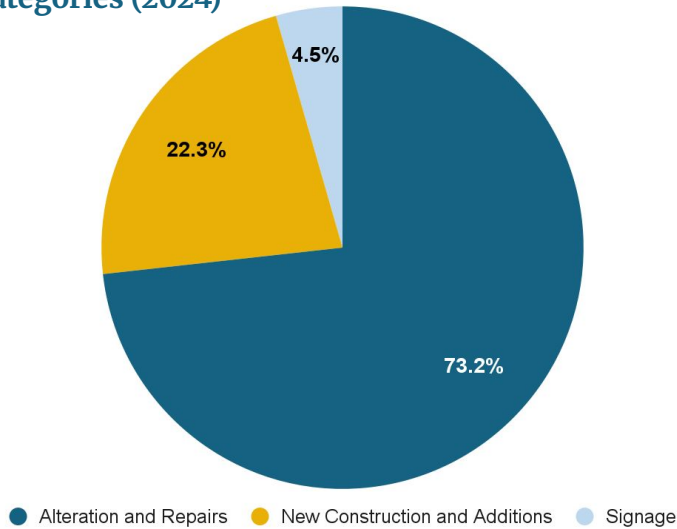


Fig. 2.17 highlights trends associated with the outcomes of COA process. Contractors and developers are generally proactive and demonstrate adherence to applicable regulations, often consulting with historic preservation planner prior to submitting an application. This collaboration is reflected in a high approval rate—99.4 percent in 2024. Of the 157 applications reviewed for 2024, only one was denied. The denial involved a retroactive COA for work completed without prior approval and without a permit.

# COA: APPLICATIONS AND OUTCOMES

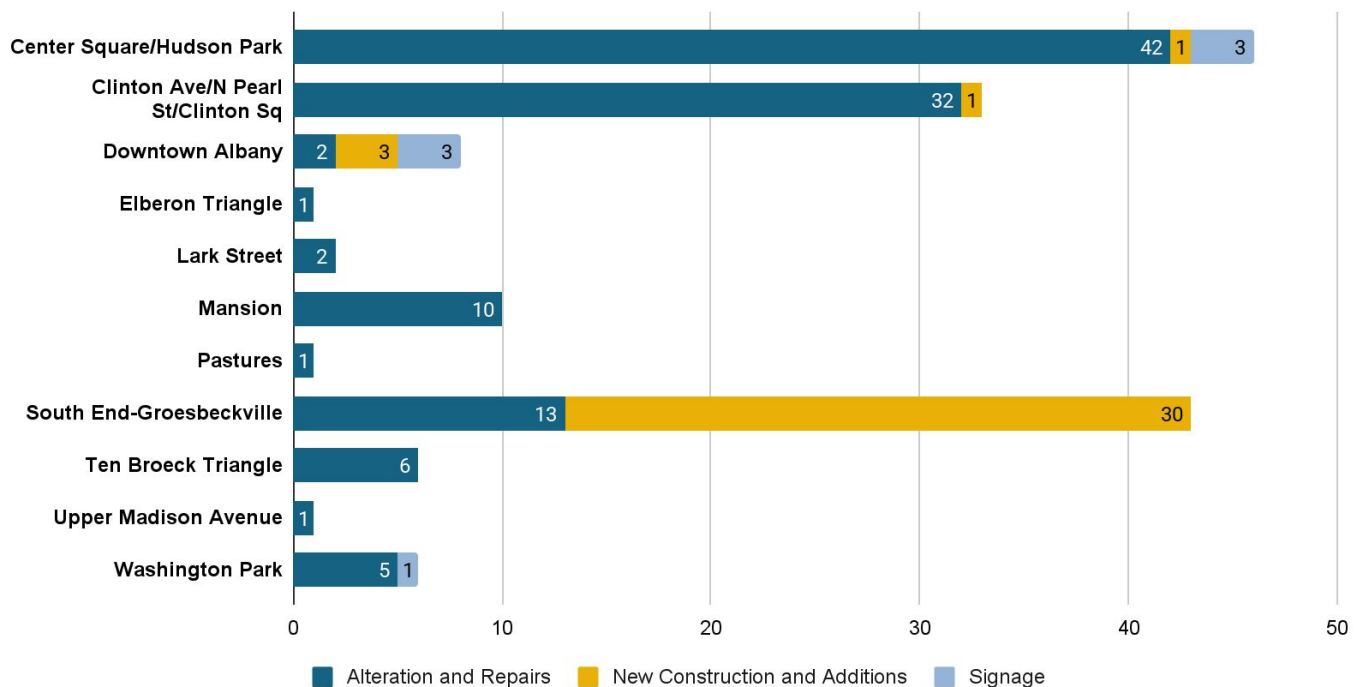
**Fig. 2.18- COA Application Resolutions by Proposal Categories (2024)**



Major COAs including alterations and repairs, new construction, and substantial façade changes require review and approval by the HRC. In 2024, a total of 38 Major applications were submitted. Minor COAs, covering restoration work and in-kind replacements, are reviewed administratively.

A total of 119 Minor applications were submitted in 2024, including 106 for alterations and repairs, 6 for additions, and 7 for signage.

**Fig. 2.19 COA Application Resolutions by Historic Districts (2024)**



Of the City's 15 designated historic districts, 11 had COA applications submitted in 2024. The Center Square/Hudson Park Historic District accounted for the highest number of applications (46), with 91% categorized as alterations and repairs. The South End

Historic District had 2nd highest number of applications (43), largely driven by two large-scale, multi-parcel development projects. Not all historic districts include the same number of buildings, so these numbers aren't directly proportionate to the total investment in a given area.

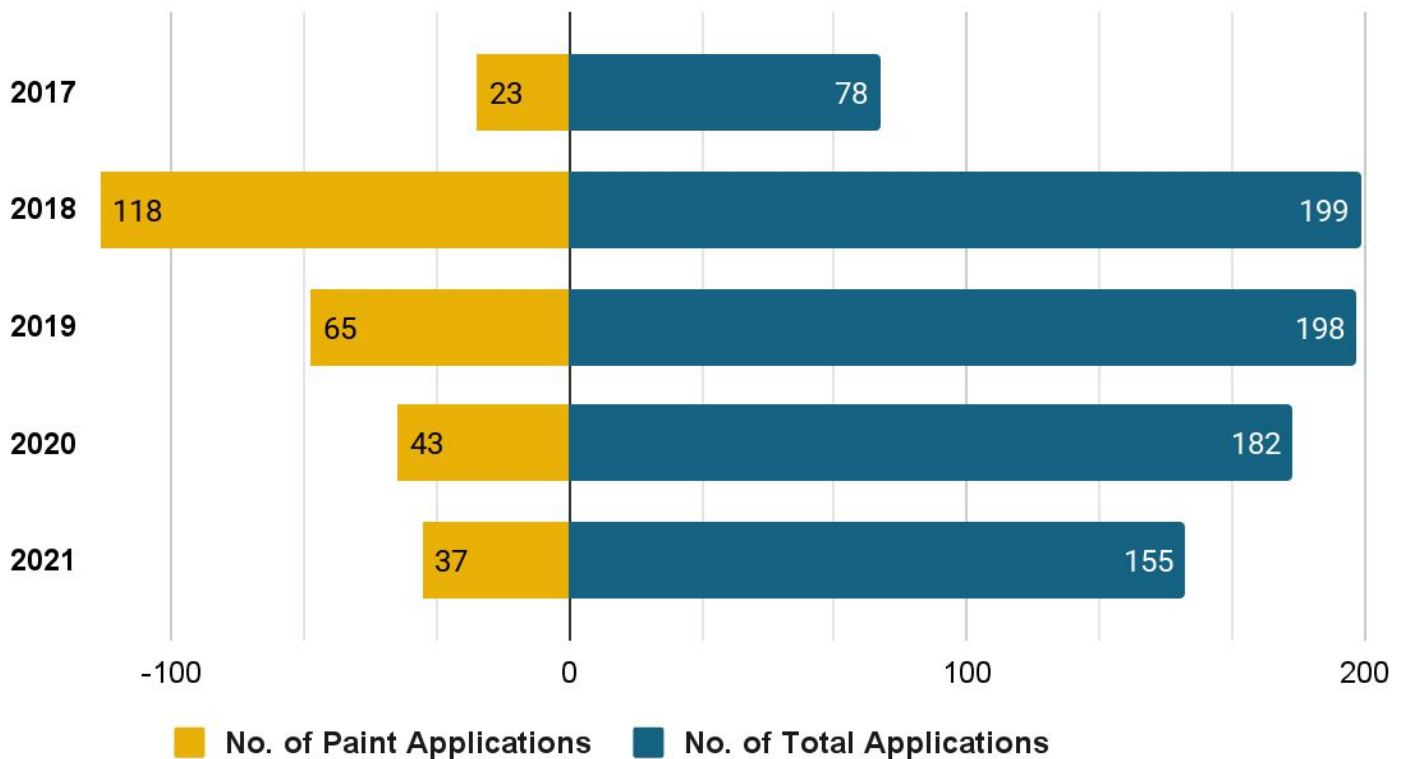
# COA: PAINT APPLICATIONS

Paint applications previously made up a substantial share of minor COAs with as many as 59% of applications in a given year solely related to paint. However, an ordinance adopted in 2022 removed the COA requirement for painting a historic structure, provided that the work is limited to areas of the building intended to be painted. This change reflected a broader intent to

reduce regulatory burden while maintaining essential design guidelines under the USDO, such as the continued prohibition on painting exposed masonry.

The removal of paint applications resulted in a substantial decrease in minor COA applications in the following years as illustrated in fig 2.20

Fig. 2.20 COA Applications for paint vs total applications (2024)



Between 2017 and 2021, paint applications represented a significant portion of Minor COA submissions, peaking in 2018, when they accounted for 59% of all applications (118 out of 199).

The highest volume of paint-related applications during this 5-year period came from the Center Square/Hudson Park Historic District (109); the Clinton Avenue/N. Pearl Street Historic District (87).



# AREA VARIANCES

## Deviations from physical and dimensional standards

An Area Variance is an authorization that allows for the use of land in a way that deviates from the physical or dimensional requirements set forth in the applicable zoning regulations. The authority to approve or deny an Area Variance rests with the Board of Zoning Appeals (BZA).

*In making its determination regarding a request for an area variance, the BZA shall **take into consideration the benefit to the applicant** if the variance is granted, as weighed against the detriment to the **health, safety and welfare** of the neighborhood or community.*

**- § 375-505(10)(c)(i)**

### AREA VARIANCE CRITERIA

- Whether an undesirable change will be produced in the character of the neighborhood.
- Whether the benefit sought by the applicant can be achieved by some method feasible.
- Whether the requested area variance is substantial.
- Whether the proposed variance will have an adverse effect or impact on the neighborhood or district.
- Whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the BZA.

Fig. 2.21 Number of Area Variance Applications since USDO Application



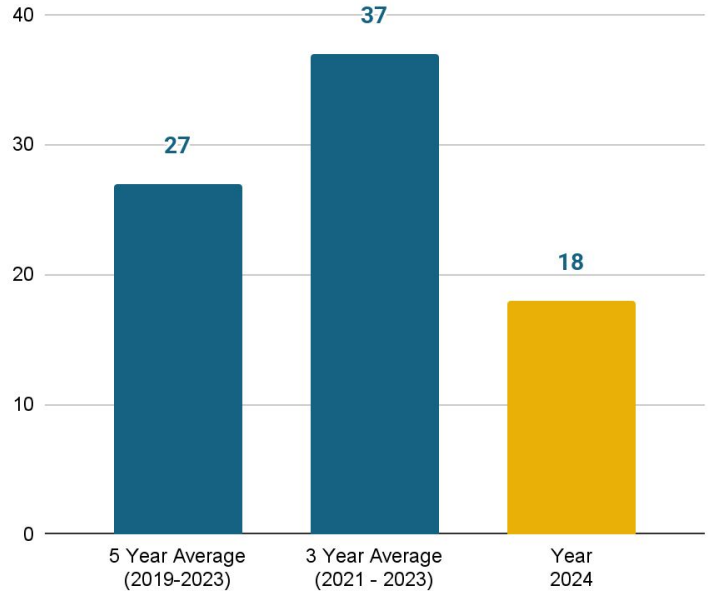
# AV: APPLICATIONS AND OUTCOMES

A total of 18 Area Variance applications were submitted in the 2024 calendar year, marking a decline compared to both the three- and five-year averages. In most cases, applicants sought multiple variances for a single project; as a result, the 18 applications originated from just 8 distinct projects or applicants.

Average Review Period for an Area Variance (Days)

**59 DAYS**

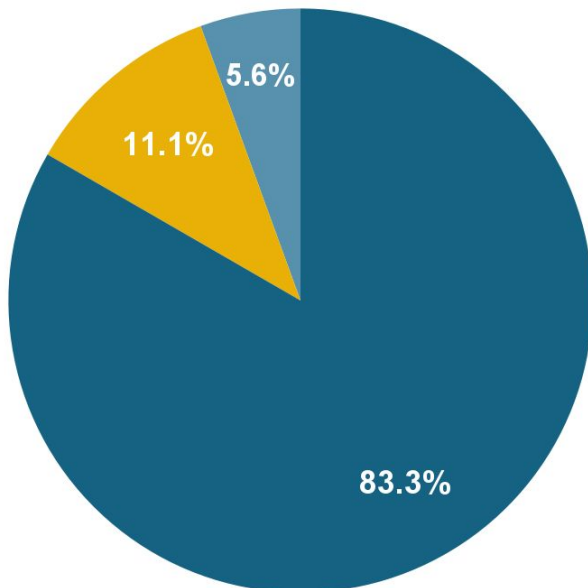
Fig. 2.22 - AV Applications



## DID YOU KNOW?

Before the adoption of the USDO in 2017, the City received an average of more than 100 Area Variances each year.

Fig. 2.23 - Area Variance Application Resolutions (2024)



● Approved (15) ● Denied (2) ● Withdrawn (1)

Of the 18 Area Variances considered by the Board of Zoning Appeals (BZA) in the 2024 calendar year, 15 were approved, 2 denied, and 1 withdrawn.

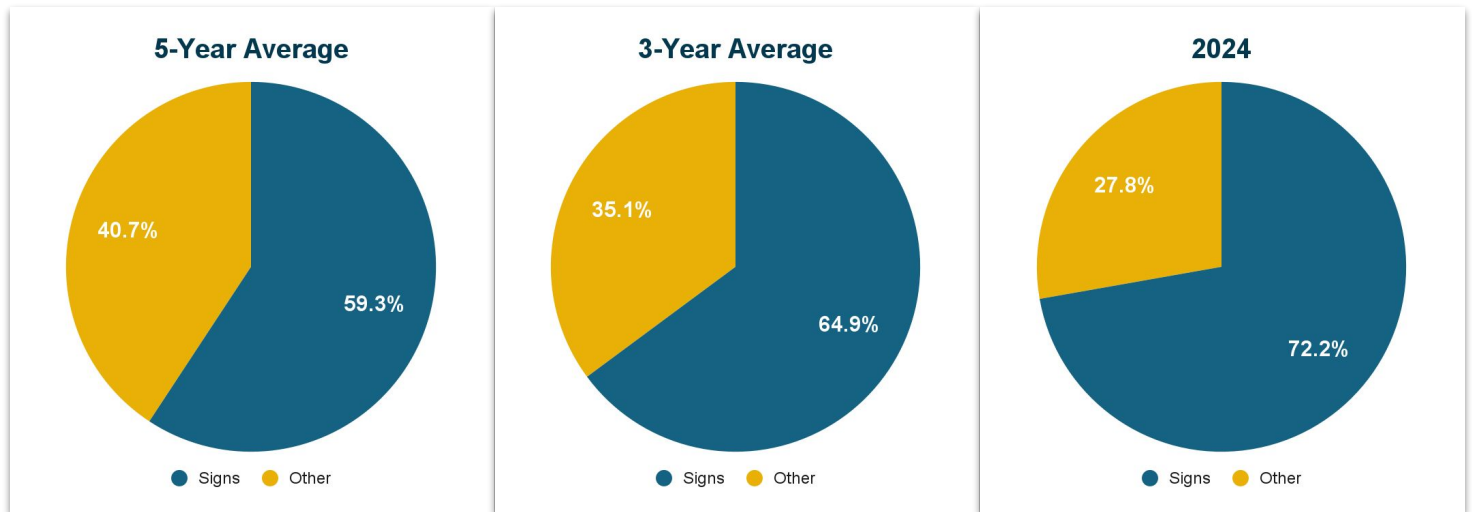
The average review period for an Area Variance application was 59 days, or just under two months. The BZA meets monthly, with applicants attending an average of two meetings per application.

# AV: SIGN-RELATED AREA VARIANCES

The vast majority of Area Variance requests in 2024 – consistent with the period between 2017 and 2024 – involved proposed deviations from signage regulations, reflecting an ongoing trend over the past several years. This proportion is expected to decline in the coming years following the passage of Ordinance No. 65.111.24, as detailed later in this report.

It is anticipated that the total number of Area Variance applications in 2026 will decrease by approximately 40% compared to the five-year average. This projection is based on an analysis of past signage-related variance requests and the regulatory changes introduced through Ordinance No. 65.111.24, which are expected to significantly reduce the need for such applications in the future.

**Fig. 2.24 - Percentage of Area Variance Applications Involving Signage**



**Table 2.2 - Expected reduction in variances as a result of Ordinance #65.111.24**

Sign Variance Sub Class	Number of Requests	Not required under new regulation	% reduction anticipated
Sign Size	35	25	71%
Number of Signs Per Frontage	19	18	95%
Sign Height	16	9	56%
Electronic Sign Copy Prohibition	5	0	0%
<b>Total</b>	<b>75</b>	<b>52</b>	<b>69%</b>

# USE VARIANCES

## When and how prohibited uses may be allowed

A Use Variance allows a use that is otherwise prohibited under the zoning regulations. State law sets a high threshold for approval, requiring applicants to demonstrate that the property is uniquely burdened and cannot yield a reasonable return under any permitted use, supported by credible financial evidence. The Board of Zoning Appeals (BZA) is responsible for reviewing and deciding such requests.

*“As the use variance grants permission to the owner to do what the use regulations prohibit, **this power of the board of appeals must be exercised very carefully** lest there be serious conflict with the overall zoning scheme for the community.”*

**- NYSDOS James A. Coon Local Government Technical Series, Zoning Board of Appeals**

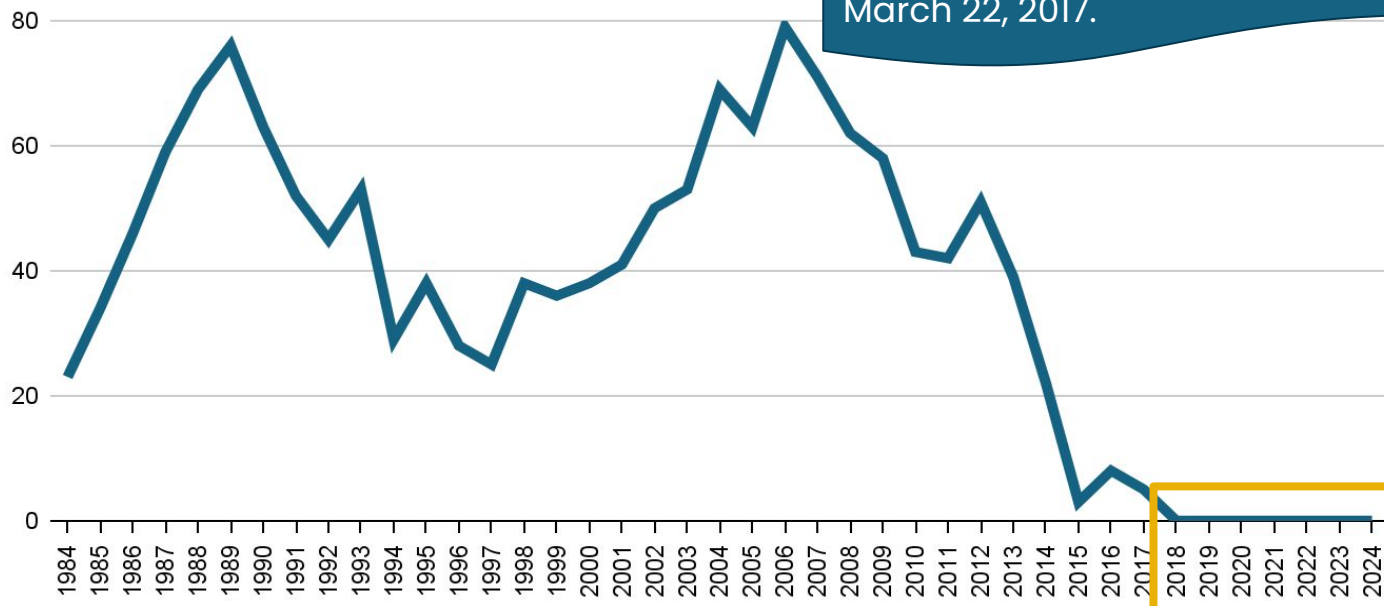
### USE VARIANCE CRITERIA

- The applicant cannot realize a reasonable return, provided that lack of return is substantial as demonstrated by competent financial evidence;
- The alleged hardship relating to the property is unique, and does not apply to a substantial portion of the district or neighborhood;
- Will not alter the essential character of the neighborhood; and
- The alleged hardship has not been self-created.

### DID YOU KNOW?

The Board of Zoning Appeals last approved a Use Variance on March 22, 2017.

Fig. 2.25 Number of Use Variance Applications



# OTHER DEVELOPMENT REVIEWS and PROCEDURES

## Major Subdivision of Land

A major subdivision involves dividing land into five or more new lots, or any subdivision requiring new public infrastructure beyond basic utility connections. Subdivisions creating four or fewer lots are typically reviewed as traditional Lot Modifications. These applications are reviewed by the Planning Board and must comply with both local procedures and New York State law.

Due to most of the city being built out, large-scale land divisions requiring new public infrastructure are increasingly uncommon.

### REVIEW CRITERIA

- The proposed lots created will meet the dimensional standards for that district;
- The subdivision is consistent with the Comprehensive Plan;
- Is consistent with all provisions of the USDO, Albany City Code, and General Municipal Law; and
- The proposed development complies with all requirements or conditions of approval of any prior development permits applicable

### REVIEW CRITERIA

- Complies with applicable district plan standards or justifies any variations;
- Minimizes impacts on nearby residential areas compared to standard development;
- Avoids greater strain on City infrastructure than standard development would cause; and
- Public safety, transportation, and utilities can support the proposed level of development

## District Plan Approval

Institutions or campuses with 10 or more contiguous acres under common ownership may expedite future development approvals by obtaining a comprehensive district plan that covers all their properties. Before applying, the institution must hold a community meeting and submit a summary of public feedback with the application. Once approved, future developments consistent with the plan may proceed through administrative review without additional public hearings. Recommended changes are discussed the at the end of this report.

# OTHER DEVELOPMENT REVIEW PROCEDURES

## Design Review Tall Buildings

This review applies to new buildings over 100 feet tall and was introduced alongside the removal of the former 85-foot height cap in the downtown area—the only part of the City where such height is permitted. It is intended to ensure that tall buildings meet high standards of architectural design, enhance the pedestrian experience, preserve light and air for public spaces, minimize shadow impacts, and remain consistent with the character and goals outlined in the MU-DT zoning district. Applications are subject to review by the Planning Board.

### REVIEW CRITERIA

- Meets applicable design standards;
- Shows architectural quality in materials, layout, and facades;
- Preserves light and air for nearby public spaces;
- Supports walkability and pedestrian access;
- Minimizes or mitigates shadows on parks;
- Activates the street at ground level;
- Fits the intended downtown character

### REVIEW CRITERIA

- Risk to life, property, and nearby land;
- Vulnerability of the structure and need for location;
- Compatibility with surrounding development and City plans;
- Availability of safer alternatives;
- Emergency access and public safety impacts;
- Potential costs and challenges to public services;
- Flood behavior at the site (height, velocity, wave action); and
- Additional technical factors may apply

## Floodplain Variance

This variance provides limited relief from floodplain development standards in unique cases, such as small lots, historic buildings, or functionally dependent uses. Approval requires strong justification, demonstrated hardship, and evidence that the variance is the minimum necessary and will not increase flood risk or public costs. These variances are rarely granted and are reviewed under strict criteria to ensure safety and regulatory compliance.

# OTHER DEVELOPMENT REVIEW PROCEDURES

## Demolition Review

A demolition review is required before demolishing any building or structure unless exempted. Exemptions include principal structures under 20,000 sq ft in the I-2 zoning district, partial demolitions affecting less than 25% of non-street-facing areas, and accessory structures under 1,000 sq ft not visible from the public right-of-way. Emergency safety powers remain unaffected. The review follows standard city development procedures.

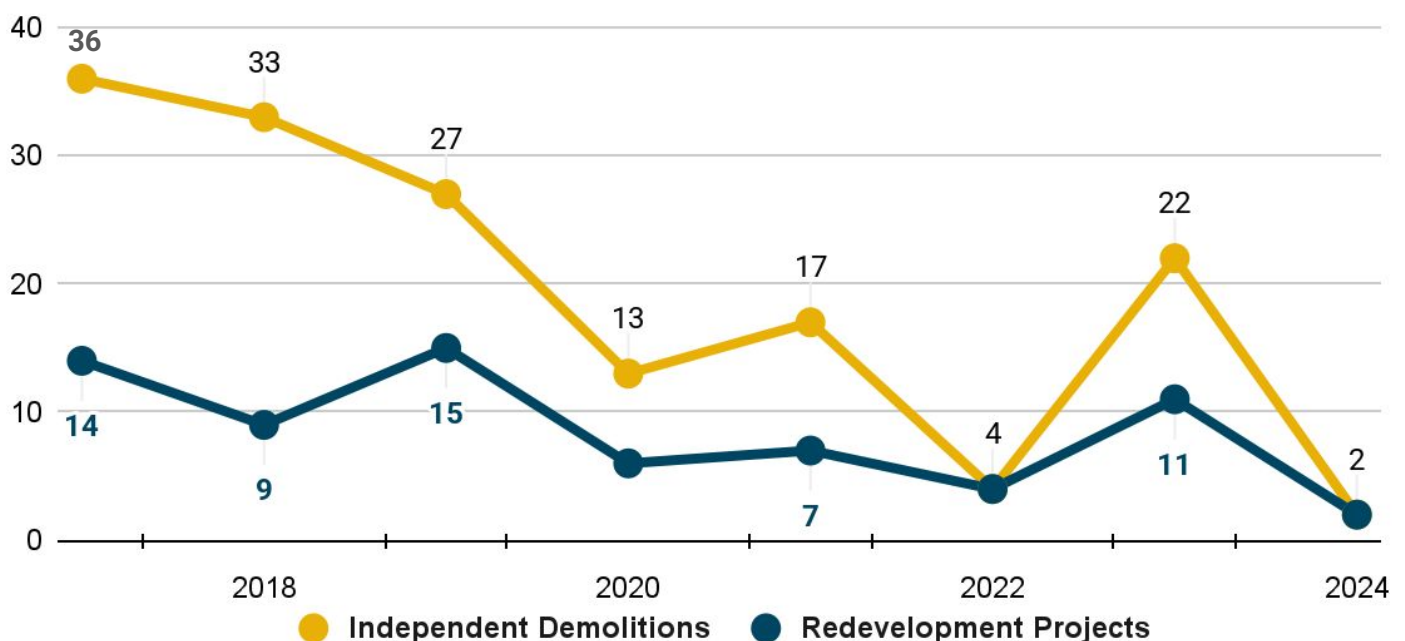
### REVIEW CRITERIA

- Historical/cultural significance and impact of loss;
- Building's fit with neighborhood character;
- Condition and rehab viability;
- Feasibility of preservation or adaptive reuse; and
- Whether hardship is self-created or due to neglect

### DEMOLITION FOR REDEVELOPMENT

- Appropriateness of redevelopment plan
- Quality of proposed replacement construction and necessity
- Consistency with Comp. Plan

Fig. 2.26 Number of Demolition Review Applications since USDO Application



# OTHER DEVELOPMENT REVIEW PROCEDURES

## Historic Property Hardship Waiver

This application is used to request exceptions to historic preservation rules or permission to demolish, remove, or relocate historic buildings, typically when strict standards create practical difficulties or economic hardship for the property owner. It allows owners to seek relief when maintaining full compliance is impractical or overly burdensome. The HRC evaluates the justification and may approve limited modifications

### REVIEW CRITERIA

- Substantial financial hardship proven by competent evidence;
- Hardship is unique to the property and not self-created;
- Relief won't change neighborhood character;

### DEMOLITION/REMOVAL/RELOCATION

- Applicant has imminent redevelopment or reuse plan
- Denial prevents reasonable return on investment
- Attempts to find preservation-minded purchaser failed
- Hardship not caused by neglect or waste



# CHAPTER 3

# POLICY DECISIONS

# ZONING AMENDMENTS

## Text Amendments

An applicant may request a USDO text amendment by submitting an application to the **Chief Planning Official (CPO)**, who shall initiate the application in accordance with § 375-505(20)(b)(i). A member of the Common Council may also initiate a USDO text amendment by introducing an ordinance, which shall be shared with the CPO for review and comment. While input from the Planning Board may be requested or provided, official Planning Board action is not required when the amendment is introduced as original legislation by a member of the Common Council.

*"It is obvious that provision must be made for **changing the regulations as conditions change or new conditions arise**. Otherwise zoning would be a "strait-jacket" and a detriment to a community instead of an asset."*

**- Comment from A Standard State Zoning Enabling Act, United States Department of Commerce, revised edition, 1926.**

### ZONING MAP OR TEXT AMENDMENT CRITERIA

- Is consistent with the Comprehensive Plan;
- Doesn't conflict with other provisions of the USDO and City Code;
- Is required by changed conditions;
- Addresses a demonstrated community need;
- Will improve compatibility among uses and would ensure efficient development within the City;
- Will result in a logical and orderly development pattern; and
- Will avoid significant adverse impacts on the environment

Zoning Text Amendments  
(2024)

5

# SMOKE OR VAPE SHOPS

## Ordinance 10.42.24

From 2021 to 2023, the City received 19 applications for smoke shops and similar retailers selling tobacco products, smoking accessories, or cannabis paraphernalia. This rise, which coincided with state cannabis legalization, revealed a regulatory gap: unlike licensed dispensaries, these businesses are not subject to state proximity requirements or oversight, limiting local control over their placement.

To address this, the City adopted an ordinance clarifying how such businesses are defined and regulated under the USDO. The amendment established a distinct use category, giving the City clear authority to manage their location and ensure consistency with broader planning goals.

### **SMOKE OR VAPE SHOP DEFINITION**

*“An establishment primarily engaged in the retail sale of tobacco, tobacco products, or tobacco paraphernalia, electronic smoking devices, liquid nicotine containers or vapor products. A use shall be defined as a smoke or vape shop by considering factors such as the proportion of floor area dedicated to the display or sale of said products, the proportion of total revenue derived from said products, and the overall marketing or branding of the establishment.”*

Fig. 3.1 - Vape Shop Illustration



Source: Google Maps

### **RESULT**

- Establishes a new use classification titled “Smoke or Vape Shop,” with a corresponding definition.
- Specifies the zoning districts where this use is permitted.
- Prohibits smoke and vape shops from locating within 1,000 feet of one another.

# COMMERCIAL FOOD PREPARATION

## Ordinance 10.42.24

The USDO contained ambiguities regarding the classification and regulation of businesses engaged in the commercial preparation of food, such as commissary kitchens, ghost kitchens, cloud kitchens, and catering operations. Upon receiving inquiries about such uses, DPD staff reviewed the matter and determined that the best approach to resolution was to adopt new regulations, including the creation of a new use classification for commercial food preparation.

Fig. 3.2 - Commercial Food Kitchen Illustration



Source: Google Maps

### COMMERCIAL FOOD PREPARATION DEFINITION

*“A facility in which food is processed or otherwise prepared, primarily for off-site consumption and/or sales. **Facilities may be shared among various food processors, producers, or preparers.** Uses may include, but are not limited to: commissary kitchen, ghost kitchen, cloud kitchen and catering.”*

**- USDO Section 375 - 602**

### RESULT

- Establishes a new use classification titled “Commercial Food Preparation,” complete with a formal definition.
- Specifies the zoning districts where this use is permitted.
- Requires that, when located in shopfront spaces within certain mixed-use districts, the use must include a food service or retail component for on-site sales.
- Revises the definition of “shopfront” to provide clearer criteria for qualification under this designation.

# ADDING SINGLE-, 2-, 3-UNIT DETACHED DWELLINGS AS PERMITTED USE IN THE MU-CI ZONING DISTRICTS

## Ordinance 65.111.24

The closure of the College of Saint Rose in December 2024 prompted a review of the MU-CI (Mixed-Use Campus Institutional) zoning district to support the adaptive reuse of the former campus. Planning staff identified that several compatible residential uses, specifically one-, two-, and three-unit dwellings historically present on the site, are not currently permitted under the USDO.

These buildings, many of which were originally constructed as small-scale residential homes, represent a valuable and desirable housing stock that could be readily reoccupied. However, current zoning restrictions limit their reuse for residential purposes.

To address this, an amendment was introduced to expand the range of permitted uses in the MU-CI district to include these residential types. The amendment has received strong support throughout the review process and is awaiting final SEQRA determination before adoption. The change will help reintegrate these structures into the neighborhood fabric and support the ongoing revitalization of the area.

Fig. 3.3 - 2 unit dwelling in MU-CI Zoning District



Source: Google Maps

## RESULT

- Permits one-, two-, and three-unit detached dwellings as allowable uses within the MU-CI zoning district.
- Facilitates the adaptive reuse of properties decommissioned by the College of Saint Rose.

# REQUIREMENTS FOR SIGNS

## Ordinance 65.111.24

This ordinance clarifies and strengthens existing signage regulations in the USDO by eliminating ambiguities and establishing clear methods for calculating sign area across different sign types. While preserving key standards, the revisions introduce targeted flexibility to better accommodate a range of building sizes and street frontages, ensuring signage is appropriately scaled without compromising the integrity of the City's goals.

The ordinance was prompted by a sharp increase in variance requests—95 since 2021—with over 80% approved, highlighting the need to revise existing regulations. Preliminary results suggest that the revisions have significantly reduced the demand for variances by aligning the code more closely with real-world conditions. The updated rules strike a more effective balance between zoning objectives and practical considerations for property owners.

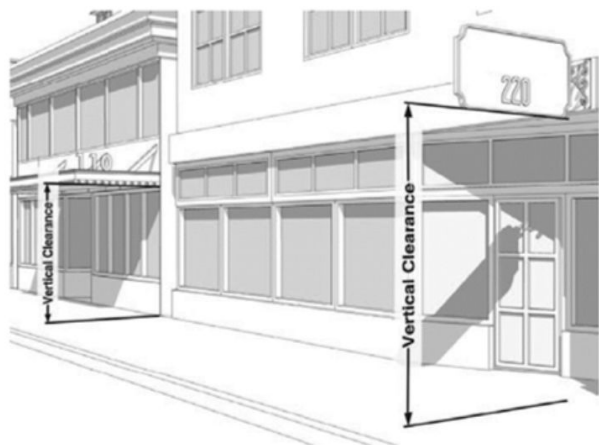
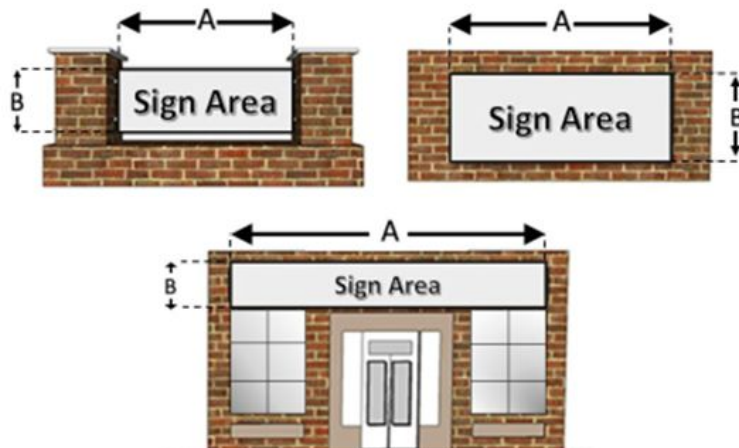


Fig. 3.4- Signage illustrations, USDO § 375- 405



Source: USDO Article IV, § 375-409

### RESULT

- Establishes standardized methods for calculating sign area.
- Introduces two separate tables to differentiate standards for attached and detached signage.
- Applies cumulative sign size and frontage-based criteria to provide greater flexibility.
- Significantly reduces the frequency of variance requests.

# INCENTIVIZING THE CONSTRUCTION OF AFFORDABLE and INCLUSIONARY HOUSING

## Ordinance 27.91.24

This ordinance expands the USDO's affordable housing incentives to make them more practical and enticing to smaller-scale developers. Previously, location-based restrictions and high parking requirements prevented any use of the program since its adoption. By removing these barriers, the updated incentives aim to encourage more inclusive housing opportunities across a wider range of neighborhoods.

Affordable housing requirements and incentives often focus on large-scale developments, but these amendments are designed to encourage affordability at a smaller scale, better suited to the character of many existing neighborhoods and zoning districts. The ordinance also simplifies the review process for qualifying projects, placing them under Minor Development Plan Review and aligning residential and non-residential thresholds. These changes reduce procedural burdens while advancing the City's broader housing and equity goals.

### RESULT

- Expands the geographic scope of the affordable housing incentive by allowing its use in all residential districts and removing setback restrictions.
- Increases the allowable parking reduction for qualifying projects to 100%.
- Permits a 20% reduction in the maximum allowable dwelling units for qualifying projects.
- Aligns the minimum thresholds for major and minor development plan reviews for residential projects with those applied to commercial, institutional, and industrial developments.
- Reclassifies qualifying projects as minor developments for development plan review purposes.
- Raises the minimum development plan review threshold for commercial-to-residential conversion projects from 5 to 20 units.

# ZONING AMENDMENTS

## Map Amendments

A Zoning Map Amendment is a planning tool that allows municipalities to rezone specific properties in response to changing conditions, provided those changes align with sound planning principles and land use goals. While zoning regulations are intentionally rigid to ensure consistency and predictability, map amendments offer necessary flexibility to address evolving development patterns, infrastructure investments, economic conditions, and community needs over time.

A Zoning Map Amendment may be initiated in two ways. An applicant may submit a request to the Common Council by filing an application with the Chief Planning Official, who will process the application in accordance with § 375-505(20)(b)(i). Alternatively, a member of the Common Council may initiate an amendment by introducing an ordinance. This ordinance must be shared with the Chief Planning Official for review and comment and may be referred to the Planning Board for input; however, formal action by the Planning Board is not required prior to adoption.

**Zoning Map Amendments  
(2024)**

**4**

### ZONING MAP OR TEXT AMENDMENT CRITERIA

- **Is consistent with the Comprehensive Plan;**
- **Doesn't conflict with other provisions of the USDO and City Code;**
- **Is required by changed conditions;**
- **Addresses a demonstrated community need;**
- **Will improve compatibility among uses and would ensure efficient development within the City;**
- **Will result in a logical and orderly development pattern; and**
- **Will avoid significant adverse impacts on the environment**

#### Zoning Map amendment additional standards:

- **Is compatible with existing and proposed uses surrounding the subject land; and**
- **Will result in development that is adequately served by public facilities.**



# 139 LARK STREET (Ordinance 12.51.24)

Ordinance 12.51.24 amended the City's zoning map by reclassifying the property located at 139 Lark Street from R-T (Townhouse) to MU-CU (Mixed-Use Community Urban).

The change was intended to facilitate the reuse of a long-vacant, historically designated building by incorporating it into the adjacent zoning district, which permits a broader range of uses and higher residential density.

## RESULT

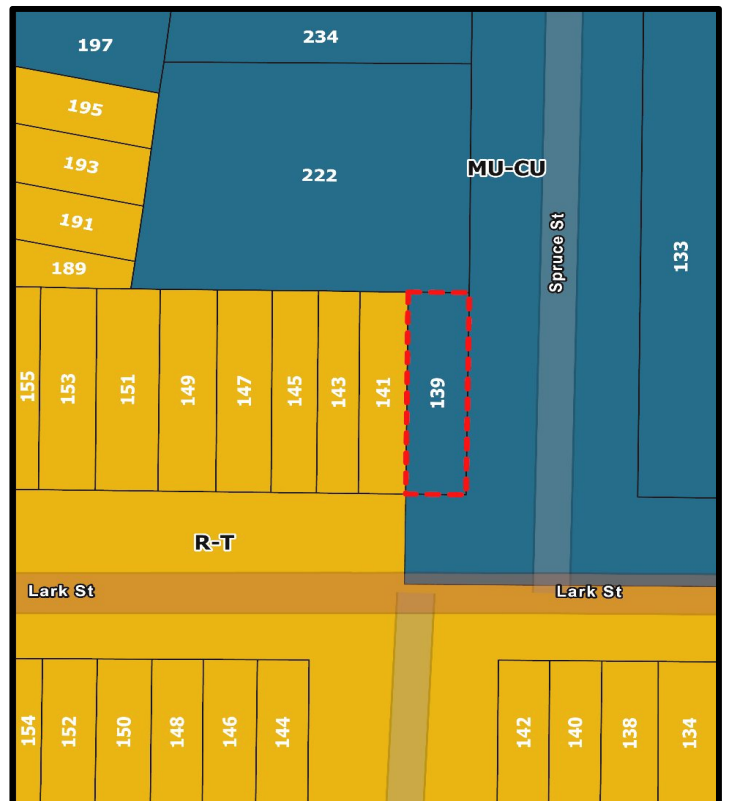
- The long-vacant property at 139 Lark Street is undergoing rehabilitation.
- The project will create six new residential dwelling units.
- The effort preserves and restores a contributing structure within the Lark Street Historic District.

Fig. 3.5 2024 Rezoning of 139 Lark St. (R-T to MU-CU)

Map A: Existing Zoning



Map B: Proposed Zoning



# 31 TRINITY PLACE (Ordinance 66.111.24)

Ordinance 66.111.24 amended the City's zoning map by reclassifying the property located at 31 Trinity Place from R-T (Townhouse) to MU-NE (Mixed-Use Neighborhood Edge).

The parcel - formerly the site of Trinity Church, which was demolished in 2011 - has since been acquired by Trinity Alliance, which plans to expand its community center onto the site. The rezoning was necessary to accommodate the proposed expansion, which would not be permitted under the previous R-T zoning classification.

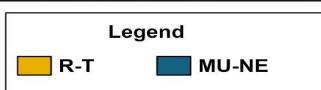
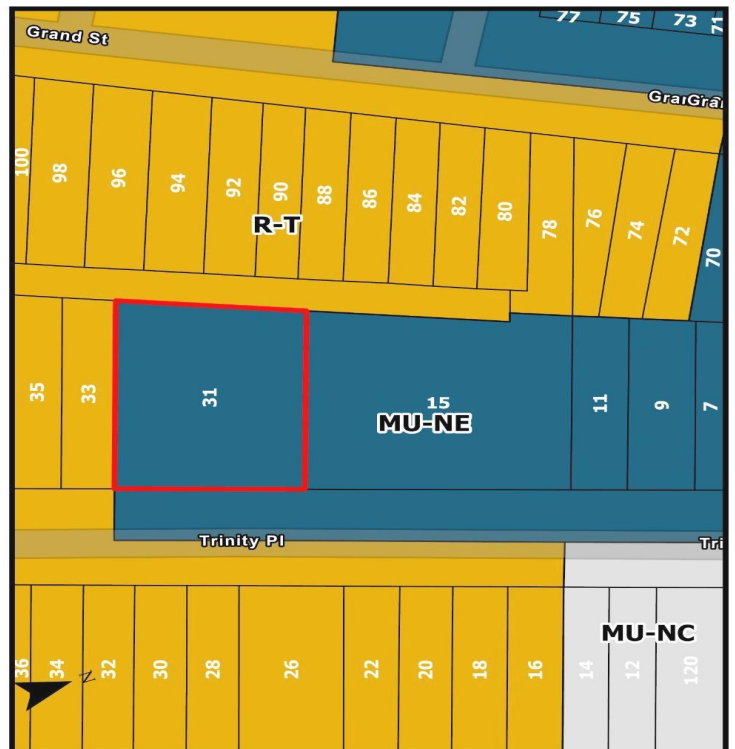
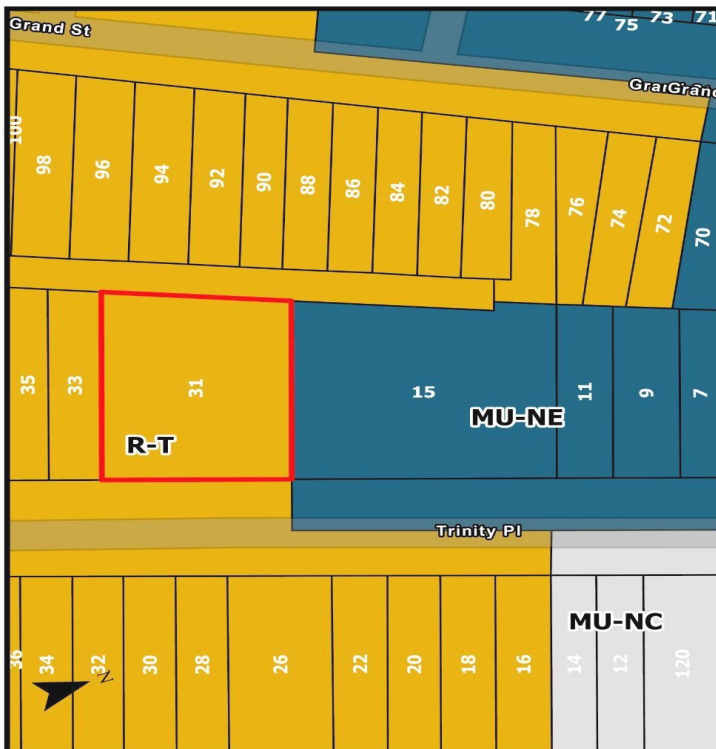
## RESULTS

- **Contiguous parcels owned by Trinity Alliance are now uniformly zoned, simplifying future development and site planning.**
- **The ordinance paves the way for a \$10.3 million expansion of Trinity Alliance's community center.**
- **After 14 years of inactivity, property will be reactivated and returned for productive community use.**

Fig. 3.6 2024 Rezoning of 31 Trinity Place. (R-T to MU-NE)

Map A: Existing Zoning

Map B: Proposed Zoning



# 280 MOUNT HOPE DRIVE (Ordinance 76.122.23)

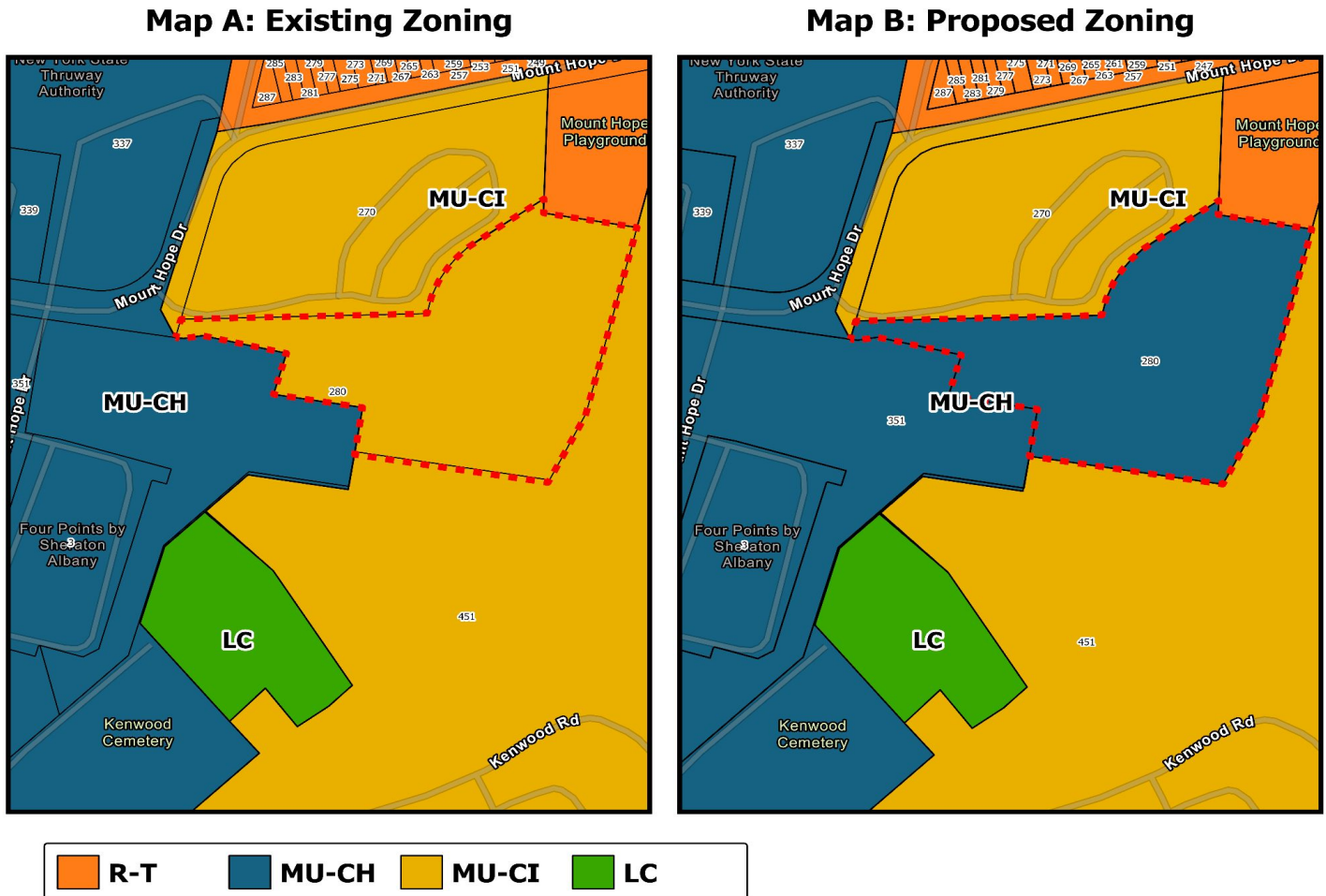
Ordinance 76.122.23 amended the City's zoning map by reclassifying the property located at 280 Mount Hope Drive from MU-CI (Mixed-Use Campus Institutional) to MU-CH (Mixed-Use Community Highway).

The parcel's limited frontage and access constraints pose challenges to its independent reuse. The rezoning permits shared use with the adjacent property, facilitating the redevelopment of a vacant building located there.

## RESULTS

- A long-vacant property is currently undergoing rehabilitation and redevelopment.
- The rezoning facilitated the development of a \$9.5 million self-storage facility.

Fig. 3.7 2024 Rezoning of 280 Mount Hope Drive (MU-CI to MU-CH)



# 184-196 LIVINGSTON AVENUE (Ordinance 13.51.24)

Ordinance 13.51.24 amends the City's zoning map by reclassifying the properties located at 184 through 196 Livingston Avenue from R-T (Townhouse) to MU-NE (Mixed-Use Neighborhood Edge).

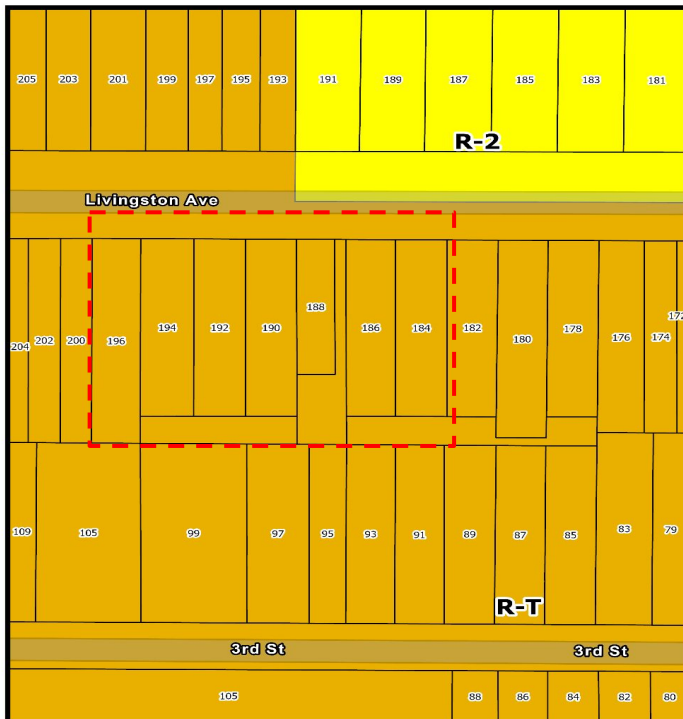
This rezoning brings the existing cultural facility—the Underground Railroad Education Center—into compliance by providing a zoning designation that permits its current use and supports the construction of a new building to expand its programs. While a broader rezoning was considered, it was determined that reclassifying only the affected parcels sufficiently meets the intended goals while preserving compatibility with the surrounding residential neighborhood.

## RESULTS

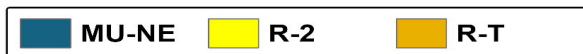
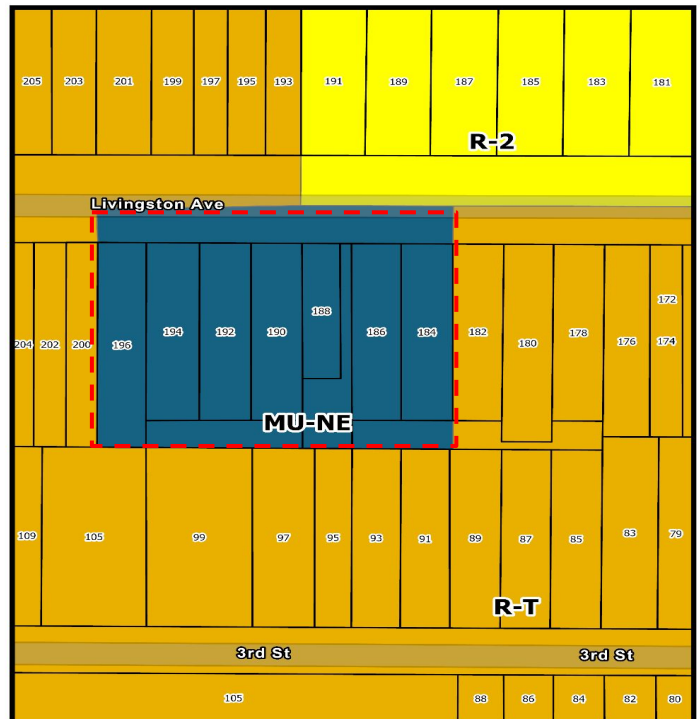
- **Contiguous property owned by UREC is now uniformly zoned under a consistent designation.**
- **The new zoning designation will enable a \$9.7 million expansion of the existing cultural facility.**

Fig. 3.8 - 2024 Rezoning of 184-196 Livingston Ave. (R-T to MU-NE)

Map A: Existing Zoning



Map B: Proposed Zoning



# CHAPTER 4

# INCLUSIONARY ZONING

# INCLUSIONARY ZONING

On April 3, 2023, the USDO was amended to revise the inclusionary housing provisions. The amendment requires all developments with 20 or more dwelling units to designate a specified percentage of units as affordable to households earning no more than 60% of the area median income. The number of affordable units required is determined by the number of total units in the project, as shown in Table 4.1.

**Table 4.1 Affordable housing requirements**

Number of units within the project	% of units that must be affordable
20-49 Units	7%
50-59 Units	10%
60-75 Units	12%
76 or more	13%

**Table 4.2 - Housing Development Projects Subject to Inclusionary Zoning (1/18 – 2/24)**

Project Address	Year Approved	Total Units	Project Type	% Affordable Units Required*	Affordable Units Required
<b>Completed Projects</b>					
16 Sheridan Avenue	2018	133	Conversion	5%	7
1 Steuben Place	2018	59	Conversion	5%	3
76 North Pearl Street	2018	63	Conversion	5%	3
745 Broadway	2020	80	New Construction	5%	4
25 Holland Avenue	2020	60	New Construction	5%	3
425 North Pearl Street	2021	82	Conversion	5%	4
19 & 21 Erie Boulevard	2021	261	Conversion	5%	13
1379 Washington Avenue	2022	100	Conversion	5%	5
324 State Street	2023	29	Conversion	7%	2
1383 Washington Avenue	2024	99	Conversion	13%	13
<b>Under Construction</b>					
1211 Western Avenue	2019	136	New Construction	5%	7
563 New Scotland Avenue	2019	188	New Construction	5%	9
244 State Street	2022	61	Conversion	5%	3
48 North Pearl Street	2023	20	Conversion	7%	1
<b>Approved but not constructed</b>					
705 Broadway	2019	129	New Construction	5%	6
76 Second Avenue	2020	184	New Construction	5%	9
237 Western Avenue	2022	83	New Construction	5%	4
97 Central Avenue	2023	47	Conversion	7%	4
1361 Broadway	2024	220	New Construction	5%	11
<b>Under Review</b>					
575 Broadway	n/a	49	Conversion	7%	3

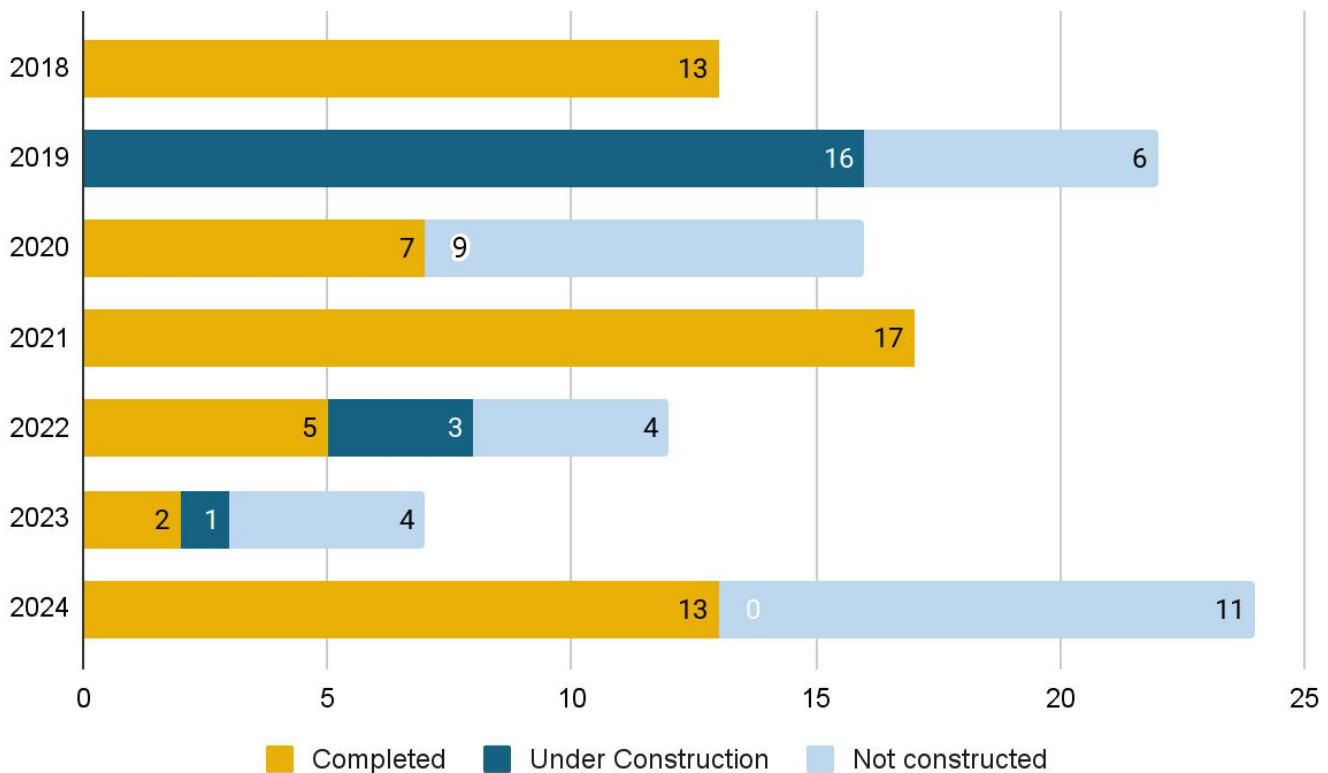
\*% of affordable IZ units required is based on the date an application was submitted.

Table 4.2 on the preceding page identifies projects subject to the inclusionary zoning regulations, excluding those already planned to consist of dwelling units priced at or below market rate, such as projects subsidized through New York State’s Low-Income Housing Tax Credit (LIHTC) program. The projects are categorized by their current development status: completed, under construction, approved but not yet constructed, and those still under review.

The table also specifies the project type - new construction or conversion of an existing non-residential structure - and the required percentage of units to be set aside, which varies based on the project’s submission date for review.

Notably, only 50% of proposed new construction projects have materialized, compared to 91% of conversion projects, highlighting the challenges involved in advancing new construction developments.

**Fig. 4.1 – Status of Approved Inclusionary Housing Units by Year Approved (2018-2024)**



**Inclusionary Units Constructed Per Year (2018-2024)**

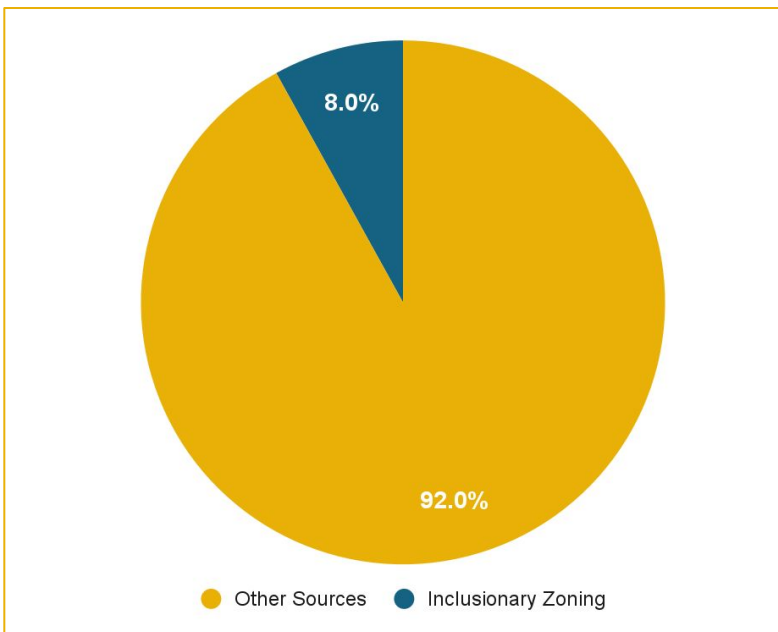
**12**

Since its inception, the inclusionary housing program has required a total of 111 units to be set aside, averaging 17 units per year. However, as shown in Figure 4.2, approximately 30% of associated projects have not been constructed and remain in an uncertain status. Adjusting for this, the actual number of units constructed stands at 83 - an average of 12 units per year.

Legislated changes to the policy in 2023 were intended to increase the total number of units produced through the inclusionary zoning program. In reality, the number of units has declined, mirroring a decrease in the number of project submissions during the subsequent period. Project proposals generated approximately 17 units annually under the original 5% requirement, while only 11 units per year have been produced under the new, higher variable requirement - including those projects currently under review.

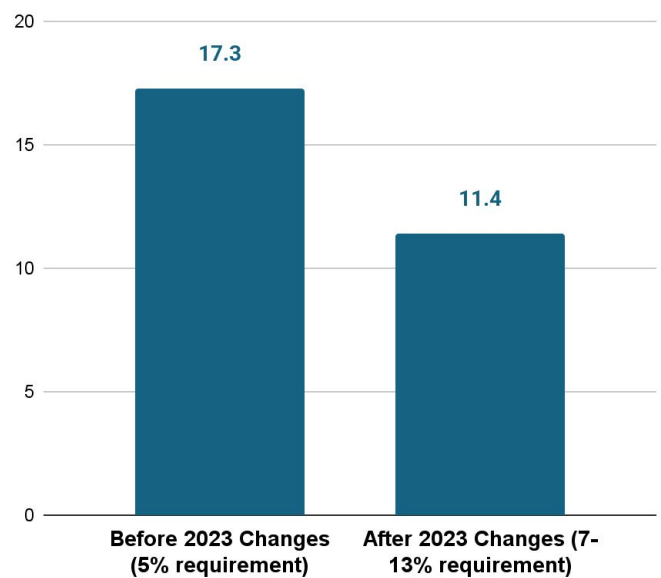
Of the projects the Planning Board has reviewed under the inclusionary housing policy changes adopted in 2023, only one exceeded 49 units—the threshold at which the required set-aside percentage rises above the base 7%. This project was highly unique: a hotel conversion into 99 residential units intended for students at the

**Fig. 4.3 – Inclusionary Units as a % of Total Affordable Units (2018-2024)**



University at Albany. The project resulted in the creation of 13 affordable units and is one of the few completed since the 2023 amendments took effect. While college students may qualify for inclusionary units based on income, they represent a distinct market segment that does not align with the traditional populations the policy is designed to serve.

**Fig. 4.2 – Units created by IZ requirements, annually, before and after 2023 policy change**



There are a myriad of ways through which the City facilitates the creation of new affordable housing units, including participation in programs such as New York State’s Low-Income Housing Tax Credit (LIHTC) program. As shown in Figure 4.3, units produced through the City’s inclusionary housing program accounted for only a small share - approximately 8% - of the total affordable housing units reviewed by the Planning Board between 2018 and 2024. This figure does not distinguish between units that have been completed and those not yet constructed.



# CHAPTER 5

# PROSPECTIVE POLICY

# DEVELOPMENT

# ACCESSORY DWELLING UNITS

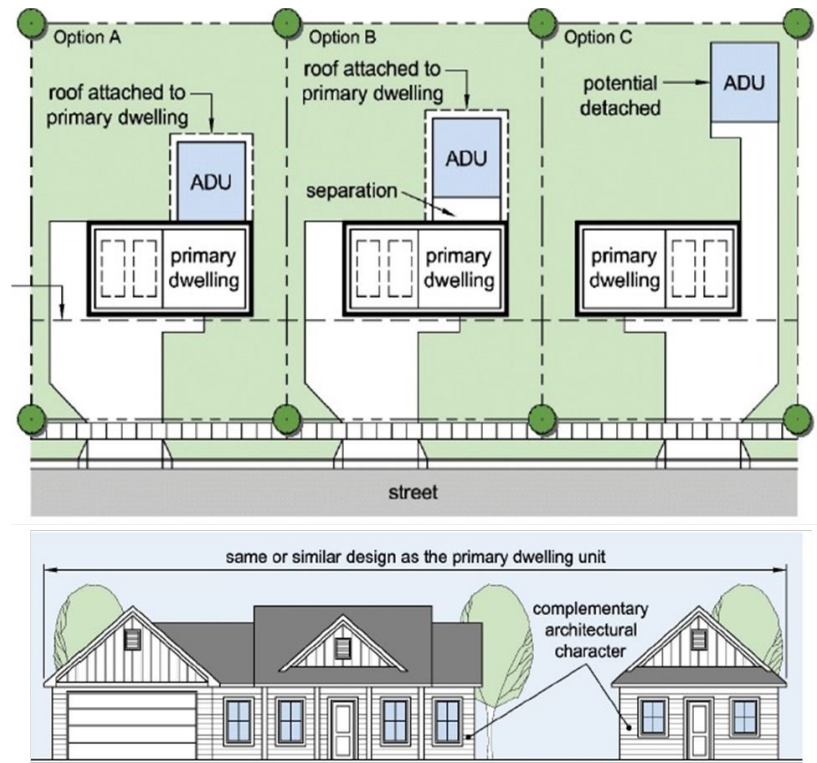
## (Proposed Ordinance 68.121.24)

The Unified Sustainable Development Ordinance (USDO), adopted in 2017, proposed the allowance of Accessory Dwelling Units (ADUs) as an accessory use to single-unit dwellings across all zoning districts.

An ADU is a small, independent residential unit located on the same lot as a single-unit dwelling. It may be located within, attached to, or detached from the primary residence, and includes its own kitchen, sleeping area, bathroom facilities, and a shared or separate entrance.

Although the USDO defined and listed ADUs as an accessory use in 2017, the code states that “no accessory dwelling unit shall be allowed until stated otherwise.” Consideration should be given to revising the USDO to allow for ADUs to expand housing options in more neighborhoods.

Fig. 5.1 - Types of ADUs



Source: Brigham City, Utah, Planning Commission



Source: Neighbor Architects, Outwith Studio, Other Tomorrows

### ADU DEFINITION

*A residential unit that is located on the same lot as a single-unit dwelling, either internal to or attached to the dwelling structure or in a detached structure. The accessory dwelling unit is a complete housekeeping unit with a shared or separate entrance, and separate kitchen, sleeping area, closet space, and sanitation facilities*

# ACCESSORY DWELLING UNITS (Proposed Ordinance 68.121.24)

## Potential Benefits of ADU

- **Increased Housing Supply:** Helps expand the availability of affordable housing in established neighborhoods.
- **Supports Multigenerational Living:** Enables aging family members or adult children to live independently while remaining close to loved ones.
- **Supplements Homeowner Income:** Provides rental income that can help offset mortgage payments or property maintenance costs.
- **Aging in Place or Downsizing:** Allows older or seasonal homeowners to downsize into an ADU while retaining ownership of their property.
- **Economic Stimulus:** Generates construction activity and contributes to the local tax base through increased property values.

### DID YOU KNOW?

9 states including Massachusetts, Vermont and Connecticut have broadly legalized the construction of accessory dwelling units to expand lower-cost housing options for their residents.

- **Diversified Housing Options:** Introduces more housing variety without requiring large, character altering developments.
- **Public Subsidy Not Required:** Encourages housing growth through private investment rather than taxpayer funding.
- **Empowers Homeowners:** Offers a path to increased property value and financial stability.
- **Environmentally Friendly:** Smaller unit size supports energy efficiency and lower environmental impact.



Source: AARP Survey, 2021

# COTTAGE COURTS

## (Proposed Ordinance)

The City is considering an ordinance to permit **cottage courts** as part of a broader effort to expand middle housing options. Cottage courts consist of small, detached homes clustered around a shared courtyard, providing a more compact and community-oriented alternative to traditional single-unit housing. By allowing cottage courts, the City aims to increase housing diversity while preserving the character of existing neighborhoods.

The draft ordinance will establish dimensional and design standards to ensure that cottage courts are livable, well-designed, and compatible with surrounding development. These standards will address unit and building sizes, courtyard dimensions, building orientation, and spacing. Additional design guidelines may include façade variation, porch placement, and entry orientation to foster a pedestrian-friendly environment.



Source: Tiny Houses and Pocket Neighborhoods

Fig. 5.2 - Cottage Courts Illustrative examples



Source: Tompkins County, NY



Source: Town of Hopkins, Planning Department

### **COTTAGE COURTS DEFINITION**

A residential development consisting of a cluster of small, detached single-unit dwellings arranged around a shared common open space. Cottage courts are designed to provide a community oriented living environment while maintaining a scale and character compatible with surrounding residential neighborhoods. A cottage court may be developed on individual lots or with a common form of ownership.

# COTTAGE COURTS

## (Proposed Ordinance)

### Potential Benefits of Cottage Courts:

- **“Missing Middle” Housing:** Offers an additional housing type as an alternative to large lots with single detached homes.
- **Density While Preserving Character:** Supports compact development that maintains the scale and feel of existing neighborhoods.
- **Suitable for Diverse Populations:** Ideal for aging residents, workforce housing, downsizers, and first-time homebuyers.
- **Community Oriented Design:** Homes are oriented around a shared central courtyard instead of individual private yards, fostering social interaction.
- **Small Footprint:** Typically range from 600 to 1,200 square feet, helping to keep units more affordable.
- **Walkability and Interaction:** The layout promotes pedestrian-friendly environments and neighborly connections.
- **Minimal Parking Impact:** Avoids prioritizing parking over housing to better utilize land and reduce costs.
- **Zoning Flexibility:** Permitted in most residential and select commercial zoning districts.

Fig. 5.3 - New York Cottage Courts Example Images



# CHAPTER 6

# RECOMMENDATIONS

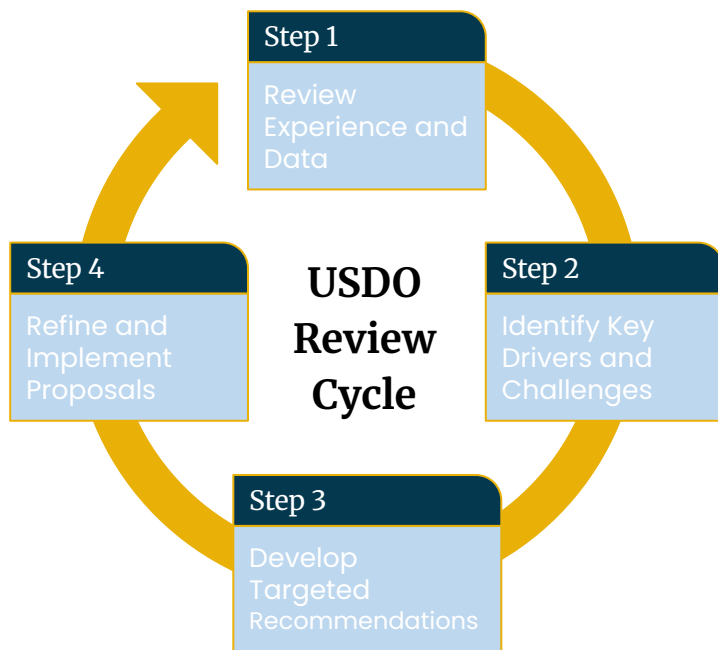
# RECOMMENDATIONS

## Introduction

This section presents key conclusions and targeted recommendations based on staff experience administering the USDO across a wide range of applications, from routine code reviews to large-scale projects. Informed by the data and trends outlined in this report, these recommendations aim to improve the clarity, consistency, and effectiveness of the code while promoting more equitable land use outcomes.

The recommendations reflect several broad drivers highlighted throughout this report: steady application activity that underscores the need for efficient and predictable review procedures; ongoing housing challenges that point to the value of more flexible and inclusive regulations; and certain procedural steps that could be refined to reduce costs or delays where little public benefit is realized. In shaping these proposals, the Department has drawn not only from local experience but also from established urban planning research and best practices recognized by professional organizations such as the American Planning Association, as well as lessons from peer cities and relevant case studies.

By grounding local refinements in both practice, research, the recommendations are intended to ensure that the USDO remains a practical and effective framework for guiding investment, preserving neighborhood character, and advancing long-term community goals. The Department will continue to refine these proposals through further analysis and stakeholder engagement to support their successful implementation in future code updates.



# RECOMMENDATIONS

## Administrative Procedures

### Establish SOP for Zoning Clearance Referrals

Building and sign permit applications may be referred to the Chief Planning Official at the discretion of the Chief Building Official through a Zoning Clearance, as outlined in § 375-505(13)(b). This discretionary process serves as a practical mechanism to account for the fact that many building permits involve routine repairs or alterations that fall outside the scope of the USDO.

However, the process could be strengthened through the adoption of a standard operating procedure (SOP) that clearly defines the types of building and sign permits to be referred for review based on the general nature of the proposed work. Establishing such criteria would enhance consistency, reduce uncertainty, and help ensure that significant projects receive appropriate oversight.

To further strengthen the process, consideration should be given to codifying baseline referral standards, rather than relying entirely on discretionary judgment. Failure to refer qualifying applications may result in insufficient review and could lead to projects proceeding out of compliance with applicable zoning or design standards.

### Streamline the Determination of Non Conformity Process

The current process for Determinations of Status of Nonconformities (§ 375-506(8)) requires mailed and posted notice to nearby property owners, as well as a 14-day waiting period before a determination can be issued. Since these requirements were added in 2021, they have generated minimal public response, just six comments from more than 1,100 notices sent, and have not yielded information relevant to the fact-based nature of these determinations. Instead, they have introduced delays, increased costs for applicants, and created procedural uncertainty, particularly in the context of property sales or refinancing.

We recommend eliminating the mailed and posted notice requirements, along with the mandatory waiting period, while retaining the existing evidentiary standards for review. This change would streamline the process, reduce unnecessary burdens on applicants and staff, and align the procedure with standard zoning administration practices, without compromising the integrity or transparency of decisions.



# RECOMMENDATIONS

## Administrative Procedures

### Simplify Lot Modification and Consolidation Procedures

Property owners are often required to adjust official lot boundaries to ensure compliance with applicable zoning regulations. In many cases, the condition prompting the adjustment is minor in scope - for example, the addition of a driveway serving a home on an adjacent lot - yet the process required to complete the adjustment can be equally or even more burdensome than the original issue. Currently, the process necessitates hiring a licensed surveyor to prepare a plat map, which is then reviewed by the Chief Planning Official for consistency with USDO standards, before being submitted to the County for formal boundary modification and deed re-filing.

The Planning Department will explore opportunities to simplify this process, particularly in cases such as lot consolidations, where the adjustment involves removing one or more existing lot lines already reflected on the official tax map. In such cases, a formal survey may not be necessary. Allowing for administrative adjustments without full plat preparation could significantly reduce both the financial and time burden on applicants, while still maintaining appropriate regulatory oversight.

### Clarify and Optimize Administrative Adjustments and Waivers

Our data indicates underutilization of the administrative adjustment provisions within the USDO. In our experience, this is attributable to poor placement within the code, confusing application standards, and criteria that are overly restrictive relative to the procedure's intent to facilitate minor deviations without imposing a complex review process. Furthermore, significant overlap with waiver provisions delegated to the Planning Board contributes to confusion and limits effective use.

To address these issues, a comprehensive reevaluation of the administrative adjustment process is recommended, including relocating it to the specific procedures section of Article V of the USDO to improve clarity and accessibility. Reliance on percentage-based adjustment limits should also be reconsidered, as they may not be appropriate for all subject matters. Additionally, it should be evaluated whether the Chief Planning Official is always the best entity to exercise discretion in these cases, as certain considerations - such as street tree spacing - may be better managed by specialized departments or subject matter experts within relevant disciplines.

# RECOMMENDATIONS

## Administrative Procedures

### Align Right-of-Way Access Privileges with Outdoor Café Manual

The Planning Department developed and released an Outdoor Café Manual in December 2023. While its primary purpose was to provide a visual guide to assist applicants in preparing and submitting their applications, the manual also aimed to clarify several “grey areas” within the City Code that had caused confusion regarding permissible practices. Some of these issues are addressed within the USDO or other sections of the City Code; however, others remain uncoded.

We recommend reviewing whether it is appropriate to formally codify the missing standards or requirements, or alternatively, to reference the Outdoor Café Manual as an authoritative guide where explicit code provisions are lacking.

### Adopt Clear Criteria for Right-of-Way Access Permits

The current review criteria for right-of-way access permits are overly subjective, resulting in inconsistent application and confusion among staff about valid grounds for permit denial or objection. This subjectivity is partly due to unclear and insufficient content in § 375-403 (Access, Circulation, and Connectivity), the relevant code section.

We recommend a comprehensive review and revision of § 375-403 to incorporate best practices and better reflect local conditions. The revised standards should establish clear, objective criteria that can be directly referenced during the permit review process.

Updating the review criteria to align with clarified standards will enhance transparency for applicants, promote consistent and efficient permit processing, and enable more confident, defensible decision-making by staff.

# RECOMMENDATIONS

## Administrative Procedures

### Enhance Landscaping, Screening, and Buffering Standards

§ 375-406 (Landscaping, Screening, and Buffering) includes several sections that would benefit from clearer language and enhanced graphics to better illustrate longer or more technical passages. The Planning Department also intends to review these provisions to ensure they reflect current best practices. This effort was initiated following a discussion with the City Arborist, who is expected to be an active participant in the process. In addition, the Department has received several community inquiries regarding the effects of development activity on the tree canopy - both citywide and within individual neighborhoods. As part of this review, we will evaluate whether the current incentive-based approach to tree preservation is functioning effectively or if alternative measures should be considered to ensure a robust and sustainable tree canopy across all City neighborhoods.

### Update and Correct Procedure Summary Chart

The Planning Department aims update the procedure summary chart in §375-502 in response to changing circumstances, including but not limited to:

- As a result of establishing the Department of Engineering as an independent agency separate from the Department of General Services, decision-making authority for Right-of-Way access permits now resides with the Department of Engineering and should be updated accordingly in the procedure summary table.
- The requirement for mailed and posted notice for Minor Development Plan Review and Minor Certificate of Appropriateness was inadvertently introduced during a previous code update. Because these are minor, administrative reviews handled by staff without a public hearing or discretionary decision-making, soliciting public comments in this manner is unnecessary and may give a misleading impression of the process. Additionally, the associated costs place a significant and often prohibitive financial burden on applicants for minor projects.

# RECOMMENDATIONS

## Development Review Procedures

### Establish SOP for Zoning Clearance Referrals

Building and sign permit applications may be referred to the Chief Planning Official at the discretion of the Chief Building Official through a Zoning Clearance, as outlined in § 375-505(13)(b). This discretionary process serves as a practical mechanism to account for the fact that many building permits involve routine repairs or alterations that fall outside the scope of the USDO.

However, the process could be strengthened through the adoption of a standard operating procedure (SOP) that clearly defines the types of building and sign permits to be referred for review based on the general nature of the proposed work. Establishing such criteria would enhance consistency, reduce uncertainty, and help ensure that significant projects receive appropriate oversight.

To further strengthen the process, consideration should be given to codifying baseline referral standards, rather than relying entirely on discretionary judgment. Failure to refer qualifying applications may result in insufficient review and could lead to projects proceeding out of compliance with applicable zoning or design standards.

### Streamline the Determination of Non Conformity Process

The current process for Determinations of Status of Nonconformities (§ 375-506(8)) requires mailed and posted notice to nearby property owners, as well as a 14-day waiting period before a determination can be issued. Since these requirements were added in 2021, they have generated minimal public response, just six comments from more than 1,100 notices sent, and have not yielded information relevant to the fact-based nature of these determinations. Instead, they have introduced delays, increased costs for applicants, and created procedural uncertainty, particularly in the context of property sales or refinancing.

We recommend eliminating the mailed and posted notice requirements, along with the mandatory waiting period, while retaining the existing evidentiary standards for review. This change would streamline the process, reduce unnecessary burdens on applicants and staff, and align the procedure with standard zoning administration practices, without compromising the integrity or transparency of decisions.

# RECOMMENDATIONS

## Development Review Procedures

### Reassess Conditional Use Permit (CUP) Requirements

The Planning Department will conduct a thorough review of recently granted Conditional Use Permits (CUPs) to evaluate whether their issuance was warranted based on applicable standards and past precedent. This review will also assess whether the Planning Board is equipped with clear, objective criteria to guide its decision-making when evaluating future CUP applications.

Available data shows that the majority of CUPs are being approved, an outcome that aligns with established case law, which generally holds that conditional uses are presumed to be compatible with the zoning districts in which they are permitted. However, many of these approvals are being granted without conditions and in situations where the USDO provides no use-specific standards for the Planning Board to apply. This raises questions about the added value and necessity of requiring CUPs in such cases and suggests a need to reconsider whether the process is being used effectively and appropriately.

### Promote Infill Development on Vacant Lots

Throughout the City, there are individual or grouped lots that remain vacant for extended periods. This vacancy is often due to an economic imbalance between what current regulations allow and the cost of constructing new buildings. While maintaining neighborhood scale and context is important, the prolonged dormancy of these properties negatively impacts the City's economy and the equitable distribution of the tax burden. Additionally, the City urgently needs to create new housing to both grow its population and reduce housing costs. The Planning Department aims to explore creative solutions that balance economic viability and housing production while preserving the character of established neighborhoods.

# RECOMMENDATIONS

## Development Review Procedures

### Refine Certificate of Appropriateness Review Thresholds

The thresholds for Certificate of Appropriateness reviews will be evaluated to ensure clear distinctions between the types of property alterations that may be approved administratively by staff and those that require review and approval by the Historic Resources Commission. The primary goal of this review is to clarify existing ambiguities and ensure that all terms are properly defined and consistently applied. Additionally, the review will consider whether there are further circumstances in which staff trained in historic preservation can efficiently review and act on applications without requiring a full discretionary review, thereby streamlining the process.

### Streamline Historic Property Hardship Modification Process

The USDO currently requires that any modification or waiver of historic preservation standards and guidelines can only occur after the Historic Resources Commission has denied a Major Certificate of Appropriateness. However, in many cases, it is evident from the outset that the applicant is seeking an exception due to financial hardship. Despite this, the applicant must first go through the standard Certificate of Appropriateness process and receive a formal denial. Only then can they submit a separate application - a Historic Property Hardship Modification - to demonstrate that they are not simply unwilling to comply with the standards but are financially unable to do so. The Planning Department will explore whether these two processes can be streamlined or whether applicants may be allowed to proceed directly to a hardship modification case when adequate supporting documentation is available.

# RECOMMENDATIONS

## Development Review Procedures

### Adjust Form-Based Zoning for Established Areas

There are currently four areas in the City that utilize form-based zoning, a land development approach that emphasizes the physical form of buildings, such as their shape, placement, and relationship to the streetscape, rather than focusing solely on land use. This method is particularly effective in mixed-use districts experiencing development or redevelopment, and the City has seen several projects successfully proceed under these standards. However, in some cases, form-based regulations extend into established areas with limited development potential, where their application to existing building stock can create complications.

The Planning Department will review the current application of form-based standards to assess whether district boundaries are appropriately drawn or if regulatory guidelines can be adjusted to better accommodate existing conditions. A preliminary exploration will also be undertaken to determine whether the form-based standards can be restructured to benefit other areas of the City that are experiencing new development.

