

Burlington Planning Commission

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Bruce Baker, Vice-Chair
Yves Bradley
Alexander Friend
Emily Lee
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Jennifer Wallace-Brodeur
Eamon Dunn, Youth Member



Burlington Planning Commission

Tuesday, August 22, 2017, 6:30 P.M.
Conference Room 12, City Hall, 149 Church Street
AGENDA

Note: times given are
approximate unless
otherwise noted.

I. **Agenda**

II. **Public Forum**- Time Certain 6:30 p.m.

III. **Report of the Chair**

IV. **Report of the Director**

V. **Proposed CDO Amendment: Rezone St. Joseph School to NMU** (10 min)

The Planning Commission discuss a request by the Champlain Housing Trust to rezone the St. Joseph's School site on Allen Street to be entirely within the Neighborhood Mixed Use zone. Information related to this request are included in the agenda packet on pages 3-21.

VI. **Proposed CDO Amendment: Rezone Majestic Car Rental Site** (5 min)

The Planning Commission will discuss a request by a business owner to reconsider the zoning of the Majestic Car Rental site, which was reviewed by the Ordinance Committee. Information related to this proposed amendment is included in the agenda packet on pages 22-23.

VII. **Proposed CDO Amendment: NAC-Riverside Boundary Adjustment** (10 min)

The Planning Commission will discuss a request by a property owner to move the northern boundary of the NAC-Riverside zoning district along Riverside Avenue. Information related to this proposed amendment is included in the agenda packet on pages 24-37.

VIII. **Proposed CDO Amendment: Article 8 Food & Beverage Processing** (10 min)

The Planning Commission will discuss an amendment to add and remove parking requirements related to the adoption of the *ZA-17-08 Food and Beverage Processing*. Information related to this proposed amendment is included in the agenda packet on pages 38-40.

IX. **Proposed CDO Amendment: Density Calculations** (15 min)

The Planning Commission will discuss an amendment to the calculation method for density in the *Comprehensive Development Ordinance*. Information related to this proposed amendment is included in the agenda packet on pages 41-43.

X. **Committee Reports**

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XI. Commissioner Items- *Next meeting is Tuesday, September 12, 2017 @ 6:30 pm in Conference Room 12*

XII. Minutes & Communications

The Commission will review and approve the minutes of the August 8, 2017 meeting, enclosed on pages 44-48 of the agenda packet.

XIII. Adjourn

Department of Planning and Zoning

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Ryan Morrison, Assistant Planner
Anita Wade, Zoning Clerk
Layne Darfler, Planning Technician



TO: Planning Commission
FROM: Meagan Tuttle, Comprehensive Planner
DATE: August 17, 2017
RE: Proposed ZA-18-02: Rezone St. Joseph's School

The Planning Commission received a request from the Champlain Housing Trust (CHT) to rezone the parcel of the former St. Joseph's school between North and Allen Streets to Neighborhood Mixed Use (NMU). Presently the parcel is split between NMU on the north side along North Street, and Residential Medium (RM) on the south side along Allen Street. The change is being requested so that the CHT can cohesively develop plans for the renovation and reuse of the building for a variety of community purposes. In particular, the split zoning districts limits the building's adaptive reuse as a home to multiple daycare, social service, and community center uses due to the inability to expand on-site parking without exceeding permitted lot coverage limitations.

Presently, the approximately 1.7-acre site contains the former St. Joseph's school building and open lawn on the southern portion of the property, and a playground and surface parking on the northern portion of the property. It is across from the St. Joseph's Cathedral, which still operates as a religious facility; the rest of the block is occupied by residential buildings, including both single-family and multi-unit structures.

The requested rezone would change the permitted lot coverage, setbacks and permitted uses for the portion of the property along Allen Street. The following pages include selected details comparing the NMU and RM zones.

- Presently, the portion of the site zoned RM is allowed 40% lot coverage; up to 80% is permitted in the NMU zone. The present lot coverage for the property is around 63%.
- NMU does not require side and rear setbacks, except when properties abut residential zones. The portion of the parcel requested for rezone is surrounded by RM zoned properties which would require a 15 ft setback along its east and west property lines.
- While the current owner's intent is for the building to continue to be used for a variety of community purposes, the rezone would have some effect on permitted uses along Allen Street, such as: single family homes not permitted; community centers, preschools and daycares are permitted, rather than conditional use; variety of neighborhood-supporting commercial uses permitted, rather than conditional use or prohibited, such as convenience and general stores, variety of offices, and restaurants; and libraries, police stations, fire stations and religious facilities are permitted rather than conditional use.

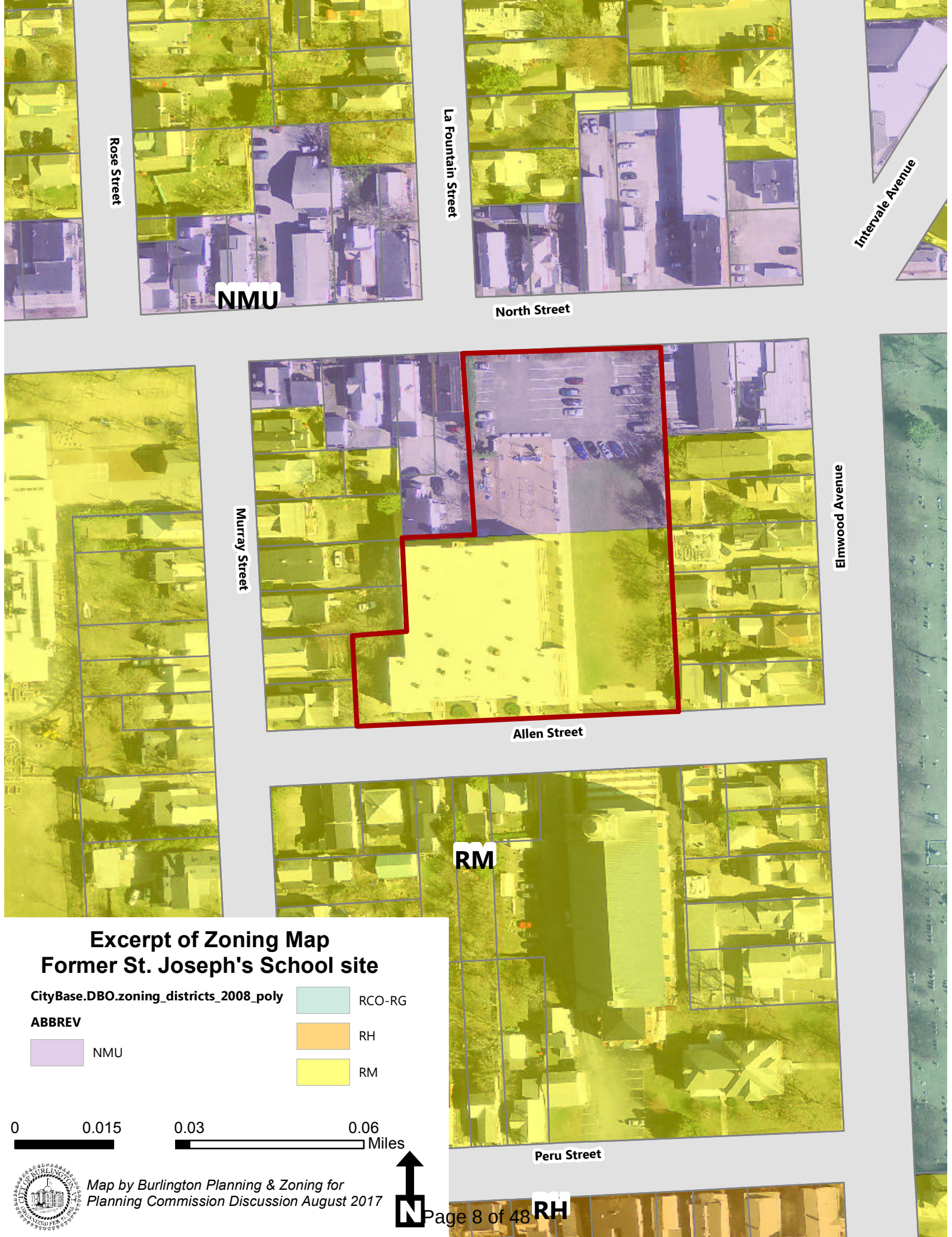
District	Max Lot Coverage	Front Setback	Side Setback	Rear Setback	Max Height
NMU	80%	0 ft, but must be 12 ft from the curb on a public street	0 ft except 15 ft setback on any property line abutting a residential zone	0 ft except 15 ft setback on any property line abutting a residential zone	35 ft
RM	40%, with adt'l 10% for walkways, porches, etc.	Avg of two adjacent lots +/- 5 ft	Min: 10% lot width, or avg of two adjacent lots Max: 20 ft	Min: 25% lot depth, no less than 20 ft Max: 75 ft	35 ft

USES	RM/W	NMU
RESIDENTIAL USES	RM/W	NMU
Single Detached Dwelling	Y	N ³⁰
Accessory Dwelling Unit (See Art.5, Sec.5.4.5)	Y	N
Attached Dwellings - Duplex	Y	Y ³
Attached Dwellings - Multi-Family (3 or more)	Y	Y
Attached Dwelling(s) – Mixed-Use ²⁶	CU	Y
RESIDENTIAL SPECIAL USES	RM/W	NMU
Assisted Living	Y	Y
Bed and Breakfast ^{4, 6}	CU	Y
Boarding House ⁶ (4 persons or less)	Y	Y
Boarding House ⁶ (5 persons or more)	CU	CU
Community House (See Sec.5.4.4)	CU	CU
Convalescent /Nursing Home	Y	Y
Dormitory ⁵	N	N ²⁵
Group Home	Y	Y
Historic Inn (See Sec.5.4.2)	CU	CU
Mobile Home Park	CU	N
Sorority/Fraternity ⁵	N	N
NON-RESIDENTIAL USES	RM	NMU
Adult Day Care	N	Y
Agricultural Use ²⁰	N	N
Amusement Arcade	N	N
Animal Boarding/Kennel/Shelter	N	N
Animal Grooming	N	Y

USES	RM/W	NMU
Animal Hospitals/Veterinarian Office	N	CU
Appliance Sales/Service	N	Y ²⁴
Aquarium	N	N
Art Gallery/Studio	N	Y
Auction House	N	N
Automobile Body Shop	N	N
Automobile & Marine Parts Sales	N	CU
Automobile/Vehicle Repair	N	CU ^{9, 12, 14}
Automobile Sales – New & Used	N	N
Bakery - Retail	N ²²	Y
Bakery - Wholesale	N	N
Bank, Credit Union	N ²²	Y
Bar, Tavern	N	CU
Beauty/ Barber Shop	N ²²	Y
Bicycle Sales/Repair	N	Y
Billiard Parlor	N	CU
Boat Repair/Service	N	N
Boat Sales/Rentals	N	N
Boat Storage	N	N
Bowling Alley	N	CU
Building Material Sales	N	N
Café	N ²²	Y
Camp Ground	N	N
Car Wash	N	N
Cemetery	N	N
Cinema	N	CU ¹⁴
Club, Membership	Y	CU
Community Center	CU ¹³	Y
Community Garden	Y	Y
Conference Center	N	N
Composting	N	N
Contractor Yard	N	N
Convenience Store (See Sec.5.4.3)	N	Y ¹²
Convention Center	N	N
Courthouse	N	N
Crematory	N	N
Crisis Counseling Center	CU	Y
Daycare - Large (Over 20 children) (see Sec. 5.4.1)	CU ¹³	Y
Daycare - Small (up to 20 children) (See Sec.5.4.1)	CU ¹³	Y
Daycare – Family Home	Y	Y
Dental Lab	N	Y
Distribution Center	N	N

USES	RM/W	NMU
Dry Cleaning Plant	N	N
Dry Cleaning Service	N ²²	Y ²⁴
Film Studio	N	N
Fire Station	CU	Y
Food Processing	N	CU
Fuel Service Station ⁹	N	CU ¹¹
Funeral Home	CU ⁷	CU
Garden Supply Store	N	CU ²⁴
General Merchandise/Retail – Small <4,000sqft	N ²²	Y
General Merchandise/Retail – Large ≥4,000sqft	N	N
Grocery Store – Small ≤10,000sqft	N	Y
Grocery Store – Large >10,000sqft	N	N
Hazardous Waste Collection/Disposal	N	N
Health Club	N	CU
Health Studio	N ²²	Y
Hospitals	N	N
Hostel	N	Y
Hotel, Motel	N	N
Laundromat	N ²²	Y ¹³
Library	CU	Y
Lumber Yard	N	N
Machine/Woodworking Shop	N	CU
Manufacturing	N	N
Manufacturing - Tour Oriented	N	N
Marina	N	N
Medical Lab	N	CU
Mental Health Crisis Center	CU (See §5.4.11)	N
Micro-Brewery/Winery	N	CU
Museum–Small < 10,000 sqft	CU ¹³	Y
Museum-Large >10,000 sqft	N	N
Office - General	N	Y
Office - Medical, Dental	N ²²	Y
Open Air Markets	CU	Y
Operations Center – Taxi/Bus ⁹	N	N
Operations Center - Trucking ⁹	N	N
Park	Y	Y
Parking Garage ⁹	N	CU
Parking Lot ⁹	N	N
Performing Arts Center	N	CU

USES	RM/W	NMU
Performing Arts Studio	N	CU
Pet Store ¹⁰	N	CU
Pharmacy	N ²²	Y
Photo Studio	N ²²	Y
Photography Lab	N	CU
Police Station - Central	N	Y
Police Station - Local	CU	Y
Post Office – Central Distribution Center	N	N
Post Office - Local	N ²²	Y
Printing Plant	N	N
Printing Shop	N ²²	CU
Public Transit Terminal	N	N
Public Works Yard/Garage ⁹	N	N
Radio & TV Studio	N	N
Rail Equip. Storage & Repair	N	N
Recording Studio	N	CU
Recreational Facility - Indoor	CU	N
Recreational Facility -Outdoor Commercial	N	N
Recreational Facility -Outdoor	N	N
Recreational Vehicle Sales – New and Used	N	N
Recycling Center – Large ¹⁰ (above 2,000 sf)	N	N
Recycling Center - Small ¹⁰ (2,000 sf or less)	N	CU
Research Lab	N	N
Restaurant	N ²²	Y ¹³
Restaurant – Take Out	N ²²	Y ¹³
Salon/Spa	N ²²	Y
School - Post-Secondary &Community College	CU	CU
School – Preschool Large (over 20 children) (see Sec. 5.4.1)	CU ¹³	Y
School – Preschool Small (up to 20 children) (see Sec. 5.4.1)	CU ¹³	Y
School - Primary	CU	CU
School - Secondary	CU	CU
School, -Trade, or Professional	N	CU
Solid Waste Facility - Incinerator, Landfill, Transfer Station	N	N
Tailor Shop	N ²²	Y
Warehouse	N	N
Warehouse, Retail ⁹	N	N
Warehouse, Self-Storage ⁹	N	N
Wholesale Sales ⁹	N	N
Worship, Place of	CU	Y



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Burlington Planning Commission Report Municipal Bylaw Amendment ZA-18-02 Rezone St. Joseph's School NMU **DRAFT**

This report is submitted in accordance with the provisions of 24 V.S.A. §4441(c).

Explanation of the proposed bylaw, amendment, or repeal and statement of purpose:

The purpose of this proposed amendment is rezone the portion of the former St. Joseph's school site from Residential Medium density to Neighborhood Mixed Use.

Conformity with and furtherance of the goals and policies contained in the municipal development plan, including the availability of safe and affordable housing:

The proposed amendment has no impact the goals and policies contained within the Municipal Development plan as it relates to the availability of safe and affordable housing. The change to NMU zoning continues to allow multi-family housing, which is likely a more appropriate reuse of the site than single-family and duplex uses should the property ever undergo a comprehensive redevelopment.

Compatibility with the proposed future land uses and densities of the municipal development plan:

The vision statement within the Municipal Development Plan's Land Use element states that "historic properties have been adaptively reused and redeveloped to ensure they continue to contribute to the community and neighborhood." Further, policies contained within the Built Environment element indicate that the City of Burlington will retain and enhance Burlington's historic buildings and architectural features. This change is proposed to allow the continued use of the historic St. Joseph's school as a home to many neighborhood-supporting community uses, but expands lot coverage to allow for the requisite parking associated with these uses.

Implementation of specific proposals for planned community facilities:

The proposed amendment applies to a site on which many community services organizations operate neighborhood-supporting services, and is proposed to be the future home of Burlington Parks and Recreation's new Old North End Community Center.

Request for Zoning Boundary Adjustment for St. Joe's School Site

The site of the former St. Joseph's School is split between two zoning districts, per the Burlington Comprehensive Development Ordinance. The portion of the site along Allen Street is currently zoned as Residential Medium Density (RM) and the portion of the site on North Street is zoned as Neighborhood Mixed Use (NMU). See **Exhibit A** (location map, aerial view, streetview photos) and **Exhibit B** (existing zoning boundary map, site aerial image with zoning districts, dimensional standards for RM and NMU districts).

Champlain Housing Trust as the buyer of the property is requesting a zoning boundary adjustment unifying the entire site as NMU.

Background:

The 2.5 acre site that runs between Allen Street, opposite St. Joseph's Cathedral, and North Street, includes the 52,354 square foot former St. Joseph's school building, children's play areas, a paved parking lot on North Street, and a grassy area where a large convent once stood.

The former St. Joe's School building currently houses several community organizations but is in need of extensive rehabilitation and modern updates to meet today's codes and make the building more functional, safe and accessible. Champlain Housing Trust will make necessary capital improvements including: a new elevator, new sprinkler system, electrical upgrades, door and window replacement, masonry repairs, and energy improvements.

Current tenants include the Association of Africans Living in Vermont, Robin's Nest non-profit daycare center, and the Family Room (a family education center), all of which will remain in the building after renovations are complete. In addition, once the second floor meets accessibility standards, the City of Burlington Parks and Recreation Department will create a community based recreation center there.

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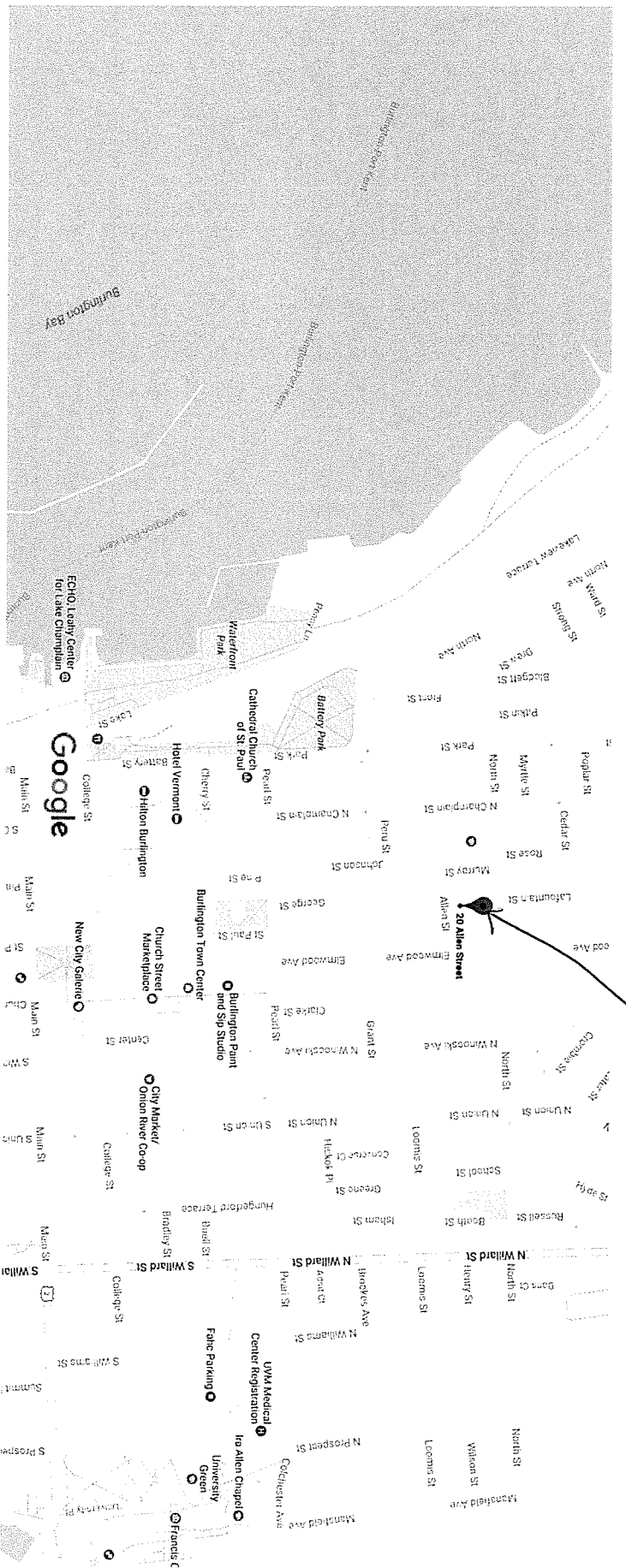
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Reasons for a Zoning Boundary Adjustment:

- Having the property split between mixed use and residential zoning districts makes it difficult to develop a cohesive site plan for the parcel.
- A single Neighborhood Mixed Use designation will more accurately reflect current uses of the property and its surroundings. Allen Street is dominated by the large, non-residential structures of St. Joseph's Cathedral and St. Joseph's School. Of the remaining properties on Allen Street, four contain multifamily buildings of 2 to 4 units and only three lots have single family homes, per the City's property data base.
- A single NMU designation will be more consistent with historic uses and previous lot coverage at the site. The St Joseph's School (circa 1929) and the former convent next door (circa 1956) represented the site's religious and educational uses spanning many decades. Together the footprints of the school and convent occupied well over 50% of that portion of the property now zoned medium density residential. See **Exhibit C** (ESRI GIS map showing St. Joe's School and location of convent torn down in 2005).
- Unifying the St. Joe's School site under one NMU zone, instead of the current situation where it's partially zoned RM, will allow the property to maximize its potential as a civic and educational resource which includes being able to provide adequate parking for organizational tenants, their employees, and program participants.
- Continuing the partial RM zoning with 40% lot coverage limitations would restrict the ability to provide parking on site, thereby increasing parking pressure on surrounding residential side streets and potentially limiting the adaptive re-use capacity of this significant, historic structure.

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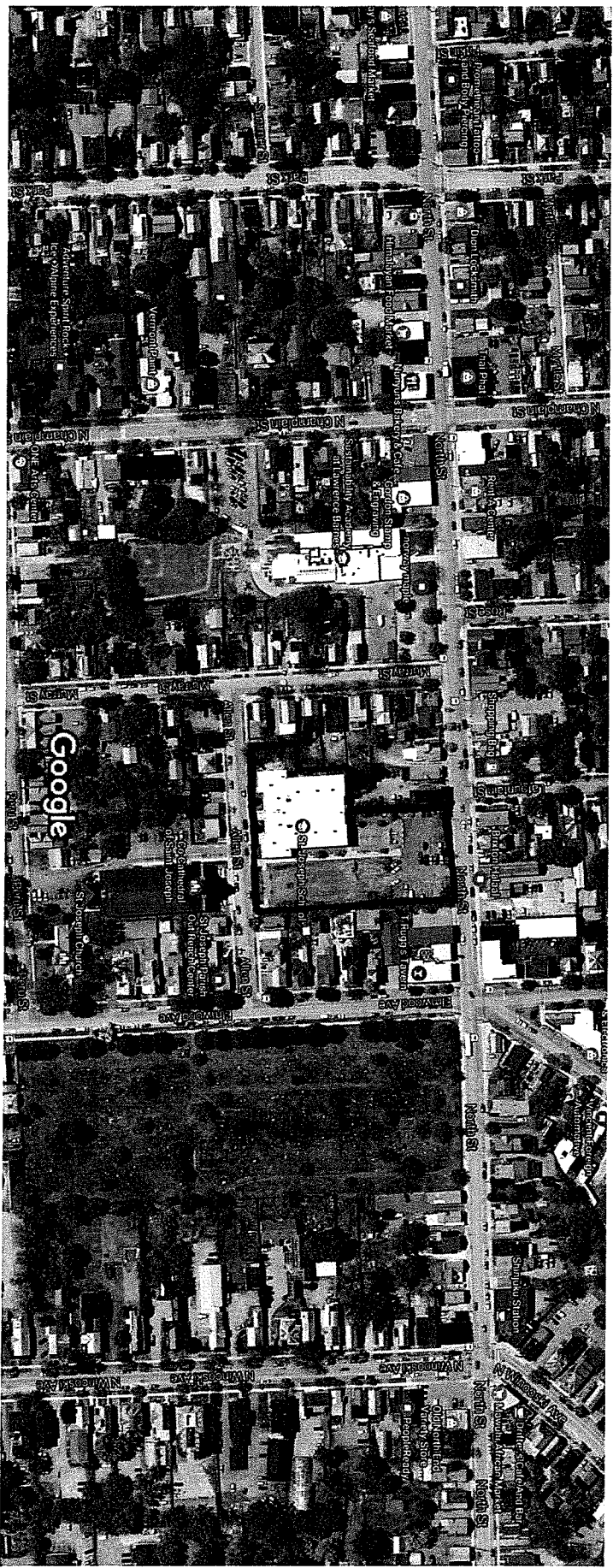
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Google Maps

Aerial View



Imagery ©2017 DigitalGlobe, USDA Farm Service Agency, Map data ©2017 Google 100 ft

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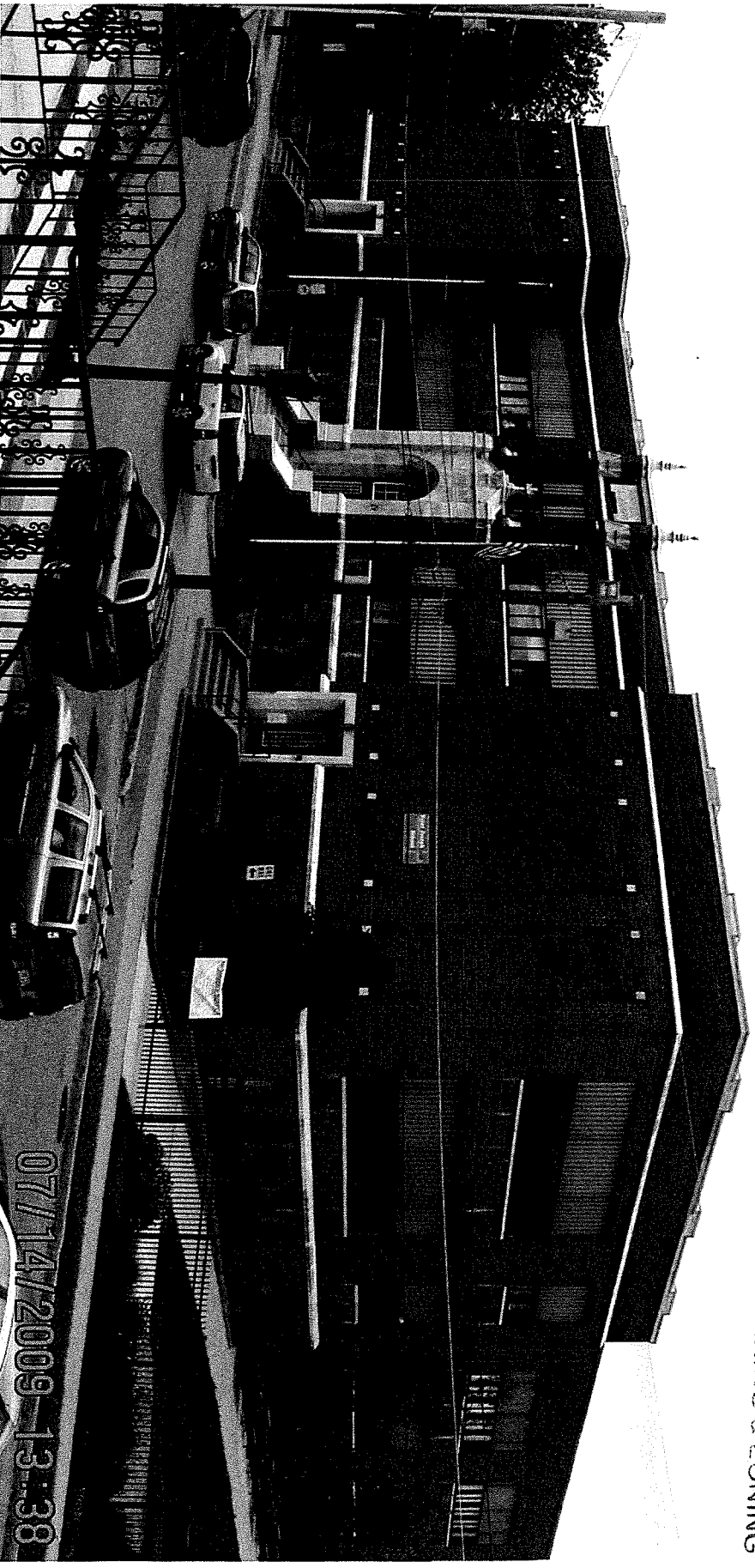
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5/30/2017



Burlington, Vermont

Street View - Oct 2014

St St
North St
Murray St
N Champlain St
Peru St
N Winoski Av

Image capture: Oct 2014 © 2017 Google

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Image capture: Oct 2014 © 2017 Google

Burlington, Vermont

Street View - Oct 2014

31st St
North St
Murray St
N Champlain St
N Winooski

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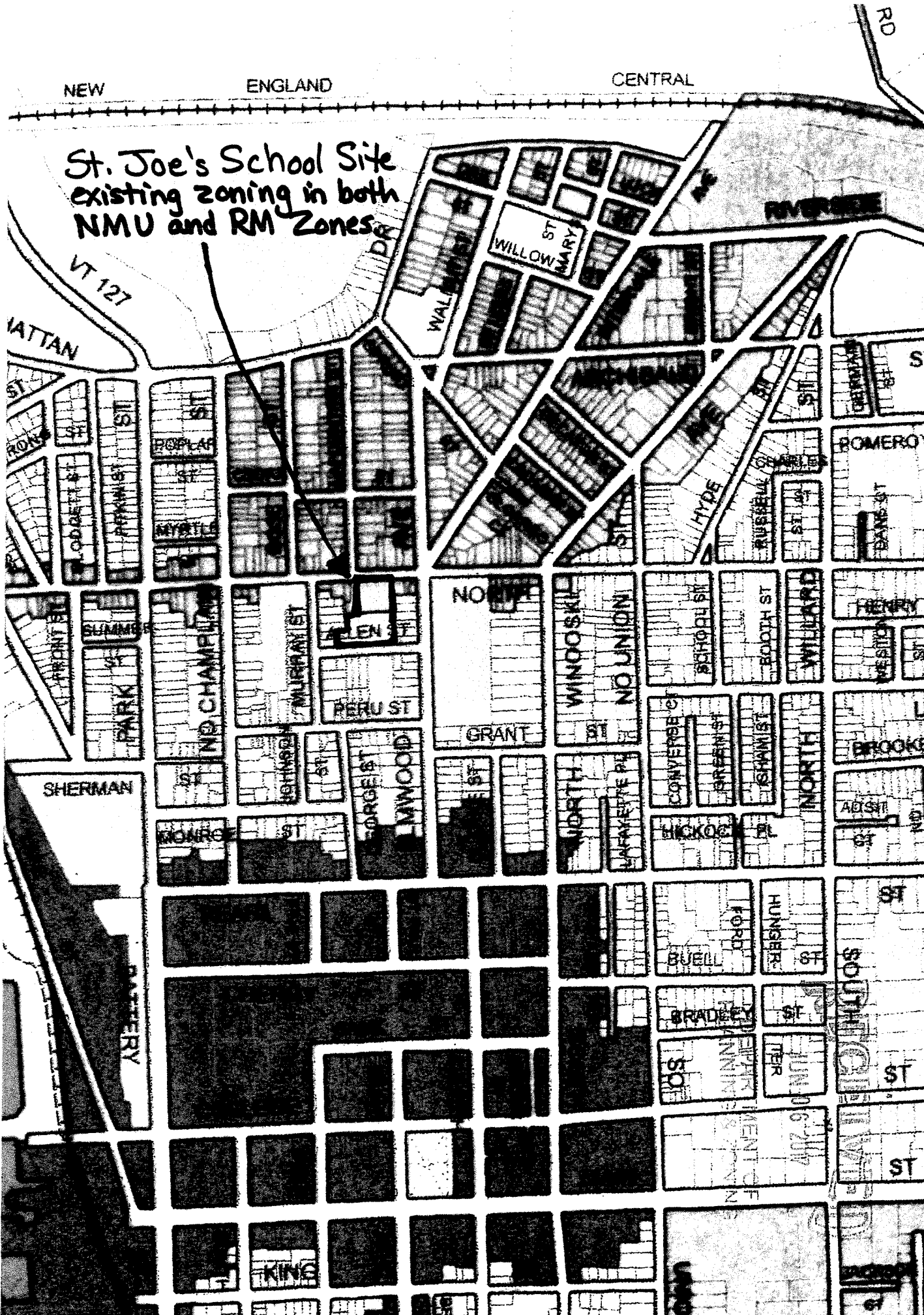
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NEW

ENGLAND

CENTRAL

St. Joe's School Site
existing zoning in both
NMU and RM Zones



20 Allen Street

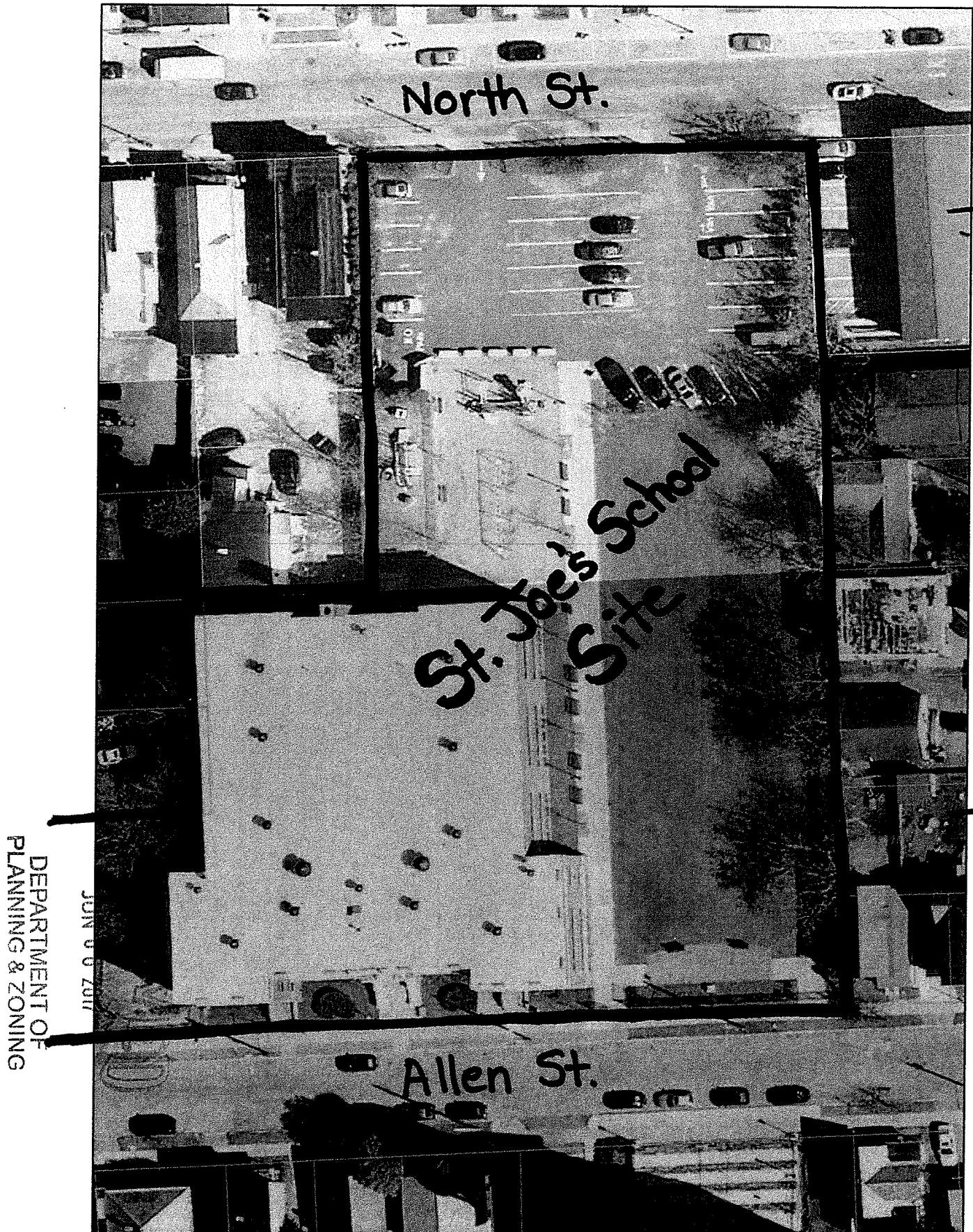
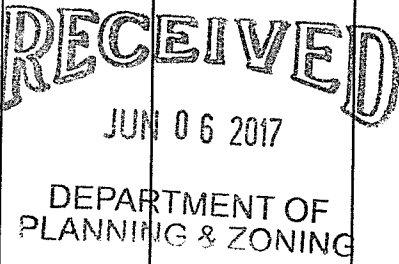


Table 4.4.5-3: Residential District Dimensional Standards

Zoning District	Max. Lot Coverage ¹	Setbacks ^{1, 3, 4, 5, 6}				Max. Height ¹
		Front ²	Side ³	Rear	Waterfront	
			20-feet			
RM	40%	Min/Max: Ave of 2 adjacent lots on both sides +/- 5-feet	Min: 10% of lot width Or ave. of side yard setback of 2 adjacent lots on both sides Max required: 20-feet	Min: 25% of lot depth but in no event less than 20' Max required: 75-feet	NA	35-feet
WRM	60%	Min/Max: Ave of 2 adjacent lots on both sides +/- 5-feet	Min: 10% of lot width Or ave. of side yard setback of 2 adjacent lots on both sides Max required: 20-feet	Min: 25% of lot depth but in no event less than 20' Max required: 75-feet	Min: 75' feet from the ordinary high water mark of Lake Champlain and the Winooski River	35-feet <i>(60-feet under Sec. 4.4.5(d)2A)</i>
RH	80%	Min/Max: Ave of 2 adjacent lots on both sides +/- 5-feet	Min: 10% of lot width Or ave. of side yard setback of 2 adjacent lots on both sides Max required: 20-feet	Min: 25% of lot depth but in no event less than 20' Max required: 75-feet	NA	35-feet
 1. An additional ten per cent (10%) lot coverage may be permitted for accessory residential features per (d)3A below. Measurement of and exceptions to coverage, setback, and height standards are found in Art 5. 2. Average front yard setback of the principal structures on the 2 adjacent lots on both sides within the same block having the same street frontage. See Sec. 5.2.4. 3. In no event shall the side yard setback be required to exceed 20-feet, or the rear-yard setback be required to						

Map 4.4.2-1 Neighborhood Mixed Use Districts**(b) Dimensional Standards and Density:**

The density and intensity of development, dimensions of building lots, the heights of buildings and their setbacks from property boundary lines, and the limits on lot coverage shall be governed by the following standards:

Table 4.4.2 -1 Dimensional Standards and Density

Districts	Max. Intensity (floor area ratio ¹)	Max. Lot Coverage	Minimum Building Setbacks (feet)			Height (feet)
			Front ⁴	Side ²	Rear ²	
NAC	2.0 FAR	80% ⁵	0	0	0	Max: 35
NMU	2.0 FAR	80%	0 ⁶	0	0	Min: 20 ³ Max: 35
NAC-Riverside	2.0 FAR	80%	0	0	0	Min: 20 ³ Max: 35

1. Floor area ratio is defined in Art. 13 and described in Art 5. Actual maximum build out potential may be reduced by site plan and architectural design considerations of Art 6.
2. Structures shall be setback a minimum of 15-feet along any zoning district boundary line that abuts a residential zoning district. Lots of record existing as of September 9, 2015 that are split by neighborhood mixed use and residential zones are exempt from this district boundary setback.
3. Minimum building height shall be 20-feet and 2 story's. Measurement of and exceptions to height standards are found in Art 5. Bonuses for additional building height are described in section (d)3 below.
4. All structures shall be setback 12-feet from the curb on a public street.
5. Exceptions to minimum lot coverage are provided in (d)2.
6. Notwithstanding footnote 4, the NMU district at the intersection of Pine St. and Flynn Avenue shall have a minimum front yard setback of 10 feet.

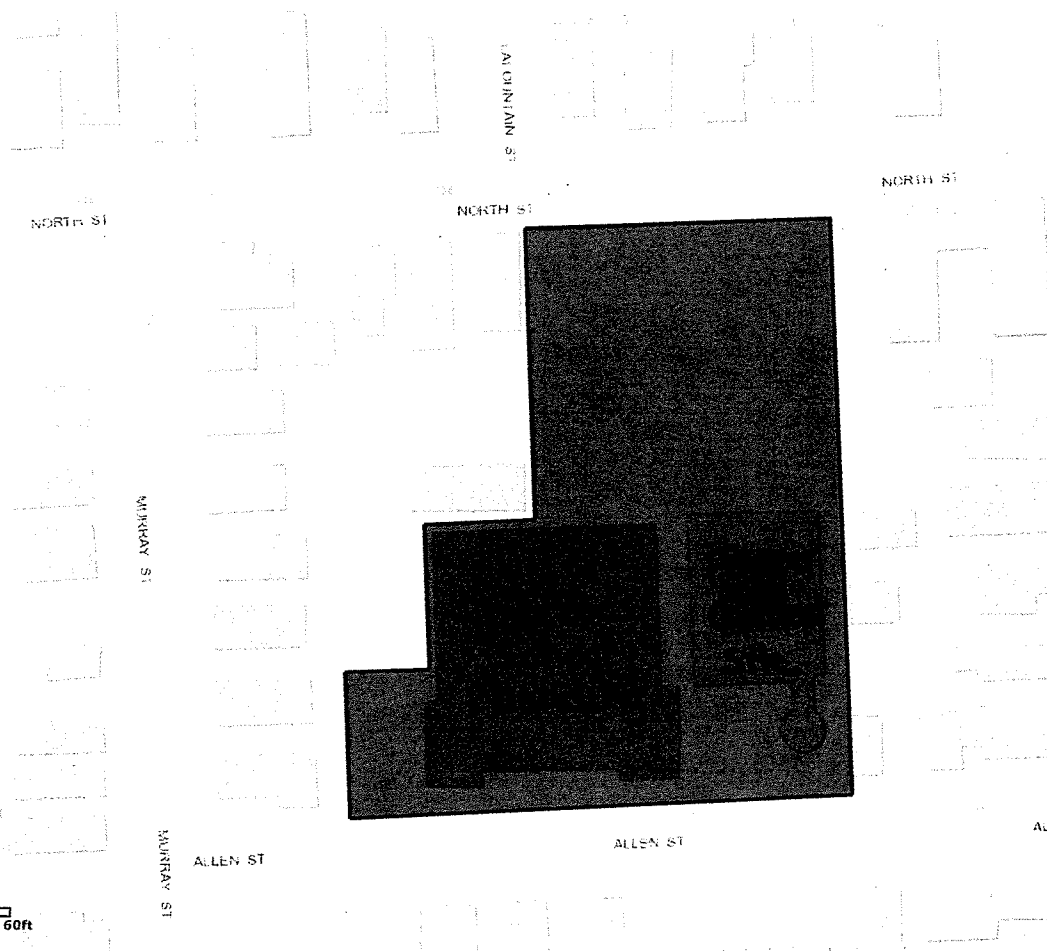
(c) Permitted and Conditional Uses:

The principal land uses that may be permitted, or conditionally permitted pursuant to the requirements of Article 3, within the Neighborhood Mixed Use districts shall be as defined in Appendix A – Use Table.

(d) District Specific Regulations:**1. Ground Floor Residential Uses Restricted**

In order to maintain an active streetscape for pedestrians and pedestrian-oriented businesses and activities, residential uses shall not be permitted within 25-feet of a public street right-of-way along the street-level frontage in the NAC District.

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Find area, length
Mea
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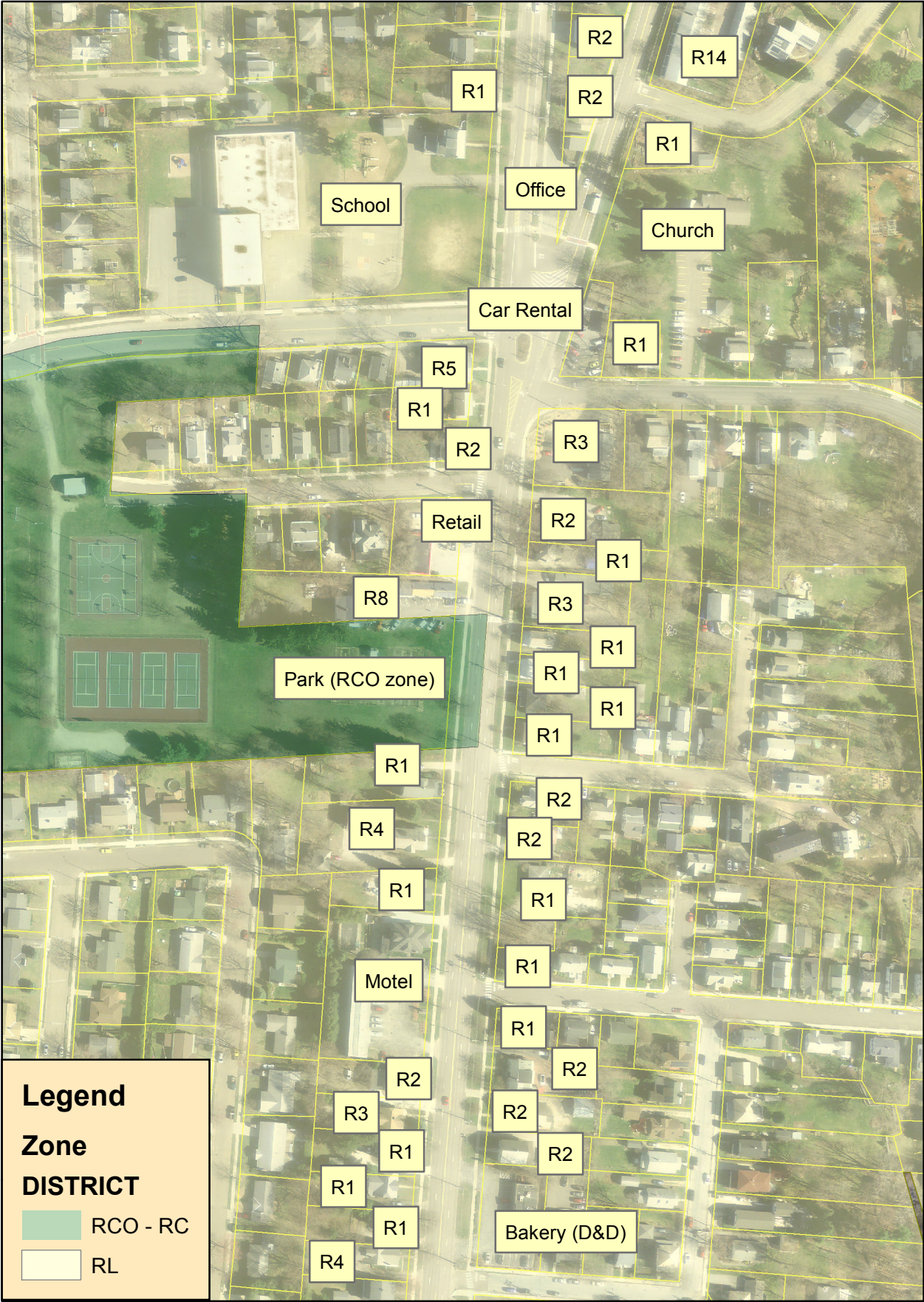
TO: Planning Commission
FROM: Scott Gustin
DATE: August 22, 2017
RE: Shelburne Street Rotary Re-Zone

At its June 1, 2017 meeting, the Planning Commission Ordinance Committee considered a request pertaining to the Majestic Car Rental property to amend neighborhood commercial use standards. Specifically, the request was to allow a nonconforming use such as the car rental business to become a neighborhood commercial use. Enabling such a change would largely negate the limitations of nonconformity and the intent to phase them out. There are incentives in place already (i.e. the residential conversion bonus) that are intended to encourage eventual conversion of these nonconforming, non-historic properties. As a result, the Ordinance Committee did not support the request.

An alternative was also discussed at the June 1 meeting – to change the zoning around the Shelburne Street rotary. It is presently zoned residential – low density, and there are several properties with nonconforming uses. The Ordinance Committee requested that staff analyze existing land uses near the rotary to see if a re-zone is reasonably warranted.

Staff has done so and found that most of the properties are actually conforming (single or 2-family dwellings). Given the conformity and the lack of basis for a rezone in the Municipal Development Plan, staff recommends against a rezone. A comprehensive study of the Shelburne Street corridor is contemplated in Plan BTV: South End. Such study should be completed prior to adjusting zoning districts here or elsewhere along the corridor.

Shelburne Street Rotary Land Use 2017



0 125 250 500 Feet



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TO: Planning Commission
FROM: Meagan Tuttle
DATE: July 19, 2017
RE: Request to rezone portion of Riverside Avenue from RCO-C to NAC-R

In April 2015, the Planning Commission received a request from Mark Furnari, on behalf of four property owners along Riverside Avenue, to restore the original General Commercial zoning. Mr. Furnari asserts that the change from General Commercial to NAC- Riverside/ RCO- Conservation has restricted development to only the first 75 feet of these properties, when up to 150 feet could be reasonably developed, and has reduced potential residential density from 25-30 units/acre to 10-12 units/acre.

In March 2016, staff provided the Planning Commission with an amendment to expand the NAC-R zoning district boundary to the north by 25 feet in order to: 1) provide some increase in the developable area of sites along this corridor; 2) to achieve the NAC-R district's purpose to encourage reinvestment and mixed-use development; and 3) to allow this development to occur without compromising the intent of the RCO-C district to preserve and protect significant natural features. In May 2016, staff provided a supplemental recommendation to apply the Buildable Area Calculation to the NAC-R zoning district in order to ensure that new development would not occur at an intensity that would compromise the corridor's steep slopes.

At the Planning Commission's request for additional information for consideration, staff took the proposal to the Conservation Board and City Engineer for comment. This request was discussed at the Conservation Board's July 5, November 7 and December 5 meetings. Further, at Mr. Furnari's request, Planning & Zoning staff and the City Engineer, a Planning Commissioner, and several Conservation Board members attended two separate site walks at 237 Riverside Avenue. Notes from these site walks and minutes from Conservation Board meetings are attached to this memo.

Parcels & Zoning District purpose

A map of the parcels, and others in the Riverside Avenue corridor, is attached to this memo outlining the current zoning boundaries, overlays and other conditions which impact the properties. The properties for which Mr. Furnari requested a rezone are outlined below.

Property	Current Zoning	Other Restrictions	Development on Site Today?
189-191 Riverside	RCO	Nearly all of property within NR Overlay	Yes- within first ~100 feet from property line

193 Riverside (not part of requested change)	RCO & NAC-R	Except southwest corner, property in NR Overlay	Yes- within first ~85 feet from property line
199-215 Riverside	RCO & NAC-R	All but first ~65 feet from property line in NR Overlay	Yes- within first ~100 feet from property line
237-241 Riverside	RCO & NAC-R	Roughly $\frac{3}{4}$ of property in NR Overlay	Yes- within first ~75 feet from property line
245 Riverside	RCO & NAC-R	Roughly $\frac{3}{4}$ of property in NR Overlay	No

NAC-Riverside: Purpose is to allow commercial development already predominantly built along this transportation corridor, but to encourage emerging mixed-use development and walkability. Zoning permits up to 2.0 FAR, 80% lot coverage and 20-35 ft building height by right. Bonuses may be granted up to 3.0 FAR, 90% lot coverage and 45 ft building height.

RCO-Conservation: Purpose is to preserve the function, integrity and health of the City's significant natural areas; may contain passive recreation when these activities are compatible with the protection of natural features.

NR Overlay- Riparian and Littoral Conservation Zone: Purpose is to protect and preserve the city's surface waters and upland areas from encroachment by development and from sources of non-point pollution, and to assure that development occurs within flood/hazard areas in a way that minimizes or eliminates potential for flooding or loss/damage to life or property. This overlay applies within 250 feet of the Winooski River.

Buildable Area Calculation: This calculation applies to properties greater than 2 acres within the RCO, WRM, RM, WRL and RL zoning districts, for the purpose of protecting sensitive natural features, preventing overdevelopment of properties with sensitive and unbuildable areas, and ensuring that new development fits within the scale and intensity of an existing neighborhood. Land is considered buildable if it is not inundated by water at least 6 months of the year and if the slope does not exceed 30%. For properties with a slope of 15-30%, the DRB may approve a conditional use to allow development at up to 50% of the maximum density/lot coverage if it can be demonstrated that it does not negatively impact the criteria listed above.

Soil Types & Slopes

The attached map of the Riverside Avenue corridor has been added to include information about the slopes of selected properties along the north side of the street. Steeper slopes are found to the west of the Wastewater Treatment Plant (WWTP) than to the east. According to the City's Buildable Area Calculation, a slope of 30% is considered unbuildable, and a slope of 15-30% is only considered for up to 50% of the permitted density and lot coverage. Slopes in excess of 30% exist to the west of the WWTP, and slopes ranging from 11-30% exist immediately to the east of the WWTP in the vicinity of Mr. Furnari's property.

Staff utilized the Web Soil Survey on the USDA's Natural Resources Conservation Page, and locally available GIS data to research the soil types in the corridor and their suitability to support development.

Below are the soils, followed by their rating to support dwellings (with and without basements), and their greatest limiting factor for development. The Web Soil Survey further indicated that these limitations “generally cannot be overcome without major soil reclamation, special design, or expensive installation procedures.”

- MyC—Munson and Raynham silt loams, 6 to 12 percent slopes. Very limited; depth to saturated zone.
- H|E—Hartland very fine sandy loam, 25 to 60 percent slopes. Very limited; slope.
- Fu—Filled land. Not rated.

Input from Conservation Board and City Engineer

Following its July 5, 2016 meeting, the Conservation Board’s input was summarized and presented in a memorandum from its Chair to the Planning Commission (attached to this memo). At that time, the board concluded that “without geotechnical and river studies regarding the suitability for expanded developable area along this corridor, the board does not feel that it is able to definitively weigh in on the staff’s recommendation” to move the NAC-R boundary 25’ to the north. The Board also offered that the Commission may consider whether opportunities exist to increase development potential within the existing boundaries of the NAC-R zone. At Mr. Furnari’s request, staff revisited the Conservation Board on November 7, 2016; at that meeting, the Conservation Board agreed to participate in a site walk of the subject properties.

The Board discussed the issue again at its December 5, 2016 meeting and unanimously approved a motion to recommend that the Planning Commission make no changes to the existing zoning boundaries, but rather, consider extending the buildable area definition to the NAC-R zoning district. Minutes from this meeting are attached to this memo.

Additionally, the City Engineer has weighed in that development on steep slopes high above river banks is not advised, particularly given the Riverside Avenue corridor’s historic slope failures, and that he is not supportive of a change to the zoning that is not informed by geotechnical and/or river studies indicating the bank’s suitability to support development.

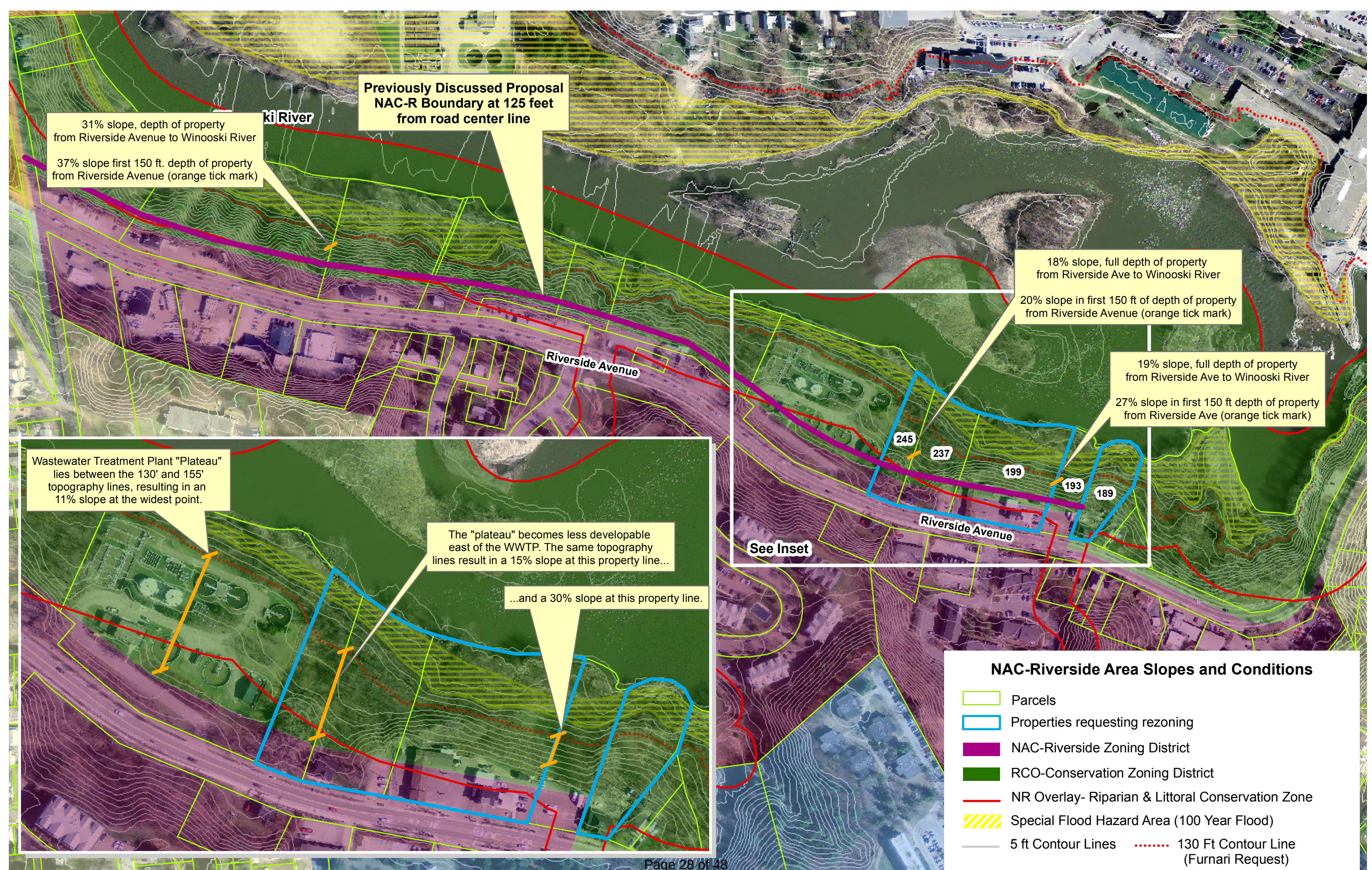
Staff Recommendation

Upon further discussion and analysis, staff recommends no change to the present zoning district boundaries or the buildable area regulations. Many scenarios for changing the zoning boundary line have been offered; however, there are concerns that these proposed changes have not been supported by sufficient evidence to demonstrate the suitability of the slope to accommodate additional development. Changes which expand the applicability of the buildable area definition could create a number of non-conforming properties on the south side of Riverside Avenue and, in some cases, actually further limit development capacity in the NAC-Riverside zone, which is inconsistent with the zoning district’s purpose. While more limited than historic zoning designations predating the 2008 CDO update, there continues to be a portion of the properties along the north side of Riverside Avenue that can accommodate development as presently zoned.

Notes from Sept. 19 Site Walk at 237 Riverside Avenue

Attendees: Mark Furnari, Norm Baldwin (City Engineer), Scott Gustin, Meagan Tuttle, Harris Roen (Planning Commission)

1. Staff met with Mr. Furnari on Aug 29, and understood that he intended to ask the Planning Commission to consider moving the boundary of the NAC-R zoning district to the north to include the WWTP and the "plateau" of the properties to the east. Incorporating these features would mean the extension of the boundary to approximately the 130 foot elevation line.
 - a. Mr. Furnari requested P&Z staff and the City Engineer visit the site before coming to a conclusion on a scenario.
2. During the Sept 19 site visit, several points were clarified:
 - a. Mr. Furnari expressed that his intent was not to extend development (housing/commercial uses) down the slope to the 130 elevation, but rather, to expand development slightly beyond where it exists on site today, and utilize the "plateau" for recreational amenities to support the development, and to enhance connectivity to the WVPD trail at the river.
 - i. Staff indicated that the current RCO-C zoning on the northern portion of the property would likely not preclude recreational amenities.
 - b. Mr. Furnari indicated that the (earlier) request to move the NAC-R on the lots to a depth of 150 feet was based on a land development plan for approximately 30 units from the early 2000's prior to his purchase of the property. Mr. Furnari was not clear if there were any DRB decisions, engineering studies, and/or why the project was never completed by a previous owner.
 - i. Subsequent research by staff found that approved projects on 245 Riverside Avenue included 20 units in 1978, and mixed-use to include 4 units in 1982. Neither project was ever built.
 - c. The City Engineer expressed that while walking the site seems to suggest a decent depth of lot from the river and some areas with more moderate slopes, a change in policy ultimately needs to be informed by the realities of the site and engineering studies. Primary concerns that should be verified include: soil types, presence of and possibility of bringing in additional fill material for site grading, development on high banks, steep slopes, and predictability of the river particularly at a bend where more significant bank erosion occurs. He also questioned who would be responsible for conducting the suitability studies.
 - i. In subsequent discussions among staff, it was agreed that Mr. Furnari should be responsible for site suitability studies to demonstrate suitability of the bank to accommodate increased development under existing or modified zoning.
 - d. Harris indicated that the next steps with the Planning Commission should be to resume the discussion with the proposal that was brought by staff to the Commission in May 2016.
 - i. Mr. Furnari later requested an opportunity to speak with the Conservation Board about their letter prior to revisiting the issue with the Planning Commission.



Winooski River

Previously Discussed Proposal
NAC-R Boundary at 125 feet
from road center line

Riverside Avenue

Property subject of a 1977 approved
permit for 20 unit apartment building
(never built).

245

237

199

193

189

Riverside Avenue

See Inset

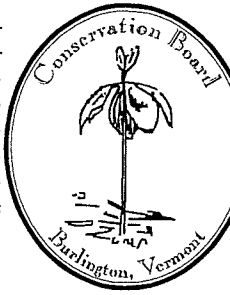
Soils Map of north side Riverside Avenue

- Parcels
- Properties requesting rezoning
- H/E Soil- Very Fine Sandy Loam- Very Limited suitability for dwellings
- MyC Soil- Silty Loam- Very Limited suitability for dwellings
- Fu Soil- Filled Land- Unrated for suitability for dwellings
- Special Flood Hazard Area (100 Year Flood)
- Archaeological Sites

Burlington Conservation Board

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Matt Moore, Chair
Will Flender, Vice Chair
Scott Mapes
Don Meals
Jeff Severson
Miles Waite
Damon Lane
Zoe Richards



To: Burlington Planning Commission
From: Matt Moore, Chair, Conservation Board 
Date: August 25, 2016
RE: NAC-R/RCO-C Boundary on Riverside Avenue

During the July 11, 2016 Conservation Board meeting, Planning & Zoning staff presented the request to consider the zoning of properties along the north side of Riverside Avenue. This included the request of several property owners along Riverside Avenue and the staff recommendation that was provided to the Planning Commission on May 24.

In general, the board agrees with the purpose of the NAC-R district, which is to revitalize the Riverside Avenue corridor with a greater mix of uses. However, the board is generally reluctant to re-zone the RCO-C district that constitutes the steeply sloped riparian buffer for the Winooski River.

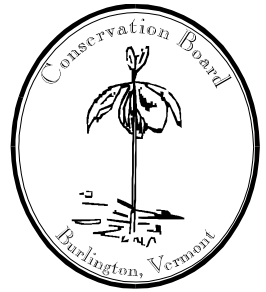
Given the Riverside Avenue corridor's historic slope failures, and the recent slope failure impacting a home on Plattsburg Avenue, the board is particularly concerned with the vulnerability of slopes along the riverbank and encroachment of development into the RCO-C areas. Without geotechnical and river studies regarding the suitability for expanded developable area along this corridor, the board does not feel that it is able to definitively weigh in on the staff's recommendation to move the NAC-R zoning district boundary 25' further to the north. The board feels that protection of riparian buffers is a primary goal of the RCO-C district and changes to the buffer should be carefully considered, and ideally result in greater environmental protection. Instead, the board offers that the Planning Staff and the Planning Commission may consider whether opportunities exist to increase the density/intensity of development that is permitted within the current boundaries and developable area of the NAC-R district.

Thank you for the opportunity to provide these comments on behalf of the Conservation Board as the Commission considers this request. Please feel free to contact me if you have any questions pertaining to the board's discussion of this matter.

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Stephanie Young



Conservation Board Meeting Minutes

Monday, December 5, 2016 – 5:30 pm
Main Meeting Room – Burlington Electric Department
585 Pine Street

Attendance

- **Board Members:** Zoe Richards (ZR), Matt Moore (MM), Jeff Severson (JS), Will Flender (WF), Damon Lane (DL), Miles Waite (MW), Scott Mapes (SM), Stephanie Young (SY), Don Meals (DM)
- **Absent:**
- **Public:** Frank von Turkovich, Andrew Mills, Bob Butani, Brenda & Ed Orr, Andres Torizzo (80 Colchester Ave) Laurie Smith (237 Riverside Ave)
- **Staff:** Scott Gustin & Meagan Tuttle (Planning & Zoning)

MM, Chair, called the meeting to order at 5:30 p.m.

Minutes

November 7, 2016 meeting minutes

A MOTION was made by DM and SECONDED by MW:

ZR, pg. 1, under "Attendance: Public" "Bodette" should be "Boget." Bottom of pg. 2, ____ should be "Mark Funari."

Accept the November 7 meeting minutes as corrected.

Vote: 9-0-0, motion carries

Board Comment

DM, need to have a discussion for deciding on extra meetings.

MM noted that he was recused from review of the North Avenue Cambrian Rise project.

SM, scheduling meetings outside of our normal schedule may be problematic.

SG noted the reasons for the requested special meeting. The Cambrian Project is very large and complex and will take significant time to review. It warrants being the only item on a meeting agenda. The mall redevelopment project is coming soon too. We do not want to have both sharing space on a single meeting agenda. There are also other smaller projects in the application pipeline. In order to keep everything moving along, special meetings in addition to the regular meetings are warranted. Public notice for special meetings is the same as for regular meetings, plus notification is given to local media.

ZR asked if we've had special meetings before. SG noted that we just had one for the Riverside Ave site visit. We also did a couple for the vote to expend BCLF monies on the 12 acre parcel next to Cambrian Rise.

DL said he sees the reason for a special meeting – thinks there's value is having the project as the sole agenda item.

The programs and services of the Dept. of Planning and Zoning are accessible to people with disabilities. For accessibility information call 865-7188 (865-7142 TTY).

MM asked who can call a special meeting. SG responded the Chair or Vice Chair.

SY said she'd be ok as long as we provide 2 weeks notice.

WF said he agrees. He thinks we should have things move forward. We're at a moment with a pile of stuff coming at us. We could always continue to January to take action if warranted.

JS, the most important thing is to have adequate public warning of the meeting.

MM, sounds like having a special meeting is reasonable.

SG confirmed he'd schedule a special meeting for December 19. Location TBD.

ZR mentioned the matter of board member recusal. It's possible that members with a lot of expertise have to recuse themselves on large complicated project. She does not know exactly what triggers recusal.

DM, it also influences how the Board comes to a decision. What could have been a mixed vote may need to be unanimous.

MW said that if he is presently hired by a client for a project, that's a clear conflict interest. It becomes grey if he has worked for an applicant in the past but not presently and not relative to the project under review.

SM, there needs to be full disclosure. If after that, no one perceives a conflict, the board member can make a decision to participate in the review. If we end up without our wetlands experts, that's a very challenging place to put the Board in.

SG stated that the Board's bylaws address conflict of interest specifically.

MM said that he does not recall recusals causing loss of a quorum.

MW said that he's worked for a Fletcher Place resident at one point in the past. He does not feel it will affect his participation tonight. DL said that if it's been at least a year, he thinks MW's participation is ok.

JS can't think of a time where he would not respect an individual's decision to recuse or not. He thinks the city attorney set the bar low for recusal of city council members during consideration of the downtown mall project.

MM, for the Cambrian Rise, who's planning to recuse? JS, MW, and MM will recuse. That leaves 6 board members, 5 are needed for a quorum. He asked about the downtown mall. No one is planning to recuse.

SM said that members considering recusal should go to the meeting and offer full public disclosure as to why you plan to recuse. Doing so makes clear to the public why. DL said having it in the record makes sense. Having those people at the meeting could possibly influence the meeting however. Perhaps providing a written statement beforehand could work too.

Public Comment

None.

Open Space Subcommittee

MM we did not have a quorum. We mainly talked about our budding trails initiative. We talked about how we can raise the profile of trails and connectivity in Burlington. ZR said there are a lot of people interested in improving our trails network. It's a multi-ownership matter to tackle.

Project Review

1.17-0388CA/MA; 80 Colchester Ave (Ward 1E, I) Eastern Development Corp.

Construct 75-unit residential building and related parking & site improvements

Frank von Turkovich updated the board on the status of the project and work that has been done since the board last reviewed the project in October. The configuration and layout of the project has not changed. Information relative to the phase 1 ESA and stormwater has been provided.

SG provided procedural background. This is a "major impact" project that has been to the Board once before. Review was continued to allow the applicant time to address questions that arose during the first review. New information has been provided to address those questions.

Andrew Mills overviewed the existing conditions plan. The existing drainage pipe through the site will be intercepted and redirected into the proposed stormwater management system.

Mr. Mills touched on the phase 1 ESA. MW said that he's reviewed the report. Mr. von Turkovich said that additional soil testing will be done as further borings are done.

MM, there had been concern about runoff from the property while not knowing what contaminants, if any, were in the soil.

MW said that phase 1 was a good step. We're hearing that there will be further soil investigation.

JS, the phase 1 report was thorough. It mentioned that fill may have been placed on the property at one time. It gave no indication as to whether there would be problems with the soil. He asked what's planned for future soils analysis. Mr. von Turkovich said that work done so far demonstrates where soils are stable for development. Additional borings will be done, and testing for contaminants will be done concurrently.

MW, two of the 2014 borings talked about perched water at 6'. Did you find any? Andrew Mills, no.

Mr. Mills said that the plan depicts existing and proposed tree line. Erosion control measures will be standard. The applicant has retained a geotechnical engineer to look at stability of the slopes.

JS said he walked the drainage from the site down to Riverside Ave. There are some slope failures in the area. There's one fairly significant one that's been rip rapped to stabilize the slope. Mr. Mills mentioned that the State wetlands office has instructed him to keep work out of the wetlands. There will be no rip rap within the wetlands. JS, are you confident that the limits of work are accurate on the project plans? Mr. Mills, anything that does not have to be done within the wetland buffer will not be. Mr. von Turkovich confirmed. He said they'd like to clean up the area but are being told by the state wetlands office to stay out.

Mr. Mills said he's presently working with the city stormwater program. SM, do you need a state stormwater permit? Mr. Mills, yes.

Mr. Mills, the state wetlands office is generally okay with the project.

SM, is there still flow discharge through the existing pipe? Mr. Mills, if so, we've not been able to find it. SM, we will want to know what's coming through that discharge point. He knows offsite properties are discharging through it, but it needs to be dealt with as it flows across your property.

MW, have you contemplated a dye test? Mr. Mills, it's a matter of discovering what's connected to what.

SM, you don't anticipate significant changes from the state stormwater review. You also say that infiltration may prove to be infeasible. Do you think that infiltration will work here? Mr. Mills, the

state rules limit infiltration in fill. Much of the soils here are fill. We will likely utilize detention and filtration prior to discharge. SM, so you are unlikely to do much infiltration? Mr. Mills, correct.

MW, it would be nice if you could access the native soils for infiltration. The water table is likely far down in this location. Mr. Mills, we could investigate further. SM, are there any locations under the parking that might be appropriate for infiltration? Mr. Mills said that most of the parking is to be located on existing parking – compacted soils.

SM, what's been done for test pits? Mr. Mills, we've done pits down to 14' and didn't see the end of fill. Off to the north, there is some relatively sandy soil that could possibly be used.

MM were infiltration rates fast or slow? Mr. Mills, they were fast but un-uniform and in fill soils.

Mr. Mills said he is still waiting to receive stormwater calculations from Krebs & Lansing. He said the wetlands delineation has been formally reviewed and confirmed by the state. They have reviewed work proposed within the wetlands buffer.

He addressed the letter from Watershed Consulting Associates. Yes, an individual state stormwater permit is needed. The need for a UIC will go away if we do not do infiltration. He said that both DPW and State of Vermont will review the complete stormwater proposal. He will consult to see if a stream alteration permit may be needed. He also expects that risk will be "low" or "moderate" for the state EPSC.

JS, regarding EPSC, the form submitted to DPW contains a number of checked boxes, but he could not find the related information on the project plans. Mr. Mills pointed them out.

SM, you'll need to get a 90-20, right? Mr. Mills, correct.

JS, regarding urban soils that have potential to be contaminated, there need to be protocols in place as to how to handle them. He mentioned the covered contaminated soil pile that was at Leddy Park. Frank von Turkovich said he was advised by Ross Environmental that there's no evidence of offsite contamination affecting the property. Additional soil testing will be done. He can't haul away two foundations worth of contaminated soil.

MW, lead, arsenic, and PAHs are typical urban development soil. If you're stockpiling contaminated soils with things like PCB's and petrochemicals, more stringent measures require special treatment.

SM, have you tested the soils to see if they're "urban?" Mr. Mills, no.

JS, if you find more contaminated soils, there needs to be a plan in place to handle them. Mr. von Turkovich, yes. MM, if the project changes substantially, it will have to come back for review.

SM, we're hearing tonight that what's on paper is fairly likely not to happen insofar as stormwater management is concerned. There are some checks in place like DPW stormwater and the state stormwater folks. We usually have more fully developed project plans. Mr. von Turkovich said he's happy to talk to the Conservation Board again if changes to the project are needed by the DRB or the state.

Public Comment:

Andres Torizzo, WCA Principal, why will an individual state stormwater permit be needed? Mr. Mills said that the site balancing procedure affords doing so. The site lends itself to this approach. Mr. Torizzo, we heard about the rapid infiltration on the site. There is very little green space in the project plans. As he understands it, there are areas of active erosion onsite. He is concerned with discharge of additional stormwater into an unstable gully. This matter may not be fully addressed through the state process.

WF, if infiltration onsite is precluded by fill, what do you propose? Mr. Torizzo suggested a more decentralized approach. Utilization of green infrastructure and use of vegetation to remove some of the water. The impervious surface footprint should also be reduced.

MM, is the parking proposed the minimum required? Mr. von Turkovich, the city requires 1 parking space per dwelling unit. 75 units are proposed. Parking will be shared with the doctors' and dental offices.

MM, are all of the properties on Fletcher Place within the same zoning district? SG, presently, yes they are all institutional. There's presently a zoning amendment to change most of the properties along Fletcher Place to RM.

Bob Butani, he is concerned about flooding in his basement and about the amount of proposed disturbance of unknown soils. His understanding is that there are some 7,000 truckloads of fill brought down from the hospital. He feels that exactly what the applicant will do remains unclear.

SM asked Mr. Butani where his property is. Mr. Butani pointed it out – 31 Fletcher Place. He questioned whether the phase 1 ESA was enough. What's in the soils is unknown. SM, are you concerned with infiltration as to how it might affect your property? Mr. Butani, the stormwater infrastructure comes very close to his property. He's not sure how it might affect him. The project is too big.

Brenda & Ed Orr, has lived on Fletcher Place since 1971. It's still unknown where the drainage pipe originates. She's fought problems with contaminated water flowing through the pipe and onto the property. We have seen flood water flow across the property. The proposed north building is set entirely on fill. She said that questions remain as to how stormwater will be handled. The soils are highly erosive.

Mr. Butani said that there's been recent excavation activity on the property. He also said that the Riverwatch Community is concerned about what might flow onto their property from this site.

Mr. von Turkovich said that there was a connection between a sanitary line and the drainage pipe through the property. That problem has been corrected. He also mentioned the work the city has done to raise the sidewalk in front of the property and avoid flooding.

MW, his big concern is that there might not be infiltration – it's not been finalized.

WF, the application seems to remain incomplete. Exactly how stormwater will be handled is still up in the air. As for soil contamination, it would be good to know, but he's not sure if it would drive BCB's decision. There's also the drainage pipe onsite with unknown origin. We should table this again so we can see what the final stormwater design is. Mr. von Turkovich said he does not want the project to be tabled again for further soil testing. He does owe the Board a final stormwater design.

DM, we need to see the final stormwater design before taking action. SY and JS agree. JS said the applicant has addressed most outstanding issues. The wetland at the bottom of the ravine has been completely overwhelmed by sediment. He finds it unfortunate that the state wetlands office will not allow stabilization of the slope within the wetland buffer. He is comfortable that there will be a process where the applicant will come back if they find a contamination issue that needs to be dealt with. His outstanding matter is the stormwater plan. MM clarified that just the presence of contaminated soils onsite will not necessarily trigger additional review by this board.

SM would prefer the stormwater design be based on all of the information that the applicant's engineer is gathering. There may be a disperse way to incorporate infiltration into the stormwater management design. This forum is the venue for public review and input of the stormwater plan.

MM, continue review to January 9, 2017 meeting to review the final stormwater management plan.

Update & Discussion

1. Follow up discussion with Mark Funari re: Riverside Ave rezoning

SG overviewed the site visit and direction behind the would-be amendment (buildable area calculation and geotechnical analysis). Further action by PC is needed.

ZR said she does not support switching the zone boundary. It results in a narrow buffer along the river corridor.

DM said the "plateau" does not really extend beyond the subject properties. To avoid spot zoning, the change would need to extend along the entire corridor. Meagan Tuttle said about 100' would remain between the revised zone boundary and the river's edge.

WF asked about the riparian buffer along the Winooski River. SG responded that its 250' wide.

JS, there really are just two properties that have this plateau. There's a tremendous amount of fill that's been placed along Riverside. The fill slopes are steeper than the natural slopes. He passed out photos of slope failures along the corridor. Allowing development further down below steeper fill slopes is risky. He is hesitant to change the zoning. Really one property would benefit from this change. Rather than change the zoning, perhaps an individual variance is possible. SG stated that would be a very high bar.

DL said that the distance from the road is arbitrary. It does not reflect slope from the road. The requested change cannot be addressed with the tools available.

Laurie Smith said that the important thing to remember is that prior to the 2008 rezone, most of this property was buildable. For much of Riverside, that change didn't make much difference because the land was not buildable anyway. The change, however, affected 237 Riverside Avenue. The property owner is seeking to regain some of that buildable area. The change would also make the city's wastewater treatment plant conforming and would set a good tone.

JS, one other observation that he had in the field was significant erosion along sections of the river bank. This is a process that will continue at an unknown rate into the future. Over time, the buffer will shrink.

DM, if the buffer is set from the bank, then the buffer would move with the bank.

WF, what we're talking about comes down to enabling construction on 237 Riverside Ave. The 2008 rezone was done for a reason – to protect the river corridor. He's very uncomfortable with changing the zoning along this corridor. This change may open up development opportunity on lots that should not have further development. MM, the property can be used, right? Ms. Tuttle, yes. The front portions of the lots are presently zoned NAC-R. They can be developed.

Mr. Smith asked if the board would support extending the line out to 125'. DL said he'd only suggest including the buildable area calculation in the NAC-R zone. Ms. Tuttle explained the 125' option. It sought to strike a balance between the request and protection of the river corridor. At this point, we feel that any change may not be appropriate in light of slopes discussions with the city engineer.

JS, if the line is extended to 125' from the road, does that preclude placement of additional fill? Ms. Tuttle, there's nothing precluding that.

WF left at 8:00 PM.

MM, does the present configuration of the NAC-R zone reflect the goals of the district? Ms. Tuttle, yes. She said the idea behind the amendment was to enable greater flexibility. It's possible that the RCO-C should be moved uphill.

A MOTION was made by DM and SECONDED by DL:

Following a site visit and extensive discussion, the only change that we recommend at this time is to include the buildable area provision within the NAC-R zone.

Vote: 8-0-0

Meagan said she'd update the Planning Commission with a memo.

2. Invasive species – draft permit condition discussion

Defer to January meeting.

Adjournment

The meeting adjourned at 8:15PM.

Department of Planning and Zoning

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Scott Gustin, AICP, CFM, Principal Planner
Mary O'Neil, AICP, Principal Planner
Ryan Morrison, Assistant Planner
Anita Wade, Zoning Clerk
Layne Darfler, Planning Technician



TO: Planning Commission
FROM: Meagan Tuttle, Comprehensive Planner
DATE: August 17, 2017
RE: Proposed ZA-18-03: Article 8 Amendment for Food & Beverage Processing

On August 7, the City Council approved the proposed ZA-17-08 Food & Beverage Processing. This amendment, however, did not include the corresponding Article 8 updates. Staff recommends Planning Commission approval of the following changes to the minimum required off-street parking requirements consistent with the approved Food & Beverage Processing Amendment.

The following recommendation updates uses in Table 8.1.8-1 to be consistent with the changes to uses in Appendix A as part of ZA-17-08. The changes to the parking requirements for the new Food & Beverage Processing use is consistent with the requirements for Tour Oriented Manufacturing, and with the former Micro-Brewery/Winery use. This allows for flexibility in calculating parking requirements for food and beverage processing with or without accessory uses devoted to sales or service of goods to patrons based on the potential intensity of use.

Sec. 8.1.8 Minimum Off-Street Parking Requirements

Parking for all uses and structures shall be provided in accordance with **Table 8.1.8-1**.

- (a) Where no requirement is designated and the use is not comparable to any of the listed uses, parking requirements shall be determined by the DRB upon recommendation by the administrative officer based upon the capacity of the facility and its associated uses.
- (b) When the calculation yields a fractional number of required spaces, the number of spaces shall be rounded to the nearest whole number.

<i>Table 8.1.8-1 Minimum Off-Street Parking Requirements</i>			
	Neighborhood Districts	Shared Use Districts	Downtown Districts
RESIDENTIAL USES	Per Dwelling Unit except as noted		
[no changes]			
RESIDENTIAL USES - SPECIAL	Per Dwelling Unit except as noted		
[no changes]			

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Table 8.1.8-1 Minimum Off-Street Parking Requirements

	Neighborhood Districts	Shared Use Districts	Downtown Districts
NON-RESIDENTIAL USES	Per 1,000 square feet of gross floor area (gfa) except as noted		
[all others as written]			
Bakery-Retail	2.5	2.5	1
Bakery-Wholesale	2	2	1
Food & Beverage Processing	1.3, <u>plus 3 per 1,000 gfa devoted to patron use.</u>	1, <u>plus 2 per 1,000 gfa devoted to patron use</u>	1
Micro-Brewery/Winery	3	2	1

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Burlington Planning Commission Report Municipal Bylaw Amendment ZA-18-03 Article 8 Food & Beverage Processing **DRAFT**

This report is submitted in accordance with the provisions of 24 V.S.A. §4441(c).

Explanation of the proposed bylaw, amendment, or repeal and statement of purpose:

The purpose of this proposed amendment is to update *Table 8.1.8-1* regarding minimum off-street parking requirements based on the recently adopted ZA-17-08. This amendment updates Bakery uses, adds the new Food and Beverage Processing use and associated parking ratios, and strikes Wholesale Bakery and Micro-Brewery/Winery consistent with changes to the *Appendix A- Use Table* approved in ZA-17-08.

Conformity with and furtherance of the goals and policies contained in the municipal development plan, including the availability of safe and affordable housing:

The proposed amendment has no impact the goals and policies contained within the Municipal Development plan as it relates to the availability of safe and affordable housing.

Compatibility with the proposed future land uses and densities of the municipal development plan:

This amendment maintains parking ratios for retail scale bakeries, and applies similar parking requirements to the new Food and Beverage Processing use as have been applied to Food Processing, Micro-Breweries, and Tour Oriented Manufacturing uses, and therefore has no impact on the proposed future land uses and densities contained within the Municipal Development Plan.

Implementation of specific proposals for planned community facilities:

The proposed amendment has no impact on planned community facilities.

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David White, AICP, Director
Meagan Tuttle, AICP, Comprehensive Planner
Jay Appleton, Senior GIS/IT Programmer/Analyst
Scott Gustin, AICP, CFM, Principal Planner
Mary O'Neil, AICP, Principal Planner
Ryan Morrison, Associate Planner
Layne Darfler, Planning Technician
Anita Wade, Zoning Clerk



Memo to: Planning Commission

From: Mary O'Neil, AICP, Principal Planner

Date: July 26, 2017

Re: Proposed zoning amendment, language correction to Section 5.2.7 *Density and Intensity of Development Calculations*

Allowable density limits are directed in **Tables 4.4.4-1 Dimensional Standards and Density** (Institutional) **Table 4.4.5-2** (Residential), **4.4.5-5** (IZ allowances), **4.4.5-5** (Senior Housing), **4.4.5-6** (Adaptive Reuse Bonus), **4.4.5-7** (Residential Conversional Bonus and **4.4.5-8**, (Maximum Density.)

The method for calculating density is provided in **Section 5.2.7 Density and Intensity of Development Calculations**:

(a) Dwelling Units per Acre:

In accordance with the district-specific provisions of Article 4, the calculation of development intensity shall be measured as follows in such cases where the intensity of development is measured on a dwelling unit per acre basis:

1. Density Calculation: The total number of dwelling units provided on a development site, or portion of the site where split by a zoning district boundary, shall be divided by the gross site area expressed in acres. In calculating the number of residential units permitted, fractional units of less than five-tenths (0.5) shall be rounded down to the nearest whole number and fractional units of five-tenths (0.5) or greater shall be rounded up to the nearest whole number. Any rounding of fractional units shall be limited to a single final calculation for any development.
2. Density Equivalent, Nonresidential Uses: For purposes of density calculations, each one thousand, five hundred (1,500) square feet of nonresidential gross floor area not contained within a dwelling unit or within common hallways, stairwells and elevator shafts serving said dwelling units shall be counted as one dwelling unit.

Upon a challenge three years ago, it was determined that the usual method of calculation (determining the parcel area and multiplying by the allowable number of units per acre) comes out **substantially differently** when following the prescribed method defined in the ordinance.

For example:

For a property with a lot size of 17,424 in the RL zoning district and 2 existing units. A third unit (allowable with DRB approval) is requested. RL has a 7 unit maximum density under Table 4.4.5-2.

17,424 sf parcel area divided by 43,560 (an acre) = 0.40 acres

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Old method:

7 units/ 1 acre = x/.4;

x = 2.8; rounded up to 3 so 3 units would be permitted with rounding.

Method as described in Section 5.2.7:

3 units (desired) / .4 acres = 7.5 units.

This number exceeds the 7 unit/acre limitation, so 3 units **cannot be permitted**.

The rounding provision became irrelevant when strict adherence to the direction of Section 5.2.7 (a) was followed.

As the correct method of calculation **starts with a whole number** (# of units, to be divided by land area expressed in acres), fractional units are eliminated.

In order to request a third unit from the DRB, the lot dimensionally would have to be compliant with the 7 unit per acre maximum in RL.

Suggested amendment:

Sec. 5.2.7 Density and Intensity of Development Calculations

(a) Dwelling Units per Acre:

In accordance with the district-specific provisions of **Article 4**, the calculation of development intensity shall be measured as follows in such cases where the intensity of development is measured on a dwelling unit per acre basis:

- ~~3. Density Calculation: The total number of dwelling units provided on a development site, or portion of the site where split by a zoning district boundary, shall be divided by the gross site area expressed in acres. ~~In calculating the number of residential units permitted, fractional units of less than five tenths (0.5) shall be rounded down to the nearest whole number and fractional units of five tenths (0.5) or greater shall be rounded up to the nearest whole number. Any rounding of fractional units shall be limited to a single final calculation for any development.~~~~
4. Density Equivalent, Nonresidential Uses: For purposes of density calculations, each one thousand, five hundred (1,500) square feet of nonresidential gross floor area not contained within a dwelling unit or within common hallways, stairwells and elevator shafts serving said dwelling units shall be counted as one dwelling unit.

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Burlington Planning Commission Report Municipal Bylaw Amendment ZA-18-04 Density Calculations

DRAFT

This report is submitted in accordance with the provisions of 24 V.S.A. §4441(c).

Explanation of the proposed bylaw, amendment, or repeal and statement of purpose:

The purpose of this proposed amendment is largely a technical correction, addressing a discrepancy in the current CDO regarding calculation of permitted density on a site. The current method described results in calculations of intensity that in some cases exceed the permitted maximum density in the zoning district.

Conformity with and furtherance of the goals and policies contained in the municipal development plan, including the availability of safe and affordable housing:

The proposed amendment is largely a technical correction, addressing the methodology outlined in the *Comprehensive Development Ordinance* such that lots may be developed, and the densities more accurately calculated, in order to allow housing units on sites at the densities permitted within various zoning districts.

Compatibility with the proposed future land uses and densities of the municipal development plan:

The proposed amendment corrects the methodology outlined in the *Comprehensive Development Ordinance* such that lots may be developed, and the densities more accurately calculated, at the densities permitted within various zoning districts.

Implementation of specific proposals for planned community facilities:

The proposed amendment has no impact on planned community facilities.

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Andy Montroll, Chair
Bruce Baker, Vice-Chair
Yves Bradley
Alexander Friend
Emily Lee
Harris Roen
Jennifer Wallace-Brodeur
Eamon Dunn, Youth Member



Burlington Planning Commission **Tuesday, August 8, 2017, 6:30 P.M.** **Conference Room 12, City Hall, 149 Church Street** **Minutes**

Commissioners Present: A. Montroll, B. Baker, Y. Bradley, H. Roen, A. Friend, E. Dunn

Commissioners Absent: E. Lee, J. Wallace-Brodeur

Staff Members Present: D. White, M. Tuttle, S. Gustin, A. Wade

I. Agenda

A. Montroll: called the meeting to order at 6:34pm. No changes to the agenda.

II. Public Forum

Two speakers shared comments to be included in the public hearings for the items addressed.

III. Report of the Chair

Nothing to report.

IV. Report of the Director

D White: Council adopted three amendments on Monday: food and beverage, technical amendments, and signage in enterprise zone. Staff continues to work on the form based code and Great Streets projects.

V. Annual Organizational Meeting

The Commission unanimously approved a motion by B Baker, seconded by A Friend, to appoint the slate of DAB and DRB members to serve on the Ordinance and Long Range Committees.

VI. Public Hearing: ZA-17-14 Preschool Technical Amendment

S Gustin: This is an amendment is follow up to correct the use and parking tables resulting from the timing of this amendment and the Cambrian Rise amendment. Adds preschools to these two sections of the ordinance for the Cambrian Rise district.

The Chair opened the public hearing at 6:46pm. The hearing was closed at 6:47pm with no comments from the public or Commission.

The Commission unanimously approved a motion by Y Bradley, seconded by B Baker, to approve the municipal bylaw report and forward the proposed amendment to Council with recommendation.

VII. Public Hearing: 17-17-15 Article 4 Development Bonuses

S Gustin: This amendment cleans up an existing inconsistency between Article 4 and Article 9 development bonuses.

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The Chair opened the public hearing at 6:48pm.

B Hedrick: Support a zoning change for residential use and adaptive use, but should be required to be conforming and more in compliance with current zoning. Whole neighborhoods are affected when individual properties are not consistent with the RL zone. There is a need to conserve and strengthen our residential areas.

A Montroll: If a project meets underlying zoning and any bonuses entitled to, isn't it conforming?

S Gustin: Anything over a single family is not conforming in RL zone.

A Friend: The point is two bonuses are conflicting and need to be cleaned up.

B Hedrick: Should not allow triplexes or four-plexes in RL zone because they are counter to RL.

S Gustin: Purpose of bonus is someone can come in with nonconforming use and make a change.

D White: Need an incentive to change a nonconforming use to a residential one. There needs to be a benefit to preserve space and convert it to be more consistent with the neighborhood.

B Hedrick: People could put in an illegal office and then convert to residential to make a claim to use bonuses. Would like to see neighborhoods preserved to be more consistent with character, not bonuses.

A Montroll: If a project uses bonuses, isn't it conforming with its allowable exceptions?

D White: The proposed ordinance takes out the word conforming, but in application, it doesn't make a difference.

A Friend: Providing 25% more floor area or up to 25,000 sq. ft. is possible.

A Montroll: Perhaps the wording should say "conforming with any permitted exceptions" to express that it still has to be conforming to RL and meet any conditions. Removing it doesn't suggest that it has to be conforming.

K Sturtevant: May need to add language to clarify.

S Gustin: If a project meets criteria and any permitted exceptions and the Board approves it, then it's conforming.

A Montroll: Recommend keeping "conforming" in the language.

D White: The ordinance describes what conformity is and how to treat non-conformity; taking it out may cause unnecessary confusion.

B Baker: Conforming refers to the base residential use.

M Tuttle: Suggest keeping it in the language and have staff issue an interpretation on conformity.

B Baker: How to avoid this being a case-by-case issue?

D White: It is a formal written interpretation, entered into a record book in the P&Z office and on the website.

K Sturtevant: Another option is to add language to the amendment for clarification.

The Chair closed the public hearing at 7:13pm.

The Commission approved a motion by Y Bradley, seconded by H Roen, to retain "conforming" in the language of the proposed amendment, to approve a modified municipal bylaw amendment report, and to forward to Council with recommendation. A Montroll, Y Bradley, H Roen, and A Friend voted in the affirmative, with B Baker opposed.

VIII. Public Hearing: ZA-17-16 Replacement Mobile Homes

S Gustin: The amendment will treat mobile home replacements as a regular zoning permit, and any other alterations will go before the DRB.

The Chair opened the public hearing at 7:14pm. The hearing was closed at 7:14pm with no comments from the public or Commission.

The Commission unanimously approved a motion by Y Bradley, seconded by A Friend, to approve the municipal bylaw amendment report and forward the amendment to Council with recommendation.

IX. Public Hearing: ZA-17-18 Retaining Walls

S Gustin: The amendment lays out in greater detail the requirements for retaining walls regarding distance to property lines and height.

The Chair opened the public hearing at 7:15pm.

E Morrow: What initiated this amendment?

S Gustin: Request of neighbors regarding visual impacts on properties.

The Chair closed the public hearing at 7:16pm.

The Commission unanimously approved a motion by A Friend, seconded by H Roen, to approve the municipal bylaw amendment report and forward to Council with recommendation.

X. Public Hearing: Za-18-01 planBTV: Downtown Code

D White: Amendment to re-envision zoning regulations in the downtown core.

The Chair opened the public hearing at 7:18pm.

E Morrow: Support form based code and recommend the City make the same commitment to all city buildings, working in concert with the private and nonprofit sectors. Read statements from residents unable to attend the meeting regarding support of a sustainable design/green built rating system to help increase the quality of design and construction; general support for passive house; and bringing attention to the potential duplication of the code's reference to accessibility and ADA requirements; a concern about glazing requirements and sustainability.

R Deane: Member of form base code committee. Have questions about boundary of District 5 including other properties been addressed?

D White: Yes, agreed to consider any changes at a subsequent time. At last meeting, Commission wanted to share comments with Council regarding green building; shopfronts; substantial modification; and historic buildings. Packet includes a draft memo with recommendations on each of these. Includes a larger size limit to trigger LEED, included B.Leet's recommended language.

E Morrow: LEED requirements are a big step forward, glad for inclusion of Passivhaus. However, would like to see only rating programs with national recognition.

A Montroll: Purpose is to forward code and recommended changes via memo to Council, not yet making changes to the ordinance itself.

M Tuttle: The proposed language on the screen is not an amendment to the current draft ordinance, but in a memo to be considered for incorporation by City Council.

Y Bradley: Projects in Burlington are reaching levels where construction costs are so expensive its resulting in higher rents that are not sustainable in our community. Could lead to creating an oversupply of housing or commercial space around Burlington. Presently have 3,000 units of oversupply.

D White: In discussing code with design professionals, concern was that the requirements need to demonstrate a meaningful effect. Adding real value is what's key. LEED is a very expensive design process. Next issue is substantial modification; clarified definition to major renovation and what that means in context of LEED. The concern in current language is that the 50% threshold could be triggered by upgrading a building's systems to comply with codes.

A Friend: Don't want the requirement to be an impediment.

E Dunn: Don't understand the shopfront issue because it feels like shops are already located where they're needed the most.

A Friend: Purpose is to encourage retail.

M Tuttle: It may seem duplicative, but zoning not only helps us say what we want to see happen in the future, but to maintain the character of what is there now.

D White: Regarding historic review process, it was noted that nothing had been mentioned about the review and decision making for historic buildings. Added a recommendation in memo.

B Baker: Does staff make decisions?

D White: In conjunction with DAB, which we do with regularity. The DRB applies subject to all other matters listed or eligible for listed.

B Baker: Concern is that we will see far different results from initial meeting to formal decisions.

Richard: Have heard that design professionals are challenged by staff review; feel there is too much emphasis on historic materials rather than embracing new materials with higher performance and which look the same.

E Morrow: Have heard people can't remove a chimney on an old house even when it's not architecturally significant.

D White: This language treats it the same way as the code, other alternative is current process through DAB and DRB.

B Baker: With DRB, have flexibility to treat issues site-by-site, in creative ways.

A Montroll: Proposing then that do not use language proposed, but follow existing process.

E Morrow: Advocates LEED Gold equivalent to Council, and that any eligible standards are by nationally recognized third party.

D White: Purpose was to allow mechanism to look at projects that comply with Efficiency VT or State programs.

E Morrow: There is no monitor from the State on energy codes. Third party will ensure enforcement.

D White: BED is monitoring this.

The Chair closed the public hearing at 8:19pm.

The Commission unanimously approved a motion by Y Bradley, seconded by B Baker, approve the municipal bylaw amendment report, and forward the proposed ordinance, along with the revisions to the Planning Commission memo per discussion, to Council with recommendation.

H Roen: Was this presented in a way that the community will be comfortable with?

A Montroll: Many meetings on form based code. Getting information out was a concern, but understand that it will get attention is when it goes to City Council.

D White: Anticipated to be before City Council on Aug 28th.

XI. Committee Reports

No reports.

XII. Commissioner Items

No items.

XIII. Minutes & Communications

The Commission unanimously approved a motion by Y Bradley, seconded by H Roen, to approve the minutes of the July 25, 2017 meeting and accept the communications.

XIV. Adjourn

The Commission unanimously approved a motion by Y Bradley, seconded by H Roen, to adjourn the meeting 8:24pm.

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Burlington Planning Commission

Tuesday, August 22, 2017, 6:30 P.M.

Conference Room 12, City Hall, 149 Church Street



**DUE TO THE INCLEMENT WEATHER FORECAST,
THIS MEETING IS CANCELLED.**

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Burlington Planning Commission

Tuesday, August 22, 2017, 6:30 P.M.
Conference Room 12, City Hall, 149 Church Street
AGENDA

*Note: times given are
approximate unless
otherwise noted.*

I. Agenda

II. Public Forum - Time Certain 6:30 p.m.

III. Report of the Chair

IV. Report of the Director

V. Proposed CDO Amendment: Rezone St. Joseph School to NMU (10 min)

The Planning Commission discuss a request by the Champlain Housing Trust to rezone the St. Joseph's School site on Allen Street to be entirely within the Neighborhood Mixed Use zone. Information related to this request are included in the agenda packet on pages 3-21.

VI. Proposed CDO Amendment: Rezone Majestic Car Rental Site (5 min)

The Planning Commission will discuss a request by a business owner to reconsider the zoning of the Majestic Car Rental site, which was reviewed by the Ordinance Committee. Information related to this proposed amendment is included in the agenda packet on pages 22-23.

VII. Proposed CDO Amendment: NAC-Riverside Boundary Adjustment (10 min)

The Planning Commission will discuss a request by a property owner to move the northern boundary of the NAC-Riverside zoning district along Riverside Avenue. Information related to this proposed amendment is included in the agenda packet on pages 24-37.

VIII. Proposed CDO Amendment: Article 8 Food & Beverage Processing (10 min)

The Planning Commission will discuss an amendment to add and remove parking requirements related to the adoption of the *ZA-17-08 Food and Beverage Processing*. Information related to this proposed amendment is included in the agenda packet on pages 38-40.

IX. Proposed CDO Amendment: Density Calculations (15 min)

The Planning Commission will discuss an amendment to the calculation method for density in the *Comprehensive Development Ordinance*. Information related to this proposed amendment is included in the agenda packet on pages 41-43.

X. Committee Reports

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XI. Commissioner Items- *Next meeting is Tuesday, September 12, 2017 @ 6:30 pm in Conference Room 12*

XII. Minutes & Communications

The Commission will review and approve the minutes of the August 8, 2017 meeting, enclosed on pages 44-48 of the agenda packet.

XIII. Adjourn