

Burlington Planning Commission

149 Church Street
Burlington, VT 05401
Telephone: (802) 865-7188
(802) 865-7195 (FAX)
(802) 865-7144 (TTY)

www.burlingtonvt.gov/pz

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, July 25, 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. **Permit Reform Advisory Committee** (5 min)

As part of the permit reform effort, the Mayor is convening a Permit Reform Advisory Committee to provide input to staff on the implementation of its recommendations. The Planning Commission and Public Works Commissions have been asked to identify a representative to participate on this committee along with professionals in real estate, development and the design and building trades.

VI. **Proposed CDO Amendment: NAC-Riverside Boundary** (15 min)

The Planning Commission will discuss a request to reconsider the NAC-Riverside zoning boundary along Riverside Avenue. Materials related to this request are included in the agenda packet on pages 2-16.

VII. **Proposed ZA-18-01 planBTV Downtown Code** (45-60 min)

The Planning Commission will continue its discussion of the *planBTV Downtown Code*, a proposed amendment to the *Burlington CDO*. Information related to this amendment can be found at the links below.

- The full draft of *planBTV Downtown Code* can be found here:
https://www.burlingtonvt.gov/sites/default/files/Agendas/SupportingDocuments/ZA-18-01-planBTV%20Downtown%20Code_part1.pdf
- Additional ordinance modifications relating to the proposed ZA-18-01 can be found here:
https://www.burlingtonvt.gov/sites/default/files/Agendas/SupportingDocuments/ZA-18-01-planBTV%20Downtown%20Code_part2.pdf

VIII. **Committee Reports**

IX. **Commissioner Items**- *Next meeting is Tuesday, August 8, 2017 @ 6:30 pm in Conference Room 12*

X. **Minutes & Communications**

The Commission will review and approve the minutes of the July 11, 2017 meeting, enclosed on pages 17-19 of the agenda packet, and communications on pages 20-30.

XI. **Adjourn**

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www.burlingtonvt.gov/pz
Phone: (802) 865-7188
Fax: (802) 865-7195

David White, AICP, Director
Meagan Tuttle, AICP, Comprehensive Planner
Jay Appleton, GIS Manager
Scott Gustin, AICP, 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
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

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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

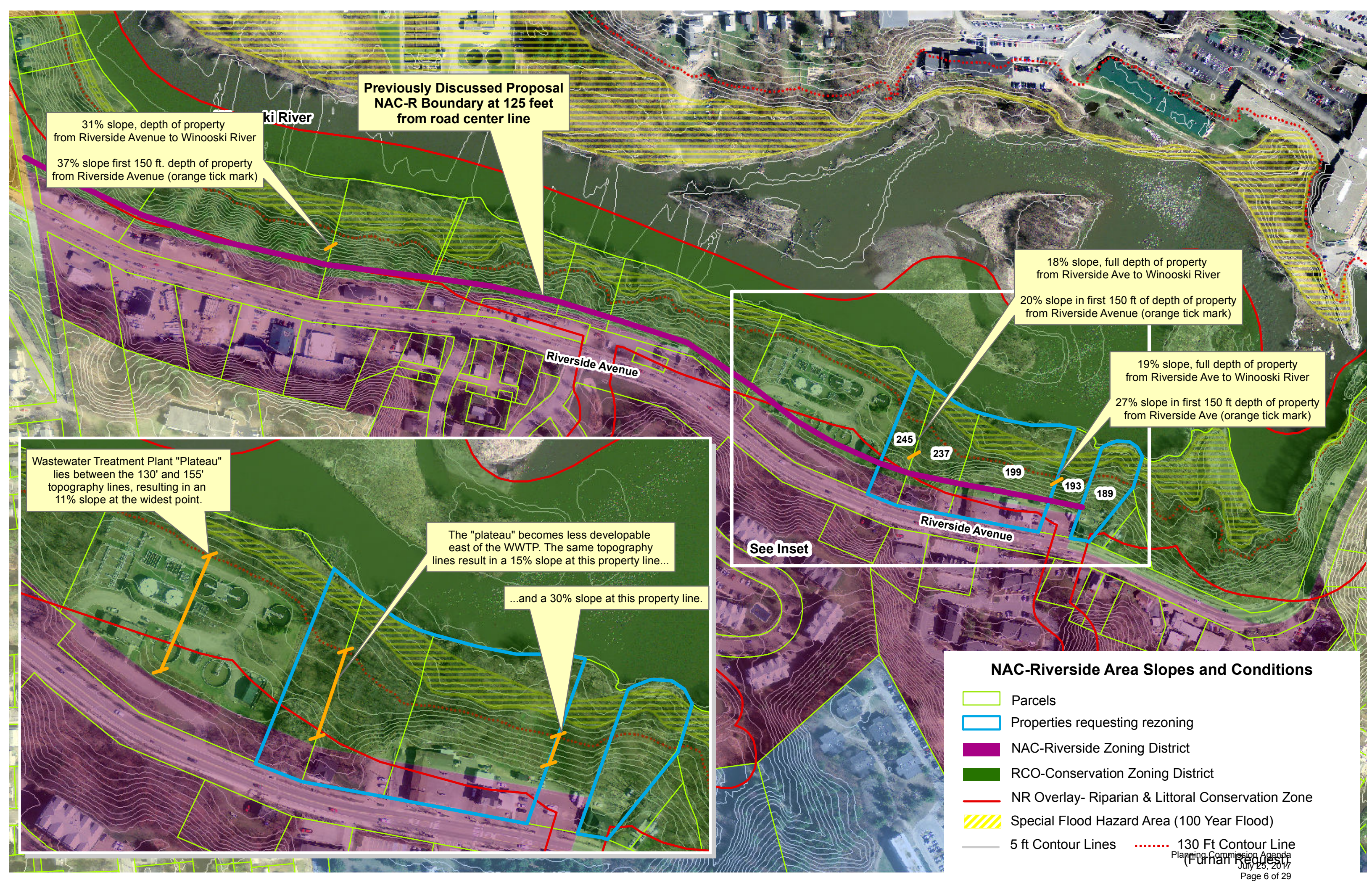
Following its July 5, 2016 meeting, the Conservation Board’s input was summarized and presented in a memorandum from its Chair to the Planning Commission (attached to this memo). At that time, the board concluded that “without geotechnical and river studies regarding the suitability for expanded developable 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.



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).

See Inset

245

237

199

193

189

Riverside Avenue

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

Notes from Sept. 19 Site Walk at 237 Riverside Avenue

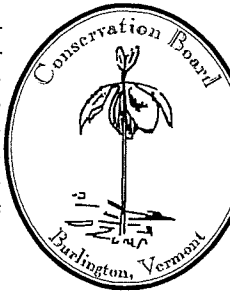
Attendees: Mark Furnari, Norm Baldwin (City Engineer), Scott Gustin, Meagan Tuttle, Harris Roen (Planning Commission)

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.

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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.

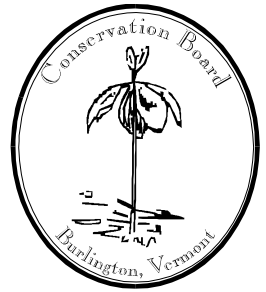
Given the Riverside Avenue corridor's historic slope failures, and the recent slope failure impacting a home on Plattsburg Avenue, the board is particularly concerned with the vulnerability of slopes along the riverbank and encroachment of development into the RCO-C areas. Without geotechnical and river 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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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.

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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.

Burlington Planning Commission

149 Church Street
Burlington, VT 05401
Telephone: (802) 865-7188
(802) 865-7195 (FAX)
(802) 865-7144 (TTY)

www.burlingtonvt.gov/pz

*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, July 11, 2017, 6:30 P.M.

Conference Room 12, City Hall, 149 Church Street

DRAFT Minutes

Members Present: A Montroll, B Baker, Y Bradley, H Roen, E Lee, J Wallace-Brodeur, E Dunn

Members Absent: A Friend

Staff Present: D White, M Tuttle, A Wade

I. Agenda

The Chair called the meeting to order at 6:35 pm. There were no changes to the agenda.

II. Public Forum

No one from the public was present to speak.

III. Report of the Chair

A Montroll: Presented the annual report to Council Monday. Last meeting did not have quorum; reminder to Commission members to notify staff when they are unable to attend a meeting.

IV. Report of the Director

D White: Meeting is a milestone in the work done on the form based code. Staff has been busy on this project and many others including Great Streets. Resolution to the appeal of the Burlington Town Center should be finalized soon. Settlement includes a modification to the approved plan to include another entrance to an additional below-ground parking garage with 200 spaces from Pine Street.

E Lee: What was the appellants' issue with parking?

D White: That is unclear; however, result was another parking garage completely distinct from the other parking resources and with a third entrance.

V. Annual Organizational Meeting

The Commission unanimously approved a motion by Y Bradley, seconded by B Baker, to elect A Montroll as Chair of the commission.

A Montroll: Pleasure and honor to serve. Commission is off to big start this year.

The Commission unanimously approved a motion by Y Bradley, seconded by E Lee, to elect B Baker as Vice-Chair of the commission.

The Commission unanimously approved a motion by B Baker, seconded by J Wallace-Brodeur, to elect Y Bradley as the At-Large member of the Executive Committee.

The Commission unanimously approved a motion by E Lee, seconded by H Roen, to appoint A Wade as Planning Commission Clerk.

This agenda is available in alternative media forms for people with disabilities. Individuals with disabilities who require assistance or special arrangements to participate in programs and activities of the Dept. of Planning & Zoning are encouraged to contact the Dept. at least 72 hours in advance so that proper accommodations can be arranged. For information, call 865-7188 (865-7144 TTY). Written comments may be directed to the Planning Commission at 149 Church Street, Burlington, VT 05401.

A Montroll: Any requests for alternative appointments on committees?

M Tuttle: Appointments to committees will include Commissioners only; future meeting will appoint DRB, DAB and Conservation Board members.

The Commission unanimously agreed to retain existing committee assignments, including H Roen, E Lee, and J Wallace-Brodeur on the Long Range Planning Committee, and A Friend, A Montroll, and B Baker on the Ordinance Committee.

VI. Proposed ZA-18-01: planBTV Downtown Code

A Montroll: After many meetings, and a hiatus to work on the DMUC, the joint Council and Commission committee forwarded the amendment to the Commission for consideration with a vote of 4 to 1. The Enterprise Zone, RH zone, and Waterfront areas were taken out of the original draft code; the focus became the downtown core. Building heights were a big issue, but Committee did not make major changes with heights or boundaries for the downtown core. The downtown code isn't major leap from where we are now. When the zoning code was first established it concentrated more on the use for each of the districts and the City later developed requirements for setbacks and heights. Form-based changes this by focusing on what the building looks like, and the impact on downtown character and pedestrian access; uses become secondary. This code does away with bonuses, and replaces with more prescriptive and directive criteria. This will result in less public process for smaller projects which can be reviewed administratively, but those approvals will result in a project that is much closer to what we want. A larger project, or one requesting a higher height will still go before the DRB and include public input. Anticipate a smooth transition from the current code to the form based code's predictability due to checklists of specific criteria.

E Lee: How does the process become more predictable?

A Montroll: Currently, projects go through the DRB process, which includes uncertainty about the length of the process and the outcome. The form based code gives specific criteria with design, heights, etc which the DRB apply to decisions. There have been many discussions on how to preserve the public opportunity to engage in the DRB review process. Larger projects will still be reviewed; and smaller projects will have more direction for results that are what we want.

D White: Code is an evolution of the 1970's Design Review standards, which were adopted into zoning and further refined in 2008. This code specifically originates from planBTV Downtown & Waterfront Plan. Several other communities using form based today including Winooski, Colchester, South Burlington and Jericho. Goal for tonight is to present an overview, with a chance to see where there are specific issues and questions. If the Commission is prepared, take action to warn for Public Hearing on August 7, to transmit to Council in September. The zoning amendment includes two parts: Article 14, which is the Downtown code itself, and all associated amendments to rest of zoning code to like to Article 14. Article 14 is not part of the design review process; has its own process. Code includes a hierarchy of standards for districts, building types and frontage type, selected from a menu. Provided a presentation on the code regarding the districts, intent, building and frontage types, urban design standards and review process.

A Montroll: Next meeting will focus on specifics of the code based on Commission's interests.

H Roen: Would like to learn more about the process for approving additional building height.

D White: Project that doesn't have to go to DRB will include a pre-application meeting with staff so that applications are complete; then staff will run the project through a checklist with a 30-day time frame required. More than 5 units and 10,000 sq.ft. will have had an NPA meeting. If goes to DRB, starts the same way, then schedule a DAB review and a public hearing for the DRB. No 30 day limit, but most are complete within 60 days.

J Wallace-Brodeur: What is the threshold for major impact?

D White: Major impact threshold for DRB review is 50 units, footprint larger than 50,000 sq.ft., or GFA larger than 100,000 sq.ft. in downtown. However, projects with 5 units and 10,000 sq.ft. just requires neighborhood meeting.

J Wallace-Brodeur: Why are some streets excluded from frontage requirements?

D White: Required on major east-west streets linking downtown to waterfront, include Church Street, then looked at where there is concentration of street-front activity today to maintain or expand pedestrian activity. But some streets don't have a strong retail presence, and if it is residential left them out.

A Montroll: This was an area where committee spent a lot of time made a variety of adjustments from staff recommendation. We were not always unanimous in views, but worked really hard to come to a consensus. If we don't make changes to the ordinance, we should still send comments to the Council for consideration.

J Wallace-Brodeur: Would like to discuss in next meeting, should identify other items we may want to include in a communication for Council.

H Roen: Will administrative review require additional staff time to review applications?

D White: It will be tremendously efficient and the burden will be on the applicant to demonstrate that all standards are met. Staff just needs to run through the checklist.

B Baker: Was there outreach to architects and developers who will use this code?

D White: Yes, and Mayor's office will be convening a meeting to discuss as well. May need to do more outreach.

The Commission unanimously approved a motion by Y Bradley, seconded by B Baker, to warn the amendment for public hearing in August.

VII. Committee Reports

Executive: Met to discuss scheduling for form based code at July and August meetings.

Ordinance: Did not meet in July.

Long Range: planBTV South End will be ready for Commission when form-based code work completed.

VIII. Commissioner Items

No items to discuss.

IX. Minutes & Communications

The Commission unanimously approved a motion by E Lee, seconded by B Baker, to approve the minutes from the June 13, 2017 meeting.

X. Adjourn

The Commission unanimously approved a motion by E Lee, seconded by J Wallace-Brodeur, to adjourn the meeting at 8:10pm.

NOTICE OF WETLAND DETERMINATION 2013-163.D
7/12/2017

A request for a Wetland Determination, pursuant to the provisions of Section 8 of the Vermont Wetland Rules, has been received by Burlington Dept. of Parks and Recreation

The wetlands are located between Queen City Park Rd and Winooski River Bridge, in Burlington, Vermont. Wetland 2013-CM-5 is located in a depression adjacent to and on the east side of the existing trail and unnamed tributary to Lake Champlain. Wetland 2013-CM-6 is located in a linear depression on the east side of/adjacent to the existing trail, and extends to the north outside the right-of-way; drains southwest under the trail. Wetland 2013-CM-7 is located in a linear depression on the west side of trail embankment, which extends outside the study area; drains southwest under the trail. Wetland 2013-CM-10 is located in a slight depression (relative to the adjacent upland) which eventually drains to Lake Champlain. The functions and values of the wetland have been evaluated and field verified by the Agency of Natural Resources. In accordance with Section 8.3 of the Vermont Wetland Rules, the Agency proposes to VSWI Changes.

A copy of the draft determination and map is available for review at the Vermont Wetlands Office in Montpelier and may be found online at

<https://anrweb.vt.gov/DEC/IWIS/ReportViewer2.aspx?Report=WLPublicNotices&ViewParms=False>

This notice provides at least thirty (30) days in which to file written comments or to request that the Secretary hold a public meeting on the proposed determination. Comments regarding the Wetland Determination must be limited to a discussion of the functions and values of the wetland as described in Section 5 of the Vermont Wetland Rules, a copy of which can be found online at:

<http://dec.vermont.gov/watershed/wetlands/jurisdictional/rules#Section5>

Any person may file comments in writing on this determination by referencing project #2013-163 through 8/10/2017 and sending them to:

Watershed Management Division
Attn: Wetlands Program
Department of Environmental Conservation
One National Life Drive
Main Building, 2nd Floor
Montpelier, VT 05620-3522

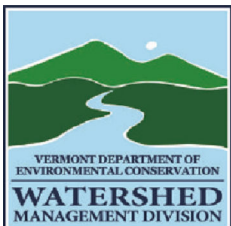
Or to:

ANR.WSMDWetlands@vermont.gov

Enclosure



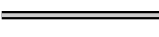
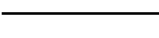
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VSWI Map Change Project #2013-163.D

Cartographer: L. M. Woods
Date: July 11, 2017

Legend

-  Pending Class II Wetlands 2013-163
-  Mapped VSWI Class II Wetland
-  Class 2 Town Road
-  Class 3 Town Road
-  Private Road



Required Agricultural Practices

Fall Planning and Zoning Forum
November 2, 2016
Vermont League of Cities and Towns

Stephanie Ann Smith
Ryan Patch
VT Agency of Agriculture, Food & Markets



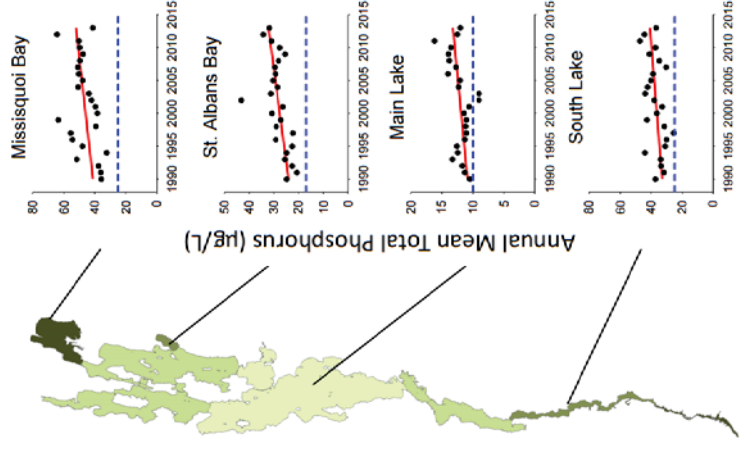
Required Agricultural Practices



Overview

- What are Required Agricultural Practices
- Jurisdictional Changes
- Opportunity for Municipal Regulation
- Time for Questions

Planning Commission Agenda
July 25, 2017
Page 21 of 29



Trend line
Water quality standard

Lessons learned from the past 20 years

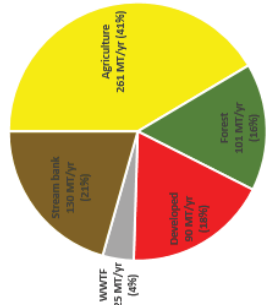
Phosphorus levels in the lake are above the allowable standards.

Vermont has taken many important actions, especially in the last 10 years.

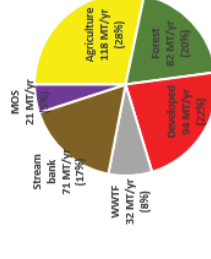
Cleaning up the lake ecosystem is complex and recovery will take time.

We need to do a lot more.

Base Load
631 Metric Tons/Year



Vermont Reduction
Required = 213 mt/yr (34%)

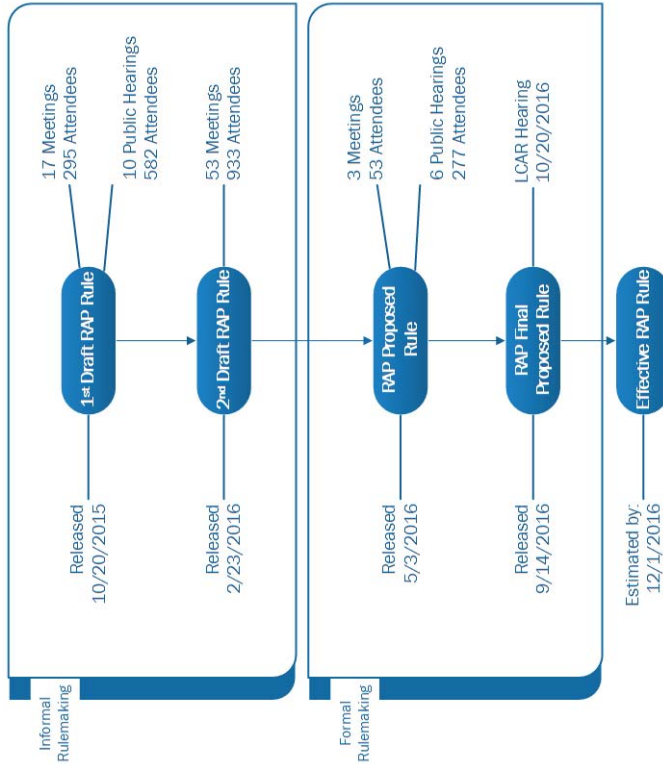


TMDL Loading Capacity and Allocations
418 Metric Tons/yr

34% phosphorus
reduction over
20 years



RAP Rulemaking Timeline



Public Outreach & Comments Received

Total Meetings & Hearings

- 89 Meetings
- 2100+ Attendees

Comments Received

1st Draft RAPs
150+ Commenters

RAP Proposed Rule
500+ Commenters

What are the RAPs?

Act 64

- VAAFM was directed by the Legislature to draft the RAPs pursuant to Act 64, signed into law on June 16, 2015.
- VAAFM has been charged with filing a Final Proposed Rule on or before **September 15, 2016**

RAPs

- AAPs Since 1995
- Act 64 requires that the revised RAPs include requirements for:
 - small farm certification,
 - nutrient storage,
 - soil health,
 - buffer zones,
 - livestock exclusion, and
 - nutrient management.
- Tile Drainage Rules for Jan 15, 2018*

RAPs are STATEWIDE Agricultural Non-Point Source Pollution Regulations that include:

- Small farm certification
- Siting requirements for farm structures
- Erosion standards
- Floodplain management
- Streamside and Ditch Buffers and manure setbacks
 - 25' all surface water, 10' all ditches
- Livestock exclusion from surface waters
- Nutrient management (including seasonal manure application)
- Required education/training for farms (4 hours/5 years)
- Custom manure applicator training (8 hours/5 years)
- Tile drainage rules for Jan 15, 2018*



Estimated # Farms	Regulatory Authority	Size of Farm	Requirements Needed to Meet Farm Type
5500	Municipal zoning may apply authority to Non-RAP Operations (NROs). Can be required to follow quality improvement standards. Agency of Agriculture, Food & Market (VAAFM) regulates RAP Small Farm Operations (SFOs). MUST follow RAPs.	Non-RAP Operations (NRO) RAP Small Farm Operations (SFO)	Operates LESS THAN 4 acres used for farming AND has annual gross income or RAP Farm Threshold (Example: 1-4 cows; 1-3 horses; 1-99 layers) - OK - Makes LESS THAN \$2,000 Annual Gross Income AND did NOT file a 1040F once in the last 2 years. Operates 4+ acres used for farming - OK - Regardless of acreage, any farming operation that makes less than \$2,000 annual gross income or has filed a 1040F once in the last 2 years. - OK - Has an Approved Business Management Plan Operates 10+ acres used for farming - AND one of the following categories: - Livestock Farm: Example: 50 - 199 Dairy Cows or 75 - 300 Beef Cows or 40 - 150 Horses or 90,000# Liveweight - OK - Annual Crop Farm: 50+ acres used for growing Annual Crops (Ex: Feed Corn; Sweet Corn; Pumpkins; Soybeans) Vegetable Farm: 50+ acres used for growing Vegetables
1500	VAAFM regulates Certified SFOs. Farm needs to ANNUALLY Self-Certify -AND - MUST follow RAPs.	Certified Small Farm Operations (CSFO)	Meets Animal Numbers for MFO Example: 200-699 Dairy Cows or 100+ Beef Cows or 150-499 Horses or 3,000 to 9,999 Sheep
140	VAAFM regulates MFOs. Farm needs a MFO General Permit with Annual Report MUST follow permit and RAPs.	Permitted Medium Farm Operations (MFO)	Meets Animal Numbers for LFO Example: 700+ Dairy Cows or 1000+ Beef Cows or 500+ Horses or 10,000+ Sheep
27	VAAFM regulates LFOs. Farm needs a LFO Individual Permit with Annual Reporting MUST follow permit and RAPs.	Permitted Large Farm Operations (LFO)	

What do the RAPs mean for municipalities?

- Increased authority over animal husbandry and small scale operations
- Increased regulations on agricultural operations that reduce the impacts to the municipal drainage infrastructure
- Agricultural operations reduce overall costs to municipalities by addressing significant load reductions both in agriculture and streambanks

Activities that **can be** managed by local town/municipality

Parcels smaller than 4 acres in size and manages

- four equines;
- five cattle, cows, or American bison;
- 15 swine;
- 15 goats;
- 15 sheep;
- 15 cervids;
- 50 turkeys;
- 50 geese;
- 100 laying hens;
- 250 broilers, pheasant, Chukar partridge, or Coturnix quail;
- three camellids;
- four ratties;
- 30 rabbits;
- 100 ducks;
- 1,000 pounds of cultured trout; or
- other livestock types, combinations, and numbers as designated by the Secretary

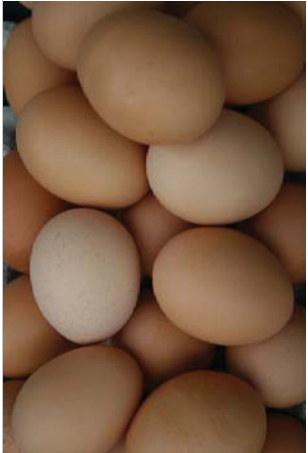
A farm can demonstrate they are a farm that should be regulated under the RAPs by income or a prospective business plan.

Animal husbandry activities that can be managed by local town/municipality

Operations with an annual gross income from the sale of agricultural products less than \$2,000 in an avg year;

OR

Preparing, tiling, fertilizing, planting, protecting, irrigating, and harvesting crops for sale on a parcel that is less than 4.0 contiguous acres in size.



Municipal Regulatory Jurisdiction



Limitation 24 V.S.A. § 4413 (d)

(2) As used in this section:

(A) "Farm structure" means a building, enclosure, or fence for housing livestock, raising horticultural or agronomic plants, or carrying out other practices associated with accepted agricultural or farming practices, including a silo, as "farming" is defined in 10 V.S.A. § 6001(22), but excludes a dwelling for human habitation.

Limitation 24 V.S.A. § 4413 (d)

(1) A bylaw under this chapter shall not regulate:

(A) required agricultural practices, including the construction of farm structures, as those practices are defined by the Secretary of Agriculture, Food and Markets; ...

Limitation 24 V.S.A. § 4413 (d)

(3) A person shall notify a municipality of the intent to build a farm structure and shall abide by setbacks approved by the Secretary of Agriculture, Food and Markets. No municipal permit for a farm structure shall be required.

Expanded Municipal Authority

Provide opportunity for towns to regulate non-commercial operations

- Water Quality
- Nuisance
- Land Use

Municipal Authority

- On less than 4 contiguous acres raising crops for sale; or
- That did not file a Schedule 1040(F) once in the last two years



Municipal Authority

An agricultural operation

- On less than 4 contiguous acres and animal #s below the current threshold; or
- That makes less than \$2,000 Annual Gross Income; or



Addressing Water Quality Impacts

- An operation that is not covered by VAAFM regulation can be required to comply with RAPs when
 - the Secretary determines there are adverse impacts to water quality; and
 - the municipality is without bylaws or ordinances in place to manage the activities causing the issues



Nuisance

- Agency will not enforce against an operation that is not under its jurisdiction that is a nuisance
 - Noise
 - Manure crossing boundaries
 - Odors
 - Flies or other pests

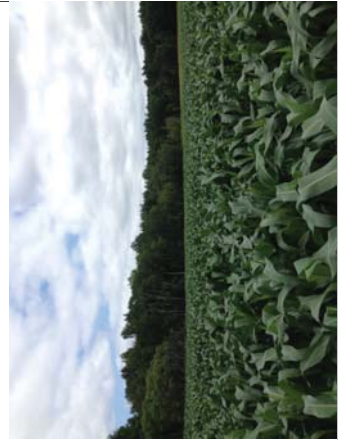
Authority to Regulate Backyard Operations

Existing Authority

- Nuisance Ordinance
- Animal Control Ordinance
- Animal Welfare Ordinance
- Public Health Ordinance
- Examples in Montpelier, Barre City, South Burlington and Burlington



Municipal Authority



Authority to Regulate Backyard Operations

- maintenance of a sanitary conditions,
- manure storage and removal,
- noise,
- # of animals or prohibition of keeping certain animals,
- control of operation to discourage pests,
- mortality disposal,
- running at large,
- licensing and enforcement

Authority to Regulate Backyard Operations

Existing Bylaws may

apply to very small/backyard operations

- Flood hazard Area and River Corridor Regulations
- Setbacks regulations for construction of buildings



Zoning Approaches

- Minimum parcel size for keeping livestock
- Buffer requirements from surface water and wetlands
- Livestock, animal mortalities and manure management
 - Setback distances to public and private wells
 - Setback distances to surface water and wetlands
 - Setback to property lines

Authority to Plan

Existing Planning Authority

– Creation of Agricultural District

- Separate incompatible land use
- Limit development to only those uses in support of agriculture

– Overlay District

- Protect natural resources
- Transitions at Boundaries

No Mandate

- No requirement to adopt a Bylaw or Ordinance to protect water quality or prevent nuisance
- If a nuisance exists an individual can bring a civil suit



What remains the same?

Flood Hazard Area and River Corridor Approvals

The Agency works with DEC to review plans for the construction of “Farm Structures” within the Flood Hazard Areas or River Corridors



Agency of Natural Resources

Agency of Natural Resources responsibilities are not changing

- Regulate direct discharges
- Inspections
- Enforcement



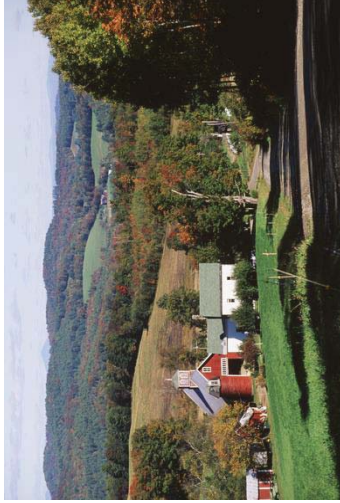
FHA & RC

- The town must make a determination on whether a building is proposed in a regulated flood hazard area or river corridor.
- If yes, and the building is a “farm structure” VAAFM notifies town of its decision
- And refers farm operator to DEC
 - Exempt
 - General permit
 - Reporting and non reporting
 - Individual permit



Farm Structure Construction

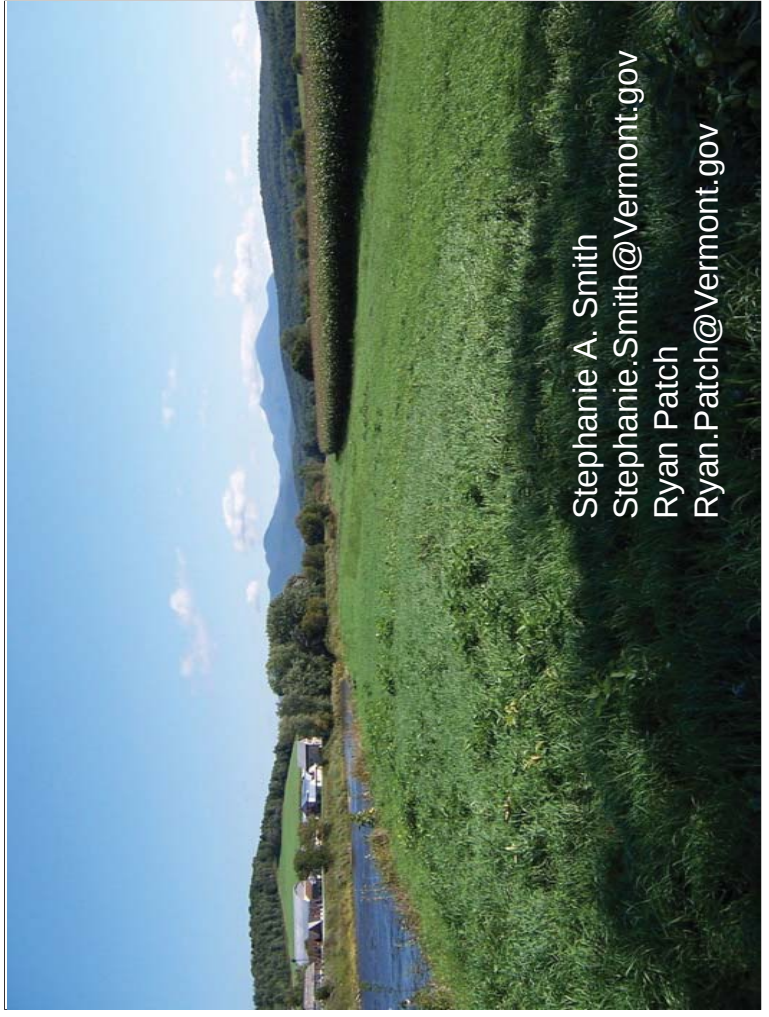
- VAAFM has no authority to approve construction in a highway right of way
- Town issues an 1111 permit for these types of improvements



Questions

Construction of Farm Structures – Alternative to Local Setbacks

- Farm structures must meet local setbacks
- If these setbacks can't be met, must request a alternative to local setbacks from the Secretary

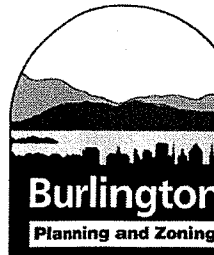


Stephanie A. Smith
Stephanie.Smith@Vermont.gov
Ryan Patch
Ryan.Patch@Vermont.gov

Burlington Planning Commission

149 Church Street
Burlington, VT 05401
Telephone: (802) 865-7188
(802) 865-7195 (FAX)
(802) 865-7144 (TTY)
www.burlingtonvt.gov/pz

*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, July 25, 2017, 6:30 P.M.** **Conference Room 12, City Hall, 149 Church Street** **Minutes**

Commissioners Present: A. Montroll, B. Baker, Y. Bradley, H. Roen, E. Lee, A. Friend, J. Wallace-Brodeur
Commissioners Absent: E. Dunn
Staff Members Present: D. White, A. Wade

I. Agenda

A. Montroll: called the meeting to order at 6:30pm. No changes to the agenda.

II. Public Forum

E. Morrow: asked if there would be any discussion on form base code and sustainability. He expressed an opinion that LEED should involve three major stakeholders; institutions, the private sector and the City. Use UVM as an example of an entity involved with LEED Silver standards since 2006. He supports LEED or equivalent and hopes the City will match what the private sector is doing.

J. Green: sustainability coordinator for Burlington feels the private sector components are working. The City should do the same in a progressive way.

B. Leet: agrees with setting the standard and equalizing the playing field. He has technical concerns about green mandates and codes.

III. Report of the Chair

A. Montroll: There are new rules on energy siting standards. The issue raised by the RPC is whether only energy development projects in the sensitive areas need to be regulated or should all development be under regulation. The question is whether siting all development are too regulatory, since the Regional Planning Commission is not a regulatory entity. PC members will give guidance to the City Council when details are worked out.

D. White: Mostly concerned with sensitive areas such as wetlands, and natural areas.

J. Wallace-Brodeur: Are these sensitive areas defined on the state maps?

D. White: Yes, and they could also include park land.

A. Montroll: Trying to be sensitive to the areas where energy development is sited and regulated. The new law defers to the regional commissions. Question is whether the RPC should determine the procedure or if it should be left for communities to decide based on a municipal plan.

IV. Report of the Director

D. White: Implementing permit reform recommendations, planners spent time with building department. Sometime in the future, a building inspector will join P&Z on a periodic basis and staff from P&Z and DPW coordinate services two or three days a week. In a short time, personal emails will no longer receive City communications and calendars. Ensure access to City email address and notify staff if experiencing any problems accessing email or server.

V. Permit Reform Advisory Committee

D. White: Mayor and City Council seeking oversight and feedback on implementing the permit reform plan. Mayor is convening an advisory committee to meet 2 to 4 times a year made up of members from a variety of disciplines, including a member from each the Planning Commission and DPW Commission.

L. Smith: As a property owner, requesting the permit reform process regulate how the City handles development and proper notification about City projects. Property owners should be notified and have ability to provide input, especially when a City project will have an impact on residents.

D. White: This request should also be sent to the City Council, the Water Department, DPW and Park and Recreation. Any development outside of the public right of way is subject to review by the Planning and Zoning Department, but inside the public right of way should be referred to DPW.

VI. Proposed CDO Amendment: NAC-Riverside Boundary

D. White: In April 2015 received a request from property owners seeking a change to NAC-R boundary for a portion on the north side of Riverside Ave to expand developable area on properties. Presently, some development is allowed near the road, and zoning protections are in place along the shoreline due to steep slopes unsuitable for development. The Conservation Board has had discussions and site visits regarding the request and ultimately, staff does not recommend changes to the zoning in this area.

L. Smith: Hoping for a more favorable decision than a year ago. Concerns about soil stability and erosion would all be considered before any development takes place. Request the Planning Commission go with what was originally proposed, 125 ft from centerline.

M. Furnari: Geotechnical studies come as part of the development process, confused as to why there is reference to soil and slope studies when there is no proposed development. We were looking for an expanded development footprint to improve the property. Asking for PC to go with what was originally proposed.

L. Smith: When area was rezoned, done without consideration for the lost development potential that existed previously on these properties.

M. Furnari: This was part of the general rezone 8 years ago. Were told to wait and come forth at later date.

A. Montroll: Does the Commission wish to make a decision on this at this time?

J. Wallace-Brodeur: Prior to rezoning, allowed development further than 125 ft; last year the recommendation was 125 ft, now it is to maintain 100 ft. What was the thought on this?

D. White: When changed 8 years ago, was about protecting the riverbank and steep slope to the river. Along this corridor there is historic evidence of failure on this slope. The 100 ft depth along the roadway seemed a reasonable distance where development could be more economically viable without creating instability and undermining the slope.

A. Montroll: During the rezoning, the Planning Commission was putting greater restrictions and protection along the river bank and steep slopes that hadn't been in the past because of failures.

D. White: A residential area cannot include steep slopes and wetlands toward lot coverage and buildable area but in a mixed use area you can. Comments from the Conservation Board recommended this buildable area be added to the NAC-R restrictions for these sites. Staff felt there were ramifications for all properties along Riverside, on both sides of the street.

H. Roen: Asking the Commission to approve a 125 ft distance for the boundary.

E. Lee: I feel there were inconsistencies pertaining to the developable area even though the slope is not a developable area. This parcel could be densely developed on the street side.

B. Baker: Does the application process prompt an engineering study that could provide a premise for this change?

D. White: With steep slopes there are implications on what can be developed. The developable area is based on building and zoning codes which look at the suitability to build. DPW determines if it's a safe thing to do.

A. Montroll: Should the PC ask staff to come back with a specific proposal?

J. Wallace-Brodeur: There has been due diligence by staff and the Conservation Board; don't feel this is necessary.

D. White: Staff recommendation is not to make any changes.

H. Roen: Going from 100 to 125 ft. isn't much difference. The steepness changes along the bank, seems the extra 25 ft. is possible.

J. Wallace-Brodeur: Open to consider comments from Conservation Board and to move forward with a decision on this specific request.

E. Lee: Can the property owners have their engineer speak to Board on this matter?

D. White: Need to speak about the entire district along the street, which has far reaching concerns.

M. Furnari: Having our engineer look at entire NAC-R district is a lot to ask. Not requesting any changes west of the sanitation facility.

A. Montroll: Postpone this for a future agenda.

VII. Proposed ZA-18-01 planBTV Downtown Code

D. White: focusing the discussion on three points: process, shopfront requirements, and green buildings. Regarding process, there are buy right building heights and a higher height through DRB approval. DRB review will require pre-application conference with a planner, projects go before the Technical Review Committee. More than 5 units need to go before an NPA meeting. Staff reviews are based on the zoning requirements. Project which request higher elevations go before the DRB. Typically, the project goes to DA and then the DRB for final decision. Buildings can go higher than 65 feet but mass and floor area is reduced ten percent. Requests to go to higher heights will need to provide active public space or restrooms.

Regarding shopfront requirements, a typical storefront form is required in mixed use, but not in large residential structure. More prescriptive in what can be done and encourages active street level uses in specific areas.

A. Friend: Have we reclaimed St Paul and Pine St for shopfronts?

D. White: The streets don't exist yet, but they are required to be built. It is worth including them on the map to ensure activation.

J. Wallace-Brodeur: There are a couple of places where we may want to require it for continuity.

D. White: Question is where do we need to force it and where do we allow for flexibility.

Y. Bradley: Goal is to move this to the City Council and have them look at the suggestions.

A. Montroll: Changes will happen slowly and not sure there will be shop frontage up and down the street.

D. White: Keep in mind that all other frontage types are meant to encourage pedestrian sight, even if not shopfront type.

Y. Bradley: Brick and mortar retail is changing and will continue to be stressed and be reduced.

D. White: Seeking to add diversity to the streetscapes.

Y. Bradley: Need to be careful and aware of market phases.

E. Lee: A shopfront could always become something else.

A. Montroll: There was a lot of discussion on LEED standards. Two other committee members are here tomorrow who can give their viewpoints on this issue.

Y. Bradley: LEED is a tool and has value, but the costs for requiring Gold may be prohibitive as opposed to Silver. Knowing the costs of new construction, not sure if the market is there to sustain the rents required for a LEED Gold building.

R. Deane: Focused on energy efficiency and focused on advocating for standards similar to Efficiency VT. Do not advocate for LEED Gold standard; feeling that Silver was adequate. We should focus more on energy efficiency and bundling with the LEED standard.

E. Lee: Open to adjust; Silver seems to be the standard other cities are using. We should be consistent with what we are doing now and keep with the Gold standard for larger projects. Drawn to LEED for energy efficient buildings, and high quality buildings healthy to live in. I feel it is important to hold building to the standard but be flexible about the standard for the square footage.

B. Leet: I am an architect with LEED credentials. I have worked on buildings and LEED standards. I found a survey of 32 cities that have LEED standards with only three requiring LEED as a zoning mandate.

E. Lee: The carrot is that we are rezoning the entire downtown and changing entire process to make it easier for development in the downtown.

A. Montroll: Have received complaints about the bonus system and its complexities. Developers have asked for greater clarity and predictability.

B. Leet: With specific language, 25,000 sq. ft. will show up as a project of a certain scale. The language for the section needs to be clear depending on the modifications. San Francisco distinguishes Silver for residential and Gold for business buildings. Requiring LEED on historic buildings would create an impact on the historic structure. Additionally, LEED review and accreditation occurs after the project is done.

A. Montroll: Asked Commissioners to make comments for all bullet points and for staff to address the bullet points and provide comments for the City Council.

E. Lee: Should we change the sq. ft. requirement to Silver and keep Gold for larger projects?

B. Leet: Silver doesn't mean much for downtown Burlington, since the bar has already been raised. Downtown Burlington is near amenities and it meets energy codes. Asking a developer to do a professional study to address all these elements, becomes a professional fees expense. Perhaps looking at a threshold of 50,000 sq.ft. for LEED. The goal is to build better, but Silver won't necessarily make it better.

J. Wallace-Brodeaur: Should we be silent on LEED certification requirements except for 25,000 and then a LEED Gold?

B. Leet: Yes.

R. Deane: If the City of Burlington is committed to this goal of energy efficiency, shouldn't there be rebates or incentives for when the developer makes the commitment?

A. Montroll: This goes beyond zoning and should go before the City Council. The guidance memo will be given to David. Then we have something to discuss and decide if we want to accept it or not for the next meeting.

Y. Bradley: I see LEED as adding tremendous cost and adding a lot of layers that might not be beneficial. Is there another program to recommend and what does this mean? Or does the language meet the benchmark without invoking the LEED standard on what we want?

D. White: The ordinance says 'any other nationally recognized standard' may be considered if comparable.

B. Leet: There should be standards placed in the code. Other standards include Green Globes, which does not have the expense but meets LEED standards. Standards are difficult to enforce.

R. Deane: Green code is based on IGCC and the VT Energy Code.

D. White: The issue is compliance and the review is based on the Code. If the City adopts the Code, DPW will be a third party for compliance. We have to consider what is equivalent when looking at other options.

R. Deane: Professionals who follow this will seek compliance through the self-certification process.

B. Leet: VT has self-certification.

A. Montroll: There will be a memo to be reviewed at the next meeting.

VIII. Committee Reports

No reports.

IX. Commissioner Items

E. Lee: received a request from a citizen who said that staff previously sent out PC agendas. This person is asking staff to email the Planning Commission's agenda to citizens.

D. White: This is done through the Gov Delivery system.

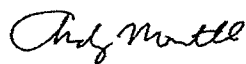
X. Minutes & Communications

D. White: Received a request for a conditional use and wetlands permit for the bike path received from Regional Planning Commission.

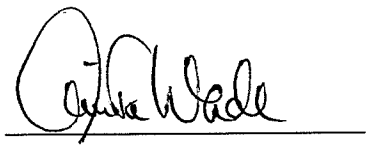
The Commission unanimously approves the motion by Y Bradley, seconded by A Friend, the minutes of the 11, 2017 meeting.

XI. Adjourn

The Commission unanimously approved a motion by B Baker, seconded by E Lee, to adjourn the meeting 8:43pm.



Andy Montroll, Chair

A handwritten signature in black ink, appearing to read "Anita Wade", is written over a horizontal line.

Submitted by Anita Wade, Clerk

Signed: August 8, 2017