

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
Michael Gaughan
Emily Lee
Brynne Martin*

Regular Meeting Burlington Planning Commission

Tuesday, July 13, 2021, 6:30 P.M.

Remote Meeting via Zoom

In-person option available at:

Bushor Conference Room (Room 102), 1st Floor of City Hall, 149 Church St.

To Join the Meeting on a Computer

Link: <https://us02web.zoom.us/j/88556072226>

To Join the Meeting on a Phone

Number: +1 312 626 6799 Meeting ID: 885 5607 2226

AGENDA

I. Agenda

II. Public Forum- Time Certain 6:35 p.m.

III. Chair's Report

IV. Director's Report

V. Annual Organizational Meeting

The Planning Commission will elect officers and appoint members to its committees to serve for FY2022. Members of other boards & commissions will be appointed at the July 27 meeting.

- Election of Officers: Chair & Vice Chair
- Election of Executive Committee At- Large Member
- Appointment of Commission Clerk: Meagan Tuttle
- Appointment of Committees:
 - Long Range Planning Committee
 - One member of the PC Executive Committee and Two At-Large Members
 - One member of the DRB
 - One member of the Conservation Board
 - Ordinance Committee
 - One member of PC Executive Committee and Two At-Large Members
 - Two additional members from DRB, DAB, or CB
 -

Planning Commission bylaws are enclosed for reference in the agenda packet on page 4.

The City of Burlington will not tolerate unlawful harassment or discrimination on the basis of political or religious affiliation, race, color, national origin, place of birth, ancestry, age, sex, sexual orientation, gender identity, marital status, veteran status, disability, HIV positive status, crime victim status or genetic information. The City is also committed to providing proper access to services, facilities, and employment opportunities. For accessibility information or alternative formats, please contact Human Resources Department at (802) 540-2505. Written comments on items may be directed to the Planning Commission at 149 Church Street, Burlington, VT 05401, or at mtuttle@burlingtonvt.gov

Tuesday, July 13, 2021

VI. Presentation & Proposed E-LM Amendment by Hula

The Planning Commission will receive a presentation by John Caulo and Russ Scully of Hula regarding investments that have been made at the former Blodgett site and a request to consider a zoning amendment for a portion of the Enterprise Light Manufacturing District. Information related to this item is enclosed in the agenda packet on page 10.

Staff Recommendation: Provide feedback to staff on next steps related to this proposal.

VII. Commissioner Items

- a. Upcoming Meetings –
 - i. Tuesday, July 27, 2021 at 6:30pm
 - ii. Tuesday, August 10, 2021 at 6:30pm

VIII. Minutes & Communications

- a. The minutes of the June 22, 2021 meeting are enclosed in the agenda packet on page 11.
- b. Communications are enclosed in the agenda packet on page 13.

IX. Adjourn

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Guidance for Participating in a Virtual Planning Commission Meeting

As social distancing measures to preserve public health and safety continue to be required to prevent the spread of COVID-19, or are recommended as a standard practice, the Office of City Planning will be supporting the Planning Commission to conduct their meetings online via Zoom. Here is information about how to join a virtual meeting, and what to expect while participating.

General Guidance for Public Participation

Please remember that in this digital meeting environment, meetings are open to the public and anyone may be watching or listening even if you cannot see them. Meetings will be recorded, and both the recording and chat content of the meeting will be maintained as a public record.

Please ensure your display photo and screen name are professional, such as using your first and last name. Please test your audio and video prior to the start of a meeting, and familiarize yourself with how to join a meeting by your chosen method. And finally, please be patient with us. Technology doesn't always work as planned, and we are all learning how to hold a successful virtual meeting!

How to Join a Virtual Meeting

Zoom allows participation via either computer or telephone. Each agenda for a meeting that will be conducted virtually will include details about how to join via either of these options, including a web address, phone number, Meeting ID, and password.

If you participate via computer, you have the option of seeing Commissioner videos and any presentation materials that may be shared. If you use either a standard phone or cell phone to call in, you will only hear the audio portion of the meeting. If you join via a smartphone, you may have the option to download the Zoom app, which will enable you to see and hear the meeting.

How to Participate in a Virtual Meeting

During meetings, only Planning Commission members and limited staff members will be viewed on video. Members of the public attending a meeting will be muted, except when invited to speak during public forum or a public hearing. Whether members of the public can speak at other times during the meeting is the discretion of the Chair.

If you want to speak during public forum, please take the following steps to assist us in making this process run as smoothly as possible:

- Email staff at mtuttle@burlingtonvt.gov by 5pm on the day before a meeting to indicate your interest in speaking. You do not need to provide your comments. Staff will enable your microphone as your name is called from a list of interested speakers.
- During a meeting, you can use the "Raise Hand" feature, or indicate in a chat message that you wish to speak during public forum. Staff will enable your microphone as your name is called.
- If you are interested in submitting your comments in writing instead of speaking during the meeting, you may do so by 5pm the day before a meeting, they will be forwarded to the Commissioners ahead of the meeting.

BYLAWS OF THE BURLINGTON PLANNING COMMISSION

(A) Establishment of Bylaws

The Bylaws of the Burlington Planning Commission, hereafter referred to as the "Commission," are hereby established pursuant to 24 V.S.A. S. 4323 (C) and Sec. 2.2.2 of the *Burlington Comprehensive Development Ordinance*. These bylaws shall be effective from the date of adoption, and may be amended from time to time by a two-thirds vote of the Commission.

(B) Membership

In accordance with 24 V.S.A. Chapter 117 and Sec. 120 of the *Burlington City Charter*, the Commission shall consist of seven (7) residents of the City of Burlington appointed by the City Council. Any appointment to the Commission shall be for a term of three (3) consecutive years. Members may be appointed to successive terms without limitation. Any member desiring reappointment, or city resident desiring an appointment to the Commission, must apply to the City Clerk's office and obtain a nomination from a member of the City Council.

(C) Vacancies/Removal

Vacancies shall be filled by the City Council upon the expiration of such term or an unexpired portion of any term. Any member of the Commission may be removed at any time by unanimous vote of the City Council.

(D) Abstentions from Participation and Voting

In order to secure, protect, and preserve the highest level of public trust in the deliberation and decision of the Burlington Planning Commission, it is incumbent upon each member not only to scrupulously avoid any act which constitutes a conflict of interest established in law, but also to avoid any act which gives the appearance of bias, favoritism, or of interest.

- (1) A member shall withdraw from all participation, including all formal and informal discussion and voting, in any deliberation of the Commission or its committees or any issue upon declaration of a conflict of interest or upon the assertion that there is a reasonable public presumption that bias, favoritism, or a conflict of interest may exist. Circumstances under which this provision shall be exercised include, but are not limited to, the following:
 - (a) If the member has a direct or indirect financial interest in the outcome of the matter at issue. A direct financial interest shall include, but not be limited to, circumstances in which the member is an applicant, a provider of professional or business service to the applicant, serves on the board of directors, or receives any form of remuneration or benefit from the applicant. Indirect financial interest shall include, but is not limited to, if an [As amended: November 7, 2002] immediate family relative or close personal friend has, or is likely to have, a direct financial interest in the outcome of the matter; or
 - (b) If the matter at issue involves the member's own official conduct; or
 - (c) If participation in the matter might violate the letter or spirit of a member's code of professional responsibility; or
 - (d) If a member has such close personal ties to the applicant that the member cannot reasonably be expected to exercise sound judgment in the public interest.

BYLAWS OF THE BURLINGTON PLANNING COMMISSION

(G) Offices

At the first meeting in July of each year, the Planning Commission shall elect, by majority vote, a Chairperson and Vice-Chairperson from among its members, and shall also elect a Clerk who may or may not be a Commission member or municipal employee. Terms of office shall be for one year. Vacancies in these offices may be filled for the unexpired terms only by majority vote of the Commission.

(H) Committees

1. Standing Committees

There shall be three standing committees of the Planning Commission: Executive, Ordinance, and Long Range Planning. Membership comes from those serving on the Planning Commission, the Development Review Board, the Design Advisory Board and/or Conservation Board. With the exception of the Executive Committee, each standing committee shall be composed of a minimum of three (3) persons with a maximum of five (5) persons, of which three (3) must be members of the Commission. The Commission Chairperson may not serve, as the Committee Chairperson for either the Ordinance Committee or Long Range Planning Committee. Each standing committee shall report on its activities and/or recommendations within its purview to the full Commission for its disposition at each Commission meeting. Except as noted, the establishment of standing committees does not constitute a delegation of any responsibility of the full Commission, which retains the exclusive agency for the City under law and ordinance.

- 1) Executive: The Executive Committee shall be composed of three members consisting of the Commission Chairperson, who shall serve ex-officio as Chairperson of the Committee; the Commission Vice-Chairperson, who shall serve ex-officio as Vice-Chairperson of the Committee; and a Planning Commissioner selected at-large by the Commission at its organizational meeting. The duties and functions of the Committee shall be as follows:
 - i. Appointment of standing committees and ad hoc committees including chairpersons unless noted otherwise herein, and appointment of special liaisons as the Commission shall establish, and oversight of committees and liaisons;
 - ii. Oversight, including preparation of the annual department budget; supervision and the annual review of the department director; such other tasks as the Commission shall assign.
 - iii. Relationship of the department and Commission to city, regional, and state departments and commissions, including scheduling of special work sessions as necessary;
 - iv. Commission bylaw revisions and amendments;
 - v. Oversight of all contracts as the Commission or department shall enter into or be delegated responsibility for;
- 2) Ordinance: The Ordinance Committee shall have at least four (4) and no more than five (5) members. Members may be appointed from the following: one (1) member each from the Development Review Board, the Design Advisory Board, or the Conservation Board, in addition to one (1) member from the Planning Commission Executive Committee, and two (2) at-large of the Planning Commission elected by the Commission at its organizational meeting. The chairs of the Development Review Board, Design Advisory Board or the Conservation Board may appoint a member of their board to serve on the Ordinance Committee. If all boards appoint a member the Planning Commission, by election at its organizational meeting will confirm which appointee(s) will serve on the Ordinance Committee. The Chairperson and Vice-Chairperson of the Ordinance Committee shall be elected by a majority of committee members. The duties and functions of the Committee shall be as follows:

BYLAWS OF THE BURLINGTON PLANNING COMMISSION

- i. Preparing and reviewing all revisions of the Zoning and Subdivision Ordinances, Official Map and the Zoning Map;
 - ii. The enforcement of the zoning and subdivision ordinances and the zoning map, and;
 - iii. Such other tasks as the Commission shall assign.
- 3) Long Range Planning: The Long Range Planning Committee shall have at least four (4) and no more than five (5) members including one (1) member from the Development Review Board appointed by the Board's Chairperson. The Committee shall have one member from the Executive Committee, and two (2) at-large members of the Planning Commission elected by the Commission at its organizational meeting. The chair of the Design Advisory Board or the Conservation Board may appoint a member of their board to serve on the Long Range Planning Committee. If both boards appoint a member the Planning Commission will decide which appointee(s) will serve on the Long Range Planning Committee. The Chairperson and Vice-Chairperson of the Long Range Planning Committee shall be elected by a majority of committee members. The duties and functions of the Committee shall be as follows:
- i. The development of an implementation plan for the Municipal Development Plan.
 - ii. Develop a process with a budget for each eight year revision to the Municipal Development Plan;
 - iii. Review plans of other departments and the regional planning commission and provide comments to the Planning Commission; and
 - iv. Such other tasks as the Planning Commission shall assign.

2. Ad hoc Committees and Commission Liaisons:

From time to time ad hoc committees and commission liaisons may be established by the Commission for special assignments that do not fall within the general purview of standing committees.

3. Committee Meetings:

When appropriate, standing committees should have regularly scheduled meeting times. All committee activity should be ratified by vote of the committee before presentation to the Commission. All substantive actions of the committees should be recorded in the written minutes kept current by the committee chairperson or designee. At the request of the committee chairperson, a committee meeting shall be taped.

(I) Annual Work Plans

The Planning Commission and each of the standing committees shall set work plans every year. These work plans shall be reviewed periodically. The schedule for work plans and their evaluation follows:

May: Each standing committee evaluates the extent to which it fulfilled its old work plan and a brief (1-2 page) evaluation report is written and submitted to P.C. in time to be part of the packet for the first P.C. meeting in June.

June: Standing committee work plans are evaluated by the P.C. at the first meeting. Feedback for recognition, encouragement and improvement is provided.

Standing committee work plans end at the end of the month.

The work plan for the following year (July – June) is written during June and early July. It is submitted to P.C. in time to be part of the packet for the first P.C. meeting in July.

BYLAWS OF THE BURLINGTON PLANNING COMMISSION

July: New work plans are discussed, modified if necessary, and approved by the P.C. at the first meeting of the P.C. New work plans begin in July and run through June.

(J) Powers and Duties

In accordance with 24 V.S.A. Chapter 117, and the *Burlington Code of Ordinances*, the Burlington Planning Commission:

- (1) Shall prepare a Municipal Development Plan and amendment thereof for consideration by the City Council and to review any amendments thereof initiated by others as set forth in 24 V.S.A. 4384;
- (2) Shall prepare and present to the City Council, from time to time, proposed bylaws and make recommendations to the City Council on proposed amendments to such bylaws;
- (3) Shall undertake studies and make recommendations on matters of land development, urban renewal, transportation, economy, and social development, urban beautification and design improvements, historic and scenic preservation, the conservation of energy, and the development of renewable energy resources;
- (4) Shall prepare and present to the City Council recommended construction specifications for streets and related public improvements pertaining to subdivision development;
- (5) Shall prepare and present to the City Council a recommended annual capital budget and future capital programs for a period of not less than five (5) years;
- (6) Shall hold public meetings;
- (7) Shall undertake comprehensive planning, which may include related preliminary planning and engineering studies;
- (8) Shall prepare and present to the City Council, from time to time, recommended fees for the administration of zoning and subdivision regulations;
- (9) Perform such other acts or functions as it may deem necessary or appropriate to fulfill the duties and obligations imposed by, and consistent with, the intent and purpose of 24 V.S.A. Chapter 117 and the *Burlington Code of Ordinances*.
- (10) May require from other departments and agencies of the City such available information as it relates to the work of the Planning Commission;
- (11) May, in the performance of its functions, enter upon land to make examinations and surveys;
- (12) May participate in a regional planning program;
- (13) May retain staff and consultant assistance in carrying out its duties and powers.

(K) Meetings/Minutes

Meetings of the Planning Commission shall be held at the call of the Chairperson on the second and fourth

BYLAWS OF THE BURLINGTON PLANNING COMMISSION

Tuesday of each month unless otherwise determined by majority vote of the Commission. The Chairperson may also call special meetings of the Commission. All meetings of the Commission shall be open to the public, except as provided by law. The Commission shall keep minutes of every regular or special meeting. The minutes shall include, but not be limited to, the names of the persons appearing and addressing the Commission, any action taken by the Commission, the findings, if any, made by the Commission and reasons thereof. The minutes shall, thereafter, be made available for public inspection during normal business hours at the office of the Administrative Officer. Any interested party shall have the right to a reproduction of the minutes in an amount sufficient to cover the costs of such reproduction.

(L) Notice

No regular or special meeting of the Commission shall be held without providing at least twenty-four (24) hours written notice to the City Clerk. Public hearings shall require no less than fifteen (15) days prior notice including advertising in a newspaper of general publication within the City and posting on the City Hall community board(s).

(M) Quorum

For the conduct of any meeting or hearing and the taking of any action, a quorum shall be no less than a majority of the members of the Commission and any action thereof shall be taken by a majority of the members of the Commission.

(N) Public Hearing

Prior to Planning Commission action on the adoption of any amendment to the City's Zoning Ordinance, Subdivision Regulation, Official Map, or Municipal Development Plan, a public hearing shall be held by the Planning Commission after public notice.

(O) Ex-Officio Member

The Mayor of the City of Burlington shall be a non-voting ex-officio member of the Commission.

(P) Special Meetings

Special meetings of the Commission may be called by the Chairperson, when he or she deems it expedient, or upon the request of two (2) members of the Commission for the purpose of transacting any business designated in the call. Notice to each member of the Commission for a Special Meeting may be by telephone or otherwise at least twenty-four (24) hours prior to the date of such special meeting. At such special meeting, no business shall be considered other than specified in the call. Additionally, if more than three (3) members of the Commission participate in a meeting with staff, conduct a site visit, or participate in other activities related to the responsibilities of the Planning Commission outside of a regular meeting, the gathering must be warned as a special meeting with proper notice given.

(Q) Governance Procedures

Robert's Rules of Order, as revised, shall govern proceedings of the Commission in all cases which are not specifically covered by other laws, ordinances, bylaws, or regulations.

History:

Established: June 26, 1986

Amended: October 10, 1991

BYLAWS OF THE BURLINGTON PLANNING COMMISSION

Amended: February 12, 1998

Amended: May 10, 2001

Amended: November 7, 2002

Amended: October 14, 2003

Amended: July 10, 2008

Amended: October 12, 2016

LandPlan Development Services, LLC

61 Central Avenue
Burlington, Vermont
(802) 233-6640 john.caulo@gmail.com

2 July 2021

Mr David White, Director
Ms. Meagan Tuttle, Principal Planner
Burlington Office of City Planning
City Hall – 14 Church Street
Burlington, VT 05401

RE: Planning Commission Hearing – July 13th

Dear David and Meagan:

Thank you for your recent visit to *Hula Lakeside* on June 14th to tour the facility with Russ Scully and myself, and to discuss potential planning and zoning changes for areas of the South End. As a follow up to our discussion and at your request, let this correspondence confirm our intention appear before the Planning Commission at its July 13th meeting to formally introduce a proposed zoning amendment for the Commission's consideration. Details follow.

As we shared with you in mid-June, our specific recommendation is the City amend its Comprehensive Development Ordinance to create a *Neighborhood Activity Center (NAC)* zone district within a portion of the existing *Enterprise-Light Manufacturing (E-LM)* zone. Over the past six months, we have devoted many hours discussing this topic with a variety of South End stakeholders, including residential neighbors, affordable housing advocates, artists and makers, civic leaders, property and business owners, and employers. Without exception, all acknowledge the need for affordable, workforce housing in walkable neighborhoods with ready access to jobs and services in certain areas of the E-LM zone. As you know, the NAC zone district designation is an existing tool in the zoning toolbox which has been successfully applied in similar mixed-use locations around the City. We think it has strong applicability here.

At the July 13th Commission meeting, we are planning on making a PowerPoint presentation to summarize our thinking and recommendations. Separately, we will also submit a draft ordinance to your office detailing our recommendations.

Thank you in advance for facilitating our appearance on the upcoming agenda. We look forward to meeting with the Commission on July 13th

Sincerely,



John Caulo

cc. Russ Scully

Burlington Planning Commission

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Burlington Planning Commission

Tuesday, June 22, 2021, 6:30 P.M.

Remote Meeting via Zoom, with City Hall In-Person Option

Draft Minutes

Members Present	A Montroll, B Baker, Y Bradley, A Friend, H Roen, E Lee
Staff Present	D White, M Tuttle
Attendance	S Bushor, M Boardman

I. Agenda

Call to Order	Time: 6:46 pm
Agenda	No Change

II. Chair Report

A Montroll	Thanked H Roen & J Wallace Brodeur for service to the Planning Commission.
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III. Director's Report

D White	Council will vote on budget 6/28. Includes additional funding for TDM study, but not for Assistant Planner. City staff is working to reopen City Hall after July 6.
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IV. Public Forum

Name(s)	Comment
S Bushor	Intended to provide comment on public hearing regarding changes to ADU standards, but will hold until rescheduled hearing. Thanked H Roen for service to Planning Commission.
M Boardman	Requested the Commission consider a zoning amendment regarding Article 6 design standards for garage placement, potentially within certain zoning districts. Commission requested staff to speak with M Boardman and bring a recommendation at a future meeting.

V. Public Hearing: Proposed CDO Amendment ZA-21-07 Heights, Dormers & Eaves

Action: Continue or re-warn the public hearing, due to incorrect Zoom link, per advice of City Attorney		
Motion by: Y Bradley	Second by: A Friend	Vote: Approved unanimously
Type: Public Hearing	Presented by:	
Chair opened the Public Hearing for Items V, VI and VII at 7:05 pm. Due to incorrect Zoom link posted in the Agenda, the Commission determined to continue or re-warn based on the advice of the City Attorney. No members of the public spoke to this item and there was no Commission discussion.		

VI. Public Hearing: Proposed CDO Amendment ZA-21-08 Act 179 Changes

Action: Continue or re-warn the public hearing, due to incorrect Zoom link, per advice of City Attorney

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Tuesday, June 22, 2021

Motion by: Y Bradley	Second by: A Friend	Vote: Approved Unanimously
Type: Public Hearing	Presented by:	
Chair opened the Public Hearing for Items V, VI and VII at 7:05 pm. Due to incorrect Zoom link posted in the Agenda, the Commission determined to continue or re-warn based on the advice of the City Attorney. No members of the public spoke to this item and there was no Commission discussion.		

VII. Public Hearing: Proposed CDO Amendment ZA-21-09 Updates & Corrections to Article 14

Action: Continue or re-warn the public hearing, due to incorrect Zoom link, per advice of City Attorney		
Motion by: Y Bradley	Second by: A Friend	Vote: Approved Unanimously
Type: Public Hearing	Presented by:	
Chair opened the Public Hearing for Items V, VI and VII at 7:05 pm. Due to incorrect Zoom link posted in the Agenda, the Commission determined to continue or re-warn based on the advice of the City Attorney. No members of the public spoke to this item and there was no Commission discussion.		

VIII. Commissioner Items

- Next Meetings are on July 13 and July 27 at 6:30pm.
- In-person options for all remote public meetings are again required. The Chair requested that Commission meetings continue to be remote through the summer. Some Commissioners requested the option to be in person. Staff will follow up with the Commission to confirm what can be accommodated for the July 13 meeting.

IX. Minutes and Communications

Action: Approve the minutes and accept the communications		
Motion by: A Friend	Second by: H Roen	Vote: Approved unanimously
Minutes Approved: May 11, 2021		
Communications Filed:		
• Posted online		

X. Adjourn

Adjournment	Time: 7:18pm	
Motion: H Roen	Second: E Lee	Vote: Approved Unanimously



RECEIVED

JUN 18 2021

BURLINGTON
PERMITTING & INSPECTIONS

May 20, 2021

City of Burlington City Council
City of Burlington Planning Commission
Chittenden County Regional Planning Commission

**Re: UVM Solar Research and Test Facility's 45-Day Notice to Persons and Entities
Entitled to Notice Pursuant to Public Utility Commission Rule 5.402(A), for a Proposed 50
kW Solar Array to be located off Intervale Road in Burlington, VT.**

Dear Sir or Madam:

The UVM Solar Research and Test Facility (the "Applicant"), is pleased to provide you with this 45-Day notice in advance of filing a petition for a Certificate of Public Good with the Vermont Public Utility Commission ("Commission" or "PUC"), for a 50kW AC solar electric generation and testing facility to be known as the "UVM Solar Research and Test Facility" (the "Project"). The Applicant proposes to construct the Project on City of Burlington property located off Intervale Road in Burlington, Vermont (the "Site"). This notice is provided in accordance with 30 VSA § 248, Vermont Statutes Annotated ("Section 248"), Public Utility Commission Rule 5.402.

Pursuant to Commission Rule 5.402, the following letter includes information sufficient to understand the overall Project including the location of the facility, a description of the proposed Project, construction plans and equipment to be used. This letter also describes the rights of the noticed parties to comment on the Project plans and participate in the Section 248 review process.

This letter contains descriptions of the following:

- I. 30 V.S.A. Section 248 Petition and Notice;
- II. Project Description;
- III. Site Selection and Consideration of Alternatives;
- IV. Construction and Transportation;
- V. Preliminary Impact Assessment;
- VI. Project Benefits;
- VII. Conclusion.

Included as attachments to this letter are:

1. Preliminary Site Plan;
2. Preliminary Natural Resources Map; and
3. Equipment Specifications.

I. 30 V.S.A. Section 248 Petition and Notice

The state permitting process for electric generation facilities requires the Applicant to provide notice to certain entities and persons 45-days prior to a formal filing with the PUC. These include:

- The affected municipal legislative bodies;
- The affected municipal and regional planning commissions; and
- The Public Utility Commission.

The Applicant has also provided this 45-day notice to:

- The Department of Public Service
- The Agency of Natural Resources

Per Commission Rule 5.402(A), the municipal and regional planning commissions shall make recommendations, if any, at least seven (7) days prior to the intended filing date, which filing date is expected to be 45 days from the date of this notice.

Affected municipal and regional planning commissions may also provide revised recommendations within 45 days of the date on which the Applicant files its petition with the Commission, if the petition contains new or more detailed information that was not previously included in the original filing with the municipal and regional planning commissions pursuant to Section 248(f).

Recommendations made to the Commission pursuant to Section 248(f), or the lack of such recommendations, shall not preclude municipal or regional planning commissions from presenting evidence during technical hearings if granted party status.

Please send all recommendations during this 45-Day notice period to:

Vermont Public Utility Commission
c/o Clerk of the Commission
112 State Street
Montpelier, VT 05620-2701

AND

Encore Renewable Energy
Attn: Phillip D. Foy
110 Main Street
Second Floor, Suite 2C
Burlington, VT 05401
Tel: (802) 861-3023
phillip@encorerenewableenergy.com

For additional information regarding this process, including your commission's right to participate in the Public Utility Commission proceeding, please refer to the "Citizen's Guide to the Vermont Public Utility Commission's Section 248 Process," which can be found at <https://puc.vermont.gov/public-participation/introduction-participating-commission-processes>.

II. Project Description

The Applicant is proposing a 50kW AC solar project on private property located off of Intervale Road in Burlington, Vermont. The array will occupy roughly 1/3 acre of the greater 46-acre parcel.

The Site location, array footprint, and approximate property boundaries are shown in the preliminary site plan attached as Attachment 1. Intervale Road is approximately 80 feet to the east of the project site. The Project site is partially visible from Intervale Road; however, the orientation of the project and the surrounding treelines limit the visibility of the project from the road. In summary, the Project will consist of:

- Approximately 180 solar panels installed on fixed, ground-mounted racking systems across 1/3 acre of the Site:
 - Coated with non-reflective glazing;
 - Sloped at a fixed angle between 20-30 degrees; and
 - Approximately 8-10 feet off the ground at their highest point.
- A network of string inverters dispersed across the array connected with cables installed in protective conduit;
- Temporary laydown area for delivery and short-term storage of materials;
- An approximate 200 ft extension of 3-phase power to the Site for interconnection into Burlington Electric Department's (BED) grid, from the existing three phase service on Intervale Road; and
- Necessary transformer(s) and associated interconnection equipment.

III. Site Selection and Consideration of Alternatives

Encore worked with BED and the University of Vermont (UVM) to find a site that would be suitable for this solar equipment testing facility.

Once the Site was selected, the Applicant worked with its consultants to configure the Project in a way that would maximize the potential benefits while minimizing environmental and aesthetic impacts. The Applicant will continue working with all stakeholders prior to filing the CPG petition and thereafter to address remaining concerns.

IV. Construction and Transportation

The Applicant proposes to deliver materials for the Project using trucks on Intervale Road and other state and local roads, which are accustomed to the type of traffic representative of the proposed daily delivery of materials. Deliveries will be made to a temporary construction staging area on the Site. Most all transportation activity will occur during the construction phase, which would last between three and five months.

The Project is not expected to require oversize or overweight deliveries. Access to and from the Site will be restricted by perimeter fencing in order to secure the Site and prevent the public from entering the facility. All equipment associated with the Project will be installed in accordance with all applicable regulations and electrical codes.

V. Preliminary Impact Assessment

i. Aesthetics

In preparation for this 45-Day Notice, the Applicant engaged T.J. Boyle Associates of Burlington, Vermont to perform a preliminary review of potential aesthetic impacts resulting from the Project. It appears that public views of the Project will be limited. The Project is proposed within an existing open area of the McNeil Biomass Facility located on Intervale Road in Burlington, Vermont.

Overall, preliminary findings by TJ Boyle indicated that the Project would not result in undue impacts to the aesthetic and scenic and natural beauty of the area. The Applicant will continue to work with the City of Burlington, abutting property owners, and T.J. Boyle Associates to address any potential aesthetic impacts. Any proposed plantings or other mitigation strategies would be detailed in a final landscape mitigation plan, including specific plant species, locations and sizes, to be prepared by TJ Boyle. The Applicant will file the complete TJ Boyle aesthetic report and final mitigation measures with the complete petition.

ii. Environmental

The Applicant has engaged VHB, Inc. to perform preliminary due diligence as well as detailed natural resource assessments and delineations, including both database and field surveys. Results of those studies will be provided in the final petition.

The project site is largely located within existing, maintained access areas, reducing the likelihood of encountering natural resources constraints. Project design will also minimize the extent and impact of infrastructure such as access roads to the extent feasible. VHB will conduct detailed natural resource assessments, and impact analyses (where applicable) will be completed for criteria considered under Section 248 and as relevant to any necessary collateral environmental permitting. A preliminary review of the site did not identify any resources that would prevent construction of the project.

VI. Project Benefits

The Project will help UVM and BED continue research previously conducted in Williston, VT. This further research will enhance ongoing projects at UVM in addition to enabling new research priorities that will help drive down the cost of renewable energy integration across the state.

The Project will also give space for solar photovoltaic workforce development/training, initially for UVM students, but with a hope to expand this offering to other educational institutes over time. In addition, access to the Project is expected to better position UVM researchers to obtain grant funding in the future.

VII. Conclusion

The Project is not expected to result in undue adverse impacts to the applicable criteria. The Applicant looks forward to submitting the full Section 248 petition package, which will contain all of the information required by the PUC to evaluate the merits of the Project for potential award of a Certificate of Public Good, and inform others of the Project's impacts and value.

45-day Notice Pursuant to 30 V.S.A. § 248
UVM Solar Research and Test Facility, Electric Generation Facility

The Applicant intends to file a Section 248 Petition and supporting materials with the PUC soon after the expiration of the 45-day notice period, which is expected to be no sooner than June 28, 2021.

We look forward to receiving any input or suggestions you may have as we move through the Section 248 process. If you have any questions, you may direct them to the Applicant by phone at 802-861-3023 or by email at Phillip@Encore.eco.

Sincerely,



Phillip D. Foy
General Counsel
Encore Renewable Energy

Attachment 1 – Preliminary Site Plan
Attachment 2 – Preliminary Natural Resources Map
Attachment 3 – Equipment Specifications

45-day Notice Pursuant to 30 V.S.A. § 248
UVM Solar Research and Test Facility, Electric Generation Facility

Copy to:

Vermont Public Utility Commission
112 State Street
Montpelier, Vermont 05620-2701

Department of Public Service
James Porter, Director for Public Advocacy
112 State Street - Third Floor
Montpelier, Vermont 05620-2601

Agency of Natural Resources
Secretary's Office
1 National Life Drive, Davis 2
Montpelier, Vermont 05620-3901

Burlington Electric Department
585 Pine Street
Burlington, VT 05401

Chittenden County Regional Planning
Commission
110 West Canal Street
Suite 202
Winooski, VT 05404

City of Burlington
c/o City Council
City Hall
149 Church Street
Burlington, VT 05401

Office of City Planning
City Hall, 3rd Floor
149 Church Street
Burlington, VT 05401

Natural Resources Board
District #4 Environmental Commission
111 West Street
Burlington, VT 05452

Department of Historic Preservation
Laura V. Trieschmann
One National Life Drive
Deane C. Davis Building, 6th Floor
Montpelier, VT 05620-0501

Agency of Agriculture and Food Markets
Secretary Anson Tebbetts
116 State Street
Montpelier, Vt 05620-2901

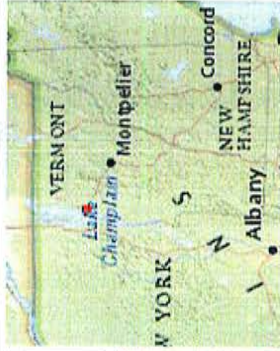
Burlington Electric Department
McNeil Generating Station
111 Intervale Road,
Burlington, VT 05401



Preliminary Natural Resources Map

UVM Solar Research and Test Site Solar Project

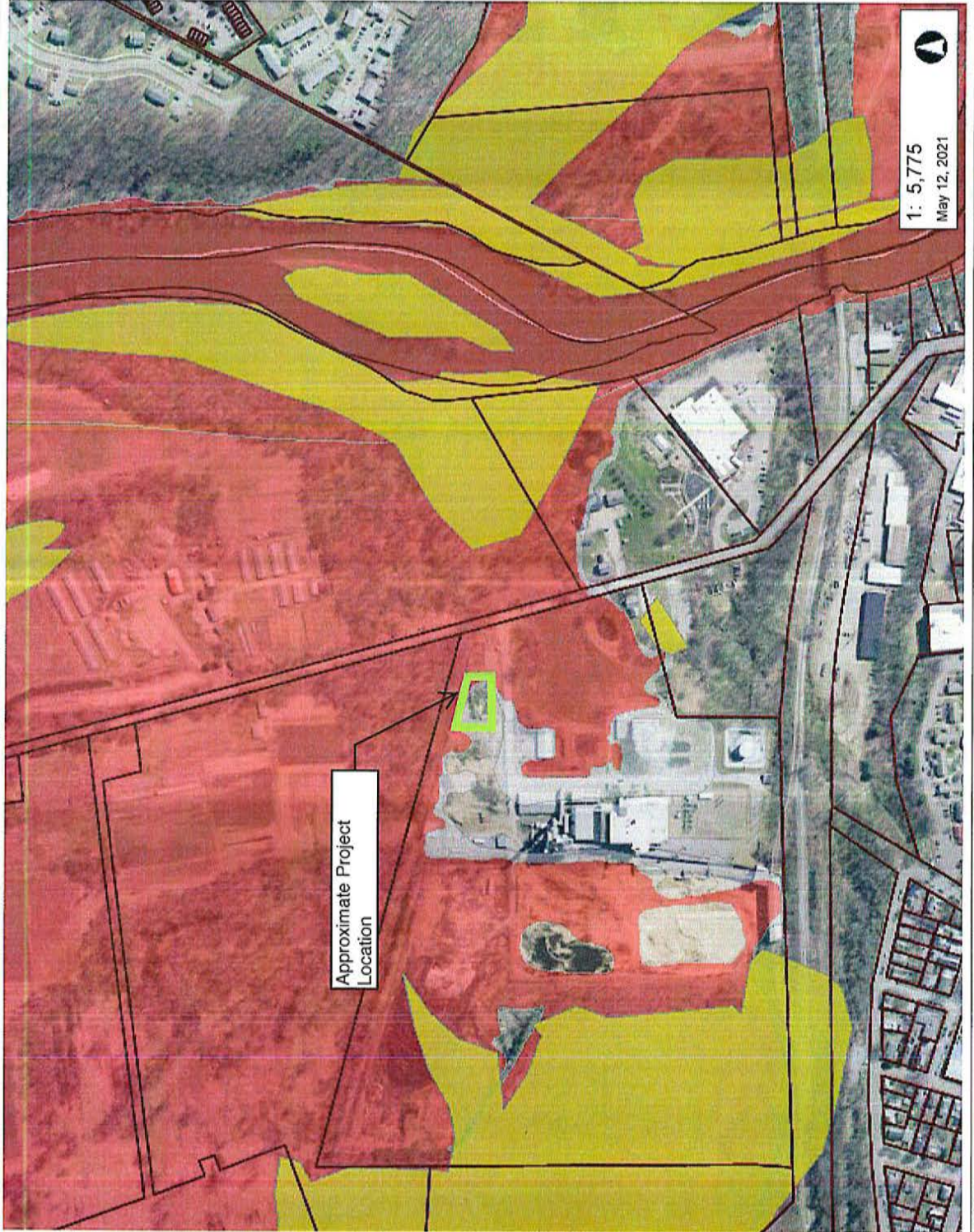
vermont.gov



- LEGEND**
- Deer Wintering Areas
 - Vernal Pools Confirmed - AEA
 - Wetland - VSWI
 - Class 1 Wetland
 - Class 2 Wetland
 - Buffer
 - Flood Hazard Areas (Only FEH)
 - AE (1-percent annual chance flood)
 - A (1-percent annual chance floodpl)
 - AO (1-percent annual chance zone feet)
 - 0.2-percent annual chance flood ha
 - Parcels (standardized)
 - Stream/River
 - Stream
 - Intermittent Stream

NOTES

Map created using ANR's Natural Resources Atlas.
Preliminary Natural Resources Map



1: 5,775
May 12, 2021

DISCLAIMER: This map is for general reference only. Data layers that appear on this map may or may not be accurate, current, or otherwise reliable. ANR and the State of Vermont make no representations of any kind, including but not limited to, the warranties of merchantability, or fitness for a particular use, nor

293.0 0 146.00 293.0 Meters 1" = 481 Ft 1cm = 58 Meters
WGS_1984_Web_Mercator_Auxiliary_Sphere

ATTACHMENT 3: LIST OF MAJOR EQUIPMENT

<u>Component</u>	<u>Manufacturer</u>	<u>Model</u>	<u>Size</u>	<u>Quantity</u>
Module	Solar World	SW 320XL	320	6
Module	Solar World	SW Bisun 325XL	325	6
Module	Solar World	Sunmodule Plus SW 290 mono	290	10
Module	Prism	Bi60 290/368	295	8
Module	Solar World	Sunmodule Plus 275	275	10
Module	Solar World	Sunmodule Pro Series 250	250	10
Module	Prism	Bi60 270/343	270	8
Module	Suniva	OPT 270	270	12
Module	Solar World	Sunmodule Plus SW 290 mono	290	8
Module	Solar World	SW 270 Mono Black Plus	270	8
Module	Solar World	SW 260 Poly Black Pro	260	8
Module	Solar World	SW 270 Duo Bisun	270	6
Module	SunPower	P-17 345	345	10
Module	Trina	TSM-255 PA05.18	255	8
Module	Tesla	V3.3 Bifacial	330	8
Module	Canadian Solar	CS3U-359 BiKu	345	24
Inverter	ABB	UND-8.6-TL-OUTD	9.4	2
Inverter	Fronius	IG Plus 3.8	3.8	2
Inverter	ABB	PVI 3.6	3.6	1
Inverter	SMA	Sunnyboy 5000TL-US-22	5	1
Inverter	SMA	Sunnyboy 4000TL-US-22	4	1
Inverter	SMA	Sunnyboy Tripower 15000TL-US	15	1
Inverter	SMA	Sunnyboy 7700TL-US	7.7	1
Racking	RBI	Fixed Tilt - Driven Post	N/A	1

UVM Parking Lot Capacities and Empty Space Count				
PEAK DEMAND LOT COUNTS - June 2021				
Location	Usable Spaces	Occupied Spaces	Empty Spaces	Percent Full
Athletic Commuter	1,704	279	1,425	16%
Core Central	61	33	28	54%
Core East	710	617	93	87%
Core North	369	96	273	26%
Core South	193	31	162	16%
Core West	387	93	294	24%
Commuter Lots	323	224	99	69%
Redstone	626	76	550	12%
Trinity	314	84	230	27%
Total	4,687	1,533	3,154	33%
Counts done June 15th to June 17th				

E-Notification CERTIFICATE OF SERVICE Regarding Monthly Information for LUP# 4C1043-1A,
For UVM Firestone Building for June, 2021

I hereby certify that I, Lani Ravin, Associate Planner at the University of Vermont & State Agricultural College, sent a copy of documents, dated June 18, 2021, for the University of Vermont, regarding LUP# 4C1043-1A, regarding temporary suspension of a 200 space off-campus parking lot, by electronic mail to those with email addresses as indicated:

District #4 Environmental Commission
111 West Street
Essex Junction, VT 05452
NRB.Act250Essex@vermont.gov
Rachel.Lomonaco@vermont.gov

University of Vermont & State Agricultural College
c/o Lani Ravin, AICP, Associate Planner
Lisa Kingsbury, Associate Director
Planning, Design & Construction
16 Colchester Avenue
Burlington, VT 05405
Lani.ravin@uvm.edu; Lisa.mcnaney@uvm.edu;
Lisa.kingsbury@uvm.edu;

Katherine Schad, City Clerk
Chair, Selectboard/Chair, Planning Commission
City of Burlington
149 Church Street
Burlington VT 05401
burlingtontownclerk@burlingtonvt.gov;
lolberg@burlingtonvt.gov;

Chittenden County Regional Planning Commission
110 West Canal Street, Suite 202
Winooski VT 05404
Permitting@ccrpcvt.org

Agency of Natural Resources
1 National Life Drive, Davis 2
Montpelier, VT 05602-3901
Anr.act250@vermont.gov

Dept. of Public Service
112 State Street, Drawer 20
Montpelier, VT 05620-2601
barry.murphy@vermont.gov;
PSD.VTDPS@vermont.gov;

VTrans Policy, Planning & Research Bureau
Barre City Place
219 N. Main Street
Barre, VT 05641
AOT.Act250@vermont.gov;

Agency of Agriculture, Food & Markets
116 State Street, Drawer 20
Montpelier, VT 05620-2901
AGR.Act250@vermont.gov;

Division for Historic Preservation
National Life Building, Drawer 20
Montpelier, VT 05620
scott.dillon@vermont.gov;
james.duggan@vermont.gov;
ACCD.ProjectReview@vermont.gov;

Dated at Burlington, Vermont, June 18, 2021

Lani Ravin, AICP

Lani Ravin, AICP, Associate Planner
Planning, Design & Construction
University of Vermont & State Agricultural College

**Natural Resources Board
111 West Street
Essex Jct., VT 05452**

**Act 250 Jurisdictional Opinion
#4-300**

This is a Jurisdictional Opinion based upon available information and a written request from the Landowner/Agent or Other Person. Any Notified Person or entity will be bound by this opinion unless that person or entity files a request for reconsideration with the District Coordinator (10 V.S.A. § 6007 (c) and Act 250 Rule 3 (b)) or an Appeal with the SUPERIOR COURT, Environmental Division within 30 days of the issuance of this opinion

☒ I hereby request a jurisdictional opinion from the District Coordinator or Assistant District Coordinator regarding the jurisdiction of 10 V.S.A. Chapter 151 (Act 250) over the project described below: Lani Ravin, UVM, Campus Planning Services

PROJECT DESCRIPTION:

The project is located at the University of Vermont ("UVM") Pomeroy Barn and Carter House located at 489 Main Street and 172 South Prospect Street, respectively. The Pomeroy Barn was originally constructed in 1890 and is eligible to be listed on the State Register for Historic Places. The Carter House was originally constructed in 1830 and was relocated to this site in 1945 and significantly altered. The Carter House is not eligible for listing on the State Register of Historic Places. The proposed project includes the demolition of the Pomeroy Barn, demolition of the Carter House including the removal of the driveway, construction of landscaping improvements, pedestrian improvements, stormwater improvements and parking modifications. The project includes ground disturbance.

Existing Act 250 permit: Permit series 4C0852, and 4C0571, but none specifically for this property

Project Type: ☒ Commercial ☐ Residential ☐ Municipal/State ☐ Mixed
☐ Agriculture ☐ Silviculture ☐ Other

Has the landowner subdivided before? ☐ Yes ☐ No ☒ N/A

AN ACT 250 PERMIT IS REQUIRED: ☒ YES ☐ NO

BASIS FOR DECISION:

In a letter dated May 11, 2021, the Vermont Division for Historic Preservation ("VDHP") determined that the project will have an adverse effect on historic sites, and VDHP recommends that certain mitigation takes place.

Based on the available information, the project as proposed constitutes a substantial change and material change. Therefore, the project requires a permit amendment.

SIGNATURE: /s/ Rachel Lomonaco DATE: 6/30/21

Rachel Lomonaco, District Coordinator
Environmental Commission District #4
111 West Street, Essex Junction, VT 05452
802-879-5658
rachel.lomonaco@vermont.gov

This is a jurisdictional opinion issued pursuant to 10 V.S.A. § 6007(c) and Act 250 Rule 3(B). Reconsideration requests are governed by Act 250 Rule 3(B) and should be directed to the district coordinator at the above address. As of May 31, 2016, with the passage of Act 150, Act 250 Rule 3(C) (Reconsideration by the Board) is no longer in effect. Instead, any appeal of this decision must be filed with the Superior Court, Environmental Division (32 Cherry Street, 2nd Floor, Ste. 303, Burlington, VT 05401) within 30 days of the Planning Commission 7-13-2021

date the decision was issued, pursuant to 10 V.S.A. Chapter 220. The Notice of Appeal must comply with the Vermont Rules for Environmental Court Proceedings (VRECP). The appellant must file with the Notice of Appeal the entry fee required by 32 V.S.A. § 1431 which is \$295.00. The appellant also must serve a copy of the Notice of Appeal on the Natural Resources Board, 10 Baldwin Street, Montpelier, VT 05633-3201, and on other parties in accordance with Rule 5(b)(4)(B) of the Vermont Rules for Environmental Court Proceedings.

Y:\NRB\Essex\DISTRICTS\DIST4\JO\JO 4-201 to JO 4-300\JO-4-300\JO 4-300.docx

CERTIFICATE OF SERVICE

I hereby certify on this 30th day of June, 2021, a copy of the foregoing ACT 250 JURISDICTIONAL OPINION #4-300, was sent by U.S. mail, postage prepaid to the following individuals without email addresses and by email to the individuals with email addresses listed.

Note: any recipient may change its preferred method of receiving notices and other documents by contacting the District Office staff at the mailing address or email below. If you have elected to receive notices and other documents by email, it is your responsibility to notify our office of any email address changes. All email replies should be sent to NRB.Act250Essex@vermont.gov

University of Vermont
c/o Lani Ravin
16 Colchester Avenue
Burlington, VT 05405
Lani.ravin@uvm.edu

Katherine Schad, Town Clerk
Chair, Selectboard/Chair, Planning Commission
City of Burlington
149 Church Street
Burlington, VT 05401
burlingtontownclerk@burlingtonvt.gov;
lolberg@burlingtonvt.gov

Chittenden County Regional Planning Commission
110 West Canal Street, Suite 202
Winooski, VT 05404
permitting@ccrpcvt.org

Agency of Natural Resources
1 National Life Drive, Davis 2
Montpelier, VT 05602-3901
ANR.Act250@vermont.gov

Dept. of Public Service
112 State Street, Drawer 20
Montpelier, VT 05620-2601
barry.murphy@vermont.gov; PSD.VTDPS@vermont.gov

VTrans Policy, Planning & Research Bureau
Barre City Place
219 N. Main Street
Barre, VT 05641
AOT.Act250@vermont.gov

Agency of Agriculture, Food & Markets
116 State Street, Drawer 20
Montpelier, VT 05620-2901
AGR.Act250@vermont.gov

Division for Historic Preservation
National Life Building, Drawer 20
Montpelier, VT 05620
scott.dillon@vermont.gov; james.duggan@vermont.gov
ACCD.ProjectReview@vermont.gov

FOR YOUR INFORMATION

District #4 Environmental Commission
111 West Street
Essex Junction, VT 05452

Dated at Essex Junction, Vermont, this 30th day of June, 2021.



Jessica Mason
Natural Resources Board Technician
802-879-5614
Jessica.Mason@vermont.gov

Y:\NRB\Essex\DISTRICTS\DIST4\JO\JO 4-201 to JO 4-300\JO-4-300\JO 4-300
COS.docx

June 18, 2021

Via First Class Mail & Email

Aaron Brondyke, State Coordinator
District 4 Environmental Commission
111 West Street
Essex Junction, VT 05452
NRB.Act250Essex@vermont.gov

Re: Act 250 Land Use Permit Application Nos. 4C0174-6, 4C0368-3 – The Burton Corporation, Burlington

Dear Aaron:

Applicant Burton Corporation (“Burton”) of the above-referenced permit applications submits the following materials in response to the District 4 Environmental Commission’s (the “Commission”) May 20, 2021 Second Hearing Recess Order (“Second HRO”):

- *VHB Letter regarding Soil Borings (Jun. 17, 2021)*
- *RSG Response to Second Hearing Recess Order (Jun. 15, 2021)*

With respect to soil borings, the Commission’s Second HRO directed Burton to either explain how the drilling pattern proposed in Burton’s soil pre-characterization plan (Exhibit #148) would locate the “alleged etching waste trench,” or:

“Propose an alternative drilling pattern that is more likely to locate the trench. The new pattern may be limited to those areas near the northwesterly corner of the site/facility that will not be covered in pavement under the current development proposal.”

Second HRO § III(1)(b). The attached VHB letter details Burton’s alternative plan. As the Commission is aware, the Vermont Department of Environmental Conservation (“DEC”) is supervising an ongoing site investigation pursuant to DEC’s IRule. A supplemental investigation work plan was recently approved by the DEC and includes a “robust soil investigation . . . to identify if and where any impacts related to the one-time etching solution release may have occurred.” *VHB Letter re: Soil Borings*. This investigation includes a more targeted drilling pattern and also employs a groundwater monitoring well to supplement the soil sampling and determine if any potential release to the groundwater occurred in the vicinity of the reported trench.

Please let me know if you or the Commission have any questions about this updated information.

Sincerely,

A handwritten signature in black ink, appearing to read 'B. Dunkiel', with a long, sweeping horizontal stroke extending to the right.

Brian Dunkiel, Esq.

On behalf of the Burton Corporation

Encls.

cc: Service List (via Email)

MEMO

TO: Justin Worthley, Burton Snowboards.

FROM: Kenneth Kaliski, P.E., INCE Bd. Cert..

DATE: June 15, 2021

SUBJECT: Response to second recess order, supplemental evidence on noise (4C0174-6, 4C0368-3)

In its second Hearing Recess Order in this above-referenced application, the District 4 Act 250 Commission requested that the applicant The Burton Corporation ("Burton") model sound levels for five additional scenarios:

"Please provide a supplemental noise analysis that models 1-second Lmax impacts on all of the residences listed in Appendix C of Exhibit #009, based on at least the following scenarios while the building's proposed HVAC equipment is running:

- a. 120 dBA concert peak sounds.
- b. 150 loud voices spread throughout the parking lot, combined with 20 cars starting their engines simultaneously and 85 car engines driving through the parking lot at the same time.
- c. 300 loud voices spread throughout the parking lot, combined with 85 cars starting their engines simultaneously and 200 cars driving through the parking lot at the same time.
- d. One car door slamming at the proposed facility.
- e. One car horn honking at the proposed facility."

This memorandum is in response to those requests.

Modeling Methodology

The sound propagation modeling described in this memo was completed using the identical methodology and assumptions as set out in Section 5.1 of RSG's November 4, 2020 "Burton Snowboards & Higher Ground Hub Project: Act 250 Noise Assessment," (the "Noise Assessment"), submitted as Exhibit 009 in this proceeding.

This includes the anticipated mitigation measures proposed to attenuate concert sound described in Section 5.3 of the Noise Assessment and in RSG's April 14, 2021 supplemental memo (submitted as Exhibit 146 in this proceeding).

As requested by the District Commission, each of the five additional scenarios that we modeled includes the contribution of the rooftop HVAC equipment running at full capacity, as described in Section 5.2 of the Noise Assessment.

All additional assumptions made in response to the District Commission’s requests are detailed in the following sections.

a. 120 dBA concert peak sounds

We conducted the requested sound modeling of “120 dBA concert peak sounds”¹ and found the results to be consistent with our initial Noise Assessment, which determined that the maximum sound level generated by concert sounds—with HVAC running at 100 percent capacity, 100 cars entering the parking lot, and conversations ongoing in the outdoor lounge—would be 44 dBA L_{max} at 20 Arthur Court and lower at other homes.

Developing this supplemental analysis required modeling the propagation of sound within the concert venue to determine how sound would impinge upon the building envelope and then propagate to and through the outdoor environment. Inside a typical performance space, the sound will be loudest near the speakers and towards the middle of the room where the speakers are directed, and will diminish to a relatively constant level as you move away from the direct field of the speaker to the ‘diffuse’ field. The diffuse field dominates away from the speakers and the speaker focus area. The “breakout” sound that escapes from the interior concert space to the outside is a function of only the sound levels adjacent to the exterior walls of the facility. The breakout sound from a room is thus mainly a function of the diffuse field sound, as that is the sound that impinges on the exterior walls of the room.

The propagation of interior sound from the speakers through the room was accomplished using the Sabine equation and Mean Free Path method.² The key parameters used in the methodology are shown in Tables 1 to 4.

TABLE 1: ROOM PARAMETERS

Sound Pressure Level	120 dBA
Height of Room	11 m
Floor or Ceiling Area	752 m ²
Perimeter Distance	114 m
Total Wall Area	2,757 m ²
Volume of Room	8,269 m ³
Speed of Sound	343 m/s
Distance to Speakers	1.4 m

¹ In acoustics, “peak” (L_{peak}) and “maximum” (L_{max}) are different metrics. Because of the way they are measured, L_{peak} always higher than L_{max} . Because Act 250 has always used the L_{max} metric (except with respect to blasting), we have assumed that the District Commission was not aware of this distinction and meant that we were to model L_{max} . This approach is conservative. Further, consistent with precedent, the L_{max} is using the slow response setting, which is usually approximately equivalent in value to the highest one-second continuous equivalent sound level.

² Bies, D., & Hansen, H., “Engineering Noise Control: Theory and Practice,” CRC Press

**TABLE 2: SOUND PRESSURE LEVEL 5 FT FROM SPEAKER**

1/3 octave band center frequency (Hz)	Sound pressure Level (dBZ)	1/3 octave band center frequency (Hz)	Sound pressure Level (dBZ)
25 Hz	88.5	630 Hz	112.6
31.5 Hz	105.6	800 Hz	111.3
40 Hz	115.5	1 kHz	110.3
50 Hz	126.5	1.25 kHz	108.8
63 Hz	121.6	1.6 kHz	103.1
80 Hz	115.6	2 kHz	101.6
100 Hz	120.2	2.5 kHz	101.4
125 Hz	121.5	3.15 kHz	101.6
160 Hz	119.7	4 kHz	100.6
200 Hz	119	5 kHz	100.8
250 Hz	115.2	6.3 kHz	99.1
315 Hz	116.2	8 kHz	96.3
400 Hz	114.5	10 kHz	91.5
500 Hz	110.8	dBA	120.0

TABLE 3: REVERBERATION TIME

1/3 octave band center frequency (Hz)	Reverberation Time (s)	1/3 octave band center frequency (Hz)	Reverberation Time (s)
25 Hz	1.26	630 Hz	0.98
31.5 Hz	1.24	800 Hz	0.96
40 Hz	1.22	1 kHz	0.94
50 Hz	1.20	1.25 kHz	0.92
63 Hz	1.18	1.6 kHz	0.90
80 Hz	1.16	2 kHz	0.88
100 Hz	1.14	2.5 kHz	0.86
125 Hz	1.12	3.15 kHz	0.84
160 Hz	1.10	4 kHz	0.82
200 Hz	1.08	5 kHz	0.80
250 Hz	1.06	6.3 kHz	0.78
315 Hz	1.04	8 kHz	0.76
400 Hz	1.02	10 kHz	0.74
500 Hz	1.00		

TABLE 4: ABSORPTION COEFFICIENTS

1/3 octave band center frequency (Hz)	Absorption coefficient	1/3 octave band center frequency (Hz)	Absorption coefficient
25 Hz	0.383	630 Hz	0.483
31.5 Hz	0.39	800 Hz	0.493
40 Hz	0.396	1 kHz	0.503
50 Hz	0.403	1.25 kHz	0.514
63 Hz	0.409	1.6 kHz	0.525
80 Hz	0.416	2 kHz	0.537
100 Hz	0.424	2.5 kHz	0.549
125 Hz	0.431	3.15 kHz	0.562
160 Hz	0.439	4 kHz	0.575
200 Hz	0.447	5 kHz	0.589
250 Hz	0.456	6.3 kHz	0.604
315 Hz	0.464	8 kHz	0.619
400 Hz	0.474	10 kHz	0.636
500 Hz	0.483		

Using this methodology, a sound level of 120 dBA in the direct field at a distance of 5 feet from the speakers results in a sound level of 106 dBA $L_{\max}$ in the diffuse field.³ The diffuse field sound level would be the level impinging on the exterior-facing walls. This diffuse field sound level of 106 dBA $L_{\max}$ is the same as the level previously modeled in the Noise Assessment, along with a number of concurrent sound sources, resulting in the previously mentioned 44 dBA at 20 Arthur Court.

Sound levels monitored by RSG in the existing concert venue for the initial Noise Assessment were used to determine the diffuse field that would represent the breakout sound of a representatively loud concert. Monitoring the direct, or maximum, sounds generated by the speakers does not inform the calculation of the diffuse field, as these sounds vary largely with distance and location from the speaker and would not be directly relevant to evaluating the breakout sound from the facility. However, had we done so, we likely would have found sound levels around 120 dBA $L_{\max}$ at a distance of five feet from the speakers, consistent with this modeling effort.

At the hearing for this application, a graphic in the appendix to our Noise Assessment appeared to generate some confusion on this issue. That graphic indicated, as the

³ The total sound in an interior concert venue is comprised of sound from both the **direct field** and the **diffuse field**. The **direct field** sound is the sound coming directly from the speaker and will diminish as you move away from it. The **diffuse field** is made up of the sound reflecting (bouncing) off all the surfaces in the room and filling the room with sound. The sound level in the diffuse field is approximately the same all over the room. The total sound anywhere in the room is the sum of the direct and diffuse fields. Sound levels at the building envelope and far from the speaker are primarily a function of the diffuse field.



Commission notes, that 120 dBA is a “generalized value that represent(s) how loud some concerts can get.” This is true. But as our modeling demonstrates, the maximum sound level experienced by any concert goer is not reflective of the sound experienced by the building’s envelope and varies throughout the concert space.⁴

The sound monitoring RSG conducted at the previous Higher Ground location illustrates this point. We selected an event in coordination with Higher Ground to be representative of a conservatively loud hard rock show. While many concert attendees may have experienced higher sound levels in the direct field of the speakers that evening, we recorded a diffuse field sound level of 99 dBA L_{eq} and 106 dBA L_{max} that would impinge on the venue’s walls. This demonstrates that the monitored event and our original analysis accurately captures the impact of a hard rock concert in terms of breakout sound in the surrounding area.

To conclude, the L_{max} concert analysis provided in the RSG Noise Assessment appropriately models the impact of how loud a typical concert could get in that space, and our conclusion remains that this will not result in an undue adverse impacts with respect to noise.

b. 150 loud voices spread throughout the parking lot, combined with 20 cars starting their engines simultaneously and 85 car engines driving through the parking lot at the same time

Modeled sound power levels for each source for this scenario are described in Table 5. “Loud Voices” used the same sound power level as found in the Noise Assessment for loud male voices. Vehicle start sound power was derived through measurements of L_{max} of an automobile.⁵ Vehicle driving sound power was based on the FHWA Reference Energy Mean Emission Level for automobiles cruising at 15 mph. These were modeled as distributed throughout the parking area as an area source. The HVAC system is modeled at full capacity using the sound power levels as in the Noise Assessment.

⁴ As a point of comparison to further illustrate how sound levels vary throughout a concert venue: to achieve a *diffuse* sound level of 120 dBA L_{max} , i.e. where the sound averaged over all the exterior walls is 120 dBA L_{max} , would require approximately 137 dBA five feet from the speakers. That would be intolerable, dangerous, and would have the potential for instantaneous permanent hearing damage

⁵ With increasing sales of electric, hybrid, and start-stop equipped cars, fewer and fewer vehicles have startup sounds.

TABLE 5: SOUND POWER LEVELS USED IN SCENARIO b

Source	Sound Power Level
150 Loud Voices	76 dBA X 150 = 98 dBA
20 Car Engines Starting	85 dBA X 20 = 98 dBA
85 Car Engines Driving	88 dBA X 85 = 108 dBA

The modeled sound level at the worst-case residence during this scenario was 49 dBA $L_{\max}$ (20 Arthur Court).

For comparison, the World Health Organization (WHO) sleep disturbance guideline for instantaneous sounds is 60 dBA $L_{F\max}$, measured outside the bedroom window.⁶ The sound level under this scenario would be 11 dB below the WHO guideline level.⁷

It bears noting that the District Commission requested modeling scenario is unlikely to occur in real-world operation of the Project, because the maximum sound levels modeled here require each of these sounds to occur at their maximum levels simultaneously. Therefore, the impact of the combined sound of the patrons exiting the venue and parking lot is more appropriately captured as an average over time as modeled in RSG's Noise Assessment, which represents a reasonable and conservative worst-case scenario for parking lot noise.

Further, I have reviewed Burton and Higher Ground's Operational Management Plan ("OMP") submitted as Exhibit 010a in this proceeding and note that it sets out procedures to ensure patrons exit the site as "efficiently, rapidly, and quietly as possible, minimizing any disruption to residential neighbors." As part of the OMP, Higher Ground has committed to emptying the parking lots within 30 minutes of any event, and providing staff to oversee exiting patrons. I conclude that the OMP is appropriate mitigation for potential end-of-concert impacts.

c. 300 loud voices spread throughout the parking lot, combined with 85 cars starting their engines simultaneously and 200 cars driving through the parking lot at the same time

We conducted the requested sound modeling and found the highest sound level to be 53 dBA $L_{\max}$ at 20 Arthur Court, again concurrent with the HVAC running at full capacity. As with Scenario b, these levels are below the WHO sleep disturbance guideline of 60 dBA $L_{F\max}$ for instantaneous sounds.

Sound power levels for each component were derived using the same methodology as in Scenario b. Corresponding modeled power levels are set out in Table 5.

⁶ "Guidelines for Community Noise," Edited by Birgitta Berglund, Thomas Lindvall, Dietrich H. Schwela, World Health Organization, Geneva, 2000.

⁷ A sound source 10 dB lower than another source is perceived as about half as loud.



TABLE 6: SOUND POWER LEVELS USED IN SCENARIO b

Source	Sound Power Level
300 Loud Voices	76 dBA X 300 = 101 dBA
85 Car Engines Starting	85 dBA X 85 = 104 dBA
200 Car Engines Driving	88 dBA X 200 = 111 dBA

This scenario is even more unrealistic than Scenario b in that it requires even more of these sound sources to occur simultaneously to reach the modeled $L_{\max}$ —that nearly half the capacity of the parking lot is driving (modeled at 15 mph) at the same time as 85 additional vehicles are all starting at once, and half of the remaining concert attendees talking loudly (modeled as loud male voices) in the parking lot.

As with Scenario b, I conclude that the OMP is appropriate mitigation for potential end-of-concert impacts.

d. One car door slamming at the proposed facility

As requested, we modeled the slamming of a single car door in the southernmost parking area, approximately 480 feet from the nearest home at 13 Arthur Court.⁸ The sound level of a slamming car door was derived from the maximum of six measurements on two vehicles, resulting in a sound pressure level of 64 dBA at 25 feet.

By itself, and without the HVAC system operating, the highest sound level of the car door would be 34 dBA $L_{\max}$ at 13 Arthur Court. When occurring in combination with the HVAC systems operating at full capacity, the maximum sound level would be 41 dBA $L_{\max}$ at 20 Arthur Court. In the latter case, most of the sound is from the HVAC system; the contribution to the overall sound level from car door slams is less than 1 dB. All other residences are modeled at lower sound levels.

The sound of doors closing currently exist in the surrounding parking lots for manufacturing uses that employ night shifts and would generate similar maximum sound levels. These sound levels are also substantially below the WHO sleep disturbance guideline of 60 dBA $L_{F\max}$ for instantaneous sounds. In our experience, these sound levels are not unusual for a parking lot of any size.

e. One car horn honking at the proposed facility

Lastly, we modeled the sound generated by one car horn honking in the southernmost parking area, again about 480 feet from the nearest home. For this model run, we represented the sound of horn using the maximum of nine measurements from six vehicles. The maximum sound level was 83 dBA at 25 feet.

⁸ We modeled a parking location close to Arthur Court for the purposes of this request. Sound impacts would be lower if the car door, or the car horn in scenario e, was located elsewhere in the parking lot, further from residences. We did not model the attenuation that could occur if other cars blocked the line of site from the source to the receiver.

Such a horn, with the HVAC running at full capacity, resulted in a sound levels of 55 dBA $L_{\max}$ at the most impacted residence—13 Arthur Court. This is below the WHO sleep disturbance guideline of 60 dBA $L_{F\max}$ for instantaneous sounds. In our experience, car horn sounds could occur at any parking lot or interior roadway and are not usually considered in noise impact analyses of developments in Act 250 cases.

Burton's OMP specifies that Higher Ground staff will be providing event traffic control at the parking lot and its ingress/egress, as well as at local intersections as needed. According to the OMP, staff will oversee "orderly parking" before shows and ensure that "all guests exit the site as efficiently, rapidly, and quietly as possible" after shows. It is my opinion that the OMP provides appropriate mitigation that will help to minimize the use of car horns.

Conclusion

In summary, Table 7 the modeled sound levels at the most impacted residences in response to the Commission's five requests:

TABLE 7: SUMMARY OF SOUND MODELING RESULTS

Modeling Scenario	$L_{\max}$ (dBA)	Worst-Case Receiver Location
a. 120 dBA concert	44	20 Arthur Ct.
b. 150 loud voices, 20 cars starting, 85 cars driving	49	20 Arthur Ct.
c. 300 loud voices, 85 cars starting, 200 cars driving	53	20 Arthur Ct.
d. One car door closing	41	20 Arthur Ct.
e. One car horn	55	13 Arthur. Ct.

As reflected in the Noise Assessment, background noise in the area is consistent with the light industrial use of the E-LM district, where several local manufacturers run night shifts. Sound monitoring in the area indicates that mechanical and traffic noise continue throughout the Project's hours of operation as a concert venue.

All modeled sound levels are below the WHO's 60 dBA sleep disturbance guideline for instantaneous sound.

These model results for the parking lot scenarios (b through e) do not take into account Burton and Higher Ground's efforts to mitigate and address these impacts through the OMP, as discussed in individual sections above. Higher Ground is required to clear the lot with 30 minutes and will ensure that patrons are able to exit as efficiently, quickly, and quietly as possible. The OMP commits Higher Ground staff to monitor and supervise patrons in the parking lot, and direct exiting traffic flow. In short, the OMP is an



appropriate mitigation designed to minimize the end-of-concert noise impact from the parking areas.

As such, the Hub Project can be constructed and operated in such a way as Project-generated noise will not cause an undue adverse impact on health with regard to Act 250 Criterion 1 or aesthetics with regard to Criterion 8.



June 17, 2021

Ref: 58539.00

Justin Worthley
Senior Vice President
The Burton Corporation
180 Queen City Park Road
Burlington, Vermont 05401

Re: Application 4C0174-6, 4C0368-3—Second Hearing Recess Order

Dear Justin,

As requested, in connection with the District 4 Environmental Commission's request in its Second Hearing Recess Order in the above referenced permit application, we are attaching an excerpt from VHB's June 9, 2021 Supplemental Site Investigation Work Plan, which was approved by VT DEC on June 10, 2021 for Burton's site. The excerpt below describes the robust soil investigation, screening, and sampling effort as well as the inclusion of a groundwater monitoring well and groundwater sampling effort that will be employed to identify if and where any impacts related to the one-time etching solution release may have occurred, which was described in the Second Recess Order.

*As previously described, in 1970 a one-time 600-gallon etching solution release and treatment occurred at a location reportedly northwest of the Site building. In order to proactively treat the etching solution release, the 600 gallons of etching solution was spread over ferrous aluminum sulfate in a shallow ditch, covered with lime, and then buried in soil (EPA, 1985; VT WMD, 1985). Lab records indicate the composition of the etching solution was 30g/liter sodium dichromate, 3 g/liter sulfuric acid, as well as chromium and aluminum (EPA, 1985). Additionally, based on VHB's review of prior reports and research on etching solution, it does not appear that PCBs were used in the manufacturing of etching solution and therefore analysis of PCBs will not be prescribed for the samples proposed to be collected in the area northwest of the building at this time. According to EPA (1985) the dimensions of the ditch are 30-feet long, 3-feet wide, 5-feet deep; however, the orientation of the ditch was not described, and the location was not shown on a figure. The location of the etching solution release and treatment ditch was described as "under the asphalt drive into the shipping and receiving yard at the northwest corner of the plant at the fence line surrounding the facility" (VT WMD, 1985; see **Figure 3a**).*

Based on VHB's experience performing ground-penetrating radar ("GPR") surveys, a GPR would not be effective for the purposes of locating the ditch. The biggest limitation associated with using GPR to locate the

Justin Worthley

Ref: 58539.00

June 17, 2021

Page 2



backfilled ditch is how much time has passed (51 years) since the area was disturbed. Excavation or soil disturbance sidewalls tend to appear "crisp" within the GPR data the "newer" the excavation/disturbance is. Conversely, the older the excavation, the less crisp and less identifiable the soil disturbance is to locate within the geophysical data. Furthermore, the backfilled ditch was paved over which would suggest that there was mechanical compaction of the material in the ditch prior to paving. The compaction of the ditch backfill material will make it hard to distinguish the ditch from the surrounding undisturbed material. Complicating things further, the shallow perched groundwater table would significantly attenuate the GPR waves rendering resolution of the subsurface strata and anomalies beneath the perched groundwater nearly impossible.

*In order to evaluate for the presence of soil contamination associated with the etching solution release and treatment, soil borings will be advanced to collect soil samples at the location of the one-time etching solution release and treatment ditch. A total of 18 soil borings will be advanced in a 3 by 6 grid pattern with soil borings spaced approximately 15 feet apart centered at the location of the etching solution release and treatment ditch under the asphalt drive into the shipping and receiving yard at the northwest corner of the plant at the fence line surrounding the facility. The fence line and paved drive into the shipping and receiving yard is shown on **Figure 3a**. With this degree of inspection and analysis centered on the reported location of the ditch, if there was a significant release to the environment it should be identified in the results of the extensive soil screening and soil sampling. Furthermore, in the unlikely event that a potential release associated with the ditch was not detected during soil screening and sampling a monitoring well will be installed at 1 of the 18 soil borings as described in Section 3.2.2. The sensitive receptor that may have been impacted is groundwater; therefore, should a significant release have occurred, the groundwater analytical results should identify it.*

*The 18 soil borings will be advanced using a Geoprobe direct-push drill rig. The soil borings will be advanced to approximately 5 feet below the apparent groundwater table or the termination depth of the soil boring, and continuous soil cores will be collected in dedicated butyrate liners. The exterior diameter of the Geoprobe boring equipment will be 3 inches and the soil cores will be collected in 5-foot intervals or less, depending on the termination depth of the boring. Proposed soil boring locations are shown on **Figure 3a**, **Figure 3b**, and **Figure 3c**.*

Please let me know if you have any questions.

Sincerely,

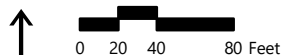
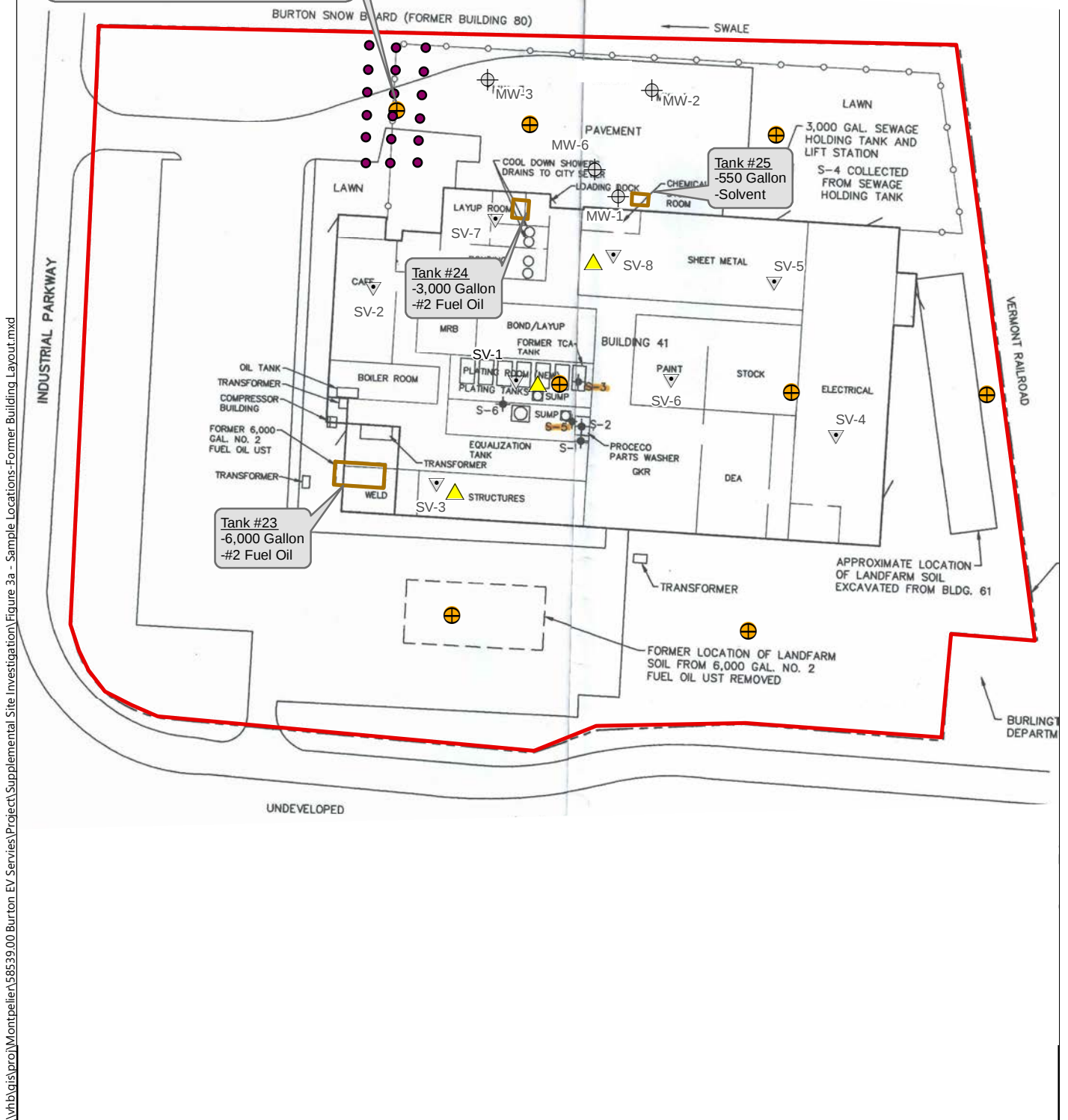
A handwritten signature in black ink, appearing to read "Kurt Muller", with a long, sweeping horizontal line extending to the right.

Kurt Muller

Vermont Director of Site Investigation & Remediation, Vanasse Hangen Brustlin, Inc.

kmuller@vhb.com

Etching Solution Treatment Ditch*
-approximately 600 gallons in 1970
-etching solution (sodium dichromate, sulfuric acid, chromium, and aluminum) was spread over ferrous aluminum sulfate and was covered with lime and soil.
-Ditch dimensions: 30-ft long, 3-ft wide, 5-ft deep)



266 Queen City Park Road (Formerly 180 Industrial Pkwy.) Former General Dynamics Facility | SMS# 2020-4979

Burlington, Vermont

- Soil Borings- Etching Solution
- ▲ Indoor Air
- ⊕ Monitoring Well
- ⊕ Former Monitoring Wells
- ▼ Existing Sub-slab Soil Gas Sample Location (VHB 2021)
- ▭ Former Underground Storage Tank Locations
- ▭ Parcel Boundary

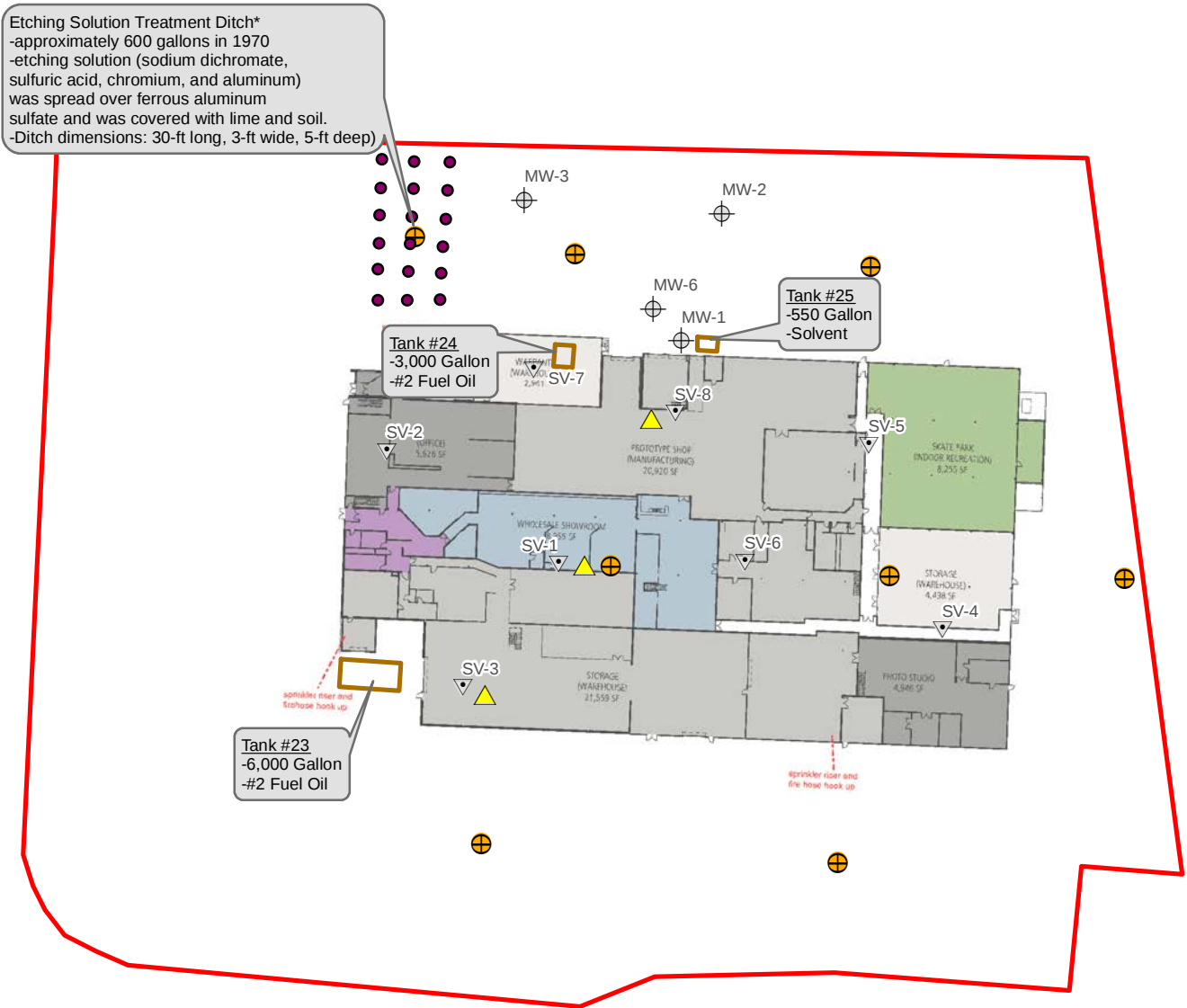
Source Info:
- Basemap from ENSR International figure dated January 2001.
- Former Underground Storage Tank info and Former Monitoring Well locations obtained from Sprague GeoServices Request for Site Management Activity Closed (SMAC) Report dated December 1997.
*Note: "The location of this ditch is now under the asphalt drive into the shipping and receiving yard at the northwest corner of the plant at the fence line surrounding the facility" (VT WMD, 1985).
"MW-9 at upgradient location (southside of Building No. 41 not shown" per Figure 2-1 of WehranEnvirotech Corrective Action Program report dated July 1989.

Proposed Sample Locations Former Building Layout

Planning Commission 7-13-2021

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\\vhb\gis\proj\Montpelier\58539.00 Burton EV Services\Project\Supplemental Site Investigation\Figure 3b - Sample Locations-Current Building Layout.mxd



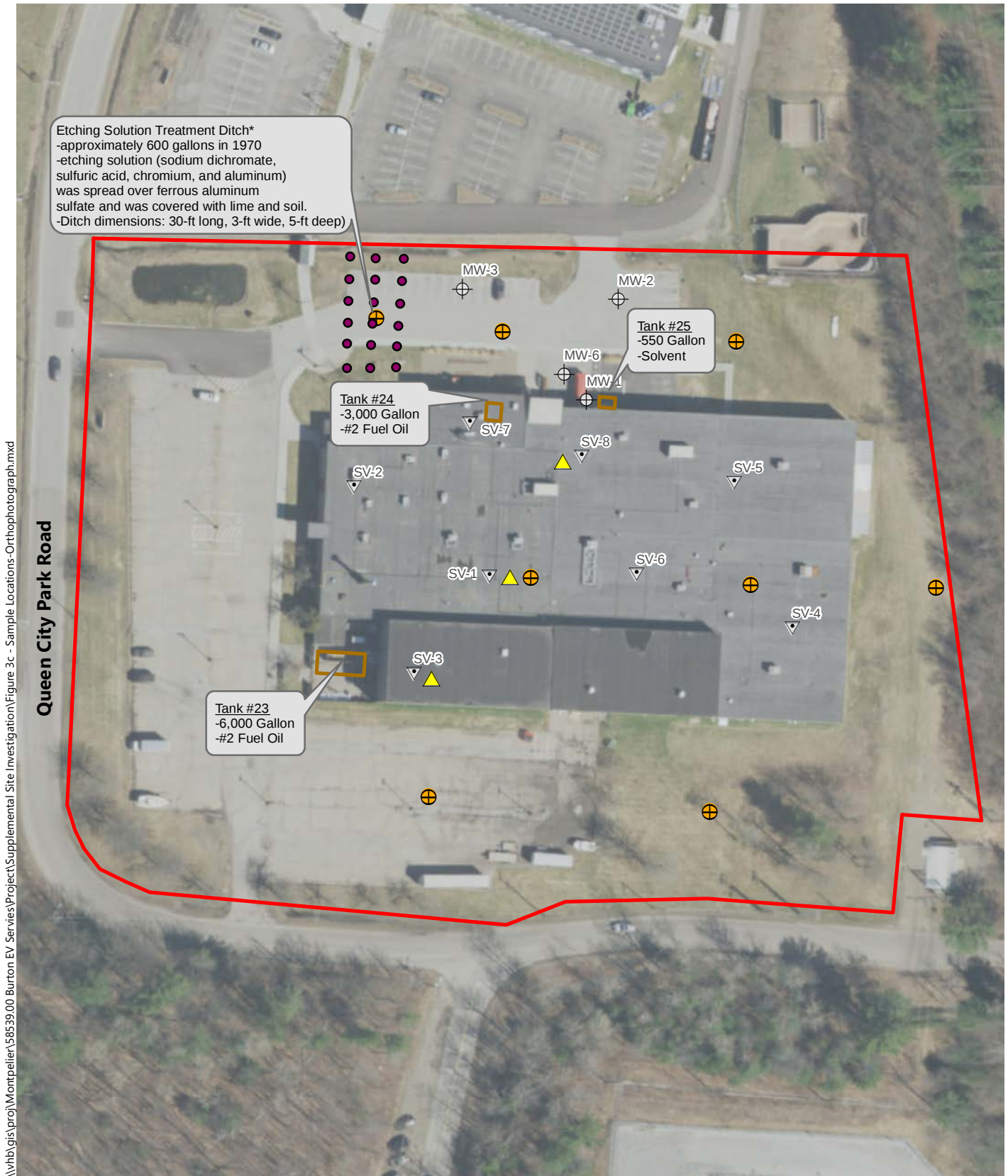
266 Queen City Park Road (Formerly 180 Industrial Pkwy.) Former General Dynamics Facility | SMS# 2020-4979

Burlington, Vermont

- Soil Borings- Etching Solution
- ▲ Proposed Sample Locations
- ▲ Indoor Air
- Monitoring Well
- ⊕ Former Monitoring Wells
- ▼ Existing Sub-slab Soil Gas Sample Location (VHB 2021)
- Former Underground Storage Tank Locations
- Parcel Boundary

Source Info:
 - Basemap from Existing Conditions Plan, 2019
 *Note: "The location of this ditch is now under the asphalt drive into the shipping and receiving yard at the northwest corner of the plant at the fence line surrounding the facility" (VT WMD, 1985).
 "MW-9 at upgradient location (southside of Building No. 41 not shown" per Figure 3-1 of WehranEnvirotech Corrective Action Program report dated July 1989.

Proposed Sample Locations Current Building Layout



\\vhb\gis\proj\Montpelier\58539.00 Burton EV Services\Project\Supplemental Site Investigation\Figure 3c - Sample Locations-Orthophotograph.mxd



266 Queen City Park Road (Formerly 180 Industrial Pkwy.)
Former General Dynamics Facility | SMS# 2020-4979

Burlington, Vermont

- Soil Borings- Etching Solution
 - ⊕ Former Monitoring Wells
 - ▼ Existing Sub-slab Soil Gas Sample Location (VHB 2021)
 - ▲ Indoor Air
 - ⊕ Monitoring Well
 - ▭ Former Underground Storage Tank Locations
 - ▭ Parcel Boundary
- Proposed Sample Locations**

Source Info:
 - Basemap from VCGI, 2018
 *Note: "The location of this ditch is now under the asphalt drive into the shipping and receiving yard at the northwest corner of the plant at the fence line surrounding the facility" (VT WMD, 1985).
 "MW-9 at upgradient location (southside of Building No. 41 not shown" per Figure 2.1 of WehranEnvirotech Corrective Action Program report dated July 1989.

Proposed Sample Locations
Orthophotograph

**STATE OF VERMONT
NATURAL RESOURCES BOARD
DISTRICT 4 ENVIRONMENTAL COMMISSION**

Act 250 Land Use Permit Application)
#4C0174-6 & 4C0368-3)
The Burton Corporation, Burlington)

CERTIFICATE OF SERVICE

I, Grace Grundhauser, certify that on June 18, 2021, I served copies of the *VHB Letter regarding Soil Borings* and the *RSG Response to Second Hearing Recess Order* with associated cover letter on behalf of Applicant, the Burton Corporation, in the above-referenced proceeding to the service list below by the delivery method noted:

By Email:

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Monique Gilbert, Pam Loranger
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FOR YOUR INFORMATION

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Dated at Burlington, Vermont, this 18th day of June, 2021.

By: /s/ Grace Grundhauser
Grace Grundhauser
Paralegal

**Natural Resources Board
111 West Street
Essex Jct., VT 05452**

**Act 250 Jurisdictional Opinion
#4-299**

This is a Jurisdictional Opinion based upon available information and a written request from the Landowner/Agent or Other Person. Any Notified Person or entity will be bound by this opinion unless that person or entity files a request for reconsideration with the District Coordinator (10 V.S.A. § 6007 (c) and Act 250 Rule 3 (b)) or an Appeal with the SUPERIOR COURT, Environmental Division within 30 days of the issuance of this opinion

☒ I hereby request a jurisdictional opinion from the District Coordinator or Assistant District Coordinator regarding the jurisdiction of 10 V.S.A. Chapter 151 (Act 250) over the project described below: Lani Ravin, UVM, Campus Planning Services

PROJECT DESCRIPTION:

The project includes improvements at the University of Vermont ("UVM") Hillel building located at 439 College Street in Burlington, Vermont. The building at 439 College Street was constructed in the early 1920s and is located within the boundaries of the University Green Historic District which is listed on the National Register for Historic Places. The proposed project includes the replacement of an existing catch basin and connecting the catch basin to an existing stormwater network. The project includes ground disturbance.

Existing Act 250 permit: Permit series 4C0852, and 4C0571, but none specifically for this property

Project Type: ☒ Commercial ☐ Residential ☐ Municipal/State ☐ Mixed
 ☐ Agriculture ☐ Silviculture ☐ Other
Has the landowner subdivided before? ☐ Yes ☐ No ☒ N/A

AN ACT 250 PERMIT IS REQUIRED: ☒ YES ☐ NO

BASIS FOR DECISION:

In a letter dated March 23, 2021, the Vermont Division for Historic Preservation ("VDHP") determined that the project may affect subsurface historic sites, and VDHP recommends that a qualified archaeologist oversee the construction of the project.

Based on the available information, the project as proposed constitutes a substantial change to a pre-existing project. Therefore, the project requires a permit amendment.

SIGNATURE: /s/ Rachel Lomonaco DATE: 7/12/21

Rachel Lomonaco, District Coordinator
Environmental Commission District #4
111 West Street, Essex Junction, VT 05452
802-879-5658
rachel.lomonaco@vermont.gov

This is a jurisdictional opinion issued pursuant to 10 V.S.A. § 6007(c) and Act 250 Rule 3(B). Reconsideration requests are governed by Act 250 Rule 3(B) and should be directed to the district coordinator at the above address. As of May 31, 2016, with the passage of Act 150, Act 250 Rule 3(C) (Reconsideration by the Board) is no longer in effect. Instead, any appeal of this decision must be filed with the Superior Court, Environmental Division (32 Cherry Street, 2nd Floor, Ste. 303, Burlington, VT 05401) within 30 days of the date the decision was issued, pursuant to 10 V.S.A. Chapter 220. The Notice of Appeal must comply with the Vermont Rules for Environmental Court Proceedings (VRECP). The appellant must file with the Notice of Appeal the entry fee required by 32 V.S.A. § 1431 which is \$295.00. The appellant also must serve a copy of the Notice of Appeal on the Natural Resources Board, 10 Baldwin

Street, Montpelier, VT 05633-3201, and on other parties in accordance with Rule 5(b)(4)(B) of the Vermont Rules for Environmental Court Proceedings.

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CERTIFICATE OF SERVICE

I hereby certify on this 12th day of July, 2021, a copy of the foregoing ACT 250 JURISDICTIONAL OPINION #4-299, was sent by U.S. mail, postage prepaid to the following individuals without email addresses and by email to the individuals with email addresses listed.

Note: any recipient may change its preferred method of receiving notices and other documents by contacting the District Office staff at the mailing address or email below. If you have elected to receive notices and other documents by email, it is your responsibility to notify our office of any email address changes. All email replies should be sent to NRB.Act250Essex@vermont.gov

University of Vermont
c/o Lani Ravin
16 Colchester Avenue
Burlington, VT 05405
Lani.ravin@uvm.edu

Dated at Essex Junction, Vermont, this 12th day of July, 2021.



Jessica Mason
Natural Resources Board Technician
802-879-5614
Jessica.Mason@vermont.gov

Katherine Schad, Town Clerk
Chair, Selectboard/Chair, Planning Commission
City of Burlington
149 Church Street
Burlington, VT 05401
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lolberg@burlingtonvt.gov

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COS.docx

Chittenden County Regional Planning Commission
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Dept. of Public Service
112 State Street, Drawer 20
Montpelier, VT 05620-2601
barry.murphy@vermont.gov; PSD.VTDPS@vermont.gov

VTrans Policy, Planning & Research Bureau
Barre City Place
219 N. Main Street
Barre, VT 05641
AOT.Act250@vermont.gov

Agency of Agriculture, Food & Markets
116 State Street, Drawer 20
Montpelier, VT 05620-2901
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Division for Historic Preservation
National Life Building, Drawer 20
Montpelier, VT 05620
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ACCD.ProjectReview@vermont.gov

FOR YOUR INFORMATION

District #4 Environmental Commission
111 West Street
Essex Junction, VT 05452

Neighborhood Activity Center

Presented by Hula



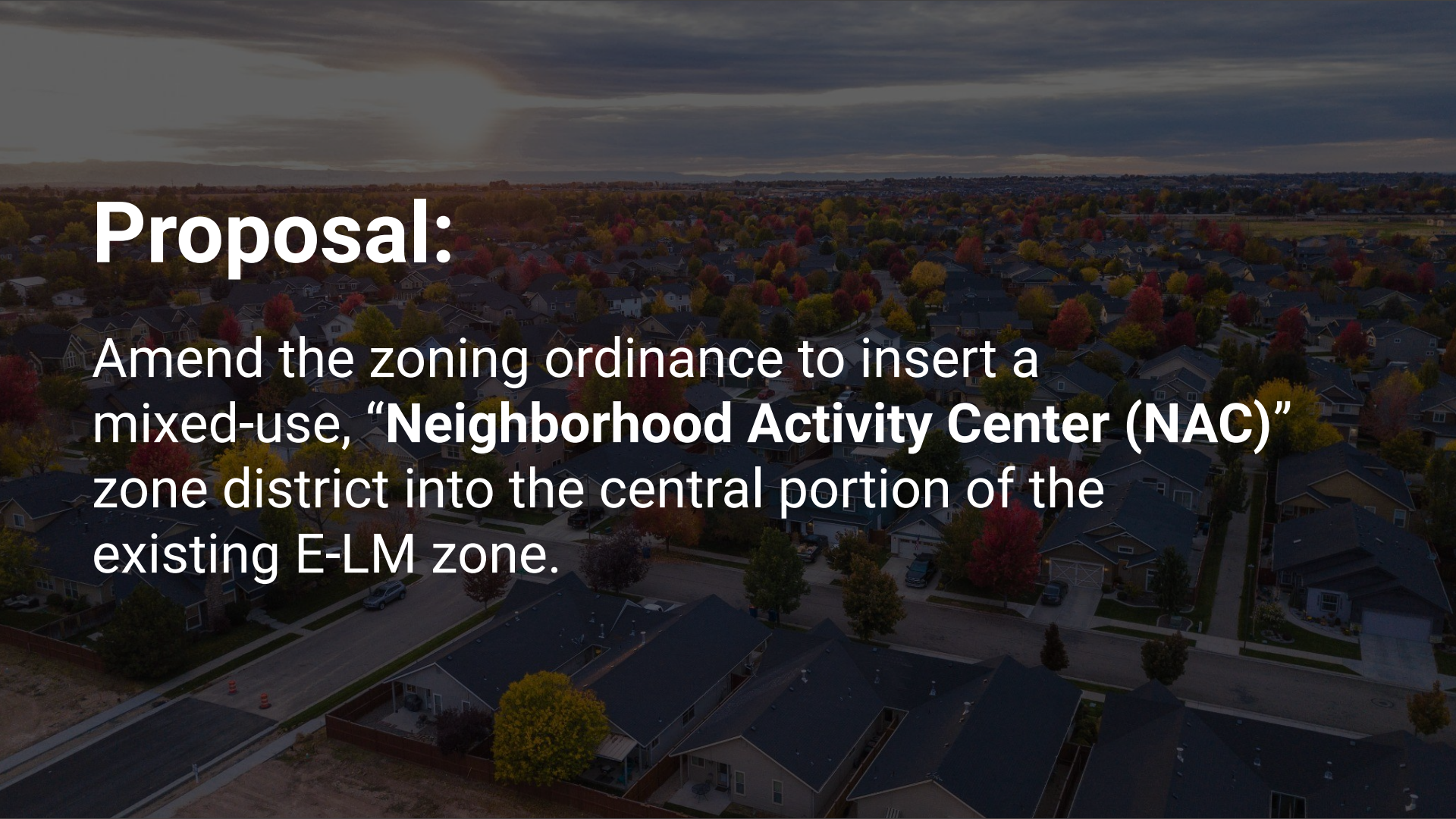
Presenters

JOHN CAULO

- Land development and planning consultant working with Russ Scully on the transformation of the Blodgett Pizza oven factory
- Academic background in City Planning, and former BTV planner and zoning administrator

RUSS SCULLY

- Along with Roxanne Scully, Russ is the owner/developer of Hula, a 15-acre business accelerator space located along Lakeside Avenue.
- They also are the owners of a 6+ acre surface parking lot located at 125 Lakeside Ave, across the street from the Innovation Center.



Proposal:

Amend the zoning ordinance to insert a mixed-use, “**Neighborhood Activity Center (NAC)**” zone district into the central portion of the existing E-LM zone.



Key Planning Goals

- **Affordable, multi-family housing** to support a growing workforce
- **Walkable** neighborhoods
- **Convenient access** to neighborhood goods and services

Background

This proposal revisits an earlier public policy discussion from **2015**.

Draft version of the plan *BTV-South End* master plan contemplated housing in the E-LM zone.

Concept was introduced and quickly removed from consideration. Why? — In initial form, housing was considered for the entire E-LM district which could result in some negative outcomes over time:

1. Conversion of cheap artist studio space to residential use
2. Loss of manufacturing space
3. Loss of an intangible urban “fabric” that has provided the Pine Street corridor with so much of its character

planBTV SOUTH END



plan **BTV**
South End

**OUR PLAN FOR THE
SOUTH END NEIGHBORHOOD**
Adopted March 2019

Prepared for the City of Burlington by
Goody Clancy | Civic Moxie | Dubois & King

planBTV SOUTH END

Adopted in March 2019, the housing component of *planBTV South End* provides conflicting visions for new housing in the area. Some direct quotes reveal the ambivalence:

- “The South End is a desirable place to live”
- “Residentially zoned areas of the South End are largely built out, and the Enterprise District zoning prohibits residential uses”
- “The eclectic character and walkability of the neighborhood are attracting the city’s young professionals and families”
- “The lack of available housing is negatively impacting the City’s ability to attract young professional and companies seeking to hire young professionals”
- “It is increasingly difficult to make the case that all housing should be excluded from the Enterprise Zone, given:
 - Regional and City-wide housing shortage
 - Economic and environmental importance of locating housing close to workplaces
 - Fundamental shift of the relationship of home and work in the new American city”



planBTV SOUTH END

When published in March 2019, *planBTV South End* did not recommend zoning changes to permit housing in the E-LM zone. However, it acknowledged the critical need for housing by asking the question:

“Are there locations or situations in which housing might be appropriate in some parts of the Enterprise Zone?”



Neighborhood Activity Center-innovation (NAC-I) Zone District

To frame this discussion, we are using the 5 Ws to provide the Commission with a high level summary presentation:

1. What? 2. Who? 3. Where? 4. When? 5. Why?



What is being proposed?

A new zoning designation within the existing E-LM district that will promote mixed use, walkable neighborhoods in the central portion of the Pine Street corridor.



What is being proposed?

We recommend the City create a new “Neighborhood Activity Center” (NAC) designation for the area.

- NAC is an existing “tool” in the City’s zoning toolbox
- Successfully applied throughout the City, including **Cambrian Rise**, Along **Riverside Ave**, At the **intersection of Flynn & Pine**, **McClure Center** (Pine Street, south of Home)

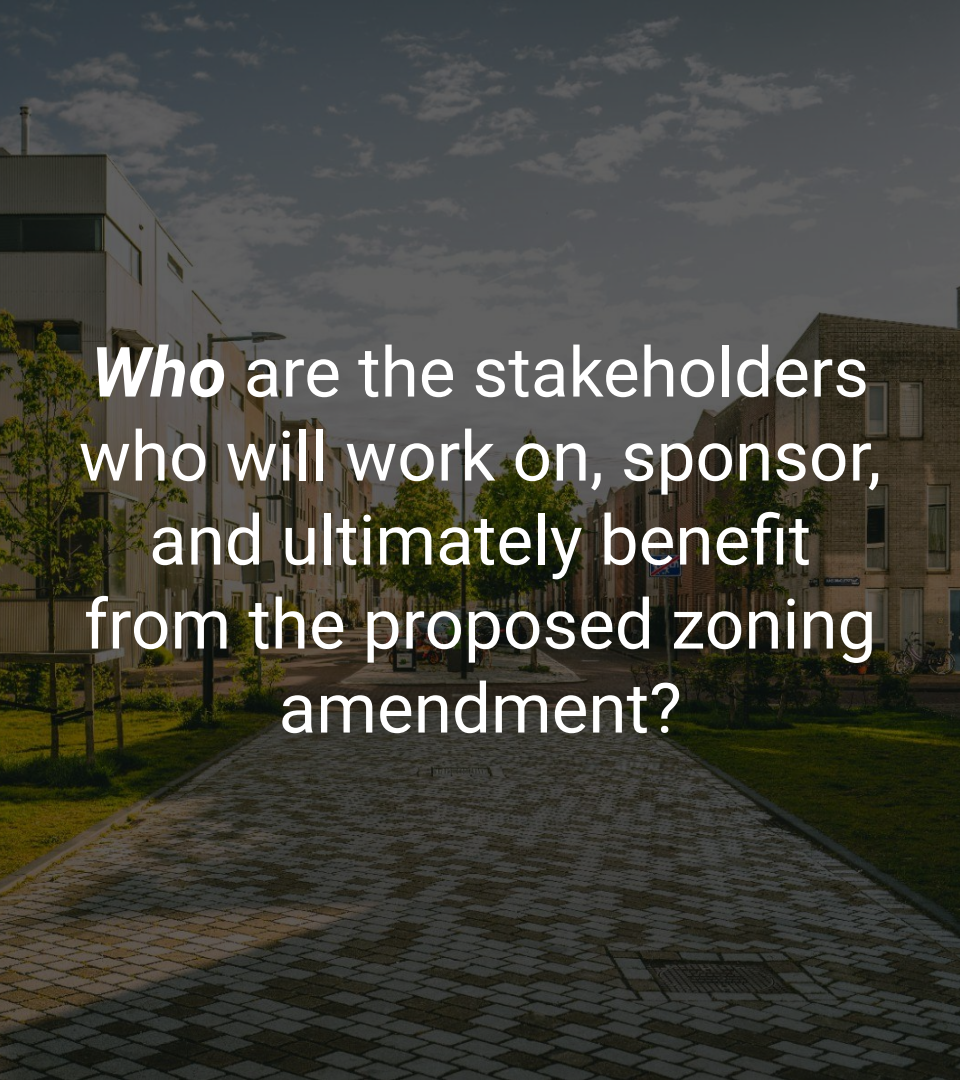
Neighborhood Activity Center Defined:

Neighborhood Mixed Use districts promote development that combines nonresidential and residential uses on a single site(s).

- These zones allow an **increased intensity of development** than would typically be found in the surrounding residential areas, and **provide neighborhood oriented goods and services** and **employment opportunities** within walking and biking distance.
- **Supports transit use** by providing a buffer between busy streets and residential neighborhoods, and provide **new commercial and residential opportunities** in the City.
- Nonresidential uses...
 - Should primarily be oriented to **serving the needs of the surrounding residential neighborhoods** and other neighborhood commercial uses.
 - Should be **located on ground floor** with housing and other non-residential uses on upper
- Building design should be **Pedestrian-friendly** with buildings oriented to the sidewalk, especially at corners
 - Parking is intended to be hidden from the street

The proposed mixed-use NAC-I zone would:

- Accommodate a diverse range of complimentary studio, office, institutional and neighborhood-oriented retail and service uses.
- Provide a 21st century update of the “factory town” adjacency between the *Lakeside* neighborhood and the Innovation Center.



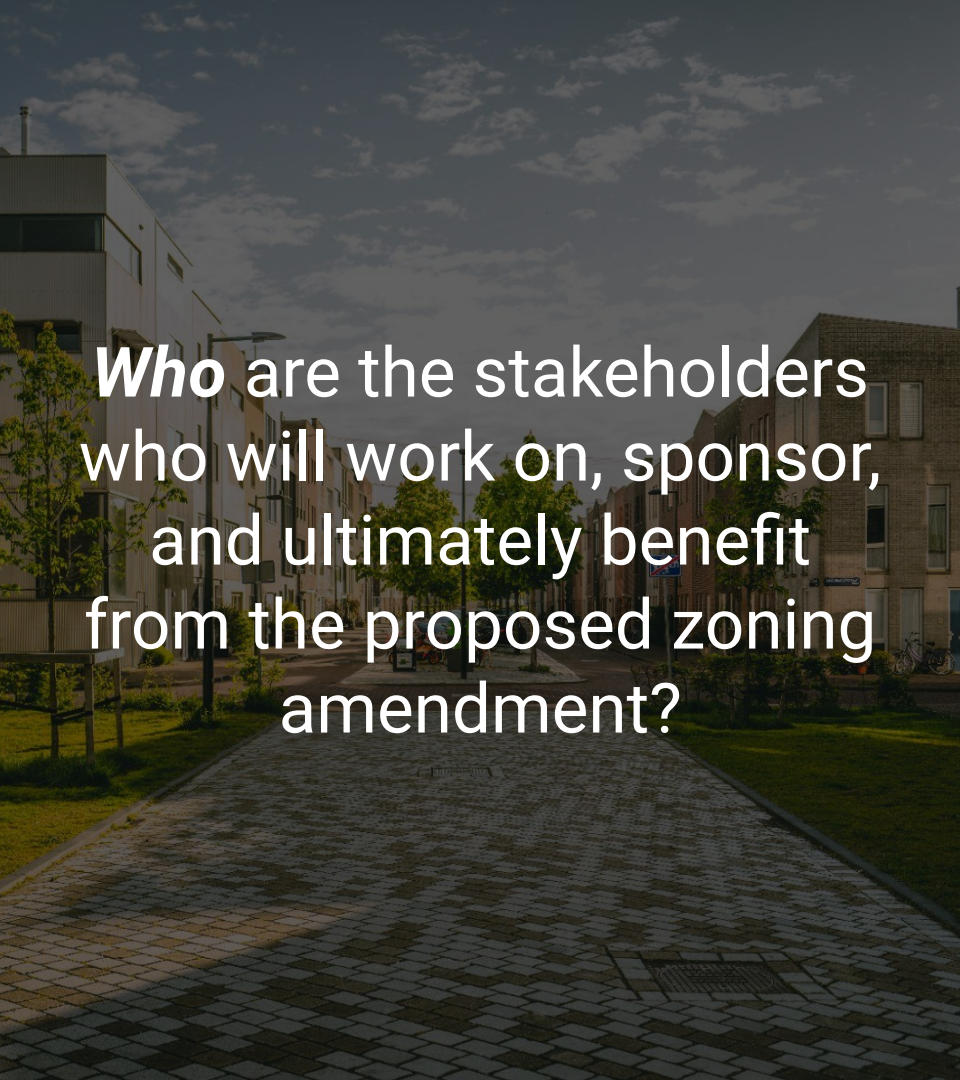
Who are the stakeholders who will work on, sponsor, and ultimately benefit from the proposed zoning amendment?

Over the past six months, we have reached out to many South End stakeholders to discuss various topics of concern, including the pandemic, emerging neighborhood trends and needs.

Without exception, the stakeholders we spoke with acknowledge the need for affordable, workforce housing and support the goal of creating urban walkable neighborhoods as envisioned by this proposed zoning amendment.

The groups include:

- **Residential neighbors** (from Lakeside neighborhood; other individuals from the south end)
- **Childcare advocates** (Let's Grow Kids; Pine Forest Children's Center)
- **Affordable housing developers** (Champlain Housing Trust; Evernorth)
- **Artists and Makers** (individual members from SEABA and Generator)
- **Property and Business Owners; South End Employers** (Beta Technologies / Burton / Champlain Chocolates / Champlain College / Conant Metal & Light / Davis Co. / Dealer / Marvell Semiconductors / Select Design / and more)



Who are the stakeholders
who will work on, sponsor,
and ultimately benefit
from the proposed zoning
amendment?



Russ Scully
Hula
50 Lakeside Avenue
Burlington, VT 05401

Dear Mr. Scully,

It is my pleasure to submit this letter in support of your efforts to rezone a portion of the South End from *Enterprise – Light Manufacturing* to *Neighborhood Activity Center – Innovation*.

Hula's vision for expansion in Burlington's South End neighborhood – an expansion project with consideration for an onsite high-quality child care center to meet the needs of local children, families, and employers – is incredibly exciting!

At Let's Grow Kids, a 501c3 systems-change organization leading Vermont's Campaign for Child Care, we are advocating for early childhood education policy change and public investment while simultaneously implementing solutions that address the biggest challenges facing early childhood educators and the families that rely on their success.

Community projects like this one that include high-quality child care programs in the initial planning stages reflect the kind of community-led solutions that advance Let's Grow Kids' mission to ensure affordable access to high-quality child care for every Vermont child who needs it by 2025.

Child care is essential to Vermonters. I am pleased to support this rezoning effort and by extension the expansion of a high-quality child care program in Burlington's South End community.

I look forward to following this project's success!

Sincerely,

Aly Richards, Chief Executive Officer
Let's Grow Kids

Who are the stakeholders
who will work on, sponsor,
and ultimately benefit
from the proposed zoning
amendment?



June 9, 2021

Russ Scully, Owner/Developer
Hula
50 Lakeside Ave
Burlington, Vermont 05401

Russ:

It was a pleasure meeting you and your team at Hula. It is a very impressive space and undertaking, and I believe is already transformative in its design, approach and opportunity.

As we discussed, and without a doubt, the need for additional housing in Burlington is well documented as is the specific demand for both affordable housing and for people who are in the workforce. And there is no doubt the opportunity to create housing in Burlington's South End.

I particularly like the zoning amendment that would permit housing in portions of the E-LM zone as outlined in the zoning amendment your team has proposed. It will not only help to meet the demand, but also create communities that are in scale and walkable for many of the people who work in the South End.

Please consider this a letter of support, as well as a letter expressing CHT's interest in continuing discussion on how we, CHT and its partners, could participate in the creation of affordable housing at the site.

Sincerely,

Michael Monte

Michael Monte
CEO, Champlain Housing Trust

HEADQUARTERS 88 King Street, Burlington, Vermont 05401 | P: 802.862.6244 | F: 802.862.5054
FRANKLIN/GRAND ISLE 11 Lake Street, St. Albans, Vermont 05478 | P: 802.527.2364 | F: 802.527.2372

WWW.SITADOWN.ORG

WWW.CHAMPLAINHOUSINGTRUST.ORG

THIS ORGANIZATION IS AN EQUAL OPPORTUNITY
EMPLOYER AND PROVIDER



Who are the stakeholders who will work on, sponsor, and ultimately benefit from the proposed zoning amendment?



June 1, 2021

Dear Russ,

I have been meaning to thank you for recently hosting a group of artists and makers for a Hula tour and discussion on future possibilities for our South End community. I am impressed by the quality and care that has gone into the renovation of the buildings and grounds, and I am confident Hula will generate the range of community and economic development benefiting the creative economy of Burlington as a whole.

With regards to future development possibilities along the Pine Street corridor, I am intrigued with your vision to support the job creation at Hula by creating walkable urban neighborhoods on underdeveloped and vacant land in the vicinity. In addition to new workforce housing for young professionals, I support your interest in constructing a variety of housing types including artist live/work studios, and affordable housing meeting inclusionary requirements, all over a range of ground-floor services. While I understand this mixed-use concept will require a zoning amendment to create a 'Neighborhood' district for the new housing, I think the proposed delineation of the district has been thoughtfully drawn to avoid conflicts with existing artist/maker space. Plus, the pedestrian-friendly approach is both forward looking and timely. This community needs more housing in locations that do not require an automobile.

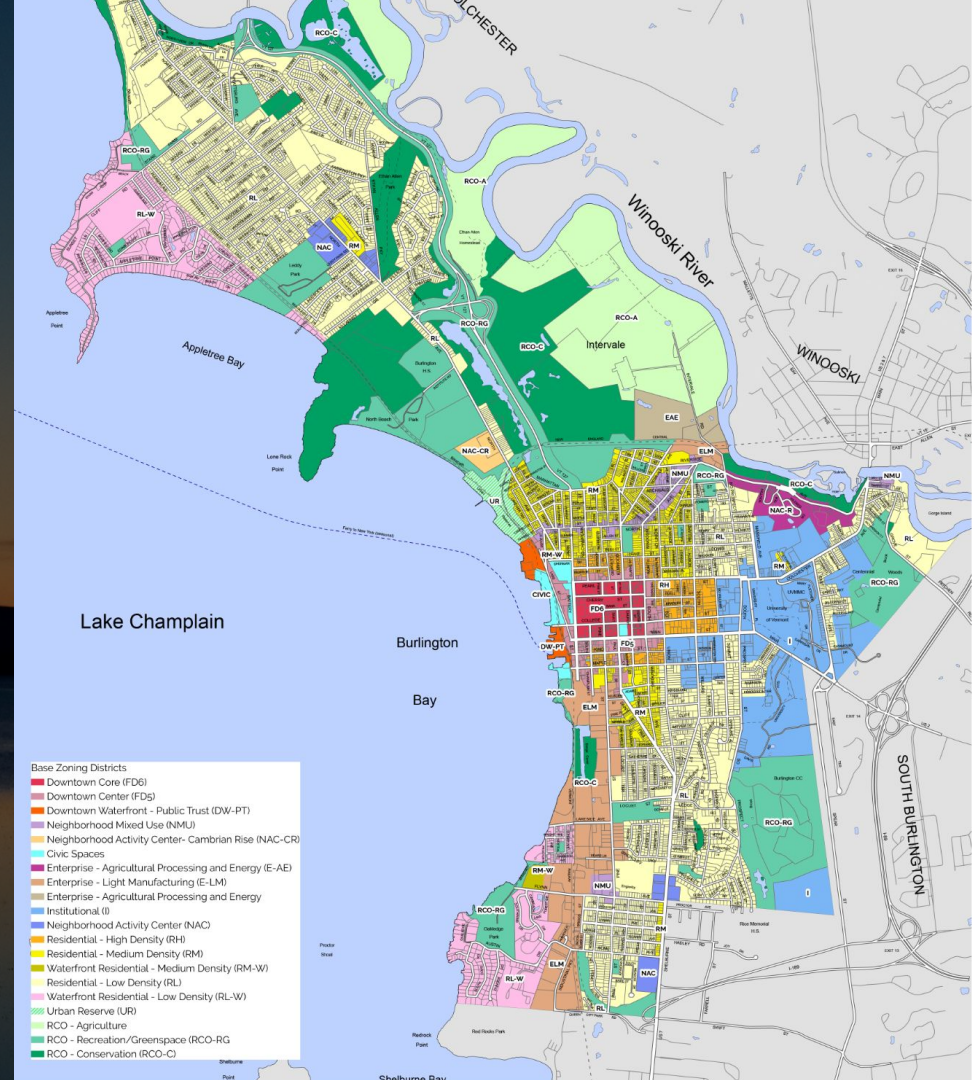
Generator, a makerspace providing artist & maker studios, hands-on educational opportunities, and business incubation services including access to prototyping and industry-level tools thrives on the intersection of art, science and technology. Generator and Hula share similar goals and values. We believe that a thriving community, one that your neighborhood development will provide is pivotal to this Burlington district and Vermont-at-large. Not only do we support this project, we are thankful to be a neighbor. I hope that Generator and Hula can work together in the future on projects that advance our collaborative goals and values for Vermont's economic and workforce development.

I wish you continued good luck with Hula, and hope your efforts on adjacent parcels goes smooth. Let us know how Generator can help. Please feel free to text, call or email anytime.

Sincerely,

Meg Hammond
Executive Director
802-595-2233 | director@generatorvt.com

Where is the proposed new zone district located?



The proposed NAC-I zone is to be located on the west side of Pine Street in the central portion of the E-LM zone, generally extending from Sears Lane on the south to Howard Street extended on the north.





Total Land Area
53.5 acres

Total Properties
12

Percent Vacant
41%



- The properties contained within the proposed re-zoning area include several vacant and underutilized parcels
- The proposed zone district also includes several municipal, institutional and commercial holdings.
- This proposed zone district **does not include**:
 - properties on the east side of Pine Street, thereby protecting those existing artist studio spaces (e.g., Soda Plant; Howard Space) within the E-LM zone from future conversion to residential use.
 - Existing commercial properties with frontage on the west side of Pine Street

The background of the slide features a close-up, slightly blurred image of an open calendar. A yellow pen is resting on the calendar pages. The calendar shows dates like 19, 20, 21, 26, and 27. The text 'When do we want this amendment adopted?' is overlaid in a large, white, italicized font.

When do we want this amendment adopted?

- We appreciate the Planning Commission works in the interest of the overall community, and that it prioritizes its efforts accordingly.
- We also understand the statutory requirements involved in any zoning amendment include the review and approval by both the Commission and City Council.
- With this presentation, we are initiating the amendment process. And given the urgency of the topic, we request the amendment be given the utmost attention.
- We commit to be an active participant throughout the process, collaborating with the Planning staff and Commission, and City Council as required.



Why are we doing this?

With this zoning amendment in place, several critical challenges confronting our community can be overcome, including:

Relieve an unremitting housing shortage and improve supply/demand dynamics for both rental and for-sale housing

- Like many communities across the nation, the housing shortage in Burlington is at a crisis stage, particularly for those young residents wishing to enter the housing market
- Encourage the production of modern, energy-efficient housing stock meeting the needs of a growing workforce (and affordable/inclusionary) population will contribute to a healthier and more economically just community.
- Expand the definition of acceptable housing types to be permitted under the Ordinance



Why are we doing this?

When this zoning amendment is adopted, several important challenges facing our community can be advanced, including:

Address the negative impacts of climate change in a meaningful way

- Encourage the production of energy-efficient housing in a mixed-use, walkable neighborhood environment
- The proposed district is directly adjacent to the City Bikeway, rail lines and proposed Champlain Parkway,
 - Well positioned for a variety of Transit Oriented Development (TOD) opportunities over the short and long term, including commuter rail and revival of a multi-modal transit center proposed by BTV in 2006.



Why are we doing this?

When this zoning amendment is adopted, several important challenges facing our community can be advanced, including:

Enhance the local creative economy the South End is known for:

- Repurposing vacant and underutilized parcels will enhance the arts and culture vibrancy along the Pine Street corridor by providing:
 - Additional residential customer base
 - Potential for additional ground-floor studio and maker space.

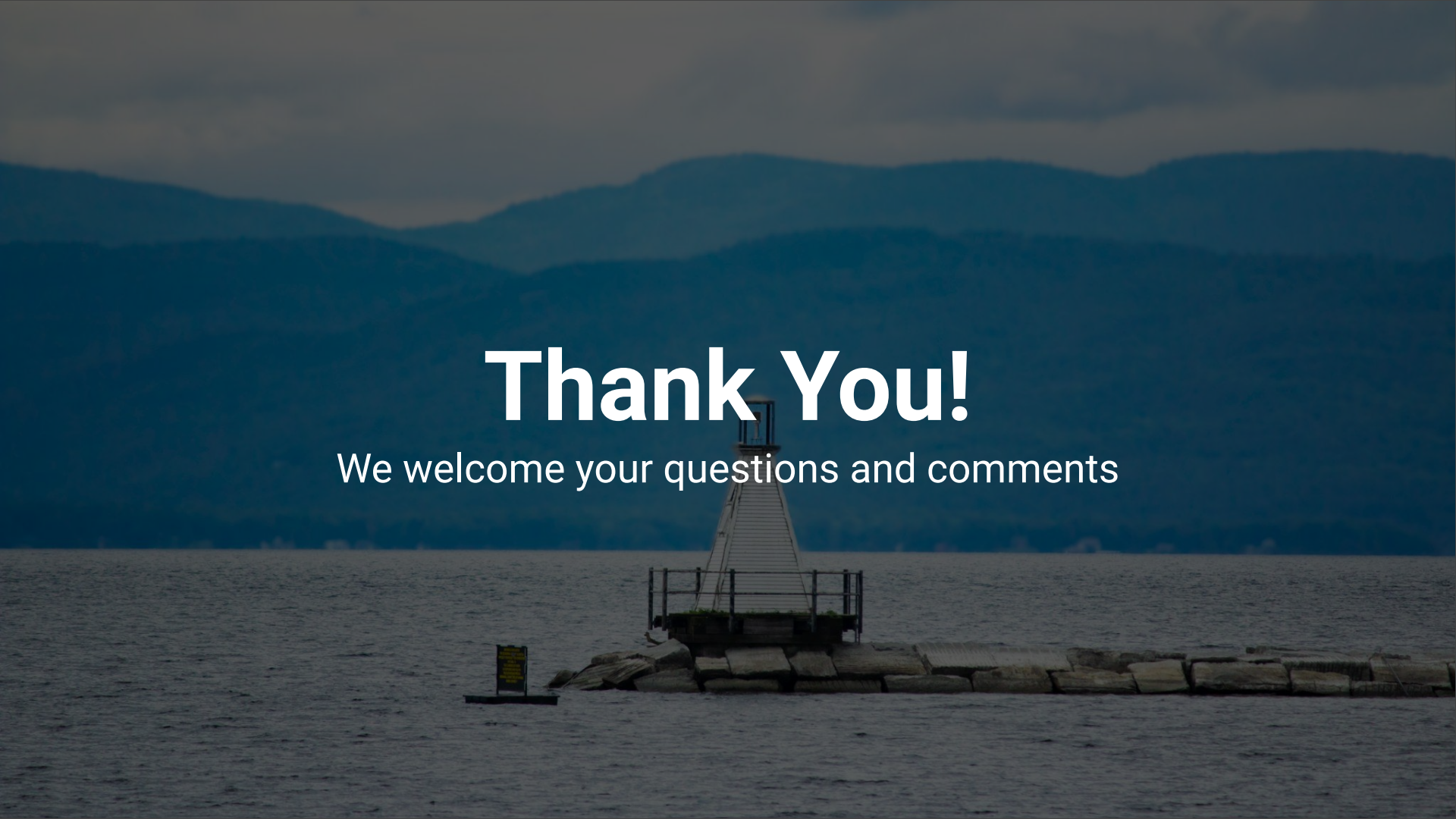


Why are we doing this?

When this zoning amendment is adopted, several important challenges facing our community can be advanced, including:

Support the existing employment base and emerging job growth in the E-LM zone:

- Create walkable neighborhoods with convenient access to jobs and services; in other words, the 21st Century version of a factory town.
- Employers point to the lack of affordable housing as the primary impediment to spurring additional growth in the local workforce—lack of affordable child care is a close second.

A photograph of a lighthouse situated on a rocky pier in the middle of a body of water. The lighthouse is a small, white, conical structure with a black railing around its base. The pier is made of large, grey rocks. In the background, there are rolling mountains under a cloudy sky. The overall tone is somewhat somber due to the muted colors.

Thank You!

We welcome your questions and comments

Burlington Planning Commission

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Burlington, VT 05401
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(802) 865-7195 (FAX)
(802) 865-7144 (TTY)

www.burlingtonvt.gov/pz

Andy Montroll, Chair
Bruce Baker, Vice-Chair
Yves Bradley
Alexander Friend
Michael Gaughan
Emily Lee
Brynne Martin

Burlington Planning Commission

Tuesday, July 13, 2021, 6:30 P.M.

Remote Meeting via Zoom, with City Hall In-Person Option

Minutes

Members Present	B Baker, A Friend, E Lee, M Gaughan, B Martin
Staff Present	D White, M Tuttle
Attendance	R Scully, J Caulo, S Bushor, C Hilliard, K Devine, L Campriello, D Caulo, E Caulo, T Sarandos

I. Agenda

Call to Order	Time: 6:32pm
Agenda	Postpone Item V to July 27 meeting

II. Public Forum

Name(s)	Comment
	No comments

III. Chair Report

B Baker	Welcome to the new Planning Commissioners Brynne Martin and Michael Gaughan
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IV. Director's Report

D White	City Council approved FY22 budget on Jun 28. Department now has two new members from the I&T team. Offices are now open to the public with new security features; make an appointment to meet with us in-person.
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V. Annual Organizational Meeting

Action: Postponed to July 27 meeting		
Motion by:	Second by:	Vote:
Type:	Presented by:	

VI. Presentation & Proposed E-LM Amendment by Hula

Action: Request staff to review proposal and bring recommendation to Planning Commission		
Motion by: E Lee	Second by: A Friend	Vote: Unanimous
Type: Presentation, Discussion	Presented by: R Scully, J Caulo	
Representatives from Hula presented a proposed zoning amendment to create a Neighborhood Activity Center in the area of the E-LM district near the intersection of Pine St & Lakeside Ave. The presentation slides can be found online at: https://www.burlingtonvt.gov/CityPlan/PC/Agendas .		

The City of Burlington will not tolerate unlawful harassment or discrimination on the basis of political or religious affiliation, race, color, national origin, place of birth, ancestry, age, sex, sexual orientation, gender identity, marital status, veteran status, disability, HIV positive status, crime victim status or genetic information. The City is also committed to providing proper access to services, facilities, and employment opportunities. For accessibility information or alternative formats, please contact Human Resources Department at (802) 540-2505.

Tuesday, July 13, 2021

Commission Discussion included:

- Commissioners were generally supportive of the concept presented by Hula representatives. However, it was noted that housing was originally envisioned in the planBTV: South End process, but removed due to intense backlash.
- Commissioners noted that transit connections, especially for job growth; housing of all types, tenures, and particularly affordable housing; and replacing surface parking with spaces for housing, jobs, and to improve stormwater were all positive aspects of what was proposed.
- In response to a question about why Hula is pursuing this request, representatives noted that they wish to build on economic development being built at Hula's site, bring more opportunities for employees to live close to work, reverse challenges around cost of living and low vacancy rates, and provide housing for low-income, early professional, and retail/service employees.
- A Commissioner suggested that rezoning this area might present an opportunity to focus more on form than the prescriptive nature of some of the NAC zones elsewhere in the city.
- In response to a question about why the boundaries for this zoning amendment were proposed, Hula representatives indicated the focus was on vacant and underutilized properties, including where other property owners share an interest in exploring policy changes, but didn't want to be too expansive and include properties that might feel pressure to change their use.
- Staff noted that planBTV envisions an innovation district in this area, as one of three "sub-areas" the Enterprise District. It was noted that this area has the most open-ended opportunity to be re-envisioned, but also where the most difficult decisions about the future of the district were likely to focus. It may be the most appropriate location to consider housing, but we also need to understand what makes sense at the edges, and consider the long-discussed questions of what happens in the rest of this district. Helpful that some of the footwork has already been done by Hula Representatives, and while not entirely sure an NAC the way currently proposed makes sense, it directionally makes sense.

VII. Commissioner Items

- Commissioner Lee recommend that the city change policy to enable property owners to purchase their own recycling totes, since the City is unable to supply them to meet demand.
- Commissioner Lee requested more information about how many short-term rentals have been permitted, what units they've replaced, and why Housing Replacement Fees have not been paid. Staff provided some information on the Housing Replacement policy, and indicated more research would be needed into the question of other permitted STRs.
- Next Meetings are on July 27 and Aug 10 at 6:30pm.

VIII. Minutes and Communications

Action: Approve the minutes and accept the communications

Motion by: A Friend

Second by: E Lee

Vote: Approved by Lee, Friend, Baker.
Gaughan, Martin abstain.

Minutes Approved: June 22, 2021

Communications Filed:

- Enclosed in agenda packet, and additional communications posted online

IX. Adjourn

Adjournment

Time: 7:50pm

Motion: A Friend

Second: M Gaughan

Vote: Approved Unanimously



Andy Montroll, Chair

Signed: September 17, 2021

Respectfully submitted by:



Meagan Tuttle, Comprehensive Planner