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[www.burlingtonvt.gov/plan](http://www.burlingtonvt.gov/plan)

## **Burlington Planning Commission**

Ordinance Committee

### **Remote Meeting**

**Thursday, February 3, 2022 @ 5:15 PM**

Zoom: <https://us02web.zoom.us/j/88419212141?pwd=NW5UcXlDUmpnVXpsdmJiVE5SVFovUT09>

Webinar ID: 884 1921 2141

Password: 289314

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+1 669 900 6833 or +1 253 215 8782

### *AGENDA*

1. Discussion of rooftop screening requirements of Sec. 5.2.6 (b) of the CDO and possible revision.
2. Adjournment

**From:** Grace Ciffo <gciffo@neddere.com>  
**Sent:** Wednesday, January 26, 2022 2:20 PM  
**To:** Scott Gustin <SGustin@burlingtonvt.gov>  
**Subject:** RE: rooftop screening

Hi Scott,

Thanks so much for getting in touch about this.

I'd like to relay to the Committee that Nedde Real Estate is deeply committed to building affordable housing and workforce housing and we all know that the cost of building anywhere in Vermont right now, but particularly in Burlington, is astronomical. To build the housing that the Nest, including its 10 affordable homes and public restroom, every single dollar counts.

I've attached the 79 Street roof screen study package (as presented to the DRB) and Article 5 of the Burlington Comprehensive Development Ordinance - section 5.2.6 (b) 4. This section covers the roof screen requirements. We agree with the rule of screening unsightly mechanicals to keep them out of public view as much as possible, but sometimes the rules don't anticipate all situations. We ask that the Planning Commission add language that allows the building structure itself to qualify as screening from the street.

We thoughtfully, carefully designed the building with the goal of keeping all the rooftop or elevated mechanicals out of site and we're thrown off by a condition that requires is to spend so much money only to add screening that becomes visible from the street and to neighbors on all sides. We'll have to penetrate our roof in dozens of areas and spend \$93,000, primarily on steel upright framing to attach all the screening to, which seems literally opposite of the intention of the condition. Adding additional rooftop screening at the Nest just does not make sense and seems a very poor use of limited resources.

Our hope is that you take the current working of the ordinance language and tweak it, so you don't lose visual protections but allow for more types of "screening", i.e. if the mechanicals are obscured by the building design, that is acknowledged as meeting the requirement of this form based code.

I really appreciate your help in getting this study, Article, and my above points into the Committee's packet.

And may I ask: What is the timeframe and steps involved in knowing whether this language can be modified in the manner we request? Are we looking at 60 days, 6 months? How does it work?

Thanks again,  
Grace

**Grace Amao Ciffo**  
**Director of Operations**



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5. Illustration: To illustrate height and bulk of the structure, the DRB may require the developer to prepare a scale model, computer visualization, illustrations, or other renderings of the proposed building in context with its surroundings.

**(b) Exceptions to Height Limits**

1. Additions and new construction on parcels created prior to January 1, 2008 that contain a non-conforming Principal Building exceeding the maximum permitted Building height may exceed the maximum permitted Building height of the zoning district subject to the design review provisions of Art. 3 and 6, but in no event shall exceed the height of the existing non-conforming Principal Building.
2. In no case shall the height of any structure exceed the limit permitted by federal and state regulations regarding flight paths of airplanes.
3. Ornamental and symbolic architectural features, including towers, spires, cupolas, belfries and domes; greenhouses, garden sheds, gazebos, rooftop gardens, terraces, and similar features; and fully enclosed stair towers, elevator towers and mechanical rooms, where such features are not used for human occupancy or commercial identification, are exempt from specific height limitations but shall be subject to the design review provisions of Art. 3 and 6. Such features and structures shall be designed and clad in a manner consistent and complementary with the overall architecture of the Building.
4. Exposed mechanical equipment shall be allowed to encroach beyond the maximum building height by no more than 15-feet provided that portion exceeding the height limit does not exceed 20% of the roof area.

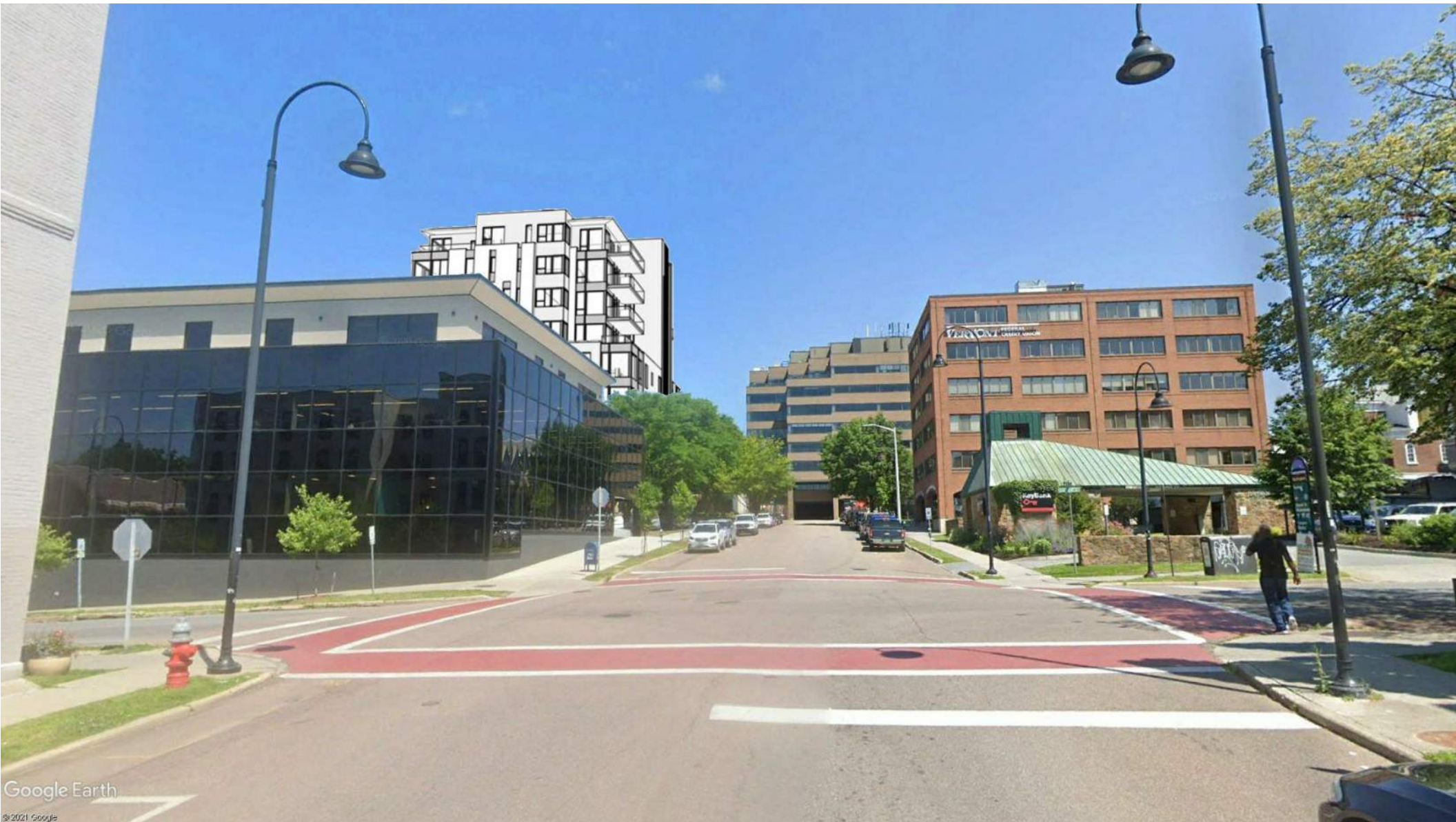
Exposed mechanical equipment shall be fully screened on all sides to the full height of the equipment, and positioned on the roof to be unseen from view at the street level. Screening may consist of parapets, screens, latticework, louvered panels, and/or other similar methods. Such features and structures shall be designed and clad in a manner consistent and complementary with the overall architecture of the Building

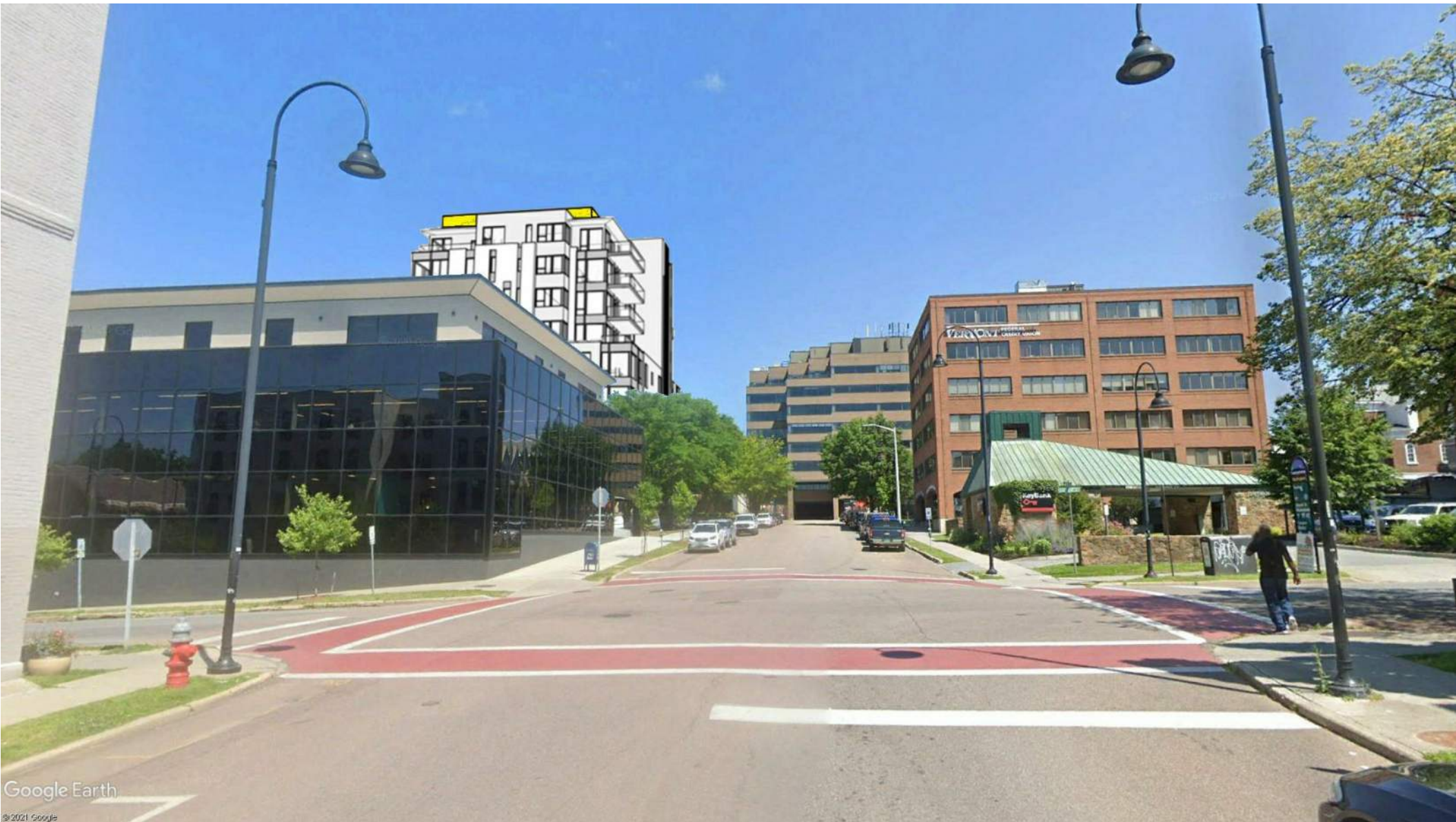
Where mechanical equipment is incorporated into and hidden within the roof structure, or a mechanical penthouse setback a minimum of 10-ft from the roof edge, no such area limit shall apply and the structure shall be considered pursuant with 4 above.

5. All forms of communications equipment including satellite dish antennae shall not be exempt from height limitations except as provided in Sec 5.4.7 of this Article.
6. The administrative officer may allow for up to a 5% variation in the maximum building height to account for grade changes across the site. In no event however, shall such additional height enable the creation of an additional story beyond the maximum permitted.









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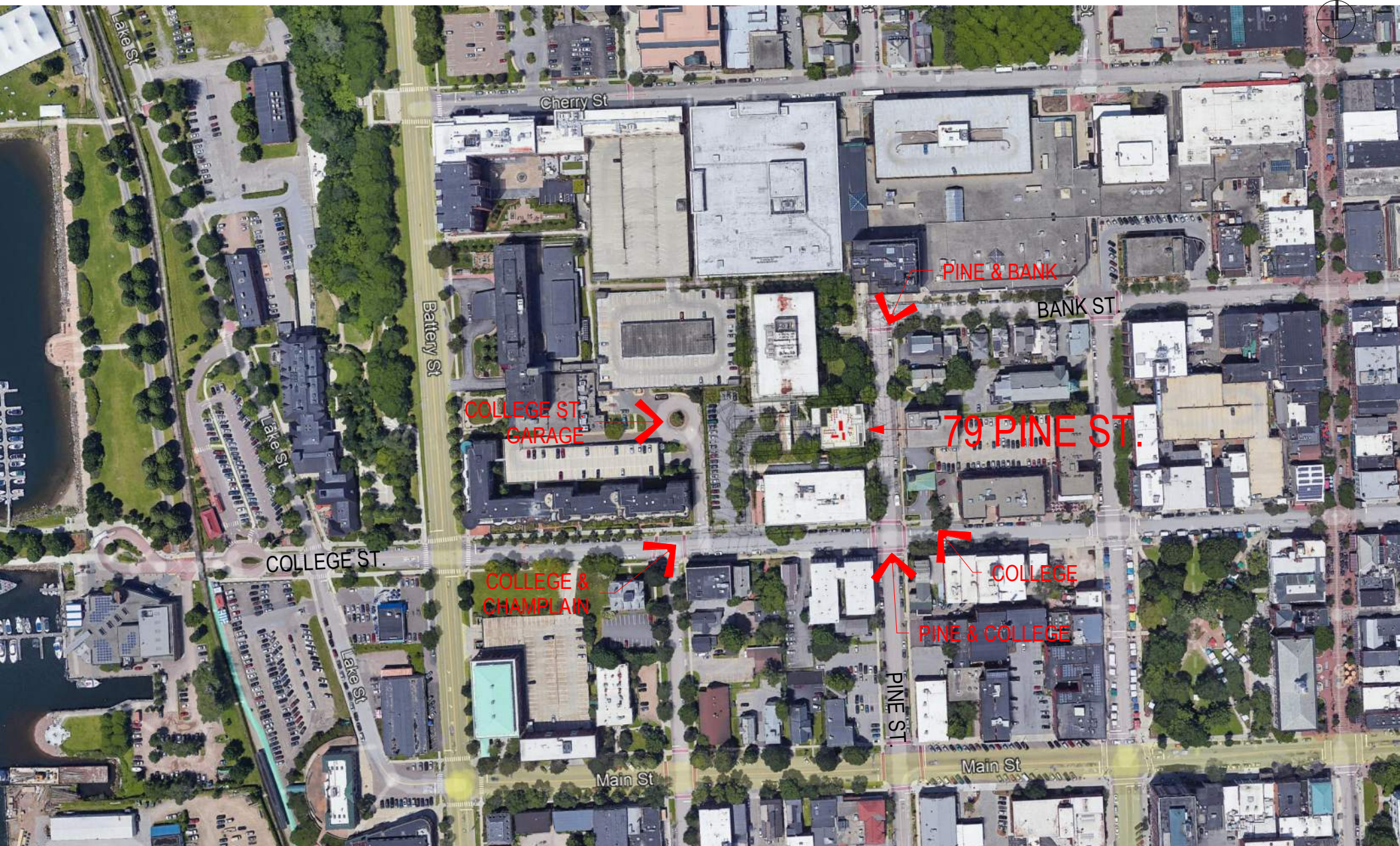
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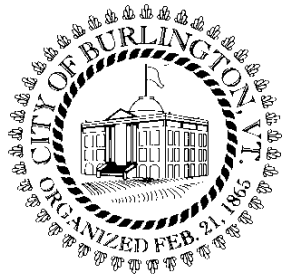




## Department of Permitting and Inspections

Zoning Division  
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William Ward, Director  
Charlene Orton, Code Compliance Officer  
Theodore Miles, Code Compliance Officer  
Scott Gustin, AICP, CFM, Principal Planner  
Mary O'Neil, AICP, Principal Planner  
Ryan Morrison, Associate Planner  
Vacant, Planning Technician  
Celeste Crowley, Permit Administrator



### MEMORANDUM

To: Planning Commission Ordinance Committee  
From: Mary O'Neil, AICP, Principal Planner  
Date: February 3, 2022  
RE: Rooftop screening of mechanical equipment

DPI staff recently staffed a request to eliminate a DRB imposed condition requiring screening of rooftop equipment. Relevant sections of the ordinance are Section 5.2.6 (b) 4, and Article 14 (for the Form Districts).

**Section 14.1.3 (e)** guides the review to include Part 2 of Article 5, relative to building height limits.

#### **Article 14: Plan BTV Downtown Code**

##### **Section 14.1.3 Applicability**

The Form Code (Article 14) direct us to the applicability of the following standards:

*To the extent applicable, and not otherwise in conflict with this Article 14-planBTV Downtown Code, the following sections of the Burlington Comprehensive Development Ordinance (CDO) shall also continue to apply:*

- a) Article 1 - General Provisions*
- b) Article 2 - Administrative Mechanisms;*
- c) Article 3 - Applications, Permits and Project Reviews, Parts, 1, 2, 3, 5 and 6;*
- d) Article 4 - Zoning Maps and Districts, Parts 1, 2, 3, and Part 5 Sec. 4.5.4;*
- e) Article 5 - Citywide General Regulations, Parts 1, 2, 3, Sec. 5.4.7, Sec. 5.4.8, and 5;***
- f) Article 7 - Signs*
- g) Article 9 - Inclusionary and Replacement Housing;*
- h) Article 10 - Subdivision Review;*
- i) Article 12 - Variances and Appeals; and,*
- j) Article 13 - Definitions.*

*In each case, the standards and requirements applicable to the Downtown and Waterfront District Regulating Plan and this Article 14 shall take precedence without limitation over any duplicative or conflicting provisions of the other Articles of the Burlington Comprehensive Development Ordinance (BCDO).*

*If there is any conflict between the provisions of this Article 14 and any provisions of any other existing City codes, ordinances, regulations or standards (the "Existing Local Codes"), the provisions of this Article 14 shall take precedence over such conflicting provisions except for City and state Building, Fire, Health and Safety Codes.*

Article 14 (above) directs review to the standards of Section 5.2.6, where exposed mechanical equipment is required to be fully screened on all sides. Although the language directs equipment to be placed so as not to be seen from the street level (“**and positioned on the roof to be unseen from view at the street level**”), this regulation is two-part (“**shall be fully screened on all sides to the full height of the equipment.**”) The requirement for screening is prefaced with “shall”.

## **Part 2: Dimensional Requirements**

### **Section 5.2.6 Building Height Limits**

#### *(b) Exceptions to Height Limits*

4. Exposed mechanical equipment shall be allowed to encroach beyond the maximum building height by no more than 15-feet provided that portion exceeding the height limit does not exceed 20% of the roof area.

*Exposed mechanical equipment shall be fully screened on all sides to the full height of the equipment, and positioned on the roof to be unseen from view at the street level. Screening may consist of parapets, screens, latticework, louvered panels, and/or other similar methods. Such features and structures shall be designed and clad in a manner consistent and complementary with the overall architecture of the Building. Where mechanical equipment is incorporated into and hidden within the roof structure, or a mechanical penthouse setback a minimum of 10-ft from the roof edge, no such area limit shall apply and the structure shall be considered pursuant with 4 above.*

Article 14 (Form Codes) offers limited guidance on rooftop mechanicals. In general, ground mounted mechanicals are prohibited from the first lot layer and Building Frontage types. The other relevant section is 14.4.13 (f):

#### **f) Roofs:**

- i. Buildings are encouraged to incorporate Blue and/or Green roof technologies, solar collection devices, and access for use by owners, tenants, or the public wherever possible.
- ii. Any new roof, or complete resurfacing of an existing roof, is encouraged to use materials and methods intended to reduce the urban heat island effect.
- iii. All pitched roofs shall be designed and configured to prevent the avalanching of snow and ice onto any street, path, walkway, Building entrances and emergency exits, driveways, parking areas, and adjacent property.
- iv. Solar collection devices, wind turbines, and wireless telecommunication equipment shall be positioned to minimize their view from the street level. **To the maximum extent practical, screening shall be incorporated in a manner consistent with the overall architectural design of the Building.** Solar collection devices may be placed on or incorporated into a pitched roof provided they are at no point more than 10-feet above the roof surface.
- v. **Roof penetrations, other than chimneys, shall be placed so as not to be visible from streets or paths, and shall match the color of the roof or the sky except those made of metal which may be left natural.**

Screening is identified relative to solar collection devices, wind turbine and wireless telecom equipment, but excludes rooftop mechanicals.

Subsection v. references “rooftop penetrations” (i.e. vents, pipes, and similar penetrations), without addressing robust mechanical systems placed on the roof.

Another reference is 14.6.8, Site and Landscape Standards:

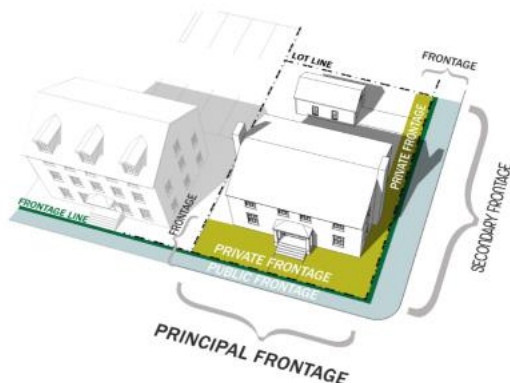
b) :

iii. Ground level electrical transformers, HVAC, and other **mechanical** equipment; antennas, satellite dishes and other telecommunications equipment; and utility boxes and gas meters shall be designed so they do not Encroach on walkways or parking areas, and shall be screened from view from any Public Frontage. They shall not be obstructed by landscaping or hardscape such that meter readers and maintenance personnel are unable to open or Access utilities devices.

Whether interpreted to be ground mounted or otherwise, screening is required from any Public Frontage.

Public Frontage is defined within the Article 14 Glossary as follows:

**Frontage:** the area between a Facade and a Thoroughfare, lakeshore, or Civic Space, inclusive of its built and planted components. Frontage is divided into Private Frontage and **Public Frontage** separated by a Frontage Line.



**Public Frontage:** the area between the Curb of the Vehicular Lanes and the Frontage Line.

It is not clear if the Public Frontage is limited to the street plane, or is dynamic in interpretation and includes the entire front plane of the structure. In the latter, consideration of views from upper floors would be considered.

Upon deliberation of the original request for reconsideration, the DRB acknowledged there are views other than those from the public sidewalk and street that would be impacted, i.e. from neighboring buildings. As the Form Code permits taller buildings with more of them receiving approval as of late, the exposure and visibility of rooftop mechanicals increases among neighboring structures.

Representation from an abutting residential condominium complex did participate in the hearing, strongly asserting that their unit owners would be subjected to views of the proposed unscreened equipment, and objected to elimination of the DRB imposed condition.



## **Burlington Planning Commission**

Ordinance Committee Meeting Minutes

**Thursday, February 3, 2022 @ 5:15 PM**  
Remote Meeting

### **Attendance**

- **Committee Members:** Emily Lee (EL), Caitlin Halpert (CH), Bruce Baker (BB)
- **Absent:** Yves Bradley (YB)
- **Public:** Jay White
- **Staff:** Scott Gustin, Mary O'Neil (Permitting & Inspections)

### **1. Discussion of rooftop screening requirements of Sec. 5.2.6 (b) of the CDO and possible revision**

Those present discussed the existing standard and considered ways it might be improved. Ultimately, the committee declined to recommend changes. No action taken.

### **2. Adjournment**

The Committee adjourned at 6:15 PM.