Burlington Planning Commission
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Andy Montroll, Chair
Bruce Baker, Vice-Chair
Yves Bradley
Alexander Friend
Emily Lee
Harris Roen
Jennifer Wallace-Brodeur
vacant, Youth Member

Burlington Planning Commission

Tuesday, September 13, 2016, 6:30 P.M.

Conference Room 12, City Hall, 149 Church Street

AGENDA

Note: times given are approximate unless otherwise noted.

I. Agenda

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

The Public Forum is an opportunity for any member of the public to address the Commission on any relevant issue.

III. Report of the Chair

IV. Report of the Director

V. Proposed CDO Amendment: Craft Beverage Production

The Commission will review a proposed amendment to the Comprehensive Development Ordinance to create a new definition for Craft Beverage Production, to replace definitions for Microbreweries and Wineries, and to permit cafes accessory to these facilities. Documents related to this proposed amendment are included in the agenda packet on pages 2-5.

VI. Public Hearing ZA-17-04: NAC- Cambrian Rise - Time Certain- 7:00pm

The Commission will hold a public hearing on ZA-17-04, a proposed amendment to the Comprehensive Development Ordinance to establish a new zoning district: the Neighborhood Activity Center- Cambrian Rise (NAC-CR). The purpose of this amendment is to facilitate the conservation and redevelopment of the former Burlington College property by creating a new neighborhood mixed-use district on North Avenue that will allow for a range of housing types with associated neighborhood-oriented, small-scale retail and services. Public Hearing documents for this proposed amendment are included in the agenda packet on pages 6-19. A staff memo regarding further modifications to the proposed amendment are included on pages 20-46.

VII. Committee Reports

VIII. Commissioner Items

IX. Minutes & Communications

The Commission will review and approve the minutes of the August 23 and August 25, 2016 meetings, enclosed on pages 47-52, and a communication enclosed on page 53.

X. Executive Session

The Commission will convene an executive session to discuss a personnel matter.

XI. Adjourn

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

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Elsie Tillotson, Department Secretary

Burlington Planning Commission Report
Municipal Bylaw Amendment

ZA-17-XX – Craft Beverage Operation

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

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

The proposed amendment eliminates the current prohibition of cafes accessory to microbreweries in the Enterprise-Light Manufacturing zone to eliminate inconsistencies between the City's Comprehensive Development Ordinance and city and state alcohol laws. The proposed amendment also establishes a new "craft beverage production" use to encompass all alcoholic and non-alcoholic craft beverage production operations, and to replace "microbrewery" and "winery" uses.

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

The proposed amendment does not have an impact on the goals and policies in the Municipal Development Plan regarding the availability of safe and affordable housing.

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

The proposed amendment does not have an impact on the goals and policies in the Municipal Development Plan regarding density. The proposed amendment brings the City's permitted land uses up-to-date by recognizing the evolving craft beverage industry and state and local laws regarding its production and consumption. The proposed amendment has no impact on the areas of the City in which these uses are permitted.

Implementation of specific proposals for planned community facilities:

This amendment does not specifically implement plans for any new community facilities.

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Elsie Tillotson, Department Secretary

TO: Planning Commission
FROM: Scott Gustin
DATE: September 13, 2016
RE: Craft Beverage Production

At its's August 9, 2016 meeting, the Planning Commission considered the request of Justin Heilenbach (Citizen Cider) to eliminate the present prohibition of cafes accessory to microbreweries in the E-LM zone and to pursue creation of a new "craft beverage production" category in *Appendix A – Use Table* of the Comprehensive Development Ordinance. The Planning Commission voted to move ahead with both items and requested amendment language prior to warning for a public hearing.

Proposed CDO Language (Deleted ~~crossed out~~; new underlined red):

Appendix A – Use Table – All Zoning Districts

[Footnote] 19. ~~Cafes not permitted as an accessory use. Retail sales and tasting are permitted as an accessory use~~. Reserved.

[Table] ~~Micro-Brewery/Winery~~ Craft Beverage Production

Article 13: Definitions:
Craft Beverage Production: A facility for the production and packaging of beer, wine, cider, spirits and other beverages (including non-alcoholic) for distribution, retail, or wholesale, on or off premises, not to exceed 25,000 barrels per year. A craft beverage facility may contain accessory cafes and tasting amenities.

~~**Microbrewery:** A facility for the production and packaging of beer or similar fermented malt beverages containing not less than one percent nor more than eight percent of alcohol by volume at 60 degrees fahrenheit (if such a beverage has an alcohol content of more than six percent and not more than eight percent and has a terminal specific gravity of less than 1.009, it shall be deemed a spirit and not a malt beverage), for distribution, retail, or wholesale, on or off premise, with a capacity of not more than 15, 000 barrels per year.~~

~~**Winery:** A processing plant used for the commercial purpose of processing grapes, other fruit products, or vegetables to produce wine or similar non-distilled spirits. Such commercial use includes wholesale sales, crushing, fermenting, blending, aging, storage, bottling, administrative office functions for the winery and warehousing. Retail sales and tasting facilities of wine and related promotional items may be permitted as part of the winery operations.~~

Appendix A-Use Table – All Zoning Districts

	Urban Reserve	Recreation, Conservation & Open Space			Institutional	Residential			Downtown Mixed Use					Neighborhood Mixed Use			Enterprise	
USES	**UR**	**RCO - A**	**RCO - RG**	**RCO - C**	**I**	**RL/W**	**RM/W**	**RH**	**D**	**DW**	**DW-PT[16]**	**DT**	**BST**	**NMU**	**NAC**	**NAC-RC**	**E-AE**	**E-LM**
~~Micro Brewery/Winery~~ Craft Beverage Production	N	N	N	N	N	N	N	N	Y	Y	N	Y	Y	CU	Y	Y	CU	Y[19]

1. Residential uses are not permitted except only as an accessory use to an agricultural use.
2. Duplexes may be constructed, or a single unit may be converted into a duplex, on lots existing as of January 1, 2007 and which meet the minimum lot size of 10,000 square feet.
3. Duplexes shall only be allowed as a result of a conversion of an existing single family home. New duplexes are prohibited.
4. No more than 5 rooms permitted to be let in any district where bed and breakfast is a conditional use. No more than 3 rooms permitted to be let in the RL district.
5. An existing fraternity, sorority, or other institutional use may be converted to dormitory use subject to conditional use approval by the DRB.
6. Must be owner-occupied.
7. Must be located on a major street.
8. Small daycares in the RCO zones shall be conditional use and shall only be allowed as part of small museums and shall constitute less than 50% of the gross floor area of the museum.
9. Automobile sales not permitted other than as a separate principal use subject to obtaining a separate zoning permit.
10. Exterior storage and display not permitted.
11. All repairs must be contained within an enclosed structure.
12. No fuel pumps shall be allowed other than as a separate principal use subject to obtaining a separate zoning permit.
13. Permitted hours of operation 5:30 a.m. to 11:00 p.m.
14. Such uses not to exceed ten thousand (10,000) square feet per establishment.
15. Excludes storage of uncured hides, explosives, and oil and gas products.
16. See Sec.4.4.1(d) 2 for more explicit language regarding permitted and conditional uses in the Downtown Waterfront – Public Trust District.
17. Allowed only as an accessory use.
18. A permitted use in the Shelburne Rd Plaza and Ethan Allen Shopping Center.
19. ~~Cafes not permitted as an accessory use. Retail sales and tasting are permitted as an accessory use.~~ [Reserved.]
20. Accepted agricultural and silvicultural practices, including the construction of farm structures, as those practices are defined by the secretary of agriculture, food and markets or the commissioner of forests, parks and recreation, respectively, under 10 VSA §1021(f) and 1259(f) and 6 VSA §4810 are exempt from regulation under local zoning.
21. See Sec. 4.4.7 (c) for specific allowances and restrictions regarding uses in the Urban Reserve District.
22. See Sec. 4.4.5 (d) 6 for specific allowances and restrictions regarding Neighborhood Commercial Uses in Residential districts.
23. Allowed only on properties with frontage on Pine Street.
24. Such uses shall not exceed 4,000 square feet in size.
25. Dormitories are only allowed on properties contiguous to a school existing as of January 1, 2010.
26. The mixed uses shall be limited to those that are either permitted, conditional, or pre-existing nonconforming in the zoning district.
27. Performing arts centers in the ELM zone shall be limited to a total of 5,000 square feet in size and to properties with frontage on Pine Street. Performing arts centers may contain accessory space for preparation and serving food and beverages, including alcohol, provided this accessory space comprises less than 50% of the entire establishment.
28. Grocery Stores up to but not to exceed 30,000 square feet may be permitted subject to conditional use approval by the DRB in that portion of the Enterprise-Light Manufacturing District between Flynn and Home Avenue.

Legend:	
Y	Permitted Use in this district
CU	Conditional Use in this district
N	Use not permitted in this district
Abbreviation	**Zoning District**
RCO – A	RCO - Agriculture
RCO – RG	RCO – Recreation/Greenspace
RCO – C	RCO - Conservation
I	Institutional
RL/W	Residential Low Density, Waterfront Residential Low Density
RM/W	Residential Medium Density, Waterfront Residential Medium Density
RH	Residential High Density
D	Downtown
DW	Downtown Waterfront
DT	Downtown Transition
BST	Battery Street Transition
NMU	Neighborhood Mixed Use
NAC	Neighborhood Activity Center
NAC-RC	NAC – Riverside Corridor
E-AE	Enterprise – Agricultural Processing and Energy
E-LM	Enterprise – Light Manufacturing

Burlington Planning Commission
149 Church Street
Burlington, VT 05401

Dear Members of the Planning Commission:

Please accept this letter as a request for a proposed change to Burlington's Comprehensive Development Ordinance (CDO) to include the following changes:

1. Allow "cafes" as an accessory use for the current "Micro-Brewery/Winery" category.
Citizen Cider is not in the restaurant/bar business, however we are in the business of both manufacturing and offering visitors a high quality cider experience, which does and should involve food service, both as a complement to the cider experience and as a measure of prudence to balance alcohol consumption as required by city and state laws and regulations.

2. Creation of a new zoning category titled "Craft Beverage Production Operation" to include cideries, breweries, wineries, distilleries and non-alcoholic craft beverage producers. With this new, inclusive category, the other categories listed above can be removed, which would simplify the ordinance and recognize all craft beverage operations equally. In the current ordinance, there is no acknowledgment of cider as a distinct and unique category, such a modification will both address the above concern and position Burlington as one of the most progressive cities in the country in naming the category of Cider in the regulations.

The Great State of Vermont is known nationally for it's high quality beverage industry, and Pine Street's Enterprise Zone can be an absolute destination for this type of innovative "manufacturing tourism" in the State, both for Vermonters and those making the journey to connect with this vibrant industry. It's incumbent upon the beverage businesses in the Enterprise Zone to work with the City of Burlington to ensure that our zoning regulations allow us to innovate, keep us competitive, keep us relevant, and keep us viable. *The future of light manufacturing is consumer facing*, and the accessory uses allowed in conjunction with craft beverage operations should reflect this new reality. The above is consistent with U.S. trends in light manufacturing, and more specifically in the entrepreneurial vision outlined in the current draft of PlanBTV. People want to know how things are made, and where they come from. Let's work together and create a zoning change that makes Pine Street's Enterprise Zone the best spot in the state to make high quality beverages today and tomorrow.

I look forward to working the Planning Commission and the City of Burlington on this issue.

Sincerely,

Justin Heilenbach
President and Co-Founder
Citizen Cider

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Burlington Planning Commission Report
Municipal Bylaw Amendment

ZA-17-04 Neighborhood Activity Center- Cambrian Rise

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

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

This amendment is to facilitate the redevelopment of the former St. Joseph's Orphanage/Burlington College property in a manner that is consistent with the results of a community planning process for the site. This amendment will advance many of the central goals and objectives found in the Burlington Municipal Development Plan regarding providing a greater diversity of housing choices, open space protection, and shoreland protection. This amendment creates a new neighborhood mixed-use district on North Avenue that will allow for a range of housing types and price levels to accommodate diverse ages and incomes, with associated neighborhood-oriented, small-scale retail and service uses.

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

The amendment is in conformance with, and furthers many of the Municipal Development Plan's policies regarding housing, including:

- Encourage a healthier regional balance of affordable housing in each community, proximate to jobs and affording mobility and choice to low income residents.
- Support the development of additional housing opportunities within the city, with concentrations of higher-density housing within neighborhood activity centers, the downtown and institutional core campuses.
- Encourage a wide range of housing options to meet different and changing needs of households with children, the elderly, people with disabilities, and moderate- and low-income households.

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

The amendment is in conformance with, and furthers many of the Municipal Development Plan's polices regarding land use and density, including:

- Encourage mixed-use development patterns, at a variety of urban densities, which limit the demand for parking and unnecessary automobile trips, and support public transportation.
- Target new and higher density development in the Downtown, Downtown Waterfront, Enterprise District, Institutional Core and the Neighborhood Activity Centers.
- Encourage development of an active, urban waterfront that offers a mix of uses, is open to the public, and linked to adjacent neighborhoods.

- Maintain or increase the ratio of publicly owned or permanently protected natural areas to developed land.

Furthermore, this area is identified as a potential neighborhood activity center on the *Future Land Use Map: Centers for Growth and Development* included in the land use section of the municipal development plan.

Implementation of specific proposals for planned community facilities:

As a result of a community planning process for the former St. Joseph's Orphanage/Burlington College property, this amendment furthers plans for a dense concentration of new, mixed-income housing, neighborhood-oriented commercial uses, and development that is clustered toward North Avenue, rather than the lakeshore. Per the plans, this amendment also expands publicly-owned and accessible land, by supporting the purchase and preservation of 12 acres of open space along the shoreline of Lake Champlain for public use through the Conservation Fund.

Burlington Comprehensive Development Ordinance

PROPOSED: ZA-17-?? – NAC – Cambrian Rise

As proposed by the Planning staff – 8/24/2016.

Changes shown (underline to be added, ~~strike out~~ to be deleted) are proposed changes to the *Burlington Comprehensive Development Ordinance.*

Purpose: This amendment is to facilitate the redevelopment of the former St. Josephs Orphanage/Burlington College property in a manner that is consistent with the results of a community planning process for the site that will advance many of the central goals and objectives found in the *Burlington Municipal Development Plan* regarding providing a greater diversity of housing choices, open space protection, and shoreland protection. This amendment creates a new neighborhood mixed-use district on North Avenue that will allow for a range of housing types and price levels to accommodate diverse ages and incomes with associated neighborhood oriented small-scale retail and service uses.

Article 4: Zoning Maps and Districts, Part 3: Zoning Districts Established

Sec. 4.3.1 Base Districts Established:

The following zoning districts are hereby established as illustrated in Map 4.3.1-1 and further described in Part 4 below.

(a) A series of five (5) **Downtown Mixed Use** districts: *(see Sec. 4.4.1)*

- Downtown (D);
- Downtown Transition (DT);
- Downtown Waterfront (DW);
- Downtown Waterfront –Public Trust (DW-PT); and,
- Battery Street Transition (BST);

(b) A series of ~~three~~ four (~~3~~4) **Neighborhood Mixed Use** districts: *(see Sec. 4.4.2)*

- Neighborhood Mixed Use (NMU);
- Neighborhood Activity Center (NAC); ~~and~~
- Neighborhood Activity Center - Riverside Corridor (NAC-RC); and,
- Neighborhood Activity Center – Cambrian Rise (NAC-CR);

(c) A series of two (2) **Enterprise** districts: *(see Sec. 4.4.3)*

remaining section unchanged…

Sec. 4.4.2 Neighborhood Mixed Use Districts

(a) Purpose:

The Neighborhood Mixed Use districts promote development that combines non-residential and residential uses on a single site. These zones allow an increased intensity of development than would typically be found in the surrounding residential areas, and provides neighborhood oriented goods and services and employment opportunities within walking and biking distance. This development type will support transit use, provide a buffer between busy streets and residential neighborhoods, and provide new commercial and residential opportunities in the City. The emphasis of nonresidential uses should primarily be oriented to serving the needs of the surrounding residential neighborhoods and other neighborhood commercial uses.

Development is intended to consist primarily of businesses on the ground floor with housing and other non-residential uses on upper stories. -The exception to this is the NAC – Cambrian Rise district that is intended to be more residential in nature than the other Neighborhood Mixed Use districts and thereby is expected to incorporate residential uses at the street level. Development is intended to be pedestrian-oriented with buildings oriented to the sidewalk, especially at corners. Parking is intended to be hidden from the street, since ~~their~~ its appearance is ~~generally~~ out of character with the surrounding residential development and the desired orientation of the buildings.

The ~~3~~ 4 Neighborhood Mixed Use districts as illustrated in Map 4.4.2-1 are further described as follows:

1. The **Neighborhood Activity Centers** (NAC) are intended to provide convenient neighborhood and city wide-oriented goods and services and employment opportunities within walking or biking distance of many of the city's residential areas;
2. The **Neighborhood Mixed Use** (NMU) district is intended to preserve and enhance historically commercial areas while reinforcing the compact scale and development patterns within the city's older neighborhoods. Uses are intended to provide neighborhood oriented goods and services and employment opportunities within walking or biking distance of residential neighborhoods; and,
3. The **NAC – Riverside** (NAC-R) is intended to allow commercial development in areas already predominantly built along this important travel corridor while encouraging emerging mixed-use development. The zone allows a full range of retail and service businesses with a local or regional market orientation. Light industrial uses are allowed but limited in size to avoid adverse effects different in kind or amount than commercial uses and to ensure that they do not dominate the character of the commercial area. The zone's development standards promote attractive development, an open and pleasant street appearance, and compatibility with adjacent residential areas. Development is intended to be aesthetically pleasing for motorists, transit users, pedestrians, and the businesses themselves. Parking is intended to be placed behind or to the side of principle buildings.

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~~3.~~4. The **NAC – Cambrian Rise (NAC-CR)** is intended to create a new center for mixed use development that allows for a range of housing types and tenures, and to accommodate a diverse range of complimentary general office, institutional and neighborhood oriented small-scale retail and service uses. Much of the development is intended to be densely concentrated and oriented towards North Avenue, with new buildings that are complimentary to the iconic historic former-orphanage. Development should be compact, pedestrian-oriented and enhance the community with creative design, durable materials, and quality construction. Buildings fronting on North Avenue should be oriented toward and activate North Avenue, while Buildings fronting on new streets should be oriented toward and activiate those streets. Buildings and landscaping should work together to contribute to the physical definition of streets as civic places, with buildings at and near the street level composed of human-scaled elements and details that promote pedestrian interest, comfort, and safety. Parking should to be hidden behind, to the side, within, or underneath principle buildings, and screened from view from public streets and community spaces.

(b) Dimensional Standards and Density:

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

Table 4.4.2 -1 Dimensional Standards and Density

Districts	**Max. Intensity** (floor area ratio[1])	**Max. Lot Coverage**	**Minimum Building Setbacks** (feet) Front[4]	Side[2]	Rear[2]	**Building Height**[3] (feet)
NAC	2.0 FAR	80%[5]	0	0	0	Min: 22, 2 stories Max: 35
NMU	2.0 FAR	80%	0[6]	0	0	Min: ~~20~~22, 2 stories[3] Max: 35
NAC-Riverside	2.0 FAR	80%	0	0	0	Min: ~~20~~22, 2 stories[3] Max: 35
NAC-CR	2.0 FAR[9]	72%	Min. 0[8] Max. 20[8]	10[7]	20[7]	Min: 22, 2 stories Max: 80[9]

Comment [MT1]: Verify that this is the appropriate height limit at street frontage.

1. Floor area ratio is defined in Art. 13 and described in Art 5. Actual maximum build out potential may be reduced by site plan and architectural design considerations of Art 6.
2. Structures shall be setback a minimum of 15-feet along any property line that abuts a residential zoning district.
3. ~~Minimum building height shall be 20-feet and 2 story's.~~ Measurement of and exceptions to height standards are found in Art 5.Bonuses for additional building height where applicable are described in section (d)3 below.
4. All structures shall be setback a minimum of 12-feet from the curb on a public street.
5. Exceptions to ~~minimum~~ maximum lot coverage are provided in (d)2.
6. Notwithstanding footnote 4, the NMU district at the intersection of Pine St. and Flynn Avenue shall have a minimum front yard setback of 10 feet.
7. Side and rear setbacks are applicable only to the periphery of the district and not to individual parcels within the district.
8. Front yard setbacks for Buildings fronting on North Avenue shall be 20' min and 30' max.

~~6.~~9. The maximum Building height and FAR in Table 4.4.2-1 above shall be allowed by-right and without the necessity of the DRB granting of Development Bonuses/Additional Allowances pursuant to Sec 4.4.2 (d)3.

(c) Permitted and Conditional Uses:

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

(d) District Specific Regulations:

1. Ground Floor Residential Uses Restricted

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

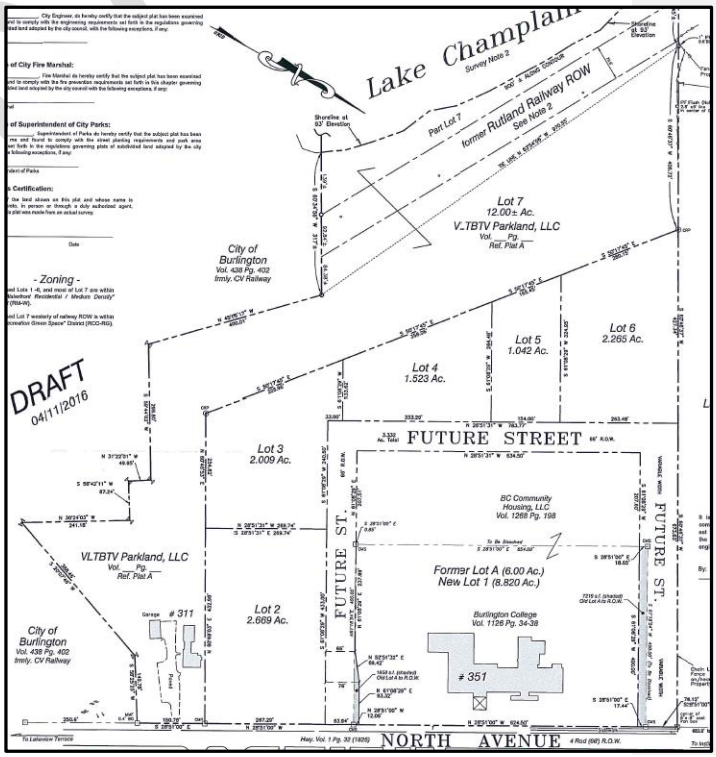
Map Changes:

add new NAC-CR to:

- Map 4.3.1-1 Base Zoning Districts, p. 4-9
- Map 4.4.2-1 Neighborhood Mixed Use Districts, p. 4-29
- Map 8.1.3 -1 Parking Districts, p. 8-3

remove new NAC-CR from:

- Map 4.4.5-1 Residential Zoning Districts
- Map 4.4.5-2 Waterfront RM Height Exceptions



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ARTICLE 8: PARKING

Sec. 8.1.3 Parking Districts

The demand for parking is highly dependent on the context within which a given use or structure is located. Factors such as proximity to other related uses, availability of public transportation, the density of land uses, and the ability to share parking with nearby uses are all factors which influence the demand for individual and dedicated off-site parking. For the purposes of this Article, the following three (3) Parking Districts as illustrated in Map 8.1.3-1 are hereby created:

(a) Neighborhood Parking District:

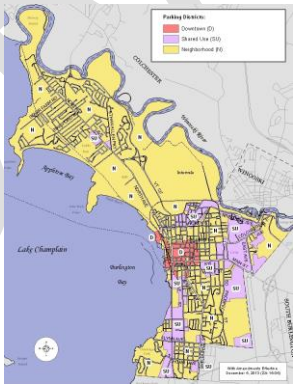
This parking district establishes the baseline of parking requirements throughout the city where the demand for offsite parking is largely dependent on the needs and characteristics of an individual site or land use.

(b) Shared Use Parking District:

This parking district reduces the requirements from the baseline standards recognizing that opportunities exist to share parking demand between related nearby land uses, and that travel to and between these uses may not be strictly automobile dependent.

(c) Downtown Parking District:

This parking district further reduces the requirements from the baseline standards recognizing that extensive sharing of parking demand between nearby land uses occurs; that a majority of travel to and between land uses is independent from an automobile; and that an array of public parking facilities and frequent transit service greatly reduces the need for independent parking for individual land uses.



Map 8.1.3 -1 Parking Districts

remaining Article is unchanged…

Article 9. Inclusionary and Replacement Housing, Part 1: Inclusionary Zoning

Sec. 9.1.8 Inclusionary Units, Rental and Sales

For covered projects in which units are offered for rent or sale, a base of fifteen percent (15%) of all of the dwelling units in the project, graduated as specified in Table 9.1.9-1, shall be designated as inclusionary units

This includes any covered project where units are offered for sale via the conveyance of a deed or share for individual units, including fee simple ownership, condominium ownership and cooperative ownership.

Table 9.1.9-1 Inclusionary Zoning Percentages

If the average sale and rental price of project units is affordable to a household earning:	The percentage of units which are subject to rent and sales prices as per Sec. 9.1.10 and are subject to marketing and continued affordability provisions (Sec. 9.1.11 and Sec. 9.1.12) shall be:
Less than 139% of median income	15%
140%-179% of median income	20%
Development in any Waterfront district (RM-W, RL-W, NAC-CR and DW) or 180% of median income and above in any other district	25%

remaining Article is unchanged…

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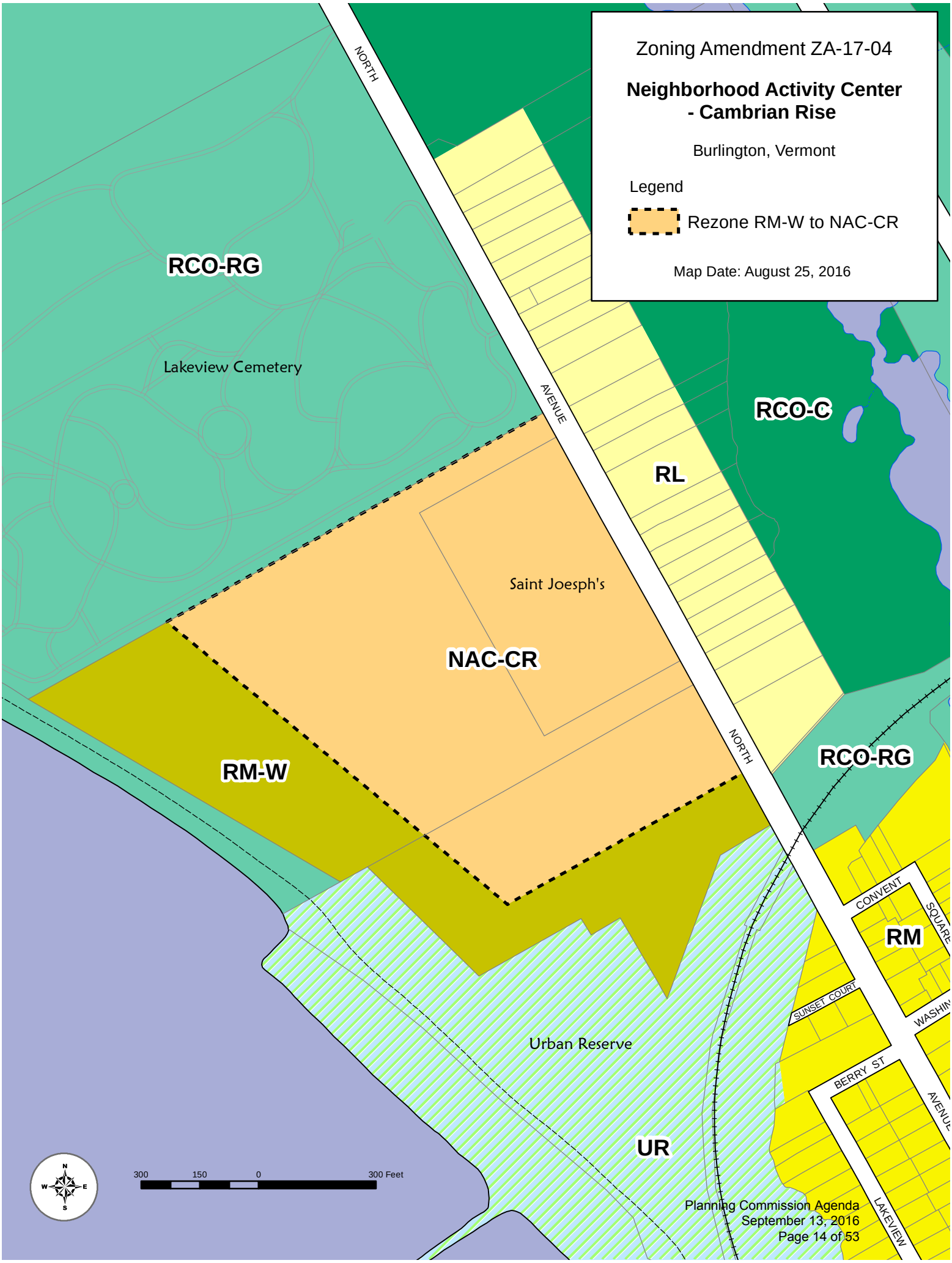
Zoning Amendment ZA-17-04
Neighborhood Activity Center - Cambrian Rise
Burlington, Vermont
Legend
Rezone RM-W to NAC-CR
Map Date: August 25, 2016
RCO-RG
Lakeview Cemetery
NORTH
AVENUE
RCO-C
RL
Saint Joesph's
NAC-CR
RM-W
NORTH
RCO-RG
CONVENT
SQUARE
RM
SUNSET COURT
WASHIN
Urban Reserve
BERRY ST
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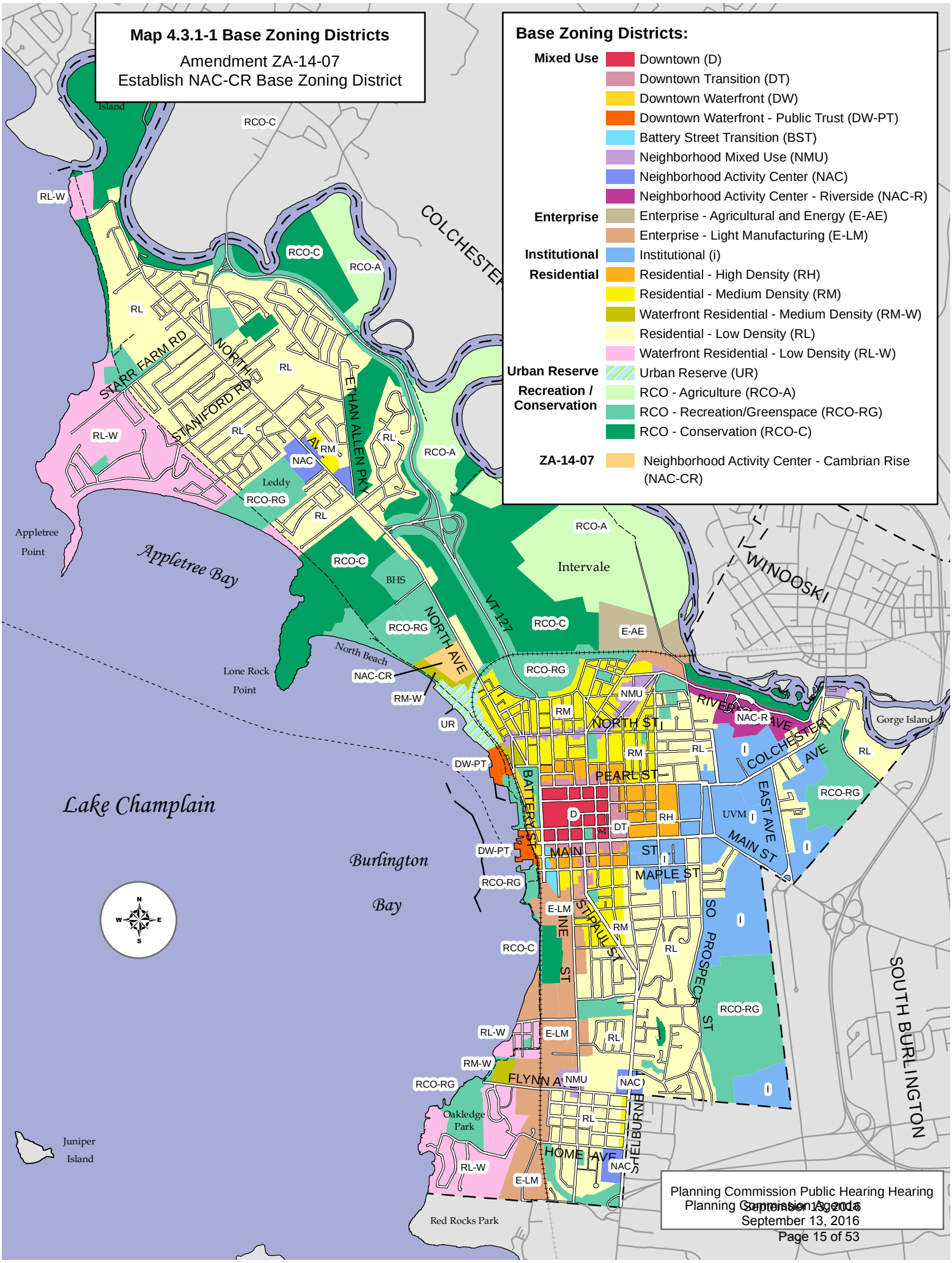
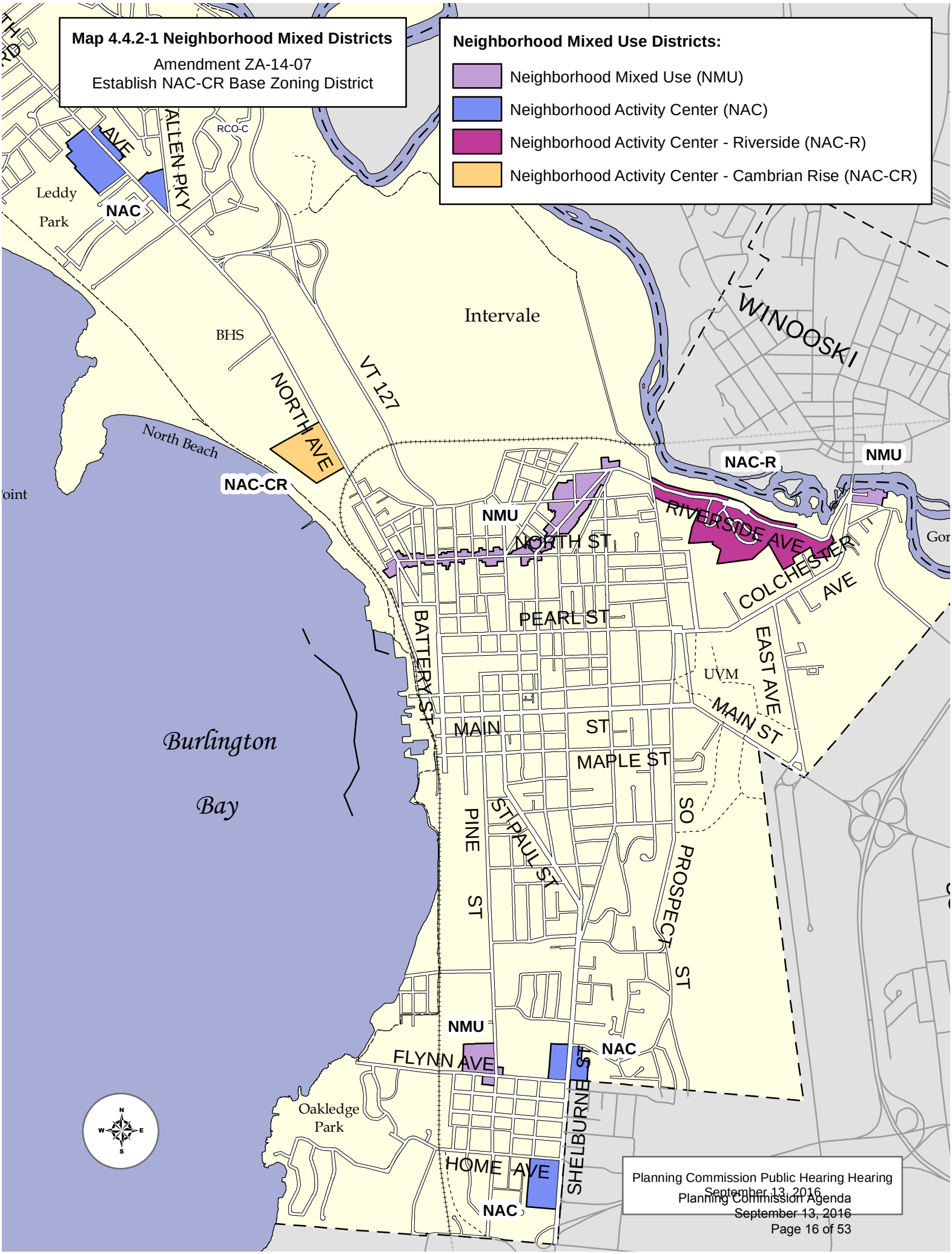

Map 4.3.1-1 Base Zoning Districts
Amendment ZA-14-07
Establish NAC-CR Base Zoning District
Base Zoning Districts:
Mixed Use
Downtown (D)
Downtown Transition (DT)
Downtown Waterfront (DW)
Downtown Waterfront - Public Trust (DW-PT)
Battery Street Transition (BST)
Neighborhood Mixed Use (NMU)
Neighborhood Activity Center (NAC)
Neighborhood Activity Center - Riverside (NAC-R)
Enterprise
Enterprise - Agricultural and Energy (E-AE)
Enterprise - Light Manufacturing (E-LM)
Institutional
Institutional (i)
Residential
Residential - High Density (RH)
Residential - Medium Density (RM)
Waterfront Residential - Medium Density (RM-W)
Residential - Low Density (RL)
Waterfront Residential - Low Density (RL-W)
Urban Reserve
Urban Reserve (UR)
Recreation / Conservation
RCO - Agriculture (RCO-A)
RCO - Recreation/Greenspace (RCO-RG)
RCO - Conservation (RCO-C)
ZA-14-07
Neighborhood Activity Center - Cambrian Rise (NAC-CR)
Lake Champlain
Burlington Bay
Appletree Bay
Appletree Point
Lone Rock Point
North Beach
Leddy
Intervale
Gorge Island
Juniper Island
Oakledge Park
Red Rocks Park
COLCHESTER
WINOOSKI
SOUTH BURLINGTON
STARR FARM RD
NORTH
STANIFORD RD
ETHAN ALLEN PKY
NORTH AVE
VT 127
NORTH ST
PEARL ST
BATTERY ST
MAIN ST
MAPLE ST
ST PAUL ST
SO PROSPECT ST
EAST AVE
COLCHESTER AVE
FLYNN AVE
HOME AVE
SHELBURNE
RL-W
RCO-C
RCO-A
RL
RM
NAC
RCO-RG
BHS
NAC-CR
RM-W
UR
DW-PT
D
DT
RH
NMU
NAC-R
E-AE
E-LM
UVM
I
Planning Commission Public Hearing Hearing
Planning Commission Agenda
September 13, 2016
Page 15 of 53


Map 4.4.2-1 Neighborhood Mixed Districts
Amendment ZA-14-07
Establish NAC-CR Base Zoning District
Neighborhood Mixed Use Districts:
Neighborhood Mixed Use (NMU)
Neighborhood Activity Center (NAC)
Neighborhood Activity Center - Riverside (NAC-R)
Neighborhood Activity Center - Cambrian Rise (NAC-CR)
Leddy Park
NAC
AVE
ALLEN PKY
RCO-C
Intervale
BHS
VT 127
NORTH AVE
NAC-CR
North Beach
WINOOSKI
NAC-R
NMU
RIVERSIDE AVE
COLCHESTER AVE
NORTH ST
PEARL ST
BATTERY ST
EAST AVE
UVM
MAIN ST
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MAPLE ST
Burlington Bay
PINE ST
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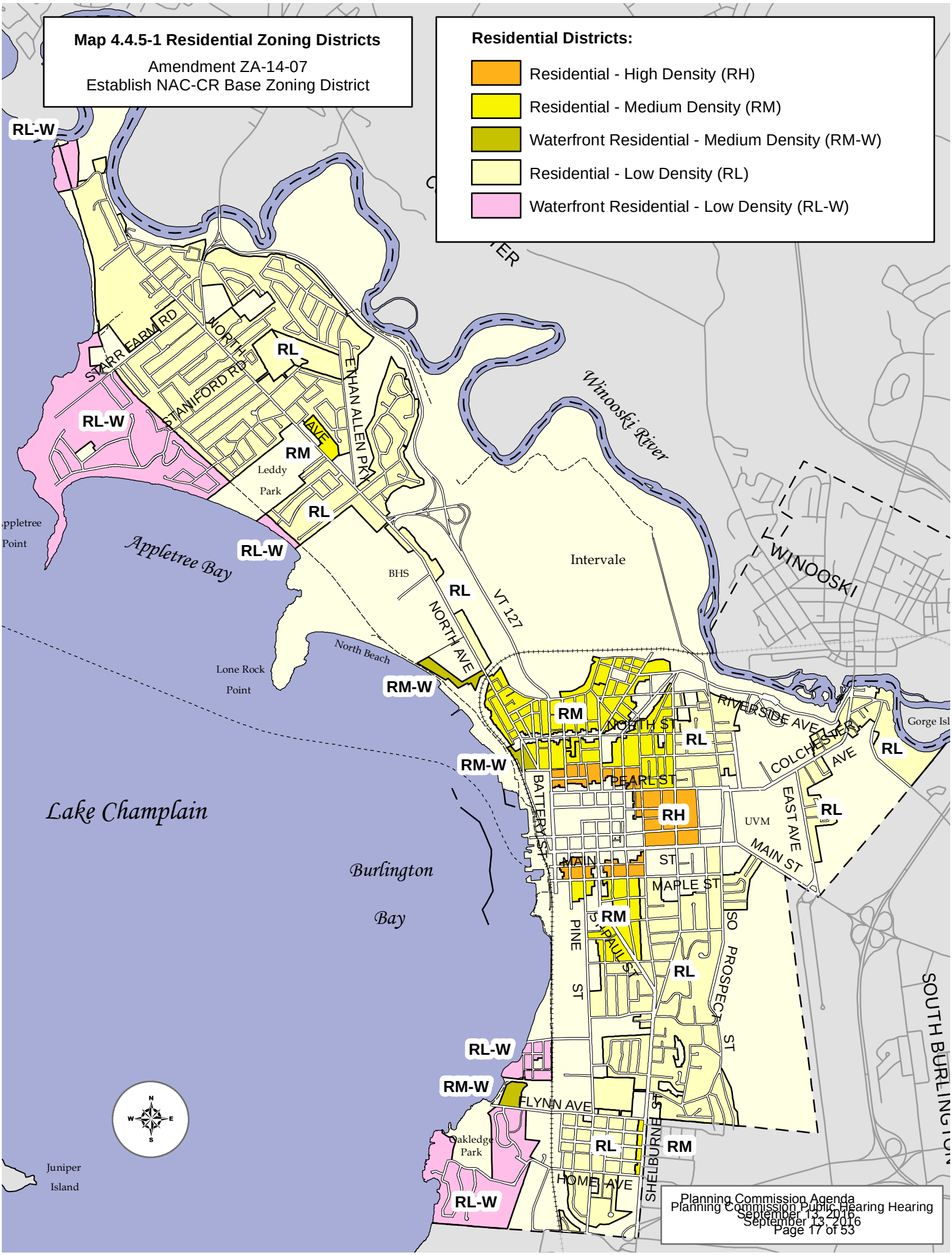
NMU
FLYNN AVE
NAC
SHELBURNE ST
Oakledge Park
HOME AVE
NAC


Map 4.4.5-1 Residential Zoning Districts
Amendment ZA-14-07
Establish NAC-CR Base Zoning District
Residential Districts:
Residential - High Density (RH)
Residential - Medium Density (RM)
Waterfront Residential - Medium Density (RM-W)
Residential - Low Density (RL)
Waterfront Residential - Low Density (RL-W)
RL-W
RL
RM
RM-W
RH
STARR FARM RD
NORTH
STANIFORD RD
ETHAN ALLEN PKY
AVE
Leddy
Park
Appletree
Point
Appletree Bay
BHS
Intervale
Winooski River
WINOOSKI
VT 127
NORTH AVE
North Beach
Lone Rock
Point
Lake Champlain
Burlington
Bay
NORTH ST
RIVERSIDE AVE
COLCHESTER
AVE
Gorge Isl
PEARL ST
BATTERY ST
UVM
EAST AVE
MAIN ST
MAIN
ST
MAPLE ST
PINE
ST
ST PAUL ST
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PROSPECT
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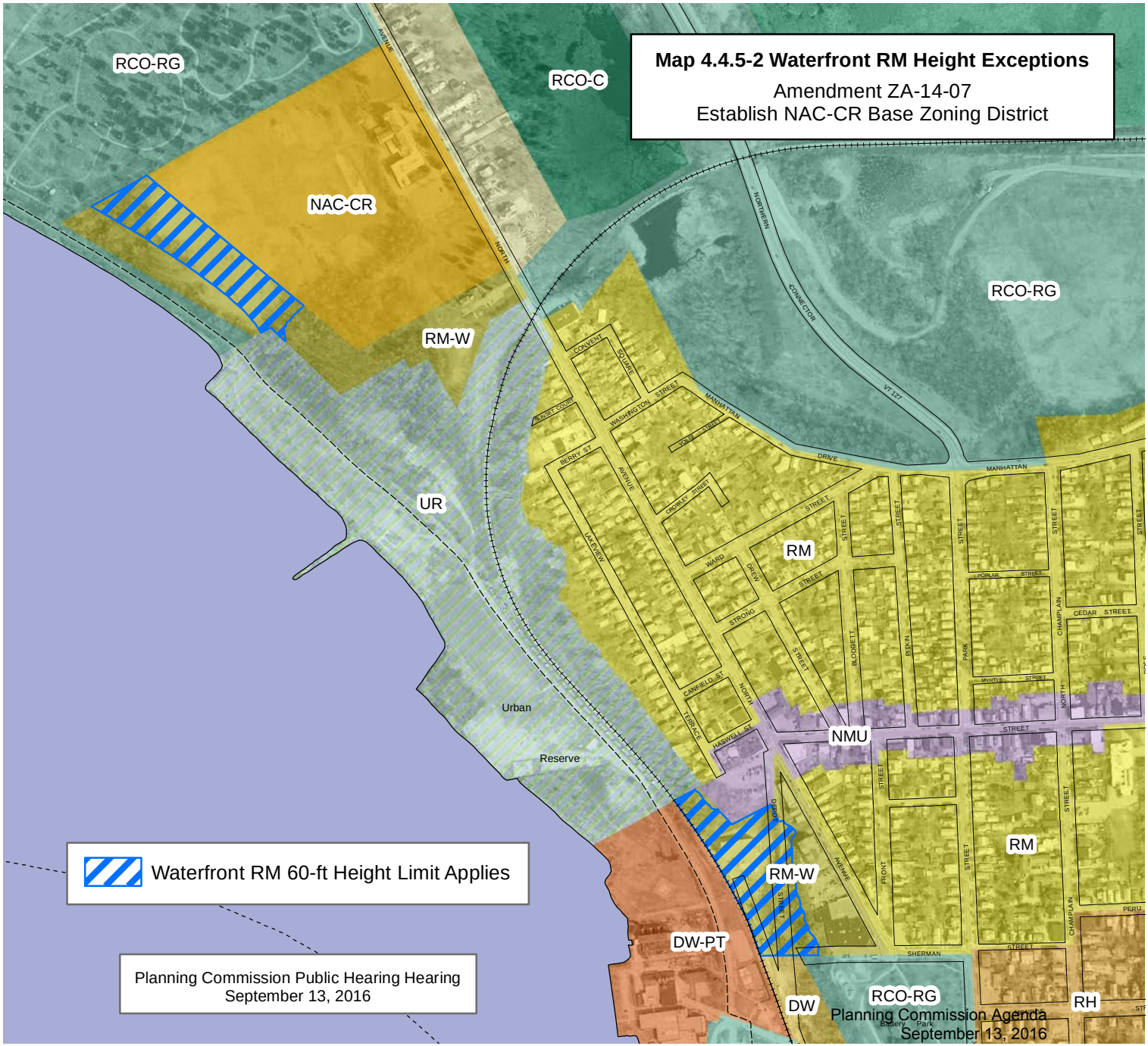
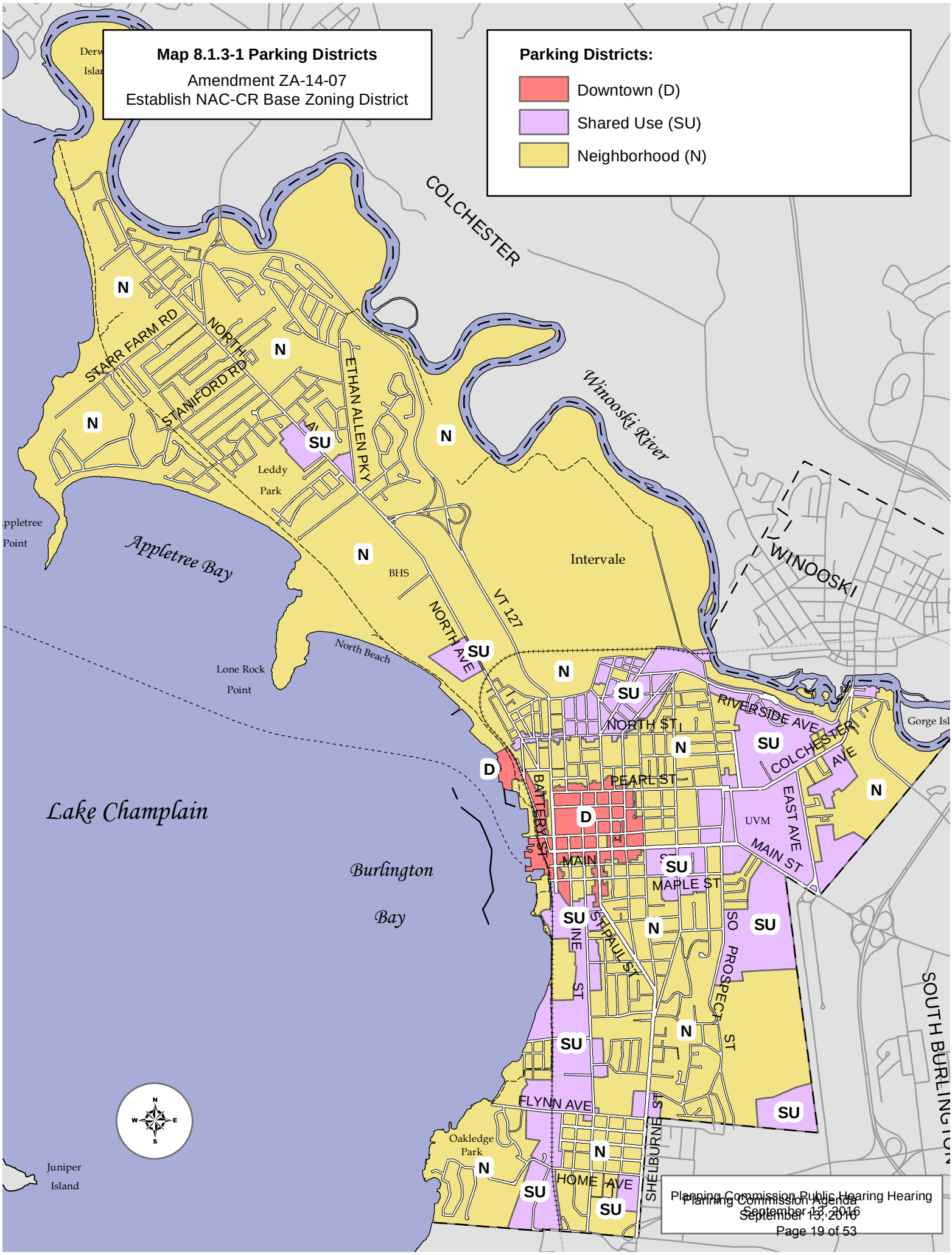

Map 4.4.5-2 Waterfront RM Height Exceptions
Amendment ZA-14-07
Establish NAC-CR Base Zoning District
RCO-RG
RCO-C
NAC-CR
RM-W
UR
RCO-RG
RM
NMU
RM
RM-W
DW-PT
DW
RCO-RG
RH
Urban
Reserve
Waterfront RM 60-ft Height Limit Applies
Planning Commission Public Hearing Hearing
September 13, 2016


Map 8.1.3-1 Parking Districts
Amendment ZA-14-07
Establish NAC-CR Base Zoning District
Parking Districts:
Downtown (D)
Shared Use (SU)
Neighborhood (N)
COLCHESTER
Winooski River
WINOOSKI
Appletree Bay
Lake Champlain
Burlington Bay
Intervale
Leddy Park
BHS
North Beach
Lone Rock Point
Appletree Point
Juniper Island
Oakledge Park
UVM
Gorge Isl
STARR FARM RD
NORTH
STANIFORD RD
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NORTH AVE
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SO PROSPECT ST
SOUTH BURLINGTON
FLYNN AVE
HOME AVE
SHELBURNE ST
N
SU
D

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MEMORANDUM

TO: Burlington Planning Commission

FROM: David E. White, AICP, Director of Planning & Zoning

DATE: Wednesday, September 07, 2016

RE: Proposed ZA-17-04 NAC-Cambrian Rise

This comes to you regarding the proposed redevelopment and associated zoning amendment for the former St. Josephs Orphanage/Burlington College property on North Avenue and in follow-up to your 23 August meeting discussion regarding this proposed amendment.

Building Height

My apologies for raising some some confusion in my previous presentation when I said that the proposed amendment doesn't change the current building height limit from the maximum allowed in WRM - this was an incorrect statement.

The proposed amendment recommends a maximum height of 80-ft while the current WRM height limit is 60-ft. The Commission, however, was on target when your conversation focused on the height of a building along the street as being what's most important, because ultimately that is what we are trying to address.

So why then is 80-ft proposed in the amendment?

This is a complicated site when it comes to measuring building height (1) given the presence of the former St. Joseph's Orphanage (which would enable any new building on the same lot be built to the same height - ~65') and (2) the slope away from North Ave to the lake (which would, because of how we measure height, drag a building's height lower as the site slopes downward).

Our current CDO measures the height of any new buildings based on either:

1. the average elevation of the adjacent sidewalk if the building is within 10-ft; or,
2. the average elevation of the finished grade all around the building if it is farther than 10-ft from the sidewalk or a property line.

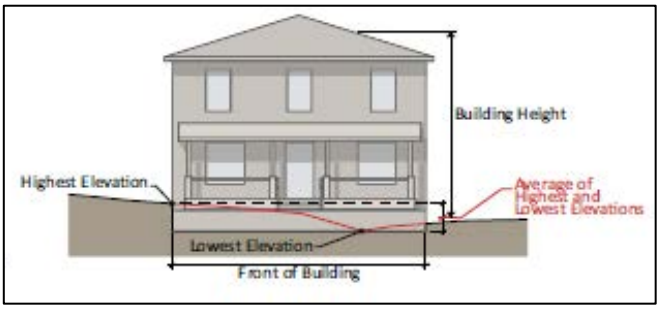
Given the permitted setbacks in Table 4.4.2 -1, no building in the proposed district can be within 10-ft of a side or rear property line and they are permitted to be as far back as 20-ft in the front, therefore the average grade all around the building would be used to establish the base for measuring height in most cases. Because nearly all of the lots in the proposed district slope 10 or more feet from any existing and proposed streets, the average elevation is negatively impacted as is the permitted height of any building. As a result, a maximum height of 80-ft is proposed to ensure that new buildings can actually be 65-ft in height at the street level consistent with the current allowed height given the Orphanage. This also means however that a building could be built to a maximum of 80-ft at the street level if it were on a flat site.

With this in mind, I would like to offer an alternative that would bring our CDO in line with many other modern zoning codes and address similar issues across the city in the future.

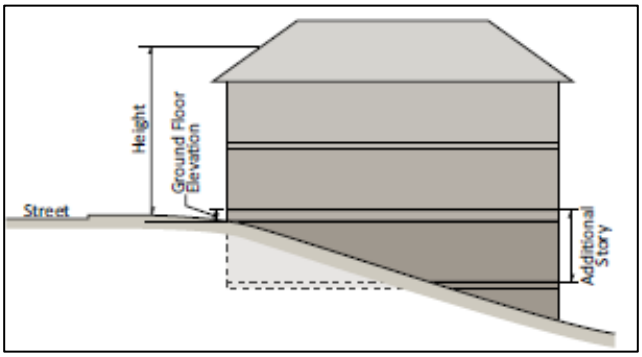
In my research of modern zoning ordinances from around the country, there is some consistency – setbacks are typically measured at the front of the building at or within the required front setback, and there is an allowance for one additional story in the rear when the lot slopes away from the street.

As such, I would recommend that the following languange change (and attached amendment) to Sec. 5.2.6 also be included in this proposal:

1. Building height shall be measured from the average grade which is determined by calculating the average of the highest and lowest elevation along the natural or improved finish grade (whichever is more restrictive) along the front of the building parallel to the primary street front property line.



2. Where a lot slopes downward from the front property line, one story that is additional to the specified maximum number of stories may be built on the lower, rear portion of the lot.



With these changes, we could reduce the maximum building height in Table 4.4.2 -1 to 65-ft.

Inclusionary Housing Bonuses

We have since identified the need to also include NAC-CR in Table 9.1.13-1 and Table 9.1.13-2 in Article 9 – Inclusionary Housing which provides height and lot coverage bonuses. As you will see in staff's recommendation, NAC-CR is added to Table 9.1.13-1 with all of the other NAC's, and to Table 9.1.13-2 with WRM to be consistant with the current limits. As such I have changed the lot coverage in Table 4.4.2-1 back to 60%, but gets back up to 72% because of the bonus given to IZ projects in Table 9.1.13-2.

In doing do, we also noted that many of the internal references to sections and tables within Article 9 are incorrect so we are recommending necessary corrections to clean this up.

Proposed Uses

As you will see from the proposed Use Table, a range of neighborhood-oriented retail, office and service uses are proposed as either permitted or conditionally permitted in this district. Unlike other neighborhood mixed-use districts, several manufacturing, repair and service uses are not permitted as this district is intended to be much more residential in nature than the other districts in this group.

I would like to offer some modifications for your consideration:

- Micro-Brewery – Conditional Use
- Machine/Woodworking Shop – Conditional Use, less than 4,000 sqft
- Public Transit terminal
- Research Lab - Conditional Use, less than 4,000 sqft

Thank you and we look forward to discussing this next week.

Burlington Comprehensive Development Ordinance

PROPOSED: ZA-17-04 NAC – Cambrian Rise

As proposed for Planning Commission Public Hearing – 9/13/2016.
With staff proposed corrections and additions

Changes shown (underline to be added, ~~strike out~~ to be deleted) are proposed changes to the *Burlington Comprehensive Development Ordinance.*

Purpose: This amendment is to facilitate the redevelopment of the former St. Josephs Orphanage/Burlington College property in a manner that is consistent with the results of a community planning process for the site that will advance many of the central goals and objectives found in the *Burlington Municipal Development Plan* regarding providing a greater diversity of housing choices, open space protection, and shoreland protection. This amendment creates a new neighborhood mixed-use district on North Avenue that will allow for a range of housing types and price levels to accommodate diverse ages and incomes with associated neighborhood oriented small-scale retail and service uses.

Article 4: Zoning Maps and Districts, Part 3: Zoning Districts Established

Sec. 4.3.1 Base Districts Established:

The following zoning districts are hereby established as illustrated in Map 4.3.1-1 and further described in Part 4 below.

(a) A series of five (5) **Downtown Mixed Use** districts: *(see Sec. 4.4.1)*

- Downtown (D);
- Downtown Transition (DT);
- Downtown Waterfront (DW);
- Downtown Waterfront –Public Trust (DW-PT); and,
- Battery Street Transition (BST);

(b) A series of ~~three~~ four (~~3~~4) **Neighborhood Mixed Use** districts: *(see Sec. 4.4.2)*

- Neighborhood Mixed Use (NMU);
- Neighborhood Activity Center (NAC); ~~and~~
- Neighborhood Activity Center - Riverside Corridor (NAC-RC); and,
- Neighborhood Activity Center – Cambrian Rise (NAC-CR);

(c) A series of two (2) **Enterprise** districts: *(see Sec. 4.4.3)*

remaining section unchanged…

Sec. 4.4.2 Neighborhood Mixed Use Districts

(a) Purpose:

The Neighborhood Mixed Use districts promote development that combines non-residential and residential uses on a single site. These zones allow an increased intensity of development than would typically be found in the surrounding residential areas, and provides neighborhood oriented goods and services and employment opportunities within walking and biking distance. This development type will support transit use, provide a buffer between busy streets and residential neighborhoods, and provide new commercial and residential opportunities in the City. The emphasis of nonresidential uses should primarily be oriented to serving the needs of the surrounding residential neighborhoods and other neighborhood commercial uses.

Development is intended to consist primarily of businesses on the ground floor with housing and other non-residential uses on upper stories. -The exception to this is the NAC – Cambrian Rise district that is intended to be more residential in nature than the other Neighborhood Mixed Use districts and thereby is expected to incorporate residential uses at the street level. Development is intended to be pedestrian-oriented with buildings oriented to the sidewalk, especially at corners. Parking is intended to be hidden from the street, since ~~their~~ its appearance is ~~generally~~ out of character with the surrounding residential development and the desired orientation of the buildings.

The ~~3~~ 4 Neighborhood Mixed Use districts as illustrated in Map 4.4.2-1 are further described as follows:

1. The **Neighborhood Activity Centers** (NAC) are intended to provide convenient neighborhood and city wide-oriented goods and services and employment opportunities within walking or biking distance of many of the city's residential areas;
2. The **Neighborhood Mixed Use** (NMU) district is intended to preserve and enhance historically commercial areas while reinforcing the compact scale and development patterns within the city's older neighborhoods. Uses are intended to provide neighborhood oriented goods and services and employment opportunities within walking or biking distance of residential neighborhoods; and,
3. The **NAC – Riverside** (NAC-R) is intended to allow commercial development in areas already predominantly built along this important travel corridor while encouraging emerging mixed-use development. The zone allows a full range of retail and service businesses with a local or regional market orientation. Light industrial uses are allowed but limited in size to avoid adverse effects different in kind or amount than commercial uses and to ensure that they do not dominate the character of the commercial area. The zone's development standards promote attractive development, an open and pleasant street appearance, and compatibility with adjacent residential areas. Development is intended to be aesthetically pleasing for motorists, transit users, pedestrians, and the businesses themselves. Parking is intended to be

DRAFT

placed behind or to the side of principle buildings.

~~3.~~4. The **NAC – Cambrian Rise (NAC-CR)** is intended to create a new center for mixed use development that allows for a range of housing types and tenures, and to accommodate a diverse range of complimentary general office, institutional and neighborhood oriented small-scale retail and service uses. Much of the development is intended to be densely concentrated and oriented towards North Avenue, with new buildings that are complimentary to the iconic historic former-orphanage. Development should be compact, pedestrian-oriented and enhance the community with creative design, durable materials, and quality construction. Buildings fronting on North Avenue should be oriented toward and activate North Avenue, while Buildings fronting on new streets should be oriented toward and activate those streets. Buildings and landscaping should work together to contribute to the physical definition of streets as civic places, with buildings at and near the street level composed of human-scaled elements and details that promote pedestrian interest, comfort, and safety. Parking should to be hidden behind, to the side, within, or underneath principle buildings, and screened from view from public streets and community spaces.

(b) Dimensional Standards and Density:

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

Table 4.4.2 -1 Dimensional Standards and Density

Districts	Max. Intensity (floor area ratio[1])	Max. Lot Coverage	Minimum Building Setbacks (feet) Front[4]	Side[2]	Rear[2]	Building Height[3] (feet)
NAC	2.0 FAR	80%[5]	0	0	0	Min: 22, 2 stories Max: 35
NMU	2.0 FAR	80%	0[6]	0	0	Min: ~~20~~22, 2 stories[3] Max: 35
NAC-Riverside	2.0 FAR	80%	0	0	0	Min: ~~20~~22, 2 stories[3] Max: 35
NAC-CR	2.0 FAR[9]	60%[9]	Min. 0[8] Max. 20[8]	10[7]	20[7]	Min: 22, 2 stories Max: 80[9]

Comment [DEW1]: reduced to current WRM coverage but adding footnote for additional coverage allowed for all IZ projects

Comment [MT2]: Verify that this is the appropriate height limit at street frontage.

1. Floor area ratio is defined in Art. 13 and described in Art 5. Actual maximum build out potential may be reduced by site plan and architectural design considerations of Art 6.
2. Structures shall be setback a minimum of 15-feet along any property line that abuts a residential zoning district.
3. ~~Minimum building height shall be 20-feet and 2 story's.~~ Measurement of and exceptions to height standards are found in Art 5.Bonuses for additional building height where applicable are described in section (d)3 below.
4. All structures shall be setback a minimum of 12-feet from the curb on a public street.
5. Exceptions to ~~minimum~~ maximum lot coverage are provided in (d)2.
6. Notwithstanding footnote 4, the NMU district at the intersection of Pine St. and Flynn Avenue shall have a minimum front yard setback of 10 feet.
7. Side and rear setbacks are applicable only to the periphery of the district and not to individual parcels within the district.
8. Front yard setbacks for Buildings fronting on North Avenue shall be 20' min and 30' max.
9. ~~6.~~ The maximum Building height and FAR in Table 4.4.2-1 above shall be allowed by-right and without the necessity of the DRB granting of Development Bonuses/Additional Allowances pursuant to Sec 4.4.2 (d)3. Additional height, FAR and lot coverage afforded for inclusionary housing projects under Sec. 9.1.12 shall still apply.

Comment [DEW3]: necessary to add reference to additional allowances afforded to inclusionary projects so as to not be confused by exclusion from bonus provisions.

(c) Permitted and Conditional Uses:

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

(d) District Specific Regulations:

1. Ground Floor Residential Uses Restricted

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

Article 9. Inclusionary and Replacement Housing, Part 1: Inclusionary Zoning

Sec. 9.1.8 Inclusionary Units, Rental and Sales

For covered projects in which units are offered for rent or sale, a base of fifteen percent (15%) of all of the dwelling units in the project, graduated as specified in Table 9.1.98-1, shall be designated as inclusionary units

This includes any covered project where units are offered for sale via the conveyance of a deed or share for individual units, including fee simple ownership, condominium ownership and cooperative ownership.

Table 9.1.98-1 Inclusionary Zoning Percentages

If the average sale and rental price of project units is affordable to a household earning:	The percentage of units which are subject to rent and sales prices as per Sec. 9.1.~~10~~ 9 and are subject to marketing and continued affordability provisions (Sec. 9.1.~~11~~ 10 and Sec. 9.1.~~12~~11) shall be:
Less than 139% of median income	15%
140%-179% of median income	20%
Development in any Waterfront district (RM-W, RL-W, NAC-CR and DW) or 180% of median income and above in any other district	25%

Sec. 9.1.9-9.1.11 remain unchanged…

Sec. 9.1.12 Additional Density and Other Development Allowances

All covered projects shall be entitled to increases in the development allowances of the underlying zoning district in accordance with the provisions of this section.

(a) Any covered project shall be entitled to an increase in the maximum coverage allowed for the site on which the project is located following the calculation of density, height, lot coverage, setbacks, and parking improvements for the site. Calculations for these entitlements shall be based on the following tables:

Table 9.1.~~13~~12-1 Density/Intensity Allowance Table

Zoning District	Additional Allowance	Maximum Units/Acre	FAR
RH	15%	46	n/a
RM, RM-W	20%	25	n/a
RL, RL-W	25%	8.75	n/a
D, DT, DW	n/a	n/a	0.5 FAR+10' height set back 10' along street facade
NMU, NAC, NAC-R, NAC-CR, BST	n/a	n/a	0.5 FAR+10' height set back 10' along street facade

Comment [DEW4]: add new district with no change to density'intensity allowance from WRM

Table 9.1.~~13~~12-2 Lot Coverage Allowance Table		
Zoning District	**Additional Allowance**	**Maximum Lot Coverage**
RH, NMU, NAC, NAC-R	15%	92%
RM-W, NAC-CR	20%	72%
RM	20%	48%
RL, RL-W	25%	44%

Comment [DEW5]: add new district with no change to coverage allowance from WRM

remaining section is unchanged…

Sec. 9.1.13 Off-Site Option

The DRB, upon a finding that unique, difficult and/or challenging site conditions exist that prevent the inclusionary units from being constructed upon the same site as the market units, may allow any developer of a covered project that is not located within a waterfront zoning district or the NAC-CR to comply ~~with the requirements of Sec. 9.1.9 and 9.1.12~~ by constructing inclusionary units on a site within the City of Burlington other than that on which the covered project is located, subject to the following conditions:

Comment [DEW6]: add reference to new district as being treated as a "waterfront" district and subject to this exclusion from the off-site

Comment [DEW7]: duplicative with same reference that appears later in the same section – see larger set of reference correction to this Article

remaining section and Article is unchanged…

Map Changes: (see attached)

add new NAC-CR to:

- Map 4.3.1-1 Base Zoning Districts, p. 4-9
- Map 4.4.2-1 Neighborhood Mixed Use Districts, p. 4-29
- Map 8.1.3 -1 Parking Districts, p. 8-3

remove new NAC-CR from:

- Map 4.4.5-1 Residential Zoning Districts
- Map 4.4.5-2 Waterfront RM Height Exceptions

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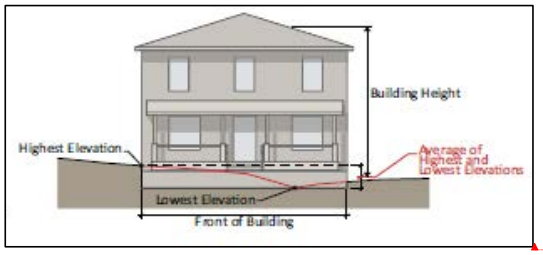
Sec. 5.2.6 Building Height Limits

No structure shall exceed thirty-five (35) feet in height unless otherwise authorized under the district-specific provisions of Article 4:

(a) Height Measurement:

The maximum height of any building shall be measured as follows:

1. Starting Point: Building height shall be measured from~~:~~ the average grade which is determined by calculating the average of the highest and lowest elevation along the natural or improved finish grade (whichever is more restrictive) along the front of the building parallel to the primary street front property line.

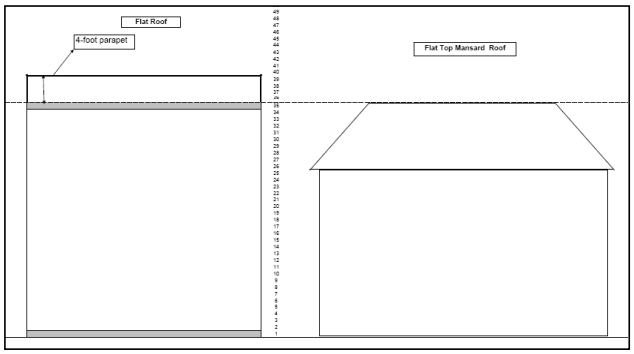


~~A. a public sidewalk, alley, or other public way where it is within a 10 foot horizontal distance of an exterior wall on the front of the building; or,~~

~~B. the average finished grade within a 10 foot horizontal distance of all exterior walls of the building. In cases where a property line is within a 10 foot horizontal distance of an exterior wall, the average grade shall be measured between the property line(s).~~

2. Ending Point: Building height shall be measured to:

   A. Flat Roof: the highest point of the decking of a flat or flat-topped mansard roof. A parapet no taller than four (4) feet shall not be considered part of a flat roof for the purposes of measuring building height;



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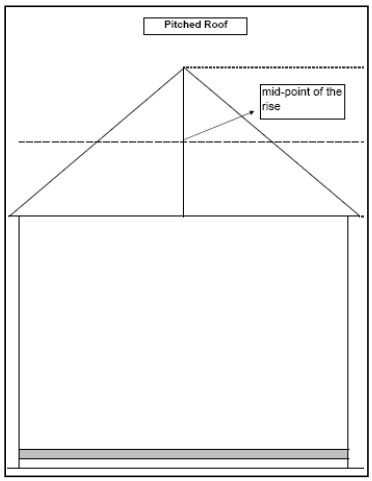
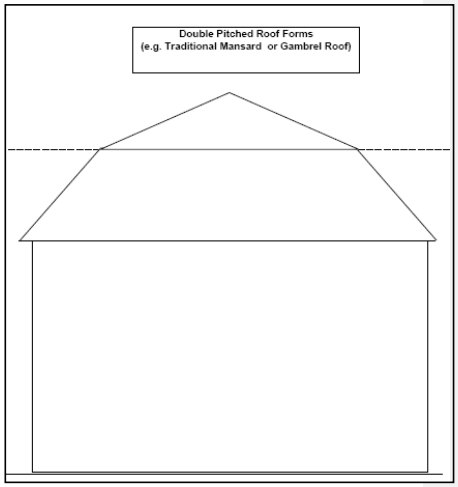
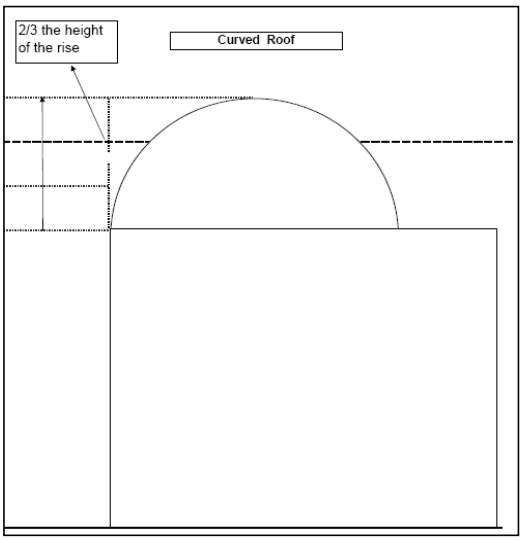
Proposed by staff – 9/2/16

B. Pitched Roof: the midpoint of the rise between the roofplate and the ridge of the highest gable of a pitched or hipped roof. A double-pitched roof (e.g. gambrel or double-pitched mansard) shall be measured to the roofplate of the highest pitch; or,





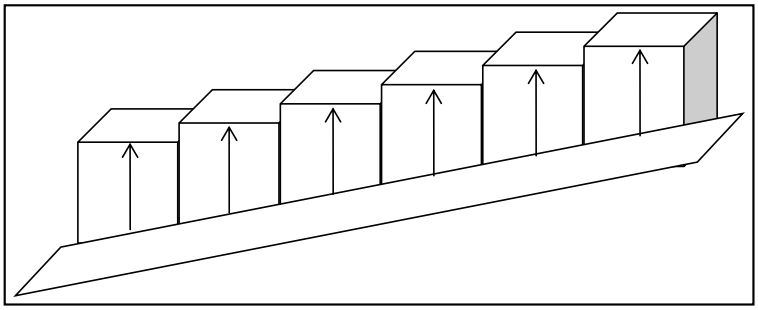
C. Curved Roof: a point two thirds (2/3) the vertical distance from the point at which an exterior wall varies from a 100% slope and to highest point of the roof.



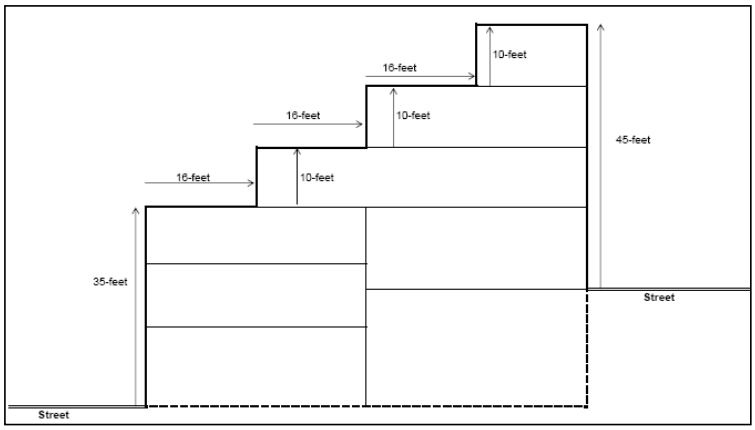
D. Other Roof Forms: Building height shall be measured as determined by the administrative officer in a manner that most closely reflects the intent of subsections (a) through (c).

Proposed by staff – 9/2/16

3. Measurement Interval: To encourage a variation in building heights relative to terrain changes and encourage a variation in roof form, building height shall be measured along the street façade beginning no less than 16-feet or more than 32-feet from lowest corner, or where two streets intersect if a corner lot, and at an interval of no less than 32-feet or more than 65-feet for the entire length of the street façade (s).



4. Lots Fronting on Two or More Streets: Where a lot~~, other than a corner lot,~~ fronts on two or more streets, the building height shall be measured along each street façade. Where the streets are at differing elevations, the building height may gradually increase above the maximum height allowed on the lowest street provided that any such additional height along the lowest street shall be set-back a minimum of 16-feet for every 10-feet of additional building height up to the maximum height allowed on the highest street.



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.

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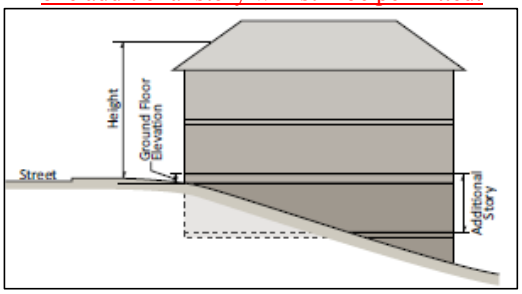
(b) Exceptions to Height Limits

1. Additions and new construction on parcels that contain an existing structure exceeding thirty-five (35) feet in height as of January 1, 2008 may exceed thirty-five (35) feet subject to the design review provisions of Art. 3 and 6, but in no event shall exceed the height of the existing structure.
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. Greenhouses, rooftop gardens, terraces, and similar features are exempt from specific height limitations but shall be subject to the design review provisions of Art. 3 and 6.
4. Ornamental and symbolic features of buildings and structures, including towers, spires, cupolas, belfries and domes, where such features are not used for human occupancy or commercial identification, are also exempt from specific height limitations and shall be subject to the design review provisions of Art. 3 and 6. The footprint of such architectural features shall not exceed ten percent (10%) of the total roof area.
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. Where a lot slopes downward from the front property line, one story that is additional to the specified maximum number of stories may be built on the lower, rear portion of the lot. Where no maximum numbers of stories are specified, only one additional story will still be permitted.



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Proposed by staff – 9/2/16

ARTICLE 9. INCLUSIONARY AND REPLACEMENT HOUSING

PART 1: INCLUSIONARY ZONING

Sec. 9.1.1 Intent

The intent of these regulations is:

(a) To meet the specific mandates of 24 V.S.A. Chapter 117 related to housing opportunities for all of Vermont's citizens, particularly for those citizens of low or moderate income;

(b) To ensure the provision of housing that meets the needs of all economic groups by precluding construction of only market rate housing on the limited supply of available land within the City;

(c) To improve the quality of life for all residents by having an economically integrated housing supply throughout the City; and,

(d) To prevent overcrowding and deterioration of the limited supply of affordable housing, and thereby promote the public health, safety and general welfare.

Sec. 9.1.2 Authority

These regulations are enacted under the authority of 24 V.S.A. Chapter 117.

Sec. 9.1.3 Inclusionary Units, General Description

Inclusionary units shall include those units in a covered project, which are regulated in terms of:

(a) Selling price or rent level;

(b) Marketing and initial occupancy; and,

(c) Continued requirements pertaining to re-sale, rent or carrying cost increases, as specified in this article.

Sec. 9.1.4 Miscellaneous Definitions

"Affordable housing" or "Affordable" shall refer to a housing that is owned or rented by its inhabitants whose gross annual household income does not exceed 80 percent of the county median income or 80 percent of the standard metropolitan statistical area (MSA) income, as defined by the US Department of Housing and Urban Development, and the total cost of the housing, including principal, interest taxes and insurance and condominium association fees, if owned housing, or the total

cost of the housing, including rent, utilities and condominium association fees, if rental housing, is not more than thirty per cent (30%) of the household's gross annual income.

"Carrying charges" refer to costs associated with housing co-operatives.

"Certificate of Inclusionary Housing Compliance" shall refer to a certificate issued by the Manager of the Housing Trust Fund, which certificate provides legal assurance that a developer's obligations under this article are being satisfied.

"Housing Trust Fund (HTF)" shall refer to a special revenue account established by the Burlington City Council for purposes related to the creation, promotion, and preservation of long-term affordable housing for very low, low, or moderate income households.

- **"Housing Trust Fund Administrative Committee"** shall refer to an administrative committee consisting of the Manager of the Housing Trust Fund, an appointee of the City Council President and a designee of the Mayor responsible for the administration of the HTF by resolution of the City Council.
- **"Manager of the Housing Trust Fund" or "Manager"** shall be the Director of the City's Community and Economic Development Office, unless otherwise designated by the City Council by resolution.

"Median Income" shall refer to the income for the Burlington MSA set forth in or calculated by regulations promulgated by the United States Department of Housing and Urban Development, pursuant to Section 8 of the Housing Act of 1937, as amended by the Housing and Community Development Act of 1974. The median income consists of all households in the geographic area. The median is the middle value when all are arranged from highest to lowest. The median income that is current on the first day of March of any year shall be used throughout the subsequent twelve (12) months in calculating the general requirements for affordable housing under this article.

Sec. 9.1.5 Applicability

This ordinance provision applies to any development of five or more residential units in a single structure shall be subject to the standards of this article. Multiple developments or projects by the same applicant or responsible party within any consecutive twelve (12) month period that in the aggregate equal or exceed the above criteria shall be subject to these regulations.

Except as otherwise provided in this ordinance, these regulations shall apply in the instances specified below.

(a) The creation of five (5) or more residential units through new construction and/or substantial rehabilitation of existing structures, including the development of housing units utilizing development provisions other than those specified in Sec 9.1.5 (b).

(b) Where units are created using the Adaptive Reuse or Residential Conversion criteria pursuant to the provisions of Art 4, Sec 4.4.5, this article shall be applicable when at least ten (10) or more dwelling units are created.

(c) An applicant may elect to be subject to the provisions of this article if new units are added to existing units for a total of 5 or more units.

Sec. 9.1.6 Exemptions

Exempt from the requirements of this article are:

(a) Projects that are located within an Institutional (I) zoning district that are developed by an educational institution for the exclusive residential use and occupancy by that institution's students;

(b) Those dwelling units in a covered project that are produced as "replacement units," pursuant to Article 9, Part 2 and which do not produce any net new units; and,

(c) Projects created using the Senior Housing Development Bonus pursuant to the provisions of Article 4.

Sec. 9.1.7 Certificate of Inclusionary Housing Compliance

Notwithstanding any other provision of this ordinance, no certificate of occupancy for a project covered by this chapter shall be granted unless and until a Certificate of Inclusionary Housing Compliance has been issued by the Manager of the city's Housing Trust Fund.

Sec. 9.1.8 Inclusionary Units, Rental and Sales

For covered projects in which units are offered for rent or sale, a base of fifteen percent (15%) of all of the dwelling units in the project, graduated as specified in Table 9.1.~~9~~8-1, shall be designated as inclusionary units

This includes any covered project where units are offered for sale via the conveyance of a deed or share for individual units, including fee simple ownership, condominium ownership and cooperative ownership.

Table 9.1.~~9~~8-1 Inclusionary Zoning Percentages	
If the average sale and rental price of project units is affordable to a household earning:	The percentage of units which are subject to rent and sales prices as per Sec. 9.1.~~10~~ 11 and are subject to marketing and continued affordability provisions (Sec. 9.1.~~11~~ 15 and Sec. 9.1.~~12~~16) shall be:
Less than 139% of median income	15%

140%-179% of median income	20%
Development in any Waterfront district (RM-W, RL-W, DW) or 180% of median income and above in any other district	25%

Sec. 9.1.9 Percentage of Inclusionary Units

All covered projects shall meet the percentage requirements for inclusionary units as specified above, calculated as follows:

Using the units/acre allowed for a covered project (i.e. 46 in the RH, 24 in the RM or 5.5 in the RL), the total number of units proposed is multiplied by the required percentage of Inclusionary units (15%, 20% or 25%, depending on the rent/selling price of the units).

(Example: a moderately-priced, multi-family housing development with no commercial space on a one-acre lot in the RH would be able to provide 46 units on-site. Of those, 46 x .15 (15%) = 6.9 (rounded up to 7) units of a total of 46 must be inclusionary units. If the applicant can only provide 20 of such moderately priced units on the site, 15% of the 20 units, i.e. 20 units x .15 = 3 units shall be Inclusionary units).

Sec. 9.1.10 Income Eligibility

Inclusionary Units required under this Article, shall be marketed for purchase or rent to households earning less than the median income for the Burlington Metropolitan Statistical Area, adjusted for household size, as specified in Sec 9.1.~~12~~11. The median income shall be determined on the basis of the data which is most recent to the time that the units are ready for occupancy.

Sec. 9.1.11 Calculating Rents and Selling Prices

The following provision shall apply to the calculation of rents, selling prices and carrying charges, and to the relationship between unit size and household size:

(a) Inclusionary rental units shall be rented at a price which is affordable for a household with an annual income that is sixty-five percent (65%) of median income adjusted for household size;

(b) Inclusionary units for sale, including cooperative units and the carrying costs associated therewith, shall be sold at a price which is affordable for a household with an annual income that is seventy-five percent (75%) of median income adjusted for household size;

(c) In calculating the rents or carrying charges of inclusionary units, the following relationship between unit size and household size shall apply:

Unit Size	Household Size Equivalent
Efficiency Units:	1 Person Household;
One-Bedroom Units:	1.5 Person Household (average of one and two-person household incomes);
Two-Bedroom Units:	3 Person Household;
Three-Bedroom Units:	4.5 Person Household (average of four and five-person household incomes);
Four-Bedroom Units:	6 Person Household.

With respect to inclusionary units offered for sale, prices will be calculated on the basis of:

(d) An available fixed-rate thirty-year mortgage, consistent with a "blended rate" for Burlington banks plus the Vermont Housing Finance Agency as determined and declared semi-annually (January and July) by the Housing Trust Fund Manager. A lower rate may be used in calculating affordable prices if the developer can guarantee the availability of a fixed-rate thirty-year mortgage at this lower rate from the Vermont Housing Finance Agency for all of the required inclusionary units;

(e) A down payment of no more than five percent (5%) of the purchase price;

(f) Annual property taxes; and

(g) Homeowner insurance, homeowner association fees or condo fees. Homeowner association fees shall be calculated in the same manner as the fees for the market units in the same development.

Sec. 9.1.12 Additional Density and Other Development Allowances

All covered projects shall be entitled to increases in the development allowances of the underlying zoning district in accordance with the provisions of this section.

(a) Any covered project shall be entitled to an increase in the maximum coverage allowed for the site on which the project is located following the calculation of density, height, lot coverage, setbacks, and parking improvements for the site. Calculations for these entitlements shall be based on the following tables:

Table 9.1.~~13~~12-1 Density/Intensity Allowance Table			
Zoning District	**Additional Allowance**	**Maximum Units/Acre**	**FAR**
RH	15%	46	n/a
RM, RM-W	20%	25	n/a
RL, RL-W	25%	8.75	n/a
D, DT, DW	n/a	n/a	0.5 FAR+10' height set back 10' along street facade
NMU, NAC, NAC-R, BST	n/a	n/a	0.5FAR+10' height set back 10' along street facade

Table 9.1.~~13~~12-2 Lot Coverage Allowance Table		
Zoning District	**Additional Allowance**	**Maximum Lot Coverage**
RH, NMU, NAC, NAC-R	15%	92%
RM-W	20%	72%
RM	20%	48%
RL, RL-W	25%	44%

(b) Other possible allowances for the provision of Inclusionary Units may include:

1. A waiver of up to 50% waiver of parking spaces as outlined in Article 8, Sec. 8.1.14,
2. A waiver of a portion of the impact fees associated with the Inclusionary units, pursuant to the Art. 3, Part 3 Impact Fee Administrative Regulations.

(c) The allowances provided for herein may be declined at the option of the applicant;

(d) With the approval of the DRB, units added to a project as market rate units may be substituted by nonresidential uses wherever such nonresidential uses are otherwise permitted in the district where the project is located. Approved substitution for nonresidential uses shall occur at the following rate: 1 market-rate dwelling unit = 1,500 square feet nonresidential space

(e) All provisions of Sec. 9.1.8 through 9.1.11 shall apply, without exception, to any inclusionary units that are constructed.

Sec. 9.1.13 Off-Site Option

The DRB, upon a finding that unique, difficult and/or challenging site conditions exist that prevent the inclusionary units from being constructed upon the same site as the market units, may allow any developer of a covered project that is not located within a waterfront zoning district ~~to comply with the requirements of Sec. 9.1.9 and 9.1.12 by~~ to construct~~ing~~ inclusionary units on a site within the City of Burlington other than that on which the covered project is located, subject to the following conditions:

Comment [DEW1]: duplicative with (d) below

(a) The number of inclusionary units to be provided by the developer or by the developer's designee through off-site development shall be no fewer than 1.5 times the number otherwise required by this Article;

(b) No additional development provisions as outlined in this Article shall be granted to the units constructed off-site or to the project;

(c) Off-site inclusionary units must be located within the City of Burlington;

(d) All of the provisions of Sections 9.1.~~9~~ 8 through 9.1.~~12~~ 11 shall apply without exception to off-site inclusionary units under the provisions of this section;

(e) Waiver of provisions from the HTF with regard to minimum square footage and bedroom count relative to average size and bedroom count in a covered project is not permitted; and

(f) Should the City Council decide that a payment in lieu is acceptable in exchange for not providing the inclusionary units on or off of the site, the payment shall be $100,000, adjusted annually in accordance with the CPI, commencing January 1, 2007, per the number of units required in (a) above**.**

Sec. 9.1.14 General Requirements for Inclusionary Units

All covered projects must comply with the requirements set forth below.

(a) In order to assure an adequate distribution of inclusionary units by household size, the bedroom mix of inclusionary units in any project shall be in the same ratio as the bedroom mix of the non-inclusionary units of the project;

(b) Inclusionary units may differ from the market units in a covered project with regard to interior amenities and gross floor area, provided that:

1. These differences, excluding differences related to size differentials, are not apparent in the general exterior appearance of the project's units; and
2. These differences do not include insulation, windows, heating systems, and other improvements related to the energy efficiency of the project's units; and

(c) The gross floor area of the inclusionary units is not less than the following minimum requirements, unless waived by the DRB using the following criteria:

1. All of the units being provided with a specific bedroom count are smaller than the standards outlined below;

2. More than the required number of inclusionary units are provided on site, not all shall be subject to bedroom mix and size requirement; or,
3. The units have an efficient floor plan (meaning that less than 5% of the square footage is devoted to circulation) and the bedroom size(s) is a minimum of 144sf or 12'x12'.

One bedroom	750	square feet
Two bedroom.....	1,000	square feet
Three bedroom.....	1,100	square feet
Four bedroom	1,250	square feet

(d) Upon demonstration of inability to sell units to income eligible residents earning 75% of the median income, the Manager of the HTF may extend income eligibility to allow priority in the sale of inclusionary units to households earning as much as eighty percent (80%) of median income, adjusted for household size and to households residing in Burlington at the time that these units are offered for sale or lease;

(e) Except for household income limitations as set forth herein, occupancy of any inclusionary unit shall not be limited by any conditions that are not otherwise applicable to all units within the covered project unless required under federal law, e.g. local use of the Low Income Housing Tax Credit, or in conflict with the stricter bylaws of the designated housing agency ~~(see Sec 9.1.15(e))~~; and

Comment [DEW2]: incorrect and nothing else applicable

(f) The final calculations for the number of inclusionary units shall be determined by the Manager prior to the issuance of the zoning permit. If there is any change in the project due to sales prices for these units that increases the number of inclusionary units required, such modifications shall be determined by the Manager and communicated to the administrative officer prior to the issuance of a certificate of occupancy for the covered project. The rental or sales price of the inclusionary units shall also be determined by the Manager prior to the issuance of a certificate of occupancy.

Sec. 9.1.15 Marketing of Inclusionary Units

Any applicant developing a covered project shall adhere to the following provisions with respect to the initial offering of inclusionary units for sale or rental:

(a) Trust Fund Notification.

The developer shall notify the Manager of the HTF, as defined in Section 18-400 of the Burlington Code of Ordinances, of the prospective availability of any inclusionary units at the time that the building permit is issued for such units in a covered project;

(b) Trust Fund Option.

The Manager of the HTF, in consultation with the other members of the HTF Administrative Committee, shall then have an exclusive option for one hundred

twenty (120) days to purchase each inclusionary unit offered for sale from the developer unless waived or assigned;

(c) Trust Fund Waiver.

If the Manager of the HTF, in consultation with the other members of the HTF Administrative Committee or its designee, fails to exercise its option by failing to negotiate and sign a purchase and sale agreement for the inclusionary units, or if the Manager declares its intent not to exercise its option, the developer shall offer the units for purchase to households earning less than the median income referenced in Section 9.1.~~12~~11. If requested by the developer, the Manager of the HTF shall execute documents that may be recorded in the Burlington Land Records to evidence said waiver of the option;

(d) Time of Closing.

Closing on inclusionary units purchased by the Housing Trust Fund Manager shall occur on or after the time of issuance of the certificate of occupancy. If the Housing Trust Fund Manager fails to close on these inclusionary units, the developer shall offer the unit for purchase or rent to households earning less than the median income referenced in Section 9.1.~~12~~11, adjusted for household size;

(e) Transfer of Option.

On or before a purchase and sale agreement is executed between the developer and the manager, the Manager may assign the options specified in this section to any "designated housing agency," as defined by the provisions of Article 5 of Chapter 18 of the Burlington Code of Ordinances, in which event it shall notify the developer of such assignment and the agency to which it has assigned the option, which agency shall deal directly with the developer, and shall have all of the authority of the Manager, as provided under this section.

(f) Rentals.

In the case that the inclusionary units are being offered for rent rather than for sale, the Manager shall also be notified in the manner prescribed by subsection (a) regarding Trust Fund Notification, and the Manager and developer shall cooperate in order to rent such units to individuals meeting the income guidelines of Sec 9.1.~~12~~11(a).

Sec. 9.1.16 Continued Affordability Requirements

All covered projects shall comply with the following provisions to ensure continued affordability of inclusionary units provided under this article and units required to be continually affordable under Section 9.1.~~9~~16.

(a) 99-Year Requirement.

All inclusionary units shall remain affordable for a period of no less than ninety-nine (99) years commencing from the date of initial occupancy of the units. Where a developer can establish that regulatory or other considerations make it impossible to provide the required inclusionary units if subject to the full extent of

this requirement, the development review board may modify the duration of the period of continued affordability only to the extent necessary to render the development feasible;

(b) Deed Restrictions.

Provisions to ensure continued affordability of inclusionary units shall be embodied in legally binding agreements and/or deed restrictions satisfactory to the City Attorney's Office, which shall be prepared by the developer, but which shall not be recorded or filed until reviewed and approved by the Housing Trust Fund Manager with such modifications as it may deem necessary to carry out the purpose of this article. Such review and approval shall be completed within forty-five (45) days following date of submission of such documents to the Manager of the HTF. Failure of the Manager to respond within the forty-five (45) day period as set forth herein shall constitute approval of the documents;

(c) Resale Restrictions.

Provisions to ensure continued affordability of inclusionary units offered for sale shall include a formula for limiting equity appreciation to an amount not to exceed twenty-five percent (25%) of the increase in the inclusionary unit's value, as determined by the difference between fair market appraisal at the time of purchase of the property and a fair market appraisal at the time of resale, with such adjustments for improvements made by the seller and necessary costs of sale as may be approved by the Manager, with a recommendation from the Administrative Committee of the HTF;

(d) Rent Increases

Provisions for continued affordability of inclusionary rental units shall limit annual rent increases to the percentage increase in the median household income within the Burlington Metropolitan Statistical Area (MSA), except to the extent that further increases are made necessary by hardship or other unusual conditions, and shall provide that no rent increase may take effect until it has received the approval of the Housing Trust Fund Administrative Committee in writing;

(e) Purchase Option

Provisions for continued affordability of inclusionary units shall provide that the Housing Trust Fund Administrative Committee or its designee shall have an exclusive option to purchase any inclusionary unit when it is offered for resale for a period of one hundred twenty (120) days from the date on which the HTF Administrative Committee is notified of the availability of the unit; and

(f) Sublet Restrictions.

Provisions for continued affordability of inclusionary units shall prohibit subletting rental units for a price exceeding that which is affordable for a household with an annual income that is seventy-five percent (75%) of median for the County or the City, whichever is less, consistent with the relationship between unit size and household size set forth in Section 9.1.~~12~~11.

Sec. 9.1.17 Review of Proposal for Phasing

Proposals for projects to be constructed in phases shall be reviewed as a component of the initial project review and shall be included in any conditions of approval. A schedule setting forth the phasing of the total number of units in a covered project, along with a schedule setting forth the phasing of the required inclusionary unit(s), shall be presented for review and approval as part of the permitting process, for any development subject to the provisions of this article. If phasing is not included as part of the review process, no phasing of the inclusionary units shall be allowed.

If a covered project is approved to be constructed in phases, the requirements of the following section shall be applicable to each such phase.

Sec. 9.1.18 Timeline for Availability/Phasing of Inclusionary Units for Issuance of Certificate of Occupancy

Inclusionary units shall be made available for occupancy on approximately the same schedule as a covered project's market units, except that certificates of occupancy for the last ten percent (10%) of the market units shall be withheld until certificates of occupancy have been issued for all of the inclusionary units; except that with respect to covered projects to be constructed in phases, certificates of occupancy may be issued on a phased basis consistent with the conditions of approval set forth in Sec. 9.1.17.

Sec. 9.1.19 Enforcement

Violations of this article shall be punishable as provided by Article 2 of this Ordinance.

Sec. 9.1.20 Administration

The Housing Trust Fund and its Manager shall monitor activity under this article and shall provide a report no less than every year to the city council, setting forth its findings, conclusions, and recommendations for changes that will render the program more effective. The report described above shall be presented to the city council at a legally warned public hearing.

Appendix A-Use Table – PROPOSED: ZA-17-04 – NAC - Cambrian Rise

	Residential			Neighborhood Mixed Use			
USES	**RL/W**	**RM/W**	**RH**	**NMU**	**NAC**	**NAC-RC**	**NAC-CR**
RESIDENTIAL USES	**RL/W**	**RM/W**	**RH**	**NMU**	**NAC**	**NAC-RC**	**NAC-CR**
Single Detached Dwelling	Y	Y	N	N	N	N	N
Accessory Dwelling Unit *(See Art.5, Sec.5.4.5)*	Y	Y	N	N	N	N	N
Attached Dwellings - Duplex	CU [2]	Y	Y	Y [3]	N	Y	N
Attached Dwellings - Multi-Family (3 or more)	N	Y	Y	Y	Y	Y	Y
Attached Dwelling(s) – Mixed-Use[26]	CU	CU	CU	Y	Y	Y	Y
RESIDENTIAL SPECIAL USES	**RL/W**	**RM/W**	**RH**	**NMU**	**NAC**	**NAC-RC**	**NAC-CR**
Assisted Living	CU	Y	Y	Y	Y	Y	Y
Bed and Breakfast[4, 6]	CU	CU	CU	Y	Y	Y	N
Boarding House [6] (4 persons or less)	CU	Y	Y	Y	Y	Y	N
Boarding House [6] (5 persons or more)	CU	CU	CU	CU	CU	CU	N
Community House (*See Sec.5.4.4*)	CU	CU	CU	CU	CU	CU	CU
Convalescent /Nursing Home	CU	Y	Y	Y	Y	Y	Y
Dormitory[5]	N	N	N	N[25]	CU	CU	N
Group Home	Y	Y	Y	Y	Y	Y	Y
Historic Inn (*See Sec.5.4.2*)	CU	CU	CU	CU	Y	Y	Y
Mobile Home Park	CU	CU	N	N	N	N	N
Sorority/Fraternity[5]	N	N	N	N	N	N	N
NON-RESIDENTIAL USES	**RL/W**	**RM/W**	**RH**	**NMU**	**NAC**	**NAC-RC**	**NAC-CR**
Adult Day Care	N	N	N	Y	Y	Y	Y
Agricultural Use[20]	N	N	N	N	N	N	N
Amusement Arcade	N	N	N	N	CU	CU	CU
Animal Boarding/Kennel/Shelter	N	N	N	N	CU	CU	CU
Animal Grooming	N	N	N	Y	Y	Y	Y
Animal Hospitals/Veterinarian Office	N	N	N	CU	CU	CU	CU
Appliance Sales/Service	N	N	N	Y[24]	Y	Y	Y[24]
Aquarium	N	N	N	N	N	N	N
Art Gallery/Studio	N	N	CU[8, 13]	Y	Y	Y	Y
Auction House	N	N	N	N	Y	Y	N
Automobile Body Shop	N	N	N	N	N	Y	N
Automobile & Marine Parts Sales	N	N	N	CU	Y	Y	Y
Automobile/Vehicle Repair	N	N	N	CU[9, 12, 14]	CU[9, 12, 14]	CU[14]	N
Automobile Sales – New & Used	N	N	N	N	Y	Y	N
Bakery - Retail	N[22]	N[22]	CU [8, 13]	Y	Y	Y	Y
Bakery - Wholesale	N	N	N	N	Y	Y	N
Bank, Credit Union	N[22]	N[22]	N[22]	Y	Y	Y	Y
Bar, Tavern	N	N	N	CU	CU	CU	CU
Beauty/ Barber Shop	N[22]	N[22]	CU [8, 13]	Y	Y	CU	Y
Bicycle Sales/Repair	N	N	N	Y	Y	Y	Y
Billiard Parlor	N	N	N	CU	Y	CU	Y
Boat Repair/Service	N	N	N	N	CU	CU	N
Boat Sales/Rentals	N	N	N	N	Y	Y	N
Boat Storage	N	N	N	N	CU	CU	N
Bowling Alley	N	N	N	CU	Y	Y	Y
Building Material Sales	N	N	N	N	Y[10]	Y	N
Café	N[22]	N[22]	CU [8, 13]	Y	Y	Y	Y
Camp Ground	N	N	N	N	N	N	N
Car Wash	N	N	N	N	CU	Y	CU
Cemetery	N	N	N	N	N	N	N
Cinema	N	N	CU [8]	CU[14]	Y	N	Y[14]
Club, Membership	N	Y	Y	CU	CU	N	CU
Community Center	CU[13]	CU[13]	Y[13]	Y	Y	Y	Y
Community Garden	Y	Y	Y	Y	Y	Y	Y
Conference Center	N	N	N	N	N	N	N
Composting	N	N	N	N	N	N	N
Contractor Yard	N	N	N	N	N	Y [10]	N
Convenience Store (*See Sec.5.4.3*)	N	N	CU[8, 12]	Y[12]	Y	Y	Y[12]
Convention Center	N	N	N	N	N	N	N

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Appendix A-Use Table – PROPOSED: ZA-17-04 – NAC - Cambrian Rise

	Residential			Neighborhood Mixed Use			
USES	**RL/W**	**RM/W**	**RH**	**NMU**	**NAC**	**NAC-RC**	**NAC-CR**
Courthouse	N	N	CU	N	N	N	N
Crematory	N	N	N	N	N	CU	N
Crisis Counseling Center	CU	CU	CU	Y	Y	Y	Y
Daycare - Large (Over 20 children)	CU[13]	CU[13]	CU[13]	Y	Y	Y	Y
Daycare - Small (7-20 children) (*See Sec.5.4.1*)	CU[13]	CU[13]	CU[13]	Y	Y	Y	Y
Daycare - Home (6 children or less)	Y	Y	Y	Y	Y	Y	Y
Dental Lab	N	N	N	Y	Y	Y	Y
Distribution Center	N	N	N	N	N	CU	N
Dry Cleaning Plant	N	N	N	N	N	CU	N
Dry Cleaning Service	N[22]	N[22]	N[22]	Y[24]	Y	Y	Y[24]
Film Studio	N	N	N	N	CU	Y	CU
Fire Station	CU	CU	CU	Y	Y	Y	Y
Food Processing	N	N	N	CU	CU	CU	CU
Fuel Service Station[9]	N	N	N	CU[11]	Y[11]	Y	N
Funeral Home	CU[7]	CU[7]	CU[7, 8]	CU	Y	Y	N
Garden Supply Store	N	N	N	CU[24]	Y	Y	N
General Merchandise/Retail – Small <4,000sqft	N[22]	N[22]	N[22]	Y	Y	Y	Y
General Merchandise/Retail – Large ≥4,000sqft	N	N	N	N	CU[18]	CU	CU
Grocery Store – Small ≤10,000sqft	N	N	CU[8]	Y	Y	Y	Y
Grocery Store – Large >10,000sqft	N	N	N	N	Y	Y	N
Hazardous Waste Collection/Disposal	N	N	N	N	N	N	N
Health Club	N	N	CU[8]	CU	Y	Y	Y
Health Studio	N[22]	N[22]	CU[8]	Y	Y	Y	Y
Hospitals	N	N	CU	N	N	N	N
Hostel	N	N	CU	Y	Y	Y	Y
Hotel, Motel	N	N	N	N	Y	N	Y
Laundromat	N[22]	N[22]	CU[8, 13]	Y[13]	Y	Y	Y
Library	CU	CU	Y	Y	Y	Y	Y
Lumber Yard	N	N	N	N	CU[10]	Y	N
Machine/Woodworking Shop	N	N	N	CU	CU	CU	N
Manufacturing	N	N	N	N	N	CU	N
Manufacturing - Tour Oriented	N	N	N	N	N	CU	N
Marina	N	N	N	N	N	N	N
Medical Lab	N	N	N	CU	Y	Y	N
Mental Health Crisis Center	N	CU (*See §5.4.11*)	N	N	N	N	N
Micro-Brewery/Winery	N	N	N	CU	Y	Y	N
Museum–Small < 10,000 sqft	CU[13]	CU[13]	CU[8,13]	Y	Y	Y	Y
Museum-Large >10,000 sqft	N	N	N	N	CU	CU	N
Office - General	N	N	N	Y	Y	Y	Y
Office - Medical, Dental	N[22]	N[22]	N[22]	Y	Y	Y	Y
Open Air Markets	CU	CU	CU	Y	Y	Y	Y
Operations Center – Taxi/Bus[9]	N	N	N	N	N	CU[11]	N
Operations Center - Trucking[9]	N	N	N	N	N	Y[11]	N
Park	Y	Y	Y	Y	Y	Y	Y
Parking Garage[9]	N	N	CU	CU	Y	N	CU
Parking Lot[9]	N	N	N	N	CU	N	N
Performing Arts Center	N	N	N	CU	Y	N	CU
Performing Arts Studio	N	N	CU[13]	CU	CU	CU	Y
Pet Store[10]	N	N	N	CU	Y	Y	Y
Pharmacy	N[22]	N[22]	N[22]	Y	Y	Y	Y
Photo Studio	N[22]	N[22]	N	Y	Y	Y	Y
Photography Lab	N	N	N	CU	Y	Y	Y
Police Station - Central	N	N	N	Y	Y	Y	N
Police Station - Local	CU	CU	CU	Y	Y	Y	Y
Post Office – Central Distribution Center	N	N	N	N	Y	Y	N
Post Office - Local	N[22]	N[22]	N[22]	Y	Y	Y	Y

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Appendix A-Use Table – PROPOSED: ZA-17-04 – NAC - Cambrian Rise

	Residential			Neighborhood Mixed Use			
USES	**RL/W**	**RM/W**	**RH**	**NMU**	**NAC**	**NAC-RC**	**NAC-CR**
Printing Plant	N	N	N	N	N	CU	N
Printing Shop	N[22]	N[22]	N	CU	Y	Y	Y
Public Transit Terminal	N	N	N	N	CU	CU	N
Public Works Yard/Garage[9]	N	N	N	N	CU[11]	Y[11]	N
Radio & TV Studio	N	N	N	N	Y	Y	Y
Rail Equip. Storage & Repair	N	N	N	N	N	N	N
Recording Studio	N	N	CU[8]	CU	CU	Y	Y
Recreational Facility - Indoor	N	CU	CU	N	Y	CU	N
Recreational Facility - Outdoor Commercial	N	N	N	N	N	CU	N
Recreational Facility - Outdoor	N	N	N	N	Y	Y	CU
Recreational Vehicle Sales – New and Used	N	N	N	N	CU	CU	N
Recycling Center – Large[10] (above 2,000 sf)	N	N	N	N	N	N	N
Recycling Center - Small[10] (2,000 sf or less)	N	N	N	CU	CU	CU	CU
Research Lab	N	N	N	N	CU	CU	N
Restaurant	N[22]	N[22]	CU[8, 13]	Y[13]	Y	Y	Y[13]
Restaurant – Take Out	N[22]	N[22]	N	Y[13]	Y	Y	Y[13]
Salon/Spa	N[22]	N[22]	N	Y	Y	Y	Y
School - Post-Secondary &Community College	N	CU	CU	CU	CU	CU	CU
School - Primary	CU	CU	CU	CU	CU	CU	CU
School - Secondary	CU	CU	CU	CU	CU	CU	CU
School, -Trade, or Professional	N	N	N	CU	N	N	CU
Solid Waste Facility - Incinerator, Landfill, Transfer Station	N	N	N	N	N	N	N
Tailor Shop	N[22]	N[22]	CU[8]	Y	Y	Y	Y
Warehouse	N	N	N	N	N	Y[15]	N
Warehouse, Retail[9]	N	N	N	N	CU[15]	CU[15]	N
Warehouse, Self-Storage[9]	N	N	N	N	N	Y[15]	N
Wholesale Sales[9]	N	N	N	N	N	Y[15]	N
Worship, Place of	CU	CU	Y	Y	CU	CU	CU

1. Residential uses are not permitted except only as an accessory use to an agricultural use.
2. Duplexes may be constructed, or a single unit may be converted into a duplex, on lots existing as of January 1, 2007 and which meet the minimum lot size of 10,000 square feet.
3. Duplexes shall only be allowed as a result of a conversion of an existing single family home. New duplexes are prohibited.
4. No more than 5 rooms permitted to be let in any district where bed and breakfast is a conditional use. No more than 3 rooms permitted to be let in the RL district.
5. An existing fraternity, sorority, or other institutional use may be converted to dormitory use subject to conditional use approval by the DRB.
6. Must be owner-occupied.
7. Must be located on a major street.
8. Small daycares in the RCO zones shall be conditional use and shall only be allowed as part of small museums and shall constitute less than 50% of the gross floor area of the museum.
9. Automobile sales not permitted other than as a separate principal use subject to obtaining a separate zoning permit.
10. Exterior storage and display not permitted.
11. All repairs must be contained within an enclosed structure.
12. No fuel pumps shall be allowed other than as a separate principal use subject to obtaining a separate zoning permit.
13. Permitted hours of operation 5:30 a.m. to 11:00 p.m.
14. Such uses not to exceed ten thousand (10,000) square feet per establishment.
15. Excludes storage of uncured hides, explosives, and oil and gas products.
16. See Sec.4.4.1(d) 2 for more explicit language regarding permitted and conditional uses in the Downtown Waterfront – Public Trust District.
17. Allowed only as an accessory use.
18. A permitted use in the Shelburne Rd Plaza and Ethan Allen Shopping Center.
19. Cafes not permitted as an accessory use. Retail sales and tasting are permitted as an accessory use.
20. Accepted agricultural and silvicultural practices, including the construction of farm structures, as those practices are defined by the secretary of agriculture, food and markets or the commissioner of forests, parks and recreation, respectively, under 10 VSA §1021(f) and 1259(f) and 6 VSA §4810 are exempt from regulation under local zoning.
21. See Sec. 4.4.7 (c) for specific allowances and restrictions regarding uses in the Urban Reserve District.
22. See Sec. 4.4.5 (d) 6 for specific allowances and restrictions regarding Neighborhood Commercial Uses in Residential districts.
23. Allowed only on properties with frontage on Pine Street.
24. Such uses shall not exceed 4,000 square feet in size.
25. Dormitories are only allowed on properties contiguous to a school existing as of January 1, 2010.
26. The mixed uses shall be limited to those that are either permitted, conditional, or pre-existing nonconforming in the zoning district.
27. Performing arts centers in the ELM zone shall be limited to a total of 5,000 square feet in size and to properties with frontage on Pine Street. Performing arts centers may contain accessory space for preparation and serving food and beverages, including alcohol, provided this accessory space comprises less than 50% of the entire establishment.
28. Grocery Stores up to but not to exceed 30,000 square feet may be permitted subject to conditional use approval by the DRB in that portion of the Enterprise-Light Manufacturing District between Flynn and Home Avenue.

Legend:	
Y	Permitted Use in this district
CU	Conditional Use in this district
N	Use not permitted in this district
Abbreviation	**Zoning District**
RCO – A	RCO - Agriculture
RCO – RG	RCO – Recreation/Greenspace
RCO – C	RCO - Conservation
I	Institutional
RL/W	Residential Low Density, Waterfront Residential Low Density
RM/W	Residential Medium Density, Waterfront Residential Medium Density
RH	Residential High Density
D	Downtown
DW	Downtown Waterfront
DT	Downtown Transition
BST	Battery Street Transition
NMU	Neighborhood Mixed Use
NAC	Neighborhood Activity Center
NAC-RC	NAC – Riverside Corridor
NAC-CR	NAC – Cambrian Rise
E-AE	Enterprise – Agricultural Processing and Energy
E-LM	Enterprise – Light Manufacturing

DRAFT

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A Montroll, Chair
Bruce Baker, Vice-Chair
Yves Bradley
Emily Lee
Harris Roen
Jennifer Wallace-Brodeur
Vacant
vacant, Youth Member

Burlington Planning Commission
Meeting Minutes
Tuesday, August 23, 2016 - 6:30-8:30 P.M.

Conference Room 12, City Hall

Present: B Baker, Y Bradley, A Friend, E Lee, A Montroll, J Wallace-Brodeur, H Roen
Absent:
Staff: M Tuttle, D White

I. Agenda

A Montroll: Welcome to A Friend, new Commissioner. Have a seat on Ordinance Committee waiting for you.

No changes

II. Public Forum

C Reid, Cathedral Square Corporation: Desperately need more affordable and senior housing. Time is of essence, need the housing, encourage Commission's support of Cambrian Rise.

III. Report of the Chair

A Montroll: Won't be major changes in Commission's direction moving in. Still have big projects ahead. FBC has been set aside during mall work, will need to pick up. May need to incorporate some elements from BTC discussions into FBC draft. Keep 8pm as our goal end time for meetings, but be flexible if in the middle of a discussion; keep 8:30pm as drop-dead end time.

IV. Report of the Director

D White: Department in the middle of every major project in the Cit. Executive Committee will discuss upcoming schedule tomorrow. BTC has demanded a lot of time this summer, will continue to do so in fall.

V. Proposed ZA-17-01: Off-Site Parking

D White: Reports required by statute to accompany warning for zoning amendment public hearing. Consider any comments by Commissioners.

H Roen: Change typo in spelling of "policies."

A Friend: What does the parking waivers for mixed-use districts refer to?

D White: City is split into parking districts for neighborhood, shared parking, and downtown.

The Commission unanimously approved a motion by Y Bradley, seconded by J Wallace-Brodeur, to approve the report, with H Roen's correction, and warn the amendment for public hearing.

VI. Proposed ZA-17-02: Family Daycare Exemptions & Preschools

D White: This report has the same typo as ZA-17-01; will correct.

The Commission unanimously approved a motion by Y Bradley, seconded by H Roen, to approve the report, with correction, and warn the amendment for public hearing.

VII. Proposed ZA-17-03: Withhold Permit

D White: This report has the same typo as ZA-17-01; will correct.

J Wallace-Brodeur: This amendment starts with permitting process, zoning to test this? Maybe extend further in the future?

D White: Need to work with City Attorney's Office regarding any other legal uses of this "clean hands" amendment.

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

VIII. Proposed CDO Amendment: Neighborhood Activity Center-Cambrian Rise

Y Bradley: Recuse due to position as Board Chair for Burlington College.

D White: Few years ago, public planning process undertaken, led by BPRW with Burlington College and Eric Farrell, to look at a conceptual land plan for how this site could be developed, preserved and reused. Site is about 33 acres, three parcels, including land between cemetery, lake, rail tunnel and North Avenue; includes Texaco Beach. Process said we want to protect the beach and existing trail from North Ave to Bike Path, preserve orphanage, and build housing on the site, especially affordable. Several slope ridges bisect the site, which is currently zoned WR-M; surrounded by RCO-RG, Urban Reserve, and R-L. The WR-M allows buildings above 35' on portion of property closest to lake. Questions from process: does it make sense to put those buildings closest to the lake, and for the area to be exclusively residential? North and south of site are significant areas of public outdoor space; the property is the missing link. Protecting the lakeshore is highest priority use for R-CO district and the Conservation Fund. Planning process led to preservation of 12 acres of the property as becoming publicly-owned open space, and concentrating mixed-use development closer to orphanage and North Avenue. Brought City to Development Agreement with Eric Farrell, VT Land Trust, CHT and Cathedral to affect this plan, including a zoning amendment. Proposed amendment does two major things: creates the district and permits neighborhood-oriented, non-residential uses; and enables the taller buildings, which are already permitted, closer to North Ave rather than out in the open space. Does not allow greater lot coverage, taller buildings, or greater density than currently permitted for the site under W-RM, or reduce the IZ requirements. Subject to 25% inclusionary requirement due to number of units.

H Roen: Where is language that allows buildings closer to the Avenue?

D White: It is implied by defining area where development can take place in the new district. Replaces old zoning that only allows taller buildings down the hill.

D White: Describes each section of the ordinance. Establishes new district, NAC-Cambrian Rise. Adds language in the discussion of Neighborhood Mixed Use Districts to highlight the more residential nature of NAC-CR. Adds a purpose statement for the district. Modifies Table 4.4.2-1 to include dimensional requirements for the new NAC-CR. Includes a change to raise minimum height in all NAC's from 20' to 22' and clarifies 2 stories. 72% lot coverage for NAC-CR is same as permitted lot coverage per Inclusionary Zoning ordinance.

A Montroll: Is 80' the maximum building height in W-RM?

E Farrell: Height set for buildings that are 60' on highest part of slope, but taller in backs to accommodate parking under buildings on the slopes. Significant grade change allows 2/3 of the parking to be under buildings; provides flexibility to allow this to happen.

D White: This does raise the height, but not when viewed from North Avenue.

E Farrell: Current zoning does not allow buildings any taller than the mid-point of roof on Orphanage. This provision sets a max height and accounts for variation on buildings that run perpendicular to slopes on site.

D White: Setbacks only applicable to perimeter of the district, not to individual parcels within it similar to PUD. Setbacks on North Avenue more generous, reflecting setback of the Orphanage. Allows maximum height and density without utilizing bonuses. Permits residential uses on the ground floor within the NAC-CR district, due to more residential character of the district. There is a list of map changes that will need to be incorporated to create this district. Last two elements link to Article 8, so that it falls within a shared use parking district, and to Article 9, to be included in chart of districts that require 25% inclusionary units.

E Farrell: Timing critical; CHT and Cathedral Square have secured development financing, which could be at risk if not moved expeditiously. Not looking for any exceptions to DAB/DRB process; have been through sketch plan, but can't file an application until Council warns this amendment. Current zoning would allow 840 units, but development agreement has limited to 770.

M Monte: The plans for waterfront access north created by the community 15 years ago is essentially what this zoning amendment allows. Worked with partners to see what could actually work. This changes the site's potential from a private waterfront development such as Appletree Point, to one that allows taller buildings closer to Avenue and preservation of land closer to lake—provides many community benefits. Partners have already assembled the financing, could start in the spring with the inclusionary and senior housing units. Will be most mixed-income neighborhood in the City, with combination of rentals and home-ownership.

J Wallace-Brodeur: Excited and conceptually supportive. 12 acres of open space is a huge benefit for the City. Question about how project orients toward and integrates with North Avenue? Is street activation oriented toward the Avenue or the interior streets?

D White: North Avenue is its front door, but does have it's own internal street network. Buildings within the site are oriented toward its internal streets.

J Wallace-Brodeur: Need it to be less of an island, North Ave is a significant arterial that should be activated, bring people in, and not have its back to North Avenue. Opportunity to be more specific in dimensional standards about relationship to North Avenue?

A Montroll: Underlying goals for zoning in neighborhoods is to match what is there and not detract from it. There isn't really a neighborhood on this site, so we have an opportunity to do something different. JWB point is a good one, though; buildings need to front on the Avenue rather than back onto.

E Farrell: Hope to attract neighborhood-supporting commercial uses and have a fully accessible bike connection down to the bike path to activate and enliven this section of the Avenue.

D White: Best place to articulate JWB point is in the purpose statement regarding orientation toward North Avenue.

B Baker: Buildings on North Avenue should be oriented toward North Avenue; separate issue is that there should also be features that invite people into the site.

C Reid: Architect has worked really hard to make the Cathedral Square building activate all sides of the building, including North Avenue.

A Friend: Has traffic flow been discussed and is this the right venue?

D White: Project application will include a traffic analysis, which the DRB will review.

H Roen: Mixed feelings. No problem with buildings closer to North Ave, but development permitted to extend further down the property than would like to see. It is the kind of project envisioned when the Conservation Fund was created, but don't feel like City got our bang for the buck.

A Montroll: In terms of the zoning amendment, anything H Roen would like to change, or just don't like the project?

H Roen: Problem is that the zoning change is allowing this project to go forward.

E Lee: What would you liked to have seen achieved?

H Roen: More open space and less development. Personal objections go way back; prefer this property never having been sold for development in the first place.

E Farrell: Current zoning allows lot coverage of 72%, developed area is at 58% coverage, whole site is in the 30% range. Not an overly developed area.

O Makuku: Biggest change is allowing commercial uses, everything else is the same but shifted on site. Municipal Development plan identifies this area as a future Neighborhood Activity Center.

B Baker: Development is about tradeoffs. What the city gets is 12 acres of preserved land, Texaco Beach being connected, and 170 units of affordable housing. Nothing is ever perfect, but what we're getting is great benefit.

A Montroll: Concentrating development and allowing for mixed-use is a tradeoff and has been part of our long-term vision. Understand where the 80' came from, but don't think it will achieve intent as written; current writing could allow buildings 80' at North Avenue, 100' buildings on the back. Need to clarify where it is measured from.

M Monte: Sounds like the desired is 60' measured from street frontages.

D White: Can currently build to the height of the tallest structure on the lot, which is the Orphanage today.

A Montroll: Need to require building heights tapering down the slope, rather than having a constant roofline. Beyond these things, a great zoning change.

D White: Provision that encourages the buildings to step down the slope. Key is what is the experience of the height along the street, not in the backs of the buildings.

A Montroll: Refine the draft and bring to next meeting.

D White: Will prepare a next draft and statutory report for the September 13 meeting.

Y Bradley: Have pushed these folks off all summer long, would humbly suggest that the Commission hold a special meeting to move this forward.

E Lee: Could we just have the draft statutory report when we originally see an amendment? We could have a special meeting to warn the hearing. Understand how onerous the summer has been, but willing to meet to move this ahead.

J Wallace-Brodeur: Should have a special meeting to warn a public hearing, but have the public hearing at a regularly scheduled meeting.

The commission unanimously approved a motion by E Lee, seconded by J Wallace-Brodeur, to hold a special meeting at 4pm on August 25, 2016 to approve the report and warn the amendment for public hearing at the September 13 regular meeting.

IX. Minutes & Communications

The Commission unanimously approved a motion by J Wallace-Brodeur, seconded by H Roen, to approve the minutes of the August 9, 2016 meeting as written.

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X. Adjourn

The Commission unanimously approved a motion by E Lee, seconded by A Friend, to adjourn the meeting at 8:03pm.

_____

A Montroll, Chair Date

_____

Elsie Tillotson, Recording Secretary

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

Burlington Planning Commission
Special Meeting Minutes
Thursday, August 25, 2016 - 4:00 P.M.

Contois Auditorium, City Hall

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

I. Agenda

No changes

II. Public Forum

No comments

III. Proposed CDO Amendment: Neighborhood Activity Center-Cambrian Rise

At the unanimous request of the Commission at their 8/23 meeting, this special meeting was scheduled to take action to warn a public hearing for the proposed amendment in time for a public hearing to be held at the 9/13 regular meeting.

D. White noted a change to the intent of the district to reflect the Commission's discussion regarding orientation to North Avenue and internal streets.

The Commission unanimously approved a motion by E. Lee, seconded by A. Friend, to approve the report, and warn the amendment for public hearing.

IV. Adjourn

The Commission unanimously approved a motion by E Lee, seconded by A Friend, to adjourn the meeting at 4:10 pm.

_____

A Montroll, Chair Date

_____

Elsie Tillotson, Recording Secretary

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RECEIVED
SEP 02 2016
DEPARTMENT OF
PLANNING & ZONING

To Burlington Planning Commission September 2, 2016
David E. White AICP
Megan E. Tuttle AICP

It is with some surprise and discuss that I'm writing this letter to request a change in zoning from R/L to NMU (Neighborhood Mixed Use). Looking at the city zoning map It appears My property at the corner of North St., Elmwood Ave. and Intervale Ave. That would be 168 to 172 Elmwood Ave. and 1,3,5 Intervale Ave. is on the very edge of Neighborhood Mixed Use Zoned Area.

At present I am informed that the only business allowed in there is another furniture store and No other. The last furniture store could not compete with Costco, WalMart, every CVS, Walgreens and Big Lots ETC. ECT. So would it make any sense to try to sell this property to another furniture store, not in my opinion. The property has five apartments which I was told, by a planning person, no more could be put in but, I could expand the one bedrooms and add more rooms, that made no sense to me.

My story is, I bought this property in 1980 from Michaud Meat and Grocery Market and relocated my Furniture store from Pearl St. to 1 Intervale Ave. I remodeled all five apartments and kept the rents very low. Most of my tenants have been there for over 20 plus years .

Now that I am 77 years old and my son gave up the furniture business I have been trying to sell the building. Having at least 3 good potential buyers, who approached the zoning office, be turned down because of the zoned use, 2 of them were for grocery sales.

My request is to reconsider the current use and change it to Neighborhood Mixed Use.

The present person looking to buy would like to put in a convenience store. Which is kinda what was there when I purchased it in 1980 Michaud Meat & Grocery Store. I was never made aware of any zoning changes in the years I have owned this property or I would have definitely opposed them. Could you change this property zoning at 168 to 172 Elmwood and 1,3,5, Intervale Ave. from Residential use to Neighborhood Mixes Use.

I can be reached at 1-802-373-0768, I am available anytime to discuss this with anyone

Thank You, Rodney E. Myers

Rodney E. Myers