Regular Meeting
Burlington Planning Commission
Tuesday, September 14, 2021, 6:30 P.M.
Remote Meeting via Zoom OR
In-person option available at:
Bushor Conference Room (Room 102), 1st Floor of City Hall, 149 Church St.

To Join the Meeting on a Computer
Link:  https://us02web.zoom.us/j/88412845443

To Join the Meeting on a Phone
Number:  +1 312 626 6799  Meeting ID:  884 1284 5443

AGENDA

I. Agenda

II. Chair’s Report

III. Director’s Report

IV. Public Forum

V. Proposed CDO Amendment ZA-22-01 Historic Preservation Bonus
   Staff will present a proposed amendment to the Burlington Comprehensive Development Ordinance regarding historic preservation bonuses. Information related to this item is in the agenda packet on page 4.
   Staff Recommendation: Approve the Municipal Bylaw Amendment report and warn a public hearing.

VI. Proposed CDO Amendment ZA-22-02 Permitting Simplifications
   Staff will present a proposed amendment to the Burlington Comprehensive Development Ordinance regarding opportunities for reducing permitting burden for applicants in some situations. Information related to this item is in the agenda packet on page 11.
   Staff Recommendation: Approve Municipal Bylaw Amendment report and warn a public hearing.

VII. Commissioner Items
   a. Upcoming Meetings –
      i. Tuesday, September 28, 2021 at 6:30pm

VIII. Minutes & Communications

The City of Burlington will not tolerate unlawful harassment or discrimination on the basis of political or religious affiliation, race, color, national origin, place of birth, ancestry, age, sex, sexual orientation, gender identity, marital status, veteran status, disability, HIV positive status, crime victim status or genetic information. The City is also committed to providing proper access to services, facilities, and employment opportunities. For accessibility information or alternative formats, please contact Human Resources Department at (802) 540-2505. Written comments on items may be directed to the Planning Commission at 149 Church Street, Burlington, VT 05401, or at mtuttle@burlingtonvt.gov.
a. The minutes of the July 27, 2021 meeting are enclosed in the agenda packet on page 18.
b. Communications are enclosed in the agenda packet on page 21.

IX. Adjourn
Guidance for Participating in a Virtual Planning Commission Meeting

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

General Guidance for Public Participation

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

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

How to Join a Virtual Meeting

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

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

How to Participate in a Virtual Meeting

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

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

- Email staff at mtuttle@burlingtonvt.gov by 5pm on the day before a meeting to indicate your interest in speaking. You do not need to provide your comments. Staff will enable your microphone as your name is called from a list of interested speakers.
- During a meeting, you can use the “Raise Hand” feature, or indicate in a chat message that you wish to speak during public forum. Staff will enable your microphone as your name is called.
- If you are interested in submitting your comments in writing instead of speaking during the meeting, you may do so by 5pm the day before a meeting; they will be forwarded to the Commissioners ahead of the meeting.
TO: Burlington Planning Commission
FROM: David E. White, FAICP, Dir of Planning, Office of City Planning
Scott Gustin, AICP, Principal Planner & Zoning Division Manager, DPI
DATE: September 9, 2021
RE: Proposed CDO Amendment ZA-22-01: Historic Preservation Rehabilitation Bonus

The following proposed amendment to the BCDO is a companion to an amendment approved by the Commission earlier this year (ZA-21-04 Adaptive Reuse Definition) which revised the definition of the term “adaptive reuse” to be consistent with standard historic preservation practice. ZA-21-04 currently sits before the Council Ordinance Committee where it awaits the referral of this proposed amendment and they can be joined.

Subsequent to the Council taking up the Adaptive Reuse amendment, the Planning and DPI staff noted a potential conflict with Sec. 4.4.5(d) 6. B, and recommends that the BCDO dispense with the use of the term in Sec. 4.4.5(d) 6. B - Adaptive Reuse Bonus, and instead move this language to Sec. 5.4.8 where it would be co-located with other provisions related to historic buildings and to make it applicable in the Institutional District which, outside of the institutional campuses, also has a predominantly residential character and scale.

**Proposed Amendment**

**BEGIN PROPOSED AMENDMENT**

Sec. 4.4.5 Residential Districts, (d) District Specific Regulations:

5. Uses

A. Exception for Existing Neighborhood Commercial Uses.

Neighborhood commercial uses as defined in Article 13 and intended to primarily serve the nearby residential area shall be considered permitted uses in all Residential and Institutional districts subject to the following:

(i) This exemption shall only apply to:

1) Historic neighborhood commercial buildings that are listed or eligible for listing on the state or national register and originally designed and constructed for such purpose(s); or,

2) A street level neighborhood commercial use as defined in Article 13 in lawful existence as of January 1, 2007.

(ii) Neighborhood commercial uses shall be limited to a single story on the street level of any structure.

(iii) Neighborhood commercial uses less than 2,000 sqft shall be treated as a permitted use. Neighborhood commercial uses greater than or equal to 2,000 sqft shall be treated as a...
sqft but less than 4,000 sqft shall be treated as a conditional use. Neighborhood commercial uses occupying 4,000 sqft or more shall not be permitted.

(iv) The neighborhood commercial use shall not be counted against the property’s allowable residential density.

(v) The sale of fuel for motor vehicles, or new or expanded gas station canopies, shall be prohibited.

(vi) Hours of operation shall be limited to 6:00am to 11:00pm seven days per week. Any expansion in the hours of operation of an existing neighborhood commercial use shall require review by the DRB.

(vii) All building height and setback requirements for the underlying residential district shall apply, and the lot coverage shall not exceed 60%.

(viii) Any exterior changes to the building(s) or changes to the site plan shall be subject to the design review requirements of Article 6.

(ix) To the extent that additional parking is necessary, the parking standards for Shared-Use Districts shall apply pursuant to Article 8.

(x) The conversion of a residential use to a neighborhood commercial use within a historic neighborhood commercial building more than 50 years old and originally designed and constructed for such purpose shall be exempt from the housing replacement requirements of Article 9, Part 2.

(xi) Home occupations as defined and regulated under this article are not restricted by the provisions of this section.

(xii) Any aspect of a neighborhood commercial use in lawful existence as of January 1, 2007 not in strict conformance with any of the above standards shall be considered non-conforming and be subject to the provisions of Article 5, Part 3.


The following exceptions to maximum allowable residential density and dimensional standards in Tables 4.4.5-2 and 4.4.5-3 may be approved in any combination subject to the maximum limits set forth in Table 4.4.5-8 at the discretion of the DRB. Any bonuses that are given pursuant to this ordinance now or in the future shall be regarded as an exception to the limits otherwise applicable.

A. Senior Housing Bonus.

Residential development in excess of the density, lot coverage and building height limits specified in Tables 4.4.5-2 and 4.4.5-3 may be permitted by the DRB for senior housing provided the following conditions are met:

(i) No less than twenty-five (25) per cent of the total number of units shall be reserved for low-moderate income households as defined by state or federal guidelines, including no less than ten (10) per cent reserved for low-income households. (Projects taking advantage of this bonus are exempt from the Inclusionary Zoning requirements of Article 9,
Part 1.;

(ii) The proposal shall be subject to the design review provisions of Art. 6;

(iii) A maximum of an additional 10-feet of building height may be permitted in the RH District; and,

(iv) Lot coverage and residential densities shall not exceed the following:

<table>
<thead>
<tr>
<th>District</th>
<th>Maximum Coverage</th>
<th>Maximum Density</th>
</tr>
</thead>
<tbody>
<tr>
<td>RL/RL-W</td>
<td>44%</td>
<td>20 du/ac</td>
</tr>
<tr>
<td>RM</td>
<td>48%</td>
<td>40 du/ac</td>
</tr>
<tr>
<td>RM-W</td>
<td>72%</td>
<td>40 du/ac</td>
</tr>
<tr>
<td>RH</td>
<td>92%</td>
<td>80 du/ac</td>
</tr>
</tbody>
</table>

B.

Residential Conversion Bonus.
Development in excess of the limits set forth in Tables 4.4.5-2 and 4.4.5-3 may be permitted by the DRB subject to conditional use review for the conversion of an existing non-conforming nonresidential principal use to a conforming residential use subject to all of the following conditions:

(i) Lot coverage and residential density shall not exceed:

<table>
<thead>
<tr>
<th>District</th>
<th>Maximum Lot Coverage</th>
<th>Maximum Density (dwelling unit/acre)</th>
</tr>
</thead>
<tbody>
<tr>
<td>RL, RL-W</td>
<td>50%</td>
<td>8 du/ac (8.75 with inclusionary allowance)</td>
</tr>
<tr>
<td></td>
<td>(62% with inclusionary allowance)</td>
<td></td>
</tr>
<tr>
<td>RM, RM-W</td>
<td>60%</td>
<td>30 du/ac (37.5 with inclusionary allowance)</td>
</tr>
<tr>
<td></td>
<td>(72% with inclusionary allowance)</td>
<td></td>
</tr>
<tr>
<td>RH</td>
<td>80%</td>
<td>60 du/ac (69 with inclusionary allowance)</td>
</tr>
<tr>
<td></td>
<td>(92% with inclusionary allowance)</td>
<td></td>
</tr>
</tbody>
</table>
D. Limitations on Residential Development Bonuses:
For projects where the conditions of more than one applicable bonus listed above and under Sec. 5.4.8 (e) are met, the applicant may use the most permissive exemption to the underlying lot coverage or residential densities applicable.

In no case shall any development bonuses and allowances granted, either individually or in combination, enable a building to exceed the maximum density, lot coverage and building height permitted in any district as defined below:

Table 4.4.5-8: Maximum Density, Lot Coverage and Building Heights with Bonuses

<table>
<thead>
<tr>
<th>District</th>
<th>Maximum Density</th>
<th>Maximum Height</th>
<th>Maximum Lot Coverage</th>
</tr>
</thead>
<tbody>
<tr>
<td>RH</td>
<td>80 du/ac</td>
<td>45-feet</td>
<td>92%</td>
</tr>
<tr>
<td></td>
<td>(68-ft in RH Overlay)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>RM-W</td>
<td>40 du/ac</td>
<td>60-feet</td>
<td>72%</td>
</tr>
<tr>
<td>RM</td>
<td>40 du/ac</td>
<td>35-feet</td>
<td>60%</td>
</tr>
<tr>
<td>RL, RL-W</td>
<td>20 du/ac</td>
<td>35-feet</td>
<td>50%</td>
</tr>
</tbody>
</table>

Sec. 5.3.4 Nonconforming Uses, (a) Changes and Modifications:

1. Nonconforming Non-Residential Use:
A nonconforming non-residential use shall not be expanded or altered in any way, other than to full conformity under this Ordinance, except as follows:

A. Exception for residential conversion.
A non-residential nonconforming use may be converted to a residential non-conforming use pursuant to the applicable residential conversion provisions of Sec. 4.4.5(d)(6).

B. Existing Neighborhood Commercial Uses.
Existing non-residential uses intended to primarily serve the nearby residential area shall not be considered non-conforming to the extent they comply with the provisions of Sec. 4.4.5(d)(5).

2. Nonconforming Residential Use:
A change or expansion of a non-conforming residential use may be allowed subject to conditional use approval pursuant to the provisions of Article 3, Part 5 by the DRB provided:

A. Such an expansion does not add any additional dwelling units except as may be permitted for residential conversion bonuses approved per the provisions of Sec. 4.4.5(d)(6), the Historic Building Rehabilitation Bonus under Sec. 5.4.8 (e), or for Accessory Dwelling Units per the provisions of Sec. 5.4.5;

B. (remainder as written)
Sec. 5.4.8  Historic Buildings and Sites

(e) Historic Building Rehabilitation Bonus:

In order to facilitate the rehabilitation and reuse of historic buildings, in Residential and Institutional districts, development in excess of the limits set forth in Tables 4.4.4-1, 4.4.5-2 and 4.4.5-3 may be permitted by the DRB subject to all of the following conditions:

(i) The principal building shall be listed or eligible for listing in the United States Department of the Interior’s National Register of Historic Places or the Vermont State Register of Historic Places;

(ii) The density limits of the underlying zoning district in Sec 4.4.4(b) and 4.4.5(b) shall not apply. The extent of development shall instead be limited to an expansion up to a total of 125% of pre-existing gross floor area of the principal building;

(iii) The reuse and rehabilitation conforms to the requirements of Sec. 5.4.8 (b) above;

(iv) Neighborhood commercial uses may be permitted by the DRB subject to the applicable requirements of Sec. 4.4.5(d)(5)(A) ; and,

(v) Lot coverage shall not exceed:

Table 4.4.5-6: Adaptive Reuse Bonus

<table>
<thead>
<tr>
<th>District</th>
<th>Maximum Coverage</th>
</tr>
</thead>
<tbody>
<tr>
<td>RL, RL-W, I</td>
<td>Greater of 50% (62% with inclusionary allowance), or expansion up to a total of 125% of pre-existing building coverage.</td>
</tr>
<tr>
<td>RM, RM-W</td>
<td>Greater of 60% (72% with inclusionary allowance), or expansion up to a total of 125% of pre-existing building coverage.</td>
</tr>
<tr>
<td>RH</td>
<td>Greater of 80% (92% with inclusionary allowance), or expansion up to a total of 125% of pre-existing building coverage.</td>
</tr>
</tbody>
</table>

END PROPOSED AMENDMENT

Amendment Type

<table>
<thead>
<tr>
<th>Text Amendment</th>
<th>Map Amendment</th>
<th>Text &amp; Map Amendment</th>
</tr>
</thead>
</table>

Purpose Statement

The intent of the proposed amendment is to correct a conflict in the use of terms regarding the adaptive reuse of historic buildings and applicable development
bonuses intended to encourage their reuse and rehabilitation, and expand such bonuses into the Institutional District where applicable.

**Proposed Amendment**

The following amendments to the Burlington CDO are included in this proposal:

1. Move Sec. 4.4.5(d) 6. B - Adaptive Reuse Bonus to become Sec. 5.4.8(e), rename it to "Historic Building Rehabilitation Bonus," and make it applicable in the Institutional District in addition to the Residential Districts.

2. Correct references to Sec. 5.3.4 Nonconforming Uses, (a) Changes and Modifications:

**Relationship to planBTV**

This following discussion of conformance with the goals and policies of planBTV is prepared in accordance with the provisions of 24 V.S.A. §4441(c).

<table>
<thead>
<tr>
<th>Theme</th>
<th>Dynamic</th>
<th>Distinctive</th>
<th>Inclusive</th>
<th>Connected</th>
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<tbody>
<tr>
<td>Land Use</td>
<td>Conserve</td>
<td>Sustain</td>
<td></td>
<td>Grow</td>
</tr>
</tbody>
</table>

Compatibility with Proposed Future Land Use & Density

The proposed amendment does not impact the types or density of potential land use and density.

Impact on Safe & Affordable Housing

The proposed amendment has no impact on housing safety or affordability.

Planned Community Facilities

The proposed amendment has no impact on planned community facilities.

**Process Overview**

The following chart summarizes the current stage in the zoning amendment process, and identifies any recommended actions:

**Planning Commission Process**

<table>
<thead>
<tr>
<th>Draft Amendment</th>
<th>Presentation to &amp; discussion by Commission 9/14/21</th>
<th>Approved for Public Hearing</th>
<th>Public Hearing</th>
<th>Approved &amp; forwarded to Council</th>
</tr>
</thead>
<tbody>
<tr>
<td>prepared by: Staff</td>
<td></td>
<td></td>
<td></td>
<td>Continue discussion</td>
</tr>
</tbody>
</table>

**City Council Process**
<table>
<thead>
<tr>
<th>First Read &amp; Referral to Ordinance Cmte</th>
<th>Ordinance Cmte discussion</th>
<th>Ordinance Cmte recommend as modified</th>
<th>Second Read &amp; Public Hearing</th>
<th>CCOC Recommends Approval &amp; Adoption</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>Rejected</td>
</tr>
</tbody>
</table>
TO: Planning Commission  
FROM: Scott Gustin, Principal Planner & Zoning Division Manager  
DATE: September 14 2021  
RE: Permitting Adjustments

Overview & Background
Grouped together in this amendment proposal are three changes that facilitate the zoning permit process. Each one has been identified through routine administration of the Comprehensive Development Ordinance, and each is based on applicant and staff experience with the permit process. The proposed changes are:

- Eliminate the zoning permit requirement for changes among permitted non-residential uses (only the use) where no standards apply;
- Allow basic zoning permits for single-family uses on lots in the non-design review district (removing ‘conforming’ from the text); and,
- Enable administrative review of flood hazard area zoning permits (unless otherwise trigger DRB review).

The Planning Commission Ordinance Committee discussed this amendment April 1, 2021 and unanimously recommended forwarding the amendment to the full Planning Commission for consideration.

Proposed Amendment

<table>
<thead>
<tr>
<th>Amendment Type</th>
<th>Map Amendment</th>
<th>Text &amp; Map Amendment</th>
</tr>
</thead>
</table>

Purpose Statement

The intent of the proposed amendment is to facilitate permitting and to reduce unnecessary burden on applicants.

1. Eliminate the zoning permit requirement for changes among permitted non-residential uses (only the use) where no standards apply.

   Presently, any change from one use to another use requires a zoning permit. Oftentimes, the only zoning standard that changes when going from one permitted non-residential use to another permitted non-residential use is the parking standard. With the recent elimination of minimum parking requirements, there have been a number of non-residential changes in use that have received zoning permits without any standards to meet. In such cases, arguably, there is no need to require a zoning permit. The proposed amendment defines a narrow exemption from the need for a zoning permit for changes in use between permitted non-residential uses.

2. Allow basic zoning permits for single-family uses on lots in the non-design review district (removing ‘conforming’ from the text).
The Residential – Low Density zone is not within the city’s design review overlay. That basically means that the design review standards of Article 6 do not apply within this zone, and only the dimensional standards (height, setbacks, and lot coverage) of Article 4 apply. A “basic” zoning permit is required where development is proposed and requires only site plan review. There are multiple exceptions to this rule. Only detached single family homes are eligible for “basic” permit review. Anything other than a detached single family home in the RL zone is subject to Article 6 and “certificate of appropriateness” (COA) review. Even among detached single family homes, there are exceptions. An historic home is subject to COA review, and any home on a small lot (one less than 6,000 sf or with less than 60’ of street frontage) is subject to COA review. COA review is much more extensive than “basic” permit review, it is typically more expensive, and it may include Board review. The proposed amendment removes the small lot trigger for COA review. As proposed, any detached single family home that is not historic and is in the RL zone would qualify for “basic” permit review rather than COA review.

3. Enable administrative review of flood hazard area zoning permits (unless otherwise trigger DRB review).

Within the Special Flood Hazard Area (SFHA), all development presently requires Development Review Board review and approval. This means substantially longer timeframes and greater expense for zoning permit review of things as simple as freestanding signs and tool sheds. The proposed amendment enables administrative zoning permit review of applications that otherwise qualify for administrative permit review. Other DRB review triggers such as development size, scope, and proposed use remain.

Proposed Amendments

Deleted language is crossed out and new language is underlined in red.

[Begin text amendment]

ARTICLE 3: APPLICATIONS, PERMITS, AND PROJECT REVIEWS

PART 1. GENERAL PROVISIONS AND ZONING PERMITS

Sec. 3.1.2 Zoning Permit Required

(a) Exterior Work:

As written.

(b) Interior Work:

As written.

(c) Exemptions:

The following shall be exempt from the requirements of this Ordinance and shall not be required to obtain a zoning permit:

1. Exterior modifications to a single family dwelling in a non-design review portion of the RL zoning district lawfully in existence prior to the adoption of this ordinance on a conforming lot, and not on or eligible for listing on the State or National Register of Historic Places. Such an exemption shall not be applicable to any of the following changes, which do require a zoning permit:
A. Increased lot coverage;
B. Increased habitable living space;
C. Changes in setbacks or building footprints; and
D. Construction of additional stories to an existing structure.
E. Improvements in a Special Flood Hazard Area.

2. The removal of trees from any lot containing a single family home or duplex which consists of no more than three-quarters (3/4) of one acre.

3. Within any city park within an RCO zone or Civic district, regular tree maintenance and removal not otherwise associated with land clearing for new development or site improvements, and regular turf maintenance including re-grading and reseeding.

4. Individual tree removal projects that are included under an approved and valid “tree maintenance plan”.

5. The maintenance or repair of any exterior architectural feature, or its replacement in-kind, which does not involve a change in the location, design, material, or the outward appearance of the feature;

6. Temporary ramps to serve the handicapped or disabled, for a period of not more than 90 days.

7. Public utility power generating plants and transmission facilities regulated under 30 V.S.A. §248.

8. 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. Prior to the construction of farm structures the farmer must notify the Administrative Officer in writing of the proposed activity. The notice must contain a sketch of the proposed structure including setbacks.

9. The temporary stabilization and securing of any structure, site, or building feature required to address an unsafe or dangerous condition which poses an imminent threat to public safety pursuant to a written order of the same issued under the authority of the city building inspector.

10. Where temporary stabilization is not reasonably available the emergency demolition of any structure, site, or building feature required to address an unsafe or dangerous condition which poses an imminent threat to public safety pursuant to a order of the same issued under the written authority of the city building inspector and with the written concurrence of the city engineer. This exemption does not extend beyond the required demolition, clearing of debris, securing or filling cellar holes, and related erosion control and stormwater management.

11. All structures of 24 square feet or less and no taller than 15 feet, as long as they are located in compliance with applicable setbacks. This exemption is limited to 1 such structure, or multiple structures in aggregate up to 24 square feet, per property. This exemption does not apply to properties located within the Special Flood Hazard Area.

12. Children’s play structures.

13. Seasonal skating rinks

14. Temporary Structures or Uses as per Sec. 5.1.2 (f).

15. Urban agricultural exemptions:
   a. Cold frames of 6 feet in height or less. This exemption does not apply to properties located within the Special Flood Hazard Area.
b. Up to 2 seasonal hoop houses, each 200 square feet or less, without foundations and as long as they are located in compliance with applicable setbacks. This exemption applies only to seasonal hoop houses that are sheathed in translucent plastic or similar material for a maximum of 9 months per year and are maintained in an intact condition. The frame may remain in place year-round. This exemption does not apply to properties located in the Special Flood Hazard Area.

c. Urban agricultural uses or structures located on building rooftops.

d. Sale of food produced onsite or at an individual’s community garden plot not to exceed $1,000 per year. Food may be processed within the individual’s residential kitchen.

16. Family day care homes.

17. Per Act 45: Sec. 15c. 24 V.S.A. § 4413(g), notwithstanding any provision of law to the contrary, nothing in this ordinance shall prohibit or have the effect of prohibiting the installation of solar collectors, clotheslines, or other energy devices based on renewable resources.

18. A change in use from one permitted non-residential use to another permitted non-residential use, provided that no development is included, no minimum parking requirement applies, and impact fees are not applicable. This exemption does not apply to uses affected by Article 5, Part 4: Special Use Regulations.

ARTICLE 4: ZONING MAPS AND DISTRICTS

PART 5: OVERLAY ZONING DISTRICT REGULATIONS

Sec. 4.5.4 Natural Resource Protection Overlay (NR) District

(a) – (e) As written.

(f) District Specific Regulations: Special Flood Hazard Area:

1. Additional Application Requirements

The following information shall be submitted in addition to the applicable requirements of Article 3 for any development proposed within a Special Flood Hazard Area:

A. Base flood elevation data for all subdivision proposals and other proposed new developments containing more than fifty (50) lots or covering more than five (5) acres;

B. The elevation, in relation to mean sea level, of the lowest floor, including basement, of all new construction or substantial improvements of structures;

C. Confirmation if such structures contain a basement; and

D. The elevation, in relation to mean sea level, to which any structure has been flood proofed.

E. A Vermont Agency of Natural Resources Project Review Sheet for the proposal should be filled out. The Project Review Sheet should identify all State and Federal agencies from which permit approval is required for the proposal, and shall be filed as a required attachment to the City permit application. The identified permits, or letters indicating that such permits are not required, shall be submitted to the Administrative Officer and attached to the permit application before work can begin.

In addition, the DRB shall require of the applicant may be required to provide any of the following information deemed necessary for determining the suitability of the particular site for the proposed use:

F. Plans in triplicate, drawn to scale, showing the location, dimensions, contours and elevation of the lot; the size and location on the site of existing and/or proposed
structures, fill or storage of materials; the location and elevations of streets, water supply and sanitary facilities; and the relationship of the above to the location of the channel, floodway and base flood elevation where such information is available;

G. A typical valley cross-section showing the channel of the stream, elevation of land areas adjoining each side of the channel and cross-sectional areas to be occupied by the proposed development;

H. A profile showing the slope of the bottom of the channel or flow line of the stream; and

I. Specifications for building construction and materials, flood proofing, mining, dredging, filling, grading, paving, excavation or drilling, channel improvement, storage of materials, water supply and sanitary facilities.

2. Permitted Uses in Floodway Areas

The following open land uses shall be permitted within the floodway areas to the extent that they are permitted or conditionally permitted in the underlying zoning district, and provided that they do not require the erection of structures or storage of materials and equipment, the borrowing of fill from outside the floodway area, or channel modification or relocation, and do not obstruct flood flows, nor result in any increase in flood levels during the occurrence of the base flood discharge, decrease the water-carrying capacity of the floodway or channel, or increase off-site flood damage potential:

A. Agricultural uses, such as general farming, pasture, orchard, and grazing, outdoor plant nurseries, truck farming, and forestry;

B. Recreation uses, such as parks, camps, picnic grounds, tennis courts, golf courses, golf driving ranges, archery and shooting ranges, hiking and riding trails, hunting and fishing areas, game farms, fish hatcheries, wildlife sanctuaries, nature preserves, swimming areas and boat launching sites; and/or

C. Accessory residential uses, such as lawns, gardens, and parking areas.

3. Permitted Uses in Special Flood Hazard Areas (including Floodway areas)

1. All those permitted open space uses as listed in Section 4.5.4.(f).2 above shall be permitted in the Special Flood Hazard Areas.

2. All other uses permitted in the underlying zoning district are permitted only upon review and approval by the DRB as per subpart 7 below.

4. Permitted Accessory Uses in Special Flood Hazard Areas (Including Floodway areas)

Uses customarily accessory and incidental to any of the permitted uses listed in underlying zoning district may be permitted, subject to the limitations therein.

5. Mandatory DEC Notification and 30-Day Review Period

A. Prior to issuing a permit a copy of the application and supporting information shall be submitted by the administrative officer to the State National Flood Insurance Program Coordinator at the Vermont Agency of Natural Resources, Department of Environmental Conservation, River Management Section in accordance with 24 V.S.A. § 4424. A permit may be issued only following receipt of comments from the Agency or the expiration of 30 days from the date the application was mailed to the Agency, whichever is sooner.

B. Adjacent communities and the Stream Alteration Engineer at the Vermont Agency of Natural Resources, Department of Environmental Conservation, River Management Section shall be notified at least 30 days prior to issuing any permit for the alteration or relocation of a watercourse and copies of such notification shall be submitted to the VT National Flood Insurance Program Coordinator.

C. No permit may be granted for new construction, substantial improvement, filling,
installation of a residential structure, or the development of land in any area designated as a floodplain by the Federal Emergency Management Agency (FEMA) prior to the expiration of a period of thirty (30) days following the submission of the application and a report to the Department of Environmental Conservation. The application and report shall describe the proposed use, the location requested and an evaluation of the effect of such proposed use on Burlington’s municipal development plan and the regional plan, if any.

D. The subsection shall not be applicable to public utility generating stations and transmission lines which shall require the issuance of a certificate of public good under 30 V.S.A. Sec. 248 prior to any land filling or construction.

6. Evaluation

In reviewing Review of the application, the DRB shall consider shall include the evaluation of the Department of Environmental Conservation and shall determine that approval shall be predicated on finding that the proposed use will conform to the development standards of subpart 7 below.

7. Special Review Criteria

In reviewing each application, the DRB shall assure that the flood-carrying capacity within any portion of an altered or relocated watercourse shall be maintained. Review and shall consider:

A. The danger to life and property due to increased flood heights or velocities caused by encroachments;
B. The danger that material may be swept on to other lands or down stream to the injury of others;
C. The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination and unsanitary conditions;
D. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owners;
E. The importance of the services provided by the proposed facility to the community;
F. The availability of alternative locations not subject to flooding for the proposed use;
G. The compatibility of the proposed use with existing development and development anticipated in the foreseeable future;
H. The relationship of the proposed use to the municipal development plan;
I. The safety of access to the property in times of flood of ordinary and emergency vehicles;
J. The expected heights, velocity, duration, rate of rise, and sediment transport of the flood-waters expected at the site; and,
K. Conformance with all other applicable requirements of this ordinance.

8. Approval Conditions

Upon consideration of those factors in subpart 7 above and the purposes of these regulations, the DRB shall attach the following conditions shall be attached to any permit it chooses to granted.

8 A – F As written.
9-11 As written.
ARTICLE 5: CITYWIDE GENERAL REGULATIONS

PART 2: DIMENSIONAL REQUIREMENTS

Sec. 5.2.1 Existing Small Lots

Any small lot of record existing as of April 26, 1973 may be developed for the purposes permitted in the district in which it is located even though not conforming to minimum lot size requirements if such lot is not less than four thousand (4,000) square feet in area with a minimum width and depth dimension of forty (40) feet.

A permit for any such development shall require a certificate of appropriateness pursuant to the standards of Article 4 and, where applicable, pursuant to the design review provisions of Article 3 and the development standards of Article 6.

[End text amendment]

Relationship to planBTV

This following discussion of conformance with the goals and policies of planBTV is prepared in accordance with the provisions of 24 V.S.A. §4441(c).

<table>
<thead>
<tr>
<th>Theme</th>
<th>Dynamic</th>
<th>Distinctive</th>
<th>Inclusive</th>
<th>Connected</th>
</tr>
</thead>
<tbody>
<tr>
<td>Land Use</td>
<td>Conserve</td>
<td>Sustain</td>
<td>Grow</td>
<td></td>
</tr>
</tbody>
</table>

Compatibility with Proposed Future Land Use & Density
The proposed amendment does not impact the types or density of potential land use and density. It reduces some unnecessary procedural and cost burdens in the permitting process while leaving standards as to land use and density intact.

Impact on Safe & Affordable Housing
The proposed amendment will reduce permitting costs for properties eligible for “basic” zoning permit review.

Planned Community Facilities
The proposed amendment has no impact on planned community facilities.

Process Overview
The following chart summarizes the current stage in the zoning amendment process, and identifies any recommended actions:

<table>
<thead>
<tr>
<th>Planning Commission Process</th>
<th>City Council Process</th>
</tr>
</thead>
<tbody>
<tr>
<td>Draft Amendment prepared by:</td>
<td>First Read &amp; Referral to Ordinance Cmte</td>
</tr>
<tr>
<td>Staff</td>
<td>Ordinance Cmte discussion</td>
</tr>
<tr>
<td>Presentation to &amp; discussion by Commission 9/14/21</td>
<td>Ordinance Cmte recommend as modified</td>
</tr>
<tr>
<td>Approve for Public Hearing</td>
<td>Second Read &amp; Public Hearing</td>
</tr>
<tr>
<td>Public Hearing</td>
<td>CCOC Recommends Approval &amp; Adoption</td>
</tr>
<tr>
<td>Approved &amp; forwarded to Council</td>
<td>Continued discussion</td>
</tr>
<tr>
<td></td>
<td>Rejected</td>
</tr>
</tbody>
</table>
I. **Agenda**

   **Call to Order**
   Time: 6:32pm

   **Agenda**
   No changes

II. **Chair’s Report**

   A Montroll
   Welcome to new Commissioners

III. **Director’s Report**

   D White
   Update/recommendation on M. Boardman zoning amendment request.
   Update on STR “conversion” data requested by E Lee.
   On vacation week of Aug 9 and 16

IV. **Public Forum**

<table>
<thead>
<tr>
<th>Name(s)</th>
<th>Comment</th>
</tr>
</thead>
<tbody>
<tr>
<td>M Boardman</td>
<td>Seeking Commission’s Ordinance Committee to consider his request for greater flexibility with regard to the design standards regarding garages. B Baker moved Y Bradley seconded to send to Ordinance Committee. Unanimous</td>
</tr>
</tbody>
</table>

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

   **Action:** Approve changes to proposed amendment, re-approve Municipal Bylaw Amendment Report, and refer to Council with recommendation

   **Motion by:** Y Bradley
   **Second by:** A Friend
   **Vote:** Approved Unanimously

   **Type:** Public Hearing, Action
   **Presented by:** D White

   The Chair opened the public hearing at 6:55pm and closed it at 7:00 pm with the following comments.

   Public Comments:
   - none

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

   **Action:** Approve Municipal Bylaw Amendment Report and refer to Council with recommendation for adoption in order to comply recent statutory changes.

   **Motion by:** A. Friend
   **Second by:** B Baker
   **Vote:** Approved Unanimously

---

The City of Burlington will not tolerate unlawful harassment or discrimination on the basis of political or religious affiliation, race, color, national origin, place of birth, ancestry, age, sex, sexual orientation, gender identity, marital status, veteran status, disability, HIV positive status, crime victim status or genetic information. The City is also committed to providing proper access to services, facilities, and employment opportunities. For accessibility information or alternative formats, please contact Human Resources Department at (802) 540-2505.
The Chair opened the public hearing at 7:07pm and closed it at 7:10 pm with the following comments.

Public Comments:
- S Bushor: BTV has different challenges that the rest of the state and the change to the number of bedrooms and adult occupants puts neighborhoods near the university at greater risk to conversion to investment property rather than families. Up to 8 adult occupants allowed in the two units.

Commissioner Comments:
- M Gaughan: Is there an opportunity to create incentives for the types of ADU’s we want instead of adding restrictions?
- A Friend moved, B Baker seconded: refer to Ordinance Committee. Unanimous

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

<table>
<thead>
<tr>
<th>Action: Approve Municipal Bylaw Amendment Report and refer to Council with recommendation.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Motion by: M. Gaughan</td>
</tr>
</tbody>
</table>

The Chair opened the public hearing at 7:37pm and closed it at 7:38 pm with the following comments.

Public Comments:
- none

Commissioner Comments:
- Y Bradley: Need to be careful about how much we require to be Shopfront as the market is simply not there now
- A Montroll: Proposal is applicable only to new street segments where mall redevelopment is planned and street activation is most important.
- M. Gaughan: Understands that a “Shopfront” does not prescribe a use so a residential lobby would also be acceptable

### VIII. Annual Organizational Meeting

The Commission elected a chair, vice chair, and clerk for FY22 and appointed members to its Committees. All elections were unanimous

<table>
<thead>
<tr>
<th>Role</th>
<th>Member</th>
</tr>
</thead>
<tbody>
<tr>
<td>Chair</td>
<td>A Montroll (Y Bradley nominator, A Friend)</td>
</tr>
<tr>
<td>Vice Chair</td>
<td>B Baker (Y Bradley nominator)</td>
</tr>
<tr>
<td>Clerk</td>
<td>Meagan Tuttle</td>
</tr>
<tr>
<td>Executive Committee At-Large Member</td>
<td>Y Bradley (M Gaughan nominator)</td>
</tr>
<tr>
<td>Long Range Committee Members</td>
<td>M Gaughan, B Martin, A Friend, R Crehan (CB), name (DRB)</td>
</tr>
<tr>
<td>Ordinance Committee Members</td>
<td>E Lee, B Baker, Y Bradley, J White (DAB), name (DRB)</td>
</tr>
</tbody>
</table>

### IX. Commissioner Items

- Next Meetings are on Aug 10 and August 24 at 6:30pm.
- Cancel Aug 10

### X. Minutes and Communications

<table>
<thead>
<tr>
<th>Action: Approve the minutes and accept the communications</th>
</tr>
</thead>
<tbody>
<tr>
<td>Motion by: M Gaughan</td>
</tr>
</tbody>
</table>

Minutes Approved: July 13, 2021

Communications Filed:
- Enclosed in agenda packet, and additional communications posted online
XI. Adjourn

<table>
<thead>
<tr>
<th>Adjournment</th>
<th>Time: 8:07pm</th>
</tr>
</thead>
<tbody>
<tr>
<td>Motion: B Baker</td>
<td>Second: A Friend</td>
</tr>
</tbody>
</table>
Act 250 Jurisdictional Opinion
#4-304

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

☐ I hereby request a jurisdictional opinion from the District Coordinator or Assistant District Coordinator regarding the jurisdiction of 10 V.S.A. Chapter 151 (Act 250) over the project described below: Phillip Peterson, Burlington Department of Public Works.

PROJECT DESCRIPTION:
The project includes improvements to University Place in Burlington, Vermont. The proposed project includes: (1) creating a one-way traffic flow along University Place with buffered bike lanes; (2) modifying turning movements at the intersections with Colchester Avenue and Main Street; (3) improving pedestrian crossings including constructing a consolidated pedestrian crossing plaza near Old Mill and Williams Hall; (4) constructing new sidewalk segments; (5) widening existing sidewalks; (6) constructing new on-street parking areas near Old Mill and Ira Allen Chapel; and (7) removing approximately 250 feet of an existing walkway within the UVM Green. The project is located within the City’s right-of-way except for the removal of an existing sidewalk and tying into existing sidewalks which are located on UVM-owned land. The project includes less than 10 acres of disturbance.

Existing Act 250 permit: Permit series 4C0852 and 4C0571 apply to land owned by UVM, but none specifically for this property.

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

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

BASIS FOR DECISION:
Based on the available information, the project does not constitute development under 10 V.S.A. Section 6001(3)(A)(v) because the project is municipal in nature and does not involve more than 10 acres of disturbance.

The portions of the project that are located on UVM-owned land include the removal of approximately 250 feet of existing sidewalk within the UVM Green and tying into existing sidewalks. These portions of the project do not constitute a substantial change or a material change.

Therefore, the project does not require an Act 250 permit.

SIGNATURE:/s/ Rachel Lomonaco  DATE: 9/1/21
Rachel Lomonaco, District Coordinator
Environmental Commission District #4
111 West Street, Essex Junction, VT 05452
802-879-5658
rachel.lomonaco@vermont.gov
This is a jurisdictional opinion issued pursuant to 10 V.S.A. § 6007(c) and Act 250 Rule 3(B). Reconsideration requests are governed by Act 250 Rule 3(B) and should be directed to the district coordinator at the above address. As of May 31, 2016, with the passage of Act 150, Act 250 Rule 3(C) (Reconsideration by the Board) is no longer in effect. Instead, any appeal of this decision must be filed with the Superior Court, Environmental Division (32 Cherry Street, 2nd Floor, Ste. 303, Burlington, VT 05401) within 30 days of the date the decision was issued, pursuant to 10 V.S.A. Chapter 220. The Notice of Appeal must comply with the Vermont Rules for Environmental Court Proceedings (VRECP). The appellant must file with the Notice of Appeal the entry fee required by 32 V.S.A. § 1431 which is $295.00. The appellant also must serve a copy of the Notice of Appeal on the Natural Resources Board, 10 Baldwin Street, Montpelier, VT 05633-3201, and on other parties in accordance with Rule 5(b)(4)(B) of the Vermont Rules for Environmental Court Proceedings.
CERTIFICATE OF SERVICE

I hereby certify on this 1st day of September, 2021, a copy of the foregoing ACT 250 JURISDICTIONAL OPINION #4-304, was sent by U.S. mail, postage prepaid to the following individuals without email addresses and by email to the individuals with email addresses listed.

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

Phillip Peterson
Burlington Department of Public Works
645 Pine Street
Burlington, VT 05402
ppeterson@burlingtonvt.gov

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

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

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

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

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

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

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

FOR YOUR INFORMATION

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

Dated at Essex Junction, Vermont, this 1st day of September, 2021.

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

Y:\NRB\Essex\DISTRICTS\DIST4\JOJO 4-301 to JO 4-400\JO 4-304\COS.docx
# UVM Parking Lot Capacities and Empty Space Count

## PEAK DEMAND LOT COUNTS - August 2021

<table>
<thead>
<tr>
<th>Location</th>
<th>Usable Spaces</th>
<th>Occupied Spaces</th>
<th>Empty Spaces</th>
<th>Percent Full</th>
</tr>
</thead>
<tbody>
<tr>
<td>Athletic Commuter</td>
<td>1,704</td>
<td>489</td>
<td>1,215</td>
<td>29%</td>
</tr>
<tr>
<td>Core Central</td>
<td>61</td>
<td>36</td>
<td>25</td>
<td>59%</td>
</tr>
<tr>
<td>Core East</td>
<td>710</td>
<td>616</td>
<td>94</td>
<td>87%</td>
</tr>
<tr>
<td>Core North</td>
<td>369</td>
<td>174</td>
<td>195</td>
<td>47%</td>
</tr>
<tr>
<td>Core South</td>
<td>193</td>
<td>106</td>
<td>87</td>
<td>55%</td>
</tr>
<tr>
<td>Core West</td>
<td>387</td>
<td>157</td>
<td>230</td>
<td>41%</td>
</tr>
<tr>
<td>Commuter Lots</td>
<td>323</td>
<td>218</td>
<td>105</td>
<td>67%</td>
</tr>
<tr>
<td>Redstone</td>
<td>626</td>
<td>127</td>
<td>499</td>
<td>20%</td>
</tr>
<tr>
<td>Trinity</td>
<td>314</td>
<td>131</td>
<td>183</td>
<td>42%</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>4,687</strong></td>
<td><strong>2,054</strong></td>
<td><strong>2,633</strong></td>
<td><strong>44%</strong></td>
</tr>
</tbody>
</table>

Counts done August 17th to August 19th
E-Notification CERTIFICATE OF SERVICE Regarding Monthly Information for LUP# 4C1043-1A,
For UVM Firestone Building for August, 2021

I hereby certify that I, Lani Ravin, Associate Planner at the University of Vermont & State Agricultural
College, sent a copy of documents, dated August 19, 2021, for the University of Vermont, regarding
LUP# 4C1043-1A, regarding temporary suspension of a 200 space off-campus parking lot, by electronic
mail to those with email addresses as indicated:

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

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

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

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

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

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

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

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

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

Dated at Burlington, Vermont, August 19, 2021

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

Please enter the appearance of the Agency of Natural Resources (“Agency”), State of Vermont, by and through its staff, Kevin Anderson, in the above-captioned matter.

COMMENTS

Criterion 1(B): Waste Disposal
The Applicant has agreed to prepare a construction waste management plan for the project. The Agency respectfully requests that the District Commission not issue a land use permit for the project until an Agency-approved construction waste management plan is appended to the application. The Applicant should contact Buzz Surwilo, with the Department of Waste Management and Prevention, for Agency review and approval of the plan. Mr. Surwilo may be contacted at james.surwilo@vermont.gov or 802-5225056. A template plan is available online.¹

Respectfully submitted,
State of Vermont
Agency of Natural Resources

By: /s/ Kevin Anderson
    Kevin Anderson
    Regulatory Policy Analyst
    Agency of Natural Resources
    Office of Planning
    (802) 798-2087

E-Notification CERTIFICATE OF SERVICE FILE #4C0895-7

I hereby certify that I, Kevin Anderson, Regulatory Policy Analyst for the Agency of Natural Resources Office of Planning, sent a copy of the foregoing **Entry of Appearance and Comments**, dated August 23, 2021, regarding File #4C0895-7 by U.S. mail, postage prepaid, to the individuals without email addresses and by electronic mail to those with email addresses as indicated:

University of Vermont

c/o Lani Ravin
16 Colchester Avenue
Burlington, VT 05405

Lani.ravin@uvm.edu

VTrans Policy, Planning & Research Bureau

219 N. Main Street

Barre, VT 05641

AOT.Act250@vermont.gov

Katherine Schad, Town Clerk

Chair, Selectboard

Chair, Planning Commission

City of Burlington

149 Church Street

Burlington, VT 05401

burlingtontownclerk@burlingtonvt.gov

lolberg@burlingtonvt.gov

Agency of Agriculture, Food & Markets

116 State Street, Drawer 20

Montpelier, VT 05620-2901

AGR.Act250@vermont.gov

Chittenden Co. Regional Planning Commission

110 West Canal Street, Suite 202

Winooski, VT 05404

permitting@ccrpcvt.org

Division for Historic Preservation

National Life Building, Drawer 20

Montpelier, VT 05620

scott.dillon@vermont.gov

james.duggan@vermont.gov

ACCD.ProjectReview@vermont.gov

Dept. of Public Service

112 State Street, Drawer 20

Montpelier, VT 05620-2601

barry.murphy@vermont.gov

PSD.VTDPS@vermont.gov

District #4 Environmental Commission

111 West Street

Essex Junction, VT 05452

nrb.act250essex@vermont.gov

rachel.lomonaco@vermont.gov

/s/ Kevin Anderson

Kevin Anderson, Regulatory Policy Analyst

Agency of Natural Resources

Office of Planning
Derick Read, P.E.
Krebs & Lansing Consulting Engineers, Inc
164 Main Street
Colchester, VT 05446

9/7/2021

Re: LUP Application 4C0884-2, University of Vermont Snow Storage, South Burlington
Consideration of primary agricultural soils under 10 V.S.A. §§6093, 6086

Dear Applicant:

Thank you for the opportunity to comment on the above-referenced project.

**Purpose:**

This review letter will aid in the District Commission’s determination as to whether any reduction in the agricultural potential of the primary agricultural soils will occur as a result of the construction of the project. Please note that this letter focuses solely on whether there are primary agricultural soils on the project site (10 V.S.A. § 6001(15)), any impact to these primary agricultural soils and whether any proposed mitigation is adequate, pursuant to 10 VSA §6093(a).

**Summary of Agency Review:**

The Agency holds the opinion that the proposed impacts to primary agricultural soils total: 0.06 acres of primary agricultural soils proposed to be impacted, either directly or indirectly; **0*** acres of mitigation necessary because of the statutory multipliers:

- Because the total mitigation (0.12 acres) required for the impacts would be less than two acres, the Agency prefers to mitigate these impacts along with any subsequent project impacts at a later date, if and when cumulative mitigation reaches two acres. **See “Conclusions” below for a proposed permit condition regarding mitigation for potential subsequent project impacts.**

**Process and Basis for Opinion:**

The Agency was originally contacted by Derick Read, P.E. of Krebs & Lansing Consulting Engineers, Inc. on behalf of University of Vermont (the “Applicant”), to review a project generally described as University of Vermont Snow Storage, including proposed 18-foot wide gravel driveway and turnaround area to foster access to the snow storage area. The Agency’s review primarily consisted of a review of the following submitted materials:

- Criterion 9(B) intake form with Soils Matrix, dated 09/06/2021;
• Primary Agricultural Soils Site Plan [showing proposed and pre-existing impacts or fragmentation, as well as noting areas of >15% slope limitation, and Class II wetland/buffer areas], revision dated 09/07/2021;
• Existing Conditions Plan, Applicant’s Exhibit 013, filing date 08/05/2021
• Overall Site Plan, Applicant’s Exhibit 011, filing date 08/05/2021

The Agency’s review of primary agricultural soils is also based on an evaluation of USDA soil survey(s), satellite imagery, the supplied site development plans, supplied ground topographic survey, soil limitations, size, location, landscape patterns and other elements of the definition of primary agricultural soil as applied to the project site. See 10 V.S.A. §6001(15).

The review and evaluation indicates:

± 87.56 acres = soils with an agricultural value of 1-12 (NRCS)(total parcel)
± 32.64 acres = soil with an agricultural value of 1-7 (NRCS as mapped) [see Applicant’s soils matrix and PAS site plan, regarding mapped soils subject to >15% slope limitation, Class II wetland/buffer, or other existing limitations]
± 8.26 acres = pre-existing impacts to soils of agricultural value 1-7 (NRCS)

± 0.06 acres = proposed impact to primary agricultural soils

The Agency accepts your assertion that 0.06 acres of the primary agricultural soils on the site will be directly or indirectly impacted by the proposed development. The proposed impacts would be to the following soil map units:

<table>
<thead>
<tr>
<th>Key</th>
<th>Soil Type</th>
<th>Ag Value</th>
<th>Slope</th>
<th>Proposed Impact (Acres)</th>
</tr>
</thead>
<tbody>
<tr>
<td>AdA</td>
<td>Adams &amp; Windsor loamy sand</td>
<td>6</td>
<td>0-5%</td>
<td>0.06</td>
</tr>
</tbody>
</table>

While no mitigation is recommended today (see Conclusions) due to the de minimis nature of the proposed impact, the Agency recognizes the below mitigation calculation would be applicable if and when the result of this and future amendments results in a 2.0 acre or greater cumulative mitigation area (see proposed permit condition below on page 3).

0.06 acres (proposed impacts to Statewide soils of agricultural value group “6”) * 2 (mitigation multiplier) = 0.12 acres mitigation warranted [de minimis], only if and when the result of this and future amendments results in a 2.0 acre or greater cumulative mitigation area.
Conclusions:

Having reviewed your submission, it is the Agency’s assessment that the proposed impacts are *de minimis* and no mitigation is warranted at this time.

However, the Agency acknowledges 0.06 acres of impacts to primary agricultural soils, for which 0.12 acres of PAS mitigation are calculated under Criterion 9(B) according to the statutory multipliers. The Agency respectfully requests that the District Commission add a permit condition stating that the Applicant will be required to mitigate for cumulative impacts when the result of this pending application and any subsequent proposed development would result in a total mitigation area of 2.0 acres or more.

The Agency provides the following proposed permit condition:

*The project impacts 0.06 of primary agricultural soils (PAS) for which 0.12 acres of mitigation are calculated. The Permittee shall mitigate the 0.06 acres of PAS impact if/when the cumulative PAS impacts (from this pending Act 250 Permit application and subsequent amendment impacts on this parcel or involved lands) result in a mitigation area of 2.0 or more acres, as further outlined in Exhibit ____ (letter dated 09/07/2021) from the Vermont Agency of Agriculture, Food & Markets).*

Sincerely,

Vermont Agency of Agriculture, Food & Markets

By: ____________________
Ari Rockland-Miller
Act 250 Coordinator
Vermont Agency of Agriculture, Food & Markets
ari.rockland-miller@vermont.gov
CERTIFICATE OF SERVICE

I hereby certify on this 7th day of September 2021, a copy of the foregoing:

*Agency of Agriculture, Food & Markets – Criterion 9(B) Review Letter*

regarding **LUP Application #4C0884-2, University of Vermont Snow Storage**

was sent by email to the individuals listed below (or US Mail, postage prepaid, to those listed without email address)

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

Derick Read, P.E.
Krebs & Lansing Consulting Engineers, Inc.
164 Main Street
Colchester, VT 05446
Derick.read@krebsandlansing.com

Donna Kinville, Town Clerk
Chair, Selectboard/Chair, Planning Comm.
City of South Burlington
575 Dorset Street
South Burlington, VT 05403
dkinville@sburl.com

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

Chittenden County Regional Planning Commission
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Winooski, VT 05404
permitting@ccrpcvt.org

Agency of Natural Resources
1 National Life Dr., Davis 2
Montpelier, VT 05620-3901
Anr.act250@vermont.gov
VT Dept of Public Service  
112 State St., Drawer 20  
Montpelier, VT 05620-2601  
Barry.murphy@vermont.gov; PSD.VTDPS@vermont.gov

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

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

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

Dated this **September 7, 2021**

**VERMONT AGENCY OF AGRICULTURE, FOOD & MARKETS**

By: ＿＿＿＿＿＿＿＿＿＿＿＿
Ari Rockland-Miller  
Act 250 Coordinator, VAAFM  
ari.rockland-miller@vermont.gov
September 9, 2021

Rachel Lomonaco,
District 4 Environmental Commission Coordinator
111 West Street
Essex Junction, VT 05452

Re: Act 250 Minor Application #4C0884-2,
Submittal of Supplemental Information

Dear Rachel,

Thank you for issuing the proposed LUP #4C0884-2. The University of Vermont is hereby submitting the required supplemental information, as follows:

1. “A proposal to permanently demarcate the wetland buffer for the operational phase of the project with signs, fencing, large stones placed every 25 feet, or by other similar means”:

   Please find attached Exhibit 024 EPSC Details C-6 with a chain link fence detail showing a 6 foot high fence that will be the standard ”galvanized“ color. There will be 120 feet of fence to protect the west wetland buffer and 150 feet of fence along the buffer of the east snow storage area. Both fences will be 6 feet high and permanent, as per Exhibit 021 Overall Site Plan C-1 and Exhibit 022 Site Plan C-2.

   Signage will be added to the fences that will read “CAUTION: Wetland buffer. No vehicles allowed.”

2. “The Erosion Prevention and Sediment Control Pre-Construction Snow Storage Plan references the Town of Georgia erosion prevention and sediment control standards. If a revision to that reference is warranted, submit a revised version of the plan.”

   Please find attached a corrected version of this plan (Exhibit 023 C-4).

3. AAFM review letter.
Please find attached Exhibit 025, the AAFM review letter from Ari Rockland-Miller, dated September 7, 2021, as well as Exhibit 026, Agricultural Soils Plan, PAS-1, dated 9/7/2021.

We are also attaching an updated Exhibit 000 exhibit list.

I hope this information provides clarity for the Commission. Please let me know if you need more information.

Thank you,

Lani Ravin, AICP

Lani Ravin, AICP
Associate Planner
Department of Planning, Design & Construction

cc:
See Certificate of Service

Attachments:
Exhibits 000, 21, 22, 23, 24, 25, 26
NOTES

1. The Contractor shall be responsible for maintaining all disturbed areas back to original condition,
   including but not limited to curbing, sidewalks, road, parking areas, landscaping, site lighting,
   electrical, and etc. All asphalt shall be sawcut prior to paving.

2. All excavation, backfill, and other work areas shall be kept free of standing water during
   construction to the exclusion of the Contractor and shall be removed from site.

3. All grading, storm, sewer, and sanitary sewer lines and backfill, and repositories to be placed
   shall be by Design

4. All grading, storm, sewer, sanitary sewer line, and repositories to be placed shall be by Design

5. The Contractor shall be responsible for the grading, storm, sewer, sanitary sewer line, and
   repositories to be placed shall be by Design

6. The Contractor shall be responsible for the exterior storm, sewer, sanitary sewer line, and
   repositories to be placed shall be by Design

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50. The Contractor shall be responsible for all exterior storm, sewer, sanitary sewer line, and
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Proposed 18' wide gravel snow storage access drive

Remove and dispose of 8" ash and stump

Remove tree and stump (typical)

Proposed stormwater treatment practice. Bottom of practice at elev. 300.0'.

Stone Foresday Well

Emergency Spillway

Install permanent 6' high chain link fencing along wetland buffer. See Detail.

Remove and dispose of dead ash and stump

Remove and dispose of 12" ash, 10" pine and stumps

Remove and dispose of 12" ash, 10" pine and stumps

Remove and dispose of 8" ash and stump

Snow storage area

Bottom of practice at elev. 300.0'.

Remove and dispose of 12" ash, 10" pine and stumps

Emergency Spillway
Possible sediment basin. Pump effluent to 50' wetland buffer

Erosion Prevention and Sediment Control Notes

1. Contractor shall be responsible for removing any of State of Vermont and City of Burlington. Remaining sediment control equipment shall be removed prior to construction.
2. The Contractor shall be the onsite Coordinator for the project and shall be responsible for all required inspections (minimum weekly) and any storm event that produces a documented sedimentation event.
3. All tests shall be performed by the Contractor and the test results shall be submitted to the site.
4. The project proposed and sediment control practices shown on these plans are designed to control the project. The Contractor shall be responsible for the project.
5. The Contractor shall be responsible for the contractor's own staff working on the site.
6. All work shall be performed in accordance with the project plans and specifications.
7. The Owner is not responsible for any damage to the project.
8. All work shall be performed in accordance with the project plans and specifications.
9. The Owner is not responsible for any damage to the project.

University of Vermont
Snow Storage

Project No.
Scale
Checked by
Date

Erosion Prevention & Sediment Control
Preconstruction Plan

C-4
Derick Read, P.E.
Krebs & Lansing Consulting Engineers, Inc
164 Main Street
Colchester, VT 05446

9/7/2021

Re: LUP Application 4C0884-2, University of Vermont Snow Storage, South Burlington
Consideration of primary agricultural soils under 10 V.S.A. §§6093, 6086

Dear Applicant:

Thank you for the opportunity to comment on the above-referenced project.

**Purpose:**

This review letter will aid in the District Commission’s determination as to whether any reduction in the agricultural potential of the primary agricultural soils will occur as a result of the construction of the project. Please note that this letter focuses solely on whether there are primary agricultural soils on the project site (10 V.S.A. § 6001(15)), any impact to these primary agricultural soils and whether any proposed mitigation is adequate, pursuant to 10 VSA §6093(a).

**Summary of Agency Review:**

The Agency holds the opinion that the proposed impacts to primary agricultural soils total: 0.06 acres of primary agricultural soils proposed to be impacted, either directly or indirectly; 0* acres of mitigation necessary because of the statutory multipliers:

- Because the total mitigation (0.12 acres) required for the impacts would be less than two acres, the Agency prefers to mitigate these impacts along with any subsequent project impacts at a later date, if and when cumulative mitigation reaches two acres. **See “Conclusions” below for a proposed permit condition regarding mitigation for potential subsequent project impacts.**

**Process and Basis for Opinion:**

The Agency was originally contacted by Derick Read, P.E. of Krebs & Lansing Consulting Engineers, Inc. on behalf of University of Vermont (the “Applicant”), to review a project generally described as University of Vermont Snow Storage, including proposed 18-foot wide gravel driveway and turnaround area to foster access to the snow storage area. The Agency’s review primarily consisted of a review of the following submitted materials:

- Criterion 9(B) intake form with Soils Matrix, dated 09/06/2021;
- Primary Agricultural Soils Site Plan [showing proposed and pre-existing impacts or fragmentation, as well as noting areas of >15% slope limitation, and Class II wetland/buffer areas], revision dated 09/07/2021;
- Existing Conditions Plan, Applicant’s Exhibit 013, filing date 08/05/2021
- Overall Site Plan, Applicant’s Exhibit 011, filing date 08/05/2021

The Agency’s review of primary agricultural soils is also based on an evaluation of USDA soil survey(s), satellite imagery, the supplied site development plans, supplied ground topographic survey, soil limitations, size, location, landscape patterns and other elements of the definition of primary agricultural soil as applied to the project site. See 10 V.S.A. §6001(15).

The review and evaluation indicates:

± 87.56 acres = soils with an agricultural value of 1-12 (NRCS)(total parcel)
± 32.64 acres = soil with an agricultural value of 1-7 (NRCS as mapped) [see Applicant’s soils matrix and PAS site plan, regarding mapped soils subject to >15% slope limitation, Class II wetland/buffer, or other existing limitations]
± 8.26 acres = pre-existing impacts to soils of agricultural value 1-7 (NRCS)

± 0.06 acres = proposed impact to primary agricultural soils

The Agency accepts your assertion that 0.06 acres of the primary agricultural soils on the site will be directly or indirectly impacted by the proposed development. The proposed impacts would be to the following soil map units:

<table>
<thead>
<tr>
<th>Key</th>
<th>Soil Type</th>
<th>Ag Value</th>
<th>Slope</th>
<th>Proposed Impact (Acres)</th>
</tr>
</thead>
<tbody>
<tr>
<td>AdA</td>
<td>Adams &amp; Windsor loamy sand</td>
<td>6</td>
<td>0-5%</td>
<td>0.06</td>
</tr>
</tbody>
</table>

While no mitigation is recommended today (see Conclusions) due to the de minimis nature of the proposed impact, the Agency recognizes the below mitigation calculation would be applicable if and when the result of this and future amendments results in a 2.0 acre or greater cumulative mitigation area (see proposed permit condition below on page 3).

0.06 acres (proposed impacts to Statewide soils of agricultural value group “6”) * 2 (mitigation multiplier) = 0.12 acres mitigation warranted [de minimis], only if and when the result of this and future amendments results in a 2.0 acre or greater cumulative mitigation area.
Conclusions:

Having reviewed your submission, it is the Agency’s assessment that the proposed impacts are *de minimis* and no mitigation is warranted at this time.

However, the Agency acknowledges 0.06 acres of impacts to primary agricultural soils, for which 0.12 acres of PAS mitigation are calculated under Criterion 9(B) according to the statutory multipliers. The Agency respectfully requests that the District Commission add a permit condition stating that the Applicant will be required to mitigate for cumulative impacts when the result of this pending application and any subsequent proposed development would result in a total mitigation area of 2.0 acres or more.

The Agency provides the following proposed permit condition:

*The project impacts 0.06 of primary agricultural soils (PAS) for which 0.12 acres of mitigation are calculated. The Permittee shall mitigate the 0.06 acres of PAS impact if/when the cumulative PAS impacts (from this pending Act 250 Permit application and subsequent amendment impacts on this parcel or involved lands) result in a mitigation area of 2.0 or more acres, as further outlined in Exhibit ____ (letter dated 09/07/2021) from the Vermont Agency of Agriculture, Food & Markets).*

Sincerely,

Vermont Agency of Agriculture, Food & Markets

By: ------------------------
Ari Rockland-Miller
Act 250 Coordinator
Vermont Agency of Agriculture, Food & Markets
ari.rockland-miller@vermont.gov
Mapped PAS. Area removed due to excessive slopes (>15%) and existing streams.

Existing Primary Agricultural Soil Impact Area

Area of PAS not included (less than 1 contiguous acre)

Mapped PAS. Area removed due to excessive slopes and existing wetlands.

Tributary of Centennial Brook

Slopes > 15%
E-Notification CERTIFICATE OF SERVICE Regarding Supplementary Information for Draft LUP# 4C0884-2, For UVM Snow Storage near Catamount East Parking Lot

I hereby certify that I, Lani Ravin, Associate Planner at the University of Vermont & State Agricultural College, sent a copy of documents, dated September 9, 2021, for the University of Vermont, regarding supplemental information for LUP# 4C0884-2, regarding snow storage north of the UVM Catamount East parking lot, by electronic mail to those with email addresses as indicated:

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

University of Vermont & State Agricultural College c/o Lani Ravin, AICP, Associate Planner
Lisa Kingsbury, Associate Director
Planning, Design & Construction
16 Colchester Avenue
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Donna Kinville, Town Clerk
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575 Dorset Street
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dkinville@sbrl.com

Katherine Schad, Town Clerk
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James.duggan@vermont.gov;
ACCD.ProjectReview@vermont.gov;

Efficiency Vermont: pics@veic.org

Gobeille, John: John.Gobeille@vermont.gov