

Department of Permitting and Inspections

Zoning Division

645 Pine Street

Burlington, VT 05401

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MEMORANDUM

To: Development Review Board

From: Mary O'Neil, AICP, Principal Planner

Date: June 1, 2021

RE: 77/79 Pine Street ZP21-0927CA ZP21-118OG

Note: These are staff comments only. Decisions on projects are made by the Development Review Board, which may approve, deny, table or modify any project. THE APPLICANT OR REPRESENTATIVE MUST ATTEND THE MEETING.

File: ZP21-0927CA

Location: 79 Pine Street

Zone: FD6 **Ward:** 3C

Parking District: Multi Modal
Mixed Use

Date application accepted: April
21, 2021

Applicant/ Owner: Nedde Real
Estate

Request: Construct 9 story 49 unit
residential building on the same lot
as the Peoples United Bank.

Background:

(Address is sometimes recorded as 2
Burlington Square. Parcel is 77 Pine
Street.)

- **Zoning Permit 21-0728SN;**
install 1 wall sign,
illumination included. April
2021.
- **Zoning Permit 21-0722SN;**
install replacement signs for
People's United Bank.
March 2021.
- **Zoning Permit 21-0082CA;**
adding rooftop terrace adjacent to existing mechanical penthouse. Solar panels,
mechanical equipment and sun shades included. July 2020.



- **Zoning Permit 20-0681CA**; site changes relative to reestablishing greenspace and removal of access from 1 Burlington Square into 2 Burlington Square. February 13 2020.
- **Zoning Permit 20-0453CA**; consolidation of bank use; drive through reduce from 3 to 2 lanes, creation of 50 residential units; reorganization of circulation/parking; stormwater infiltration, revised landscaping and lighting, replacement windows, stained brick, metal clad canopy. November 2019.
- **Zoning Permit 18-0336CA**; removal of existing masonry façade and windows. Replacement with insulated wall assembly with rain screen ceramic façade system and new windows. October 2017. Permit expired.
- **Non-applicability of Zoning Permit Requirements 17-0502NA**; remove and replace same in kind concrete sidewalk, concrete step and landing with same handrail. October 2016.
- **Non-applicability of Zoning Permit Requirements 17-0328NA**; change out existing ATMs to newer models and set to ADA compliance. September 2016.
- **Zoning Permit 13-0538CA**; replace existing entry door with larger handicapped accessible doorway. November 2012.
- **Zoning Permit 11-0111SN**; replace two existing nonconforming parallel signs with new nonconforming parallel signs. September 2010.
- **Zoning Permit 10-0972SN**; replace two nonconforming parallel signs with two new nonconforming parallel signs. July 2010.
- **Zoning Permit 10-0971SN**; change face of three existing signs (two freestanding and one parallel). No change in dimensions or placement. No illumination for the freestanding signs. Internal illumination for the parallel sign. May 2010.
- **Non-applicability of Zoning Permit Requirements 09-036NA**; removal and replacement of concrete walls, stair and sidewalks replaced to match existing design. July 2008.
- **Zoning Permit 07-398SN**; replace face of existing parallel sign for Chittenden Bank. December 2006. Superseded by 10-0971SN.
- **Zoning Permit 09-034CA**; install new railings. July 2008.
- **Zoning Permit 99-606**; construction of an emergency generator enclosure adjacent to the existing drive up teller station. June 1999.
- **Non-applicability of Zoning Permit Requirements**, antennae placed on the rooftop. March 1995.
- **Zoning Permit 92-171**; installation of internally illuminated parallel sign above drive up ATM. November 1991.
- **Zoning Permit 92-172**; removal of teller operated drive-up bank window with drive-thru ATM unit. No change to circulation or overall use. November 1991.

- **Zoning Permit 81-255**; construct two vestibules on entrance ways for energy efficiency purposes. November 1980.
- **Zoning Permit 81-232**; enclose presently elevated loading dock area and extend out the platform being enclosed. October 1980.

Overview: The proposal is to construct a 9 story, 49 unit residential building on the same parcel as the former Chittenden Bank / Peoples United Bank. The parcel is within Form District 6.

The **Design Advisory Board** reviewed the application at their May 25, 2021 meeting. The Board voted unanimously to support the request for the discretionary building height allowance.

Recommended motion: Certificate of Appropriateness approval, per the following findings and conditions:

I. Findings

Article 2: Administrative Mechanisms

Section 2.7.8 Withhold Permit

Per this standard, the applicant is required to remedy all violations and close out all zoning permits issued after July 13, 1989 prior to issuance of a Certificate of Occupancy for this permit. See attached list for guidance on open permits/violations. **Affirmative finding as conditioned.**

Article 3: Applications, Permits and Project Reviews

Part 2: Applications and Permits

(a) *Administrative Conference*

The applicant team met with staff prior to submitting an application.

(b) *Technical Review Committee*

The project was presented to City department representatives October 8, 2020.

(c) *Sketch Plan Review*

This was not required.

(d) *Pre-application Neighborhood Meeting*

There were 2 NPA meetings for review; March 11, 2021 and May 17, 2021. Meeting confirmation and attendance has been notarized as required. **Affirmative finding.**

Part 3: Impact Fees

Section 3.3.2 Applicability

Any new development or additions to existing buildings which result in new dwelling units....are subject to impact fees.

Based on the floorplates and an email from May 5, 2021 from Stephen Kredell, Impact Fees are estimated on the following:

SF of Project 47,127

Department	Residential	
	Rate	Fee
Traffic	0.200	9,425.40
Fire	0.226	10,650.70
Police	0.045	2,120.72

Parks	0.759	35,769.39
Library	0.470	22,149.69
Schools	0.981	46,231.59
Total	2.681	\$ 126,347.49

The applicant shall confirm final area measurements. These fees may be subject to a partial waiver relative to Inclusionary Zoning. See Section 3.3.3, below.

Affirmative finding as conditioned.

Section 3.3.3 Exemptions and Waivers

(c) Inclusionary Housing Exemption

Inclusionary housing units per Article 9: Part 1 are exempt from this Part. A letter determining the number of IZ units; whether on-site, off site or Payment in Lieu is needed from the Housing Trust Fund Manager, as well as ultimate satisfaction of compliance with this part. **Affirmative finding as conditioned.**

Section 3.3.8 Time and Place of Payment

Impact fees must be paid to the city’s chief administrative officer/city treasurer according to the following schedule:

- a) New Buildings: Impact fees must be paid at least seven (7) days prior to occupancy of a new building or any portion thereof.*

Affirmative finding as conditioned.

Part 5: Conditional Use and Major Impact Review

Multi-Family-Large is a permitted use in the Form Districts, and the project does not include creation of fifty or more dwelling units. Not applicable.

Article 5: Citywide General Regulations

Section 5.2.1 Existing Small Lots.

Not applicable.

Section 5.2.2 Required Frontage or Access

There is no required frontage in the Form district. Access is covered within the Checklists.

Section 5.2.3 Lot Coverage Requirements

Covered in the checklists.

Section 5.2.4 Buildable Area Calculation

Not applicable in this zoning district.

Section 5.2.5 Setbacks

Covered in the checklists.

Section 5.2.6 Building Height Limits

See Article 14, below.

Section 5.2.7 Density and Intensity of Development Calculations

Not applicable in the Form Districts.

Part 3: Non Conformities

The existing bank/residential building at 77 Pine Street is non-conforming to this ordinance in that it is set back significantly from the front property line. That building is not included within this review. Article 14 allows for multiple principal buildings on a site. The development of a new Multi-Family Large building is fully in concert with the Form Code.

Affirmative finding.

Section. 5.4.8 Historic Buildings and Sites

Not applicable.

Part 5: Performance Standards

Section 5.5.1 Nuisance Regulations

No part of this application suggests any undue nuisance impacts from typical residential use.

Affirmative finding.

Section 5.5.2 Outdoor lighting

f) Specific Outdoor Lighting Standards

The application proposes 2 LED downlit wall sconces, 4 recessed cans and 10 surface fixtures within the parking level. Plan SE-2, Lighting Statistics defines walkway and garage parking lighting slightly above limits allowed by this Section.

1. Parking Lot Lighting

B. The maximum illumination level shall not exceed 4 footcandles at any point.

These standards also shall apply to the top and/or unenclosed level of any parking garage.

- 2. Walkway Lighting:** *The average illumination level on a walkway or pathway surface shall not exceed 0.5 footcandles, and maximum walkway lighting levels shall not exceed 2 footcandles.*

The applicant shall revise the lighting plan to meet these limitations.

Affirmative finding as conditioned.

Article 7: Signs

Any signs shall require a separate sign permit. The applicant has included a request to defer consideration of signs.

Article 8: Parking

There are no longer any minimum parking requirements within the Mixed Use MultiModal Parking District. However, the applicant is obligated to produce a Transportation Demand Management Plan.

Section 8.1.9 Maximum On-Site Parking Spaces

Multimodal Mixed-Use District
100% of the minimum number of spaces required for the Shared Parking District for any given use as required in Table 8.1.8-1

Zoning Permit 20-0453CA and 20-0681CA defined a parking requirement of 56 spaces (50 new residential units, and bank use), with 70 spaces on-site.

Under the Shared Use Parking District (used to calculate maximum parking);

Bank requires 2/1000 sf. $36,091 \text{ sf} / 1000 = 36 \times 2 = 72$ parking spaces.

Residential use: Shared use parking district requires 1/dwelling unit. There were 50 dwelling units permitted under ZP20-0453CA in 77 Pine building and 49 proposed in 79 Pine = 99 residential units x 1 unit = **99** spaces. Total parking required under the shared use district: 72 (bank) + 99 (residential) = 171 parking spaces. The proposed parking (77 spaces) does not exceed that maximum parking limitation.

Affirmative finding.

Section 8.1.10 Off Street Loading

Not required in the Mixed Use Multi Modal Parking District. Not applicable.

8.1.11 Parking Dimensional Requirements

Parking is conforming to 14.6.7 g. of the Checklists. **Affirmative finding.**

Section 8.1.16 Transportation Demand Management

(b) Applicability: *A Transportation Demand Management Program shall be required for all projects located in the Multimodal Mixed Use Parking District (see Sec.*

8.1.3(c)), and involving any one or more of the following:

Dwelling Units Creation of ten (10) or more dwelling units

The creation of 49 units in the Multimodal Mixed Use Parking District requires a TDM plan.

(c) Transportation Demand Management (TDM) Program:

A TDM Program shall include each of the following elements at a minimum:

a. Outreach and Education:

i. Designation of a Transportation Coordinator who directly, or indirectly through membership in a Transportation Management Association, shall be responsible for each of the following:

1. Prepare and present informational and educational materials regarding available TDM strategies to all tenants and employees;

Grace Ciffo, Director of Operations for Nedde Real Estate assumes this responsibility.

2. Organize and host an annual meeting for all tenants and employees to present and discuss available TDM strategies, and opportunities for increased use and participation; Nedde Bank, LLC will organize and host an annual TDM strategy meeting to incentivize tenant and employee participation in our plan.

3. *Preparation and dissemination of an annual travel survey of all tenants and employees;* Nedde Bank, LLC will prepare, share, collect, and disseminate an annual travel survey of all tenants and employees;

And,

4. *Record-keeping and annual reporting to City of all TDM activities offered and rates of participation (including parking utilization if applicable).*

Nedde Bank, LLC will keep record of and report annually to the City of all TDM activities they offer and their rates of participation, including parking utilization of onsite parking spaces.

b. TDM Strategies: In addition to compliance with the on-site Bicycle Parking requirements found in Article 8, Part 2, the following TDM strategies shall also be included at a minimum for a period of 10 years from receipt of a Certificate of Occupancy as follows:

i. GMT Transit passes shall be provided to all tenants and employees for free for the first year of occupancy or employment, and at a minimum discount of 50% for every year thereafter; Nedde Bank, LLC will offer all tenants and employees a free GMT Transit pass for the first year of occupancy or employment, and at a minimum discount of 50% for every year thereafter for a minimum of 10 years from Occupancy.

and,

ii. A car share membership shall be offered to all tenants and employees for free for the first two years of occupancy or employment, and at a minimum discount of 50% for every year thereafter;

Nedde Bank, LLC will offer all tenants and employees a free Carshare Vermont membership for the first year of occupancy or employment, and at a minimum discount of 50% for every year thereafter for a minimum of 10 years from Occupancy.

or,

iii. In lieu of i and ii above, maintain an ongoing and active membership in a Transportation Management Association (TMA) that offers equivalent TDM strategies or better.

Nedde Bank, LLC will participate in aforementioned TDM strategies i and ii.

c. Parking Management: Where on-site or off-site parking is also made available:

i. Conduct parking utilization studies at least annually for a period of 10 years from receipt of a Certificate of Occupancy;

Nedde Bank, LLC will conduct parking utilization studies at least annually for 10 years from receipt of Certificate of Occupancy.

ii. With the exception of permanently affordable housing units, the cost of parking shall be unbundled from all residential and non-residential leases and deeds and made available at a market rate;

Nedde Bank, LLC has agreed to unbundle the cost of parking from all residential and non-residential leases and deeds and made available at a market rate except their permanently affordable housing units.

iii. Where parking spaces are made available to off-site users, parking spaces may be made available by a renewable lease, provided the term of any lease does not exceed one (1) year; If Nedde Bank elects to make parking spaces available to offsite users, those parking spaces will be made available by a renewable lease, provided the term of any lease does not exceed one (1) year.

and,

iv. Priority parking spaces - located in closest proximity to a primary building entrance and/or public street frontage - shall be made available for each of the following:

- 1. Handicapped spaces;*
- 2. Bicycles, scooters, and motorcycles spaces;*
- 3. Car-share: where 1 space must be offered for every 20 residential units, not to exceed a total of 5 spaces, subject to an agreement with a car-share provider; and,*
- 4. Carpool and/or Vanpool vehicles: where more than 20 spaces are available for non-residential uses. In such cases, 5 spaces or 5% of the parking spaces on site, whichever is less, must be reserved for carpool/vanpool use before 9:00 AM on weekdays.*

If Nedde Bank, LLC elects to make parking spaces available to offsite users, they will make Priority parking spaces - located in closest proximity to a primary building entrance and/or public street frontage - available for each of the following:

1. Handicapped spaces;
2. Bicycles, scooters, and motorcycles spaces;
3. Car-share: 1 space will be offered for every 20 residential units, not to exceed a total of 5 spaces, subject to an agreement with a car-share provider; and,
4. Carpool and/or Vanpool vehicles: if more than 20 spaces are available for non-residential uses. In this case, 5 spaces or 5% of onsite parking spaces, whichever is less, will be reserved for carpool/vanpool use before 9:00 AM on weekdays.

d. TDM Agreement: Each TDM Plan shall include a signed commitment to and acknowledgement of each of the following on a form provided by the Administrative Officer:

i. Commitment to ongoing implementation of the TDM requirements as set forth above;

Nedde Bank, LLC agrees to sign a commitment to and acknowledgement of the TDM requirements as set forth above.

ii. Acknowledgement that the project has no claim to the ongoing availability of nearby on-street public parking, and that, as is the case with other on-street public parking, the City retains the right to charge for or remove such on-street parking at any time;

Nedde Bank, LLC will sign a commitment to and acknowledgement that this project has no claim to the ongoing availability of nearby on-street public parking, and that the City retains the right to charge for or remove such on-street parking at any time

iii. Acknowledgement that failure to maintain transportation demand management as required above is a violation of this ordinance, and understanding that, pursuant to Sec. 2.7.8 of this ordinance, no zoning permit or certificate of occupancy may be granted until any such violation has been remedied;

Nedde Bank, LLC will sign a commitment to and acknowledgement that failure to maintain transportation demand management as required above is a violation of this ordinance, and understanding that, pursuant to Sec. 2.7.8 of this ordinance, no zoning permit or certificate of occupancy will be granted until any such violation has been remedied.
and,

iv. Commitment to notify any subsequent owners and tenants in writing of their obligations under this section as part of any purchase and sale and/or lease agreements.

Nedde Bank, LLC agrees to sign a commitment to notify any subsequent owners and tenants in writing of their obligations under this section as part of any purchase and sale and/or lease agreements.

Review and Enforcement: The Administrative Officer shall be responsible for determining compliance with the TDM Program requirements as set forth above, and ongoing implementation shall be included as a condition of any discretionary or administrative permit required for development subject to the conditions of this Section.

Failure to maintain a TDM Program as required above shall be a violation of this ordinance, and pursuant to Sec. 2.7.8 of this ordinance no zoning permit or certificate of occupancy may be granted without a TDM Program in effect.

Affirmative finding as conditioned.

Part 2: Bicycle Parking

Table 8.2.4-1 Bicycle Parking Requirements

The new residential units require the following:

Long Term Spaces	1 / 2 bedrooms	60 bedrooms – 30 long term spaces req'd
Short Term Spaces	1 / 10 units	5 short term spaces required

There is protected bicycle parking illustrated on plan A101 that will meet the long term requirement. Outdoor short-term bicycle parking will be provided west of the building; see C2.1.

Bedroom count is based on floor plans. If “dens” are converted to bedrooms, additional bike parking spaces will be required. **Affirmative finding as conditioned.**

Section 8.2.6 Location and Design Standards

(a) All bicycle parking facilities shall be installed in accordance with the Association of Pedestrian and Bicycle Professionals’ “Bicycle Parking Guidelines.” (Revision September 2015)

(b) Short term bicycle parking or a sign leading thereto shall be visible from the main entrance of the structure or facility.

The applicant shall include signage in the future sign application to direct residents and visitors to the short term bicycle parking west of the building. Residents will also be able to enter the building from that elevation.

(c) *Short term bicycle parking shall be as convenient to cyclists as auto parking.*

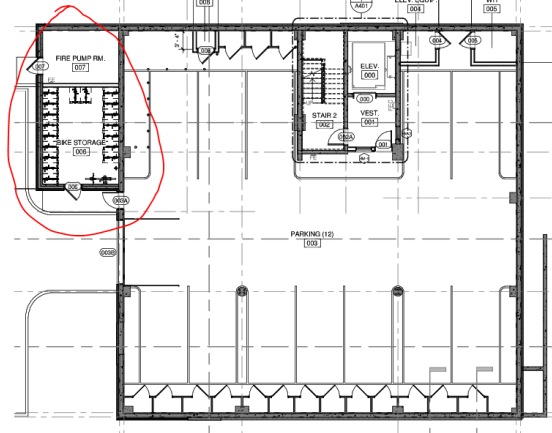
The short term bike parking is adjacent to the vehicular parking area.

(d) *Short term bicycle parking may be provided within the interior of a building. In such cases, the bicycle parking must be located such that it is immediately apparent and accessible to the public, such as within the front lobby. Outdoor directional signage shall indicate the availability of such parking indoors.*

Bicycle parking is available both on the west of the building, and within the lower parking level. Future signage shall include such directional information.

(e) *Bicycle parking facilities such as bicycle racks and lockers shall provide sufficient security from theft and damage. Bicycle racks shall be securely anchored to the ground, shall allow the bicycle wheel and frame to be locked to the rack, and shall be in a location with sufficient lighting and visibility.*

The bike parking room on the lower level is a secure space to leave bicycles.



(f) *Bicycle parking facilities shall be visually compatible and of a design standard consistent with their environment and the development standards of Art 6.*
Article 6 does not apply within the Form Districts.

(g) *Required bicycle parking spaces shall be of a sufficient dimension to accommodate a full-sized bicycle, including space for access and maneuvering.*

(h) *Bicycle parking facilities shall be sufficiently separated from motor vehicle parking areas to protect parked bicycles from damage by motor vehicles.*
Bicycle parking is segregated from vehicular parking.

(i) *The surfacing of bicycle parking facilities shall be designed and maintained to be clear of mud and snow.*

(j) *Bicycle parking facilities shall be kept in place and maintained for year-round use.*

(k) *Covered bicycle parking facilities are encouraged whenever feasible.*

Covered bicycle parking is proposed on the lowest level, adjacent to the garage entrance.

(l) *Existing bicycle parking may be used to satisfy the requirements of this section provided the rack design is consistent with Association of Pedestrian and Bicycle Professionals' "Bicycle Parking Guidelines."*

There are approved bicycle parking accommodations associated with the existing building at 77 Pine Street that may be employed when necessary.

Affirmative finding as conditioned.

Article 9: Inclusionary and Replacement Housing

As the proposed development includes more than 5 new dwelling units, it is subject to the inclusionary housing provisions of this Article. In this case, a total of 49 residential units is proposed. Typically, 15% of housing units must be inclusionary, but this number may vary depending on price points of the market-rate units. This application has pointed to a 20% target, which would be 10 inclusionary units. The applicant is at present working with the Housing Trust Fund Manager in finalizing on-site, off site, or Payment in lieu options.

A final written approval confirming compliance with the requirements of this standard from the manager of the city's Housing Trust Fund Manager is a condition of approval. **Affirmative finding as conditioned.**

Article 10: Subdivision Review

Parcel survey has identified that the easterly property line for this parcel (the west side of Pine Street) runs mid-way down the pedestrian sidewalk and has been used for decades as if public right-of-way. The Form Code demands proximity to the street frontage, which is challenging given the location of the property boundary. (The existing bank building was constructed under a different set of regulations, and is non-conforming to front yard setback.) In a desire to continue an existing pattern of building frontage (using the ICV building on the corner of Pine and College as a guide), the applicant and the City have formulated a plan to address the public encroachment on this parcel, to continue pedestrian access along the westerly side of Pine Street, and to satisfy the defined setback requirements of the Form Code.

The plan has resulted in a maintenance easement to take effect immediately. DPW proposes to move the City ROW line 2.8' to the west. City Council is anticipated to authorize the easement agreement in early June, and the Boundary Line Adjustment can be addressed under separate permitting. These adjustments will allow the continued public use of the sidewalk, strengthen the street face wall along Pine Street, and facilitate conformance to the front setback requirements of the Form Code with the new building.

The proposed lot line adjustment / Easement Plat has been attached to development plans for a better understanding of this intended resolution.

Affirmative finding as conditioned.

Article 14: Plan BTV Downtown Code

14.3.4-D- BUILDING FORM

BUILDING HEIGHT

A

Principal Buildings	<u>Subject to Administrative Review:</u> <ul style="list-style-type: none">• 3 Stories min.• 4 Stories max., not to exceed 45-feet within 20-feet of the Frontage Line on the Church Street Marketplace¹; otherwise,• 6 Stories max., not to exceed 65-feet <u>Subject to DRB Review per Sec. 14.6.4.f:</u> <ul style="list-style-type: none">• 10 Stories max., not to exceed 105-feet; or,• 14 Stories max, not to exceed 160-feet²
Outbuildings	2 Stories max. not to exceed 24-feet



THE DIAGRAM ABOVE IS AN EXCERPT OF REGULATING PLAN SPECIAL REQUIREMENTS - MAP 2 - SPECIFIC HEIGHT AREAS. (SEE SEC. 14.2.6)

Section 14.3.4-D Building Height & Bulk (Form District 6)

The by-right height is 6 stories or 65 feet. The applicant is requesting additional height subject to DRB review per Section 14.6.4 (f) for a total height of 105 feet maximum.

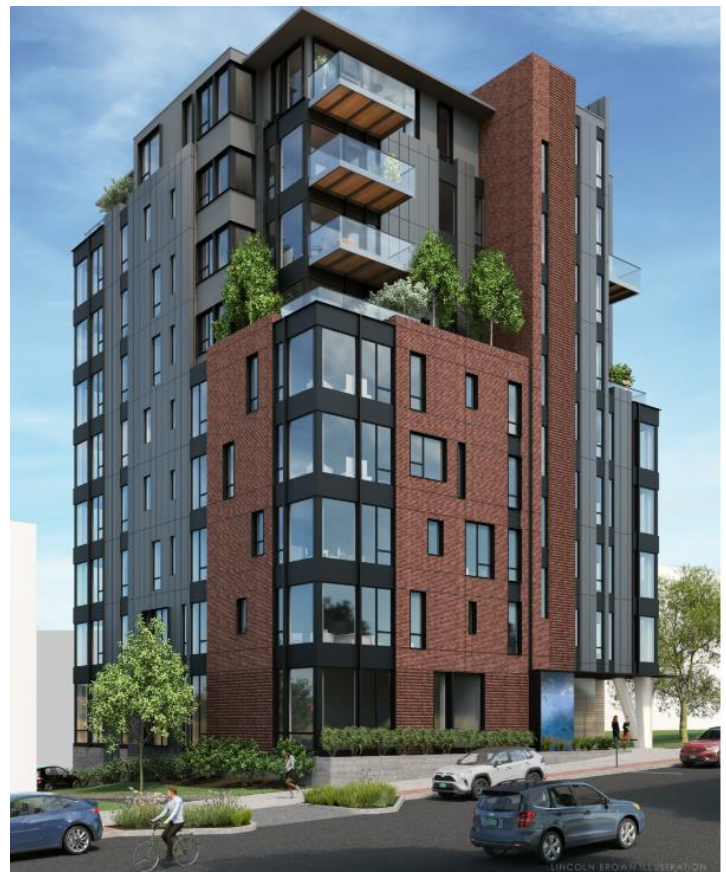
The subject parcel is NOT within any specific height area on Map 2 – *Specific Height Areas*. The proposed building height is 105'; within the DRB discretionary allowance. No additional stories are proposed above the 10 story limitation with DRB approval. The application seeks 9 stories.

Section 14.6.4 Building Height (f) Design and Public Space Standards Required for Additional Building Height

i. Design Standards: The maximum building height and mass is permitted By Right by the underlying Form District, as may be modified by the chosen Building Type and Frontage Type. However, there are a number of ways that building shape, articulations, and choice of materials can be used to reduce the perceived height and mass of taller buildings, and ensure a high quality of design that complements the character of the Downtown and Waterfront area.

After consultation with the Design Advisory Board and a Public Hearing, the Development Review Board shall evaluate any proposal seeking additional Building height under each of the following additional design standards, and find affirmatively that:

- a. The proposed building presents a design that emphasizes slender, vertically-oriented proportions to assure a rich visually interesting experience as viewed within the*



SOUTH EAST VIEW

context of the downtown skyline; reinforces opportunities for establishing points of reference for visual orientation; and provides visual interest and human scale at the pedestrian level through the use of a variety of scales, materials, fenestration, massing, or other architectural design techniques;

The purposeful design (shown in a rendering, above right) utilizes materials, setbacks, architectural voids, and a vertical design to slenderize the building as experienced from the street. The particular vertical emphasis of the off-center masonry column that runs the full height of the building further emphasizes the recesses and differing heights of the bookended companion building volumes. Furthermore, the fifth story setback with green roof partnered with the three projecting balconies guides the eye upward. Vertical window ribbons further encourage skyward view. The alternating materials and varied building outline provide marked visual interest. Pedestrian level interface is excited by the conversely fluctuating recessed plane and void/solid contrast. A landscaped planter at the first level introduces the pedestrian entrance and welcomes directs to the primary access door, further identified by the modernist structural support column at the northeast corner.



and,
b. Upper story proportions of the building are oriented and tapered and/or separated into separate masses in order to retain sky view between individual building elements from the public thoroughfare.

The proposed residential building is situated between the former Chittenden Bank / Peoples United Bank to the north, and the ICV office building to the south. It addresses the street by replicating the front setback of ICV along Pine Street. There are voids between all building masses, allowing for skyview between each individual structure. Visual dynamism is produced with the modulating building edges: Projecting balconies, building step backs and plane recesses.

The Design Advisory Board agreed that the plan is in compliance with these standards. **Affirmative finding**, if DRB concurs.

ii. Active Public Space and Restrooms

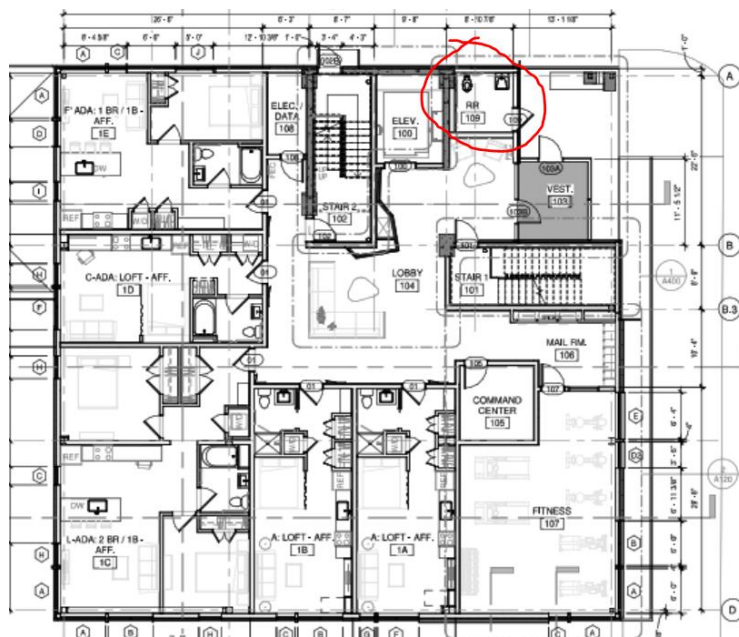
A minimum of 20 sf/1,000 sf of the gross floor area above 85 feet shall be dedicated to active and publicly accessible upper story rooftops and terraces, and/or street-level public restrooms as follows:

- a. Upper story rooftops and terraces must incorporate active public use such as outdoor dining with seating or other uses and activities that invite use by the public, and be located above the 7th floor. At least 25% of the space must be accessible to the general public during all regular business hours without expectation of payment or purchase.*

No rooftop public access is proposed for this development. The applicant is meeting the standard with (b), below.

- b. *Public restrooms may count towards the public space requirement above at a ratio of 10:1. Public restrooms must be located on the ground floor, have a minimum size of 50 sqft, be signed from the public street, be actively monitored and maintained, and be open to the public during all regular business hours. Placement of a public restroom in partnership with the City within an adjacent public space or the public ROW may be acceptable with the concurrence of the respective responsible City department and provided actual development costs and projected 20-yr maintenance costs are paid by the applicant.*

Floor plans confirm 4,040sf on the 9th floor establishing a gross floor area of 8466 sf above 85’.



The calculation for public space requirement is 20 sf/1,000 sf, or 20 x 4 = 48 sf. The ratio for public restrooms is 10:1, 10 x 58 (7’7” x 7’8”) = 58.06 sf. The area of the restroom exceeds the calculation defined in this standard and therefore satisfies the active public space/restroom requirement. The restroom is on the ground floor (see plan A1.01, snip on the right), exceeds the minimum size of 50 sf, must be signed from the public street, actively monitored and maintained, and open to the public during regular business hours. **Affirmative finding as conditioned.**

II. Conditions of Approval

1. Impact fees are required, based on the following estimated new area:

SF of Project **47,127**

Department	<u>Residential</u>	
	Rate	Fee
Traffic	0.200	9,425.40
Fire	0.226	10,650.70
Police	0.045	2,120.72
Parks	0.759	35,769.39
Library	0.470	22,149.69
Schools	0.981	46,231.59
Total	2.681	\$ 126,347.49

The applicant shall confirm final area for calculation of fees. These fees may be subject to a waiver based on providing Inclusionary units.

2. A letter of compliance from the Housing Trust Fund Manager shall be submitted identifying the number of inclusionary units to be provided, their location, and ultimate compliance with the standards of Article 9.
3. If “dens” are converted to bedrooms, additional bike parking spaces will be required.
4. The applicant shall provide a revised photometric plan in conformance with the standards of Section 5.5.2 (f).
5. The Transportation Demand Management Plan, as submitted by the applicants, is hereby adopted and included as a condition of approval. The applicants are obligated under the standards defined in Section 8.1.16 (b) for implementation of the standards and requirements of the Plan. Failure to maintain transportation demand management as required above is a violation of this ordinance, and understanding that, pursuant to Sec. 2.7.8 of this ordinance, no zoning permit or certificate of occupancy may be granted until any such violation has been remedied.
6. Per Section 8.1.16 (c) iii and adoption of the TDM Plan, parking spaces may be made available by a renewable lease, provided the term of any lease does not exceed one (1) year.
7. Approval of this plan reflects the DRB discretionary review and approval of the additional height afforded through Article 14, Section 14.6.4 (f) and the standards associated.
8. This development proposal is conditioned upon a lot line adjustment/easement plan with the City of Burlington relative to the location of the 77 Pine Street easterly boundary line and the City Right-Of-Way.
9. The new public restrooms must remain located on the ground floor, have a minimum size of 50 sqft, be signed from the public street, be actively monitored and maintained, and be open to the public during all regular business hours.
10. Signage will require separate permitting.
11. Prior to release of a Final Certificate of Occupancy:
A written certification from the third party commissioning agent that they are under contract to complete the activities described in the third party Commissioning Plan, that all measures receiving rebates from Burlington Electric or any other utility have been commissioned under the Commissioning Plan, and that the commissioning process is not less than 75% complete at the time of the Final Certificate of Occupancy. (Sec. 14.4.3 (b) 2.)
12. The underside of balconies fronting Pine Street shall be finished.(Sec. 14.4.13 g. ii)
13. Utility service shall be undergrounded (Sec. 14.4.13 i) iii.)
14. 30 Long term and 5 short term bicycle parking spaces shall be provided. The Bicycle Parking Standards of Section 8.2.6 shall be observed.

15. At the time of installation, landscaping shall meet the specific standards of Section 14.6.8 (c) ix.
 - a. Proposed Trees shall be a minimum height of ten (10) feet and/or three (3) inches in Caliper.
 - b. Proposed Understory Trees shall be a minimum of eight to ten (8-10) feet in height and/or three to three-and-one-half (3 - 3 1/2) inches in Caliper.
 - c. Proposed Shrubs shall be a five (5) gallon container minimum for large Shrubs or two to three (2-3) gallon container minimum for smaller species and shall be planted with 18" minimum Clearance from any Sidewalk or pavement edge at the Lot Line.
 - d. Where used, Tree grates should be quarter inch pedestrian Tree guard.
 - e. Where planting space is limited, Structural Soil or soil cell systems shall be utilized in and Adjacent to planting wells and strips.
16. **Prior to release of the zoning permit**, the stormwater management plan and the erosion prevention and sediment control plan shall receive final written approval by the city's stormwater program.
17. **Prior to release of the permit**, a letter of water/sewer capacity shall be provided by Burlington's Water Resources division.
18. A State of Vermont Wastewater permit will be required. It is the applicant's responsibility to secure said permit.
19. It is the applicant's responsibility to comply with all applicable ADA requirements.
20. All new construction is required to meet the Guidelines for Energy Efficient Construction pursuant to the requirements of Article VI. Energy Conservation, Section 8 of the City of Burlington Code of Ordinances.
21. The address for the new building is subject to assignment by the E-911 Coordinator.
22. Rooftop mechanicals shall be screened.
23. Standard Permit Conditions 1-15.

NOTE: These are staff comments only. The Development Review Board, who may approve, table, modify, or deny projects, makes decisions.