

## Department of Permitting and Inspections

Zoning Division

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## MEMORANDUM

To: Development Review Board

From: Mary O'Neil, AICP, Principal Planner

Date: June 1, 2021

RE: ZP21-0799CA, 157-159 South Champlain Street

**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:** 21-0799CA

**Location:** 155-157 South Champlain Street

**Zone:** FD5 **Ward:** 3C

**Parking District:** Mixed Use Multi Modal

**Date application accepted:** March 25, 2021

**DAB review:** May 11, 2021

**Applicant/ Owner:** Nathan Dagesse

**Request:** Construct 5 story Multi-family Large building with 32 residential units on vacant lot.



### Background:

- **Non-applicability of Zoning Permit Requirements 13-0071NA;** Demolish historic building pursuant to Sec.3.1.2(c) 9 per Dangerous Building Order. July 2012.

- **VR 2003-037**; Variance to rear yard setback requirements for proposed multi-unit housing project. (151-157 South Champlain Street). Application **denied**, March 17, 2003.
- **Zoning Permit 00-318**; Amend previously approved ZP #00-009 to eliminate rear portion of the commercial structure. New footprint size to be approximately 35'6 x 25'. Previous building footprint to become additional parking with a two foot strip of grass to surround the building. Use of this commercial structure is specifically not included in this application. January 2000.
- **Zoning Permit 00-009**; Remove existing rear addition to the commercial structure, Replacing in-kind in order to remove contaminated soils. No change in size or coverage or use. July 1999.
- **Request to appear before the Zoning Board of Adjustment** for conversion of 159 South Champlain Street. No further detail. Application withdrawn April 1986.

**Overview:** The applicant proposes a 5 story, 41,362 sf. residential building with 32 units (7 IZ units) on the existing, vacant irregular lot. As this is an identified brownfield, the Phase II investigation has been completed and the Vermont Department of Environmental Conservation (DEC) site manager has agreed that further investigation is not needed. The parcel is poised for a Correction Action Plan (CAP), funding for which was approved May 11, 2021. That process will continue through review, public comment and implementation. DEC is very interested in seeing this site be redeveloped, and has been a key partner with the Regional Planning Commission in forwarding this plan.

The project is within Form District 5, so the review is largely administrative. As the applicant is asking for additional height per Section 14.6.4 (f) of the Comprehensive Development Ordinance, a recommendation from the Design Advisory Board with DRB review is required.

The **Design Advisory Board** reviewed the application at their May 11, 2021 meeting, and voted unanimously to recommend the additional height as afforded by 14.6.4 (f) and 5.2.6 (b), with the recommendation that the applicant explore diminishing the height of the parapet wall, in deference to the historic Blinn House to the north.

**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 Final 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**

#### **Section 3.2.1 Pre-Application Conferences**

**(d) Pre-application Neighborhood Meeting**

*A Pre-Application Public Neighborhood Meeting shall be required for all development involving the construction of five (5) or more dwelling units and/or ten thousand (10,000) s.f. or more of gross floor area of non-residential development in order to allow neighbors to become aware of potential development projects at an early stage of a development’s conceptual design and for applicants to take into consideration neighborhood comments and concerns. Procedures and requirements regarding matters including but not limited to scheduling, location, public notice, and documentation shall be set forth by the department of planning and zoning.*

The applicant has provided verification and notarization of appearance at the March 11, 2021 Wards 2 and NPA meeting for this project. **Affirmative finding.**

**Part 3: Impact Fees**

*Any new development or additions to existing buildings which result in new dwelling units or in new nonresidential buildings square footage are subject to impact fees as is any change of use which results in an added impact.*

Impact Fees will be recalculated for the gross new area. The applicant shall confirm the final proposed area for staff calculation of required Impact Fees. Projects containing newly constructed units that are affordable for households as described within this section are eligible for a waiver of impact fees for that portion of the project. Consultation with the Housing Trust Fund Manager has confirmed that a Payment in Lieu is available for those IZ units (see Section 9.1.13, below.) An email of May 3, 2021 confirms the intent to follow the PIL option.

Based on submitted plans, the estimated Impact Fees are as follows:

<b>SF of Project</b>	41,362	
	<b><u>Residential</u></b>	
<b>Department</b>	<b>Rate</b>	<b>Fee</b>
Traffic	<b>0.200</b>	8,272.40
Fire	<b>0.226</b>	9,347.81
Police	<b>0.045</b>	1,861.29
Parks	<b>0.759</b>	31,393.76
Library	<b>0.470</b>	19,440.14
Schools	<b>0.981</b>	40,576.12
<b>Total</b>	2.681	<b>\$ 110,891.52</b>

**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: Major Impact**

As the project will not exceed 50 residential units, Major Impact Review does not apply.  
Not applicable.

### **Article 5: Citywide General Regulations**

#### **Section 5.2.3 Lot Coverage Requirements**

This is covered in the Checklists.

#### **Section. 5.2.4 Buildable Area Calculation**

Not applicable in the FD5 Zoning District.

#### **Section 5.2.5 Setbacks**

##### *(a) Setbacks Required*

This is covered in the Checklists.

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

##### **(a) Height Measurement**

The parcel is within the Special Height Area “F”, with a by-right height of 4 stories or 45’, with an option for DRB discretionary review of height up to 5 stories or 55’. Additionally, there is a provision within Article 5 (5.2.6 (b), see below) that allows the administrative officer consideration of an additional 5% in height to accommodate changing grades. At a maximum and with both height allowances, the maximum building height is 57.75’ without creation of any additional stories. The proposed building is 57’ in height, within allowable limits of 14.6.4 (f) and 5.2.6 (b).

The applicants are requesting additional height above the by-right amount, subject to DRB review under Section 14.6.4 (f), below.

**Affirmative finding as conditioned.**

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

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

*Exposed mechanical equipment shall be fully screened on all sides to the full height of the equipment, and positioned on the roof to be unseen from view at the street level.*

*Screening may consist of parapets, screens, latticework, louvered panels, and/or other similar methods. Such features and structures shall be designed and clad in a manner consistent and complementary with the overall architecture of the Building*

The applicants have provided a roof plan (A1.7) confirming that not more than 20% of the roof area will contain mechanical equipment and will be screened. None of the equipment will exceed the 15’ height limitation. **Affirmative finding.**

*6. The administrative officer may allow for up to a 5% variation in the maximum building height to account for grade changes across the site. In no event however, shall*

*such additional height enable the creation of an additional story beyond the maximum permitted.*

The applicant requests the consideration of the additional 5%, (up to 2.75') of height above the DRB maximum allowance. The building is poised at 57', less than the 5% admin allowance. No additional stories will be created.

The DAB has encouraged the applicant to consider lowering the parapet wall to ameliorate any impact to the historic Enos Blinn House to the north; however a parapet wall up to 4' does not count toward the overall building height and would only alter the perceived height rather than any change in the measured building height. **Affirmative finding.**

### **Section 5.2.7, Density and Intensity of Development Calculations**

The Form Based Code (Downtown Code) does not have specific FAR requirements but the project complies with the building bulk requirements of 14.3.5-D and is covered in the Checklists.

### **Section 5.4.8 Historic Buildings and Districts**

Although there previously existed a blacksmith and wheelright shop that was included within the Battery/King Street historic district, that building was demolished by an order of the building inspector in 2012. There are no historic structures on the site at the time of this review.

**Not applicable.**

### **Section 5.5.1 Nuisance Regulations**

No part of the application indicates that nuisance impacts may result. No industrial or other commercial uses typically associated with heat, glare, emissions, or noise are included in the application. Parking areas and trash/recycling facilities will be internal to the proposed building, thereby limiting outdoor noise. Mechanical equipment will be located on the rooftop within screening. Noise from mechanical units will, therefore, be substantially less than ground mounted and/or unenclosed mechanical units. Anticipated levels of noise will therefore be consistent with the neighboring residential uses. **Affirmative finding.**

### **Section 5.5.2 Outdoor Lighting**

Lighting interior to the garage falls within acceptable photometric range, with suitable LED residential fixtures proposed. The location of these "pucks" within the parking garage are unlikely to be visible from street-level public vantage points. Exterior lighting in the form of individual, downlight cylinder lamps on balconies and entrances are proposed and are of illumination levels consistent with residential use. **Affirmative finding.**

### **Section 5.5.3 Stormwater and Erosion Control**

An Erosion Prevention and Sediment Control plan and Stormwater plan have been provided and forwarded to the Stormwater engineer for review. As may be expected, this identified brownfield has specific challenges relative to the treatment of its runoff. These plans reflect the steps post Corrective Action Plan activities, after the "dirty dirt" has been removed from the site and appropriate remediation in place. Plans C3.00, C5.00, 6.01 and SW1 define the methodology of capturing stormwater in a management facility north of the building footprint, with an articulated detention system. As with stormwater management, the EPSC plan is subject to final approval by the city's stormwater program. **Affirmative finding as conditioned.**

**Article 8: Parking**

**Part 1 General Requirements**

**Section 8.1.3 Parking Districts**

**c) Multi-Modal Mixed Use**

Zoning Amendment 20-04 created the *Multi Modal Mixed Use Parking District*, which eliminated minimum parking standards in FD5. There are no minimum parking requirements for the proposed residential use. The applicant is required to provide a Transportation Demand Management plan, which has been submitted. See Section 8.1.16, below.

**Section 8.1.6 Affordable Housing and Historic Buildings Exemption**

The project will provide 7 perpetually affordable housing units off-site. See Section 9.1.3, below. As with the other uses, there are no minimum parking requirements for affordable units.

**Section 8.1.8 Minimum Off-Street Parking Requirements**

**Table 8.1.8-1 Minimum Parking Requirements**

There are no minimum parking requirements for residential use in the MMMU Parking District. A Transportation Demand Management Plan is a requirement, see Section 8.1.16, below.

**Affirmative finding as conditioned.**

**Section 8.1.9 Maximum Off-site Spaces**

Maximum parking standards for the MMMUPD are equal to 100% of the required minimum parking under the Shared Use Parking District.

**Exemptions:**

*3. Alternative Fueled Vehicle Parking. Parking spaces dedicated for vehicles operating on primarily alternative fuels including but not limited to electric, natural gas, and hydrogen shall not be counted towards the maximum. Such spaces shall be reserved for such use, and be signed and/or the space painted with the words "Alternative Fueled Vehicles Only."*

An analysis of what the parking requirements are under the Shared Use Parking District are as follows:

Use	Shared Use req/t	Area / Units	Total
Residential	1/unit	32	32
Total max parking			32
Total Parking proposed			39
Alternative Fuel spaces			-3
Shared parking (Blinn House)			-2
Tandem spaces			-2
			39-7= 32 spaces max.

The proposed parking count does not exceed the Maximum Off-site space limitation.

**Affirmative finding.**

**Section 8.1.10 Off-Street Loading Requirements**

Does not apply to the Multi Modal Mixed Use Parking District. **Not applicable.**

### **Section 8.1.11 Parking Dimensional Requirements**

Parking spaces and aisle width are compliant with the revised parking dimensions of ZA20-04. (Standard 90° space, 9 x 18, 8 ½ x 18 residential use; compact 8 x 16, two-way aisle width 23’);

**Affirmative finding.**

### **Sec. 8.1.12 Limitations, Location, Use of Facilities**

#### **(a) Off-Site parking facilities:**

*Except for single and two-family dwellings, required parking facilities may be located on another parcel of land. The off-site parking area shall be within the same zoning district as the use it serves or in a zoning district that allows parking lots or parking garages as Principal uses. Parking that serves any use located outside a residential zoning district shall not be located within a residential zoning district.*

There is an existing agreement with the owners of the Blinn House (north of this parcel) to accommodate 2 parking spaces. See reflection of Shared Parking in maximum parking analysis, above.

**Affirmative finding.**

#### **(e) Joint Use of Facilities:**

*The required parking for two (2) or more uses, structures, or parcels may be combined in a single parking facility if it can be shown by the applicant to the satisfaction of the DRB that the use of the joint facility does not materially overlap with other dedicated parking in such facility, and provided that the proposed use is evidenced by a deed, lease, contract, reciprocal easement, or similar written instrument establishing the joint use acceptable to the city attorney*

There is an existing legal agreement to provide 2 parking spaces for the Enos Blinn House to the north. These spaces are identified on Plan A1.1 of the Civil Plan set. **Affirmative finding.**

### **Section 8.1.13, Parking for Disabled Persons**

Two handicap parking spaces are provided on on the first floor, plan A1.2. Compliance with ADA standards is under the jurisdiction of the building inspector. **Affirmative finding as conditioned.**

### **Section 8.1.14 Stacked and Tandem Parking Restrictions**

Two tandem parking spaces are identified on Plan A1.1, on the east side. Tandem spaces are allowed per-unit for the residences and for dedicated employee parking. **Affirmative finding.**

### **Section 8.1.15 Parking Waivers and Parking Management Plans**

No waivers are sought. See Section 8.1.16, below for Transportation Demand Management.

### **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:*

<b>Dwelling Units</b>	Creation of ten (10) or more dwelling units
<b>Non-residential or Mixed Use Development</b>	A building footprint of eight thousand (8,000) s.f. or more; or, the creation of fifteen thousand (15,000) s.f. or more of gross floor area.

As part of the Multi Modal Mixed Use Parking District, and qualifying under the applicability standards listed above, a TDM is required.

The applicant has provided a TDM in his submission. **Affirmative finding.**

**(a) Transportation Demand Management (TDM) Program:**

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

*a. Outreach and Education:*

From an April 8, 2021 submission, the applicants propose:

- i. Committed that the Property Manager will serve as the Transportation Coordinator and the building owner will join CATMA for the first two years of occupancy to provide the monitoring and reporting requirements. This Manager will be required to accomplish the following:
  - 1. Ensure tenants understand parking, permitting, and options of the TDM.
  - 2. Organize and hold an annual meeting for tenants, residents and staff to present TDM strategies and encourage use and participation.
  - 3. Electronically distribute a travel and transportation survey to tenants, residents and staff annually.
  - 4. Report TDM offerings.

The on-going requirements of the TDM must be assumed by the Condominium Association, and continued to assure permit compliance.

*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; 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; 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.*

The applicant commits to providing transit passes for free to all residents for the first two years. After an inquiry to CarShare, the applicant is willing to provide a CarShare vehicle within the site. To fully meet this standard, car share membership must be provided to all residents for free for the first two years (not one year, as suggested in the TDM submission), with 50% discount for every year afterward.



*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;*

The applicant proposes annual reporting for 10 years.

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

The applicant has committed to unbundle the purchase of parking from the purchase of residential 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;*

A previous agreement will be upheld in the terms of parking made available to tenants of the abutting structure at the Enos Blinn House. Any additional leases shall be bound by this standard.

*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.*

A priority parking space will be provided for CarShare and two spaces for handicap parking. The garage is accessible from the building as well as from public streets. A total of 35 bicycle parking spaces will be provided inside and four guest bicycle parking spaces outside.

*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;*
- 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;*
- 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; 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.*

The applicant is required to formally commit to implementation of the TDM requirements, regardless of building ownership.

*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.*

The TDM and ongoing compliance with its standards will remain a condition of the permit.

**Affirmative finding as conditioned.**

**Part 2: Bicycle Parking**

**Table 8.2.4-1, Bicycle Parking Requirements**

Long Term Spaces	1 for every 2 bedrooms	46 BR / 2 = 23 spaces required
Short Term Spaces	1 for every 10 units	32 / 10 = 3 spaces required

Long term spaces (30) are accommodated within the building on the ground level. See Plan A1.2. Short term spaces (4) are located on a bike rack adjacent to the entrance. See Plans L1.00 and L1.01. **Affirmative finding.**

**Article 9: Inclusionary and Replacement Housing**

**Section 9.1.5 Applicability**

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 32 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 proposes **7 inclusionary units** (> 20% of the total) with payment to the Housing Trust Fund to establish those units elsewhere in the City. The “Payment in Lieu” option will satisfy IZ requirements. See Section 9.1.13, below. Final written approval of the inclusionary housing approval from the manager of the city’s Housing Trust Fund is required. **Affirmative finding as conditioned.**

**Sec. 9.1.13 Off-Site and Payment in Lieu Options**

*(b) Payment In-Lieu Option*

*The developer of a covered project may provide a payment in lieu to the Housing Trust Fund rather than construct inclusionary units on or offsite contingent on AMI as determined by HUD’s Low- and Moderate-Income Summary Data. The payment in lieu option may be utilized by right under the two following scenarios:*

*(1) Covered projects located in a census block where more than fifty-one percent (51%) of the residents are below eighty percent (80%) AMI as determined by HUD's Low- and Moderate-Income Summary Data may utilize the payment in lieu option subject to the following standards:*

- i. The payment in lieu fee shall be \$35,000 per dwelling unit for projects containing 5-16 dwelling units.*
  - ii. The payment in lieu fee shall be \$70,000 per dwelling unit for projects containing 17-49 dwelling units.*
  - iii. The payment in lieu fee shall be \$85,000 per dwelling unit for projects containing 50 or more dwelling units.*
- A marginal fee approach shall be used in payment of the in lieu fees.*

*(Example: A 17-unit project would pay a total of \$140,000 {\$35,000 for each of the first two inclusionary units and \$70,000 for the third inclusionary unit}.)*

*(2) Covered projects located in a census block where less than fifty-one percent (51%) of the residents are below eighty percent (80%) AMI as determined by HUD's Low- and Moderate-Income Summary Data may utilize the payment in lieu option per the following standards:*

- i. The payment in lieu fee shall be \$35,000 per dwelling unit for projects containing 5-16 dwelling units.*
- ii. The payment in lieu fee shall not be allowed for projects containing 17 or more dwelling units.*

*The payment in lieu option shall not apply to a project located within a waterfront zoning district. For the purposes of this Sec. 9.1.13, "site" shall consist of all adjacent lots which are the subject of a PUD or other single development application.*

The project site is not within a waterfront zoning district. The Housing Trust Fund Manager has prepared an Impact Fee Payment-In-Lieu memorandum relative to this project with calculated rates.

**Affirmative finding as conditioned.**

**Section 9.1.17 Review of Proposal for Phasing**

Not applicable.

**Section 9.1.18 Timeline for Availability/Phasing of Inclusionary Units for Issuance of Certificate of Occupancy**

Not applicable.

**Article 14 Downtown Code**

**Section 14.3.5-D Building Height & Bulk (Form District 5)**

## 14.3.5-D- BUILDING HEIGHT & BULK

### BUILDING HEIGHT

A

#### Principal Buildings

(See Sec. 14.2.6 Regulating Plan Special Requirements - Map 2 for specific reference areas)

#### Subject to Administrative Review:

- 3 Stories min.
- 3 Stories max., not to exceed 35-ft in area "F" along Battery St.; otherwise,
- 4 Stories max., not to exceed 45-ft; and,
- 6 Stories max., not to exceed 65-ft in area "C" along Main St.

#### Subject to DRB Review per Sec. 14.6.4 f:

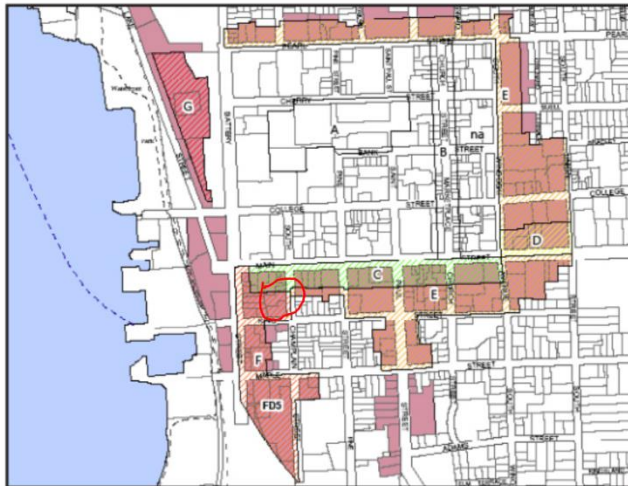
- see below<sup>1</sup>

<sup>1</sup> Subject to Regulating Plan Special Requirements Map 2 (see Sec. 14.2.6), any Building with a Principal Frontage in the area identified as:

- "C" may be increased to 10 Stories not to exceed 105-ft.
- "D" may be increased to 8 Stories not to exceed 85-ft.
- "E" may be increased to 6 Stories not to exceed 65-ft.
- "F" may be increased to 5 Stories not to exceed 55-ft.
- "G" may be increased beyond 50-ft from the Lake St. Frontage Line in order to establish a second Frontage along Battery Park Extension of no more than 1 Story not to exceed 20-feet.

Additional height granted by the DRB per Sec. 14.6.5-d must not extend into a 45-degree angular plane projecting over the property measured from a height of 35 feet at any required side or rear setback along a Form District boundary shared with a residential district.

The subject parcel is within the area identified as "F" on Map 2 – *Specific Height Areas* and is



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

therefore eligible to request of the DRB building height up to 55'. In addition, Section 5.2.6 (b) allows the administrative officer a 5% increase in building height to accommodate changing grades of the site.

6. The administrative officer may allow for up to a 5% variation in the maximum building height to account for grade changes across the site. In no event however, shall such additional height enable the creation of an additional story beyond the maximum permitted.

The proposed building height is 57', is within the DRB allowance (55') with

consideration of the additional 5% (2.75') allowable per 5.2.6 (b). No additional stories are proposed above the 5 story limitation with DRB approval. See Sections 5.2.6 (b) and 14.6.4 (f) below.



### 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 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;*

Applicants' response: To mitigate the impact of the requested additional 2'-0" of building height beyond the allowed 55' the primary façade along South Champlain Street is broken up into (3) bays with the middle bay broken up again into (3) smaller bays or vertically oriented segments. The north and south bays are stepped back 11'-7". The thin projecting terraces, horizontally delineated in these bays (the north terraces projecting past the north façade) further erode the northeast and southeast corners of the building reducing the perceived mass and height. The middle bay maintains vertically oriented proportions by cladding the center of the middle bay with a light granite flanked by north and south bays of dark brick. Visual interest is created by the contrasting materials and the relief provided by the detailing of the material and the projecting sills and lintels. The higher percentage of windows (void), the larger size of the windows and the stepped back first floor further help to reduce the perceived height of the building.

*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.*

See above. There is a parking area immediately south of this parcel, and a building of smaller volume immediately north; providing opportunities for sky view between individual building elements from the public thoroughfare.

**Affirmative finding.**

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*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 7<sup>th</sup> 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.*

The building does not include floor area above 85'. Not applicable.

**II. Conditions of Approval**

- 1. 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.
- 2. 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.

3. Impact fees must be paid **at least seven (7) days prior to issuance of a certificate of occupancy** of a new building or phase. Impact Fees will be calculated for the gross new area, with credit given for existing area. The applicant shall confirm those uses/areas for staff to calculate appropriate fees. From plans, the estimated Impact Fees are:

**SF of  
Project**     41,362

<b>Department</b>	<b><u>Residential</u></b>	
	<b>Rate</b>	<b>Fee</b>
Traffic	<b>0.200</b>	8,272.40
Fire	<b>0.226</b>	9,347.81
Police	<b>0.045</b>	1,861.29
Parks	<b>0.759</b>	31,393.76
Library	<b>0.470</b>	19,440.14
Schools	<b>0.981</b>	40,576.12
<b>Total</b>	2.681	<b>\$ 110,891.52</b>

4. **Prior to issuance of a certificate of occupancy**, written approval shall be received from the Housing Trust Fund Manager confirming satisfaction of the Payment-in-lieu option relative to affordable housing.
5. **Prior to issuance of the final certificate of occupancy**, any zoning permits for the property not yet closed out with final certificates of occupancy must be closed out , superseded or relinquished as needed.
6. Balconies fronting South Champlain Street shall present a finished underside.
7. Service connections shall be undergrounded.
8. Tandem parking shall not serve more than one dwelling unit. They may be dedicated as employee only parking.
9. This permit shall be valid for three years from the date of approval. Construction must begin within the first year.
10. Work shall be completed consistent with the Corrective Action Plan, a copy of which shall be submitted for the zoning record.
11. Any and all construction within the public street right-of-way is subject to encumbrance permitting with the Department of Public Works and the City Council.
12. The Transportation Demand Management Plan, as submitted by the applicants, is hereby adopted and included as a condition of approval. The applicants and future owners 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.

13. 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.
14. Upon concurrence of the DRB, the building height is approved for 57' (55' DRB allowance, and 5% administrative allowance per Section 5.2.6 (b).
15. A State of Vermont wastewater permit is required.
16. It is the applicant's responsibility to comply with all applicable ADA requirements.
17. ADA parking shall be appropriately signed and marked.
18. Fencing shall present a finished side out.
19. Landscaping shall be installed as proposed, and maintained. The landscaping plan shall be compliant with 14.6.8 c. relative to shrub size and structural soil as appropriate.
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. Any outdoor signage will require a separate sign permit.
22. 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.**