

Burlington Planning Commission

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Joint Form-Based Code Committee

Staff notes and Recommendations – 5/18/17 meeting

Discretionary standards for height:

- From the current draft:

d) **Discretionary Building Height:** Approval of additional Building height over the by-right height allowed in the respective Form District not to exceed the maximum discretionary height shall be made by the Development Review Board after review by the Design Advisory Board and a Public Hearing. Each of the following shall be addressed to the satisfaction of the Development Review Board in making its determination:

i. Conformance and Consistency:

- a. The proposal is in conformance with the adopted land use and development plans for the area;
- b. The proposal is consistent with the purpose of this ordinance;
- c. The proposal is consistent with the intent of the Form District where the project is located;

ii. Design:

- a. The proposed Building presents an architecturally significant design that emphasizes slender, vertically-oriented proportions to assure a rich visually interesting experience as viewed within the context of the downtown skyline and 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;
- b. The Building has been sited and designed so as to be compatible with the surrounding area and not create an undue adverse impact with the development, use and enjoyment of adjacent property
- c. Step backs, horizontal and vertical variation, selection of materials and/or other architectural design technics are used to reinforce the street wall, create transitions from Buildings of a smaller mass and height, and reduce the actual and perceived height and mass of the upper stories from the street level;
- d. Upper story proportions of the Building are oriented, tapered and/or separated into separate masses in order to retain sky view between individual Buildings from the public Thoroughfare.

- The basic premise between a by-right and a discretionary review process is the level of detail articulated in the standards for review – those that are objective, measurable and predictable define a by-right process where there is little question as to what constitutes conformance; while those that are broad, subjective, and flexible define a discretionary process where there is room for varying interpretation as to what constitutes conformance
- Language is similar to other codes that include a discretionary approval process (most do not), and is therefore much more subjective than other code standards in order to afford discretion in the decision-making. Incorporating objective measurable requirements like found throughout the rest of the code, would undermine the necessity of a discretionary DRB review process.
- Staff recommendation: retain as-is, and evaluate during implementation

Environmental standards for granting discretionary height:

- Recently adopted DMUC Overlay already includes such standards:

6. Green Buildings and Stormwater Management

A. **Green Buildings:** New development and substantial redevelopment in the DMUC Overlay shall be built to the standard of LEED Gold Certification, or a nationally recognized equivalent as determined by the administrative officer.

i. At the time of application, the following shall be required:

- a. the submission of documentation of the planned performance criteria and elements of the project necessary to obtain the required green building certification (e.g. LEED checklist);
- b. documentation that the project has been registered with the applicable green building certification program (e.g. LEED project registration); and,
- c. a written commitment to apply for formal, written review of the project at the earliest milestone where the green building certifying body offers "precertification" or similar (e.g. LEED Design Review).

ii. Prior to the release of any Final Certificate of Occupancy the following shall be required:

- a. the submission of revised as-built performance criteria and project elements necessary to obtain the required green building certification (e.g. LEED checklist);
- b. the results of 3rd party commissioning of the building envelope and mechanical systems documenting compliance of as-built performance; and,
- c. a written certification from the project design professional of record that the project has been constructed to comply with the green building requirements of this section.

B. **Stormwater Management:** Stormwater runoff from 100% of all net new and substantially redeveloped impervious area (or an equivalent area of impervious)) must be captured and managed in such a way as to mimic pre-development (meadow in good condition, Hydrologic Soil Group B) runoff (or discharge) ratio for the 1 year, 24 hour design storm subject to review and approval by the DPW Water Resources Div.

The feasibility of implementing runoff volume reduction practices must be evaluated in consultation with the DPW Water Resources Division and shall include an evaluation of the engineering feasibility of techniques including, but not limited to runoff reduction through stormwater reuse, green stormwater infrastructure such as green roofs, bioretention, tree planting and sewer separation of roof water for sites currently discharging to the combined sewer system. Storage and detention methods may be used to meet pre-development flow targets. When and where detention systems are the primary mode of stormwater management, "smart" precipitation integrated detention systems must be evaluated and are strongly preferred. On-site stormwater management must be maximized; however, off-site stormwater management may also be used in consultation with DPW Water Resources.

- **Staff recommendation:** maintain consistency with what was adopted for the DMUC Overlay. Instead of LEED Gold or equivalent, consider Silver given lower height that can be achieved.

Height overall both by-right and discretionary:

- Intent has been to maintain consistency with current maximum limits with a few exceptions, and make the process for building to these limits more predictable in order to achieve downtown development objectives and associated community benefits.
- While few new developments have sought to build downtown utilizing existing bonuses recently, it is more likely due to the additional cost, uncertainty and risk rather than a lack of market opportunity. Recent examples that have, including 180-188 Battery St. (10' for jobs) and Eagles Landing (20' for parking).

- Most recent analysis of the proposed maximum height limits in the FBC identified a number of inconsistencies with current and adjacent height limits
- Staff recommendation: see attached.

Extent of Shopfront requirement:

- Current CDO requirement:
 - A. Ground Floor Residential Uses Restricted:**

In order to maintain an active streetscape for pedestrians and pedestrian-oriented businesses and activities, residential uses shall not be permitted on the ground floor of any structure as follows:

 - i) in the Downtown (D) and Downtown Waterfront (DW) districts.*
 - ii) any structure fronting on Pearl, So. Winooski and Main streets in the Downtown Transition (DT) district.*
 - iii) any structure fronting on Battery Street in the Battery Street Transition (BST) district.*

Historic buildings originally designed and constructed for residential use shall be exempt from these use restrictions.
- Shopfront requirement is a form, not a use, requirement. It is particularly important to get the form correct when a building is constructed, while enabling the use to fluctuate as necessary to accommodate evolving market conditions.
- FBC draft is more strategic in where shopfronts are required recognizing that not every block must be required to promote such a high level of street-level non-residential activity (see attached map), and focused only at the frontage rather than the entire ground floor. Major east-west connections between Church Street and the waterfront are the priority.
- Staff recommendation: keep as-is, and evaluate during implementation

Parking setback 40-ft at the frontage:

- Reflects Council action taken as part of DMUC Overlay, and expanded across the entire façade rather than just first 1-2 stories.
- Original staff recommendation was 20-ft which is consistent with similar provisions in other ordinances
- Typical double loaded parking level would be 60-ft so this would require a lot a minimum of 100-ft deep in order to accommodate above-ground on-site parking in most cases
- Staff recommendation: Parking should only be setback 20-ft from the frontage.

Access ramps:

- The intent is to control the form access ramps take based on the location rather than force access ramps to the side/rear elevations altogether.
- This has been re-worded to reflect this:
“Permanent handicapped access ramps located in the First Lot Layer must be integrated into the design of the chosen Frontage Type. Otherwise they must be located in the Second or Third Lot Layer.”

Multi-Family Large vs Mixed Use Building Types:

- A Multi-Family-Large Building Type with a Shopfront Frontage Type is a "Mixed Use" Building Type. We made the distinction between the 2 Building Types originally to allow for a large purely residential building to be built in places where non-residential uses are not allowed (e.g. a high density residential district).
- Staff recommendation: retain as-is

Current CDO

45-ft, 65-ft w/bonuses

65-ft; 14 stories, 160-ft w/ DRB approval

45-ft, 55-ft w/bonuses

35-ft, 45-ft w/bonuses

45-ft, 55-ft w/bonuses

38-ft (Church St)

65-ft, 105-ft w/bonuses

35-ft

45-ft, 65-ft w/bonuses

35-ft, 55-ft w/bonuses

35-ft, 68-ft w/bonuses

35-ft

45-ft

35-ft, 55-ft w/bonuses

35-ft, 45-ft w/bonuses

4/17 DRAFT FBC

45-ft, by right

45-ft, by right
20-ft at park by DRB

45-ft, by right

45-ft, by right
65-ft w/DRB

35-ft, 45-ft w/bonuses

65-ft; by right
160-ft w/ DRB

45-ft, by right

45-ft, by right
65-ft w/DRB

45-ft by right

45-ft, by right
85-ft w/DRB

45-ft by right

35-ft

35-ft, 45-ft w/bonuses

65-ft, by right
105-ft w/DRB

45-ft, by right
65-ft w/DRB

65-ft, by right
105-ft w/DRB

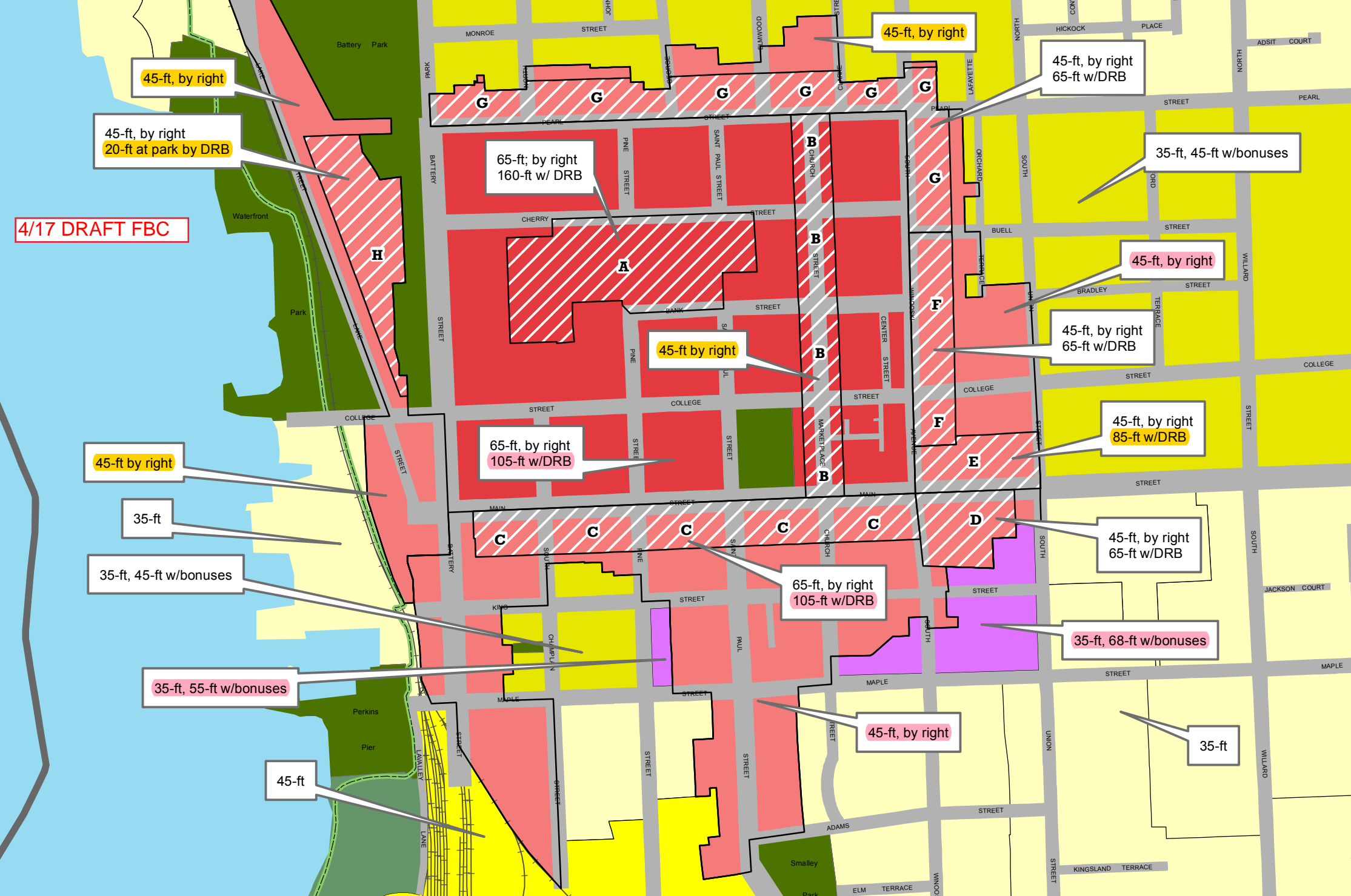
35-ft, 68-ft w/bonuses

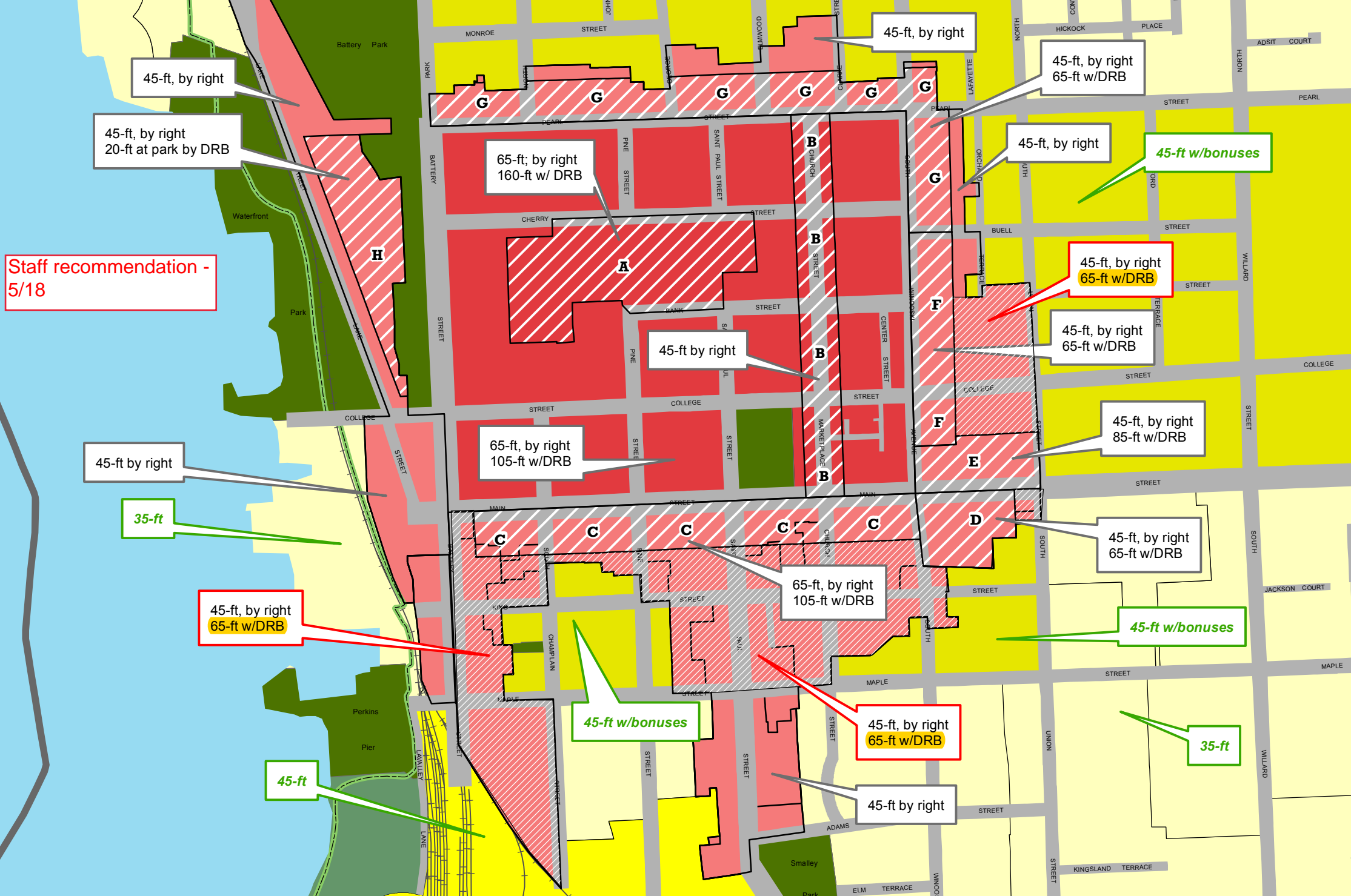
35-ft, 55-ft w/bonuses

45-ft, by right

45-ft

35-ft





45-ft, by right

45-ft, by right
20-ft at park by DRB

65-ft; by right
160-ft w/ DRB

45-ft, by right

45-ft, by right
65-ft w/DRB

45-ft, by right

45-ft w/bonuses

Staff recommendation -
5/18

45-ft, by right
65-ft w/DRB

45-ft, by right
65-ft w/DRB

45-ft by right

45-ft, by right
85-ft w/DRB

45-ft by right

35-ft

65-ft, by right
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35-ft

45-ft

45-ft by right