

1 February 2021

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Josh Hanford, Chair

Vermont Downtown Development Board
Agency of Commerce and Community Development
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The Town of Berlin is pleased to submit this application for New Town Center designation to the Downtown Development Board under 24 V.S.A. Chapter 76A § 2793b and in accordance with the New Town Center Application Guidelines. The planned Berlin Town Center anchored by the Berlin Mall and the Central Vermont Medical Center will bring much needed housing and renewed economic vitality to the community and region. This designation application is the result of a cooperative effort between the town and our partners in the Berlin Town Center.

While the New Town Center Program has been in place since 2002, Berlin is only the third Vermont municipality to seek designation. Berlin is a small town that is much more typical of communities throughout the state than Colchester (which obtained NTC designation for Severance Corners in 2007) and South Burlington (which obtained NTC designation for City Center in 2010). The Berlin Town Center is a 'sprawl repair' project that seeks incremental transformation of an existing auto-oriented regional service center through infill housing, retrofit of the mall parking lot to form a street grid, and provision of pedestrian connections. This designation, if awarded, will support creation of housing with potential for at least 300 units of mixed senior, affordable and market-rate housing located within walking distance of services and employment.

The Berlin Town Center is a model that other Vermont communities could replicate while demonstrating the effectiveness of the New Town Center Program in furthering the state's land use, housing and economic development goals. In communities across the state there are shopping malls and plazas at exits, along state highways and on the edge of traditional downtowns that could be targeted for 'sprawl repair' through the New Town Center Program. The benefits are multi-fold. For example, such projects have direct and immediate water quality improvements when they result in stormwater retrofits to meet contemporary standards. Redevelopment of 1970s-90s era commercial properties now considered 'sprawl' as higher-density, mixed-use town centers is the 'smart growth' advocated by the Vermont planning, housing and conservation communities for more than two decades.

The primary contact people for this application are:

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This application includes a narrative and the following attachments:

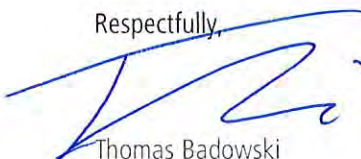
- A. Application checklist from the New Town Center Application Guidelines
- B. Verification that CVRPC and CVEDC have been notified of Berlin's intent to apply for NTC designation
- C. Resolution from the Berlin Selectboard authorizing submission of this application
- D. Excerpts from the Berlin Town Plan demonstrating that Berlin meets Municipal Plan Integration requirements
- E. Letter from the Central Vermont Regional Planning Commission confirming Berlin's planning process
- F. Community Investment Agreement
- G. Map of the area proposed for New Town Center designation
- H. Berlin Town Center Plan
- I. Town of Berlin Official Map
- J. Excerpts from the Town of Berlin Land Use Regulations
- K. Town of Berlin Capital Improvement Program
- L. Water and Wastewater Compliance Forms
- M. Town of Berlin Water and Wastewater Allocation Ordinance
- N. Town of Berlin Zoning Map
- O. Resolution from the Berlin Selectboard regarding future siting of a municipality facility
- P. Letter from the Town of Berlin to the Union School District requesting gift of land
- Q. Memorandum of Understanding between the Town of Berlin and Downstreet Housing
- R. Letters of Support
- S. Summary of Berlin Town Center public engagement results
- T. 24 V.S.A. § 2793b (New Town Center Statute)

To facilitate review of this application, each attachment is bookmarked in the PDF file and accessible in the Adobe Acrobat navigation pane. Hyperlinked cross-references are also provided throughout. 24 V.S.A. § 2793b enumerates the requirements for New Town Center designation. [Attachment A](#) indicates which of the application components fulfills each of the statutory findings that the Downtown Development Board must make. The full text of the statute is provided in [Attachment I](#).

The Town of Berlin submitted a preliminary application for staff review in November and received comments from agency staff in December. We have integrated our response to staff questions and requests in the narrative that follows and in the applicable attachments.

In reviewing this application, we respectfully ask each board member to consider where the bar to entry into the New Town Center and other state designation programs should be set. Berlin, like other municipalities, is seeking designation as a tool to facilitate public and private investment. If our envisioned public improvement and private development projects were fully planned, engineered, permitted and funded, there would be no reason to seek designation.

The Town of Berlin thanks DHCD staff for their assistance during the process of preparing this application for New Town Center designation and looks forward to presenting our vision for the Berlin Town Center to the Downtown Development Board later this month.

Respectfully,

Thomas Badowski

context

The Berlin Town Center is anchored by the Berlin Mall and Central Vermont Medical Center (see [Attachment G](#)). These two entities, and the approximately 50 other businesses around them, have located here in response to more than 80 years of federal and state investments in transportation infrastructure.

What is now the Knapp State Airport opened in 1929 as a privately-owned grass airstrip. It was purchased by the cities of Montpelier and Barre City in 1935 and was significantly upgraded with federal funding to meet national defense standards. The state acquired the airport in 1968 and further improved the facilities. The state and federal government have invested more than \$10 million in the airport since 2000 to bring it into compliance with contemporary FAA standards.

As shown in the air photo below, the area around the airport was farmland in 1962. But the federal and state government had big plans for this area. In less than a decade, it would be served by an exit off Interstate 89 and two new state highways linking Montpelier and Barre City to the interstate, the airport and a rapidly developing regional service center. The hospital (replacing out-dated hospitals in Montpelier and Barre City) was constructed at the same time as the highways, opening at the junction of Route 62 and the Berlin State Highway in 1968. The Berlin Elementary School opened in 1969, and the National Guard Armory and several state facilities were built shortly thereafter. Design and engineering was underway for a regional shopping mall by the late-1970s with the Berlin Mall opening in 1985. The number of businesses in the area continues to grow steadily, supported by ongoing public investments in transportation, water, sewer and communications infrastructure.



This area of Berlin has been transformed from sparsely settled farmland to a regional employment and service center in less than 50 years. Most residents in the surrounding communities have a reason to come to this area on a regular basis – to shop, see their healthcare provider, go to the gym, get their car serviced. This area generates about 25% of the town's total property tax revenue. Nearly 3,000 people work in this area of Berlin. **And almost no one lives in it.**

The 98-unit Chestnut Place senior housing project currently under construction on the Berlin Mall Road is the first significant residential development to occur in the Berlin Town Center. We, in the Town of Berlin, see that project as evidence that our vision for this area is starting to be realized. The shortage of housing in the region, declining household size and shifting lifestyle preferences have created a market for multi-unit housing in proximity to work, shopping and services that



the Berlin Town Center is well-positioned to meet. We believe that this auto-oriented service center will continue to evolve over future decades so that when we are marking the 100-year anniversary of the construction of Interstate 89 through our community, Exit 7 will lead to a vibrant town center characterized by compact, pedestrian-friendly, multi-story and mixed-use buildings in a setting that responds to 21st century needs.

goals

The Town of Berlin and our partners share a series of interrelated goals for the Berlin Town Center:

- ① The Berlin Town Plan vision statement succinctly states how it is the town's goal to be a hub of commerce and industry with an identifiable and vibrant town center. The Town of Berlin has made significant investments in infrastructure with the goal of attracting new development and redevelopment in the Berlin Town Center. The Berlin Mall is the highest valued taxable parcel in Berlin. As such the town has a strong interest in the property's continued vibrancy. We are pursuing designation in part to encourage ongoing development and improvements that will increase the taxable value of the Berlin Town Center and provide taxpayers with a return on their investment in infrastructure. To illustrate this point, the Chestnut Place project when completed will nearly equal the assessed value of the mall itself. The fiscal benefits of adding more multi-unit residential buildings within the Berlin Town Center would be significant for taxpayers, particularly if following designation the town is able to qualify for a tax increment financing district to fund infrastructure improvements and public amenities.
- ① Heidenberg Properties Group believes that Vermont's New Town Center and Neighborhood Development Area designation programs are well-aligned with their goals for the Berlin Mall property. The 2020 bankruptcy of one of the mall's anchor tenants, JC Penney, highlights the challenges currently facing the retail sector. In response to those challenges, malls across the country are evolving from simple retail properties into mixed-use centers that are integrated with the surrounding community. Vacant and underutilized space in and around malls is being converted for entertainment, recreation/fitness, office, dining, lodging, service and residential use with the goal of adding foot traffic and vibrancy. Malls are seeking to improve connectivity with the surrounding community, including provisions for walking and biking, and to become multi-modal hubs. The Berlin Mall has already begun diversifying with the addition of Planet Fitness in 2018 and construction of Chestnut Place in 2020. The mall owners see the future of their property as a walkable, mixed use town center that continues in its role as a provider of essential goods and services for residents in the Central Vermont region.
- ① Central Vermont Medical Center is the largest employer in Berlin (and second only to state government in the Central Vermont region) with 1,300 employees working on the Berlin campus. The CVMC mission, *Central to Our Community*, aligns with the Berlin Town Center, which will provide a central place for the residents of Berlin and surrounding communities that rely on the resources offered around the hospital. Expanding these resources through the addition of housing will address a serious workforce issue faced by the hospital and other local employers. CVMC believes that New Town Center and associated Neighborhood Development Area designations could be a critical incentive for development of workforce housing, particularly if those designations lead to meaningful relief from what is often lengthy and costly state permitting processes. Additionally, CVMC is interested in the creation of a safe pedestrian network that extends to and from the hospital campus for patients, staff and the Central Vermont community.
- ① Downstreet Housing and Evernorth have been planning Fox Run, a 30-40 unit building to be built across from Chestnut Place, in partnership with Heidenberg Properties Group and the Town of Berlin. This project is designed to address recognized regional needs for workforce housing in one of the region's major employment centers. They also selected the site because it is a location that meets state funding criteria and because of the town's stated intention to seek New Town Center and Neighborhood Development Area designations for the Berlin Town Center (with designation being a prerequisite for securing a portion of the necessary funding for the project). Planning has been underway for nearly two years and the developers are facing a deadline to decide whether they can continue to pursue this project. The Town of Berlin and the

other partners strongly support the efforts of Downstreet Housing and Evernorth to bring workforce housing to the Berlin Town Center.

- ① Chestnut Place, the 98-unit, four-story senior housing complex currently under construction in the Berlin Town Center, will offer Central Vermont residents apartments for independent living, assisted living and memory care. Units will be a mix of one-bedroom and studio apartments with a number of community spaces and amenities for resident use within the building. The facility is anticipated to employ 30-40 people. The developer, Dousevicz, Inc., is a family-owned business based in Essex, Vermont that has built and continues to operate multiple senior housing complexes around the state. Chestnut Place stands to benefit from becoming part of a larger residential community in a truly mixed-use Berlin Town Center. The pedestrian improvements and gathering places envisioned will attract residents and contribute to an improved quality of life for the seniors living at Chestnut Place.
- ① Berlin Elementary School has been critical to establishing and sustaining a sense of identity in Berlin, a town with few other municipal institutions and public gathering places, for the past 50 years. The building opened for the 1969-70 school year and for the first time all Berlin elementary students went to the same school. The 2019 merger of the Washington Central Supervisory Union into a single K-12 district raised concern for some Berlin residents about whether the elementary school would continue in its role as a community-defining institution. Sustaining and growing the student population is essential to retaining our local school. The Berlin Elementary School had 215 students enrolled in pre-K through grade 6 in 2018-19, slightly less than were enrolled a decade earlier and significantly less than peak enrollment in the 1990s when there were more than 280 students in grades K-6 – this represents more than a 30% decline in enrollment over the past 25 years. The envisioned Berlin Town Center would bring at least 300 additional housing units to a location within walking distance of the school. A recent VHFA study indicates those new units would likely increase enrollment by about 40 students.
- ① Since the drafting of the *Citizens Vision for Berlin* in 1999, it has been clear that our residents want a town center. Surveys and community meetings over the past 20 years show that residents equate the concept of a town center to a place where townspeople can gather formally and informally – a town green, a coffee shop, a municipal facility – and to a place that creates a recognizable identity for Berlin like the core blocks of the traditional downtowns do for our neighboring communities of Montpelier, Barre City and Northfield. Town residents have shown their support for the Berlin Town Center in recent years through votes to approve bonds for infrastructure improvements and to adopt the town plan and zoning changes. While conventional public engagement was not possible as we developed the Berlin Town Center Plan in 2020, more than 80 Berlin residents participated in our online community forum (see [Attachment S](#)).

planning process

New Town Center Timeline. Berlin residents identified development of town center as a priority for the community as part of a town plan update in the late-1990s. It has remained a priority since and the town has worked diligently towards implementation of that vision. Key milestones in that effort include:

- ① 1999 *Citizens Vision of Berlin* expresses the desire for a town center where residents can gather
- ① 2004 *Berlin Mall Village Center Study* takes the first look at how the Berlin Mall site could be transformed into the town center envisioned by residents
- ① 2005 *Berlin Town Plan* incorporates the community's vision for a town center anchored at the Berlin Mall
- ① 2007 *Draft Conceptual Plan* for the Town Center continues to refine the community's vision and assess the potential for the Berlin Town Center
- ① 2008 *Town of Berlin Economic Development Plan* emphasizes the importance of sustaining the Exit 7 / Airport Business Park area of Berlin as a focus of economic development efforts in Berlin and a major

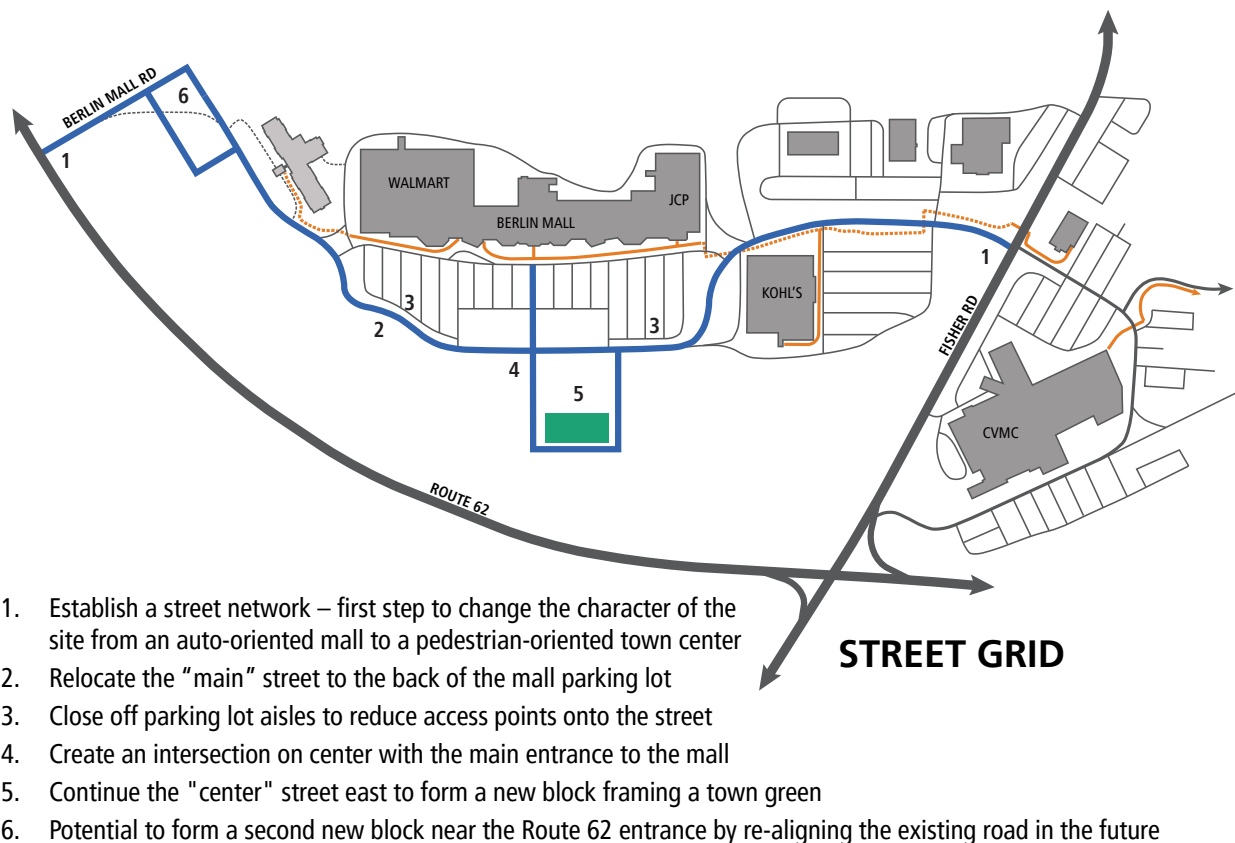
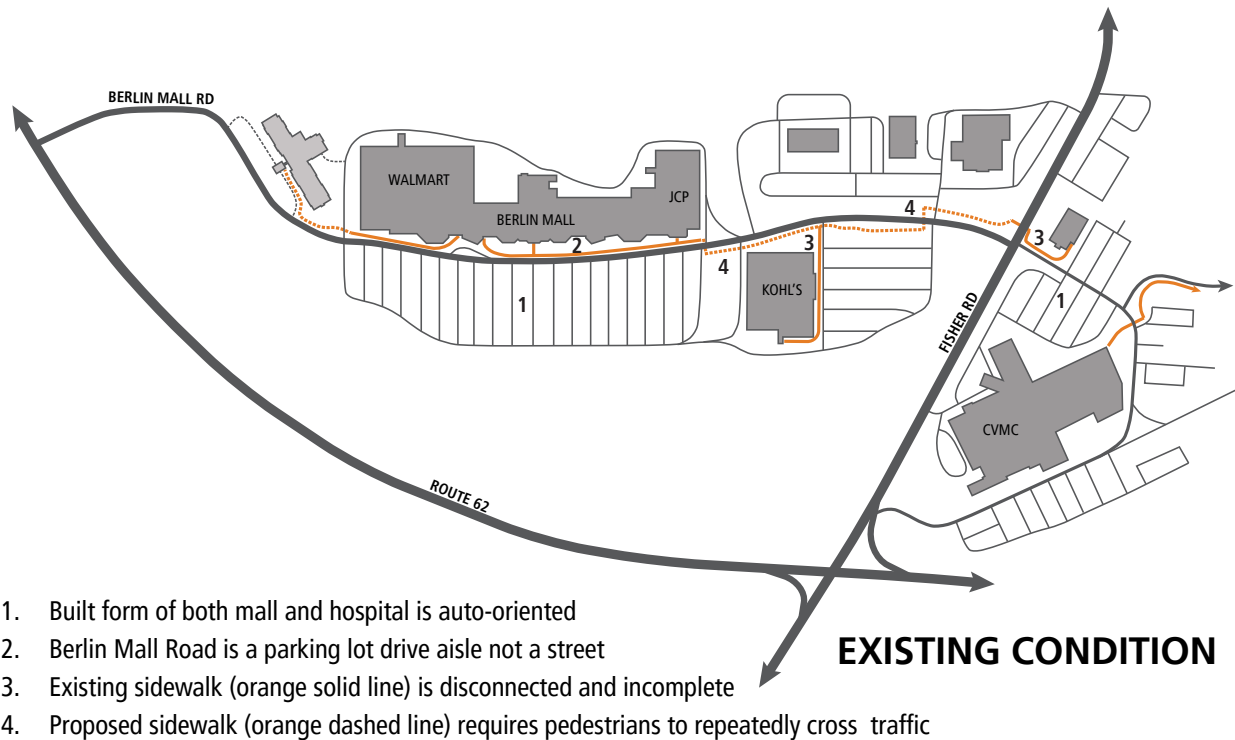
employment center for the region by attracting new businesses and supporting the growth of existing business in this area

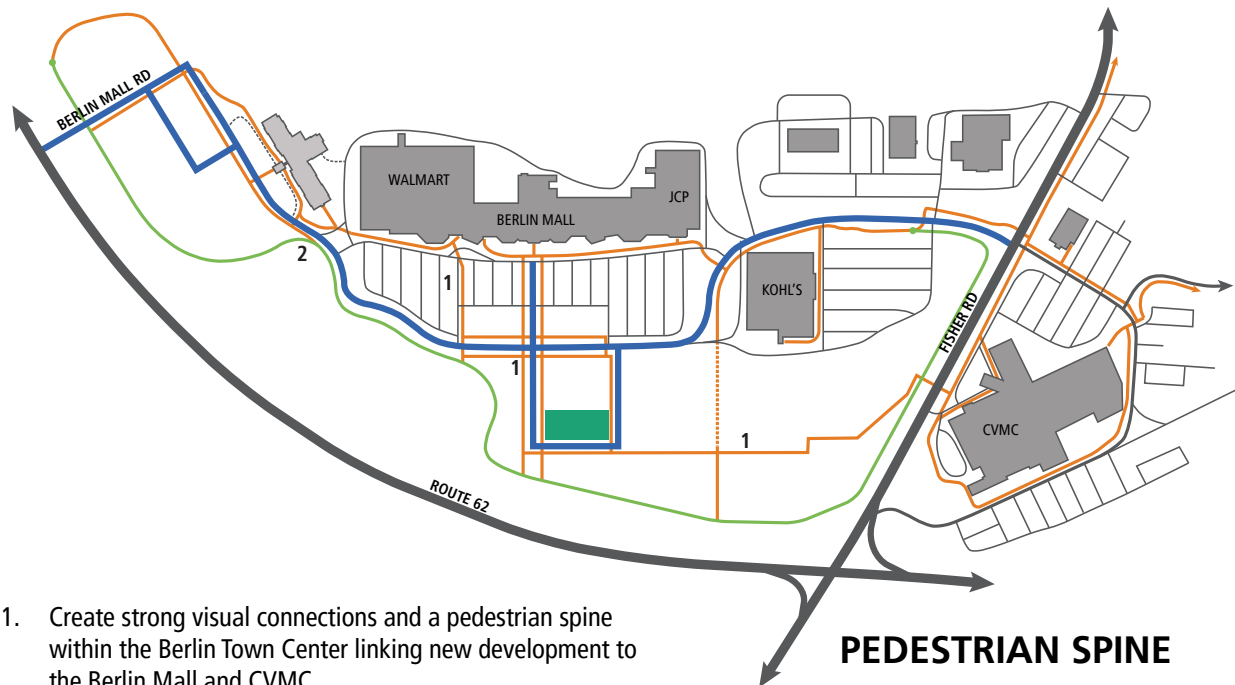
- ① 2015 Berlin municipal water system comes online serving the town center and surrounding area
- ① 2015 the Fisher Road / Route 62 / Airport Road intersection project which resulted in a significant improvement in the level of service (from F to C)
- ① 2015 *Central Vermont Regional Plan* amended to include a Future Land Use Map that classifies the Berlin Town Center area as a Town Center
- ① 2018 Berlin voters approve a revised Town Plan that makes the Berlin Town Center a priority project and major theme of the plan, including announcing the town's intent to apply for state New Town Center and Neighborhood Development Area designations
- ① 2018 Berlin voters approve a \$2.2 million bond to upgrade sewer service within the town center area
- ① 2019 Berlin drills an additional well to ensure adequate water supply for the New Town Center
- ① 2019 Berlin voters adopt a comprehensive revision of the Land Use and Development Regulations that include a revised Town Center zoning district allowing for high-density, mixed-use, multi-story development consistent with the community's vision
- ① 2019 Berlin approves the Chestnut Place project, a 98-unit senior housing complex, in the Town Center with construction commencing in 2020
- ① 2019 Berlin supports the efforts of Downstreet Housing, Evernorth and Heidenberg Properties Group to develop the Fox Run project, which would create 30-40 units of workforce housing in the Town Center – the realization of this project is dependent on the town successfully obtaining New Town Center and Neighborhood Development Area designations
- ① 2020 Berlin receives a Municipal Planning Grant for the New Town Center Planning Process and Designation Applications

New Town Center Planning Approach. As outlined above, Berlin's vision for a Town Center at the Berlin Mall site was well established by 2020 allowing our most recent planning effort to focus on development of a **realistic concept plan** that the Berlin Town Center partners can immediately begin to implement once designation is in place. The concept plan presented in this application is not a long-range vision with idealistic approaches to development that do not 'pencil out' in the current market. Rather, it is the **essential first step** in what will be many to transform the built form of this area from an auto-oriented regional service center to a **walkable, mixed-use town center**. It is what can be done now to start the process of sprawl repair by:

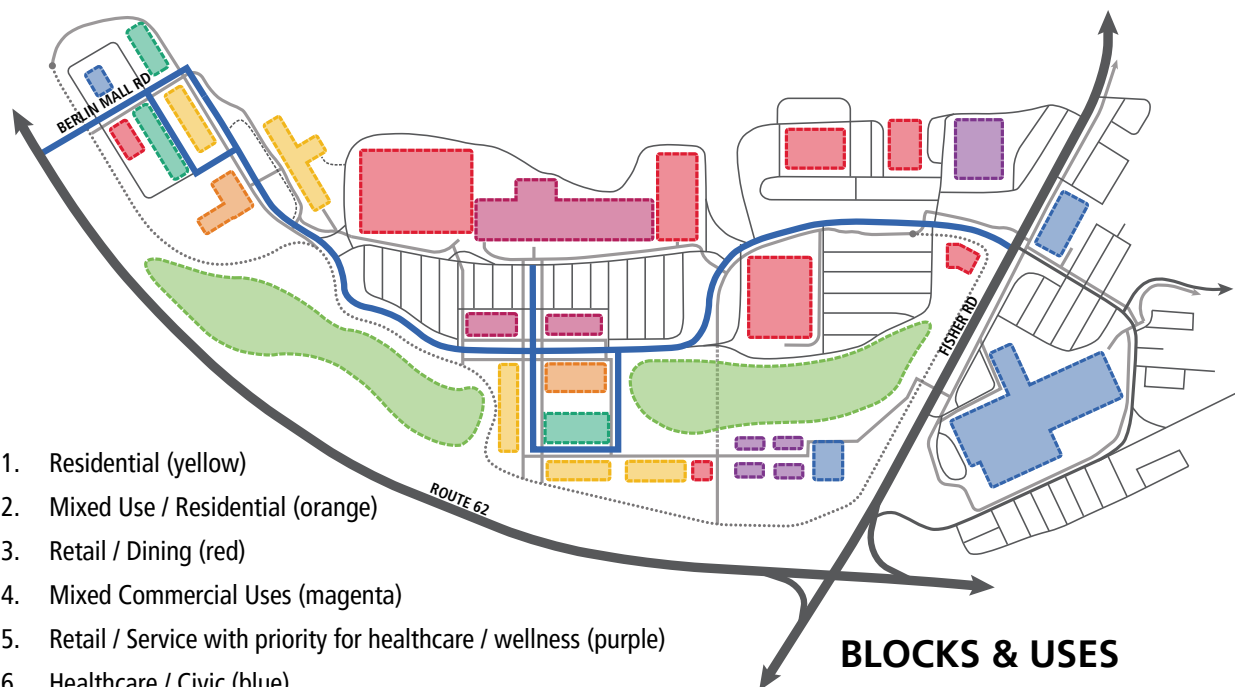
- ① Establishing a street grid through the Berlin Mall parking lot – a 6.5-acre area of largely undifferentiated asphalt that lacks adequate stormwater controls and landscaping to soften its visual impact
- ① Providing pedestrian connections along new streets, within the mall and hospital parking lots, and across busy town and state highways – including the first segment in an off-road multi-use path that is ultimately envisioned to link the New Town Center and Berlin Pond
- ① Infilling the Berlin Mall site initially with multi-unit housing that would make it possible for people to live within walking/biking distance of their job, of grocery and department stores, of healthcare facilities, and for those who are parents, of their children's school

We illustrated these three elements underpinning the Berlin Town Center Plan in the series of simplified diagrams that follow. We used these diagrams during presentations introducing the Berlin Town Center concept to various audiences during our planning process. We have included them in the application to familiarize board members with our planning approach. They are not intended to be interpreted as regulatory plans or maps, and do not necessarily reflect the final concept for the Berlin Town Center presented elsewhere in this application.





1. Create strong visual connections and a pedestrian spine within the Berlin Town Center linking new development to the Berlin Mall and CVMC
2. Construct a multi-use path (green line) along the perimeter providing a safe place to walk or bike separated from traffic and with few vehicular crossings
3. Transform the Berlin Town Center into a place where people can park their vehicle on arrival and safely walk to multiple destinations like in traditional downtowns



1. Residential (yellow)
2. Mixed Use / Residential (orange)
3. Retail / Dining (red)
4. Mixed Commercial Uses (magenta)
5. Retail / Service with priority for healthcare / wellness (purple)
6. Healthcare / Civic (blue)
7. Active Recreation / Town Green (dark green)
8. Passive Recreation / Natural Area (light green)

New Town Center Concept. The first phase of infill in the Berlin Town Center is anticipated to be multi-unit residential. The market may support one or two mixed-use buildings with non-residential uses on the ground floor and residential above. The northern end of the Berlin Town Center is anchored by the CVMC campus, which is anticipated to expand to meet regional needs. Proximity to the CVMC campus could be a benefit for health, wellness and personal service related offices and uses.

The total floor area of retail use is not anticipated to increase substantially but the anchor stores and retail uses present today are anticipated to remain for many years into the future. The Berlin Town Center currently lacks dining establishments and the market may support several restaurants as the number of residents and employees increases. The Berlin Mall is already diversifying its use beyond retail stores and that is anticipated to continue. New commercial buildings will likely have a much smaller footprint and be adaptable for a variety of retail, service and office uses.

Public and private recreation amenities are essential elements when planning high-density, multi-unit housing. The type of recreation amenities town residents envision in the Berlin Town Center include a town green, playground, sports courts, multi-use path and community gardens. The Berlin Town Center design responds to natural features and will result in open space offering visual interest and passive recreation opportunities.

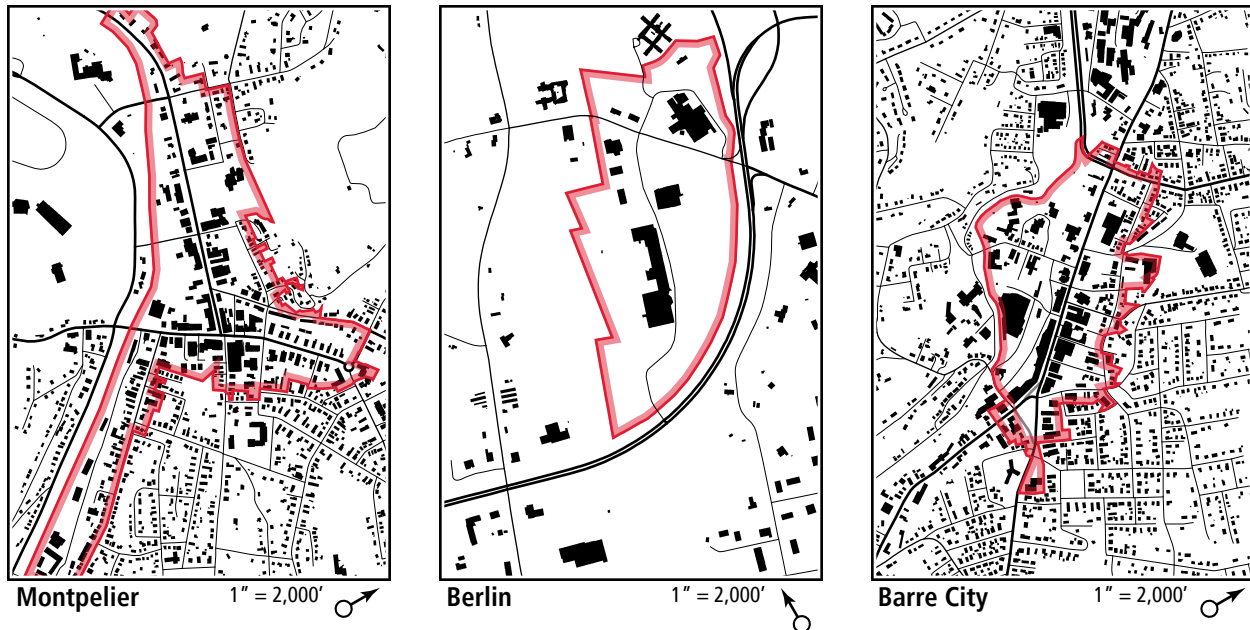
The concept outlined above illustrates how the existing auto-oriented regional service center could realistically be transformed to a walkable, mixed-use town center. It requires improvement to existing transportation infrastructure but not wholesale replacement. It is not dependent on drastic changes to existing buildings and uses, which may be desirable but are likely still many years in the future. It starts with what the current market can support and what the region needs – **housing**. It anticipates that construction of up to 300 units of housing will alter the look, feel and function of the town center. A future expansion to CVMC and the construction of a new medical office building will bring additional jobs and customer traffic to the Berlin Town Center. That infill will change the market dynamics and will help attract smaller-scale commercial uses catering to area residents and workers. Residents of the Berlin Town Center and surrounding areas will benefit from new civic spaces and amenities like the green and multi-use path.

New Town Center Definition. Statute defines a new town center in 24 V.S.A. §2791 (11) as "the area planned for or developing as a community's central business district, composed of compact, pedestrian-friendly, multistory, and mixed use development that is characteristic of a traditional downtown, supported by planned or existing urban infrastructure, including curbed streets with sidewalks and on-street parking, stormwater treatment, sanitary sewers and public water supply."

As home to the second largest employer in Central Vermont and the regional shopping mall, the Berlin Town Center has functioned as a town and regional central business district for decades. Just like the central business districts in the neighboring historic downtowns of Montpelier and Barre City, people from throughout Central Vermont travel to the Berlin Town Center for shopping, services and employment. Unlike those historic centers, the Berlin Town Center has not had a residential component. That is starting to change with construction of Chestnut Place underway and additional residential infill anticipated to follow.

Development responds to the needs, technology and infrastructure of its time. A new town center built in the 2020s will be different than a historic downtown built around water powered mills in the 1820s. Development within a 21st century town center must meet contemporary building and energy code, follow accepted engineering practices, provide emergency access and accommodate parking of private vehicles – among other requirements. Statute does not require a new town center to be a replica of a historic Vermont downtown. Rather, it speaks to a new town center incorporating the characteristics typical of an urban built form – a mix of uses located in a compact, walkable setting. The envisioned Berlin Town Center will meet this definition:

- ① **The Berlin Town Center is compact in terms of size and configuration.** It has a north-south axis along Berlin Mall Road that is about a half mile in length and an east-west axis along Fisher Road (the widest point) that is about a quarter mile in length – both very walkable distances. It is similarly sized to its neighboring traditional downtowns in Montpelier and Barre City as shown in the graphic below. The length



of State Street in Montpelier between Bailey Avenue and Main Street is about a half mile. The length of Main Street in Barre City from Route 62 to City Hall Park is also about a half mile.

- ① **Infill development will make the built form within Berlin Town Center more compact.** Infill development as envisioned in the Berlin Town Center Plan ([Attachment H](#)) will result in a more compact built form similar to that of the neighboring traditional downtowns. Those downtowns are organized around a core of several blocks characterized by a regular pattern of multi-story, mixed-use block buildings. As one moves out from those core blocks, the built form becomes more diverse and less regular. There are industrial sites, single-family homes and 20th century auto-oriented retail establishments within designated downtowns around Vermont. The built form of the traditional downtowns also respond to terrain, rivers and other physical constraints just as the Berlin Town Center will need to do as it builds out in the future.
- ① **The addition of sidewalks and pathways will make the Berlin Town Center pedestrian friendly.** A major focus of the Berlin Town Center Plan ([Attachment H](#)) is establishment of a pedestrian spine providing walkable routes linking major destinations and future residential buildings. Town regulations require new streets to include curbs, sidewalks and related pedestrian amenities, and allow for on-street parking. A multi-use path is envisioned around the perimeter of the Berlin Town Center. CVMC is exploring the possibility of constructing a sky bridge across Fisher Road to link both sides of their campus. The town's Official Map includes planned sidewalks along Fisher Road and other town roads in the vicinity of the Berlin Town Center. As noted above, the Berlin Town Center is a walkable location based on its size and configuration – infill development will create more opportunities for people to walk between locations and construction of sidewalks and paths will provide safe, pleasant places for people to walk.
- ① **The Berlin Town Center is anticipated to include buildings of varying heights.** The Berlin Mall and other existing retail buildings are single-story buildings. The hospital is already multi-story and interested in building even higher – potentially up to eight stories. Chestnut Place is a four-story residential structure. Residential infill in the Berlin Town Center will likely be 3 or 4 stories, which has been the form of multi-unit construction that the market is currently producing in Vermont. The Berlin Land Use and Development Regulations have minimum height requirements that will ensure multi-story buildings in the core and building form standards that will prohibit conventional "box" buildings throughout the Berlin Town Center.
- ① **The Berlin Town Center is anchored by regional retailers and the regional medical center.** The residential infill needed to transform the area into a mixed use center is already occurring. There has also been a

diversification of the uses within the Berlin Mall – a trend that is anticipated to continue in response to changes in the retail market.

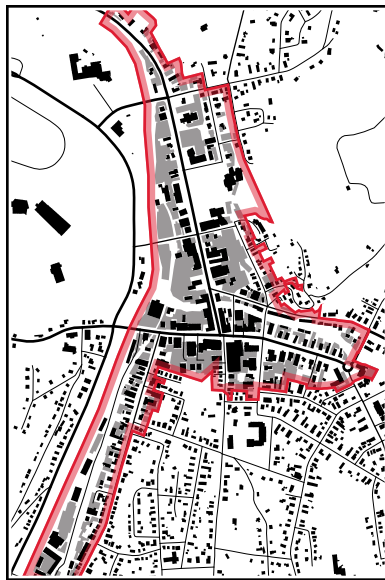
- ① **The Berlin Town Center is served by municipal water and wastewater infrastructure.** The Town of Berlin has invested more than \$9 million in water and wastewater projects serving the Berlin Town Center since 2015. The Berlin Town Center Plan envisions green stormwater improvements, like bioswales within the mall parking lot, and all new development will need to provide stormwater management in conformance with town and state regulations. In the next several years, Berlin Mall, 802 Toyota and CVMC will be improving the stormwater infrastructure serving their existing impervious surface in accordance with the recently enacted "three-acre" rule.

Parking. While we are seeking transformation in the built form of the Berlin Town Center, we want to maintain its role and function in the region as a service and employment center. That role and function will continue to involve people driving to Berlin Town Center for work, shopping, healthcare and other services for the foreseeable future. As such, the Berlin Town Center – just like its neighboring traditional downtowns – will need to provide parking. And given market realities, much of that will be surface parking.

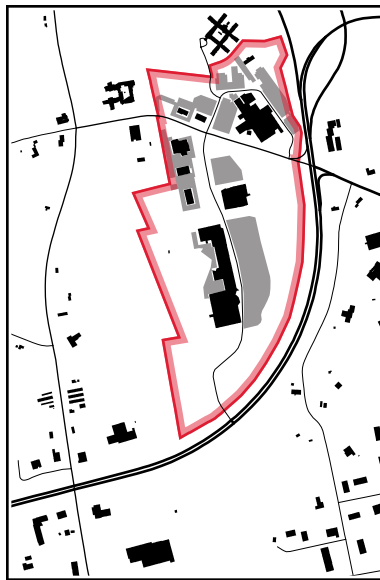
In the 20th century, the traditional downtowns had to accommodate parking needs within a built form that was established in the pre-automobile era. Marginal land along the rivers in both Montpelier and Barre City has been devoted to surface parking, for example. Frequently when damaged or derelict downtown buildings were demolished, the land was converted to parking. Historic downtown streets are often too narrow to accommodate vehicular traffic and on-street parking while also providing ample sidewalks, streetscaping, streetlamps, benches, bike racks, bike lanes or bus stops – amenities critical for a pedestrian- and bike-friendly public realm.

Berlin has the opportunity to create a pedestrian-oriented town center for the 21st century that is designed to accommodate the vehicular traffic and parking integral to high-density, mixed-use development in Vermont without compromising on accommodations for pedestrians and bicyclists. We envision that the fuel source and efficiency of vehicles will continue to evolve and improve, reducing their carbon footprint. But a regional employment and service center in Vermont is going to remain a place that many people will drive a personal vehicle to for work, shopping and services for decades into the future. The Berlin Town Center Plan proposes to add about 300,000 square feet of mixed-use floor area with no net increase in the number of surface parking spaces by locating parking under residential buildings and on new streets. It proposes changes that would result in a reduction in the number of parking spaces within the mall lot to accommodate infill development, a new street, landscaping, sidewalks and stormwater infrastructure. However, the plan respects the parking needs of the businesses and establishments within the Berlin Town Center as outlined below:

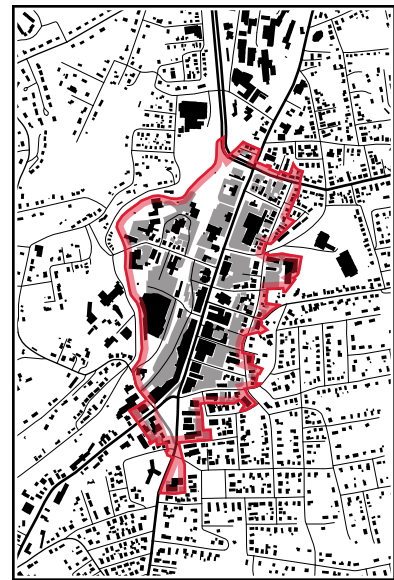
- ① CVMC as part of its master planning efforts has completed a parking needs assessment. Presently, there are 824 parking spaces on their main campus shared between four medical office buildings, the cancer center and the hospital. The campus as currently configured is about 45 spaces short of meeting its full parking needs based on the parking demand ratios used across the UVM Health Network. Future expansion of those facilities or new construction will require additional spaces. CVMC presented plans for a hospital renovation project that would have included the addition of a 25-bed psychiatric facility and relocated emergency room facility in early 2020. Those plans included a 200-space parking structure. The unexpectedly high project cost resulted in a need to redesign the project – a process that is currently underway but that is not anticipated to include structured parking due to the very high per space cost as compared to surface parking. In addition to cost, parking location needs to be considered. Parking for healthcare facilities needs to be placed close to building entrances as many visitors will have mobility challenges due to illness, infirmity or injury. For medical office buildings, UVM Health Network uses a standard ratio of 1 parking space per 150 square feet of building space (6.67 spaces per 1,000 square feet).



Montpelier 1" = 2,000'
 146 acres designated
 33 acres of off-street surface parking
 3,250 off-street surface parking spaces
 98.5 spaces per acre



Berlin 1" = 2,000'
 118 acres proposed for designation
 20 acres of off-street surface parking
 2,150 off-street surface parking spaces
 107.5 spaces per acre



Barre City 1" = 2,000'
 93 acres designated
 26 acres of off-street surface parking
 2,205 off-street surface parking spaces
 86.5 spaces per acre

- ① The Berlin Mall has three anchor retail tenant spaces sized at 93,500 square feet (Walmart), 55,500 square feet (Kohl's), and 34,300 square feet (formerly JC Penney). Most national retailers of this size require access to at least 5 parking spaces per 1,000 square feet of store space as part of their standard lease arrangements. Currently, there are 903 spaces in the mall parking lot (639 of which are 'allocated' to the two anchor stores within the mall) and 247 spaces in the Kohl's parking lot (less than the 278 that would be typical for a store of that size). Further reduction in the mall's surface parking at this time beyond what is envisioned in the Berlin Town Center Plan ([Attachment H](#)) is not feasible because of the amount of parking needed to service the existing retail floor area and meet lease obligations.
- ① As evidenced by CVMC's recent experience, parking structures are too expensive to justify in the Berlin Town Center under present market conditions. The hospital's cost estimate for the parking structure equated to \$29,500 per parking space – nearly 10 times the cost of a surface parking space. The parking structure currently proposed for downtown Montpelier has a price tag of \$34,000 per space. It is possible that in future decades development pressure in the Berlin Town Center will alter current market conditions and structured or decked parking will be a viable option making further infill development in the mall and hospital parking lots possible, but it is clearly not one at this time.

The State Agency Staff Comment Memo included the following regarding parking in the Berlin Town Center:

Question 5. Although shared uses in combination with multiple destinations within walking distance should need less spaces compared to single, isolated uses, has a parking demand analysis been conducted to verify if not net increases of spaces are needed?

The parking including in the conceptual design shown in the Berlin Town Center Plan ([Attachment H](#)) has been sized based on the standards of the Berlin Land Use and Development Regulations and the space needs of the envisioned new uses like restaurants and medical clinics, with the assumption of some shared use of existing parking. As discussed in the application narrative, it anticipates that most of the new multi-unit residential buildings will be sized to accommodate under-building parking for residents that would meet the minimum requirement of 1 space per dwelling unit.

Question 6. Has the Town considered any plans to guide the management of public [parking] spaces?

There is no public parking within the Berlin Town Center at this time. While some public on-street or municipal parking (to serve a civic building) may be provided in the future, we anticipate that most parking in the Berlin Town Center will remain private. The town's approach to managing any future public parking would be part of the planning and scoping work to be completed prior to construction of any such facilities.

Historic downtowns built prior to the automobile era have had to provide public parking to serve businesses and residents where parking needs can not be met on-site. The Berlin Town Center will develop in response to 21st century needs and regulations, which include requiring applicants for development approvals to demonstrate that they can meet the parking needs of their project. The Berlin Land Use and Development Regulations provide developers with a range of options for meeting their parking needs that include shared, off-site and on-street parking. However, it is our intent for the private market to remain largely responsible for creating and maintaining parking in the Berlin Town Center and not to burden Berlin taxpayers with the cost of providing parking infrastructure, enforcement and administration to serve private development.

Question 7. What Town, landowner, or employer transportation demand management measures (which can be less costly than the capital and operational cost of new parking space) have or will be considered to avoid the waste associated with an overproduction of parking, such as shared parking or employer transit benefits?

The Town of Berlin addressed the overproduction of parking through the 2019 revisions to our Land Use and Development Regulations, which reduced minimum parking requirements and capped the amount of parking that can be created by-right to serve proposed development. The parking regulations also allow for shared parking.

At this point in time, we do not feel it is necessary to mandate transportation demand management strategies. It is likely that only CVMC would have enough employees to trigger a TDM requirement. They are already struggling to maximize use of a highly constrained site to meet both their complex physical plant and parking needs as they develop a master plan to guide future expansion of their campus. They do not require a mandate from the town to consider any and all approaches, including TDM, to minimize their future parking needs so they can most efficiently use their site to meet the healthcare needs of the region.

Plan for Mixed Income Housing. We anticipate that residential infill in the Berlin Town Center will be primarily mixed income housing in the form of multi-unit construction. The first residential building under construction, Chestnut Place, includes 50 independent living units, primarily one-bedroom and averaging 640 square feet, in addition to 48 assisted living and memory care units. Those will be market-based rentals ready for occupancy in early 2022. The developer, Dousevicz, Inc., has just begun officially marketing the complex, and reports that since construction began they have been receiving about 10 inquiry calls a month. Brad Dousevicz indicated that they explored other potential sites in the Berlin/Montpelier/Barre area, but were drawn to the Berlin Town Center because of the close proximity to services. One of the critical points for them was easy access to utilities, including sewer and water. He noted that Dousevicz, Inc. is a big believer in smart growth. They seek to develop in already established areas with in-place utilities, roads, sidewalks, etc., with the goal of maintaining Vermont's pristine natural resources.

Downstreet Housing and Evernorth (formerly Housing Vermont) are partnering on the Fox Run project that would create 30-40 units of affordable housing. Downstreet Housing and Evernorth were not successful in securing the VHFA Low Income Housing Tax Credits to finance a significant portion of the project in 2020, but will be resubmitting their application for 2021 funding. New Town Center designation is critical to this project moving forward. Funding for affordable housing in Vermont is highly competitive and locations within designated areas are prioritized. The Berlin Selectboard signed an MOU with Downstreet Housing in February 2020 supporting the project ([Attachment Q](#)). We have made every effort to submit this designation application expeditiously, largely to support the needs of Downstreet Housing and Evernorth to obtain financing for the Fox Run project.

The Town of Berlin has ensured that there are no regulatory barriers to mixed income housing imposed by our Land Use and Development Regulations. There is no maximum residential density within the Town Center zoning district and multi-unit housing is a permitted use. We have invested in the water and wastewater infrastructure necessary to support high-density housing. In the Vermont context, the Berlin Town Center is already well-served by transit with multiple circulator routes passing through daily (see letter of support from GMT, page R7). The conditions are in place to attract developers of mixed income housing to the Berlin Town Center.

Civic and Public Buildings. 24 V.S.A. § 2793b(b)(2)(F) ([Attachment T](#)) requires that applicants for New Town Center designation demonstrate that civic and public buildings do exist, or will exist, in the center as shown by the capital improvement plan and the official map. Multiple public buildings exist in Berlin Town Center, including the Berlin Mall and the Central Vermont Medical Center. A civic building does not exist in the Berlin Town Center at the present time.

By submitting this application, the Town of Berlin is committing to locating a civic building within the area proposed for designation in the future. Evidence of that commitment can be found in the Capital Improvement Program ([Attachment K](#)) and the Official Map ([Attachment I](#)). The Official Map indicates the three potential locations for a future civic building or function that we have identified at the conceptual planning stage: a site at the Route 62 gateway to the Berlin Town Center, space within the Berlin Mall, and a location on the planned town green.

The Town of Berlin has not yet begun the process of formally assessing our space needs and evaluating options for meeting those needs. We know that the current municipal building on Shed Road is undersized to accommodate both town administration and the police department, and clearly lacks necessary facilities like meeting space. While we were not successful in obtaining an FY21 Municipal Planning Grant for a municipal facilities needs assessment, the town will continue seeking funding to support this first step in the process of meeting the requirement for a future civic building in the Berlin Town Center.

To-date, the Berlin Selectboard has adopted a resolution giving priority consideration to the Berlin Town Center when seeking a location for future civic buildings or municipal facilities ([Attachment O](#)). We have initiated a discussion with the school district regarding acquisition of the property at the Route 62 gateway ([Attachment P](#)). We are making a presentation to the Washington Central Unified Union School District Board on February 3 regarding our request for a gift of land. It is possible we will be able to provide the Downtown Development Board with the school district's decision on our request at the February meeting. Conversations with mall ownership concerning renting space in the mall were underway prior to the pandemic. Moving some town operations into space within the Berlin Mall on a temporary or permanent basis is an option that we may resume consideration of when we are able to return to normal operations. These actions clearly demonstrate that the Town of Berlin is committed to meeting the civic building requirement of the new town center program.

The State Agency Staff Comment Memo included the following regarding a future civic building in the Berlin Town Center:

Question 40. Does the Town intend to pursue an option agreement with the mall for these municipal facilities? If the municipal building is not realized in the first eight years of designation, what is the earliest date the Town would be willing to commit to ownership of a programmed green?

Based on our observation of other public-private partnerships in Vermont's designated areas, completing the steps necessary to develop a civic building in the Berlin Town Center within eight years is unlikely. For example, South Burlington's 180 Market Street (library, city hall and senior center) is expected to open this year – 11 years after the city's initial New Town Center designation. It is possible that some municipal functions could be relocated to rented space in the Berlin Town Center prior to the end of the first eight-year designation period. We will continue to work in good faith to meet the civic building requirement just

as South Burlington has done since its initial designation in 2010.

We cannot provide a date by which the town green will be developed. The town green would be constructed in coordination with the private development around it as it is envisioned as the center of a block defined by new buildings. We anticipate that the town and its partners will spend most of the first eight-year designation period working through a series of planning steps that would precede construction. Those anticipated steps following designation include but are not limited to: obtaining a TIF district, amending the Berlin Mall Act 250 permit, seeking one or more residential developers to build a project in the Berlin Town Center, designing the proposed project(s), obtaining town and state permits, and constructing the project(s). Further, it was our understanding from discussion with DHCD staff during the preparation of this application that a town green would not be considered adequate to fulfill the civic building requirement and that some element of town operations would need to be located within the designated area.

We understand that the Severance Corner project has caused the Downtown Board to question whether future applicants will fulfill the civic building obligation. The Berlin Town Center is not comparable to the Severance Corner Village project. One of the most important distinctions is that our proposed designation area includes multiple property owners. We are not dependent on negotiating an agreement with the sole property owner and developer within the designated area for a building site as Colchester was. As noted above, we are already seeking to obtain land from the school district – one of the options available to us to secure a building site. If that is not successful, we can approach other property owners and we also know that Heidenberg Properties Group is open to our leasing space within the mall.

Request 19. With regard to meeting the civic building requirement, the final application should clarify what will be held privately and what is intended to be publicly owned, and a target timeline for completion.

We have described our intended approach for meeting the civic building requirement of the new town center designation program above. More assessment and planning will be required before we can commit to a specific program and offer a definitive timeline for meeting the civic building requirement. We look forward to providing the Downtown Board with an update on our progress towards meeting that requirement during our first four-year review.

Transportation-Related Agency Staff Comments. 24 V.S.A. § 2793b(b)(2) ([Attachment T](#)) does not include a required finding specific to transportation infrastructure within a new town center. There were however a number of state agency staff comments related to transportation infrastructure serving the Berlin Town Center:

Question 8. How was a skybridge identified as the best available alternative for crossing Fisher Road?

The sky bridge is an option that CVMC is exploring as part of the currently master planning process. They anticipate that expansion of their campus across Fisher Road will only be feasible if there is a direct pedestrian link between the main hospital building and any new ancillary buildings to the south. CVMC staff will need to move back-and-forth between the buildings throughout their shifts. A direct connection for patients and staff will allow for rationalizing the uses in each building. The existing crosswalk at Berlin Mall Road and the entrance to the hospital does not provide the level of pedestrian connectivity CVMC anticipates will be needed to make campus expansion to the south viable.

In front of the hospital, Fisher Road has four travel lanes. There has not been a recent traffic count, but the last count in 2013 indicated that about 8,000 vehicles per day travel the segment of Fisher Road between Route 62 and the Berlin Mall Road. The *VTrans Guidelines for Pedestrian Crossing Treatments* suggests that a mid-block crosswalk in front of the hospital would likely not meet state standards due to the width of the road and amount of traffic. Further, given proximity to the Fisher Road – Route 62 intersection, a

signalized, at-grade pedestrian crossing may conflict with queuing traffic or cause traffic to back up into the intersection. While the Berlin Town Center Plan shows a stand-alone sky bridge, it is also possible that a future expansion of the hospital may allow for a sky bridge across Fisher Road to be accessed directly from the building. The Town of Berlin is not proposing to undertake a scoping study for the sky bridge as we anticipate it would remain private infrastructure built and maintained by CVMC. If the hospital decides to pursue this option for providing a pedestrian connection across Fisher Road, they will be responsible for undertaking the engineering and design work necessary for the town to approve the proposed infrastructure to be built within the public right-of-way.

Question 9. Which streets will be public versus private, will the playground be owned by the mall or the Town, will the wetland boardwalk triggering impact fees be funded through the capital plan, will the circumferential pathway have a public easement? In other words, which improvements (road, water, sewer, stormwater, wetland restoration) are envisioned to be public infrastructure, and what improvements will be private infrastructure?

The Town of Berlin and its partners have not begun the process of negotiating the future ownership or funding of the improvements shown on the Berlin Town Center Plan ([Attachment H](#)). We anticipate that this will happen over the course of the next several years as we undertake scoping studies to flesh out the street/sidewalk/path and other improvements in the Berlin Town Center.

We have indicated the public improvements that the town has committed to pursue at this time through adoption of a Capital Improvement Program ([Attachment K](#)) and Official Map ([Attachment I](#)). Future scoping studies will provide the level of detail about final design, engineering and permitting requirements, and construction costs needed for the Berlin Selectboard and voters to make informed decisions about public investments in the Berlin Town Center. The Capital Improvement Program and Official Map will be updated and re-adopted as necessary based on those decisions.

As discussed in our application narrative, Berlin voters have demonstrated a sustained willingness to invest in the infrastructure necessary to support the envisioned Berlin Town Center. We anticipate that this level of support will continue in future years. With designations in place, Berlin will have access to alternative financing options and will be more competitive in seeking grant funding to support improvements and infrastructure in the Berlin Town Center. We view those benefits of designation as critical to our ability to successfully implement the Berlin Town Center.

We want to emphasize, however, that we have historically required proposed development to “pay its way” in Berlin. We expect that approach will continue in the Berlin Town Center with the improvements needed to serve proposed development constructed and maintained primarily by the private sector.

Question 10. On the street grid and pedestrian spine maps [page 7-8]: why are some streets labeled blue and some labeled gray, is there a distinction, and why are these maps distinct from the regulatory street map and the official map?

Those drawings are not regulatory maps and are not presented as such. They are simplified diagrams intended to graphically illustrate the planning approach we followed to develop the Berlin Town Center Plan as stated on the bottom of page 6. We used those diagrams as part of our public outreach effort to explain the planning principles that underpin the vision for the Berlin Town Center. We included them in the application for the same purpose. The colors are used to illustrate the three-step approach to ‘sprawl repair’ that we intend to pursue by highlighting and differentiating the envisioned street grid, sidewalk network and greenway.

Request 2. The draft application should consider crosswalk alternatives (mid-block on Fisher Road in front of hospital) and pursue a scoping study in the capital plan to determine the most cost-effective solution.

See response to Question 8 above. The Town of Berlin expects CVMC to consider the alternatives and propose the pedestrian connection between their main campus on the north side of Fisher Road and any planned extension of that campus to the south side of Fisher Road that best meets their needs. The town does not intend to fund any scoping, engineering or construction of that crossing. Previous pedestrian improvements to the intersection at Berlin Mall Road / Hospital Loop Road were similarly funded by the developers part of development approvals.

Request 6. Street grid exhibits should be consistently shown.

This request appears to be related to a misinterpretation of the diagrams on pages 7 and 8 of the application. This issue is addressed in response to Question 10 above.

Other Agency Staff Comments. There were a few additional state agency staff comments not related to a specific application element. Those are addressed below:

Question 3. Why are designated NTC benefits needed for the auto dealership and medical facility properties if no change is envisioned in the next eight years?

While the Berlin Town Center Plan does not address future infill or redevelopment of the car dealership parcels, their inclusion in the area proposed for designation is rational planning. As described in the application narrative, those parcels are envisioned to remain in commercial use. The extent to which they would be redeveloped within the 20-year planning period will be decided by the market and the business plan of the current owner, as well as the future of the auto dealership business model. The owner has indicated that he has no plans to change the nature or extent of the businesses on those properties at this time, but he is very supportive of the Berlin Town Center concept (see letter of support, page R1).

The auto dealership parcels are integrated with other properties in the Berlin Town Center. A segment of the Berlin Mall Road, currently a private road, is located on those parcels. We anticipate that the dealership parcels could be part of a comprehensive approach to stormwater management and wetland mitigation within the Berlin Town Center. We have also learned through this planning process that the parcel closest to Fisher Road is within 150 yards of CVMC, which would make it potentially eligible for future redevelopment as a clinic or other medical facility associated with the hospital if the owner did decide to sell.

We see inclusion of these properties in the designated area as potentially creating an incentive for the current owner to consider other options for the property and his business, particularly as market conditions change with addition of infill housing and expansion of the hospital campus. When the time comes for those properties to be redeveloped, they will be subject to the same 'sprawl repair' zoning standards as the other properties within the Berlin Town Center.

The Berlin Town Center Plan does not include infill or redevelopment on CVMC's existing campus on the north side of Fisher Road because the hospital is currently engaged in its own master planning process. Understandably, CVMC was not able to advance their master planning efforts in 2020 within the time frame they had established at the start of the year. We anticipate that when we return to the Downtown Board for review in four years, we will be able to present CVMC's future redevelopment plan for the main hospital campus and that plan will be integrated with the overall vision of the Berlin Town Center.

Question 4. Given that the mall site is the locus of the proposed center and the sustained buy-in of Berlin Mall LLC is necessary to ensure implementation, if sold, what commitment will the town retain from the mall's heirs, assigns and successors under this agreement?

There is no legal mechanism in place requiring a future owner of the Berlin Mall to be a signatory to the community investment agreement. Clearly, the town would encourage any future owner to do so. However, it is unreasonable to expect the current mall owner to place such a condition on the property without compensation. Further, there is no precedent from prior applications (for new town centers or downtowns) for requiring the commitment expressed by the current signatories to a community investment agreement be carried forward by future property owners.

We respectfully raise a concern regarding jurisdictional overreach based on this question. The Downtown Development Board has the authority to review Berlin's compliance with the designation requirements at any time. If the property were to change hands and the Downtown Development Board is concerned that the new owner is not committed to implementation of the Berlin Town Center vision, the Board could request a review and submission of evidence that the owner is committed to the vision for the Berlin Town Center at that time.

Question 36. Does the Town intend to pursue district-specific revenue streams (TIF or special assessment) to support capital investments in the center?

The application narrative states that Berlin plans to commence work on a TIF application immediately following designation. The Selectboard will be considering other financing options for public improvements within the Berlin Town Center as we start to develop the detailed construction plans and cost estimates for those elements. Access to alternative financing tools and funding sources is a primary reason why our town government has a strong interest in obtaining designation.

Request 1. The Town should continue discussions with the DEC wetland program and report, if possible, on the status of those discussion in the final application.

We would note that there are no application requirements or criteria in 24 V.S.A. § 2793b(b)(1) ([Attachment I](#)) related to wetlands or natural resources more broadly. We understand that Agency of Natural Resources staff has raised concerns about whether the development envisioned in the Berlin Town Center Plan ([Attachment H](#)) could successfully obtain necessary permits due to wetland impacts. There is a regulatory process in place at both the federal and state level that allows applicants to obtain permits for development that results in wetland impacts. Neither we nor the regulators can answer the question of whether the envisioned development could obtain necessary permits. That answer will not be known until a project is fully designed and an application moves through the permitting process.

As part of our planning effort, we did compile, review and undertake additional wetland delineations in the area near the Route 62 gateway and east of the mall parking lot. Following that work, we held a meeting with U.S. Army Corps of Engineers and DEC Wetland and Stormwater Program staff on December 15 to introduce them to the Berlin Town Center concept and discuss options for mitigation of wetland impacts in the Berlin Town Center.

The preliminary Berlin Town Center Plan reviewed by state agency staff was developed based on previously available wetland data provided by ANR. The field work completed late last year found that the wetland was more expansive in the area east of the mall parking lot than previously mapped. As a result, we revised the final conceptual plan presented in this application to minimize wetland impacts.

At the December 15 meeting, regulatory staff indicated that they would want to review wetland impacts for the area as a whole, rather than incrementally on a project-by-project basis. The Berlin Town Center partners have not yet met to discuss how and whether a joint approach to wetland permitting would work. The partners are awaiting the outcome of this designation application before taking further steps related to permitting future development within the Berlin Town Center. The Town of Berlin will support the efforts of the Berlin Town Center partners and will encourage collaboration between the property owners to protect and enhance water quality in the Airport Brook watershed as part of infill and redevelopment in the Berlin Town Center.

Also at the December 15 meeting, regulatory staff expressed concern over ongoing deterioration of wetlands and related reduction in water quality in the area proposed for designation. It is our position that substantial improvements in the quality and function of wetlands in the Airport Brook watershed will only occur in conjunction with new development in the Berlin Town Center. It is development that creates the financial incentive for private investment in stormwater treatment and other site improvements or remediation projects. Without opportunity for new development on previously developed commercial properties like those in the Berlin Town Center, the likely outcome will be disinvestment resulting in continued decline in the quality and function of wetlands within the watershed.

implementation strategy

The town's goal for the first four years of New Town Center designation is to continue to work with our partners on implementing the infill development and public realm improvements envisioned in the Berlin Town Center Plan ([Attachment H](#)):

- ① The first residential building in the Berlin Town Center is currently under construction and we look forward to welcoming its residents about a year from now.
- ① We hope that the second residential building, Fox Run, will secure the funding it needs to move forward with permitting in 2021 and construction in 2022.
- ① We requested a 2021 Municipal Planning Grant for a municipal facilities needs assessment, which was not funded. We anticipate seeking funding for the assessment in a future grant round. The study would assess the town's current and future needs for town administration and police facilities. It would evaluate the feasibility and costs with meeting the needs of each department at the existing location and at three potential sites in the Berlin Town Center (at the Route 62 intersection, within the Berlin Mall, and within the planned new node of the mall parking lot). This information will aid the Selectboard in making a recommendation to the voters regarding a future municipal facilities. It is the first step the town needs to take to fulfill our commitment to locating a municipal building in the Berlin Town Center.
- ① We are planning to submit a 2021 Transportation Alternatives Grant for a scoping study of the multi-use path through the New Town Center. The scoping study would further refine the conceptual alignment shown in the Berlin Town Center Plan ([Attachment H](#)) with final design/engineering, impact assessment, permits required, estimated construction and maintenance costs, and ownership options.
- ① We are exploring whether we can submit a 2021 Better Connections Grant to complete a similar scoping study for new and improved streets within the Berlin Town Center. If our project does not fit the requirements of that program, we intend to look for other funding sources with the goal of completing the study in 2022 or 2023.
- ① We plan to commence working on an application for a Tax Increment Financing District in 2021.
- ① Heindenberg Properties Group will be proceeding with applications for an Act 250 amendment and a master plan consistent with the Berlin Town Center Plan in 2021.
- ① Central Vermont Medical Center will be completing work on an updated master plan in 2021.

- ① Berlin Mall, Central Vermont Medical Center and the auto dealerships, as "three-acre" properties, will all submit stormwater plans for approval by 2023 and make stormwater improvements within five years of those plans being approved.

state assistance

The New Town Center Guidance document asks applicants to identify how the state can help the municipality achieve its goals. Berlin requests support from state agencies with project funding, state agency coordination to overcome conflicts between New Town Center policy and past land use decisions, and reform of state regulations that have the effect of limiting infill and redevelopment on previously developed sites like those in the Berlin Town Center.

Project Funding. Upon obtaining New Town Center designation, Berlin plans to seek a tax increment financing (TIF) district for the Berlin Town Center and surrounding area served by the municipal water and wastewater systems. A TIF district will make it possible for the town to finance public improvements to support planned development without increasing the burden on current property taxpayers. Berlin will also be seeking funding through state grant programs for planning, design and construction of a municipal building and other public improvements in the New Town Center. Berlin is a small town with less than 3,000 residents – we do not have deep pockets. The ability to access financing tools and outside funding sources that comes with designation is essential to making the Berlin Town Center project happen, and is the primary motivation of town government for seeking designation.

State Agency Coordination. As a 'sprawl repair' project, Berlin's proposed New Town Center is unlike the two prior applications considered and approved by the Downtown Development Board. It raises an issue not directly encountered by the Board previously – the relationship between Vermont's land use policies as furthered by the state designation programs and its land use regulations as implemented through Act 250. The entire area proposed for designation is under Act 250 jurisdiction. The Berlin Mall tract is subject to conditions of approval incorporated into the property's original permit and subsequent amendments. Those conditions severely restrict the potential for this property to be redeveloped and infilled as envisioned in the Berlin Town Center Plan ([Attachment H](#)). Auto-oriented 'sprawl' is basically locked in place on this site under existing permit conditions. Release of those conditions is essential to allow a mixed-use, walkable 'repair' to the built form.

As we were preparing this application and in the staff review of our preliminary application, Natural Resources Board staff recommended that the Town of Berlin not seek designation until the Act 250 permit for the Berlin Mall has been amended. The state agency staff memo included two questions on this topic:

- ① Question 1. What is the town's plan to ensure conformance between the NTC and an amended Act 250 permit (and other requisite permits) of the permit(s) do not conform with a State Board designation approval?
- ① Question 2. Would it be faster and less costly for the State, local, and private entities involved if the Town and landowners first obtained the necessary State permits, including the Act 250 Amendment, prior to seeking the NTC designation?

We respectfully disagree with the position of the Natural Resource Board staff. The Town of Berlin requests that the Downtown Development Board assess this application based on its alignment with state planning goals established in 24 V.S.A. § 4302 as interpreted through the criteria for New Town Center designation in 24 V.S.A. § 2793b ([Attachment T](#)). This will ensure that the Board makes a policy decision on our application distinct from any subsequent regulatory decisions to be made by the District Commission.

Statute makes no linkage between the state's designation programs and its regulation of land use through Act 250. Previous New Town Center applicants have not been required to demonstrate that envisioned development or redevelopment of private property within the area proposed for designation has state permits or will be able to obtain them. It is the Town of Berlin's position that these questions exceed the scope of the New Town Center

requirements enumerated in 24 V.S.A. § 2793b ([Attachment T](#)). We would also note that similar questions have not been asked of South Burlington in relation to properties within their new town center that are also subject to Act 250 jurisdiction, including the University Mall.

Setting aside the issue of jurisdictional overreach posed by these questions, if approved, the designation for the Berlin Town Center will at a minimum be subject to review every four years and renewal every eight years. That review and renewal schedule will provide the town and state an opportunity to make any adjustments that may be warranted by state permit conditions being imposed on future development projects within the designated area. Further, 24 V.S.A. § 2793b(d) allows the Downtown Board to review the town's compliance with the designation requirements at any time it so desires. At any point, the Downtown Board can require corrective action, limit eligibility for benefits or remove the designation altogether.

The New Town Center Designation Program is a vehicle for implementing state land use and development policies. The use of incentives is clearly intended to facilitate development envisaged by the policies. The policy setting function of state government is and should remain distinct from its role as a regulator. The Vermont Planning and Development Act requires municipal regulation to implement state and local land use policies as specified in statute and in the municipal plan. This is policy driving regulation. The approach suggested by state agency staff comments on the preliminary application would reverse that relationship and result in policy being driven by regulation.

One of the primary advertised benefits of being within a designated area is permit relief for property owners and developers. Because nearly all the land within our proposed New Town Center and Neighborhood Development Area boundaries is already subject to Act 250 jurisdiction, this 'relief' is a mirage. It is our position that the Heidenberg Properties Group (the owners of the Berlin Mall) will see some benefit if the designation is in place before the application to amend their Act 250 Master Plan is considered by the District Commission – and this is really the only permit relief benefit available to them through designation at this time. We believe designation would strengthen their case that facts and policy conditions related to the planned character of the Berlin Town Center area have changed significantly in the 40 years since the original conditions were placed on the Berlin Mall justifying the elimination or modification of those conditions.

To provide context for this issue, we have summarized the permitting history and relevant findings of fact and conditions of approval on the Berlin Mall property as they relate to the Berlin Town Center Plan.

Developers Diversified, Ltd. applied for an Act 250 permit on October 19, 1979 for a 285,000 square foot enclosed mall with 1,473 parking spaces and other related site improvements. The District Commission approved an amended application for that project on November 5, 1982. Subsequently, there was a significant re-design of the project to reduce the size of the mall and to subdivide the remaining land into a series of outlots, which resulted in a new application and ultimately a denial. There were also appeals of the District Commission decisions by the applicant and other interested parties. Ultimately those appeals were settled through stipulations agreed to by all parties on December 12, 1984 and an amended permit issued on January 23, 1985 authorizing construction of a 173,703 square foot enclosed mall with 873 parking spaces. Findings and conditions of the original Act 250 approval for the Berlin Mall, and subsequent amendments, relevant to planning for the Berlin Town Center include:

1. In response to Section 6086(a)(9)(B) Primary Agricultural Soils, the District Commission considering the 1979 application found "that a portion of the development as proposed will be located on primary agricultural soils; however, we also find that the agricultural potential of these soils will not be significantly reduced as a result of this development." This finding carried through to the ultimate approval in 1985 and has been applied to all subsequent development.
2. In response to Section 6086(a)(9)(H) Costs of Scattered Development, the District Commission considering the 1979 application found "that the development as proposed is physically contiguous to an existing settlement." The findings continue to state, "Finally, many planning decisions involving public and quasi-public investment and infrastructure have determined that expansion of Berlin's commercial area (an

existing settlement) would occur in the section of Berlin up the Benjamin Falls Road *[now the Berlin State Highway]* from the Barre-Montpelier Road in the general vicinity of the Central Vermont Hospital." Those findings carried through to the ultimate approval in 1985 and to more recent projects despite changes to the Act 250 criteria. For example, the 2018 permit for the Kohl's concluded under Criterion 9(L) Settlement Patterns that "This Project is infill."

3. In response to Section 6086(a)(10) Local and Regional Plan, the District Commission considering the 1979 application found that the development as proposed was in conformance with the duly adopted town and regional plans. The findings noted that the mall was a commercial project located in an area designated for commercial development in the Berlin Town Plan and that the mall site was included in the urban land use category of the Central Vermont Regional Land Use Plan where commercial activities such as shopping centers were allowable. Those findings carried through to the ultimate approval in 1985. Subsequent development on the Berlin Mall property has not been contested, and has frequently been supported, before the District Commission by the Town of Berlin and the Central Vermont Regional Planning Commission. For example, the CVRPC submitted a letter in support of the Kohl's application in 2015 stating that the project "was supported by the Regional Plan and will be of benefit to the Town and Region" and noting that "the project aligns with Regional Plan language encouraging new development in locally designated growth centers where infrastructure capacity exists."
4. In response to Section 6086(a)(8) Aesthetics, the District Commission considering the 1979 application found "that the development as proposed will not have an undue adverse effect on the scenic or natural beauty of the area, aesthetics, historic sites or rare or irreplaceable natural areas." The findings included that no rare and irreplaceable natural areas would be affected by the project and that the development as proposed would not destroy or significantly imperil necessary wildlife habitat or any endangered species as there was no evidence of any such habitat or species in the area.
5. The subsequent application (for the significantly smaller re-design) was denied under Criterion 8. The District Commission found that "There will be undue adverse effects on the scenic and natural beauty of the area and a rare and irreplaceable natural area. A necessary wildlife habitat and endangered plant species will be imperiled or destroyed by this development." Those findings are further detailed below:
 - a. The applicants proposed selective cutting of the vegetation that existed between Route 62 and the development site for the stated purpose of making the proposed development visible from the highway. The District Commission found that the "vegetative buffer will not act as a barrier to the average consumer" and that the applicant's rationale that project economics dictate substantial buffer removal to be unreasonable. This finding was based on comparing the proposed shopping mall to a ski resort and determining that customers do not have difficulty becoming aware of and navigating to locations not visible from the highway.
 - b. The District Commission also found that development of outlots B, C, D and a portion of A "will constitute undue adverse effects on a rare and irreplaceable natural area" and "will also destroy or significantly imperil a necessary wildlife habitat and endangered plant species." That natural area was described as a white cedar swamp located between Route 62 and the 982' contour line on the applicant's property. The Agency of Natural Resources provided testimony describing this area as a "small but unique swamp" and indicated that an observation had been made during a recent site visit of two orchids on the Vermont endangered plants' list and that a permanent and year-round stream channel had been formed within the wetland area. Current delineations show that not all of the land between Route 62 and the 982' contour is part of the wetland/wetland buffer as it presently exists on the property.
 - c. The wetland had not been identified or considered as part of the original 1979 application. The applicant vehemently objected to the state's discussion of a wetland on the tract as a new issue some five years into the review process. The state's response was that this portion of the site only

became involved in the project's development when the applicant proposed selective cutting of the vegetation between Route 62 and the development site.

- d. The stipulations that settled the appeal arising from the denial in 1984 included "21. Existing vegetation shall be preserved in areas surrounding the disturbed portions of the site as depicted on Exhibit 15A and updated by Ex. 9 EB2." and "28. Applicant agrees to a 25 foot setback from Elevation 982."
 - e. The amended 1985 permit specified further that "26. No tree cutting, excavation or grading shall be conducted in the areas designated Outlots A-D, or the Non-Building Area, identified on Board Exhibit #9, excepting such activity which is necessary for the installation of the mall structure itself, together with access drives and the parking area." and "27. There shall be no disturbance of the wetland area located east of the mall parking lot which is encircled by a 982' elevation line depicted on Board Exhibit 12, Sheet 4, nor shall there be any disturbance within a 40' buffer zone beyond elevation 982'." It is evident that the alignment of a portion of the Berlin Mall Road and the rear boundary of the mall parking lot respond to that stipulated disturbance limit.
 - f. The referenced exhibits associated with the 1985 mall permit are not in the possession of Heidenberg Properties Group or the Town of Berlin, and have not been located by the District Commission in their archives as of this submittal. Without Exhibit 9, the geographic extents of the areas delineated in Conditions 26 and 27 cannot be established with certainty. One interpretation based on the plain text of Condition 27 is that the current extent of the mall parking lot and access road essentially reflect the permitted limits of development (40 feet from the 982' contour line). Various site plans and surveys prepared in the intervening 35 years do not provide a consistent delineation of the "non-building area" established in Condition 26 but suggest that it may have been limited to Outlot D (the land directly to the east of the mall and parking lot) and did not apply to Outlots A and C (on the east side of the Berlin Mall Road).
 - g. During the preparation of this application, ANR staff have recommended that we do not propose any development within the "no build area" as part of the envisioned Berlin Town Center. Given that the extent of that area is not certain and that it could be interpreted to include essentially all the land on the mall tract between the Berlin Mall Road / parking lot and Route 62, this approach is not viable. It is also would not further our 'sprawl repair' effort that is seeking to establish physical and visual connections between existing and future infill development.
6. The 1985 permit included conditions of approval related to signage. "31. There shall be only one externally lighted, freestanding identification sign installed at each of the two entrances. All exterior signs attached to the buildings to identify major tenants shall have initial letters no higher than 30 inches with all other letters no higher than 24 inches. There shall be only one such sign for each major tenant, and no exterior signs for individual tenants within the mall." One of the 'sprawl repair' measures the mall is interested in pursuing is creating more a street frontage presence for mall tenants through signage and facade enhancements.
 7. There have been several applications seeking to change or modify the entrance signage on the Berlin Mall property since 1985. However, these efforts have faced regulatory difficulties because Route 62 is a limited access highway subject to 10 V.S.A. 495(b), which prohibits on-premise signs located so as to be readable primarily from a limited access facility.
 - a. An application for placement of changeable letters on the two approved freestanding signs was denied in 1987, a decision that was appealed and subsequently upheld by the Environmental Board. The Board concluded that "allowing a section for changeable letters on the signs is contrary to the Board's intent to minimize the visibility of the entire project. This kind of advertising is contrary to the overall intent of the conditions under criterion 8 which were clearly designed to mitigate the inherent intrusion of the mall into the scenic and natural beauty of the area."

- b. The 2011 application to expand the Walmart included replacing the externally illuminated freestanding sign at the Route 62 entrance identifying the Berlin Mall with an internally illuminated sign that would have identified the Berlin Mall and its anchor tenants. The new sign was denied under Criterion 8.
- c. The 2018 application to construct the Kohl's included two internally-illuminated wall mounted signs for the store, a flagpole at the Route 62 mall entrance, and replacement of the existing externally-illuminated freestanding signs at each mall entrance with internally-illuminated signs identifying the Berlin Mall and its anchor tenants. The District Commission found that "The height, colors, and illumination of the proposed Route 62 sign and flagpole are designed to be visible from Route 62 in order to attract visitors to the Mall." The Commission concluded that "the size, design, and location of the sign is clearly intended to advertise the presence of the businesses, which is inconsistent with the Legislature's policies regarding limited access highways and the preservation of scenic corridors." and "that the purpose of the flagpole and flags is to draw attention to the Mall." The Commission found that the sign at the Fisher Road entrance would not be visible from Route 62. The Commission denied the Route 62 entrance sign and flagpole, and conditioned the Fisher Road entrance sign on its not being internally illuminated. Berlin Mall appealed that decision and ultimately received approval for a smaller, essentially monochromatic (no corporate colors), non-internally illuminated sign for the mall and its anchor tenants.
- d. The visibility of development from Route 62 and the gateway intersections is critical to the placemaking and wayfinding elements planned for the Berlin Town Center. Berlin residents want an identifiable town center. We do not want our town center to be hidden from view.

Regulatory Reform. We understand that the Legislature is taking up Act 250 and housing reforms again this year. Under current statute, the New Town Center and Neighborhood Development Area Designation programs will offer few tangible benefits for property owners and developers in Berlin's Town Center. The Town of Berlin respectfully requests that the Agency of Commerce and Community Development and the Downtown Development Board advocate for a complete exemption from Act 250 for all development within designated downtowns, new town centers, growth centers and neighborhood development areas. Recognizing that this may not be achievable, the Town of Berlin recommends the following targeted changes to current statute and rules to provide more meaningful benefits to projects that align with state planning goals within designated areas:

- ① Berlin's population is less than 3,000 people. So our Act 250 threshold for priority housing projects ([10 V.S.A. § 6001\(3\)\(A\)\(iv\)\(1\)\(ee\)](#)) will be capped at 24 units – much smaller than the scale of multi-unit residential development envisioned in the Berlin Town Center Plan ([Attachment H](#)). The cap does not further the purposes of the designation programs to promote high-density housing and efficient use of serviced land. Therefore, the existing cap related to population level should be eliminated.
- ① The Act 250 exemption for priority housing as currently implemented creates an incentive for greenfield development over infill development. The exemption is only accessible to properties that are not already subject to Act 250 jurisdiction (see [Priority Housing Flowchart for Existing Permits](#)). Applicants for a priority housing project on land already under Act 250 jurisdiction will need a permit amendment unless the housing project is in compliance with all conditions of the existing permit. All the property proposed for New Town Center or Neighborhood Development Area designation in Berlin is already under Act 250 jurisdiction. The priority housing exemption should apply to any development that meets the criteria irrespective of the jurisdictional status of the site. This is critical if we are to make progress on 'sprawl repair' and transform auto-oriented commercial areas into viable mixed-use neighborhoods in accordance with smart growth principles.
- ① The Act 250 mitigation for loss of agricultural soils ([10 V.S.A. § 6093](#)) is no longer available to newly designated New Town Centers and any Neighborhood Development Area that would be associated with

them. The elimination of this benefit, which allows property owners to pay an in-lieu fee for conversion of primary agricultural soils rather than requiring on-site mitigation, works against the purposes of the designation programs to promote compact development patterns and efficient use of serviced land. When land has been serviced by municipal water and wastewater, its development value far exceeds its agricultural value and the municipality needs that land to be developed so it will contribute to the cost of constructing and maintaining the infrastructure. On-site mitigation in densely developed or developing areas leaves small islands of "farmland" surrounded by development with marginal productive value. With funding from in-lieu fees, higher value farmland can be conserved in rural locations where farming can happen on the scale and at an intensity necessary for agriculture to be financially viable. The mitigation benefit should be restored.

- ① It is very difficult to meet the requirements that allow for wetland impact compensation through off-site mitigation or in-lieu fees under the 2020 Vermont Wetland Rules ([Section 9.5.c](#)). Like the agricultural soil mitigation rules, the state wetland rules can work against the purposes of the designation programs to promote compact development patterns and efficient use of serviced land. Property owners within all designated areas should be able to make a case that loss of wetlands in one location would be compensated with greater wetland protection resulting in a higher level of ecological services in another location not designated for high-density, compact development – particularly when the proposed development has substantial social and economic benefits such as priority housing projects.
- ① The Berlin Town Center is bounded by Route 62 and it functions as the primary means of access to the Berlin Town Center. Route 62 is a limited access highway, classified as Access Management Category 2, which allows at-grade intersections. The 1.25-mile section of Route 62 between Exit 7 and the Berlin State Highway has three at-grade intersections, while the 2.8-mile section between Berlin State Highway and Route 302 has only one. The provision of state law ([10 V.S.A. § 495\(b\)](#)) that prohibits on-premise signs that are "readable primarily from a limited access facility" has been and will continue to be a challenge to establishments in the Berlin Town Center due to their proximity to Route 62 and the highway's function in providing direct access to those properties. There should be relief from this provision for otherwise lawful on-premise signage associated with properties like the Berlin Mall and CVMC that are directly accessed from an at-grade intersection on a Category 2 limited access highway.
- ① The review of Act 250 findings show that Route 62 has been repeatedly described as a scenic corridor in a semi-rural setting. That description has been used to justify the requirement that the Berlin Mall and other development in the Berlin Town Center be screened from the highway and to limit signage. Yet the findings of fact from a series of Act 250 decisions over the past 35 years do not establish the scenic values cited or how this segment of Route 62 is quantitatively different from other state highways servicing major employment, retail and service destinations. The Vermont Agency of Transportation has not officially designated Route 62 as a scenic highway in accordance with state statute despite staff referring to it as a scenic highway corridor in testimony to the District Commission. It is clear from the initial Act 250 application for the mall that neither the Town of Berlin or the Central Vermont Regional Planning Commission considered this area to be rural or of particular scenic value in 1979. State regulators imposed "no-build" and vegetative screening requirements on the project that were not supported by local or regional plan policies. Berlin residents want an identifiable town center. The state's continued imposition of screening requirements from the highway is not consistent with the community's vision for the Berlin Town Center.

1 Cover letter, including:		
✓	Page 1	Name of the Municipality.
✓	Page 1	Name, address, daytime phone number and email address of the primary contact person for the application.
✓	Page 2	A list of documents included in application.
✓	Attachment B	Verification that the regional planning commission and the regional development corporation have been notified of the intent to apply.
2 Authorization from Town or Village Selectboard or Trustees		
✓	Attachment C	Minutes, municipal resolution or signatures of the legislative body showing that the application has been authorized by the municipality.
3 Municipal Plan Integration		
✓	Attachment D	The municipal plan states that the municipality intends to apply for New Town Center designation.
✓	Attachment D	The municipal plan explains how designation would further the plan's goals and the goals under 24 V.S.A. §4302 (statewide planning goals).
4 Confirmed Planning Process		
✓	Attachment E	Letter from the regional planning commission, stating that the municipality's planning process is "confirmed" under 24 V.S.A. §4350.
5 Community Investment Agreement		
✓	Attachment F	A community investment agreement that has been executed by authorized representatives of the municipal government, businesses, and property owners within the district, and community groups with an articulated purpose of supporting New Town Center interests.
✓	Attachment G	A map of the designated New Town Center meeting the land area requirement of 2793b (b)(A). (See boundary requirements on page 5 and map requirements on page 7).
6 Planning Requirements		
✓	Attachment H	A municipal center plan (an articulated vision for the New Town Center – a graphic depiction is optional – and next steps for implementing it).
✓	Attachment I	An official map adopted according to 24 V.S.A. §4421.
✓	Attachment J	A design review district or other regulations that adequately control the physical form and scale of development.
✓	Attachment J	Regulations enabling high densities that are greater than those allowed in any other part of the municipality.
✓	Attachment J	Regulations enabling multistory and mixed use buildings and mixed uses which enable the development of buildings in a compact manner.
✓	Pages 13-14 Attachment Q	A clear plan for mixed income housing in the New Town Center.
✓	Attachment K	A capital improvement program, or a capital budget and program showing a clear plan for providing public infrastructure within the center, including facilities for: drinking water; wastewater; stormwater; public space; lighting; and transportation including public transit, parking, and pedestrian amenities.

✓	Attachment I Attachment K Attachment O Attachment P	Evidence that civic and public buildings do exist, or will exist in the center, as shown by the capital improvement plan or the capital budget and program, and the official map.
✓	Attachment L Attachment M	Evidence that any private or municipal sewage system and private or public water supply serving the proposed new town center are in compliance with the requirements of 10 V.S.A. chapters 47 and 56, and that the municipality has dedicated a portion of any unallocated reserve capacity of the sewage and public water supply necessary to support growth within the proposed new town center. If no public water or sewer exists respond to requirements of 24 V.S.A. § 2793b (b) (2) (H). See page 8.
7 Overview		
✓	Page 9-11 Attachment H	Describe how the municipality intends to meet the New Town Center Definition in §2791 (11): “New town center” means the area planned for or developing as a community’s central business district, composed of compact, pedestrian-friendly, multistory, and mixed use development that is characteristic of a traditional downtown, supported by planned or existing urban infrastructure, including curbed streets with sidewalks and on-street parking, stormwater treatment, sanitary sewers and public water supply.
✓	Page 4-5 Page 20-25	List any benefits that the municipality hopes to obtain from the New Town Center designation.
8 Map Requirements		
✓	Attachment G	A color map delineating the boundary of the New Town Center district, clearly showing the buildings and properties that are within the New Town Center district. In most cases, an orthophoto should be used as the base map, with the information below superimposed over it: streets identified by name; significant buildings identified; north arrow, scale and current date; and property boundaries.
✓	Attachment N	Zoning Map should be included as a separate map.



TOWN OF BERLIN, VERMONT

Selectboard:

Brad Towne, Chair
John Quinn III
Angelina Capron
Florence Smith
Justin Lawrence

Municipal Office Building
108 Shed Road
Berlin, Vermont 05602
Telephone: 802-223-4405
Fax Number: 802-223-4404

August 24, 2020

Bonnie Waninger, Director
CVRPC
29 Main Street, Suite 4
Montpelier, VT 05602

RE: Berlin Town Center

Dear Bonnie:

The Town of Berlin intends to seek a New Town Center designation from the Vermont Downtown Development Board under 24 V.S.A. § 2793b for the area anchored by the Central Vermont Medical Center and the Berlin Mall.

The Town of Berlin has been working towards development of a town center in this area since the concept emerged as a top priority for the community in a series of visioning and planning efforts in the late 1990s. In the two decades since, Berlin has made substantial progress towards this objective. Repeatedly demonstrating the broad-based support that exists for the town center vision, Berlin residents have passed bond votes to improve water and sewer service and have adopted plans and bylaws to facilitate desired high-density, mixed-use, walkable infill and redevelopment.

The Berlin Town Center not only fulfills the vision of town residents, it offers substantial benefits to the Central Vermont region:

- It aligns with and supports the needs of the region's second largest employer, Central Vermont Medical Center. It addresses the regional housing shortage by encouraging development of workforce housing, which the hospital has identified as essential for attracting staff. It will add to the region's limited stock of senior, affordable and rental units, which are necessary to support a diversifying population.
- It seeks to focus growth in a previously developed area where town and state taxpayers have already invested in transportation infrastructure and utilities. The area is served by water and sewer infrastructure, high-speed internet, direct interstate access and public transit. The state highways and intersections have been improved over the past two decades and have capacity to handle additional traffic without major upgrades.
- It is a sprawl repair project – it is intended to spur private investment in a regional service center confronting challenges in a fast-changing retail industry. Rather than looking to locate new development on a greenfield site, it re-imagines infilling and redeveloping the auto-oriented Berlin Mall site into a mix-use, walkable town center. This form of development will have a reduced carbon footprint through reduced energy demands for transportation and construction as compared to greenfield and dispersed rural development.

In addition to notifying your organization of our intent to apply for designation, the Town of Berlin requests your support for a project that aligns with local, regional and state planning and development goals as we move ahead with the designation process and the implementation steps that will follow.

Sincerely

Thomas J. Badowski

Assistant Town Administrator



TOWN OF BERLIN, VERMONT

Selectboard:

Brad Towne, Chair
John Quinn III
Angelina Capron
Florence Smith
Justin Lawrence

Municipal Office Building
108 Shed Road
Berlin, Vermont 05602
Telephone: 802-223-4405
Fax Number: 802-223-4404

August 24, 2020

Jamie Stewart, Director
CVEDC
P.O. Box 1439
Montpelier, VT 05601-1439

RE: Berlin Town Center

Dear Jamie:

The Town of Berlin intends to seek a New Town Center designation from the Vermont Downtown Development Board under 24 V.S.A. § 2793b for the area anchored by the Central Vermont Medical Center and the Berlin Mall.

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In addition to notifying your organization of our intent to apply for designation, the Town of Berlin requests your support for a project that aligns with local, regional and state planning and development goals as we move ahead with the designation process and the implementation steps that will follow.

Sincerely

Thomas J. Badowski

Assistant Town Administrator

TOWN OF BERLIN, VERMONT
Resolution authorizing the application for New Town
Center designation for the Berlin Town Center

WHEREAS, the State of Vermont, Division of Community Planning and Revitalization established the New Town Center Designation Program in 2002 to recognize and support local efforts to develop walkable community centers in municipalities that do not have a traditional downtown; and

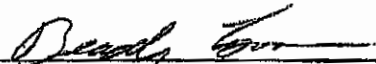
WHEREAS, the Town of Berlin has been planning for a town center on and around the Berlin Mall property since the late 1990s; and

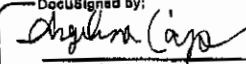
WHEREAS, the Town of Berlin has indicated its intent to apply for New Town Center Designation in its Town Plan, adopted regulations to allow for development consistent with the definition of a New Town Center in 24 V.S.A. § 2791, and has provided water and wastewater infrastructure to serve development within the New Town Center; and

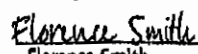
WHEREAS, the Town of Berlin has a confirmed planning process as required by the New Town Center Designation application procedures; and

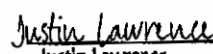
WHEREAS, the Town of Berlin has the support of the property owners within the area proposed for designation to further the purposes of the New Town Center Designation Program;

NOW THEREFORE, BE IT RESOLVED THAT on 18 January 2021 the Town of Berlin Selectboard voted to support the application for New Town Center Designation in accordance with the requirements of the New Town Center Designation application procedures.


Brad Towne, Chair

DocuSigned by:

70 Angela Eupen

DocuSigned by:

Florence Smith

DocuSigned by:

Justin Lawrence

DocuSigned by:

John Quinn



The 2018 Berlin Town Plan was recognized as the Plan of the Year in 2019 by the Vermont Planners Association.

excerpt from page 1 of the Berlin Town Plan 2018-2026

Vision. Berlin will be a town:

- ① That is a **hub of commerce and industry** for the region with revitalized commercial areas and a diverse economic base;
- ① **With an identifiable and vibrant town center** – a place where people can live, work, eat, shop and gather – that promotes a greater sense of community and attracts new residents; and
- ① That **preserves its rural character and working lands** – the open spaces, viable farms, working forests, low-density settlement pattern, natural resources and scenic views that characterize most areas of town.

excerpt from page 12 of the Berlin Town Plan 2018-2026

New Town Center. Historically, Berlin was a rural town with several small hamlets but without a traditional center. Residents accessed goods and services in the nearby urban and village centers of Montpelier, Barre City, Northfield and Middlesex. Since the construction of Interstate 89, Berlin has grown and the land use pattern in the northeast quadrant has changed dramatically. Yet, the town still lacks an identifiable center. It is clear from public comments at meetings and on surveys over the years that residents want such a center to create a sense of community, enhance the quality of life, and support economic development in Berlin.

As a result, Berlin has been planning for a town center since the late 1990s. Following the 2004 Berlin Mall Village Center Study and 2007 Draft Conceptual Plan for the Town Center, the town amended its zoning regulations to establish a town center district. The envisioned redevelopment did not materialize, largely as a result of the recession in the latter half of the 2000s. In the mid-2010s, however, interest in the town center project re-emerged. The town

has proposed further zoning changes to allow for development of a compact, walkable, mixed-use center anchored at the Berlin Mall site that would:

- ① Reinforce the area as a regional service center;
- ① Offer higher-density housing;
- ① Reduce the area devoted to surface parking; and
- ① Infill undeveloped land, and underutilized parcels and parking lots.

The potential approach to developing Berlin's town center is further described in A New Town Center for Berlin, a presentation made on behalf of Berlin Mall LLC (the mall owner) to the Selectboard in 2016. To further their shared goals, the Town of Berlin and Berlin Mall LLC have agreed to seek a New Town Center designation for the area from the state (see "New Town Center Map" on page 14). State designation would offer both the town and property owners within the designated area benefits including:

- ① Berlin would be more competitive when seeking grant funding for projects benefiting the new town center.
- ① The town could create a special taxing district for the purposes of financing capital and operating costs associated with infrastructure or other public improvements in the designated area.
- ① Land within and near the designated area would be eligible for the state's Neighborhood Development Area program.
- ① The number of housing units that could be built on a property without requiring an Act 250 permit would increase, and proposed development may be eligible for other Act 250 relief as well.

excerpt from page 31 of the Berlin Town Plan 2018-2026

Implementation Program. The actions identified in each chapter, which are intended to be the means by which the Town of Berlin will implement vision, goals and objectives of this plan, are summarized below...

- ① 4. Seek a new town center designation from the state for the Berlin Mall and surrounding area, which will require the following actions by the town: adopt an official map, adopt a capital improvement program, execute a community investment agreement with town center property owners, and dedicate water/ wastewater reserves to the town center.



October 30, 2018

Dana Hadley, Town Administrator
Town of Berlin
108 Shed Road
Berlin, VT 05602

Dear Mr. Hadley;

The Central Vermont Regional Planning Commission (CVRPC) held a public hearing on October 4, 2018 to consider approval of *A Town Plan for Berlin, VT (Aug 2018)* and confirmation the Town's planning process. CVRPC reviewed the plan in accordance with 24 V.S.A. § 4350.

The CVRPC Board of Commissioners reviewed public hearing comments at its October 9, 2018 meeting and considered recommendations from its Town Plan Review Committee. The Board concluded *A Town Plan for Berlin, VT (Aug 2018)* should be approved, and it confirmed the Town's planning process. A resolution attesting to the approval and confirmation is enclosed.

The Board of Commissioners noted that - for the Town to retain confirmation of its planning process - progress towards attainment of two State Planning Goals will need to be documented in the municipal plan before CVRPC completes its next consultation in 2022. The two goals are:

- State Planning Goal 3: *To broaden access to educational and vocational training opportunities sufficient to ensure the full realization of the abilities of all Vermonters; and*
- State Planning Goal 13: *To ensure the availability of safe and affordable child care and to integrate child care issues into the planning process, including child care financing, infrastructure, business assistance for child care providers, and child care work force development.*

Confirmation of the Town's planning process means:

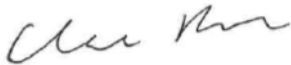
- The municipality's plan will not be subject to review by the Commissioner of Housing and Community Development under 24 V.S.A. § 4351.
- State agency plans adopted under 3 V.S.A. chapter 67 shall be compatible with the municipality's approved plan.

- The municipality may levy impact fees on new development within its borders, according to the provisions of 24 V.S.A chapter 131.
- The municipality shall be eligible to receive additional funds from the municipal and regional planning fund. [municipal planning grants]

CVRPC has copied the Vermont Department of Housing and Community Development on this communication.

Congratulations on the hard work your municipality has put into this process and for supporting the future planning of the Town! Please contact me if you have any questions or need assistance.

Regards,



Clare Rock
Senior Planner

cc: Berlin Planning Commission Chair & VT Department of Housing and Community Development with enclosures



Central Vermont Regional Planning Commission

RESOLUTION

Whereas Title 24, VSA, Section §4350 requires that regional planning commissions, after public notice, shall review the planning process of member municipalities and shall so confirm when a municipality:

1. is engaged in a continuing planning process that, within a reasonable time, will result in a plan that is consistent with the goals contained in 24 V.S.A. § 4302;
2. is engaged in a process to implement its municipal plan, consistent with the program for implementation required under 24 V.S.A. § 4382; and
3. is maintaining its efforts to provide local funds for municipal and regional planning purposes;

Whereas as part of the consultation process, a regional planning commission shall consider whether a municipality has adopted a plan;

Whereas a regional planning commission shall review and approve plans of its member municipalities, when approval is requested and warranted, and a commission shall approve a plan if it finds that the plan:

1. is consistent with the goals established in 24 V.S.A. § 4302;
2. is compatible with its regional plan;
3. is compatible with approved plans of other municipalities in the region; and
4. contains all the elements included in 24 V.S.A. § 4382(a)(1)-(12);

Whereas the Town of Berlin prepared a municipal plan in accordance with 24 V.S.A Chapter 117;

Whereas the Central Vermont Regional Planning Commission concluded that the 2018 Berlin Town Plan, *A Town Plan for Berlin, VT*, meets the requirements for approval; now, therefore, be it

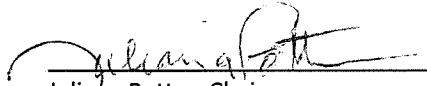
Resolved, that the Central Vermont Regional Planning Commission:

1. approves *A Town Plan for Berlin, VT*, adopted August 4, 2018; and
2. consulted with and confirms the planning process of the Town of Berlin.

Under 24 V.S.A. § 4350, when an adopted municipal plan expires, its approval and confirmation of the municipality's planning process also expire. Recommendations made by the Central Vermont Regional Planning Commission are attached and should be considered when developing the next municipal plan.

A municipality that has adopted a plan may define and regulate land development in any manner that the municipality establishes in its bylaws, provided those bylaws are in conformance with the plan and are adopted for the purposes set forth in 24 V.S.A. § 4302.

ADOPTED by the Central Vermont Regional Planning Commission on October 9, 2018.


Juliana Potter, Chair

29 Main Street Suite 4 Montpelier Vermont 05602
802-229-0389 E Mail: CVRPC@CVRegion.com

COMMUNITY INVESTMENT AGREEMENT FOR THE BERLIN TOWN CENTER

Town of Berlin, Vermont
New Town Center Development Program

This Agreement executed and entered into on the last date of execution set forth below, by and between the Town of Berlin, a Vermont municipal corporation, acting by and through its duly elected legislative body, the Berlin Selectboard, and:

Berlin Mall, LLC, a property owner within the New Town Center, with its principal place of business at 234 Closter Dock Road, Closter, New Jersey, 07624

Central Vermont Medical Center, Inc., a property owner within the New Town Center, with its principal place of business at 130 Fisher Road, Berlin, Vermont 05602

Berlin S1 Realty, LLC and Berlin T1 Realty, LLC, property owners within the New Town Center, with their principal place of business at 782 Route 1 North, Edison, New Jersey 08817

Dousevicz, Inc., a property owner within the New Town Center, with its principal place of business at 21 Carmichael Street, Suite 201, Essex Junction, Vermont 05452

Downstreet Housing and Community Development, a prospective developer within the New Town Center, with its principal place of business at 22 Keith Avenue, Suite 100, Barre, Vermont 05641

Evernorth, a prospective developer within the New Town Center, with its principal place of business at 100 Bank Street, Suite 400, Burlington, Vermont 05401

The undersigned, by executing this Agreement, hereby affirm their commitment and willingness to participate, to date as well as in the future, in activities and programs that will support and enhance the economic and social health and viability of the area proposed for new town center designation in Berlin, Vermont.

The undersigned further acknowledge and affirm that the documents listed below, attached and incorporated by reference, where required, have been duly adopted under the applicable provisions of state and local law, or where not adopted are part of an ongoing implementation plan intended to comply with the statutory criteria required for new town center designation under 24 V.S.A. Chapter 76A, specifically section 2793b(b)(2):

- 1) A map of the proposed Berlin Town Center;
- 2) The Town of Berlin Land Use and Development Regulations, demonstrating that:
 - a) The Berlin Town Center allows densities greater than those allowed elsewhere in town (see Paragraph 2101.D(8), which specifies that there is no maximum residential density in the Town Center zoning district);
 - b) Multi-story and mixed use buildings and mixed uses are allowed within the Berlin Town Center (see Subsection 2005.B, which authorizes mixed-use development, Subsection 2101.D, which specifies that minimum and maximum buildings heights by street type in New Town Center, and Subsection 2101.B and Subsection 2101.C, which list the uses allowed in the Town Center zoning district);
 - c) The physical form and scale of development will be adequately controlled (see Subsection 2101.D, Subsection 2101.E and Subsection 2101.F, which regulate the form, massing and design of new buildings in the Town Center zoning district);
- 3) A Capital Improvement Program and an Official Map showing:
 - a) A clear plan for providing public infrastructure within the Berlin Town Center, including facilities

for drinking water, wastewater, stormwater, public space, lighting, and transportation, including public transit, parking, and pedestrian amenities;

- b) Evidence that civic and public buildings do exist, or will exist, in the Berlin Town Center;
- 4) The Berlin Town Plan incorporating objectives, policies and actions that support development of mixed income housing in the Berlin Town Center (see Land Use Objective 2 on page 5, Land Use Recommendations for the Paine Turnpike planning area on page 16, Housing Objectives 1-3 on page 25, Housing Policies 1-3 on page 25, and Housing Actions 1-2 on page 25);
 - 5) A Conceptual Plan for the Berlin Town Center showing the potential for mixed income housing in the Berlin Town Center and for a future land use pattern and built form that meets the statutory definition of a new town center in 24 V.S.A. 2791(11);
 - 6) A letter from the Vermont Department of Environmental Conservation documenting that the sewage system and water supply serving the Berlin Town Center are in compliance with state regulations;
 - 7) The Town of Berlin Municipal Wastewater Collection System Ordinance dedicating a portion of any unallocated reserve capacity of the sewage and public water supply necessary to support growth within the Berlin Town Center.

The undersigned hereby agree to commit to participate in planning for and developing the Berlin Town Center into a central business district for the community composed of compact, pedestrian-friendly, multi-story, and mixed-use development that is characteristic of a traditional downtown, supported by planned or existing urban infrastructure, including curbed streets with sidewalks and on-street parking, stormwater treatment, sanitary sewers, and public water supply.

NOW THEREFORE, BE IT RESOLVED THAT the undersigned support the designation of the Berlin Town Center and affirm and agree to the above listed commitments as part of this Community Reinvestment Agreement.

Executed at:

108 Shed Road, Berlin VT
Place

1/18/2021
Date

Town of Berlin
Entity

Bradley Towne
Signature

Bradley Towne, Chairman
Printed Name and Title
Select Board

Executed at: 234 Closter Dock Road
Closter, NJ 07632
Place

1/28/21
Date

BERLIN MAX LLC
Entity

by Ken Simon
Signature member

Ken Simon, member
Printed Name and Title

Executed at:

Berlin, Vermont

Place

1-25-2021

Date

Central Vermont Medical Center

Entity



Signature

Anna T. Noonan, President & COO

Printed Name and Title

Executed at:

BERLIN SI AUTOMOTIVE BERLIN, VT

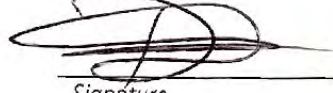
Place

1/18/21

Date

TWIN CITY SUBARU

Entity



Signature

DAVID BIRMINGHAM

Printed Name and Title

PRESIDENT

Executed at:

Berre, VT

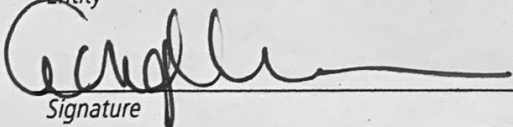
Place

1/20/21

Date

Downstreet

Entity



Signature

Eileen Pelhier, Exec. Director

Printed Name and Title

Executed at:

Burlington, VT

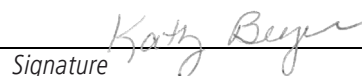
Place

1.22.21

Date

Evernorth

Entity



Signature

Printed Name and Title

Executed at:

Essex, VT

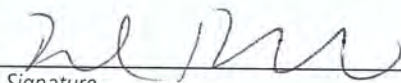
Place

1/27/21

Date

Berlin Enhanced Senior Living LLC

Entity



Signature

Brad Douse

Printed Name and Title

HEIDENBERG PROPERTIES

3500 Aramingo Avenue, LLC
Berlin Mall, LLC
Colonie Realty Associates NY, LLC
Culpeper 2018, LLC

Ephrata Commons 2016, LLC
Forest Avenue LH, LLC
Greenville Center Associates, LLC

Hauppauge, LLC
Heidenberg Closter Associates, LLC
Hershey Square 2014, L.P.

Lake Plaza Shopping Center, LLC
Mt. Pocono, LLC
Potomac 2017, LLC

LFSLRH Shelby, LLC
Shelby Hall Road, LLC
Southport 2013, LLC
Thompson Square 2017, LLC

Berlin Mall, LLC
c/o Heidenberg Properties
234 Closter Dock Rd.
Closter, New Jersey 07624

January 28, 2021

Via email

Thomas Badowski, Town Administrator,
Town of Berlin
108 Shedd Road
Berlin, VT 05602

Re: Proposed New Town Center/Community Investment Agreement

Dear Tom,

Accompanying this letter is the Community Investment Agreement related to the proposed New Town Center matter, as signed on behalf of Berlin Mall, LLC. We are pleased to support the town's efforts and are willing to participate in planning for and developing the Berlin Town Center. However, I want to make it clear that we do not consider our entering into this agreement as obligating us to expend money or incur expenses without prior approval from a duly authorized representative of Berlin Mall, LLC.

Thank you and we look forward to continuing to work with the town on this matter.

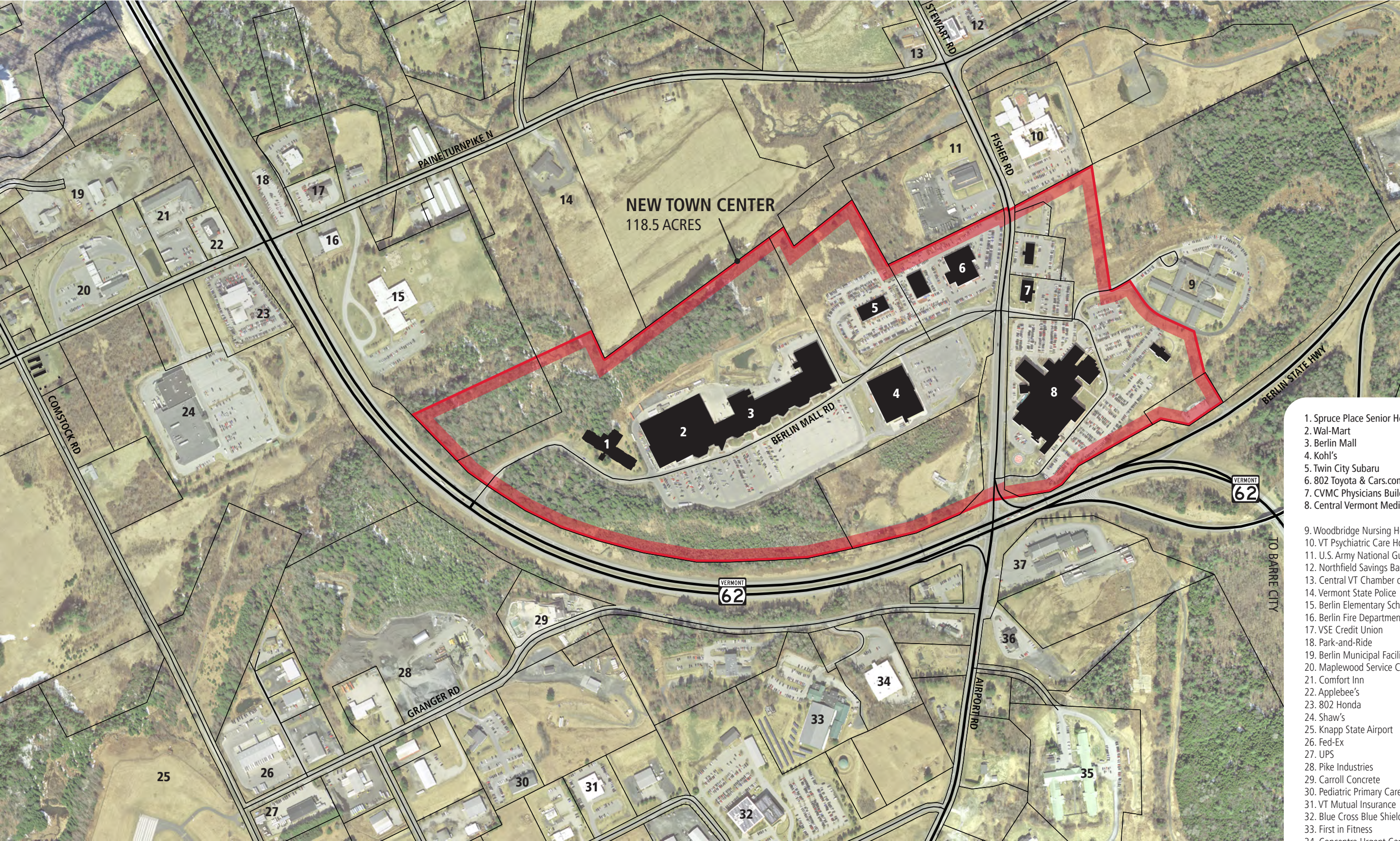
Sincerely,

Berlin Mall LLC

By 

Ken Simon, Member

TO I-89 EXIT 7



TO MONTPELIER

- 1. Spruce Place Senior Housing
- 2. Wal-Mart
- 3. Berlin Mall
- 4. Kohl's
- 5. Twin City Subaru
- 6. 802 Toyota & Cars.com
- 7. CVMC Physicians Buildings
- 8. Central Vermont Medical Center
- 9. Woodbridge Nursing Home
- 10. VT Psychiatric Care Hospital
- 11. U.S. Army National Guard
- 12. Northfield Savings Bank
- 13. Central VT Chamber of Commerce
- 14. Vermont State Police
- 15. Berlin Elementary School
- 16. Berlin Fire Department
- 17. VSE Credit Union
- 18. Park-and-Ride
- 19. Berlin Municipal Facility
- 20. Maplewood Service Center
- 21. Comfort Inn
- 22. Applebee's
- 23. 802 Honda
- 24. Shaw's
- 25. Knapp State Airport
- 26. Fed-Ex
- 27. UPS
- 28. Pike Industries
- 29. Carroll Concrete
- 30. Pediatric Primary Care
- 31. VT Mutual Insurance
- 32. Blue Cross Blue Shield
- 33. First in Fitness
- 34. Concentra Urgent Care
- 35. Berlin Health & Rehab
- 36. North Country Credit Union
- 37. Hilltop Inn

8 October 2020

berlin town center plan

Overview. This plan presents the Town of Berlin's vision for a future Town Center anchored by the Berlin Mall and Central Vermont Medical Center. The Berlin Town Center will feature nodes of compact development and activity connected through a network of sidewalks and paths. The nodes will add mixed income residential, community facilities, public open space and sustainable infrastructure improvements to an essential service center for the region. The Berlin Town Center will transform incrementally from an auto- to a pedestrian-oriented built form.

Purpose. The Berlin Town Center Plan has been developed to fulfill the statutory requirement that the town's application for New Town Center designation include a "municipal center plan" (24 V.S.A. § 2793b(b)(1)). The NTC Application Guidelines describe this application requirement to be "an articulated vision for the New Town Center – a graphic depiction is optional – and next steps for implementing it."

Our understanding is that Colchester met this statutory requirement by submitting a master plan for the Severance Corners Village Center prepared by the developer as part of their project design and permitting process. South Burlington did not submit a physical master plan for the area proposed for designation, but did provide some conceptual plans and illustrations for a planned municipal project within a portion of the area proposed for designation known as City Center.

The range of state agency staff comments on the draft plan included in our preliminary application suggests that there is not a shared understanding of the statutory requirement for a "municipal center plan." Our interpretation of the "municipal center plan" requirement is that the materials submitted should demonstrate that the area proposed for designation either already meets the statutory definition of a new town center or could be developed/redeveloped to meet that definition.

Our approach to preparing the Berlin Town Center Plan was to treat it as a "proof of concept" document. We developed the plan with a 20-year horizon. We focused primarily on residential infill development within the Berlin Mall parcel, which will likely be the first phase of development to occur within the Berlin Town Center given current market realities and the strong demand for housing in the region.

We worked closely with the two major landowners – Heidenberg Properties Group and CVMC – to ensure that unlike previous Berlin Town Center plans the vision presented is feasible and includes ideas that developers could translate directly into projects over the next 10 to 20 years. We also sought input from the other landowners within the area proposed for designation, developers interested in the Berlin Town Center, Berlin residents, and local and regional organizations supporting housing and economic development efforts in Central Vermont.

The result is a conceptual plan that is responsive to market realities, current contractual obligations to mall tenants, the special needs of a regional healthcare institution and known projects in the pipeline, while still reflecting the aspirations of Berlin residents for their town center.

So while we began with the goal of creating a plan to fulfill a program requirement, the planning process has been valuable for refining our Town Center concept and gaining an understanding of what is possible within the area proposed for designation.



Using the Plan. The Berlin Town Center Plan is a conceptual master plan. It is a planning, not a regulatory, tool. The plan elements that are intended to have regulatory authority are incorporated into the appropriate documents – our land use regulations, official map and capital improvement program. As the Town of Berlin works with its Town Center partners, we anticipate that the details shown in this plan will evolve but in conformance with the sprawl repair and smart growth principles embodied in the plan. As the plan evolves and we advance from concept to construction, we anticipate amending the regulatory tools that implement this plan as necessary.

The entire master plan is shown on the next page. Infill buildings are identified by use and footprint (this information was used to establish parking and infrastructure capacity needs). Major plan elements are highlighted. Subsequent pages show detailed views of the master plan supplemented by text and inspiration images that describe the Berlin Town Center concept.

Response to Agency Comments. The requests from the Agency Staff Comments memo and our responses to them are presented below:

Request 3. The concept plan should distinctly label elements to be implemented through public investment (and held in public ownership, where applicable) from those that depend on private investment, to be able to evaluate if the proposed municipal instruments and policies implement the concept plan.

The plan is not intended to serve this requested function. It is a conceptual plan that graphically illustrates how the area proposed for designation could feasibly be infilled and redeveloped to meet the statutory definition of the New Town Center in accordance with the community's vision for the Berlin Town Center. That redevelopment and infill is dependent on private property owners and developers. It is our understanding that one of the purposes of the New Town Center program is to provide incentives for private investment that aligns with state and municipal planning goals. The Berlin Town Center is still in the conceptual planning stage and we need to undertake further scoping, design and engineering work in coordination with our

partners before decisions are made regarding how future improvements and amenities will be funded and owned.

The adopted Official Map ([Attachment I](#)) and Capital Improvement Program ([Attachment K](#)) are the documents that speak to planned public facilities within the Berlin Town Center. Our CIP indicates the funds the Berlin Selectboard and voters have already committed to projects within the Berlin Town Center and anticipate allocating over the next five years. Designation will offer Berlin access to additional financing tools that may make it possible for the town to directly fund public improvements and amenities that would not be possible with our existing resources and taxing authority. As those decisions are made, they will be reflected in the annual update to the CIP and amendments will be made to the Official Map as needed.

Request 4. The aspirational features of the concept plan not supported by an implementation policy should be removed from the concept plan to focus the plan on elements implemented by policy in the next eight years.

Plans are aspirational! The Berlin Town Center Plan presents one concept for how the area proposed for designation could feasibly be infilled and redeveloped to meet our community vision and the statutory definition of the New Town Center consistent with our adopted implementation tools – land use regulations, official map and capital improvement plan.

Statute and the NTC Application Guidelines make clear that the "municipal center plan" requirement should not be limited only to those elements of the overall vision anticipated to be completed during the first eight years that the designation is effective. This would be a particularly problematic requirement for a community submitting its initial application for designation. We would note that it has taken South Burlington more than eight years to complete City Center, which was the feature element of its municipal center plan when the city initially applied for designation.

Berlin expects to spend the years immediately following designation engaged in further planning, engineering, and project development with its partners. The town will initially focus much of its effort on obtaining a TIF district, which will be essential for funding any future public improvements and amenities in the Berlin Town Center. We need to undertake a municipal facilities needs assessment before any municipal building project can advance. Further scoping, design, engineering, legal work and permitting will be needed to bring the conceptual plan for new/reconfigured/reconstructed streets, sidewalks and paths to reality. Multiple property owners within the area proposed for designation are obligated to undertake stormwater planning before 2023. It is likely that Berlin and its partners will need most of the first eight years of designation to prepare for construction of the improvements and infill development as envisioned in the Berlin Town Center Plan.

Request 9. The concept plan should show conceptual lot configurations that signal intended parcelization patterns and frontage (some existing boundaries appear to bisect buildings).

The Berlin Town Center Plan does not show lot lines (existing or proposed). We developed the plan based on an alignment of the major spines (such as the street and sidewalk connection from the main mall entrance east into an envisioned new block) and did not consider existing property boundaries as a significant factor in the design. It is possible that property owners within the Berlin Town Center may choose to adjust property boundaries or create additional lots through subdivision. Those are future decisions to be made by private property owners and developers within the Berlin Town Center. Existing property lines are shown on the map of the area proposed for designation ([Attachment G](#)).



BUILDING USE & FOOTPRINT

- A Residential (Fox Run)
- B Restaurant, ±2,500 sf
- C Municipal Building, ±7,000 sf
- D Residential, ±13,000 sf
- E Commercial/Mixed Use, ±8,800 sf
- F Commercial/Mixed Use, ±6,000 sf
- G Residential, ±13,000 sf
- H Residential, ±11,000 sf
- I Residential, ±14,000 sf
- J Residential/Mixed Use, ±11,000 sf
- K Restaurant, ±3,250 sf
- L Medical/Service, ±11,000 sf
- M Office/Retail, ±4,500 sf
- N Office/Retail, ±4,500 sf
- O Medical, ±11,000 sf
- P Restaurant, ±5,300 sf

BERLIN TOWN CENTER PLAN ELEMENTS

- 1 Multi-use path with potential extension to school
- 2 Possible municipal building site
- 3 Realignment of Berlin Mall Road with fewer vehicle-pedestrian conflicts
- 4 Mall facade enhancements and pedestrian plaza at entrance
- 5 New street on center with mall entrance
- 6 Town green with subsurface stormwater treatment
- 7 Wetlands to be protected as open space and continuing to serve stormwater functions
- 8 Nature trails in open space (such trails exist on school and hospital property now)
- 9 Sky bridge to improve safety and convenience of pedestrian crossing

This conceptual master plan for the Berlin Town Center is not to be used for regulatory or construction purposes.

0 150 300 FEET
13 JAN 2021





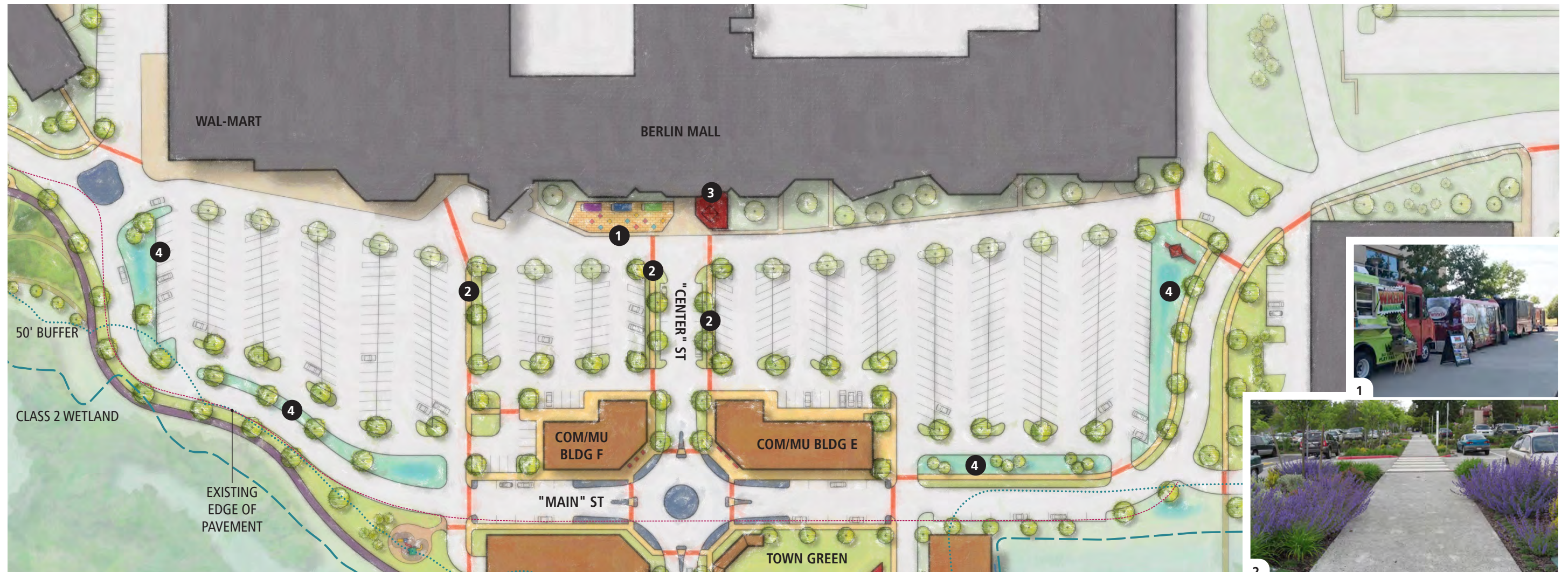
Note: No traffic study or engineering has been done to assess feasibility of re-aligning Berlin Mall Road as shown. All buildings except Residential Building D could be serviced from existing alignment. Alternative site designs may be possible to accommodate a building similar in size to Residential Building D with service from existing alignment.

route 62 gateway

The entrance from Route 62 has potential for mixed use infill creating a neighborhood at the southern end of the Berlin Town Center. A small-scale dining or retail use could cater to area residents and employees, as well as travelers. We've also identified the Route 62 entrance as a potential location for a future municipal building where it would be a landmark visible from the highway and contiguous to the node of civic uses at the Paine Turnpike North intersection. Active and passive public recreation amenities would enhance quality of life for neighborhood residents and help establish a new civic focal point in the Berlin Town Center. The long-term vision is for the proposed multi-use path around the perimeter of the Berlin Town Center to ultimately extend from the Route 62 entrance area towards the Berlin Elementary School and beyond to Berlin Pond.

This gateway is critical to establishing a recognizable identity for the Berlin Town Center that meets community expectations. We want people to have an immediate sense that they have arrived somewhere when they reach the Route 62 - Berlin Mall Road intersection. The sense of place created at the Route 62 gateway will be carried through the Berlin Town Center highlighting the proposed pedestrian spine and major destinations.





berlin mall

Redevelopment envisioned for the Berlin Mall within the planning period is focused on improvements in the parking lot and facade renovations. A new street at the rear of the parking lot will result in substantial access management improvements to control traffic circulation within the site. Relocation of through traffic away from the front of the mall will be safer for shoppers and create opportunities for more active use of the public realm between the building and street. Establishment of bioswales to improve stormwater management and restoration of the terminal parking islands removed as part of the re-design for the Walmart expansion will separate, define and screen discrete pods of parking. Those changes will also facilitate improved pedestrian access within and through the parking lot so people can safely walk from their parking space to multiple destinations around the Berlin Town Center on a connected system of sidewalks and the perimeter path.

Berlin Mall has been actively exploring options for increasing foot traffic and vibrancy in response to shifting retail trends. Around the country, interior malls have sought to "open up" their facades and create more of street frontage presence and storefront appearance for their tenants. That idea was one the mall presented to the community in 2016 that remains of interest to ownership. Architectural treatments or arcades can break up expanses of blank wall. We are also envisioning a structure to highlight the main entrance to the mall consistent with the look and feel of the gateway and wayfinding features proposed throughout the Berlin Town Center. There is adequate space between the front of the mall and the sidewalk to introduce activities and amenities like food trucks, outdoor seating and public art. With much of the traffic re-routed to the rear of the parking lot, the space in front of the mall will be a safer and more pleasant space for pedestrians and outdoor activity.





core block

The envisioned change in the built form Berlin Town Center will begin with creation of a new block defined by infill buildings organized around a town green. A new "center" street aligns with the main mall entrance forming a strong visual connection and pedestrian spine. A similar pedestrian and view corridor would also extend from the end of the sidewalk northward towards CVMC through the pedestrian plaza and expanded medical campus.

The green with a performance space will provide a central public gathering place consistent with the community's vision for the Berlin Town Center. It will offer residents an opportunity for passive outdoor recreation. It will also incorporate the subsurface stormwater detention essential to achieving a high-density, compact development pattern. Residents in this new neighborhood would have direct access to surrounding open space, recreation amenities and the multi-use path.

A building on the green is another potential site for a municipal facility in the core of the Berlin Town Center replicating a traditional New England pattern of locating prominent civic buildings on a town green.

The residential core around the green would over time expand to include small-scale retail, dining or service establishments.



recreation and pedestrian amenities

The Berlin Town Center is being planned for high-density, multi-unit housing. Recreation and pedestrian amenities are critical to transforming this area from a commercial and service center into a mixed-use neighborhood that offers residents a high quality of life. We envision that most residents will be able to access the multi-use path directly from their buildings without having to cross traffic. The path will connect to passive and active recreation amenities like community gardens, playgrounds, sports courts, natural areas and the town green. The sidewalk network would also offer amenities like benches, shade structures and streetlamps necessary to create a safe, pleasant pedestrian realm. Many of the buildings - both residential and commercial - will incorporate outdoor spaces like patios and plazas.





medical campus extension and pedestrian plaza

The Fisher Road end of the Berlin Town Center is defined by CVMC. The vision is to continue building out their campus with a focus on healthcare and related services. A proposed sky bridge would provide a safe and convenient pedestrian connection between the main hospital and a new medical office building across Fisher Road for staff and patients. The bridge would also serve as a gateway feature and could continue the theme of gateway and wayfinding elements found throughout the Berlin Town Center. As the main campus is redeveloped, new buildings will have a stronger orientation to Fisher Road and better define the intersection of Hospital Loop Road and Fisher Road.

A medical office building would anchor the plaza with other buildings housing additional healthcare offices, related services and small retail spaces. Parking is located on the perimeter to create a central pedestrian space. The medical office building functions as a terminal landmark building for one of the pedestrian spines within the Berlin Town Center. The path and sidewalk would link the CVMC campus to the other nodes of development in the Berlin Town Center.

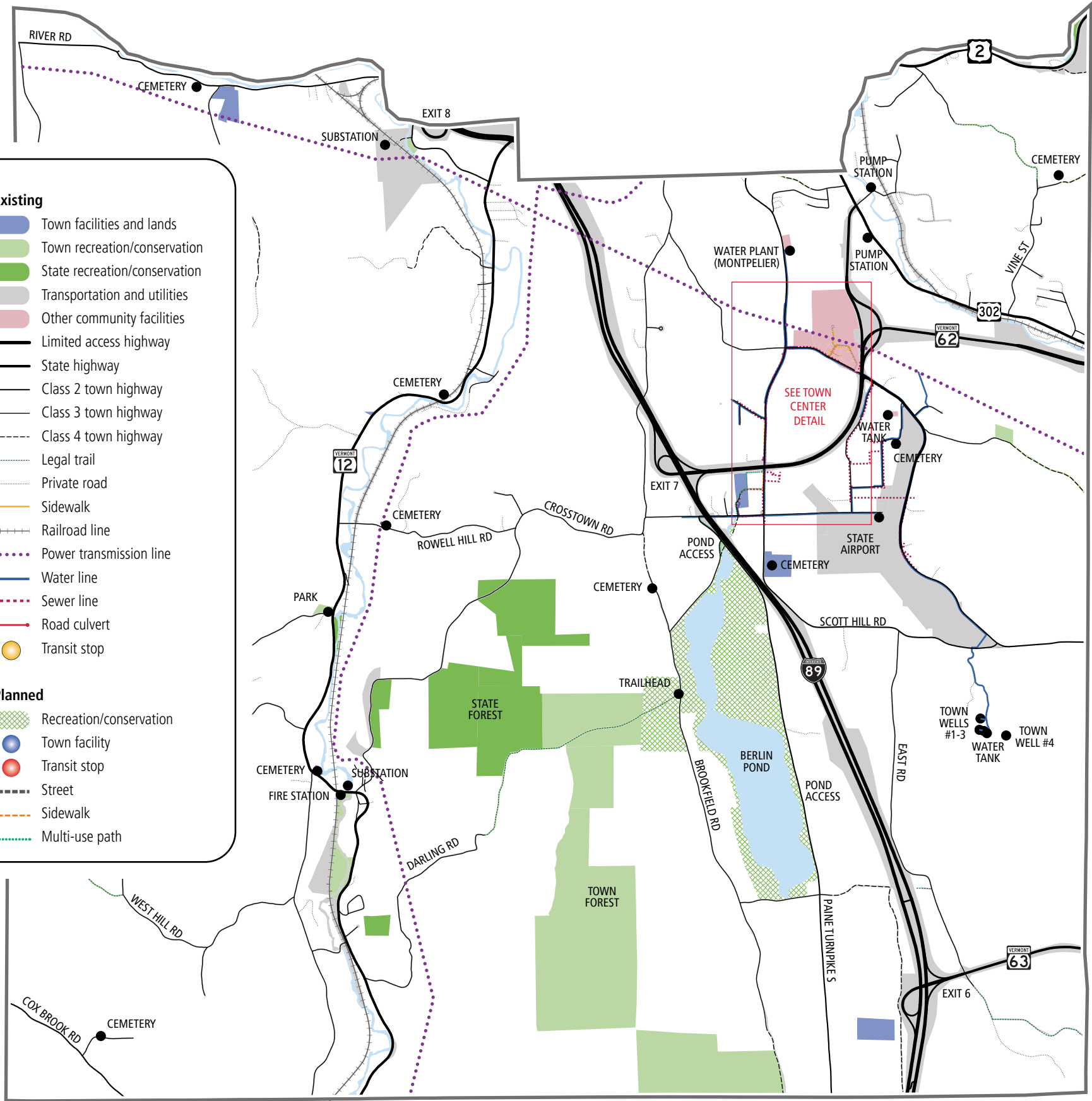
We envision smaller retail spaces could appeal to health and wellness related businesses. Alternatively, they could be an excellent location for Vermont specialty business to have a small retail presence that would increase awareness of their products to the many travelers who will stop at the Berlin Town Center.



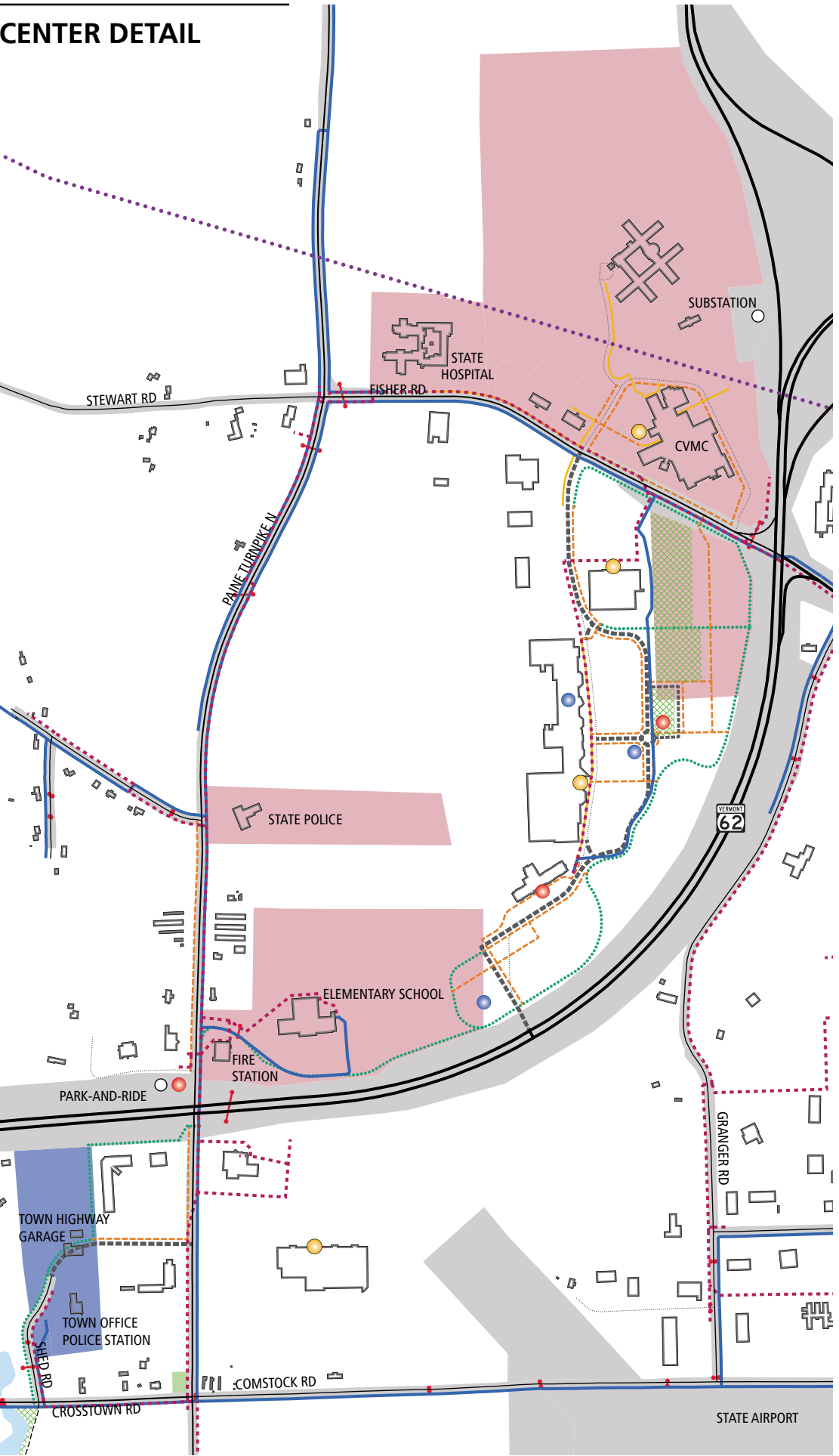
OFFICIAL MAP

TOWN OF BERLIN, VERMONT

ADOPTED 18 JAN 2021



TOWN CENTER DETAIL



The Agency Staff Comments Memo included the following questions and requests related to the Official Map:

Question 11. Why is the proposed wetland enhancement and replication area not shown on the Official Map; who will implement this?

It is premature to designate any land on the Official Map for the purposes of wetland mitigation. We recognize that the envisioned infill between the mall parking lot and Route 62 if pursued as shown on the Berlin Town Center Plan would result in wetland impacts. However, at the conceptual plan stage, we cannot provide an accurate estimate of the extent of those potential impacts. The Capital Improvement Program ([Attachment K](#)) identifies anticipated stormwater treatment and potentially wetland mitigation related to the planned public improvements within the Berlin Town Center that are shown on the Official Map.

The inclusion of a wetland enhancement and replication area on an earlier draft of the Berlin Town Center Plan (included with the preliminary application) was intended to explore the possibility that lands west of the Berlin Mall adjoining Airport Brook may provide a suitable location for mitigation of impacts to wetlands between the mall parking lot and Route 62. However, we held an initial meeting with state and federal regulators on December 15 to introduce the Berlin Town Center Plan and discuss potential wetland impacts and mitigation approaches. Both state and federal regulatory staff discouraged Berlin and its partners from pursuing wetland enhancement and replication on land near Airport Brook (west of the Berlin Mall) as an option for mitigating wetland impacts in the area east of the mall.

Question 12. Why is the blue road (p.8) at the Rt. 62 Gateway not shown on the official map to establish a grid at this node as depicted on p.8, absent this, how will the regulations support the vision for a grid at this node.

The Official Map includes only those planned streets the town is currently committing to pursue through its ongoing public-private partnership with Heidenberg Properties Group. The remainder of the street network within the Berlin Town Center will develop in response to the needs of proposed development. The secondary street at the Route 62 Gateway shown on the Berlin Town Center Plan ([Attachment H](#)) would only be viable if Berlin Mall Road is realigned. A scoping study will be needed to assess whether that realignment is feasible and can meet engineering, traffic and environmental standards. Therefore, we feel that it is premature to include the secondary street on our Official Map at this time.

Question 13. Why are some transit stops labeled red and some yellow?

Yellow dots represent existing transit stops and red dots represent planned transit stops in the Berlin Town Center. Various GMT routes make regular stops at the Berlin Mall, Kohl's and CVMC as indicated by the yellow dots on the Official Map. The red dots represent planned transit stops. It is our understanding that Green Mountain Transit will be serving Chestnut Place once it opens. Based on conversations with GMT, it is likely that as additional residential buildings are constructed in the Berlin Town Center core, GMT would add stops to their existing routes as demand warrants (see letter of support from GMT, page R7).

Question 14. What is the yellow line (not in official map key)?

The yellow lines are existing sidewalks.

Question 15. What is the bolded gray line (not in the official map key)?

There are no bolded gray lines on the Official Map. Existing road rights-of-way are shown with a solid light gray fill. Planned streets are indicated with a dashed dark gray line.

Question 16. Why are municipal facilities not labeled: what town facility is envisioned within the mall (blue dot) and what is the town facility adjacent to the town green (shown on the concept plan as a residential building)?

There are three blue dots on the Official Map representing three sites that we have identified as potential locations for future town office and/or police facilities. The Berlin Town Center Plan ([Attachment H](#)) explored the potential of the Route 62 gateway site as a municipal office location. The town is currently moving forward with efforts to acquire that site from the school district. However, we are not yet in a position to commit to a single location, specific building program or a development timeline for meeting the civic building requirements.

We want to continue to recognize the potential for relocating town office and/or police facilities within the Berlin Mall on either a temporary or permanent basis as another option the town has available to address current space needs and the limitations of the existing municipal building on Shed Road. We also see the potential of having town office and/or police facilities as anchor tenants in a mixed use building on the planned community green. We plan to undertake a municipal facility needs assessment and seek more public input into the ultimate selection and design of a future municipal facility in the Berlin Town Center. Amendment of the Official Map may be warranted after that assessment is completed and the community's preferred site and program is determined.

Question 17. Why does the official map show no water/sewer infrastructure; are no easements needed to accommodate build-out?

Existing municipal water and sewer infrastructure (including the project just completed on Paine Turnpike) was added to the Official Map prior to its adoption. The data needed for those layers was still being compiled at the time the preliminary application was submitted for review. The town has also identified a need for further mapping of existing privately owned service lines within our water and sewer service areas. We anticipate that work will be done during the next several years. We are also continuing to work with private landowners to transfer ownership of private water service lines to the town now that there is a municipal water system. Amendment of the Official Map may be warranted as those efforts are completed.

Question 18. Why are the recreational sites (aside from the wetland walk area and green) not included in the official map?

The Official Map includes two recreational elements that the town has committed to pursuing at this time – a town green and a multi-use path. The Capital Improvement Program ([Attachment K](#)) includes projects to advance those two elements. The green and path are the recreational amenities we have deemed essential to the Berlin Town Center as the concept has been envisioned by Berlin residents for more than two decades. Other recreation amenities shown on the Berlin Town Center Plan ([Attachment H](#)) are conceptual. They are representative of the type of facilities that would contribute to the transformation of the Berlin Town Center from an auto-oriented, regional service center to a mixed-use town center.

Question 19. Why are some of the pedestrian elements, but not all, shown on the official map, and what regulatory standards would otherwise ensure that improvements are implemented?

We have selected the major elements of the planned pedestrian spine to include on the Official Map. Those elements are critical to providing a continuous pedestrian network connecting existing and planned destinations within the Berlin Town Center. All development in the Town Center zoning district is required to be walkable. The applicable regulatory standards that will ensure that all proposed development provide pedestrian accommodations are excerpted and discussed in [Attachment J](#).

Question 20. Why does the street grid exclude the medical campus extension, and absent this, how will the regulations support the concept's vision for a grid at this node?

CVMC supported our developing a concept for the medical campus extension on the south side of Fisher Road in the Berlin Town Center Plan ([Attachment H](#)) as a means of exploring the development potential of the site and showing that it could be integrated with envisioned infill east of the mall parking lot. However, CVMC is currently engaged in its own master planning process. They need to work through their own internal planning and administrative processes as part of the larger UVM Health Network and then through the Green Mountain Care Board to obtain approval for expansion of their campus. We agreed with CVMC's request to not include the conceptual street alignment as envisioned in the Berlin Town Center Plan on the Official Map and to allow CVMC to present their master plan to us in the future. Once CVMC's master plan is finalized, we plan to consider whether any further zoning amendments and/or updates to the Official Map are appropriate.

Question 21. In the medical campus extension, what is the red dashed line on the official map?

The dashed orange lines are planned sidewalks. CVMC's development plans for their land south of Fisher Road, will be required to include a pedestrian connection from the core of the Berlin Town Center to the hospital because it is an essential component of the planned pedestrian spine. That connection was included on the Official Map with the understanding that the proposed alignment is a placeholder and the alignment would be adjusted either through amendment of the map after CVMC completes their master planning process or as part of a future development approval (which is typical of how official maps are used in other Vermont municipalities).

Request 5. Building on the requests above, the official map should include and label elements on the concept plan to be implemented through public investment (or to be held in public ownership), and that the final bylaws include official map language in accordance with 24 V.S.A. § 4421.

Berlin has selected the street, sidewalk, path and greenspace elements envisioned in the Berlin Town Center Plan ([Attachment H](#)) that it wants to include on the Official Map at this time. In response to this request, Section 2003 of the Berlin Land Use Regulations was amended to include language referencing the Official Map (see [Attachment J](#)).

Request 16. The final application should highlight where the new well site is located and how this project prioritizes development in the NTC.

The municipal well sites are shown on the Official Map as adopted. Berlin's municipal water system came online in 2015 with water sourced from three wells. The available capacity from those wells was fully subscribed shortly thereafter. Berlin then decided to add an additional well to increase capacity. Well #4 is drilled and is currently awaiting final permitting before being connected to the system. The flow from that well, in combination with a change in our water ordinance to take back allocations that had been requested on speculation but not used, will provide ample capacity to serve new development in the Berlin Town Center. Berlin's Water and Wastewater Allocation Ordinance ([Attachment M](#)) establishes the percentage of the available capacity that is set aside for development within the Berlin Town Center.

Request 17. The final application should highlight where the sewer line project now under construction is located how this project prioritizes development in the NTC.

The municipal sewer lines are shown on the adopted Official Map. Berlin established a municipal wastewater utility in 1990. Berlin has a long-term contract to purchase up to 600,000 gallons per day of treatment capacity from the City of Montpelier, which is anticipated to serve the needs of the Berlin Town Center for many years into the future. Berlin's Water and Wastewater Allocation Ordinance ([Attachment M](#)) establishes the percentage of the available capacity that is set aside for development within the Berlin Town Center.

The Paine Turnpike North Sewer Project was completed at the end of 2020. It was the last planned phase of an effort to rationalize, replace and upgrade the mix of public and private sewer infrastructure that had been deployed to serve development in and around the Berlin Town Center over the years. It included installation of new waste pipes and pumps to more efficiently collect and transport sewerage from this area of Berlin to the Montpelier wastewater treatment plant.

PART 2. ZONING DISTRICTS & STANDARDS

Chapter 200. General Provisions

① *The purpose of this chapter is to establish zoning districts that implement the land use policies of the Berlin Town Plan.*

Section 2001. Establishment of Base Zoning Districts & Neighborhoods

2001.A These regulations establish the following zoning districts as shown on the Official Zoning Map and described in Section 2005:

- (1) Town Center (TC) District (Section 2101)
- (2) Mixed Use (MU) District (Section 2102)
- (3) Commercial (COM) District (Section 2103)
- (4) Light Industrial (LI) District (Section 2104)
- (5) Industrial (IN) District (Section 2105)
- (6) Residential (RES) District (Section 2106)
- (7) Hamlet (HM) District (Section 2107)
- (8) Rural 40 (RL-40) District (Section 2108)
- (9) Rural 218 (RL-218) District (Section 2109)
- (10) Upland Conservation (UC) District (Section 2110)
- (11) Shoreland Conservation (SC) District (Section 2111)

Section 2002. Establishment of Overlay Zoning Districts

2002.A These regulations establish the following overlay districts as shown on the Official Zoning Map and described in Section 2005:

- (1) Airport (AIR) Overlay District (Section 2201)
- (2) Flood Hazard (FLD) Overlay District (Section 2202)

2002.B The overlay districts recognize unique areas that require special consideration to further the purposes of these regulations and the *Berlin Town Plan*.

2002.C Within the overlay districts, the standards of both the base and overlay district apply.

Section 2003. Official Zoning and Other Maps

2003.A The map(s) delineating the boundaries of the various base and overlay zoning districts established in this chapter are incorporated by reference into these regulations and adopted as part of these regulations, and constitute the Official Zoning Map.

2003.B The Official Zoning Map is on file in the town office. A small-scale, unofficial version of the map(s) is included in these regulations for convenience only.

2003.C If the Town of Berlin has an Official Map adopted in accordance with 24 V.S.A. § 4421, that map will be incorporated into these regulations by reference. No zoning permit or development approval will be issued for land development within the lines of any planned street, sidewalk, path, public facility or recreation/conservation area except as specifically provided for in 24 V.S.A. § 4421.

Section 2004. Zoning District Boundaries

2004.A If a specific distance or measurement is not shown on the map, the Zoning Administrator will interpret any Official Zoning Map boundaries indicated as approximately following:

- (1) Roads, railroad lines, power lines or rights-of-way to follow the centerlines of such roads, railroad lines, power lines or rights-of-way.
- (2) Lot lines or municipal boundaries to follow such lines or boundaries.
- (3) Rivers, streams or water bodies to follow the centerlines of such rivers, streams or water bodies.

2004.B The Zoning Administrator will interpret any of the features listed above to be located where they exist on the ground or shown on a survey (prepared and stamped by a Vermont licensed land surveyor) at the time of the interpretation if they vary from their depiction on the Official Zoning Map except that:

- (1) A boundary line adjustment or subdivision that changes the location of a lot line will not change the location of any zoning district boundary indicated as following that lot line.

Section 2005. Use Standards

2005.A **Applicability.** Land development must conform to the use standards for the applicable zoning district unless:

- (1) The subject use is a nonconformity and the proposed land development is in conformance with the requirements of Section 1203.

2005.B **Mixed Uses.** Property owners may use a lot for any combination of uses allowed in the zoning district.

2005.C **Unlisted Uses.** A use not specifically listed as permitted or conditional in a zoning district is prohibited unless the:

- (1) Zoning Administrator determines that the unlisted use:
 - (a) Is materially similar to a listed use in the same zoning district because the proposed use has similar functions, characteristics and impacts to a listed use allowed in the same zoning district; or
 - (b) Is required to be permitted in a zoning district by state or federal law.
- (2) Development Review Board grants conditional use approval for the unlisted use upon determining that in addition to other specific and general standards set forth in these regulations, the proposed use:
 - (a) Is of the same general character as those permitted or allowed as conditional uses in the zoning district; and

- (b) Will not be detrimental to the other uses within the district and the adjoining land uses.

2005.D **Principal Buildings.** Property owners may locate more than one principal building on a lot in accordance with the following:

- (1) The total amount of development on the lot must not exceed the maximum density allowed in the district.
- (2) No more than 2 detached single-family homes may be located on any lot unless approved as part of a planned unit development.
- (3) Each building must meet the applicable dimensional standards of the zoning district.
- (4) The distance between new buildings or between a new building and an existing building must not be less than twice the side setback required in the zoning district, unless they are attached.
- (5) Approval of multiple principal buildings on a lot will not constitute a right to subdivide or separately convey those structures except in accordance with these regulations.

Section 2006. Dimensional Standards

2006.A **Applicability.** Land development must conform to the dimensional standards for the applicable zoning district unless:

- (1) The subject lot or structure is a nonconformity and the proposed land development is in conformance with the requirements of Section 1203;
- (2) The applicant receives a waiver (Section 4502) or variance (Section 4503) from the Development Review Board; or
- (3) The proposed land development will be approved as a planned unit development.

2006.B **Lot Frontage.** All new lots must front on a public or private road as specified in each zoning district and in accordance with the following:

- (1) An existing lot without the minimum required frontage on public or private road must have access to such a road over an easement or right-of-way not less than 50 feet wide.
- (2) Lots that front on more than one road will only be required to meet minimum frontage requirements on one road.
- (3) All new lots created under these regulations must have the minimum frontage on a public or private road unless the Development Review Board:
 - (a) Approves a lot with less frontage as part of a planned unit development; or
 - (b) Waives or modifies the frontage requirement for new lots in the Rural 40, Rural 218, Shoreland Conservation or Upland Conservation districts that will be used for farming, forestry or conservation purposes, provided that each lot has access to a public or private road over an easement or right-of-way not less than 50 feet wide.

Chapter 210. Base Zoning Districts

① *The purpose of this chapter is to describe the use and development standards that apply in each zoning district.*

Section 2101. Town Center (TC) District

2101.A **Purpose.** The intent of the Town Center District is to recognize and reinforce this area as a regional service center by:

- (1) Establishing a well-defined, mixed-use, compact and walkable center.
- (2) Transforming Fisher Road and Berlin Mall Road into pedestrian-friendly streets defined by sidewalks, street trees and landscaping, and buildings located close to the road.
- (3) Encouraging infill with smaller buildings along Fisher Road and Berlin Mall Road, and within underutilized parcels and parking lots.
- (4) Attracting regional-scale retail and service uses that will reuse and/or redevelop sites and buildings over time in response to evolving lifestyle preferences and market needs.
- (5) Promoting site designs that feature reduced parking footprints, landscaping and green infrastructure.
- (6) Encouraging quality and efficient construction with durable, low-maintenance materials and distinctive architectural designs.
- (7) Allowing for higher density housing in areas that can be served by public infrastructure and transit.

2101.B **Permitted Uses.** The Zoning Administrator may issue a zoning permit for the following uses:

- | | |
|--|---|
| (1) Multi-family dwelling | (16) Data center or information services |
| (2) Congregate living | (17) Indoor recreation |
| (3) Assisted living | (18) Outdoor recreation |
| (4) Skilled nursing services | (19) Religious facility |
| (5) Hotel or motel | (20) Healthcare facility |
| (6) Shop or store | (21) Education facility |
| (7) Open market | (22) Government facility |
| (8) Lawn, garden or farm supply sales | (23) Cultural facility |
| (9) Lumber or building materials sales | (24) Funeral home or cremation facility |
| (10) Sales lot | (25) Supervision or rehabilitative services |
| (11) Rental and leasing | (26) Daycare facility |
| (12) Office or personal/business service | (27) Transit facility |
| (13) Restaurant | (28) <u>Essential services</u> |
| (14) Tavern | (29) <u>Communication antenna</u> |
| (15) Media broadcast facility or studio | (30) <u>Agriculture or forestry</u> |

- (31) The applicant must receive site plan approval from the Development Review Board before the Zoning Administrator may issue a zoning permit for any of the uses not underlined.

- (32) The applicant must obtain conditional use approval from the Development Review Board before the Zoning Administrator may issue a permit for:
- (a) Construction of more than 16,000 square feet of commercial or industrial space;
 - (b) A multi-family or mixed-use development containing more than 16 dwelling units; or
 - (c) A use with drive-through or drive-in service.

2101.C **Conditional Uses.** The applicant must obtain conditional use approval from the Development Review Board before Zoning Administrator may issue a zoning permit for the following:

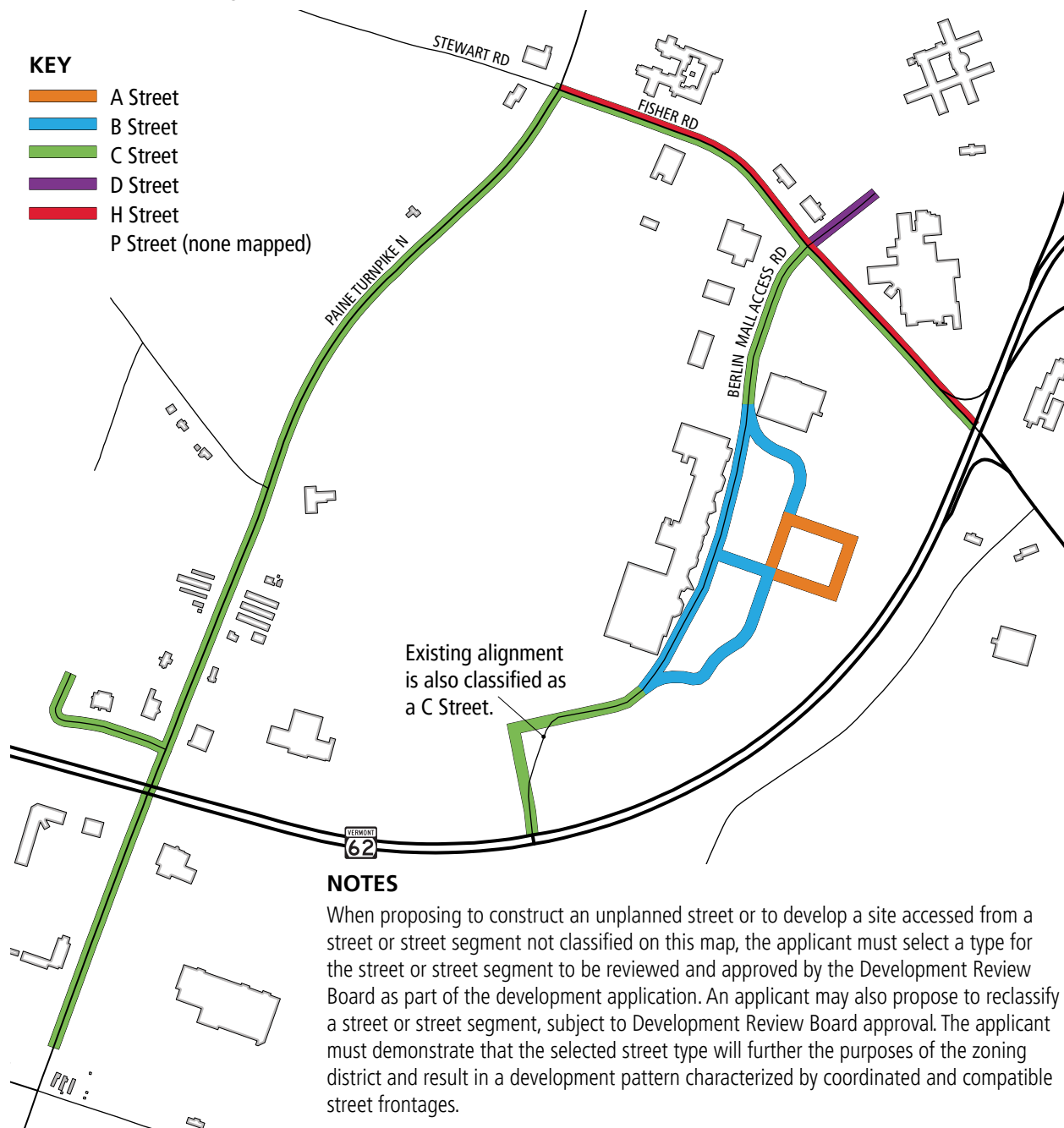
- | | |
|--------------------------|-------------------------------------|
| (1) Fueling station | (5) Wholesale trade |
| (2) Repair and service | (6) Laboratory or research facility |
| (3) Light industry | (7) Parking |
| (4) Warehouse or storage | (8) Communication tower |

2101. D Dimensional Standards. Land development within this district must conform to the following:

(1) Standards Applicable to All Streets.

- (a) There is no maximum residential density in this district.
- (b) Route 62 will not be considered a street for the purposes of this section.
- (c) Service and circulation drives will not be considered streets if they do not meet the definition of a road under these regulations. An applicant may propose to upgrade such a drive to a street as provided for below.
- (d) An applicant may define one or more development envelopes on the site plan for the purposes of applying the form-based dimensional standards (substituting the envelope boundaries for lot lines) on parcels with multiple principal buildings. A development envelope may contain one or more buildings, parking areas and/or greenspace features. Development envelopes will not be approved for the purpose of avoiding prohibitions or limitations on locating parking between buildings and the street.

(2) Regulating Map and Street Types. Dimensional standards within this district are established based upon the type of street a parcel has frontage on (A-D, H or P). The classification of existing streets and planned streets shown on the Town of Berlin Official Map is shown in the map below. The dimensional standards associated with each street type are shown on the pages that follow.

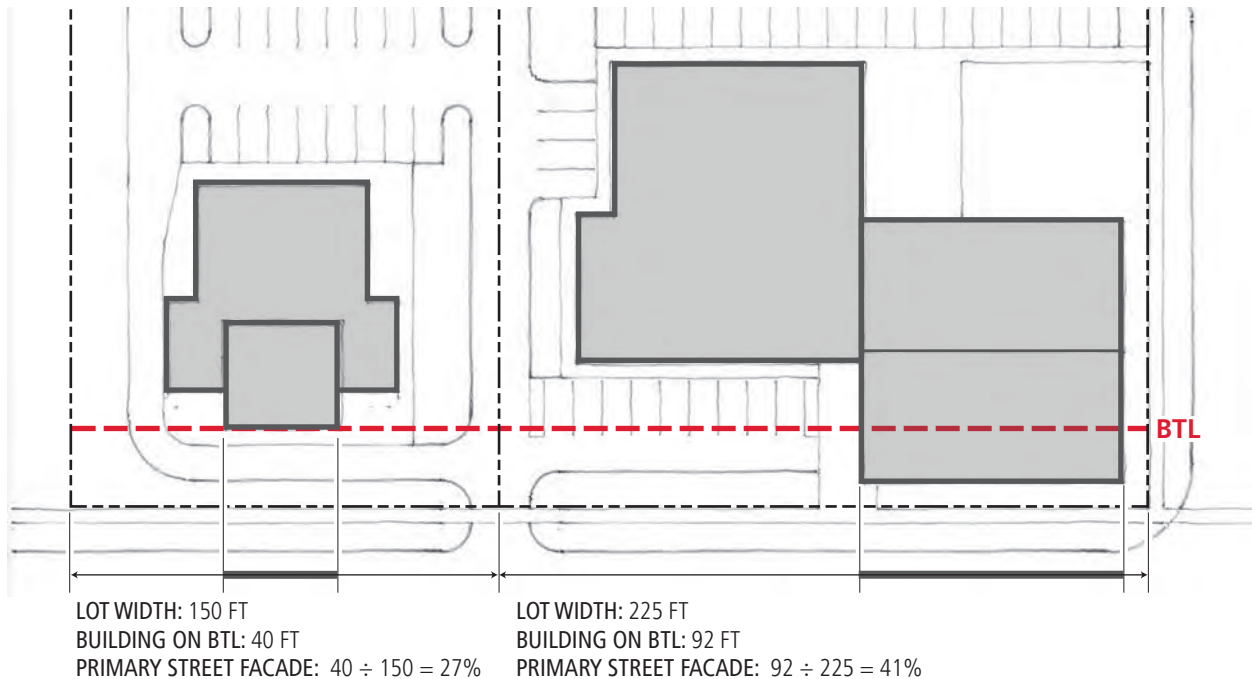


PART 2. ZONING DISTRICTS & STANDARDS

Chapter 210. Base Zoning Districts

(3) **Form-Based Standards Illustrated.** Build-to-line (BTL), primary street facade and building height will be measured as shown in the illustrations below in this district.

- (a) The BTL is the maximum a building may be set back from the street. The front of the building may be located anywhere between the front setback and the BTL. On some of the street types, there must be a building built on or over a minimum percentage of the lot's BTL.



- (b) Building height will be measured from the average finished elevation where the exterior building walls meet the ground to the: top of the roof deck for flat roofs or to a point midway between the roof peak and eaves for sloped roofs. On some street types, there is a minimum building height which will be applied as shown below. On some street types, minimum building heights are expressed in stories. To be counted towards building height, the story must: have a finished floor-to-ceiling height that is not less than 7 feet, a total usable floor area that is not be less than 50% of the building footprint, and a finished floor level that is not more than 3 feet below the average finished elevation where the exterior building walls meet the ground. Building height for buildings fronting on more than one street will be as established in the standards for the primary street.

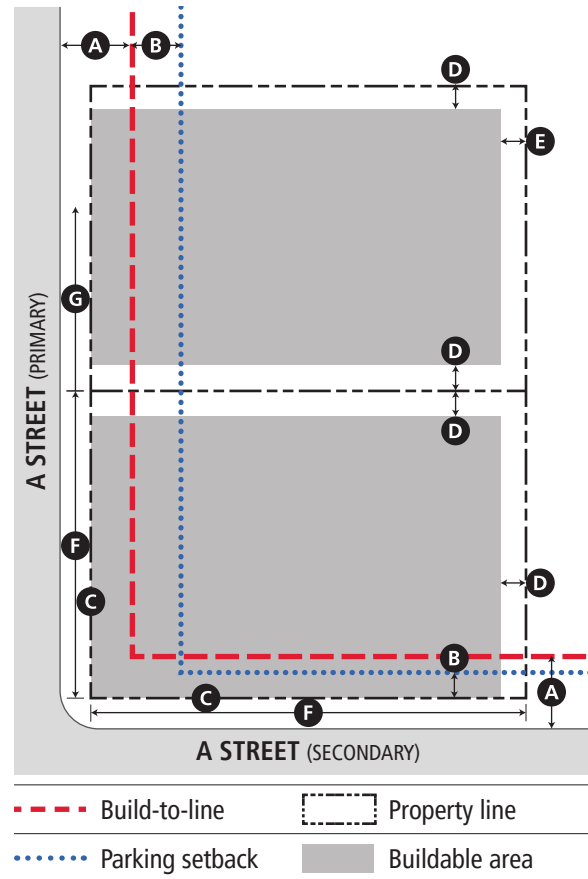


A STREETS

A	Build-to-line (BTL)	30 ft from curb or edge of pavement
B	Parking setback line	20 ft behind BTL, primary 10 ft from lot line, secondary
C	Front setback	0 ft min
D	Side setback	10 ft min 25 ft min if abutting a rural or residential district
E	Rear setback	10 ft min 50 ft min if abutting a rural or residential district
F	Lot width	90 ft min, 400 ft max
G	Primary street facade	60% of BTL defined by a building or wall
	Lot size	10,000 sf min
	Lot coverage	90% max
	Riparian setback	20 ft min
	Building height	2 story min, 60 ft max

Notes

A functional, finished upper story is required with a habitable floor area that is not less than 50% of the habitable floor area of the ground floor.



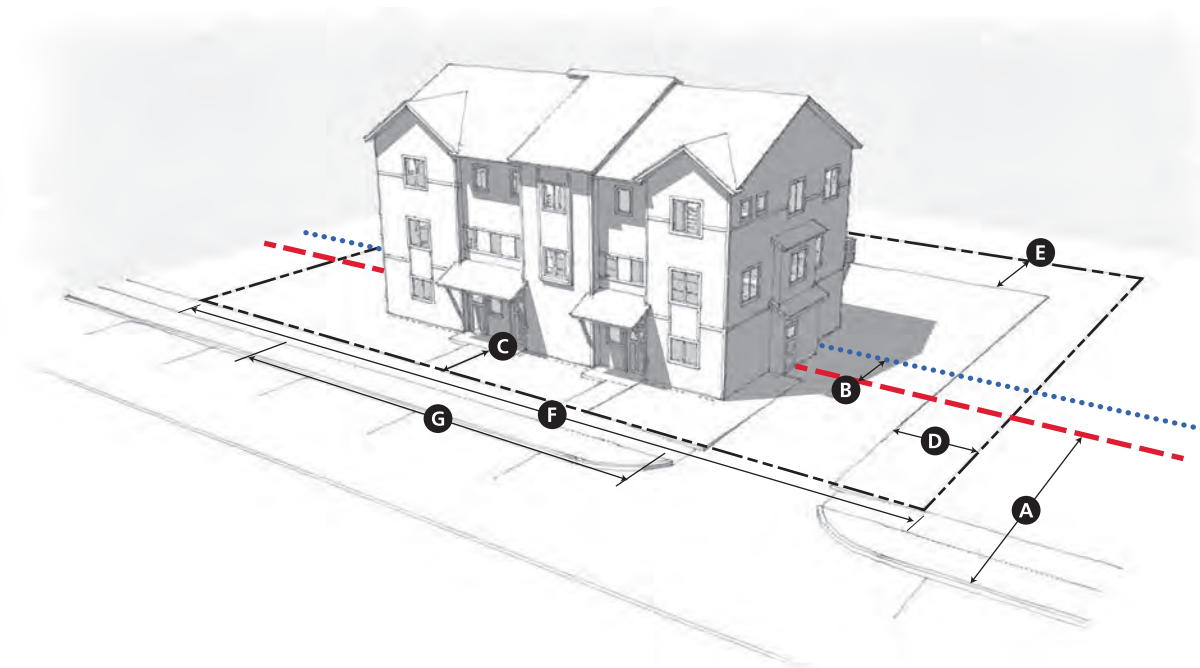
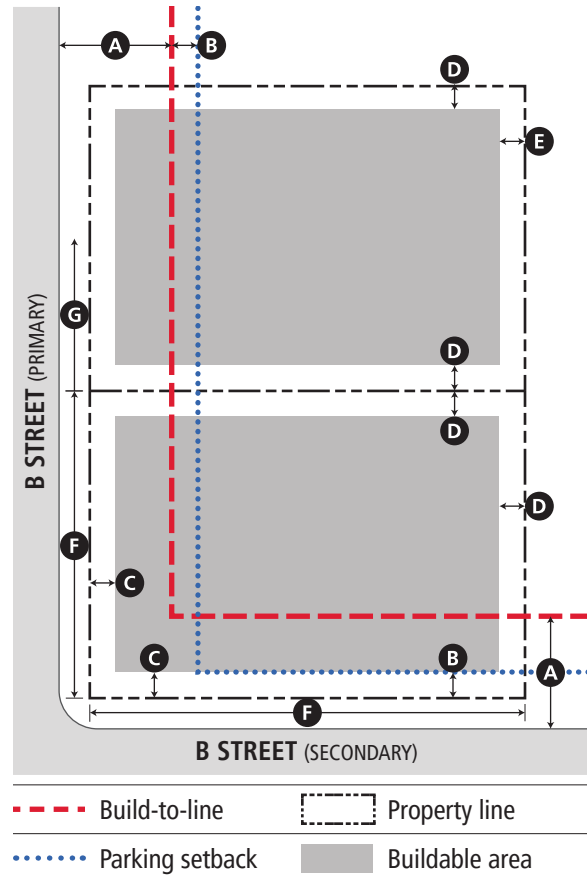
PART 2. ZONING DISTRICTS & STANDARDS
Chapter 210. Base Zoning Districts

B STREETS

A	Build-to-line (BTL)	40 ft from curb or edge of pavement
B	Parking setback line	10 ft behind BTL, primary 10 ft from lot line, secondary
C	Front setback	10 ft min
D	Side setback	10 ft min 25 ft min if abutting a rural or residential district
E	Rear setback	10 ft min 50 ft min if abutting a rural or residential district
F	Lot width	75 ft min, 600 ft max
G	Primary street facade	50% of BTL defined by a building or wall
	Lot size	15,000 sf min
	Lot coverage	90% max
	Riparian setback	20 ft min
	Building height	1.5 story or 25 ft min 60 ft max

Notes

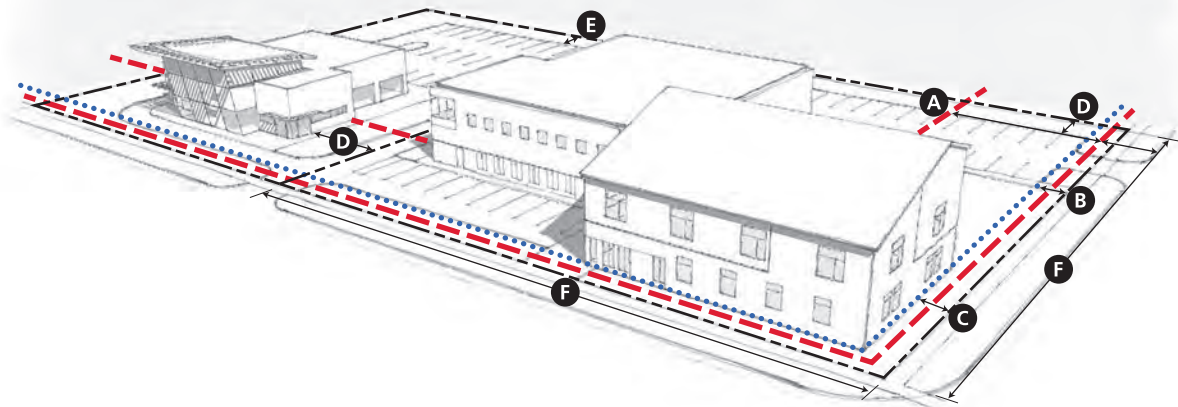
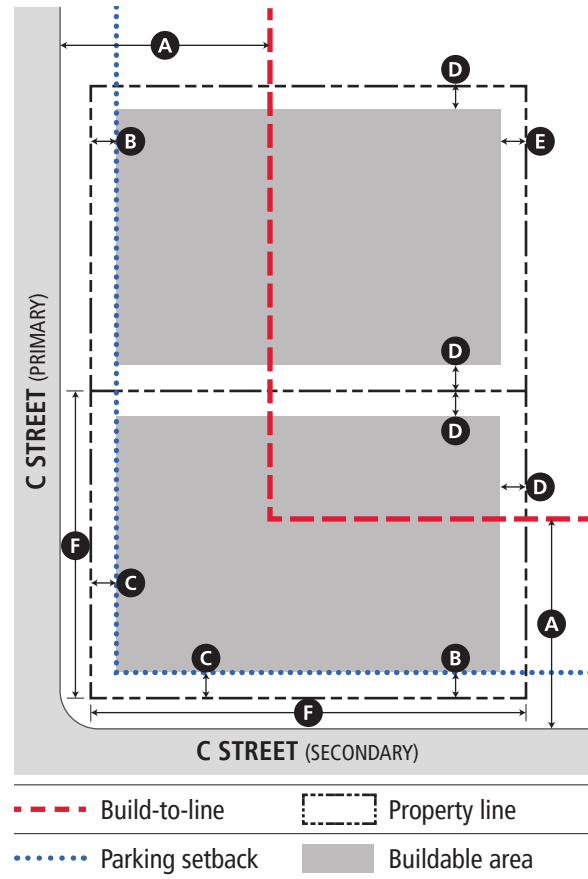
A functional, finished upper story is not required if the building appears to be multi-story as viewed from the street.



C STREETS

A	Build-to-line (BTL)	between 20 and 80 ft from curb or edge of pavement
B	Parking setback line	10 ft from lot line
C	Front setback	10 ft min
D	Side setback	10 ft min 25 ft min if abutting a rural or residential district
E	Rear setback	10 ft min 50 ft min if abutting a rural or residential district
F	Lot width	90 ft min, 600 ft max
	Lot size	20,000 sf min
	Lot coverage	90% max
	Riparian setback	20 ft min
	Building height	20 ft min, 60 ft max

Notes



PART 2. ZONING DISTRICTS & STANDARDS

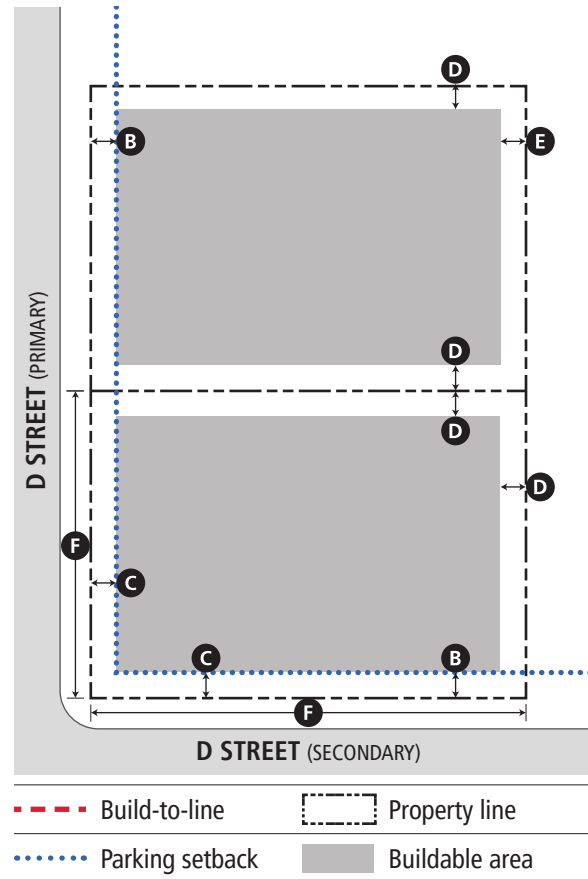
Chapter 210. Base Zoning Districts

D STREETS

A	Build-to-line (BTL)	n/a
B	Parking setback line	10 ft from lot line
C	Front setback	10 ft min
D	Side setback	10 ft min 25 ft min if abutting a rural or residential district
E	Rear setback	10 ft min 50 ft min if abutting a rural or residential district
F	Lot width	60 ft min
	Lot size	20,000 sf min
	Lot coverage	90% max
	Riparian setback	20 ft min
	Building height	20 ft min, 60 ft max

Notes

D streets may be used to provide access to parking areas and the service functions of buildings fronting on an A-C, H or P street. On sites with multiple principal buildings, rear or internal lots or buildings may front on a D street.



H STREETS

1 Front layer 0-80 ft from front lot line

Buildings located in this layer must be oriented to and have a public entrance facing Fisher Road. Circulation drives are allowed, but surface parking is prohibited except: (1) as required for emergency service functions, (2) to meet ADA requirements, or (3) when located behind the frontline of a building and occupying a width not greater than the building. Greenspace must be landscaped along those portions of the frontage not defined by buildings.

2 Middle layer 80-160 ft from front lot line

Surface parking located in this layer must be screened as viewed from Fisher Road with a building, wall and/or landscaping.

3 Rear layer >160 ft from front lot line

C Front setback 10 ft min

D Side setback 10 ft min, 25 ft min if abutting a rural or residential district

E Rear setback 10 ft min, 50 ft min if abutting a rural or residential district

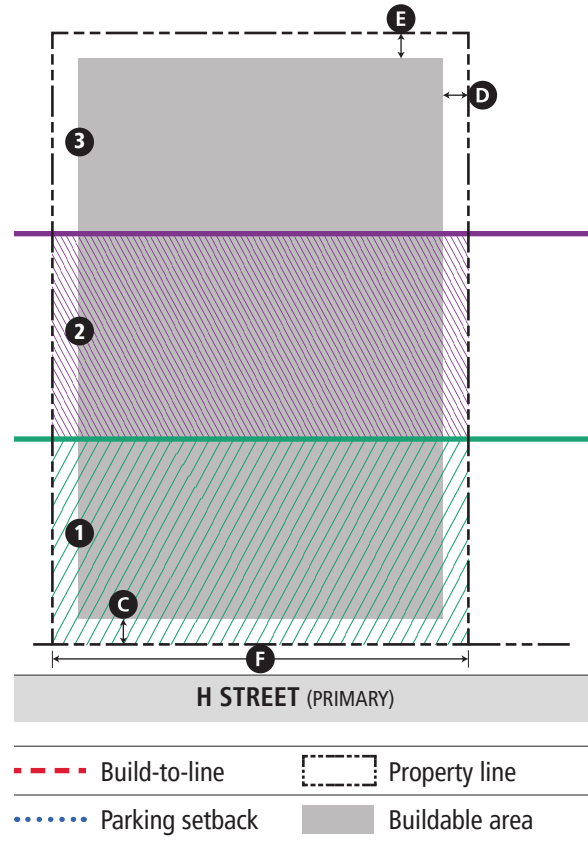
F Lot width 90 ft min

Lot size 20,000 sf min

Lot coverage 90% max

Riparian setback 20 ft min

Building height 20 ft min, 100 ft max



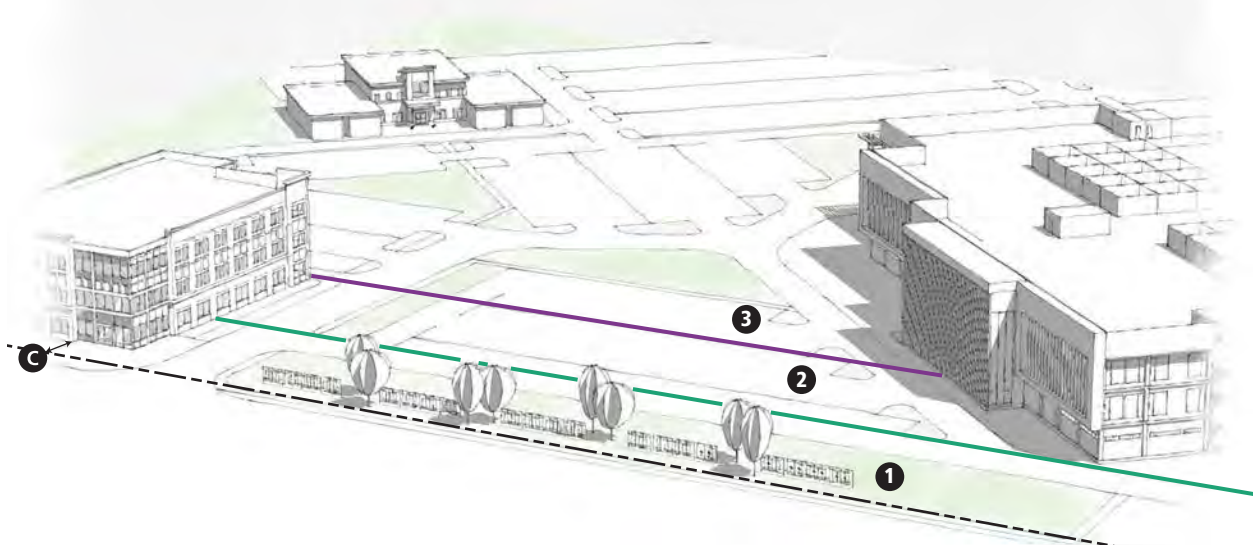
Notes

Applicants seeking to construct a building taller than 60 feet must demonstrate that adequate fire protection services can be provided for the proposed building.

This street type applies solely to the north side of Fisher Road and may not be applied to any other existing or planned street.

Buildings located in a middle or rear lot layer will not be required to be oriented to a street. If a building will not be oriented to a street, it must meet the architectural standards of Subsection 2101.F for the facade with the primary public entrance.

All buildings on the site must be connected with a continuous network of sidewalks, walkways and crosswalks.



PART 2. ZONING DISTRICTS & STANDARDS

Chapter 210. Base Zoning Districts

P STREETS

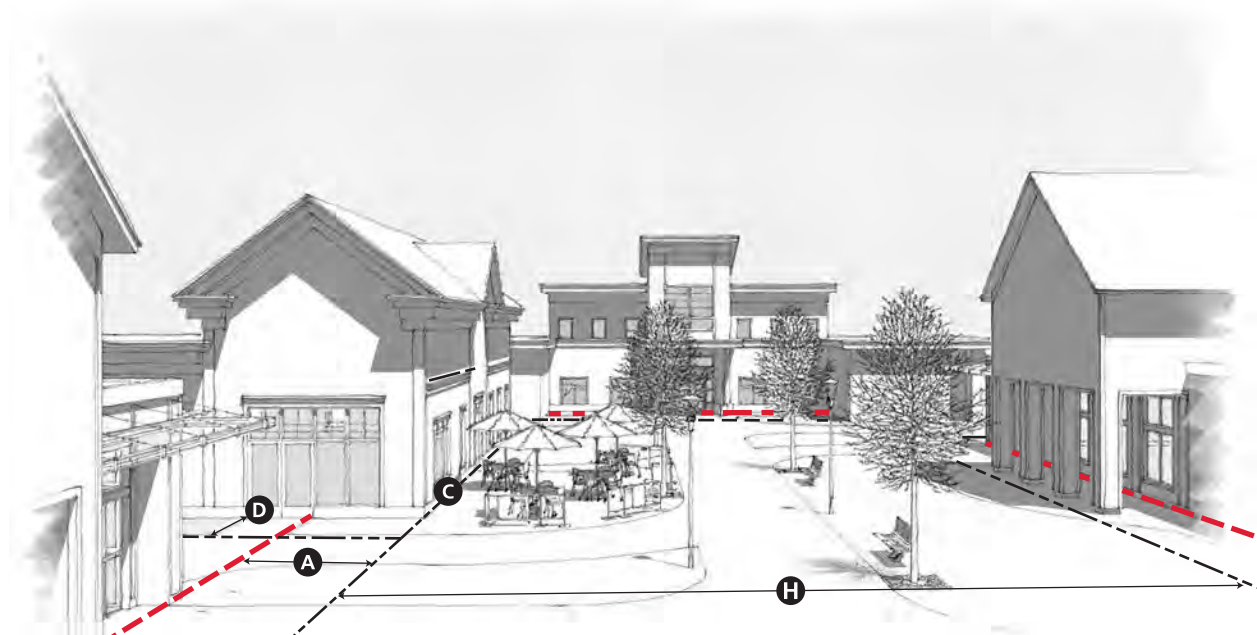
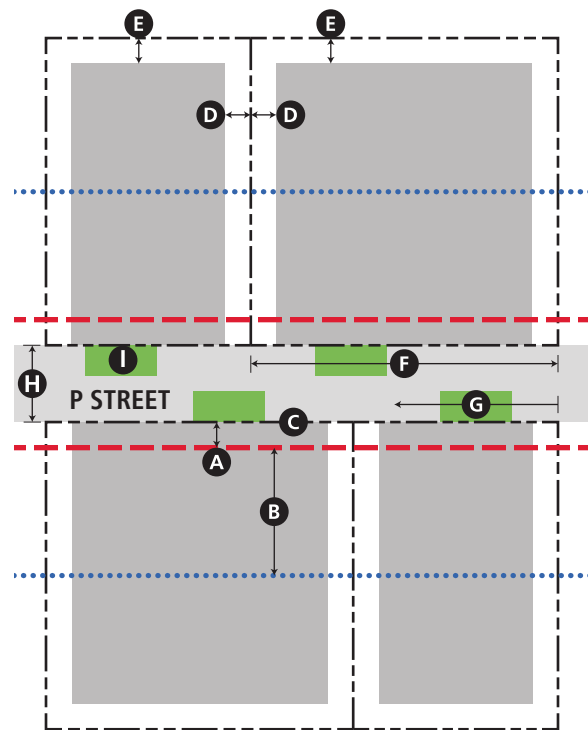
A	Build-to-line (BTL)	10 ft from front lot line
B	Parking setback line	50 ft behind BTL
C	Front setback	0 ft min
D	Side setback	10 ft min 25 ft min if abutting a rural or residential district
E	Rear setback	10 ft min 50 ft min if abutting a rural or residential district
F	Lot width	60 ft min, 400 ft max
G	Primary street facade	75% of BTL defined by a building, wall or courtyard
H	Street width	30 ft min, 60 ft max
	Lot size	6,000 sf min
	Lot coverage	100% max
	Riparian setback	20 ft min
	Building height	20 ft min, 60 ft max

Notes

P (pedestrian) streets may be used to provide frontage to buildings on sites with multiple principal buildings.

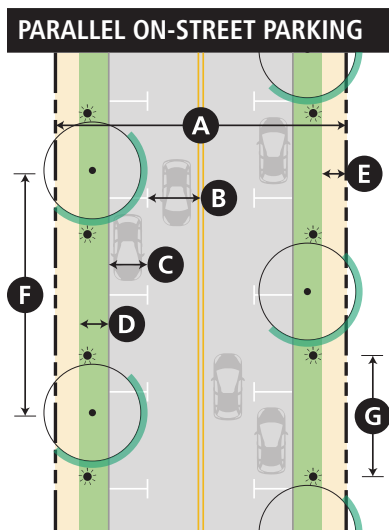
Both sides of a P street must be defined by buildings oriented to the street with public entrances onto the street.

P streets must incorporate trees, landscaping, lighting, seating and similar amenities. Not more than 80% of the street area between the building facades may be hardscaped (I).



2101. E Street Standards. New or reconstructed vehicular streets within this district must conform to the standards below based on the type of street. In the case of a conflict, the standards of this subsection will take precedence over the standards of Subsection 3505.A.

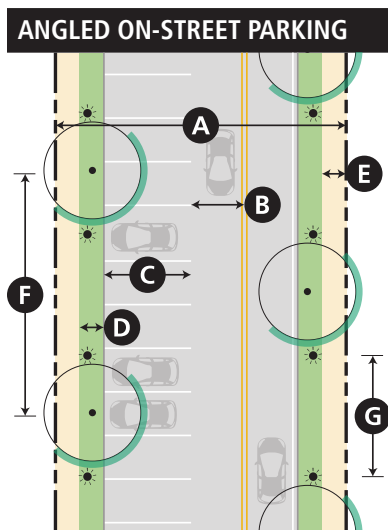
PARALLEL ON-STREET PARKING



The diagram illustrates a street layout for parallel on-street parking. It shows a green travel lane (B) with cars parked on the right side. A yellow parking lane (C) is adjacent to the travel lane. A greenbelt (D) with trees (F) is on the left side of the travel lane. A sidewalk (E) is on the right side of the parking lane. Street lights (G) are positioned along the sidewalk. The right-of-way (A) is the total width of the street.

A	Right-of-way	60 ft min
B	Travel lane	10-11 ft
C	Parking lane	8 ft min
D	Greenbelt	5 ft min
E	Sidewalk	5 ft min
F	Street trees	50 ft max <i>off-set alignment across street preferred</i>
G	Street lights	50 ft max <i>direct alignment across street preferred</i>

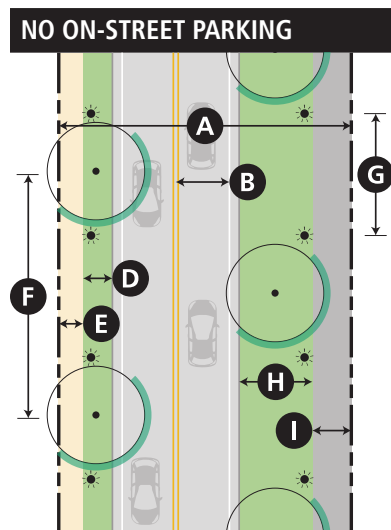
ANGLED ON-STREET PARKING



The diagram illustrates a street layout for angled on-street parking. It shows a green travel lane (B) with cars parked at an angle in the adjacent yellow parking lane (C). A greenbelt (D) with trees (F) is on the left side of the travel lane. A sidewalk (E) is on the right side of the parking lane. Street lights (G) are positioned along the sidewalk. The right-of-way (A) is the total width of the street.

A	Right-of-way	60 ft min
B	Travel lane	10-11 ft
C	Parking lane	18 ft min
D	Greenbelt	5 ft min
E	Sidewalk	5 ft min
F	Street trees	50 ft max <i>off-set alignment across street preferred</i>
G	Street lights	50 ft max <i>direct alignment across street preferred</i>

NO ON-STREET PARKING



The diagram illustrates a street layout with no on-street parking. It shows a green travel lane (B) with a multi-use path (H) on the right side. A greenbelt (D) with trees (F) is on the left side of the travel lane. A sidewalk (E) is on the right side of the travel lane. Street lights (G) are positioned along the sidewalk. The right-of-way (A) is the total width of the street. A greenbelt (I) is located between the travel lane and the multi-use path.

A	Right-of-way	60 ft min
B	Travel lane	10-11 ft
C	Parking lane	none
D	Greenbelt	5 ft min
E	Sidewalk	5 ft min
F	Street trees	50 ft max <i>off-set alignment across street preferred</i>
G	Street lights	50 ft max <i>direct alignment across street preferred</i>

Notes

Minimum right-of-way for D streets will be 50 feet. Minimum right-of-way for P streets will be 30 feet.

New or reconstructed streets must be curbed. Curbing is not required on P streets. The Development Review Board may waive this requirement upon the applicant demonstrating that the street is designed for slow traffic speeds and that an uncurbed design would result in improved stormwater management.

On-street parking may be provided on one or both sides of A, B or C streets, but is not required. On-street parking is not allowed on D or P streets.

Sidewalks are required on both sides of A and H streets. Sidewalks are required on both sides of B and C streets unless:

A multi-use path at least 8 feet in width (**I**) is provided as shown in the no on-street parking illustration above. The greenbelt between the travel lane and the path (**H**) must be at least 15 feet. Greenbelt (**H**) may be reduced to 5 feet if the path will be separated from vehicular traffic by a parking lane or a fence. The planned alignment of the Berlin Town Center Path is shown on the Town of Berlin Official Map.

The street will adjoin a greenspace, undevelopable land or parking lot at least 80 feet deep for a distance of at least 600 feet and there will be a sidewalk on the opposite side of the street and crosswalks at appropriate locations.

Sidewalks, greenbelts, street trees and street lights are not required along D streets unless the street is serving as the sole access to a building open to the public.

Street trees, street furniture and street lights must be provided on P streets.

PART 2. ZONING DISTRICTS & STANDARDS

Chapter 210. Base Zoning Districts

2101. F Architectural Standards. Land development that requires major site plan approval (see Section 4302) to construct or renovate a principal building must meet or exceed the following standards:

(1) **Orientation and Compatibility.** New or renovated buildings must be oriented to the street. At least one public building entrance must face and be accessible from the primary street and sidewalk. New or renovated buildings are encouraged to be distinctive in style, materials and colors, but must be compatible with the planned character of the district with regards to form, scale, massing and placement in relation to the street. Franchise architecture and logo buildings are prohibited.

ENTRY FEATURES

Features such as building projections, significant canopy projections and changes in roof form, call attention to building entrances.



TOWER OR ROUNDED ELEMENTS

Tower or rounded elements add visual interest and are often used to anchor a corner site. Tower or rounded elements may be distinguished by a change in building material or color.



ICONIC FEATURES

Building features that use unique materials, textures, colors and forms can highlight entrances and help create a memorable design.



PART 2. ZONING DISTRICTS & STANDARDS

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(2) Articulation. New or renovated buildings must incorporate one or more of the articulation techniques described below on street-facing facades to promote a sense of human scale by dividing the mass of larger buildings into smaller parts that relate to the scale of traditional buildings typical of Vermont downtowns. Street-facing facades must be broken up into visually distinct components that do not exceed 80 feet wide.

BASE, MIDDLE, TOP

Buildings may use horizontal articulation techniques that include visible thickening of the wall, use of moldings and cornices, and changes in materials and colors to express a traditional, base, middle and top.



WALL OFFSETS

Wall offsets include notches or breaks in the building facade. They extend the full height of the building and are frequently used in combination with changes in roof form or building materials.



WALL PROJECTIONS

Wall projections include pilasters, moldings or columns that rise the full height of the facade to add visual interest and express traditional facade widths.



STEP BACKS

Step backs are upper-story building setbacks that add visual interest and reduce the visual mass and looming potential of taller buildings.



VARIED ROOF FORM

Varied roof forms add visual interest and may be combined with other features to distinguish separate building components.



VARIATIONS IN MATERIALS

Variations in material add visual interest and express traditional facade widths. Such changes may be vertical or horizontal and often follow a repeating pattern.



PART 2. ZONING DISTRICTS & STANDARDS

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(3) **Facades.** New or renovated buildings must: (a) feature a regular pattern of windows and entries on street-facing facades; (b) screen any stretches of solid or blank walls between windows/entries on street-facing facades that are more than 40 feet in length; and (c) locate vehicle and service entrances/areas to the side or rear of the building. Acceptable facade treatments are described below.

WINDOWS

Non-residential or mixed-use buildings incorporate a high percentage of transparent glass to actively engage the street and sidewalk. Ground floor retail space must have a storefront design for any building or bay with a customer entrance.



DISPLAY AREAS

Display cases or other product displays can create pedestrian interest and engage the street and sidewalk. Such treatments are especially appropriate along an otherwise windowless facade.



CANOPIES AND AWNINGS

Canopies and awnings help define the street-level pedestrian area, provide shade, and highlight entries and storefront windows.



WALL ART AND SCREENS

Wall art, mosaics, murals, architectural screens and patterned materials add interest and a more active appearance, especially along an otherwise windowless facade.



STRUCTURES

An arcade, pergola or similar structures can help create a more transparent and active appearance, add visual interest and soften the view of a windowless facade.



LANDSCAPING

Trellises, planters and planting beds allow vines, shrubs and plants to cover blank wall areas and provide visual interest.



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(4) Materials. New or renovated buildings must use high-quality, durable materials that contribute to the visual continuity of the district. Acceptable materials and material use are described below.

Vinyl or PVC siding, synthetic stucco (EIFS), concrete masonry units, panelized brick or stone, plywood, and plastic panels are prohibited as primary exterior cladding materials. Bare aluminum window frames are prohibited.

Pitched roof surfaces must be clad with standing seam metal or architectural asphalt shingles. Flat roof surfaces must be concealed behind a parapet that screens any roof-top appurtenances from view at ground level.

Building materials must convey a sense of human scale and visual interest through variations in color, texture, finish and detailing. Apply materials in units, panels or modules so that the overall design composition remains intact and the facade does not appear overly busy. Avoid large expanses of featureless surfaces and flat details that do not provide shadow lines.

Buildings that contain residential units must use the same palette of materials on all sides of the building. Non-residential buildings may use metal or panelized materials on building elevations not facing a street. Accessory structures must use materials compatible with the principal building.

The Development Review Board may approve other exterior materials upon the applicant demonstrating that the material will be equivalent in terms of quality, durability, human scale and visual interest to approved materials.

BRICK

Brick, including painted brick, is an appropriate primary facade material for buildings throughout the district.



STONE

Stone, including slate and granite, is an appropriate primary facade material for buildings throughout the district.



WOOD

Painted or stained wood clapboard, shingles, board and batten, or shiplap siding is an appropriate primary facade material for buildings throughout the district.



FIBER CEMENT

Fiber cement siding and panels are an appropriate primary facade material for buildings throughout the district.



METAL

Metal is appropriate as an accent material and when used in contrast to another primary facade material.



CONCRETE

Concrete is appropriate as an accent material and when used in combination with another primary facade material.



- 3109.E An extended stay hotel or motel must be operated in accordance with the standards below or it will be considered a residential use and will be subject to all applicable regulations and codes for dwellings:
- (1) An extended stay hotel or motel includes any facility in which 50% or more of the guest rooms:
 - (a) Have facilities for the storage, refrigeration and preparation of food; and
 - (b) Are advertised, offered, designed or utilized for weekly or monthly occupancy.
 - (2) All guest rooms designed or used for extended stay occupancy must be a minimum of 220 square feet in area and must include:
 - (a) A full bathroom with a toilet, sink, and a bathtub, shower or bathtub/shower combination.
 - (b) A full kitchen with a sink, refrigerator, and a stove, range top or oven.
 - (3) A minimum of 200 square feet of usable open space suitable for passive recreation and accessible to all guests will be required per extended stay guest room. The open space area must not be less than 30 feet in any dimension.

Section 3110. Automobile Repair or Service

- 3110.A All automobile repair or service activities must be carried out within an enclosed building.
- 3110.B A non-operable, disabled, wrecked or partially dismantled vehicle or vehicle parts remaining on site for more than 30 days must be stored out of view from the road and adjoining property.
- 3110.C The Town of Berlin considers the outdoor storage of 4 or more unregistered motor vehicles on any property for more than 90 days to be operation of a salvage yard. Operation of a salvage yard without required state and town permits is a violation of these regulations.

Section 3111. Drive-Through or Drive-In Facility

- 3111.A Drive-through or drive-in facilities may be allowed in specified districts in accordance with the following:
- (1) A drive-through facility is composed of one or more stacking lanes and a service area.
 - (a) The stacking lane is the space occupied by vehicles queuing for drive-through service.
 - (b) The service area includes all the space and elements (menu boards, pick-up windows, transaction windows, speakers, automated teller machines, etc.) used to provide drive-through service.
 - (2) Stacking lanes and service areas must be located to the side or rear of the building.
 - (3) Stacking lanes and service areas must not be located within zoning district setbacks.
 - (4) Stacking lanes must be clearly signed, marked and separated from travel lanes.
 - (5) One or more designated pedestrian crossings must be provided across any stacking lane that separates parking from the building.

- (6) Each stacking space within a stacking lane must be a minimum of 20 feet in length by 10 feet in width.
- (7) Parking spaces dedicated for drive-in service may count towards the minimum parking requirement under Section 3202.
- (8) Drive-through and drive-in facilities must be located a sufficient distance from property lines and screened to prevent adverse impacts, including but not limited to noise and light trespass, on adjacent properties.
- (9) Drive-through and drive-in facilities must be designed and operated so that vehicles awaiting or receiving service do not block access or circulation within the site or cause traffic to queue on the road.

Section 3112. Fueling Station

3112.A **Lots.** A fueling station must be located on a lot that is at least 20,000 square feet in area with at least 150 feet of frontage, or the zoning district minimum if greater.

3112.B **Fuel Pumps, Islands and Tanks.** All fuel pumps, islands and tanks must be:

- (1) Set back at least 30 feet or the district minimum from all property lines, whichever is greater.
- (2) Located to the side or rear of the principal building if above ground.

3112.C **Canopies.** Fueling station canopies must be designed in accordance with the following:

- (1) Canopies must be set back at least 20 feet from all property lines or the district minimum, if greater.
- (2) Light fixtures must be recessed into the underside of the canopy so as not to protrude below the canopy surface by more than 2 inches. Canopy lighting must be in accordance with Paragraph 3205.F(3).
- (3) Canopy fascia that incorporate franchise or corporate identification elements may be considered wall signs and counted towards the total amount of signage allowed under Section 3206.

Section 3113. Mini-Warehouse (Self-Storage Facility)

3113.A Mini-warehouse buildings must have sloped roofs with a pitch of not less than 4:12.

3113.B Mini-warehouse buildings fronting on the road must be oriented with their short side facing the road to the maximum extent feasible. If storage unit doors will face the road, they must be screened with a combination of landscaping and fencing.

3113.C All mini-warehouse buildings on the premises must be compatible in design, materials and color with one another.

3113.D Mini-warehouse buildings must use solid, muted exterior colors that would help blend the buildings into the surrounding landscape and must not use patterns or vibrant colors that would call attention to the buildings.

Chapter 320. Site Plan Standards

Section 3201. Applicability

3201.A This chapter applies to land development other than one- and two-family dwellings as specified in Part 2.

Section 3202. Parking and Loading Areas

3202.A **Purpose.** The purpose of this section is to ensure that development provides adequate off-street parking and loading areas to avoid congestion on surrounding roads while also avoiding excessive parking that results in increased flooding, decreased water quality, increased land consumption and sprawl, and a less attractive and pedestrian-friendly environment.

3202.B **Minimum Amount of Parking.** All land development must provide off-street parking as follows:

- (1) The Zoning Administrator will determine the minimum number of spaces based on Figure 3-02 unless the applicant submits a professionally prepared parking study establishing the amount of parking needed to the Development Review Board.
- (2) The Development Review Board may reduce or eliminate off-street parking requirements to that extent that:
 - (a) The applicant meets the requirements for shared or off-site parking in Paragraph 3202.D;
 - (b) On-street parking exists or is proposed along the lot frontage; and/or
 - (c) Public parking or a public transit stop exists or is proposed within $\frac{1}{4}$ mile of the proposed development.
- (3) To avoid requiring excess parking, these regulations have set a minimum parking requirement that may be less than what is required for the proposed use. However:
 - (a) It is the applicant's responsibility to fully meet his/her actual parking need.
 - (b) The Development Review Board may require an applicant to provide more than the minimum amount of parking if it determines that the additional parking will be necessary.
 - (c) An applicant proposing to provide less than two spaces per dwelling unit must demonstrate that the amount of off-street parking will be adequate given the location and characteristics of the housing.

3202.C **Maximum Amount of Parking.** An applicant may propose to create up to twice the minimum number of parking spaces required. An applicant may only create more than twice the minimum amount of parking upon approval by the Development Review Board as follows:

- (1) The applicant must submit a professionally prepared parking study demonstrating that the additional parking is necessary for the proposed use.
- (2) The Development Review Board may condition approval of any parking in excess of the minimum on the applicant surfacing the additional area with pervious materials and/or constructing it in phases as warranted to meet future demand.

3202.D **Shared or Off-Site Parking.** The Development Review Board may approve a parking plan to allow two or more uses to share parking spaces and/or for applicants to provide parking off-site as follows:

- (1) For shared parking, the applicant must calculate the total amount of parking required by:
 - (a) Determining the minimum parking requirements based on Figure 3-02 for each use sharing a parking area as if it were a separate use.
 - (b) Multiplying each amount by the corresponding percentages for each of the five periods listed in Figure 3-03.
 - (c) Calculating the total for each period.
 - (d) Selecting the highest total as the required minimum number of shared parking spaces.
- (2) The Development Review Board will require any shared or off-site parking to be:
 - (a) Located within a ¼-mile walk of the associated use(s).
 - (b) Connected to the associated use(s) by a sidewalk or hard-surfaced walkway.
- (3) The applicant must submit a written agreement between the owner(s) and lessee(s) of a shared or off-site parking area executed for a minimum of 20 years.
 - (a) Should the use(s), parties involved, or terms of the agreement change in a manner that would alter the amount of parking provided or required, the applicant must submit a revised agreement for review and approval by the Zoning Administrator in accordance with this section.
 - (b) Should the agreement expire or otherwise terminate, the use(s) associated with the shared or off-site parking will be in violation of these regulations unless the applicant provides replacement parking in accordance with this section.
- (4) The applicant must submit plans showing:
 - (a) The location of all of the use(s) or building(s) to be served by the proposed shared or off-site parking;
 - (b) The location of the parking and required walkways (for off-site parking) in relation to the associated use(s) or buildings(s); and
 - (c) For shared parking, the schedule of timing and quantity of parking each use will need.

3202.E **Loading Areas.** An applicant for a use that will regularly receive deliveries or generate shipments by truck must demonstrate that there will be adequate off-street space:

- (a) For loading and unloading without obstructing or interfering with parking and vehicular or pedestrian circulation within the site.
- (b) To allow trucks to turn around so that they will not have to back out into the road or back into the property from the road unless the applicant demonstrates that no other option is viable.

3202.F **Location of Parking and Loading Areas.** The applicant must:

- (1) Locate required parking and loading areas on the same site as the use or structure it serves unless the Development Review Board approves a parking plan in accordance with Subsection 3202.D.
- (2) Not locate required parking and loading areas (inclusive of vehicle overhang) within 10 feet of property lines or public rights-of-way except:
 - (a) Parking areas shared by adjoining properties may be located within a common side or rear setback provided that the Development Review Board approves a parking plan in accordance with Subsection 3202.D.
 - (b) Parking of personal vehicles is allowed within any lawful residential driveway.
- (3) Locate loading areas and service entrances to the side or rear of the building.

3202.G **Dimensional Standards.** The applicant must design off-street parking and loading areas as follows:

- (1) **Parking Spaces.** The applicant must design off-street parking spaces to be at least 9 feet wide by 18 feet deep and accessible from a driveway or access aisle except for:
 - (a) Stacked spaces within a residential driveway;
 - (b) Tandem parking (a double-depth parking space with one vehicle parking the other in) for residential or employee parking; or
 - (c) Compact car parking spaces as approved by the Development Review Board.
- (2) **Access Aisles.** The applicant must design access aisles within a parking lot or structure to be not less than 20 feet wide except that:
 - (a) One-way aisles serving angled parking spaces may be not less than 16 feet wide.
- (3) **Loading Areas.** The applicant must design any off-street loading areas:
 - (a) For single-unit trucks to have an overhead clearance of at least 10 feet and to be at least 10 feet wide and 20 feet long, exclusive of access and maneuvering area.
 - (b) For trailer trucks to have an overhead clearance of at least 14 feet and to be at least 12 feet wide and 50 feet long, exclusive of access and maneuvering area.

3202.H **Design, Construction and Maintenance Standards.** The applicant must design, construct and maintain off-street parking and loading areas as follows:

- (1) **Pavement.** Off-street parking and loading areas must provide a firm, level surface appropriate for the anticipated level of use in all seasons as follows:
 - (a) The applicant must surface parking areas for more than 20 vehicles, drive-through lanes and large truck loading areas with asphalt or concrete.
 - (b) The Development Review Board may modify the surfacing requirement for infrequently used parking areas.
 - (c) The Town of Berlin strongly encourages the applicant to use pervious pavement for infrequently used parking areas.

- (2) **Layout.** The Town of Berlin strongly encourages the applicant to use perpendicular (90 degree) parking and to avoid use of angled parking unless necessitated by site-specific conditions.
- (3) **Erosion and Drainage.** The applicant must grade, surface and maintain off-street parking and loading areas to properly manage all surface water and minimize erosion in accordance with the provisions of Section 3209 as follows:
 - (a) Run-off and/or eroded surface materials must not flow onto adjacent roads or properties.
 - (b) Run-off and/or eroded surface materials must not flow directly into surface waters or wetlands.
 - (c) The Town of Berlin strongly encourages the applicant to use green stormwater infrastructure practices to filter and infiltrate stormwater.
- (4) **Snow Storage.** The applicant must store snow cleared from off-street parking and loading areas without obstructing vehicular or pedestrian visibility or circulation to the maximum extent feasible given the physical characteristics of the subject property as follows:
 - (a) The applicant may store snow within a parking area provided that at least 80% of the required parking spaces on the site remain available for use.
 - (b) If adequate space for snow storage is not available on site, the applicant must remove snow as necessary and dispose of it in accordance with state regulations.
 - (c) The applicant must not clear or store snow in a manner that damages required landscaping.
 - (d) The Town of Berlin strongly encourages the applicant to use green stormwater infrastructure practices to filter and infiltrate snowmelt.
- (5) **Markings and Edging.** The applicant must demarcate parking spaces within any parking area with more than 20 spaces as follows:
 - (a) If the surface is paintable, the applicant must demarcate spaces with painted lines.
 - (b) If the surface is not paintable, the applicant must demarcate spaces however practical.
 - (c) The applicant must keep the markings clearly visible and distinct.
 - (d) The Town of Berlin strongly encourages the applicant to use wheel stops, curbing, bollards or similar structural barriers to delineate the end of a parking space and prevent vehicles from entering or extending over abutting yards, landscape islands, sidewalks or walkways.
 - (e) Any area subject to vehicle overhang will not be included in the calculated area of a required walkway, island, buffer or yard.
 - (f) The Development Review Board may modify the marking and edging requirements for infrequently used parking areas.
- (6) **Landscaping.** The applicant must landscape any parking area with more than 10 spaces as required by Subsection 3204.I.

- (7) **Electric Vehicle Charging.** The applicant:
- (a) May provide electric vehicle charging stations within parking areas as an allowed accessory use in any zoning district.
 - (b) Will not have to provide additional parking when spaces are converted and/or reserved for charging vehicles.
 - (c) May count electric vehicle charging stations towards the minimum amount of parking required under this section.
- (8) **Maintenance.** The applicant must maintain parking and loading areas in good condition free of weeds, dirt, trash and debris.

3202.1 Previously Developed Sites. The Development Review Board may require an applicant to retrofit a previously developed site with nonconforming parking or loading when applying for major site plan approval for land development that includes a change in the amount or location of parking, or to the site layout, access or circulation as follows:

- (1) The Town of Berlin's priorities for retrofitting previously developed sites are to improve access management, stormwater management and aesthetics.
- (2) The applicant must propose a "best fix" that conforms with the provisions of this section to the maximum extent feasible given the physical characteristics of the lot and the existing development.

Figure 3-02. Minimum Parking Ratios

USE	MINIMUM PARKNG SPACES
Residential	
Single-family, accessory or multi-family dwelling	1.0 per DU
Retirement housing, assisted living or nursing homes	0.5 per DU (household living) or 0.3 per bed (congregate living)
Other residential	1.0 per DU (household living) or 0.5 per bed (congregate living)
Lodging	
Bed and breakfast, inn, rooming or boarding house	2.0 + 1.0 per guest or rental room
Hotel or motel	0.8 per guest room + 1.0 per 600 sf of public assembly space
Commercial	
Retail, dining or service uses with high customer turnover	1.0 per 300 sf of GFA
Retail, office or service uses with regular customer traffic	1.0 per 450 sf of GFA
Office or service uses with limited customer traffic	1.0 per 600 sf of GFA
Office or service uses with no regular customer traffic	1.0 per 900 sf of GFA
Industrial	
Manufacturing or storage uses with no customer traffic	1.0 per 1,500 sf of GFA
Research or development, data processing or similar office-like uses	1.0 per 900 sf of GFA
Wholesale trade, self-storage or industrial uses with customer traffic	1.0 per 600 sf of GFA
Public Assembly	
Facilities for mass assembly	1.0 per 6 seats or 1.0 per 60 sf of assembly area if no seats
Public places with high visitor turnover	1.0 per 300 sf of GFA
Public places with regular visitor traffic	1.0 per 450 sf of GFA
Public places with limited visitor traffic	1.0 per 600 sf of GFA
Institutional or Community Facility	

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USE	MINIMUM PARKNG SPACES
Hospital	1.0 per 600 sf of GFA
Medical clinic building	1.0 per 300 sf of GFA
Grade school	0.1 per student + 1.0 per 300 sf of office space
College or university	0.3 per student
Trade or specialty school	1.0 per 300 sf of GFA
Library	1.0 per 300 sf of GFA
Museum or exhibition hall	1.0 per 1,200 sf of GFA
Public safety facility	1.0 per employee + 1.0 per 300 sf of office space
Funeral home	1.0 per 300 sf of GFA
Supervision or rehabilitative services	1.0 per 600 sf of GFA
Social assistance, welfare or charitable services	1.0 per 300 sf of GFA
Mining, Agriculture and Forestry	
Stable or equine facility or greenhouse	1.0 per 600 sf of GFA
Kennel	1.0 per 300 sf of GFA
Mining, extracting, quarrying and stone cutting	1.0 per employee + 1.0 per facility vehicle
Support functions for animal production	1.0 per 600 sf of GFA

Notes. When calculation of minimum parking requirements based on these ratios results in a fractional number, the number of spaces must be rounded up to the nearest whole number.

If a proposed use is not listed, the Zoning Administrator will set a ratio based on the listed use most similar to the proposed use.

DU = Dwelling Unit. GFA = Gross Floor Area.

High turnover uses are characterized primarily by primarily drop-in customers or visitors staying for a short period of time (ex. convenience store, coffee shop, or fast-food restaurant).

Uses with regular traffic are characterized by primarily scheduled customers or visitors staying for moderate period of time (ex. sit-down restaurant, theater, hair salon, or medical office).

Uses with limited traffic are characterized by customers or visitors arriving infrequently and primarily by appointment (ex. attorney or accountant).

Figure 3-03. Shared Parking Percentages

Land Use	Weekday		Weekend		Nighttime (12 AM – 6 AM)
	Daytime (9 AM – 4 PM)	Evening (6 PM – 11 PM)	Daytime (9 AM – 4 PM)	Evening (6 PM – 11 PM)	
Office or Industrial	100%	10%	10%	5%	5%
Retail	60%	70%	100%	70%	5%
Lodging	70%	100%	70%	100%	70%
Dining	50%	100%	70%	100%	5%
Other Commercial	40%	100%	80%	100%	5%
Residential	50%	90%	80%	90%	100%

Notes. If a proposed use is not listed, the Zoning Administrator will set the percentages.

Section 3203. Access and Circulation

3203.A Purpose. The purpose of this section is to promote safe and efficient access to and circulation within a property for vehicular, bicycle and pedestrian traffic.

3203.B Vehicular Access. The applicant must demonstrate that proposed land development will have vehicular access from the road via a driveway constructed in accordance with any duly-adopted town public works specifications, VTrans' B-71 Standards for Residential and

Commercial Drives and the standards below. In the case of any conflict the town's public works specifications would take precedence over the B-71 standard or the standards of this section, and the standards of this section would take precedence over the B-71 standard:

- (1) **State Highways.** If the development site fronts a state highway and:
 - (a) Is a corner lot, access must be from the secondary or lower-traffic road unless the applicant demonstrates that access from the state highway or higher-traffic road would improve traffic safety.
 - (b) Will be accessed from that state highway, the applicant must submit a letter of intent confirming that the Vermont Agency of Transportation is prepared to issue an access permit and setting out any proposed conditions on that permit.
- (2) **Number.** A lot must only have one curb cut unless the Development Review Board approves the additional curb cut(s). The applicant must demonstrate that the additional access is necessary to:
 - (a) Accommodate unique physical conditions on the property;
 - (b) Provide adequate emergency access; or
 - (c) Provide adequate traffic circulation within the site.
- (3) **Alignment.** The applicant must locate a new curb cut to directly align with any existing or approved curb cut on the opposite side of the road whenever physically feasible. If it cannot be directly aligned, the applicant must locate the curb cut so that it will be offset from any existing or approved curb cut on the opposite side of the road by at least 150 feet except that the Development Review Board may:
 - (a) Require greater offset given anticipated traffic, road speed and sight distance.
 - (b) Reduce the offset for curb cuts on low volume roads.
 - (c) Reduce the offset distance when it is not physically feasible to achieve and upon the applicant obtaining an access permit from the town or state, as applicable.
- (4) **Spacing.** The applicant must locate a new curb cut so that it is separated from any existing or approved curb cut on the same side of the road and from any intersection as specified in VTrans Standard B-71 except that the Development Review Board may:
 - (a) Reduce the spacing for curb cuts on low volume roads.
 - (b) Reduce the spacing distance when it is not physically feasible to achieve and upon the applicant obtaining an access permit from the town or state, as applicable.
- (5) **Shared Access.** The applicant must provide for shared access with adjacent properties whenever physically feasible. The Development Review Board may require a common access easement and/or construction of an access drive as a condition of approval. The Development Review Board may require the applicant to submit a legally binding maintenance agreement or equivalent for any shared infrastructure.
- (6) **Cross Access.** The applicant must provide for cross access between adjacent properties whenever physically feasible. The Development Review Board may require a common access easement and/or construction of an access drive as a condition of approval. The Development Review Board may require the applicant to submit a legally binding maintenance agreement or equivalent for any shared infrastructure.

- (7) **Length.** The applicant must design driveways with adequate length and internal circulation patterns to prevent vehicles entering and exiting the site from causing queuing on the road.
- (8) **Emergency Vehicle Access.** The applicant must design all proposed land development to provide adequate access for emergency vehicles. The Development Review Board may require the applicant to provide fire lanes, pull-offs and/or turnarounds as necessary to accommodate emergency vehicles.
- (9) **Off-Site Transportation Improvements.** The Development Review Board may require the applicant to pay for all or a portion of off-site transportation improvements deemed necessary to accommodate anticipated traffic resulting from the proposed development.
- (10) **Access Permit.** Before the Zoning Administrator may issue a zoning permit for development accessed by a new or modified curb cut on a public road, the applicant must obtain a highway access permit from the town or state as applicable.
- (11) **Previously Developed Sites.** The Development Review Board may require an applicant to retrofit a previously developed site with nonconforming vehicular access when applying for major site plan approval for land development that includes commencement of a new principal use or changes to the site layout, access or circulation as follows:
 - (a) The Town of Berlin's goals (listed in order of descending priority) for retrofitting previously developed sites are to eliminate uncontrolled access along lot frontages, reduce the width of excessively wide curb cuts, reduce the number of curb cuts and create cross access.
 - (b) The applicant must propose a "best fix" that conforms with the provisions of this section to the maximum extent feasible given the physical characteristics of the lot and the existing development.

3203.C **Public Transit.** If development will be located on an existing or proposed transit route, the Development Review Board may require the applicant to provide a designated bus stop and/or shelter on the site as deemed appropriate given the project location, proposed use and anticipated traffic.

3203.D **Bicycle Access.** The applicant must provide safe and convenient bicycle access as follows:

- (1) If the site will provide parking for more than 20 vehicles, the number of bicycle parking spaces must be at least 5% of the number of vehicle parking spaces on the site. The Development Review Board may require additional bicycle parking as deemed appropriate given the project location, proposed use and anticipated traffic. Any required bicycle parking must meet the standards below:
 - (a) Bicycle racks must allow the bicycle frame and at least one wheel to be secured with a standard U-type bicycle lock.
 - (b) The applicant must locate any required bicycle racks within 200 feet of a building entrance.
 - (c) The Town of Berlin encourages applicants to locate bicycle racks under shelter whenever feasible.

- (2) The Development Review Board may require applicants to incorporate designated bicycle lanes or paths that provide safe and convenient routes between the road and the bicycle parking area(s) on sites with high traffic volumes. Any required bicycles lanes or paths must meet the standards below:
 - (a) Bicycle lanes adjacent to vehicular travel lanes must be at least 4 feet wide.
 - (b) Separated bicycle or multi-use paths must be at least 8 feet wide.

3203.E **Pedestrian Access.** The applicant must provide safe and convenient pedestrian access as follows:

- (1) **Sidewalks.** Applicants with properties in the Town Center district or that front on Route 302 in the Commercial district must provide a sidewalk along the frontage. In other locations, the Development Review Board may require sidewalks as deemed appropriate given the project location, proposed use and anticipated traffic. Any required sidewalk must meet the standards below:
 - (a) Sidewalks must be at least 5 feet wide (excluding any curb) and hard surfaced with concrete or an equivalent material.
 - (b) Sidewalks must be separated from the road by a planting strip at least 5 feet wide. The Development Review Board may waive or modify this requirement in response to site-specific physical conditions.
 - (c) Sidewalks must not have a running slope that is steeper than the roadway and running slopes 5% or less are preferred. Sidewalks must have a cross slope of 2% or less.
 - (d) Applicants must provide curb ramps and crosswalks at intersections and where driveways bisect sidewalks.
 - (e) The Town of Berlin may require the property owner to be responsible for maintenance of sidewalks irrespective of whether they are located within a public right-of-way.
 - (f) The Development Review Board may waive or modify the sidewalk requirement as recommended by VTrans (on state highways) or the Highway Superintendent (on town roads).
- (2) **Internal Walkways.** Applicants must provide continuous internal pedestrian walkways as follows:
 - (a) Walkways must connect pedestrians to public sidewalks, transit stops, crosswalks, building entrances, parking areas, and community spaces on or abutting the site.
 - (b) Walkways must be at least 5 feet wide.
 - (c) Walkways must be hard surfaced.
 - (d) A landscaped buffer, change in elevation and/or change in surface material must separate or distinguish walkways from driving and parking surfaces.
- (3) **Parking Areas.** Applicants must provide walkways between parking area(s) and building entrance(s). Parking lots with more than 40 spaces must have designated walkways that separate pedestrian and vehicular traffic.

- (4) **Previously Developed Sites.** The Development Review Board may require an applicant to retrofit a previously developed site with nonconforming pedestrian access when applying for major site plan approval for land development that includes commencement of a new principal use or changes to site layout as follows:
- (a) The Town of Berlin's priorities for retrofitting previously developed sites are to improve safe and convenient pedestrian access.
 - (b) The applicant must propose a "best fix" that conforms with the provisions of this section to the maximum extent feasible given the physical characteristics of the lot and the existing development.

Section 3204. Landscaping and Screening

3204.A **Purpose.** The purpose of this section is to protect quality of life, community character and environmental quality by:

- (1) Enhancing the appearance of the built environment as viewed from public vantage points;
- (2) Screening land uses and development that create visual clutter and distraction;
- (3) Creating shade along sidewalks and walkways, and within parking lots;
- (4) Treating and controlling stormwater runoff;
- (5) Providing a landscaped buffer between incompatible land uses;
- (6) Maintaining rural character; and
- (7) Providing wildlife habitat.

3204.B **Design Guidelines.** Landscaping should fit into and enhance the site's natural features and setting. Landscape plans should feature a mix of primarily native plant materials arranged in informally shaped and spaced groupings. The Development Review Board may modify the landscaping requirements if the applicant is proposing a "best fit" that conforms with the provisions of this section to the maximum extent feasible given the physical characteristics of the lot and the existing development.

3204.C **Landscape Plans.** Except within the Rural 40, Rural 218, Shoreland Conservation or Upland Conservation districts, applicants for major site plan approval must submit a professionally prepared landscape plan. The Development Review Board may waive the requirement for a professionally-prepared plan if the proposed development will require minimal to no change to the existing landscaping on the property.

3204.D **Plant Materials.** Applicants must select non-invasive plant materials that meet the planting specifications in Figure 3-04 and the Town of Berlin strongly encourages applicants to:

- (1) Retain existing mature vegetation on development sites to meet landscaping and screening requirements; and
- (2) Use native plant materials.

Section 3505. Design and Layout of Necessary Improvements

3505.A **Roads.** Applicants must design and construct all new roads in accordance with this subsection. A vehicular way that provides access to more than 3 lots, 6 dwellings, or 3 non-residential principal buildings will be considered a road. An applicant may choose to construct a vehicular way that serves fewer lots or buildings as a road in conformance with this section. All other vehicular ways including service and circulation drives will be considered driveways subject to the standards of Subsection 3203.B.

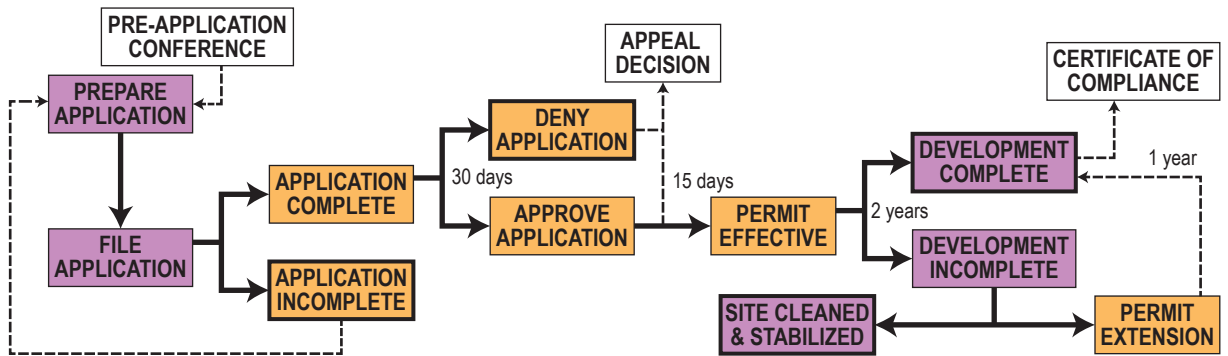
- (1) **General.** Applicants must design and construct all new roads within a subdivision to:
 - (a) Safely accommodate all users (including vehicular, bicycle and pedestrian traffic).
 - (b) Provide efficient access to property and avoid congestion on existing roads.
 - (c) Logically extend and improve the connectivity of the town's existing road network.
 - (d) Fit into the landscape and follow the natural terrain to the greatest extent feasible.
 - (e) Provide for livable neighborhoods and attractive streetscapes.
 - (f) Not be excessively wide in order to calm traffic and minimize impervious surface.
- (2) **Topography and Arrangement.** New roads must be:
 - (a) Designed to relate appropriately to the pre-existing topography and provide adequate drainage.
 - (b) Graded and laid out to conform as closely as possible to the pre-existing topography.
 - (c) Located and designed to maximize the number of lots with building sites at or above street grade.
 - (d) Integrated into the town's existing road network to the maximum extent feasible.
 - (e) Designed with right-of-ways that extend to the boundary lines of the parcel(s) being subdivided to facilitate the coordinated development of adjacent undeveloped land and creation of an interconnected road network unless prevented by topography or other physical conditions.
 - (f) Designed to discourage high-speed traffic and to avoid creating short-cuts through neighborhoods that will generate substantial through traffic.
 - (g) Designed to minimize the amount of impervious surface necessary to provide convenient and safe access to property.
- (3) **Connectivity.** Discontinuous road systems are inefficient and cause undue congestion, while a well-connected road system disperses traffic efficiently and improves walkability. Accordingly, cul-de-sac or dead-end roads are prohibited except that the Development Review Board may approve cul-de-sacs or dead-end roads:
 - (a) As stubs to permit future expansion. The Development Review Board may require construction of street stubs or condition approval on a future agreement to extend roads when adjacent property is developed.
 - (b) Where topography or other physical conditions make construction of through roads impossible or undesirable.
 - (c) Where the development site abuts a limited access highway or a previously

developed site where a through connection is not possible.

- (d) To serve not more than 6 lots or 12 dwelling units.
 - (4) **Access Points.** A subdivision with more than 20 lots must have at least two access points. The Development Review Board may allow the secondary access to be limited to emergency access. The Development Review Board may require a secondary or emergency access for smaller subdivisions or developments when deemed necessary to protect public safety.
 - (5) **Design and Construction Standards.** Applicants must design and construct new roads in conformance with the adopted *Town of Berlin Roadway Standards*.
 - (6) **Street Trees.** The applicant must plant trees along new roads in accordance with Subsection 3204.F of these regulations.
 - (7) **Street Lights.** The applicant:
 - (a) Should provide streetlights only as necessary for safety and security.
 - (b) Should consider locating streetlights at intersections, crosswalks and high-traffic areas.
 - (c) Must install LED lamps or fixtures of comparable/greater efficiency that do not exceed 25 feet in height.
- 3505.B **Pedestrian and Bicycle Facilities.** The applicant must integrate pedestrian and bicycle access into the design of the subdivision in accordance with the following:
- (1) **Sidewalks.** Applicants must install sidewalks along new roads in the Town Center district in accordance with Subsection 3203.E. The Development Review Board may require an applicant to install sidewalks and/or multi-use paths within any proposed subdivision with more than 20 dwelling units or residential lots.
 - (2) **Walkways.** Applicants must install pedestrian walkways and/or multi-use paths as necessary to provide access within the subdivision to common lands or facilities, parking areas or similar amenities, as well as between buildings.
- 3505.C **Water and Wastewater Facilities.** The applicant must design the subdivision to provide potable water and wastewater facilities in accordance with the following:
- (1) Any subdivision within a public water service area must be connected to the public system. The applicant must provide water service to each lot not intended for conservation purposes in accordance with any applicable public works specifications.
 - (2) Any subdivision with access to sewer service must be connected to the public system. The applicant must provide sewer service to each lot not intended for conservation purposes in accordance with any applicable public works specifications.
 - (3) Any subdivision not served by public water and/or sewer must demonstrate compliance with the state's wastewater system and potable water supply rules.
- 3505.D **Firefighting Facilities.** The applicant must design the subdivision to provide water for fire protection in accordance with the following:
- (1) Within any subdivision that will be connected to the town's water system, the applicant must install fire hydrants in accordance with the town's public works specifications.

- (2) Within any subdivision that will not be connected to the town's water system, the Development Review Board may require the applicant to install a fire pond or make other appropriate provisions to facilitate firefighting.
- 3505.E **Public and Private Utilities.** The applicant must design the subdivision to provide utility service to each lot not intended for conservation purposes. Utilities must be located within road rights-of-way to the maximum extent feasible. The applicant must provide the town with a maintenance and access easement for any utilities not located within a road right-of-way.
- 3505.F **Landscaping.** The applicant must design the subdivision to maximize the preservation of existing mature vegetation and provide additional landscaping when necessary to:
- (1) Maintain and enhance the character of the neighborhood.
 - (2) Maintain and provide privacy for adjoining property owners.
 - (3) Maintain or establish vegetated buffers along waterways and other natural areas (see Section 3004).
 - (4) Utilize green stormwater infrastructure practices (see Section 3210).
- 3505.G **Erosion Control.** The applicant must design and undertake construction within the subdivision in accordance with the standards of Section 3209.
- 3505.H **Stormwater Management.** The applicant must design the subdivision with adequate drainage and stormwater infrastructure in accordance with Section 3210.
- 3505.I **Monuments and Lot Corner Markers.** The applicant must install:
- (1) Permanent right-of-way monuments at all road intersections and other critical points in street lines in accordance with all applicable state and town specifications, including Rules of the Board of Land Surveyors.
 - (2) Lot corner markers at corners and angle points of all lots in accordance with all applicable state and town specifications, including the Rules of the Board of Land Surveyors.
- 3505.J **Construction and Maintenance of Necessary Improvements.** The applicant must:
- (1) Construct the necessary improvements in accordance with all conditions of approval and specifications before the Zoning Administrator may issue any zoning permits for further land development within the subdivision.
 - (2) Maintain necessary improvements while lots within the subdivision are being sold and/or developed in accordance with all conditions of approval.
 - (3) Demonstrate how the necessary improvements required under this section will be maintained once lots have been sold and/or developed.
 - (4) Establish an owners' association or similar legally enforceable mechanism to ensure continuing maintenance of private roads, shared infrastructure, or other common land or facilities within the subdivision. The Development Review Board may require the applicant to provide drafts of covenants, articles of incorporation, bylaws, maintenance agreements or other legal documents for review prior to final approval of the subdivision and to record such documents with the town along with the final plat.

Figure 4-01. Zoning Permit Flow Chart



Chapter 430. Development Review Procedures

- ① *The purpose of this chapter is to establish what is required of applicants applying for various types of development approvals from the Development Review Board, and the review process and criteria to be used for each type of application.*

Section 4301. Pre-Application Conference

- 4301.A A prospective applicant may request a pre-application conference with the Zoning Administrator prior to submitting a complete application.
- 4301.B A pre-application conference is an informal meeting that provides the prospective applicant with an opportunity to consult with and receive advice in order to save time and expense in the preparation of the site plan and application.
- 4301.C Any comments or recommendations made are intended to provide general direction to the prospective applicant, but will not be deemed binding on either the prospective applicant or Development Review Board in the preparation or review of any subsequent application for development approval.

Section 4302. Site Plan Review

- 4302.A All land development other than a single-family or two-family dwelling (including customary accessory uses and structures) requires site plan approval.
- 4302.B Prior to submitting a complete application for site plan review, the prospective applicant may request a pre-application conference as per Section 4301.
- 4302.C The applicant must file a complete zoning permit application and site plan with the Zoning Administrator.

4302.D **Classification.** The Zoning Administrator will classify:

- (1) A site plan review application for proposed land development that involves any of the following as a major project:
 - (a) Commencement of a new conditional use.
 - (b) Construction of a new principal building.
 - (c) Major renovation of an existing principal building.
 - (d) Construction of a new curb cut.
 - (e) Construction of more than 10 parking spaces or 2,000 square feet of impervious surface.
 - (f) Construction of an accessory structure with a footprint of more than 2,000 square feet or a height of more than 24 feet.
- (2) Any other site plan review application as a minor project.

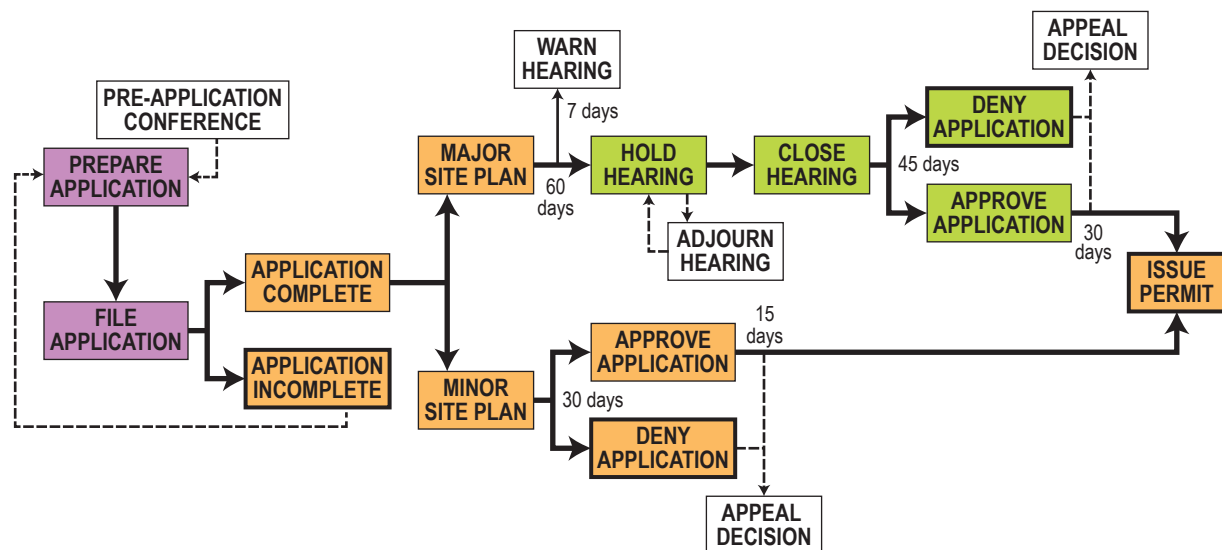
4302.E **Major Projects.** The Development Review Board will review site plan applications for major projects as follows:

- (1) The Development Review Board must hold a public hearing and issue a decision on a site plan application in accordance with Section 4601 and Section 4605.
- (2) To approve a site plan application, the Development Review Board must find that the applicant has demonstrated that the proposed land development meet all of the applicable criteria specified in Figure 4-04.

4302.F **Minor Projects.** The Zoning Administrator will review site plan applications for minor projects as follows:

- (1) The Zoning Administrator must act on a complete site plan application within 60 days.
- (2) The Zoning Administrator may approve, deny or refer site plan applications to the Development Review Board.
- (3) The Zoning Administrator must determine that the proposed land development conforms to all applicable standards of these regulations including but not limited to the site plan standards in Chapter 320 before approving a site plan application.
- (4) The Zoning Administrator may approve a site plan application with conditions as necessary to ensure compliance with these regulations.
- (5) The applicant or other interested person may appeal any of the Zoning Administrator's actions or decisions under this section to the Development Review Board as specified in Section 4501.

Figure 4-02. Site Plan Review Flow Chart



Section 4303. Conditional Use Review

4303.A The specific land uses that require Development Review Board approval as a conditional use are listed in Part 2 for each zoning district.

The Agency Staff Comments Memo included the following questions and requests related to Berlin's regulations:

Question 22. What exemptions are present from the architectural standards in 2101 and what is the review threshold for a major site plan approval to which these standards would apply under the proposed regulations?

There are no exemptions from the architectural standards of Subsection 2101.F. They apply to all development subject to major site plan approval that proposes to construct or renovate a principal building in the zoning district. The threshold for major site plan approval is established in Section 4302, which includes construction of a new principal building or major renovation of an existing principal building.

Question 23. Are non-conforming uses present in the NTC, and if so, would they be subject to the proposed regulations?

There are no non-conforming uses in the Berlin Town Center.

Question 24. Why is the blue road (p.8) at the Rt. 62 gateway not shown as a mapped street type in the design bylaws?

The regulating map only classifies existing and planned roads (as that term is defined in the Berlin Land Use and Development Regulations) in the Town Center Zoning District that are shown on the Official Map.

Question 25. Why are the walkability standards eliminated in the proposal; how are they addressed elsewhere by these regulations?

The walkability standards for the Town Center zoning district incorporated into the 2019 Berlin Land Use and Development Regulations were replaced by newly adopted street and architectural standards for the district because we were informed by DHCD staff in our pre-application meeting that the previously adopted walkability standards were inadequate to meet the requirements for Neighborhood Development Area designation. The new street standards address NDA program requirements for curbing, on-street parking, travel lane width and streetlamps to supplement the requirements we already had in our regulations for sidewalks and street trees.

There are other elements of the Berlin Land Use Regulations that also ensure provision of pedestrian connections in the Town Center zoning district including:

- Ⓢ 3203.E(1). Sidewalks are required along the road frontage in the Town Center district.
- Ⓢ 3203.E(2). Internal pedestrian walkways must connect public sidewalks, transit stops, crosswalks, building entrances, parking areas and community spaces.
- Ⓢ 3203.E(3). Parking lots with more than 40 spaces must have designated walkways that separate pedestrian and vehicular traffic.
- Ⓢ 3505.B. Sidewalks are required along new roads in the Town Center district.

Question 26. How is the build-to-line defined by the bylaws?

Section 2101.D(3)(a) defines the build-to-line, "The BTL is the maximum a building may be set back from the street. The front of the building may be located anywhere between the front setback and the BTL. On some of the street types, there must be a building built on or over a minimum percentage of the lot's BTL."

Question 27. What street intersection and access standards are in place to ensure safe, ADA compliant crosswalks?

Section 3203.E of the Berlin Land Use and Development Regulations establish standards for pedestrian access. This includes a provision for crosswalks and curb ramps. However, implementation and enforcement of federal ADA standards is not dependent on municipal zoning. Berlin, like most Vermont municipalities, does not incorporate detailed ADA standards into its Land Use and Development Regulations.

Question 28. What minimum off-street parking requirements apply in the NTC, and what reduction measures are made available for NTC development to avoid over-production or unshared parking?

Section 3202 of the Berlin Land Use and Development Regulations establishes standards for parking that apply in all zoning districts. Figure 3-02 specifies the minimum parking ratios by use. The regulations require: a minimum of 1 parking space per dwelling; a minimum of 1 parking space per 300 to 900 square feet of commercial space depending on the level of customer traffic the business generates; and 1 parking space per 600 square feet of hospital floor area or 300 square feet of medical clinic floor area.

The 2019 regulations significantly reduced the minimum number of parking spaces required for most uses. They also established a maximum number that may be proposed without the applicant providing a parking study to demonstrate the need for the additional parking (the maximum is set at no more than twice the minimum). The parking standards also include provisions for shared or off-site parking and allow applicants to count on-street parking towards their space requirement.

Question 29. Do drive-through facilities in the NTC, such as the one proposed at the Route 62 gateway, have to undergo any special review or meet any specific criteria?

Drive-through or drive-in facilities are subject to conditional use approval in the Town Center zoning district. Section 3111 of the Berlin Land Use and Development Regulations establish standards for drive-through and drive-in facilities.

Question 30. If a project is developed as a PUD with footprint lots, how would the parking setback be applied on a C street?

We do not anticipate that developers in the Berlin Town Center will use the Planned Unit Development (PUD) provisions of the Berlin Land Use and Development Regulations. Our regulations do not have a general PUD option. Instead, they establish five specific types of PUDs, each for a particular form of development. Only one of those five is allowed in the Town Center Zoning District – a Neighborhood Development PUD.

Rather than relying on PUDs as tool for allowing mixed-use or multi-building projects, our regulations allow multiple principal buildings and uses on a lot by right under conventional zoning. None of the existing, multi-building sites within the Berlin Town Center have been approved as PUDs.

However, Section 2101.D(1)(c) of the Town Center Zoning District does allow applicants to establish building envelopes on parcels with multiple principal buildings and to substitute the building envelope boundaries for lot lines when applying the street-based dimensional standards. On C streets in the Town Center District, the parking line setback is 10 feet from the lot line. If an applicant with a project on a C street proposed a building envelope, the parking setback would be 10 feet back from that line towards the front of the building.

Question 31. Without a street identified in the medical campus extension, how would the NTC design standards apply to proposed development?

Section 2101.D(2) of the Berlin Land Use and Development Regulations states, “When proposing to construct an unplanned street or to develop on a street or street segment not classified in the map below, the applicant must select a classification for the street or street segment to be reviewed and approved by the Development Review Board as part of the development application.” A street classification would be made as part of the development review and approval process, and the dimensional requirements of that street type would apply.

Question 32. What measures are in place to ensure sidewalk connectivity on C streets given that a sidewalk is not required along these streets if adjacent to a parking lot, which the regulations would appear to allow along the frontage?

The provision to waive the sidewalk requirement on one side of a B or C street does not eliminate the requirement for an applicant to construct a public sidewalk if they have parking between the street and the building or to the side of their building. The waiver applies to street segments adjoining major parking lots. An example of how this provision would apply can be seen on the Berlin Town Center Plan ([Attachment H](#)) where sidewalks or a pathway are shown on the east side of the new street to the rear of the mall parking lot but not on the west side (where the street adjoins the planting areas separating the street from the parking lot circulation drive).

Question 33. Does the Town intend for the New Town Center zoning district to develop differently or serve distinct uses inside and outside the NTC or north or south of Rt 62 by the nature of the existing buildout, topography, or location?

The land in the Town Center zoning district south of Route 62 has essentially the same built form and development pattern as the land proposed for New Town Center designation. If there was not an acreage restriction and constraints limiting connectivity, we would want to pursue designation of the entire zoning district as a New Town Center to promote sprawl repair and smart growth infill and redevelopment. Statute required us to select a subset of the land classified as Town Center in our town plan and zoned as Town Center in our land use regulations for designation.

We began the process of preparing our application with an in-depth analysis and considerable discussion of the boundary and the new town center program requirements, particularly related to connectivity within the area proposed for designation. We decided it was essential to include the two anchor properties – the Berlin Mall and CVMC – as these two entities are the reason most people come to the Berlin Town Center today for work, shopping and services. We had wanted to include the Berlin Elementary School as a third anchor within the designated area. However, that was not possible due to the acreage limitation and the difficulty of providing the necessary level of east-west connectivity between the mall and school properties.

Request 7. The application should clarify if private streets would be regulated distinctly from public streets or internal circulation drives and what classification elements of the grid fall within.

The Berlin Land Use Regulations, and other town implementation tools, do not make a distinction between public and private streets. Subsection 3505.A of the Land Use and Development Regulations establishes when a vehicular travel way will be considered a road, “Applicants must design and construct all new roads in accordance with this subsection. A vehicular way that provides access to more than 3 lots, 6 dwellings, or 3 non-residential principal buildings will be considered a road. An applicant may choose to construct a vehicular way that serves fewer lots or buildings as a road in conformance with this section. All other vehicular ways including service and circulation drives will be considered driveways subject to the standards of Subsection 3202.B.”

Request 8. The application should explain what development review processes the proposed development(s) would undergo (planned unit development, conventional subdivision, leaseholds) in order to evaluate how the regulatory standards interplay to predictably implement the town’s vision.

The development review and permitting process in the Berlin Town Center will be the same as all other areas of town. A subdivision approval would be required before any new lots could be created. If a development project is proposed that does not involve the creation of a new lot, it would require a zoning permit, site plan approval and potentially conditional use approval depending on the scale and type of use. As noted in response to Question 30, use of planned unit development provisions would not be required (and is not expected) because the regulations allow multiple principal buildings and uses on a lot under the conventional zoning provisions.

Request 10. Absent a gridded official map that implements the concept plan, block standards are necessary.

Some form-based codes include a block standard that specifies a maximum distance between street intersections. We do not agree that block standards would be an appropriate regulatory tool in our Town Center zoning district. First, due to existing natural and built site constraints, a grid-street block pattern cannot be consistently applied (and is not proposed) across the properties in the zoning district. It should be noted that the lack of a consistent street-grid block pattern is actually a characteristic of traditional Vermont downtowns and village centers – most of which developed in locations constrained by their physical geography. Second, block standards are more typically applied across larger greenfield areas where an entire street network will need to be newly constructed. The Berlin Town Center is a sprawl repair project consisting of infill on previously developed sites and will build upon and improve the street network already in place.

The Official Map ([Attachment I](#)) establishes a future gridded block east of the main mall entrance. Elsewhere in the Berlin Town Center, new streets will be established as necessary to provide access to land proposed for development and/or frontage for new buildings. We do not anticipate that there will be more than a couple of additional streets built in the Berlin Town Center given the extents and existing configuration of the area, and the locations suitable and available for infill development within it.

Subsection 3505.A(3) of the Berlin Land Use Regulations includes language that addresses street connectivity. That section largely prohibits cul-de-sac or dead-end roads. The frontage requirements of Section 2101 for each street type will also promote development of a connected street network where that is physically possible to maximize infill development potential.

Request 11. Section 2101 should maintain the adopted walkability standards, like the existing requirement to install and maintain internal walkways from the sidewalk and any parking lots or transit stops to the building entrance(s) that are designed to separate pedestrian and vehicle traffic.

See response to Question 25. All sidewalk and connectivity requirements incorporated into the walkability standards in the 2019 Land Use and Development regulations remain in place. Section 3203.E(2) requires internal pedestrian walkways connecting public sidewalks, transit stops, crosswalks, building entrances, parking areas and community spaces. Section 3203.E(3) requires parking lots with more than 40 spaces to be designed with walkways that separate pedestrian and vehicular traffic. Section 2101.F requires new or renovated buildings to be oriented to the street with at least one public building entrance facing and accessible from the primary street and sidewalk.

Request 12. There should be a narrower application of C streets in the NTC or C street standards should be more characteristic of a traditional downtown even if exceptions or special flexibilities are present to support major affordable housing (the Department's recent zoning guide features dimensional standards for a downtown 'place-type' on p. 35 and 'town center' on p. 31).

The C street standards carry forward the dimensional standards endorsed by Berlin voters that were put place in the Town Center zoning district in 2019. The Berlin Planning Commission and Selectboard considered feedback from DHCD staff on the C street standards while we prepared this application, but ultimately decided it was not appropriate to further revise those standards as they apply across the zoning district. They represent a significant change in policy from the zoning in place prior to 2019 and will result in a built form that is pedestrian rather than auto oriented, consistent with the purposes of the New Town Center program and smart growth, 'sprawl repair' principles.

In response to earlier comments from DHCD staff that our 2019 Town Center zoning district standards were not adequate to meet New Town Center and Neighborhood Development Area program requirements, we adopted alternative street types for a portion of the Berlin Town Center. This will ensure that the Berlin Town Center will have a core that features a block building form. As one moves out from the core, the built form may become more diverse,

which is typical of the traditional downtowns around Vermont. Vermont downtowns include a variety of industrial buildings, institutional buildings, residences and converted residences, and auto-oriented retail and service buildings in addition to commercial block buildings. We believe that what is “characteristic of a traditional downtown” is more varied than block buildings, which do not represent the primary built form in most of Vermont’s historic downtowns and village centers.

Within our Town Center zoning district, the A and B street standards are calibrated for the larger-scale mixed use and residential buildings anticipated to be the primary infill between the mall and Route 62 – the core blocks characterized by a block building pattern. The A and B street dimensional standards will not accommodate smaller buildings like the municipal building or restaurant envisioned for the Route 62 gateway, or the specialized needs of medical buildings.

The A street standards require that 60% of the BTL be defined by a building and the B street standards require that 50% of the BTL be defined by a building. This works for large multi-unit residential and mixed-use block form buildings, which have under building parking and are typically about 200 feet wide. Those building dimensions allow for enough lot width to provide access to the vehicular entrances on the side of the building and some patio/yard space. However, with a building that is less than 100 feet wide, it becomes essentially impossible to meet the primary street facade and setback requirements while providing necessary vehicular access and parking to the side or rear.

The C street standards are flexible enough to accommodate a variety of building types and sizes – a diversity we anticipate will continue to be a feature of the BTC and the larger zoning district – while ensuring a pedestrian orientation and relationship between building and street. They reflect a consensus of what Berlin residents envision for this area of town built during the PC’s two-year effort to overhaul the town’s zoning, both within the area proposed for designation and the larger area recognized as “town center” in the Berlin Town Plan and Land Use and Development Regulations. That consensus represents a balance between multiple planning objectives and development/business interests.

The maximum 80’ BTL does allow for the possibility of one bay of parking between the street and building. This is not spatially dissimilar to the common practice in Vermont downtowns of having perpendicular on-street parking in front of commercial buildings. The approach we have implemented means that even if a building is constructed at the maximum 80’ setback, that building will be oriented to the street with its most active facade facing front. If all parking is forced to the side/rear, the likely development outcome, particularly for commercial buildings, will be for the building to be turned 90 degrees. The building may be sited closer to the street but its most active facade would be oriented to the side, facing the parking. We do not want another building like the Kohl’s with a blank wall facing the street and the facade oriented to the parking lot on the side – that development pattern is not an improvement over setting a building far back from the road with an expansive parking lot in front. We have adopted regulations aimed at preventing such a development pattern.

The 80’ BTL acknowledges the realistic site needs of the businesses anticipated to locate in the BTC. For example, the initial site plan for the Fox Run building was designed with a front bay of parking to serve a childcare facility, providing parents with convenient access to drop-off and pick-up their children, and residential parking to the side. The 80’ BTL also accommodates changes in elevation between the street and development sites. At both ends of the Berlin Mall Road, buildings sit below the elevation of the street. Allowing this limited amount of flexibility aids site design and accommodates a wider range of uses in the BTC. It was also critical to building the voter support needed for adoption of the revised Town Center zoning in 2019 as a reasonable compromise in response to concerns raised by the business community.

Request 13. There should be street standards (excluding P streets) that would result in a curbed street and connected sidewalks implementing the concept plan.

The regulations as adopted address this request in Section 2101.E.

Request 14. Although not necessary for NTC designation, staff recommends that the minimum lot sizes be reduced to 10,000 s.f. in any district proposed for neighborhood development area designation that includes single family dwellings as a permitted or conditional use on its own lot in order to allow a density for that use in compliance with the program - acre minimum.

The lot size criteria imposed by the Neighborhood Development Area program is not relevant in the Berlin Town Center as we are not planning for single-family residential development. Our land use regulations do not allow single- or two-family dwellings in the Town Center zoning district (multi-unit housing is allowed in the district with no cap on the number of units per acre). All land proposed for the Neighborhood Development Area designation is within the Town Center zoning district.

The minimum lot size in our Town Center zoning district ranges from 10,000 to 20,000 square feet based on street type. We do not expect a significant number of new lots to be created within the Berlin Town Center. We anticipate that any lots that are created would be significantly larger than the minimum lot sizes allowed in the district due to the type and scale of development (the multi-unit residential buildings shown on the Berlin Town Center Plan have a footprint in excess of 10,000 square feet and CVMC is planning for one or more medical office buildings with a footprint in excess of 10,000 square feet).

BERLIN TOWN CENTER CAPITAL IMPROVEMENT PROGRAM
FY2021 to FY2026 | ADOPTED 18 JAN 2021

BERLIN TOWN CENTER PROJECTS OVERVIEW

Berlin anticipates working in FY21 to secure funding for several scoping studies for transportation improvements in the Berlin Town Center and a municipal facilities needs assessments in hope of undertaking those projects in FY22. Work will be continuing on the water and sewer improvements in the Berlin Town Center in FY21. See individual project pages for fund source breakdown.

CHANGES FROM PRIOR YEAR CIP

FY2021 is the first year of the Town Center CIP.

NOTES

Amounts expressed in current year \$1,000.

Berlin's fiscal year runs Jul 1 to Jun 30.

SUMMARY CIP EXPENDITURES	PRIOR TO	CURRENT	5-YEAR PLAN					BEYOND	TOTAL
	FY 21	FY 21	FY 22	FY 23	FY 24	FY 25	FY 26	FY 26	FY21-26
1. Municipal Building	-	-	24.2	-	-	-	-	1,975.8	24.2
2. Center Street	-	-	75.0	-	-	-	-	1,925.0	75.0
3. Town Center Path	-	-	60.0	-	-	-	-	415.0	60.0
4. Town Green	-	-	-	-	-	-	-	100.0	-
5. BTC Stormwater and Wetland Mitigation	-	-	-	-	-	-	-	300.0	-
6. Municipal Sewer Improvements	2,200.0	354.0	73.8	73.8	73.8	73.8	73.8	2,172.3	722.8
7. Municipal Water System Improvements	7,021.4	372.6	182.6	182.6	182.6	182.6	182.6	4,911.0	1,285.4
8. Route 62 Intersections	-	-	-	-	-	-	40.0	115.0	40.0
									-
									-
									-
									-
TOTAL	9,221.4	726.6	415.5	256.3	256.3	256.3	296.3	11,914.0	2,207.3

BERLIN TOWN CENTER CAPITAL IMPROVEMENT PROGRAM
FY2021 to FY2026 | ADOPTED 18 JAN 2021

BERLIN TOWN CENTER PROJECTS OVERVIEW

Berlin anticipates working in FY21 to secure funding for several scoping studies for transportation improvements in the Berlin Town Center and a municipal facilities needs assessments in hope of undertaking those projects in FY22. Work will be continuing on the water and sewer improvements in the Berlin Town Center in FY21. See individual project pages for fund source breakdown.

CHANGES FROM PRIOR YEAR CIP

FY2021 is the first year of the Town Center CIP.

NOTES

Amounts expressed in current year \$1,000.

Berlin's fiscal year runs Jul 1 to Jun 30.

[illegible]

BERLIN TOWN CENTER CAPITAL IMPROVEMENT PROGRAM
FY2021 to FY2026 | ADOPTED 18 JAN 2021

PROJECT	1. Municipal Building
DESCRIPTION	Phase I of project consists of a Municipal Facilities Needs Assessment to (1) develop a space needs program for town administration and police departments, (2) assess potential sites, (3) select a preferred site, (4) develop a conceptual design and cost estimate for capital budgeting purposes.
JUSTIFICATION	To meet its obligations under the New Town Center Designation Program, Berlin must have or be planning for a municipal building within the designated area.
FUNDING	Applied for a \$22,000 Municipal Planning Grant with \$2,200 match from town budget for Phase I. Costs and timing for Phase II are estimates and anticipated to change following completion of the Needs Assessment.
STATUS	Seeking funding. The 2021 MPG application was not funded. If another funding opportunity does not arise, consider resubmitting for 2022 MPG. Application may be more competitive once designations are in place.

FINANCIALS	PRIOR TO FY 21	CURRENT FY 21	5-YEAR PLAN					BEYOND FY 26	TOTAL FY21-26
			FY 22	FY 23	FY 24	FY 25	FY 26		
ESTIMATED COSTS (in current year \$1,000)	-	-	24.2	-	-	-	-	1,975.8	24.2
Land & Easement Acquisition								350.0	-
Studies, Design, Engineering, Legal			24.2					175.8	24.2
Construction								1,250.0	-
Furnishings & Equipment								200.0	-
Debt Service									-
FUNDING SOURCES (in current year \$1,000)	-	-	24.2	-	-	-	-	1,975.8	24.2
General Fund			2.2						2.2
Grant			22.0					88.0	22.0
Debt Proceeds								1,887.8	-
Enterprise Funds									-

BERLIN TOWN CENTER CAPITAL IMPROVEMENT PROGRAM
FY2021 to FY2026 | ADOPTED 18 JAN 2021

PROJECT	2. Center Street
DESCRIPTION	Phase I of project consists of an engineering assessment, design and construction plans, construction cost estimate and associated legal work to create a new town road - Center Street - complete with on-street parking, sidewalks, crosswalks, street lighting, street trees and stormwater infrastructure at the back of the Berlin Mall parking lot.
JUSTIFICATION	Aligns with the Berlin Town Center Plan, which calls for creation of a street network built off this new road.
FUNDING	Could be eligible for a Better Connections grant (next potential grant cycle would be 2021). 2019 grant cycle funded projects up to \$75,000 with a potential Clean Water add-on of \$35,000.
STATUS	Seeking funding. Costs and timing for Phase II are estimates and anticipated to change following completion of Phase 1 .

FINANCIALS	PRIOR TO FY 21	CURRENT FY 21	5-YEAR PLAN					BEYOND FY 26	TOTAL FY21-26
			FY 22	FY 23	FY 24	FY 25	FY 26		
ESTIMATED COSTS (in current year \$1,000)	-	-	75.0	-	-	-	-	1,925.0	75.0
Land & Easement Acquisition								350.0	-
Studies, Design, Engineering, Legal			75.0					125.0	75.0
Construction								1,250.0	-
Furnishings & Equipment								200.0	-
Debt Service									-
FUNDING SOURCES (in current year \$1,000)	-	-	75.0	-	-	-	-	1,925.0	75.0
General Fund			8.0						8.0
Grant			67.0					33.0	67.0
Debt Proceeds								1,892.0	-
Enterprise Funds									-

BERLIN TOWN CENTER CAPITAL IMPROVEMENT PROGRAM
FY2021 to FY2026 | ADOPTED 18 JAN 2021

PROJECT	3. Town Center Path
DESCRIPTION	Phase I of project consists of final design and engineering, including construction drawings and cost estimates, and associated legal work to obtain easements for a new, hard-surfaced, accessible multi-use path complete with lighting, landscaping and associated amenities like benches and bike racks through the Berlin Town Center.
JUSTIFICATION	Aligns with the Berlin Town Center Plan, which calls for creation of a multi-use path that provides a safe walking/biking route through the town center ultimately with connections to existing trails on CVMC property, the Berlin Elementary School and Berlin Pond.
FUNDING	Phase I could be eligible for either a Transportation Alternatives or Bicycle and Pedestrian grant from VTrans (20% matching funds will likely be needed). Construction costs are anticipated to be partially be borne by developers.
STATUS	Seeking funding. Costs and timing for Phase II are estimates and anticipated to change following completion of the Phase I scoping study.

FINANCIALS	PRIOR TO	CURRENT	5-YEAR PLAN					BEYOND	TOTAL
	FY 21	FY 21	FY 22	FY 23	FY 24	FY 25	FY 26	FY 26	FY21-26
ESTIMATED COSTS (in current year \$1,000)	-	-	60.0	-	-	-	-	415.0	60.0
Land & Easement Acquisition								50.0	-
Studies, Design, Engineering, Legal			60.0					15.0	60.0
Construction								350.0	-
Furnishings & Equipment									-
Debt Service									-
FUNDING SOURCES (in current year \$1,000)	-	-	60.0	-	-	-	-	415.0	60.0
General Fund			12.0						12.0
Grant			48.0					67.0	48.0
Debt Proceeds								148.0	-
Enterprise Funds								200.0	-

BERLIN TOWN CENTER CAPITAL IMPROVEMENT PROGRAM
FY2021 to FY2026 | ADOPTED 18 JAN 2021

PROJECT	4. Town Green
DESCRIPTION	This project remains conceptual and is listed in the CIP as a placeholder. Costs and timing are anticipated to change. Would include design, engineering and construction of Town Green and related amenities such as a bandshell or gazebo, playground and sport/exercise facilities.
JUSTIFICATION	Aligns with the Berlin Town Center Plan, which includes a prominently located Town Green providing a community gathering place for Berlin, an amenity for those living and working in the BTC, and underground stormwater treatment serving surrounding development.
FUNDING	Some grant funding may be available for park design and for play equipment and other facilities/amenities. Project is envisioned primarily to be a public-private partnership with costs shared between the town and the BTC developer(s).
STATUS	Timing uncertain. Project would occur in conjunction with private development in the BTC.

FINANCIALS	PRIOR TO FY 21	CURRENT FY 21	5-YEAR PLAN					BEYOND FY 26	TOTAL FY21-26
			FY 22	FY 23	FY 24	FY 25	FY 26		
ESTIMATED COSTS (in current year \$1,000)	-	-	-	-	-	-	-	100.0	-
Land & Easement Acquisition								50.0	-
Studies, Design, Engineering, Legal								15.0	-
Construction								25.0	-
Furnishings & Equipment								10.0	-
Debt Service									-
FUNDING SOURCES (in current year \$1,000)	-	-	-	-	-	-	-	100.0	-
General Fund									-
Grant								20.0	-
Debt Proceeds								30.0	-
Enterprise Funds								50.0	-

BERLIN TOWN CENTER CAPITAL IMPROVEMENT PROGRAM
FY2021 to FY2026 | ADOPTED 18 JAN 2021

PROJECT	5. BTC Stormwater and Wetland Mitigation
DESCRIPTION	This project remains conceptual and is listed in the CIP as a placeholder. Costs and timing are anticipated to change. Would include design, engineering and construction of stormwater and wetland mitigation improvements. Stormwater treatment and other environmental mitigation features will be incorporated into the proposed Town Green and new streets within the BTC.
JUSTIFICATION	Stormwater best management practices and wetland mitigation will be required elements of any future public or private development projects within the Berlin Town Center.
FUNDING	State funding for stormwater improvements may become available as ANR starts implementing the "3-acre" rule, which the Berlin Mall, auto dealerships and CVMC are subject to. Project is envisioned to be a public-private partnership with costs primarily borne by BTC developer(s).
STATUS	Timing uncertain. Project would occur in conjunction with future development within the BTC and in response to state permitting requirements for existing and planned development in the BTC.

FINANCIALS	PRIOR TO	CURRENT	5-YEAR PLAN					BEYOND	TOTAL
	FY 21	FY 21	FY 22	FY 23	FY 24	FY 25	FY 26	FY 26	FY21-26
ESTIMATED COSTS (in current year \$1,000)	-	-	-	-	-	-	-	300.0	-
Land & Easement Acquisition								50.0	-
Studies, Design, Engineering, Legal								20.0	-
Construction								230.0	-
Furnishings & Equipment									-
Debt Service									-
FUNDING SOURCES (in current year \$1,000)	-	-	-	-	-	-	-	300.0	-
General Fund									-
Grant								70.0	-
Debt Proceeds								100.0	-
Enterprise Funds								130.0	-

BERLIN TOWN CENTER CAPITAL IMPROVEMENT PROGRAM
FY2021 to FY2026 | ADOPTED 18 JAN 2021

PROJECT	6. Municipal Sewer Improvements
DESCRIPTION	The Paine Turnpike North Sewer Improvement Project constructing approximately 6,300 lineal feet of gravity sewer mains and appurtenances and a new municipal pump station and force main.
JUSTIFICATION	Berlin is implementing a long-term, co-operative plan with the City of Montpelier to improve the capacity and reliability of the wastewater system serving the Berlin Town Center and surrounding area. The improvements are necessary to support future growth.
FUNDING	The project will be largely funded through municipal bonding. Voters approved an additional \$300,000 bond in 2018 for ongoing equipment and line upgrades.
STATUS	Construction of the Paine Turnpike North Sewer Improvement Project commenced in July 2020 and was completed in Demebember 2020.

FINANCIALS	PRIOR TO FY 21	CURRENT FY 21	5-YEAR PLAN					BEYOND FY 26	TOTAL FY21-26
			FY 22	FY 23	FY 24	FY 25	FY 26		
ESTIMATED COSTS (in current year \$1,000)	2,200.0	354.0	73.8	73.8	73.8	73.8	73.8	2,172.3	722.8
Land & Easement Acquisition	40.0								-
Studies, Design, Engineering, Legal	180.0								-
Construction	1,520.0								-
Furnishings & Equipment	460.0	300.0							300.0
Debt Service		54.0	73.8	73.8	73.8	73.8	73.8	2,172.3	422.8
FUNDING SOURCES (in current year \$1,000)	2,200.0	354.0	73.8	73.8	73.8	73.8	73.8	2,172.3	722.8
General Fund									-
Grant									-
Debt Proceeds	2,200.0	300.0							300.0
Enterprise Funds		54.0	73.8	73.8	73.8	73.8	73.8	2,172.3	422.8

BERLIN TOWN CENTER CAPITAL IMPROVEMENT PROGRAM
FY2021 to FY2026 | ADOPTED 18 JAN 2021

PROJECT	7. Municipal Water System Improvements
DESCRIPTION	Development of a municipal water system serving the Berlin Town Center, and the adjoining nodes of development in the Airport Business Park and Berlin Corners. The initial project included identification of well sites, testing, engineering, permitting and construction of three wells, a storage tank, treatment plant and service lines. Demand warranted the addition of fourth well anticipated to come online in 2021.
JUSTIFICATION	Provide adequate water supply to meet future demand within the water service area.
FUNDING	USDA provided a \$2 million grant and a \$4,016,000 loan for water system improvements in 2016, with the bonded portion to be repaid over 40 years for the municipal water system. Voters approved an additional \$300,000 bond for the fourth well.
STATUS	The base system has been constructed and is operational. Well #4 has been drilled and is in final stage of permitting for connection to the system.

FINANCIALS	PRIOR TO FY 21	CURRENT FY 21	5-YEAR PLAN					BEYOND FY 26	TOTAL FY21-26
			FY 22	FY 23	FY 24	FY 25	FY 26		
ESTIMATED COSTS (in current year \$1,000)	7,021.4	372.6	182.6	182.6	182.6	182.6	182.6	4,911.0	1,285.4
Land & Easement Acquisition	120.0								-
Studies, Design, Engineering, Legal	300.0								-
Construction	4,916.0	100.0							100.0
Furnishings & Equipment	790.0	90.0							90.0
Debt Service	895.4	182.6	182.6	182.6	182.6	182.6	182.6	4,911.0	1,095.4
FUNDING SOURCES (in current year \$1,000)	7,021.4	372.6	182.6	182.6	182.6	182.6	182.6	4,911.0	1,285.4
General Fund									-
Grant	2,000.0								-
Debt Proceeds	4,126.0	190.0							190.0
Enterprise Funds	895.4	182.6	182.6	182.6	182.6	182.6	182.6	4,911.0	1,095.4

BERLIN TOWN CENTER CAPITAL IMPROVEMENT PROGRAM
FY2021 to FY2026 | ADOPTED 18 JAN 2021

PROJECT	8. Route 62 Intersections
DESCRIPTION	Improve pedestrian and bicycle accommodations at the Paine Turnpike and Fisher Road intersections with Route 62. The presence of a limited access highway divides three major development nodes in the area (Airport Business Park, Berlin Corners and Berlin Town Center) and limits the ability of people to walk or bike between them despite their physical proximity.
JUSTIFICATION	Furtheres the goals of the Berlin Town Plan and the connectivity requirements of the New Town Center and Neighborhood Development Area designations.
FUNDING	Phase I could be eligible for either a Transportation Alternatives or Bicycle and Pedestrian grant from VTrans (20% matching funds will likely be needed). Construction costs are anticipated to be partially be borne by developers and by the state.
STATUS	Funding for a Phase 1 planning study will be sought after scoping studies are completed for the Center Street and Pathway projects. Costs and timing for Phase II are estimates and anticipated to change following completion of the Phase I study.

FINANCIALS	PRIOR TO	CURRENT	5-YEAR PLAN					BEYOND	TOTAL
	FY 21	FY 21	FY 22	FY 23	FY 24	FY 25	FY 26	FY 26	FY21-26
ESTIMATED COSTS (in current year \$1,000)	-	-	-	-	-	-	40.0	115.0	40.0
Land & Easement Acquisition									-
Studies, Design, Engineering, Legal							40.0	15.0	40.0
Construction								100.0	-
Furnishings & Equipment									-
Debt Service									-
FUNDING SOURCES (in current year \$1,000)	-	-	-	-	-	-	40.0	115.0	40.0
General Fund							8.0		8.0
Grant							32.0		32.0
Debt Proceeds									-
Enterprise Funds								115.0	-

The Agency Staff Comments Memo included the following questions and requests related to Berlin's CIP:

Question 34. The growth of master-planned communities, open-air lifestyle malls, and gated communities has raised questions around the commons and public access. Some elements shown on the concept plan that may function as public facilities are not included in the capital plan (e.g. tennis courts, basketball court, food forest area, gateway features, several arbors, performance stage, multi-use path, raised gardens, nature play area, elevated walkway and viewing area); if these elements are not publicly funded, owned or operated, what regulatory standards or legal agreements will ensure these features are realized?

The Official Map ([Attachment I](#)) includes the proposed public greenspace, sidewalk and pathway elements the Town of Berlin has committed to pursue. The elements shown on the Official Map are incorporated into our CIP. The funding and ownership of these elements is not yet certain but their inclusion on the Official Map and in the CIP is evidence of our intent that they be available for public access. We will continue to work with our Berlin Town Center partners to advance these elements from concept through construction.

The Berlin Town Center Plan ([Attachment H](#)) is a conceptual document presenting a vision for how the area proposed for designation could be developed in conformance with program requirements. It is not to be interpreted as a regulatory master plan or a graphic depiction of the Official Map.

Question 35. Why are some elements shown on the official map not included in the capital plan (e.g. sidewalks in locations where development review would not require that investment)?

The FY2021-26 Capital Improvement Program is the first CIP the Town of Berlin has adopted. We recognize that it is not as detailed as the CIP presented by South Burlington when they applied for designation, but Berlin is a very different community than South Burlington. Due to the population size and scale of municipal operations South Burlington had progressively developed a sophisticated CIP prior to applying for designation.

In this first year of our CIP, we focused on identifying the capital expenses already committed to water and sewer projects, and the elements we know will require future capital expenses (municipal building, street, pathway, town green, and stormwater/wetland mitigation) within the area proposed for designation. Except for the water and sewer projects, the other projects are still in the conceptual planning stage. We have limited information about the full scope and cost of these projects at this time.

The Town of Berlin, by seeking designation, is committing to engage in ongoing capital planning and budgeting. The CIP will be updated annually and will become a more detailed document over time as the Berlin Town Center advances from concept to construction. We also anticipate expanding the CIP beyond the designated town center area to include capital projects elsewhere in town in future years by involving all town departments in the process to a degree that was not possible in 2020. The Downtown Development Board will have an opportunity to review our progress on this program requirement at our four-year review.

Question 39. Why is no land & easement acquisition included for the Center Street and Town Center Pathway projects in the Capital Improvement Program? Is no construction implementation planned prior to FY26 for these two items?

Line items for land and easement acquisition are included for both projects. Phase 1 for each project is a scoping study. As noted under project status for both projects in the Capital Improvement Program, the costs and timing of Phase 2 are estimates and anticipated to change following completion of Phase 1. It is not likely that street or path construction will occur prior to FY26. Phase 2 costs for these projects were put into the "Beyond FY 26" column as a placeholder until we are ready to incorporate them into the 5-year plan.

Request 15. The capital plan should include all public improvements shown on the concept plan and official map.

The Capital Improvement Program includes projects that address the planned improvements within the Berlin Town Center shown on the Official Map. Elements not included on the Official Map do not have town funding commitments.

Request 18. Include funding for a New Town Center Transportation Parking and Plan to achieve the Town Plan's VT62 intersections policy. A plan is necessary to identify the transformational improvements at these intersections and to develop reasonable cost estimates before the actual projects could be included in a CIP. It is possible that some of the modifications would be made incrementally, perhaps as part of permit conditions for specific development projects in the NTC. A plan would provide direction, so the incremental improvements are consistent with the transformational plan for the intersections. This plan could also include a parking study, noted earlier.

The adopted CIP includes the Route 62 intersections as a listed project in response to this request, but we do not feel it is necessary to include a parking plan in the CIP at this time. As noted elsewhere, we do not envision that there will be a significant amount of municipal parking in the Berlin Town Center. Developers will be responsible for undertaking any parking plans or studies that may be needed to support future projects.

It should be noted that the two referenced intersections are state highway intersections outside the area proposed for designation. The Fisher Road – Route 62 intersection directly serves traffic in/out of the area proposed for designation, but the Paine Turnpike – Route 62 intersection does not. Route 62 is a limited access highway intentionally designed without pedestrian or bicycle accommodations. Any 'transformational improvements' would necessarily require AOT involvement in the conceptual design, capital planning and ongoing maintenance of the proposed physical changes. We identified improvements at those intersections in the Berlin Town Plan with the intent of getting those projects included on the regional and state lists of priority transportation projects so that eventually improvements may be implemented through AOT's capital improvement plan.

Checklist for Compliance Review of Community Water System

Vermont Watershed Management Division
New Town Center District Designation

WSID #: 21202

Public Water System (PWS) Permit to Operate Last Issued: 22 FEB 2016

Capacity (Technical)

1. What is the authorized capacity for the PWS? 216,000 gpd
2. What was the annual maximum water production rate (monthly high) provided by the water system for the previous 12 months? (Provide date range and monthly data.) 50,734 gpd in JAN 2020
3. What are the total unconnected water commitments/allocation for the water system? 47,250 gpd
4. What is the uncommitted reserve capacity for the PWS?
Add together items 2 and 3 above, and subtract from item 1 118,016 gpd
5. What are the gallons of capacity planned for the designated area? 100,000 gpd

Implementation Schedule

6. Does the operating permit contain an improvement schedule? _____ Yes X No
7. Is the PWS completing improvements in accordance with the permit schedule? X Yes _____ No
8. If not in compliance with the improvements schedule, what is the cause and length of the delay (provide detailed attachment as necessary)?

Owner or owner's authorized representative responsible for approving allocation of water to connections and maintaining technical capacity records for the PWS.

Name: Thomas J. Badowski Date: 12 AUG 2020

Title: Assistant Town Administrator Phone: (802) 229-2529

E-mail: zoning@berlinvt.org

The completed form must be submitted to the Agency of Natural Resources (ANR) at the address below. A complete designation application must include both a copy of the submitted form and written notice of approval from ANR.



**Vermont Department of Environmental Conservation
Drinking Water and Groundwater Protection Division**

One National Life Drive - Davis 4 [phone] 802-828-1535
Montpelier, VT 05620-3521 [fax] 802-828-1541
<http://dec.vermont.gov/water>

Agency of Natural Resources

September 15, 2020

Town of Berlin
Attn. Thomas J Badowski
108 Shed Road
Berlin VT 05602

Re: New Town Center Application Notice of Approval, Town of Berlin, Berlin Municipal Water System, Public Community Water System, Berlin, VT, WSID #21202

Dear Mr. Badowski;

This letter serves as the Official Notice of Approval for the Berlin Municipal Water System's (Water System) New Town Center Application. The Vermont Department of Environmental Conservation, Drinking Water and Groundwater Protection Division (Division) finds that the Water System is in compliance with the enclosed Permit to Operate and has the source capacity and authority to expand. Please remember that if any new construction is to be done, the proper water and wastewater permits will need to be obtained from the Division before introducing new service connections to the Public Community Water System.

If you have any questions or would like to discuss anything regarding this Notice, please feel free to contact me at the address above, by email at megan.young@vermont.gov, or by phone at 802-585-4903.

Sincerely,

Megan Young
Capacity Program Supervisor

- c. Addressee via email
 - Bryan Redmond, Director, DWGWP
 - Ben Montross, Acting Assistant Director, DWGWP
 - Dana Nagy, Operations Supervisor, DWGWP
 - Brandy Saxton, Place Sense (brandy@PlaceSense.com)
 - Nate Fredericks, Operator, WSID 21202
 - WSID File 21202

Enclosure: Berlin Municipal Water System WSID 21202 Permit to Operate



**Vermont Department of Environmental Conservation
Drinking Water and Groundwater Protection Division**

One National Life Drive - Main 2
Montpelier, VT 05620-3521
www.drinkingwater.vt.gov

[phone] 802-828-1535
[fax] 802-828-1541

Agency of Natural Resources

February 2, 2016

Town of Berlin Water Commission
Attn: Mr. Dana Hadley, Town Administrator
108 Shed Road
Berlin, VT 05602

Re: Permit to Operate for the Berlin Municipal Water System, WSID 21202

Dear Mr. Hadley:

Enclosed please find the Permit to Operate (Permit) for the Berlin Municipal Water System (Water System). Please notice that the Permit does not have an expiration date, although it will be amended by the Division as deemed necessary over time. Please pay special attention to the special requirements the Water System is required to adhere to, these requirements are described in Section II.B.

Prior to issuing a Permit to Operate to a new public community water system, our Division must determine whether the system has the technical, managerial, and financial capacity to ensure compliance with state and federal Safe Drinking Water Act requirements. To help make this determination, we conducted a sanitary survey of the water system on December 17th, 2015. We also reviewed the 1) application materials submitted for the construction permits (C-2272-14.0, C-2272-14.1, 3237-15.0), and 2) additional materials submitted specifically for the capacity evaluation, including the Town's draft water ordinances; budget; rate structure; and draft long-range plan.

Based on a consideration of this information, we have determined that the system has the capability to obtain and maintain compliance with the Safe Drinking Water Act. However, several items must still be finalized. These items are included in Section II of the permit. The deadlines listed in this section were agreed to by the Water System.

If you have any questions regarding the information or requirements presented in this document, feel free to contact me directly at (802) 585-4889.

Sincerely,

Jim Siriano
Capacity Development Program Supervisor
Drinking Water and Groundwater Protection Division

C: WSID File #21202
Ellen Parr Doering, Deputy Division Director, DWGWP
Tim Raymond, Operations and Engineering Section Chief, DWGWP

Ben Montross, Compliance and Support Services Section Chief, DWGWP
Patrick Smart, System Operations Supervisor, DWGWP
Rodney Pingree, Water Resources Section Chief, DWGWP
Julie Hackbarth, Compliance and Certification Manager, DWGWP
Jeff Girard, Compliance Specialist, DWGWP
Carl Fuller, P.E., Managing Engineer, Barre Regional Office, DWGWP
Pete Kopsco, Regional Permit Specialist, EAO
Nathaniel Fredericks, Water System Operator

Enc: Permit to Operate

**Agency of Natural Resources
Vermont Department of Environmental Conservation
Drinking Water and Groundwater Protection Division**

Public Community Water System Permit to Operate

PERMIT NUMBER: 21202-16.0

WATER SYSTEM IDENTIFICATION NUMBER: 21202

PIN #: BR08-0384

PERMITTEE (Owner): Town of Berlin

WATER SYSTEM: Berlin Municipal

TOWN: Berlin

DESIGNATED CONTACT PERSON: Dana Hadley, Town Administrator

ADDRESS: 108 Shed Road, Berlin, VT 05602

I. Authority

This Permit to Operate (Permit) a Public Community Water System, known as the **Berlin Municipal Water System** (Water System) is issued to **Town of Berlin** (Permittee) in accordance with 10 V.S.A. Chapter 56 and the Vermont Water Supply Rule (Rule). Because Vermont has primacy to implement the relevant provisions of the Federal Safe Drinking Water Act, and the Rule adopted under that Act, regarding public water systems, and because the Rule incorporates the relevant Federal requirements, this Permit is also issued under and implements the provisions of Federal Law.

II. Findings, (Violations, and Compliance Schedule)

- A. The Secretary finds that the Water System has the technical, managerial, and financial capacity to ensure compliance with the Rule and Federal Safe Drinking Water Act. The Water System must, however, complete the following:
1. *Operation and Maintenance (O&M) Manual*: Under Chapter 21-7, Section 7.1.1 of the Rule, all Public Water Systems shall have an O&M Manual approved by the Secretary and shall be operated in a manner consistent with the Manual. As of the date of this Permit, the Water System does not have an O&M Manual that has been approved by the Secretary.
 2. *Source Protection Plan (SPP)*: Under Chapter 21, Subchapter 21-16 of the Rule, all community water systems shall have an approved Source Protection Plan (SPP). The SPP must be updated by the Water System every three years. The Water System's SPP update was due on February 9, 2015. The Water System has not submitted the SPP update as of the date of this Permit.
 3. *Record Drawings*: As required by Construction Permit C-2272-14.1, Record Drawings shall be prepared by the professional engineering firm responsible for observation of construction. Record Drawings shall depict the system as it was constructed, including any field modifications. The Water System has not submitted the Record Drawings as of the date of this Permit.

4. *Installation Certification*: The following Installation Certification, as required by Construction Permit C-2272-14.1, shall be prepared by the professional engineering firm responsible for observation of construction: "I hereby certify that in the exercise of my reasonable professional judgment the installation related information submitted is true and correct and that the components of the public water system authorized by the Public Water System Construction Permit (C-2272-14.1) were inspected, installed in accordance with the permitted design, and properly and successfully tested to the applicable performance tests". The Water System has not submitted an Installation Certification as of the date of this Permit.

5. *Long Range Plan*: Under Chapter 21, Subsections 4.2.2 and 5.5 of the Rule, all new public community water systems shall have a Long Range Plan approved by the Secretary. As of the date of this permit, the Water System does not have a Long Range Plan that has been reviewed and approved by the Secretary.

B. The Secretary also finds that, if the following compliance schedule is met, the continued operation of the Water System does not constitute a public health hazard or a significant public health risk:

1. On or before February 29, 2016, the Permittee shall submit for review and approval by the Secretary an electronic copy of an Operations & Maintenance Manual for the work completed by December 31st, 2015, that was authorized under Public Water System Construction Permit C-2272-14.1. The Water System shall then revise the approved Operations & Maintenance Manual to address any additional work completed under Permit C-2272-14.1 and submit it to the Secretary within 60 days of final project field inspection and approval by the responsible engineer.

2. On or before March 31, 2016, the Permittee shall submit a Source Protection Plan Update for review and approval by the Secretary.

3. On or before March 31, 2016, the Permittee shall submit an electronic copy of the Record Drawings and Installation Certification for the work completed by December 31st, 2015, that was authorized under Public Water System Construction Permit C-2272-14.1. The Water System shall then revise the Record Drawings to address any additional work completed under Permit C-2272-14.1 and submit them (along with an Installation Certification) to the Secretary within 60 days of final project field inspection and approval by the responsible engineer.

4. On or before February 29, 2016, the Permittee shall revise and submit the Long Range Plan for review and approval by the Secretary.

C. The Permittee shall submit a report to the Drinking Water and Groundwater Protection Division (Division) within fifteen (15) days after each required compliance date listed in Part B, above, indicating whether the required action(s) have been completed. If the required actions have not been completed by the specified date, the Permittee shall document the reasons for non-compliance in the report and shall make a written request that the Division modify the compliance schedule in this Permit. A compliance schedule will only be modified if there is good cause for the modification.

D. The Permittee shall give public notice to the users of the Water System of the requirements of the compliance schedule contained in this Permit on or before July 1 of each year that the items on the compliance schedule remain uncorrected. The Permittee shall also give notice to the users of the Water System whenever there is a change in the compliance schedule.

III. Water System Description

This Permit authorizes the use of the following components of the Water System: permitted sources, required source isolation zones, the permitted water system demand, treatment components, and the other specified aspects of the design and operation of the Water System described below:

A. Source(s): The Water System has been determined to be a groundwater system, subject to the Rule and the Federal Groundwater Rule, 40 CFR 141.400-141.405. The following sources are connected to and supply water to the Water System:

Source #	Source Name	Source Type	Source Yield (gpm)	Authorized Maximum Daily Demand (gpm)
WL001	Well A	Bedrock Well	50 (permitted)	150 combined from the three wells
WL002	Well C	Bedrock Well	52 (permitted)	
WL003	Well D	Bedrock Well	48 (permitted)	

B. Permitted Water System Demand: The Maximum Daily Demand (MDD) Rate of the Water System is permitted for 150 gallons per minute. This authorized rate equates to a maximum daily water demand withdrawal equal to 216,000 gallons when the sources are being operated for 24 hours. Source yield and design limitations (ex: treatment capacity, pump size, storage volume, etcetera) of the Water System have been compared against the MDD of the Water System to determine the adequacy of the system to meet the expected demand.

C. Source Site Isolation Zone: The Permittee is required to control a 200 foot radius (Zone 1) around each water source. Control is currently established by deed located in book 121 and page numbers 149-151 in the Town of Berlin's records. All identified land use activities within the sources' recharge areas are subject to a routine vulnerability assessment and are managed by the Water System through a Source Protection Plan Update that is subject to review and approval of the Secretary once every three years.

D. Treatment Components, Processes, and Capacity: The Water System has the capability of applying continuous disinfection using a sodium hypochlorite solution and a positive displacement pump.

E. Storage Components and Capacity: The Water System is served by one 400,000-gallon concrete storage tank.

F. Pump Stations: There are no pump stations serving the Water System. There is a submersible pump in each of the wells.

G. Distribution System: The distribution system is comprised of approximately 40,000 linear feet of piping (4-inch Ductile Iron, and 8-inch and 12-inch PVC) and related appurtenances.

H. Fire Protection: The Water System was designed to provide fire flow protection and has about 50 hydrants on 8-inch and 12-inch distribution lines.

IV. Special Conditions, Requirements, and Restrictions

A. Reserve Capacity Demonstration and Capability for Water System Expansion. The Permittee must demonstrate that reserve source, treatment and distribution system capacity for system expansion exists prior to modification and/or permitted approval of additional service connections or a proposed increase in design water demand to the Water System. Proposed improvements to the Water System are to adhere to the Vermont Water Supply Rule, Chapter 21, and the Vermont Wastewater System and Potable Water Supply Rule, Chapter 1. The Permittee has the permitted source capacity, treatment and distribution system capability to provide for further expansion of the Water System.

B. Continuous Disinfection Required. Until otherwise directed by the Secretary, the Permittee shall operate its chlorine disinfection system on a continuous basis. The Permittee must maintain measurable free chlorine residual concentrations throughout and to the ends of the distribution system.

V. General Conditions, Requirements, and Restrictions

A. Water Quality Monitoring.

1. **Water Quality Monitoring Requirements.** The Permittee shall comply with all of the Drinking Water Quality Monitoring Requirements set forth in the Rule at the frequency described in the Rule. The Permittee shall monitor for contaminants not listed in the Rule if the Secretary determines that the additional monitoring is necessary to protect human health and notifies the Water System of those additional monitoring requirements. The Secretary shall, on at least an annual basis, provide the Permittee with a monitoring schedule in order to assist the Permittee with its obligation to comply with the requirements of the Rule.

2. **Notification of Water Quality Violations.** The Permittee shall notify the Division immediately (and no later than 24 hours) following any test result greater than or equal to the Maximum Contaminant Levels (MCL), Maximum Residual Disinfectant Levels (MRDL), or turbidity levels as specified under 40 CFR, Part 141 (National Primary Drinking Water Regulations).

3. **Reporting of Water Quality Analytical Testing Results.** The Permittee shall be responsible for the submission of all water quality monitoring analytical testing results in accordance with the reporting timeframes in the Rule.

B. Reporting Requirements.

1. The Permittee shall submit a signed report to the Division once a month, no later than ten (10) days following the end of the month, with the following information:

a) A summary of the Public Water System operation, including the amount of water produced daily for each source. Water production summaries shall contain metered data.

b) The daily disinfectant residual entering the distribution system (when chemical disinfection is being used) for each day that disinfectant is introduced.

2. When a chemical disinfectant is being applied and when water within the distribution system may contain a chemical disinfectant, the Permittee must report disinfectant residual in the water system at a location and frequency corresponding to the approved bacteriological sampling plan (see Section V.I.1 below), and verify the free chlorine

concentrations (if no free chlorine is available, the Permittee must measure total chlorine concentration as well) on the laboratory reporting form.

C. Requirement for Certified Operator. The Water System is a Class 2 Water System as defined in the Rule. The Permittee shall assure that Vermont certified operator of the appropriate class is placed in responsible charge of the Water System in accordance with Section 12.2.2 of the Rule. This designation shall be made in writing, signed by both the owner and the certified operator, and available to the Secretary upon request. The certified operator shall hold a valid certification equal to or greater than the classification of the Water System. For Water Systems which only have one certified operator, the Permittee must notify the Division with 24 hours of changing their certified operator.

D. Notification of Change in Designated Contact. The Permittee shall notify the Secretary within 30 days of a change in the Designated Contact Person identified in this Permit. This notification shall include the new name, address, and telephone number of the individual who is authorized by the Permittee to act as the primary contact person for all matters related to the operation of the Water System.

E. Consumer Confidence Reports. The Permittee shall prepare and deliver to the customers of the Water System and the Secretary an annual consumer confidence report (CCR) on or before July 1 of each year. The Permittee shall comply with the requirements of 40 CFR Subpart O, including Appendix A, and Subchapter 10 of the Rule as it relates to the preparation, content, and distribution of the CCR.

F. Operation and Maintenance Manual. The Permittee shall operate the Water System in a manner consistent with the Water System's Operation & Maintenance (O&M) Manual, which is currently being finalized and pending approval by the Secretary (see Section II.B.2 above). The O&M Manual shall be amended as needed when modifications are made to the infrastructure and/or operations of the Water System. All amendments to the O&M Manual shall comply with the Rule and be approved by the Secretary. The O&M Manual shall be kept in a location so that it is readily available to the Permittee and the operator(s) of the Water System. If the O&M Manual cannot be located during an inspection or sanitary survey by the Secretary, the Permittee shall contract with a registered professional engineer to prepare a new O&M Manual in accordance with the Rule and submit an electronic copy to the Division for approval.

G. Water System Modification Prohibited Without Required Permits. The Permittee shall obtain all required Source and/or Construction Permits before proceeding with any modification to the Water System.

H. Use of Unpermitted Sources of Water. The Water System shall not use or connect to an unpermitted water source, including designated emergency sources, or hauled or bulk water, unless an emergency exists, (e.g. malfunctioning equipment, punctured storage tanks, unacceptable levels of contaminants with acute effects, acts of god that affect the functionality of the Water System, etc.) The unpermitted source shall be used for no more than 90 cumulative days unless the Permittee has submitted a written request to the Secretary for an extension and the Secretary has determined that there is good cause for granting an extension. When an unpermitted source is used in an emergency situation, the Permittee shall:

1. Notify the Division as soon as possible, but no later than within 12 hours of the connection and/or use; and

2. Issue either a Boil Water or a Do Not Drink notification to all users of the Water System within 12 hours of the connection and/or use.

I. Maintenance and Periodic Update of Approved Plans. The Permittee shall comply with the plans approved by the Secretary for the Water System. In the event of significant structural or operational changes to the Water System, the applicable plans shall be revised and submitted to the Secretary for approval. In addition, the plans shall be updated when specified in the Rule. The approved plans for the Water System are:

1. Bacteriological Sampling Plan submitted December 3, 2015, is under review with approval pending proposed system build-out in spring 2016. Until this plan is approved, the system shall monitor the interim locations agreed to by the system and the Division;
2. Lead and Copper Sampling Plan submitted December 3, 2015, is under review with approval pending proposed system build-out in spring 2016. Until this plan is approved, the system shall monitor the interim locations agreed to by the system and the Division;
3. Disinfection Byproducts (DBP) Stage 2 Sampling Plan submitted December 3, 2015, is under review with approval pending proposed system build-out in spring 2016. Until this plan is approved, the system shall monitor the interim locations agreed to by the system and the Division; and
4. Source Protection Plan, dated October 17, 2011 (see requirement to update plan in Section II.B.2 above).

J. Posting of Permit. The Permittee shall post the current valid operating Permit in a conspicuous place at the public Water System headquarters or treatment plant.

K. Permit Modification. Based upon information received (e.g., findings of a facility inspection, or information submitted by the Permittee), the Secretary shall determine whether one or more of the following causes to modify a Permit exist. If cause exists, the Secretary may modify the Permit, and may request an updated application and/or administrative contacts information if necessary. When a Permit is modified, only the conditions subject to modification are reopened. Cause for modification includes, but is not limited to:

1. Material and substantial additions or alterations to the Water System, or the Water System's operations or any other change in conditions, that occurred after the issuance of the Permit that justify the application of conditions different or absent from this Permit;
2. The receipt of information that was not available when the Permit was issued which justifies the application of conditions different or absent from this Permit;
3. The statutes, standards or Rule, on which the Permit was based, were revised by adoption or judicial decision after the Permit was issued and those revisions justify the application of conditions different or absent from this Permit;
4. A determination by the Secretary that other good cause exists for amendment, based on the need to protect human health or the environment; or
5. Cause exists for revocation of the Permit, but the Secretary determines that modification of the Permit is appropriate.

L. Permit Suspension or Revocation. This Permit may be suspended or revoked in accordance with the Rule.

M. Transfer of ownership or Control.

1. This Permit is not transferable or assignable without prior written approval of the Secretary. All operating fees must be paid in full prior to any transfer or assignment of the Permit. In the event of a proposed change in control or ownership of the Water System, the Permittee shall provide a copy of this Permit to the prospective owner and/or operator and shall send written notification of the proposed change in ownership or control to the Secretary. The Permittee shall also inform the prospective owner and/or operator of their responsibility to make an application for transfer of this Permit.
2. Any request for transfer of ownership and/or control must, at a minimum, include:
 - a. A properly completed application form provided by the Secretary including the Permit application fee and administrative contacts information;
 - b. A written statement from the prospective owner or operator certifying:
 - i. The conditions of the operation of the Water System will not be materially different under the new ownership or control;
 - ii. The prospective owner or operator has read and is familiar with the terms of the Permit and agrees to comply with all terms and conditions of the Permit; and
 - iii. The prospective owner or operator has the technical, managerial, and financial capability to operate and maintain the Water System and remain in compliance with the terms and conditions of the Permit.
 - c. The date of the sale or transfer; and
 - d. Any other additional information the Secretary may require in light of the current status of the facility operation, maintenance, and Permit compliance.

N. Right of Access to the Water System. By acceptance of this Permit, the Permittee agrees to allow any duly authorized representative of the Secretary, upon presentation of the appropriate credentials, to:

1. Inspect or investigate any portion of the Permittee's property, fixtures, or other appurtenances belonging to or used by the Permittee for the operation and maintenance of the Water System;
2. Sample, monitor, or test the Water System; or
3. Gain access to and copy any records, reports or other documents related to the operation and maintenance of the Water System.

O. Fees. The Permittee shall pay the annual operating fees specified in 3 V.S.A. §2822.

P. Compliance with the Rule and Other Laws. Compliance with this Permit does not relieve the Permittee of the need to comply with all applicable provisions of the Rule and all other

applicable requirements of Federal, State, and Local laws.

Q. Appeals. Pursuant to 10 V.S.A. Chapter 220, any appeal of this Permit must be filed with the clerk of the Environmental Court within 30 days of the date of this Permit in accordance with the Rule governing appeals to the Environmental Court.

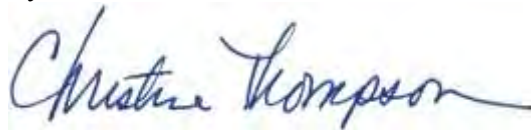
R. Enforcement. Pursuant to 10 V.S.A. Chapters 56, 201 and 211, any violation of the terms and conditions of this permit, including any compliance schedule, is grounds for the initiation of an enforcement action by the State against the Permittee.

S. Effective Date. This Permit becomes effective on the date of signing.

This Operating Permit for the Operation of the Water System located in Vermont is effective on February 2, 2016.

Alyssa Schuren, Commissioner
Department of Environmental Conservation
Vermont Agency of Natural Resources

By

A handwritten signature in blue ink that reads "Christine Thompson". The signature is fluid and cursive, with the first name "Christine" and last name "Thompson" clearly distinguishable.

Christine Thompson, Director
Drinking Water and Groundwater Protection Division

Checklist for Compliance Review of Community Wastewater System

Vermont Watershed Management Division

New Town Center District Designation

Discharge Permit

Number: n/a* Issued: 10 FEB 1982 Expires: 15 AUG 2041 *Allocation from the City of Montpelier

Sludge and Septage Facility Certification or Approved Sludge Management Plan:

Number: n/a Issued: n/a Expires (certifications only): n/a

Capacity

1. What is the design of your wastewater treatment facility? 600,000 gpd (allocation from Montpelier)
2. What was the annual average discharge flow from your facility for the previous 12 months of record? 170,885 gpd
1 AUG 2019 through 31 JUL 2020.
3. What is the total of unconnected commitments/allocation to your facility? 65,962 gpd
4. What is the uncommitted reserve hydraulic capacity of your facility? 363,153 gpd
design flow – (commitments + annual average flow) = uncommitted reserve hydraulic capacity 363,153 gpd
5. Gallons of capacity planned for designated area? 100,000 gpd

Owner or owner's authorized representative responsible for approving allocation of wastewater to connections and maintaining technical capacity records for the wastewater system.

Name: Thomas J. Badowski Date: 12 AUG 2020

Title: Assistant Town Administrator Phone: (802) 229-2529

E-mail: zoning@berlinvt.org

Implementation Schedule

Are you required by an order issued under section 1272 of Chapter 47 or through permit conditions to implement facility modifications to reduce pollutants in your discharge? _____ Yes X No

If you are not in compliance with the schedule dates in that order, please explain the cause and length of the delay.

Are you required by an order issued under section 1272 of Chapter 47 or through permit conditions to eliminate combined sewer overflows? _____ Yes X No

If you are not in compliance with the schedule dates in that order, please explain the cause and length of the delay.

Checklist for Compliance Review of Community Wastewater System

Vermont Watershed Management Division

New Town Center District Designation

[page 2]

Effluent Quality

Were limits for any of the following parameters exceeded during the past 12 months? If violations occurred, please discuss the cause and duration, remedial steps taken during the event and corrective action taken to prevent recurrence.

Biochemical Oxygen Demand (BOD): No

Total Suspended Solids (TSS): No

Phosphorus: No

Ultimate Oxygen Demand (UOD): No

Settleable Solids: No

E. coli Bacteria: No

Total Residual Chlorine: No

Other: No

Town of Berlin

Municipality

Thomas J. Badowski

Authorized Representative

12 AUG 2020

Date

Assistant Town Administrator

Title

The completed form must be submitted to the Agency of Natural Resources (ANR) at the address below. A complete designation application must include both a copy of the submitted form and written notice of approval from ANR.

Checklist for Compliance Review of Community Wastewater System

Vermont Watershed Management Division
New Town Center District Designation

Discharge Permit

Number: 3-1207 Issued: 10/1/2017 Expires: 9/30/2022

Sludge and Septage Facility Certification or Approved Sludge Management Plan:

Number: SW-139 Issued: 10/11/2019 Expires (certifications only): _____

Capacity

1. What is the design of your wastewater treatment facility? 3,970,000 gpd
2. What was the annual average discharge flow from your facility for the previous 12 months of record? 1,470,000 gpd
10/1/2019 through 9/30/2020.
3. What is the total of unconnected commitments/allocation to your facility? 400,000 +/- gpd
4. What is the uncommitted reserve hydraulic capacity of your facility? 2,100,000 gpd
design flow – (commitments + annual average flow) = uncommitted reserve hydraulic capacity 2,100,000 gpd
5. Gallons of capacity planned for designated area? _____gpd

Owner or owner's authorized representative responsible for approving allocation of wastewater to connections and maintaining technical capacity records for the wastewater system.

Name: Kurt Motyka Date: 10/8/20

Title: Deputy Director / City Engineer Phone: 802-223-9508

E-mail: kmotyka@montpelier-vt.org

Implementation Schedule

Are you required by an order issued under section 1272 of Chapter 47 or through permit conditions to implement facility modifications to reduce pollutants in your discharge? _____ Yes x No

If you are not in compliance with the schedule dates in that order, please explain the cause and length of the delay.

Are you required by an order issued under section 1272 of Chapter 47 or through permit conditions to eliminate combined sewer overflows? x Yes _____ No

If you are not in compliance with the schedule dates in that order, please explain the cause and length of the delay.

The anticipated completion date for the LTCP is June 15, 2021.

Checklist for Compliance Review of Community Wastewater System

Vermont Watershed Management Division

New Town Center District Designation

[page 2]

Effluent Quality

Were limits for any of the following parameters exceeded during the past 12 months? If violations occurred, please discuss the cause and duration, remedial steps taken during the event and corrective action taken to prevent recurrence.

Biochemical Oxygen Demand (BOD): NO

Total Suspended Solids (TSS): NO

Phosphorus: NO

Ultimate Oxygen Demand (UOD): NO

Settleable Solids: NO

E. coli Bacteria: Yes on 10/2/19, 10/23/19 and 10/24/19 - Caused by Improper sampling techniques, which have since been modified. Two E.coli violations in November 2020.

Total Residual Chlorine: _____

Other: _____

pH - 5/18/20, 6/28, 7/26, 8/8, 8/13, 8/19-21, 8/29, 9/2. This was caused by nitrifications, sodium hydroxide was used to adjust the pH.

Flow calibration error - 1/6/20, 2/11, 2/17, 2/24, 6/15, 6/22, 6/29, 7/15, 7/21.

City of Montpelier, VT

Municipality

Kurt Motyka

Authorized Representative

10/8/20

Date

Deputy Director / City Engineer

Title

The completed form must be submitted to the Agency of Natural Resources (ANR) at the address below. A complete designation application must include both a copy of the submitted form and written notice of approval from ANR.

From: Polaczyk, Amy Amy.Polaczyk@vermont.gov 
Subject: RE: Berlin Town Center Wastewater Form
Date: January 19, 2021 at 2:10 PM
To: Brandy Saxton brandy@placesense.com, Thomas Badowski zoning@berlinvt.org, Nuisl, Karla Karla.Nuisl@vermont.gov
Cc: Hemmerick, Jacob Jacob.Hemmerick@vermont.gov

DATE: January 19, 2021
TO: Karla Nuisl, Berlin Planning Commission Chair
Tom Badowski, Berlin Zoning Administrator & Acting Town Administrator
FROM: Amy Polaczyk, Manager, Wastewater Management Program
CC: Jacob Hemmerick, VT DHCD Community Planning & Policy Manager
RE: NEW TOWN CENTER WASTEWATER COMPLIANCE FORM

It is the obligation of Berlin to meet the following review standard for New Town Center Designation, as it relates to ANR/DEC oversight.

(H) Evidence that any private or municipal sewage system and private or public water supply serving the proposed new town center are in compliance with the requirements of 10 V.S.A. chapters 47 and 56, and that the municipality has dedicated a portion of any unallocated reserve capacity of the sewage and public water supply necessary to support growth within the proposed new town center.

☐ Include evidence that the public sewage and water supply systems are in compliance with state requirements. Sign-off forms are included with the NTC application and will need responses from two different Divisions within the Agency of Natural Resources (ANR) to demonstrate compliance. Plan to give ANR several weeks to conduct this review.

The Watershed Management Division of the Vermont Dept. of Env. Conservation has reviewed the form dated October 8th, 2020 (attached), deemed it complete and find that it fulfills the compliance requirements of the Wastewater Management Program.

Best regards,
Amy

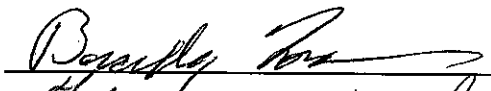


Amy L. Polaczyk, PhD | Program Manager (she/her)
Vermont Department of Environmental Conservation
Watershed Management Division, Wastewater Management Program
Davis 3, 1 National Life Dr | Montpelier, VT 05620-3522
802-490-6185 (cell)
<https://dec.vermont.gov/watershed/wastewater>

TOWN OF BERLIN, VERMONT

MUNICIPAL WATER & WASTEWATER ALLOCATION ORDINANCE

December 18, 2020

EFFECTIVE DATE

BERLIN SELECTBOARD

Adopted: October 19, 2020

Revised: _____

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SEC. 1-100. AUTHORITY

- A. This Ordinance has been duly adopted by the Town of Berlin Selectboard, on October 19, 2020, and will become effective as specified in Section 1-104.

SEC. 1-101. DEFINITIONS

- A. "Public Works Board" means the Public Works Board of the Town of Berlin, as convened under 24 V.S.A., Section 3614.
- B. "Committed Water Reserve Capacity" means the amount of total assigned ERUs for all projects/buildings approved by the Town for connection to the Water System, but not yet connected at the time of the calculation.
- C. "Committed Wastewater Reserve Capacity" means the amount of total average daily flow (gallons per day) and loading from all projects/buildings approved by the Town for connection to the Wastewater Collection System, but not yet connected at the time of the calculation.
- D. "Person" means any individual, firm, company, association, society, corporation, or group, or as prescribed in 1 V.S.A., Section 126.
- E. "Uncommitted Water Reserve Capacity" means the authorized capacity of the Town of Berlin Water System minus total assigned ERUs for all projects/buildings approved by the Town for connection to the Water System, including those not yet connected to the Water System at the time of the calculation.
- F. "Uncommitted Wastewater Reserve Capacity" means the Town discharge limit to the City Wastewater Collection System (as established by City-Town agreement) minus the most recent 12 months estimated average daily flow and loading of all projects approved by the Town and City, including those not yet connected to the Wastewater Collection System.
- G. "Must" is mandatory; "May" is permissive.

SEC. 1-102. REQUEST FOR CAPACITY

- A. Persons wishing to use uncommitted capacity of the Town Wastewater Collection System must apply to the Public Works Board in accordance with the provisions of Section 1-104 of the Town of Berlin Municipal Wastewater Collection System Ordinance.
- B. Persons wishing to use uncommitted capacity of the Town Water System must apply to the Public Works Board in accordance with the provisions of Section 1-104 of the Town of Berlin Water Ordinance.
- C. The Public Works Board must approve the request for use of uncommitted capacity in accordance with the provisions of the Water System and/or Wastewater

Collection System ordinances, as applicable, and the allocation formula established in Section 1-103 of this ordinance.

SEC. 1-103. ALLOCATION OF UNCOMMITTED RESERVE CAPACITY

- A.** Each June, the Public Works Board will determine the Uncommitted Water and Wastewater Reserve Capacity to be available for the next fiscal year.
- B.** The Public Works Board must allocate Uncommitted Water and/or Wastewater Reserve Capacity by location, type of use and rate in accordance with the following:
 - 1.** If any existing water or wastewater treatment system fails, the Board may make an emergency allocation to alleviate a public health hazard or environmental harm irrespective of the allocation formula.
 - 2.** The Board must allocate at least 30% of the Uncommitted Water and Wastewater Reserve Capacity to serve Berlin's designated New Town Center.
 - 3.** The Board must allocate at least 10% of the Uncommitted Water and Wastewater Reserve Capacity to residential projects that meet the definition of affordable housing in 24 V.S.A. § 4303(1).
- C.** The Public Works Board allocates capacity to a specific project on a parcel of land identified by tax map parcel number. After the project is connected to the water and/or wastewater collection system, any unused allocation will revert to the Town.

SEC. 1-104. EFFECTIVE DATE

- A.** This ordinance will become effective upon the Town of Berlin obtaining a New Town Center Designation from the State of Vermont and not less than 60 days following the date of adoption as set forth in Section 1-100, unless a permissive referendum is called for pursuant to 24 V.S.A. Sec. 1973, which provides as follows:
 - 1.** An ordinance or rule adopted by a municipality may be disapproved by a vote of a majority of the qualified voters of the municipality voting on the question at an annual or special meeting duly warned for the purpose, pursuant to a petition signed and submitted in accordance with subsection (2) of this section.
 - 2.** A petition for a vote on the question of disapproving an ordinance or rule must be signed by not less than five per cent of the qualified voters of the municipality, and presented to the legislative body or the clerk of the municipality within 44 days following the date of adoption of the ordinance or rule by the legislative body.
 - 3.** When a petition is submitted in accordance with subsection (2) of this section, the legislative body must call a special meeting within 60 days from the date of receipt of the petition, or include an article in the warning for the next annual meeting of the municipality if the annual meeting falls within the 60-day period, to determine whether the voters will disapprove the ordinance or rule.

SEC. 1-105. SUNSET PROVISION

- A. This ordinance will remain in effect while the Town of Berlin has a New Town Center designation from the State of Vermont.

SEC. 1-106. SEVERABILITY

- A. In the event that any section, provision or other portion of this Ordinance is determined to be invalid by a court of competent jurisdiction, such determination will not affect the validity of any other section, provision or portion of this Ordinance, which will be given effect without such invalid sections, provisions or portions thereof.

SEC. 1-107. CIVIL ORDINANCE

- A. Pursuant to 24 V.S.A. Sec. 1971, this ordinance is designated a civil ordinance.

The Agency Staff Comments Memo included the following questions and requests related to provision of water, wastewater and stormwater:

Question 37. Will any additional public upgrades or lines be needed in the NTC to accommodate development?

The sewer project just completed on Paine Turnpike and Fisher Road is the final phase of work to improve sewer service within the Berlin Town Center. Well #4 is drilled and ready to be connected to municipal water system when fully permitted (anticipated to occur this year). We are not planning for any further significant upgrades at this time. As development proceeds in the Berlin Town Center, service lines will be extended by the developers as part of project construction.

Question 38. How have the stormwater concepts [in the Berlin Town Center Plan] been vetted for regulatory approvability?

Stormwater concepts have not been vetted for regulatory approvability. Again, the Berlin Town Center Plan ([Attachment H](#)) is a conceptual document presenting a vision for how the area proposed for designation could be developed in conformance with program requirements for a municipal center plan. It is not to be interpreted as a regulatory master plan or site plan and should not be held to that standard of review.

Request 20. ANR is awaiting a response to a compliance question prior to finalizing the Wastewater form. The response to that question should explain why Montpelier is late submitting their Long-Term Control Plan and include a date by which Montpelier intends to submit that plan.

Because the Town of Berlin has contracted with the City of Montpelier to send its wastewater to the city's treatment plant, the Wastewater Division requested that we submit separate compliance forms for each municipality. The Wastewater Division did not inform the Town of Berlin or City of Montpelier that they had a question related to the completeness of Montpelier's form. We only learned of this issue in the state agency staff comments memo. We coordinated between the Wastewater Division and the City of Montpelier to address this request when we became aware of it.

It remains our position that any administrative issues between the City of Montpelier and the Wastewater Division should not be an obstacle to our application. Berlin purchases sewage treatment capacity from the City of Montpelier under a long-term contract. That contractual relationship has been previously approved by the Wastewater Division. We have no role in the operation of Montpelier's facility.

Request 21. The final application should provide evidence that the municipality has dedicated a portion of any unallocated reserves for both the wastewater and drinking water systems, adequate to accommodate future growth in the NTC by showing it has reviewed the anticipated growth for the NTC (build-out analysis) and based the allocation of reserves on that estimate.

There is no requirement for inclusion of a build-out analysis in a new town center designation application in 24 V.S.A. § 2793b ([Attachment I](#)) or the Application Guidelines. We did a calculation of wastewater demand for the purpose of establishing an appropriate amount of capacity to be allocated to the Berlin Town Center when drafting the allocation ordinance. We estimated a demand of approximately 100,000 gpd for 330 residential units, 11,000 sf of restaurant space, 11,000 sf of medical office space, a 100-person childcare facility and 32,000 square feet of commercial space (these numbers were based on infill potential identified through the process of preparing the Berlin Town Center Plan).

Our adopted ordinance allocates 30% of our uncommitted water and wastewater reserve to the designated new town center. Our current uncommitted wastewater reserve is more than 360,000 gallons – providing an allocation that is more than adequate to meet demand within the designated area for many years to come. It should also be noted that the City of Montpelier wastewater treatment facility has 2.1 million gallons per day of unallocated reserve

capacity (see [Attachment L](#)). Growth and development in the Berlin Town Center will help offset operating and capital costs of the city's wastewater treatment infrastructure.0

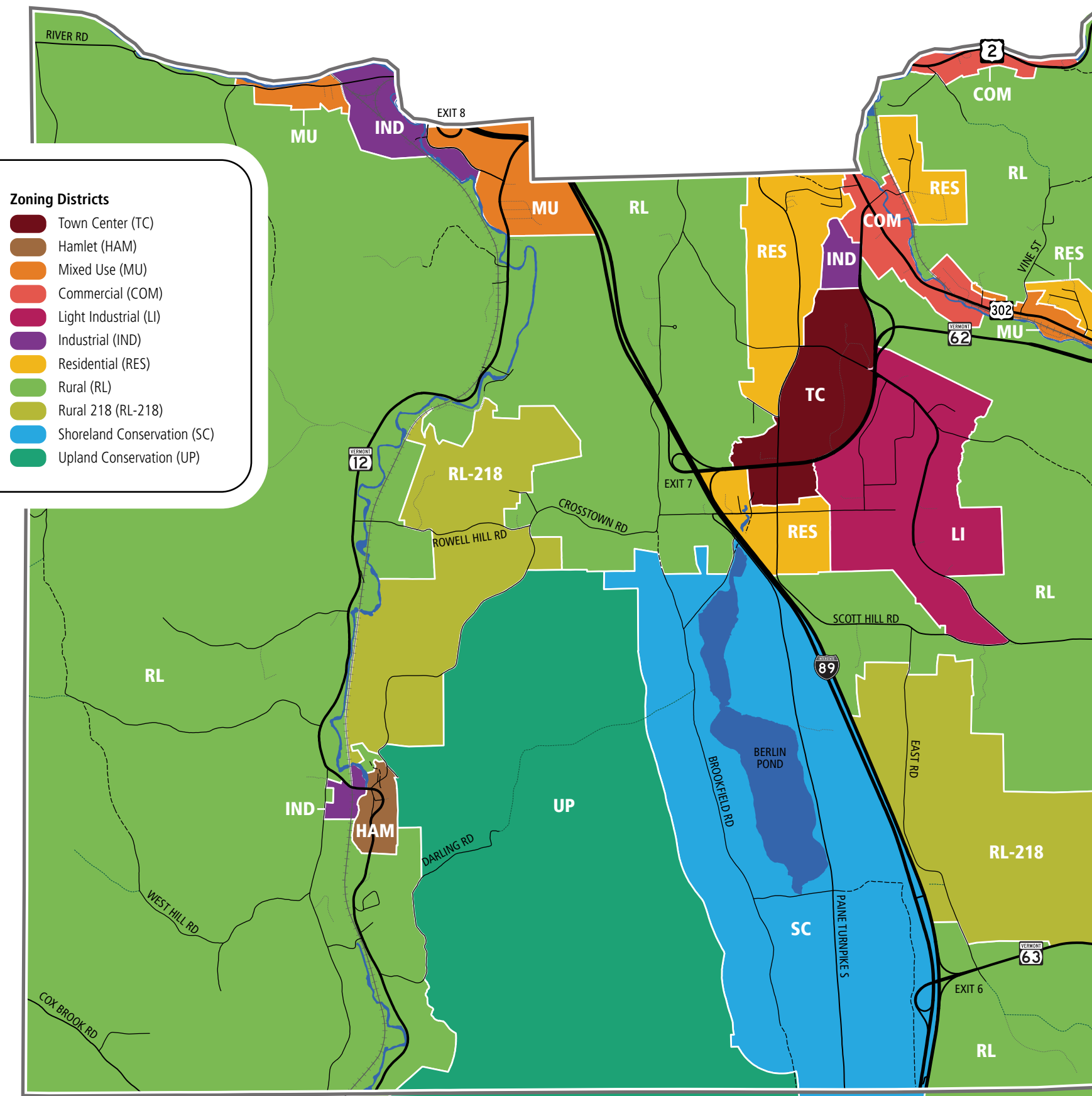
Request 22. The dedication of reserves must be made by formal action by the legislative body of the municipality. Evidence of these dedications must be included in the final application for designation.

The draft allocation ordinance included as an attachment in the preliminary application was adopted and became effective on December 18, 2020.

ZONING MAP

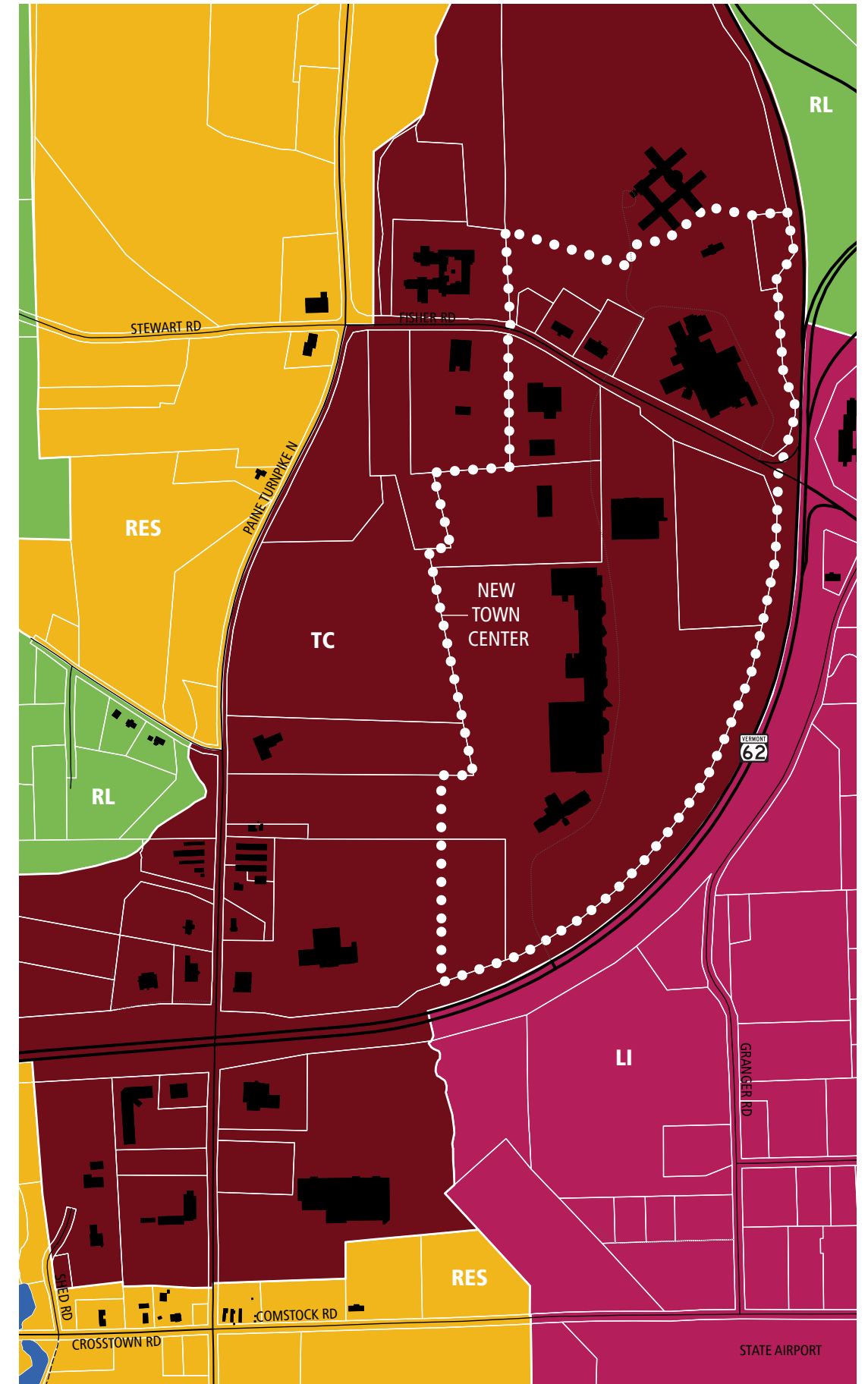
TOWN OF BERLIN, VERMONT

ADOPTED 5 MAR 2019



new town center application
town of berlin, vermont

TOWN CENTER DETAIL



zoning map
page N1

TOWN OF BERLIN, VERMONT
Resolution in Support of Locating Future
Municipal Facilities in the Berlin Town Center

WHEREAS, the Town of Berlin supports development of the Berlin Town Center; and

WHEREAS, the Berlin Town Center is envisioned to become a walkable, mixed-use center anchored by the Berlin Mall and CVMC that will function as the community's central business district; and

WHEREAS, 24 V.S.A. § 2793b(b)(2)(F) requires municipalities applying for a new town center designation to provide evidence that civic and public buildings will exist in the center;

NOW THEREFORE, BE IT RESOLVED THAT on 19 October 2020, the Town of Berlin Selectboard voted to give priority consideration to the Berlin Town Center when seeking a location for future civic buildings or municipal facilities as and when such buildings or facilities may be needed to serve the community and to the extent that such buildings or facilities are compatible with the character and function of the Berlin Town Center.



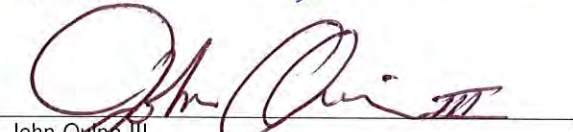
Brad Towne, Chair

Angela Capron



Florence Smith

Justin Lawrence



John Quinn III



TOWN OF BERLIN, VERMONT

Selectboard:

Brad Towne, Chair
John Quinn III
Angelina Capron
Florence Smith
Justin Lawrence

Municipal Office Building
108 Shed Road
Berlin, Vermont 05602
Telephone: 802-223-4405
Fax Number: 802-223-4404

December 10, 2020

Bryan Olkowski, Superintendent
Washington Central Unified Union School District
1130 Gallison Hill Road
Montpelier, VT 05602

RE: Town of Berlin New Town Center

Dear Mr. Olkowski

As you may be aware, the Town of Berlin has for the past 25 years planned for the establishment of an identifiable New Town Center (NTC) to create a sense of community, enhance the quality of life, promote the establishment of housing and support economic development in Berlin. To that end, since 2015, the Town has spent in excess of \$8.5M in infrastructure improvements to bolster the NTC vision.

The Town is one step closer to seeing the NTC vision become a reality as it has recently submitted to the State of Vermont draft applications for a New Town Center and Neighborhood Development Area, which plans for 500+ units of housing to be constructed in the next 10 years. We anticipate receiving State designations for NTC and NDA in February 2021. You can view these applications here:

https://www.dropbox.com/sh/2zfv79blgsf01w1/AAA9e4I_jy8CEhG0Iz_UZmH1a?dl=0

I have attached the NTC Map and the section of the NTC that deals with the Route 62 Gateway. It is this Gateway that I would like to discuss with you.

The Gateway reconfigures the entrance of the current Berlin Mall Road into a T intersection. Berlin envisions a modern municipal building at the entrance of the Gateway complete with community gathering and recreational spaces. Much of the land that these structures would occupy currently belongs to the Supervisory Union.

With that in mind, I am requesting the Supervisory Union consider gifting back to the Town approximately 7.4 acres of former Town owned land that is defined by the stream at the eastern edge of the Berlin Elementary campus and Berlin Mall Road (see attached). The 7.4 acres are comprised of approximately 3.8 acres of developable land and approximately 3.6 acres of wetlands.

At the end of the day, Berlin wants NTC to be “the community that has everything I need”. Our vision is of high density housing as the anchor supporting local schools, daycare facilities and retail while providing a diverse workforce for central Vermont. I would welcome the opportunity have my team present to you in greater detail the NTC vision and how WCUUSC and the Town of Berlin can partner to achieve each of our goals.

Please feel free to contact me at 802-229-2529 if you have any question. I look forward to continuing this discussion.

Tom

Thomas J. Badowski
Assistant Town Administrator

Memorandum of Understanding (MOU)

Between
Town of Berlin
&
Downstreet Housing & Community Development (Downstreet)
&
Housing Vermont

I. PURPOSE

The primary purpose of this MOU is to establish the commitment of the Town of Berlin, Downstreet Housing and Community Development and Housing Vermont to work cooperatively in good faith with the shared goal of completing a proposed development consisting of a new residential multi-family rental apartment building and a commercial space intended for a child care business to be located on the Berlin Mall property. In addition, this MOU provides the framework for defining the parties' respective and shared goals, responsibilities, terms, conditions and understandings. This MOU is intended to be a pre-cursor to any future Development Agreement.

II. PROJECT BACKGROUND/WHEREAS

- a. Downstreet and Housing Vermont have entered into a separate development services agreement enabling the two organizations to work in partnership as co-developers to acquire a lot owned by Berlin Mall, LLC, known as "Out lot C" and to permit, design, finance and construct a mixed-use development with approximately thirty (30) residential rental apartments and a commercial space intended for a child care center.

- b. Downstreet and Housing Vermont, as “Developers,” have secured a site with a 6-month option to purchase that expires at the end of February, 2020.
- c. The Developers wish to work collaboratively with the Town to ensure that the project will be in compliance with Town planning and development goals and be consistent with the Town’s vision for the New Town Center.
- d. The Town will cooperate with Downstreet and Housing Vermont.
- e. The parties agree that there are multiple points of interest and issues related to the project. These include permitting, public financing, New Town Center Designation, municipal infrastructure and services and property taxes, and that these topics are best considered in coordinated and complete fashion.
- f. The project will be financed through a mix of public and private sources, with Federal Low Income Housing Tax Credits being the primary source. To this end the developers will form a limited partnership that will be the entity to own the property.
- g. A separate business or organization will operate the child care center.

III. PROJECT GOALS

- a. Develop the property primarily for multi-family residential rental housing along with a separate child care business, including improvements such as surface parking, landscaping, and stormwater treatment areas.
- b. Help meet the housing needs for renters with a range of incomes, with an emphasis on the needs of low and moderate-income residents.
- c. Create an opportunity for a new child care business to serve families with a range of incomes, with an emphasis on the needs of low and moderate-income residents.
- d. Build an energy efficient energy building with renewable energy systems, to the extent of financial feasibility.
- e. Connect the project to the adjacent mall with safe and attractive pedestrian access, and create opportunities for new pedestrian paths connecting the project and adjacent services, the elementary school, and other public spaces.

IV. ROLES AND RESPONSIBILITIES

- a. The primary responsibility of the **developers** are:
 - 1. Acquire the property

2. Procure and manage the design team (architect, engineers and consultants).
 3. Secure all permits and approvals.
 4. Secure all financing for the residential construction.
 5. Assist outside parties to secure financing for the commercial/child care construction.
 6. Secure a long-term lease for child care space with operator.
 7. Produce construction plans.
 8. Act as property manager (DHCD)
- b. The primary roles and responsibilities of the **Town** will be:
1. Apply for a Town Center Designation as defined by the state of Vermont for the area in which the project is to be located that will include Capital improvements and planning.
 2. Endeavor to ensure availability of municipal water and sewer allocation, subject to the Project meeting applicable regulations and criteria for such allocations.
 3. In the event that the Town is successful in securing a Town Center Designation, the Town will proceed with steps to acquire a public right of way from Berlin Mall, LLC and to accept what is now known as the Berlin Mall Road as a Class 3 road pursuant to 19 V.S.A. §302 (3).
 4. Work in cooperation with the Developers during the zoning process and Act 250 process.
 5. Work in cooperation, supply support, information to the Developers for VCDP funding applications and provide grant administration.
 6. The Town will continue in the effort to provide pedestrian connections in connection with the Town Center Designated area.

V. PROJECT PHASES

- a. Site Control & Due Diligence Phase
- b. Feasibility & Concept Design Phase
- c. Permitting & Financing Phase
- d. Pre-Construction Phase

Addendum #1

Tentative Project Schedule

January, 2020

- Developers apply to VHFA for housing tax credits
- State town zoning/DRB process
- Letter of intent signed with child care sponsor group

April, 2020

- Sign Development Agreement b/w Town, Downstreet and Housing Vermont
- Tax Credit Awards made at VHFA board meeting.

May/June, 2020

- Secure Town Zoning Approval
- Submit state permit applications
- Submit Act 250 application

August, 2020

- Selectboard to hold public hearing for VCDP application

September, 2020

- Submit VCDP application with the Town

October, 2020

- Town to submit application for New Town Center
- Developers to approve production of construction drawings and specification for bidding providing funding and permits are in place.

November, 2020

- VCDP Community Development Board meeting
- Develop to re-submit funding application to VHCB for VHCB and HOME funds

December, 2020

- Developers to pre-qualify general contractors

January, 2021

- Sign firm agreement with child care operator
- New Town Center Designation approval by ACCD
- Bid the project

Spring, 2021

- Sign lease with child care operator
- Close on Construction and tax credit financing
- Start Construction

Spring, 2022

- Completion, occupancy and child care opening

- e. Construction Phase

VI. AGREEMENTS

- a. Any amendment, transfer or assignment will need to be agreed to in writing by any applicable party.

VII. PERMANENT FUNDS

- a. Proposed permanent funding for the project will include Low Income Housing Tax Credits, bank financing, Vermont Housing and Conservation Board loans and grants, HOME funds, Vermont Community Development Program CDBG funds, Federal Home Loan Bank other loans and grants.
- b. It is recognized that the use of public financing brings rules and restrictions and that the parties agree to execute their responsibilities for the project in a manner that maintains compliance with these rules and restrictions.

VIII. PROJECT SCHEDULE

A tentative project schedule is attached as an addendum.

This memorandum of understanding has been agreed to by all parties.

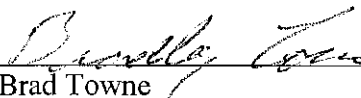
For: Housing Vermont

Date

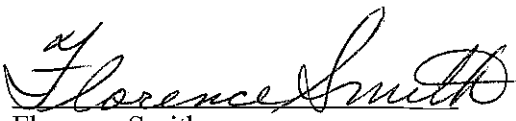
For: Downstreet Housing & Community Development

Date *February 19, 2020*

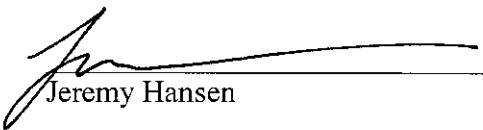
For Town of Berlin: Selectboard of Berlin



Brad Towne



Florence Smith



Jeremy Hansen

Justin Lawrence

Angelina Capron

January 15, 2021

To the Vermont Downtown Development Board,

One of the things I love most about Central Vermont, is the sense of community that exists. Walking in Montpelier, Barre, and Waterbury that sense is multiplied because their Town Centers serve as a collection point for people to meet and interact with one another. The Town of Berlin is currently missing that sort of central gathering place.

I am writing today in support of the New Town Center and Neighborhood Development Area in Berlin, Vermont. Although Berlin does already serve as a hub for shopping for residents of many surrounding towns, a walkable, bike friendly neighborhood, simply does not exist. Our New Town Center will create this area and enhance the lives of not only residents of Berlin, but for many residents of surrounding towns as well. I have virtually attended several Zoning meetings and the New Town Center has been on the agenda. The participation and enthusiasm for the project has been really encouraging. My auto dealerships are within the New Town Center, and I have shared the vision with our Employees. They are excited and hopeful that they will have new places to eat, to shop, to live, or to just have a safer place to take a walk at lunchtime.

Our town needs this sort of positive development. I urge the Vermont Downtown Development Board to approve these designations and recognize the area as a great place for this type of project. The area is currently underutilized and would benefit greatly with the creation of a New Town Center. I would be happy to speak with anyone that has questions from a business owner in the area proposed for designation.

Thank you for your consideration.

Best regards,



Dave Birmingham
President and Chief Dog Walker
802 Cars
dave@802cars.com
802-224-7211

HEIDENBERG PROPERTIES

3500 Aramingo Avenue, LLC

Berlin Mall, LLC

Colonie Realty Associates NY, LLC

Culpeper 2018, LLC

Ephrata Commons 2016, LLC

Forest Avenue LH, LLC

Greenville Center Associates, LLC

Hauppauge, LLC

Heidenberg Closter Associates, LLC

Hershey Square 2014, L.P.

Lake Plaza Shopping Center, LLC

Mt. Pocono, LLC

Potomac 2017, LLC

LFSLRH Shelby, LLC

Shelby Hall Road, LLC

Southport 2013, LLC

Thompson Square 2017, LLC

Berlin Mall, LLC
c/o Heidenberg Properties
234 Closter Dock Rd.
Closter, New Jersey 07624

January 28, 2021

Mr. Josh Hanford, Chair
Vermont Downtown Development Board
Agency of Commerce and Community Development One National Life Drive, 6th Floor
Montpelier, Vermont 05602

Via email

Re: Berlin, Vt- New Town Center and Neighborhood Development Area Designation

Dear, Mr. Hanford

Heidenberg Properties Group wishes to express its strong support for the Town of Berlin's New Town Center and Neighborhood Development Area designations. The designations will support the joint efforts of the Town of Berlin, property owners, businesses and institutions within the area proposed for designation to spur the private investment that will create much-needed housing and jobs in Central Vermont.

We have been working closely with the Town of Berlin for more than five years to pursue new town center designation. As owners of commercial real estate in a dozen states, we are seeing that some malls and shopping plazas are dying, while others are thriving. The ones that are struggling are those that never moved beyond the opportunity to shop. Those that are succeeding are the ones that see themselves as a community center. Since our acquisition of the Berlin Mall a decade ago, we have committed to revitalizing the mall property and transforming it into a vibrant town center. We have diversified offerings within the mall with the addition of Walmart's Grocery addition in 2013, Kohl's in 2016 and Planet Fitness in 2018. We have sought residential development partners to build housing on the mall outlots. We are programming community activities like the "Winter Walk", at the Berlin Mall", Big Art Little Art, Mall-o-ween and offering space for community events through the "HUB at Berlin Mall."

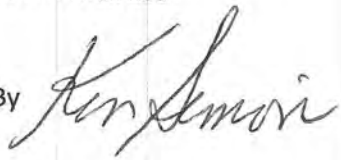
We believe that state designation will enable this effort to move forward more rapidly and efficiently. It will make the area proposed for designation more attractive and competitive as a development location. The new town center concept and the potential designation has already generated interest from prospective tenants and other developers. While the direct program benefits are not substantial for our property, designation will send a crucial signal to the private market that there is state and community support for development and growth in this area.

We look forward to continuing to work with the Town of Berlin and our other partners to advance the town center concept, bringing greater vibrancy and a new neighborhood to Central Vermont. We thank you for your consideration of Berlin's designation applications.

Sincerely,

Berlin Mall LLC

By

A handwritten signature in black ink, appearing to read "Ken Simon", written over a horizontal line.

Ken Simon, Member

Central Vermont Medical Center

January 20, 2021

Tom Badowski, Zoning Administrator
Town of Berlin
108 Shed Road
Berlin, VT 05602

Dear Mr. Badowski and Planning Commission Members,

In partnership with neighboring land owners, businesses, and the broader Berlin community, Central Vermont Medical Center (CVMC) endorses the town's application for the New Town Center and Neighborhood Development Area designations.

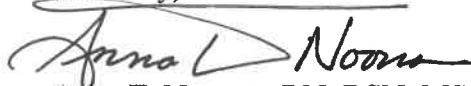
The development of a pedestrian-friendly, mixed-use center will enhance the Town of Berlin and provide needed resources for our community. Of particular interest to CVMC is the addition of affordable and market-rate housing for our community and workforce. CVMC has approximately 1300 employees located on our main campus. The availability of affordable, well-designed community housing, proximal to the Berlin campus, will support us in attracting and retaining the workforce needed to continue to meet the health care needs of the community we serve.

Over the past year, our need to focus on our pandemic response and the associated immediate health care needs of our community, have slowed our master planning efforts for development on the CVMC campus. Even with our clear focus on this public health crisis, we have actively engaged in the town's efforts to complete these applications and modify the zoning regulations to meet the guidelines set forth by the Vermont Downtown Development Board, as they relate to these two designations.

As a health system our facility development needs are unique. The Town of Berlin actively collaborated with us to draft zoning changes that reinforce the New Town Center designation while providing for our need to provide emergency service access, accessible and proximate patient and family parking, and the safe and efficient delivery of health care services. The Town has assured us that they will continue to support our specialized zoning requirements so we can continue to meet the health care and wellness needs of our local community. We look forward to this ongoing collaboration with the Town of Berlin.

In summary, on behalf of CVMC I offer this letter in support of the New Town Center and Neighborhood Development Area designations, which will afford the Town of Berlin and the broader Washington County community incentives for smart-growth development in this central location.

Sincerely,



Anna T. Noonan, RN, BSN, MS
President and Chief Operating Officer

January 19, 2021
Vermont Downtown Development Board

Dear Board Members,

I am writing to express my support for the Town of Berlin's New Town Center and Neighborhood Development Area designations.

In establishing the designation programs, it was the intent of the Vermont Legislature to provide communities like Berlin with tools to promote growth and development that furthers state and local goals. I commend the Town of Berlin for pursuing its vision for a town center and for encouraging housing development in such a central location in the region.

As a legislator, I regularly hear from employers that the lack of housing in Central Vermont makes it difficult for them to attract and retain qualified staff. I hear from residents that worry about the lack of senior housing may force them to leave the region. Adding housing to the area around the Berlin Mall and Central Vermont Medical Center will help the area businesses and residents – it just makes sense. There really is no other place in the area where housing could readily be built in such proximity to services, jobs, shopping, healthcare and schools.

Berlin residents have long sought a center for their community. They have diligently worked towards this goal for decades. With the Berlin Town Center on the cusp of becoming a reality, I ask the Downtown Board to recognize and support those efforts through designation.

Andrew Perchlik
State Senator
Working for Washington County
www.andrewPerchlik.com

House of Representatives
115 State Street, Montpelier, VT 05633
January 25, 2021

Letter in Support of Town of Berlin Project

To the Vermont Downtown Development Board:

We are writing to endorse the application of the Town of Berlin for New Town Center in conjunction with Neighborhood Development Area designations.

There are several reasons that Berlin's efforts to develop a town center are particularly important for the future of Berlin, and indeed the state.

Berlin faces two significant challenges: its configuration of urban sprawl combined with disparate rural residential sections, and its lack of diverse housing. It is marked today by three things – the strip mall thoroughway from Montpelier to Barre along Route 302, the Central Vermont Medical Center complex, and an outdated mall with vacant stores. All of these require access by car, and they cut the community itself into segregated subsections. It is missing what is the heart of our Vermont communities: a pedestrian-friendly central village green that creates a town identity.

The Town Center concept envisioned for Berlin would create potential for at least 300 units of mixed senior, affordable and market-rate housing located within walking distance of services and employment. This type of housing is urgently needed in Vermont. It would also create an identity and focus for this community through retrofit of the Berlin Mall parking lot to form a street grid, and provision of pedestrian connections. The hospital is included in the area proposed for designation. The Town Center would thus give Berlin the opportunity to truly embrace an identity and cohesion through meeting the development priorities articulated by the legislature in creating these designations.

The state designation programs are essential to advancing the Town Center from concept to construction, as it will offer the town access to alternative financing tools and improve the ability to secure grant funding for envisioned public improvements like a town green and sidewalks/paths. The designations also significantly enhance access to allocation of resources for affordable housing.

Berlin makes an excellent example for expanded utilization of the state's designation programs – and the benefits that follow – including for smaller communities outside of Chittenden County. If Berlin received these two designations, it would be only the third new town center approved (the other two are in Colchester and South Burlington) and the eighth neighborhood development area (five of which are in Chittenden County and only one of which is a small town). It is important to encourage development of town centers and neighborhoods to channel healthy growth and vitality in the manner envisioned by the legislature, across the state.

We therefore urge approval of the applications from the Town of Berlin.

Sincerely,

/s/

Rep. Anne Donahue

Rep. Ken Goslant

Washington-1, Berlin and Northfield



Vermont Agency of Commerce & Community Development
Vermont Downtown Development Board
1 National Life Drive, 6th Floor
Montpelier, VT 05620

January 15, 2021

To the Vermont Downtown Development Board,

On behalf of the Green Mountain Transit Board of Commissioners and staff, we submit this letter of support for the Berlin New Town Center designation application.

Green Mountain Transit (GMT) is the largest regional transit authority in Vermont. It serves Vermont's most populated communities as well as a region that spans rural communities, ski towns, and college towns.

The proposed Berlin New Town Center designation is currently served by the Barre Hospital Hill Route connecting downtown Barre with the Berlin and Central Vermont Medical Center campus. It is also served by the new flexible-schedule, flexible route service, MyRide by GMT connecting downtown Montpelier with the designation area. This new service features technology-enabled vehicles that provide curb-to-curb service and has just started this two-year pilot project. This new service was previously served by the Montpelier Hospital Hill route.

The New Town Center designation would allow for a more walkable town center and higher density residential and commercial development. The current anchors of this area, the Berlin Mall and the Central Vermont Medical Center are large trip generators for the Central Vermont region, thus making public transit a key player in getting people to where they need to go. Further concentrated development in the Berlin New Town Center designation area would allow for GMT to continue to operate efficient and safe public transit service to Central Vermont residents.

Sincerely,

A handwritten signature in black ink, appearing to read 'Jon Moore', is written over a horizontal line.

Jon Moore
General Manager

National Life Drive
P.O. Box 1439
Montpelier, VT 05601-1439



Toll Free: (888) 769-2957
Phone: (802) 223-4654
Fax: (802) 223-4655

Web Site: www.cvedc.org

January 22, 2021

Vermont Downtown Development Board
Agency of Commerce and Community Development
One National Life Drive
Deane C. David Building, 6th floor
Montpelier, VT 05620-0501

Dear Members of the Board:

Central Vermont Economic Development would like to state our strong support for the Town of Berlin's application for New Town Center and Neighborhood Development Area designation. The proposed residential and commercial development will address current and critical needs for workforce housing and business growth.

Workforce housing continues to be in short supply in our region, and an impediment to economic development. The proposed development utilizes existing infrastructure with capacity to grow, as well as addressing the pressing need for housing by employees of the Central Vermont Medical Center and other local employers. This project also creates the opportunity for development in a compact manner and the establishment of a true village core.

CVEDC has worked with the Town in support of the project since inception. It is our hope that the Downtown Development Board will fully appreciate the value of this designation for Berlin, and recognize how this designation will help as a catalyst for further growth. Please do not hesitate to contact CVEDC if you have any questions we can address.

Regards,

A handwritten signature in blue ink that reads 'James A. Stewart'.

Jamie Stewart, Exec. Dir.

January 19, 2021

To Members of the Downtown Development Board:

The City of Montpelier Planning Commission would like to extend its support for the Town of Berlin's New Town Center application. Neighboring communities, at times, can see each other as rivals for commercial and residential development. This has been no different for Berlin and Montpelier in our past but we see this application differently. Central Vermont suffers from a severe lack of both market rate and affordable housing. This stress drives up prices in our City and is a problem we cannot solve alone. Any new housing in our region is welcome and Berlin is looking to support this development in a very thoughtful manner by developing a new town center. The Planning Commission believes that high density housing in a walkable neighborhood around the Berlin Mall and Central Vermont Medical Center that connects to the existing public transit routes will strengthen the region and in doing so support Montpelier as well.

The Planning Commission would like to applaud their comprehensive vision for this area and wish them luck moving forward with implementation.

Sincerely,

Michael Miller

Mike Miller, AICP CFM
Director of Planning & Community Development
On behalf of the Montpelier Planning Commission



*Serving and
Strengthening
Vermont Local
Governments*

January 21, 2021

Vermont Downtown Development Board
Agency of Commerce and Community Development
One National Life Drive
Deane C. David Building, 6th floor
Montpelier, VT 05620-0501

Dear Members of the Board:

On behalf of VLCT, I am writing to support the Town of Berlin's New Town Center and Neighborhood Development Area (NDA) designations. Given the setting of the proposal and the availability of infrastructure for it, Berlin is in a position to add at least 300 units of housing within their proposed NDA. Clearly, that is a significant potential for adding much needed housing in Central Vermont.

We were fortunate to attend a presentation where this proposal was discussed and documented, and believe that Berlin is offering leadership with this proposal. In order to meaningfully address the housing crisis in Vermont, many communities need to be attempting what Berlin is undertaking. The project Berlin proposes can certainly offer a model to small and mid-sized communities, but even for larger communities outside of Chittenden County, the proposal offers a roadmap for using the state designation programs to achieve community goals and using innovative measures to address local needs like housing and compact centers.

We strongly support the Downtown Development Board's approval of this designation and think that it is an important step for a small community in this area of Vermont. Please let us know if we can provide any further information that would be helpful to the Board in your deliberations.

Sincerely,

Maura Carroll
Executive Director

Sponsor of:

VLCT Employment
Resource and Benefits
Trust, Inc.

VLCT Municipal
Assistance Center

VLCT Property and
Casualty Intermunicipal
Fund, Inc.

cc: Honorable David Allaire

I want the Berlin Town Center to be...

- A place for people not cars.
- Pedestrian friendly
- Walkable and bikeable with a classic look.
- Walkable, safe and convenient.
- Walkable
- Friendly for walkers/bikers! I think they should add in walking paths from the town center to both Berlin Pond and to Montpelier. Thanks!
- Walkable with a mix of green spaces, small neighborhoods, local food, recreational opportunities and retail.
- An area you can walk in, but also walk to. A traditional town center with locally owned shops and some green space to relax in.
- Walkable, pedestrian friendly with shops, eateries and entertainment.
- A walkable and scenic center of population and local commerce accessible by multiple forms of transportation.
- Pedestrian friendly, vibrant and socially active.
- Aesthetically pleasing and people friendly
- Quiet, walking and biking friendly, designed in the style of other Vermont small towns
- Environmentally-friendly and accessible.
- Accessible to existing neighborhoods across from Route 62 (Crosstown Road, Berlin Pond, etc.)
- A place I would want to spend time.
- A meeting place and a community center, walkable and welcoming.
- A place that looks more like a downtown and not a mall-more buildings, landscaping, places such as coffee shops to sit and linger.
- A vibrant active center presenting and serving as an area to shop, to live, to work and to gather
- A welcoming, visually appealing, vibrant, and walkable gathering space where people live or come to eat, shop, work and enjoy recreational activities.
- A place to shop, eat and gather but that doesn't look like a shopping mall. A nice integration of architecture and nature.
- An eye inspiring attraction of people of all ages who respond with "What a friendly, quaint, awe inspiring little town"
- A place where families with children can gather, a place where we can build community connections, and a place that respects nature, the small town feel and is respectful in terms of noise for area residents.
- A wonderful place for the elderly to live.
- A place of community
- Community-centered
- Local
- Filled with locally owned stores.
- A place I can get a variety of things done. Go for a walk, playground, get grocery's or other necessary items. Middle class, practical stores (not dollar stores or higher end).
- A place that feels like home. As a young person who just bought a house in Berlin in 2019 (my spouse and I are turning 30 this year), we are very excited for the opportunity to have a voice in the future of Berlin Town Center. We love Berlin for it's peaceful feel and it's



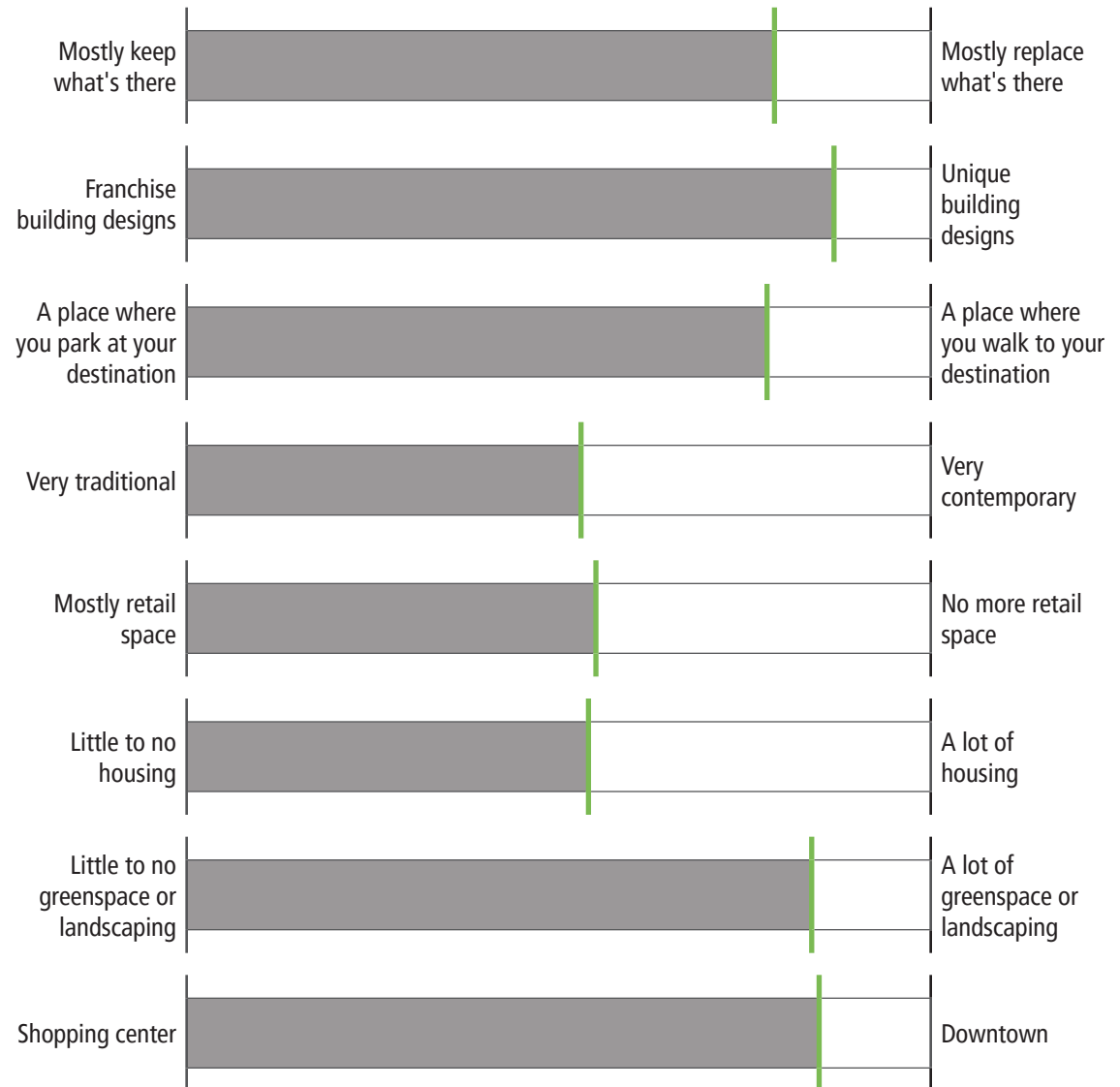
convenience and central location
 However, we do NOT like the mall area
 or any of the build-up large box stores. Shaw's and Irving are nice and helpful. But otherwise, I would rather have a central area that feels like home where we can meet up with friends, family, and enjoy this beautiful area. We would love to see a downtown or town center than feels special and unique. Nothing too big, keep it simple like a small town feel in VT and New England. A locally owned general store, a coffee shop, a post office, places to walk to for a tea or a bagel, an ice cream, a little gift shop, and a few cool local restaurants and bars would be AWESOME. A park would be nice too, green space with picnic tables? As we hope to raise a family here, I really hope this can come a reality!!!! I am worried that if Berlin builds up too much of the mall area with more chains, more box stores, and more corporate junk, we might move away to feel more at home.

- Sustainable, cool (i.e. independently owned businesses including bars and restaurants, boutiques, and other services), walkable. Make the Main Street like Church Street in Burlington!!! Don't fill it with chains or cookie cutter strip malls. Please give it character!!!! Do not

have it centered around a Walmart or other similar store. Please. (That would not attract vibrancy or innovation.)

- In keeping with our rural setting, attractive, not particularly high buildings, open space available to all residents for walking and a space for concerts or community events.
- Highly vegetated
- Natural, welcoming, small town, and not like a suburban development.
- Historic, aesthetically pleasing, fun to walk around.
- Cited south to block the winds of winter from the north west. To have a green space so concerts plays and movies could be shown in a small outdoor amphitheater setting. I would like to see a good restaurant not a chain anchoring this. Some retail stores. Exercise/yoga community space. Small gardens with benches for sitting. Some outdoor artwork. Lots of trees. Bike and walking trails.
- Open air in summer and warm in winter
- Everything everyone else has mentioned, but would also love some type of 'water feature' added. A fountain, or water pad as an example.
- No increased burden on the taxpayer, causing no damage to the environment, answering questions as to why it is perceived as being needed at this very uncertain time in our world.
- I like the bridge to the hospital area. I think it would be amazing if they extended the walking path by the elementary school and built a pedestrian bridge over 62 by the Applebee's. It would be great if the path connected people to get to Berlin pond.
- Need a post office.

What would you like the town center to look and feel like?



How important are these elements to the look and feel of the town center?

1. Sidewalks
(Score: 89 out of 100)
2. Public spaces for sitting or gathering
(Score: 89 out of 100)
3. Landscaping
(Score: 88 out of 100)
4. Less "boxy" buildings
(Score: 88 out of 100)
5. Pedestrian lighting
(Score: 86 out of 100)
6. Storefronts with windows
(Score: 84 out of 100)
7. Public spaces for play or exercise
(Score: 79 out of 100)
8. Well designed signs
(Score: 79 out of 100)
9. Less visible parking
(Score: 73 out of 100)
10. Public art
(Score: 73 out of 100)
11. Smaller buildings
(Score: 60 out of 100)
12. Public performances
(Score: 57 out of 100)
13. Multi-story buildings
(Score: 50 out of 100)

Which of the following would you like to see in the town center?



Score: 85%



Score: 80%



Score: 70%



Score: 65%



Score: 55%



Score: 50%



Score: 40%



Score: 35%



Score: 20%

How important are these transportation improvements in the town center?

1. Walking paths
(Score: 89 out of 100)
2. Crosswalk at Fisher Rd & Route 62
(Score: 88 out of 100)
3. Safer roads for biking
(Score: 88 out of 100)
4. Bike paths
(Score: 82 out of 100)
5. Crosswalk at Paine Turnpike & Route 62
(Score: 78 out of 100)
6. Pedestrian bridge
(Score: 68 out of 100)
7. Bus service
(Score: 68 out of 100)
8. Bus shelters
(Score: 67 out of 100)
9. Park-and-ride
(Score: 60 out of 100)

Which of the following would you like to see in the town center?



Score: 94%



Score: 56%



Score: 50%



Score: 50%



Score: 33%



Score: 28%



Score: 28%



Score: 22%



Score: 11%

Which of the following would you like to see in the town center?



Score: 80%



Score: 65%



Score: 60%



Score: 45%



Score: 45%



Score: 40%



Score: 30%



Score: 25%



Score: 25%

What types of gathering places would you like to see in the town center?

1. Coffee shop
(Score: 85 out of 100)
2. Parks
(Score: 85 out of 100)
3. Sidewalk cafe
(Score: 85 out of 100)
4. Pub
(Score: 67 out of 100)
5. Performance venue
(Score: 67 out of 100)
6. Senior center
(Score: 52 out of 100)
7. Recreation center
(Score: 48 out of 100)
8. Youth center
(Score: 37 out of 100)

Which of the following types of commercial buildings would you like to see in the town center?



Score: 63%



Score: 58%



Score: 53%



Score: 32%



Score: 26%



Score: 21%



Score: 11%



Score: 11%



Score: 0%

What types of businesses would you like to see in the town center?

1. Local stores
(Score: 96 out of 100)
2. Local restaurants
(Score: 93 out of 100)
3. Personal services
(Score: 63 out of 100)
4. Post office
(Score: 59 out of 100)
5. Theater
(Score: 52 out of 100)
6. Daycare
(Score: 48 out of 100)
7. Professional offices
(Score: 44 out of 100)
8. Healthcare
(Score: 41 out of 100)
9. Bank
(Score: 33 out of 100)
10. Recreation center
(Score: 30 out of 100)
11. Government office
(Score: 26 out of 100)
12. Chain restaurant or store
(Score: 19 out of 100)
13. Lodging
(Score: 7 out of 100)
14. Vehicle sales or repair
(Score: 4 out of 100)
15. Gas station
(Score: 4 out of 100)

Which of the following types of residential buildings would you like to see in the town center?



Score: 57%



Score: 43%



Score: 43%



Score: 39%



Score: 39%



Score: 30%



Score: 22%



Score: 17%



Score: 13%

How important is it to build the following in the town center?

1. Senior housing (Score: 70 out of 100)
2. Affordable housing (Score: 65 out of 100)
3. Upper floor apartments (Score: 63 out of 100)
4. Multi-unit housing (Score: 55 out of 100)
5. Single-unit housing (Score: 38 out of 100)

24 V.S.A. § 2793b

Designation of new town center development districts

(a) A municipality, by its legislative body, may apply to the State Board for designation of an area within that municipality as a new town center development district, provided no traditional downtown or new town center already exists in that municipality.

(1) The State Board shall not approve an application filed by a municipality on or after July 1, 2014 unless the municipality has stated in its town plan that it intends to apply for designation under this section, and the town plan explains how the designation would further the plan's goals and the goals of section 4302 of this title.

(2) A preapplication meeting shall be held with Department staff before an application is filed to review the program requirements and to identify possible designation boundaries. The meeting shall be held in the municipality unless another location is agreed to by the municipality.

(3) An application for designation shall contain a map that delineates the boundaries of the proposed district and is consistent with the guidelines produced by the Department under subsection 2792(d) of this title. The application shall also demonstrate that the proposed district meets the requirements set forth in subdivision 2791(11) of this title, as well as the standards for designation established in subsection (b) of this section. The application shall verify that the regional planning commission and the regional development corporation have been notified of the municipality's intent to apply for designation.

(b) Within 45 days of receipt of a completed application, the State Board shall designate a new town center development district if the State Board finds, with respect to that district, the municipality has:

(1) A confirmed planning process under section 4350 of this title, developed a municipal center plan, and adopted bylaws and ordinances that implement the plan, including an official map, and a design review district created under this title or other regulations that adequately control the physical form and scale of development.

(2) Provided a community investment agreement that has been executed by authorized representatives of the municipal government, businesses and property owners within the district, and community groups with an articulated purpose of supporting downtown interests, and contains the following:

(A) A map of the designated new town center. The total area of land encompassed within a designated new town center shall not exceed 125 acres. In a municipality with a population greater than 15,000, the total area of land encompassed within a designated new town center may include land in excess of 125 acres provided that the additional area is needed to facilitate the redevelopment of predominately developed land in accordance with the smart growth principles defined under subdivision 2791(13) of this title and shall not exceed 175 acres.

(B) Regulations enabling high densities that are greater than those allowed in any other part of the municipality.

(C) Regulations enabling multistory and mixed use buildings and mixed uses which enable the development of buildings in a compact manner.

(D) A capital improvement program, or a capital budget and program under this title, showing a clear plan for providing public infrastructure within the center, including facilities for drinking water, wastewater, stormwater, public space, lighting, and transportation, including public transit, parking, and pedestrian amenities.

(E) A clear plan for mixed income housing in the new town center.

(F) Evidence that civic and public buildings do exist, or will exist in the center, as shown by the capital improvement plan or the capital budget and program, and the official map.

(G) [Repealed.]

(H) Evidence that any private or municipal sewage system and private or public water supply serving the proposed new town center are in compliance with the requirements of 10 V.S.A. chapters 47 and 56, and that the municipality has dedicated a portion of any unallocated reserve capacity of the sewage and public water supply necessary to support growth within the proposed new town center. Any municipality proposing a municipal sewage system and public water supply to serve the proposed new town center shall provide evidence to the State Board of a commitment to construct or maintain such a system and supply in compliance with requirements of 10 V.S.A. chapters 47 and 56, or a commitment to construct, as applicable, a permissible potable water supply, wastewater system, indirect discharge, or public water supply within no more than ten years. A commitment to construct does not relieve the property owners in the new town center from meeting the applicable regulations of the Agency of Natural Resources regarding wastewater systems, potable water supplies, public water supplies, indirect discharges, and the subdivision of land. In the event a municipality fails in its commitment to construct a municipal sewage system or public water supply, or both, the State Board shall revoke designation, unless the municipality demonstrates to the State Board that all good faith efforts were made and continue to be made to obtain the required approvals and permits from the Agency of Natural Resources, and failure to construct was due to unavailability of sufficient State or federal funding.

(c)

(1) Upon designation by the State Board under this section as a new town center, a new town center and projects in a new town center shall be eligible for the authority to create a special taxing district, pursuant to chapter 87 of this title, for the purpose of financing both capital and operating costs of a project within the boundaries established through new town center designation.

(2) Whenever the Commissioner of Buildings and General Services or other State officials in charge of selecting a site are planning to lease or construct buildings suitable to being located in a new town center after determining that the option of utilizing existing space in a downtown development district, pursuant to subdivision 2794(a) (12) of this title, is not feasible, the option of utilizing existing space in a designated new town center shall be given thorough investigation and priority, in consultation with the community.

(d) A designation issued under this section shall be effective for eight years and may be renewed on application by the municipality. The State Board also shall review a new town center designation four years after issuance or renewal and may review compliance with the designation requirements at more frequent intervals. The State Board may adjust the schedule of review under this subsection to coincide with the review of a related growth center. If at any time the State Board determines the new town center no longer meets the standards for designation established in subsection (b) of this section, it may take any of the following actions:

(1) require corrective action;

(2) provide technical assistance through the Vermont Downtown Program;

(3) limit eligibility for the benefits pursuant to subsection (c) of this section without affecting any of the new town center's previously awarded benefits; or

(4) remove the new town center's designation without affecting any of the town center's previously awarded benefits.