



REGIONAL PLAN COMMITTEE

February 2, 2020 4:00 – 5:20 pm

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pg		<u>AGENDA</u>
	4:00¹	Welcome and Adjustments to the Agenda
		Public Comments
2- 26	4:05	Regional Review: Berlin New Town Center (NTC) Application² - Guests Karla Nuissl, Planning Commission Chair and Tom Badowski, Assistant Town Manager Formal Regional Plan Conformance review of the New Town Center Application and consideration of comments.
27- 29	5:00	Committee Process² Review and approve attached 2020 Draft Rules of Procedure
30	5:10	Approval Minutes Consider approval of the March 17, 2020 meeting minutes.
	5:15	Adjournment

Persons with disabilities who require assistance or special arrangements to participate in programs or activities are encouraged to contact Nancy Chartrand at 802-229-0389 or chartrand@cvregion.com at least 3 business days prior to the meeting for which services are requested.

¹ Times are approximate unless otherwise advertised.

² Possible action item



MEMO

Date: February 1, 2021
To: Regional Plan Committee
From: Clare Rock, Senior Planner
Re: Berlin New Town Center Application

☒ ACTION REQUESTED: The Committee will be tasked with:

- a. Determining whether the NTC proposal is in conformance with the Regional Plan
- b. Identifying comments and input for the Downtown Board deliberations
- c. Addressing Berlin's request for a Letter of Support
- d. Directing staff to produce a letter outlining its findings for submittal to the Town and the Downtown Board

Background

The Town of Berlin has been working on developing the vision for a new town center for over a decade. In 2016 the Town initiated conversations with DHCD about entry into the State's New Town Center Designation Program. The 2018 municipal plan laid the foundational ground work for entry into the Program; and in 2019 received a Municipal Planning Grant to undertake specific and required planning efforts necessary for the submission of a formal application.

The Town has accomplished a considerable amount of planning work in a very short time. The volunteer planning commission has championed the efforts throughout the process and Town Administration, principally Tom Badowski, has no doubted worked countless hours along with planning consult PlaceSense to navigate the multiple application requirements and local processes which have resulted in the submission of a Final Application.

Below is a timeline of recent events:

October 13, 2020 Presentation to CVRPC Board (Board meeting packet, presentation and minutes can be viewed here: <https://centralvtplanning.org/about/minutes-agendas-staff-reports/minutes-agendas-staff-report-archive/board-of-commissioners-archive-agendas-packets-minutes/>)

November 12, 2020 Submission of Draft Application to DHCD
 December 11, 2020 New Town Center Agency Comments, issued by DHCD (**attached**)
 December 16, 2020 PC Hearing: Land Use Regs, Official Map
 January 18, 2021 SB Hearing: Land Use Regs, Official Map, Capital Improvement Plan (CIP)
 February 1, 2021 Submission of Final Application to DHCD (**excerpt attached**)
 To view the entire application visit:
https://centralvtplanning.org/wp-content/uploads/2021/02/21-02-01-Berlin-NTC-Final-Application_As-Filed.pdf
 February 22, 2021 Anticipated Downtown Board Hearing

Conformance with the Regional Plan

In 2018, CVRPC reviewed and approved Berlin's 2018 municipal plan and confirmed its planning process. The municipal plan identified its intent to apply for New Town Center Designation in the vicinity of the Mall property. At that time CVRPC found its plan to be in conformance with the Regional Plan. As part of the New Town Center Designation Application process the Town is required to notify the RPC of its intent to apply. This provides the RPC the opportunity to review the application to ensure the clarified vision is still in conformance with the Regional Plan. And to identify any areas of potential concern or conflict.

Berlin's New Town Center, as presented in the Final Application is 118 areas and predominately falls within the Regional Plan's Town Center Future Land Use District, and a portion (the hospital property) falls within the adjacent Mixed Use Commercial Future Planning District. All of the new development and public investment is proposed in the New Town District, with the exception of pedestrian facilities which extend to the hospital property.

The Town Center District has been identified to be less densely populated settlements and smaller than Regional Centers, and have the same mix of residential, civic, commercial and light industrial uses. Town Center Districts serves as sub-regional retail and employment centers. Policies includes those which:

- Support higher density residential, commercial and industrial development,
- Encourage infill and redevelopment,
- Alignment of capital planning and public investment,
- Reduction of conflicts between traffic needs and human-scale functions, and to prioritize public funding for these types of improvements,
- Prioritize public funding for the development of affordable housing and assisted living facilities,
- Placement of municipal and other government buildings, and other public places.

The Regional Plan goes on to define New Town Centers as a subcategory of the Town Center Future land Use Planning District, and the Regional Plan uses the state definition of what constitutes a New Town Center. A New Town Center is expected to display those characteristics of a traditional downtown: a cohesive core and is typically arranged along a main street and

intersecting side streets. Components of these characteristics are evident principally within two distinct “nodes” or areas of the New Town Center Plan.

The application presents Berlin’s new town center as a “sprawl repair project” and one that meets smart growth principles¹. Berlin’s plan does present a vision to infill a traditional mall property into an area which hosts a greater variety of uses into compact area and enables a multi modes of transportation.

One aspect is the appropriateness of scale. The Regional Plan states that small-scale shopping centers are most appropriate in Town Centers and that Regional Shopping centers are less appropriate. Based upon the Regional Plan a shopping center may include one or multiple stores, in single or multiple ownership, functioning together as one integrated complex. Currently the existing mall/shopping center in Berlin’s new town center fits within the Regional Plans’ definition of a “community scale” shopping center and that this scale should be located in Regional Centers as a first priority and Mixed-Use Commercial areas as a second priority (rather than Town Centers.) If approximately 50,000 sq ft or more retail is located in proximity to the existing Mall this may push the “community scale” shopping center into the category of “regional scale” and would not be compatible with the Regional Plan. It should be noted that the Regional Plan does indicate that this scale of shopping center would be allowable on the Mall property.

- *The Committee may want to consider if all new development in Berlin’s proposed New Town Center Plan would or should be considered an integrated complex.*

¹ State Statute defines smart growth principles as: (13) "Smart growth principles" means growth that:

(A) Maintains the historic development pattern of compact village and urban centers separated by rural countryside.

(B) Develops compact mixed-use centers at a scale appropriate for the community and the region.

(C) Enables choice in modes of transportation.

(D) Protects the State's important environmental, natural, and historic features, including natural areas, water quality, scenic resources, and historic sites and districts.

(E) Serves to strengthen agricultural and forest industries and minimizes conflicts of development with these industries.

(F) Balances growth with the availability of economic and efficient public utilities and services.

(G) Supports a diversity of viable businesses in downtowns and villages.

(H) Provides for housing that meets the needs of a diversity of social and income groups in each community.

(I) Reflects a settlement pattern that, at full build-out, is not characterized by:

(i) scattered development located outside compact urban and village centers that is excessively land consumptive;

(ii) development that limits transportation options, especially for pedestrians;

(iii) the fragmentation of farmland and forestland;

(iv) development that is not serviced by municipal infrastructure or that requires the extension of municipal infrastructure across undeveloped lands in a manner that would extend service to lands located outside compact village and urban centers;

(v) linear development along well-traveled roads and highways that lacks depth, as measured from the highway.

Dependent on how much new additional retail square footage is developed in the New Town Center, in light of the current definition the RPC would want to look more closely at this aspect. The Berlin's New Town Center Plan proposes a diversification of uses at the Mall which may reduce some existing retail square footage, while potentially new retail may be located in other buildings.

The intent of the retail cap in this area is to ensure regional retail hubs are principally located in Regional Centers. Depending on the level of future retail development at the site this may be an area which would constitute further review.

Comments and Input for the Downtown Board Deliberations

The Vermont Downtown Development Board is charged with review and approval of applications for State Designations (Village Centers, Downtowns, Growth Centers and New Town Centers.) A VAPDA representative sits on the Board and represents regional planning commissions. The VAPDA Board member will benefit from any specific comments and input from the respective home RPC.

DHCD issued State Agency comments in response to the submission of the draft Application. Those comments are included in this packet. Based upon today's submission of the Final Application, it appears some or many of the comments may have been addressed. In light of Agency comments and Berlin's Application, the following broader areas are presented for Committee consideration. The Committee may consider the following topics and consider comments or input on the following:

Purpose of the Concept Plan and Program Entry: The NTC Application includes a Berlin Town Center Plan, a conceptual master plan which serves as an illustrative depiction of an aspirational New Town Center. The regulatory documentation which accompanies the Plan (the official map, zoning regulations, CIP, agreements) are designed to demonstrate how the Plan will realistically be implemented. Tension exists between how much detailed documentation should accompany the Plan for entry into the New Town Center Designation Program. And how much the Plan should be a realistic representation of what the town is prepared to build and/or invest in at this current time.

The Town presented the Plan as a vision for the future and the application package includes the required documentation which demonstration municipal commitments over the next 5 years toward the incremental changes toward the vision (rather than a longer timespan which would likely be necessary in order to fully build out the Concept Plan.) The Town anticipates changes will likely be necessary as the Town completes further phases in the planning and build out process.

One of the primary purposes for Designation is to access additional resources (in the form of State grants) to invest in the implementation of the Town Center Plan. Berlin's package demonstrates considerable strides towards aligning all documents and securing all the necessary agreements and components. The CIP plans for a 5-year time horizon and therefore

doesn't include costs beyond this timeframe.

For example the New Town Center is expected to hold a civic building. The application package identifies a possible location, a commitment from the Select Board to pursue a facility at the New Town Center and a Capital Budget Line items to pay for an assessment and siting study. Agency comments indicate the need for increased commitment toward municipal improvements to demonstrate actuality.

Berlin raises this question in the cover letter "Berlin... is seeking designation as a tool to facilitate public and private investment. If our envisioned public improvements and private development projects were fully planned, engineered, permitted and funded, there would be no reason to seek designation."

The two previous New Town Center Designations were awarded to South Burlington and Colchester. Differing from these municipalities, Berlin application proposes an incremental approach which presents a phased approach to achieving the vision which will rely on utilization of the Designation benefits to further realization of the proposed vision.

➤ *Consider comment of this aspect of the proposal.*

Consideration of current or potential permit constraints: Conditions on a current Act 250 permit limit future build out of the mall property, which are not accounted for on the New Town Center Concept Plan. The New Town Center Application is a plan for the future development/re development of the mall vicinity. The Agency comment suggest it would be more efficient if the Act 250 condition is remedied prior to the submission of the final NTC Application. Berlin has not chosen this approach, and has proceed with NTC Application submission, which may result in the need to revise the NTC Plan if Act 250 conditions are not changed. To what degree should a permit process lead a planning process? Or should the planning process lead a permit process?

Similarly, during the Agency review it was noted that the extent to current wetlands may be more extensive than those identified. The Agency suggests further delineation/understanding of the wetlands prior to submission, as this would also impact the location of buildings as identified on the Concept Plan.

➤ *Consider comment of this aspect of the proposal.*

Addressing Berlin's Request for a Letter of Support

The Town of Berlin has requested a Letter of Support to accompany their application. CVRPC has not historically presented letters of support for designation applications, and does not recall receiving such a request in recent past. This should not however preclude the Committee from responding to the municipality's request.

Letter for submittal to the Town and the Downtown Board

Following the Committee's discussion on the items above, the outcome of the meeting will be to direct staff to produce a letter outlining its findings for submittal to both the Town and the Downtown Board to contribute to the Application review process.

1 February 2021

Thomas Badowski
 Assistant Town Administrator
 Town of Berlin
 108 Shed Road
 Berlin, Vermont 05602

Josh Hanford, Chair

Vermont Downtown Development Board
 Agency of Commerce and Community Development
 One National Life Drive, 6th Floor
 Montpelier, Vermont 05602

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 benefits 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:

Thomas Badowski Town of Berlin 108 Shed Road Berlin, Vermont 05602 (802) 299-2529 zoning@berlinvt.org	Brandy Saxton PlaceSense 5 US Route 5 Windsor, Vermont 05089 (802) 280-8360 brandy@placesense.com
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This application includes a narrative and the following attachments:

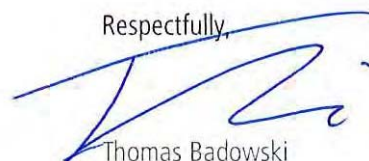
- A. Application checklist from the New Town Center Application Guidelines
- B. Verification that CVRPC and CVEDC have been notified of Berlin's intent to apply for NTC designation
- C. Resolution from the Berlin Selectboard authorizing submission of this application
- D. Excerpts from the Berlin Town 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.

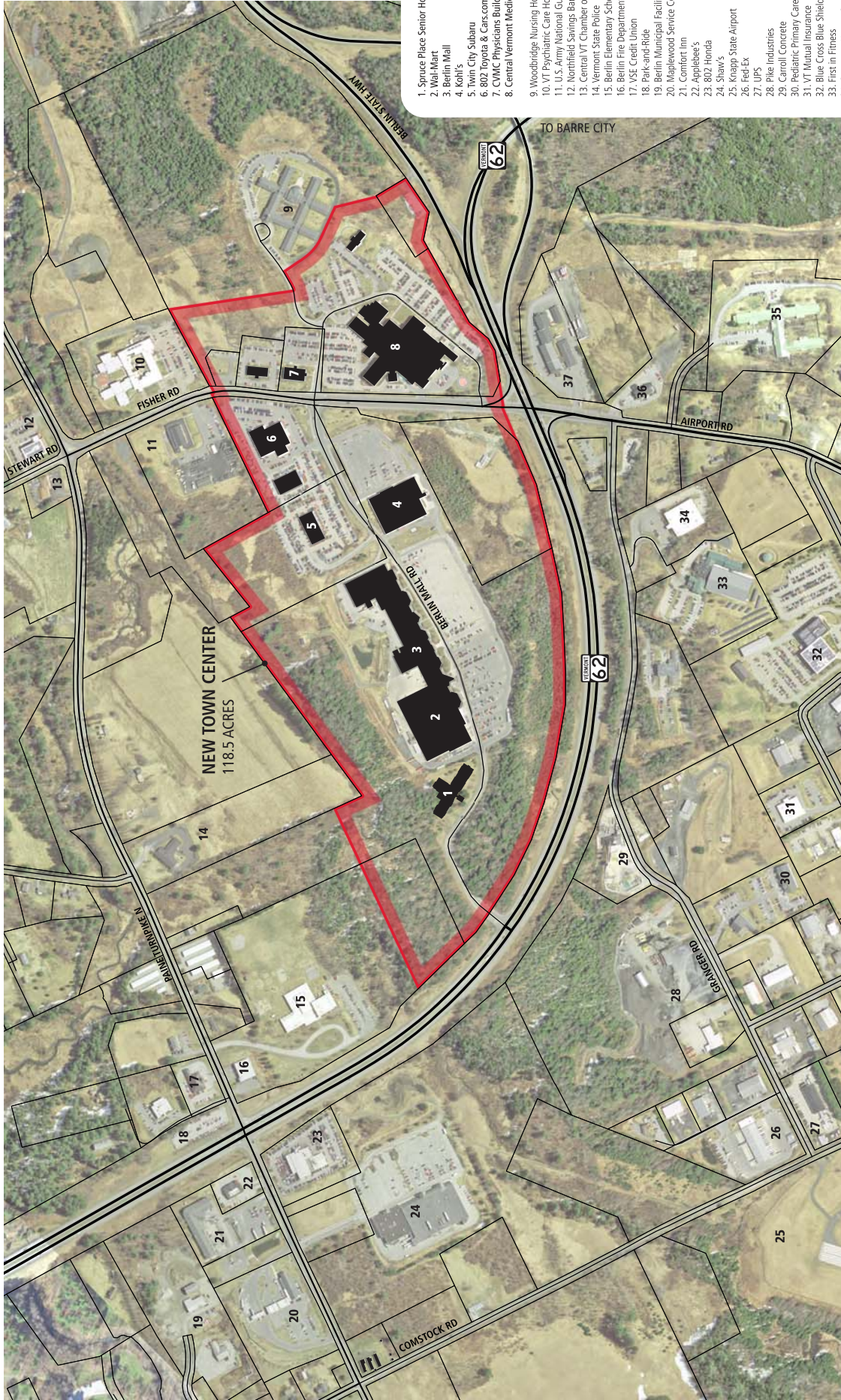
In reviewing this application, we respectfully ask each board member to consider where the bar to entry into the New Town Center and other state designation programs should be set. Berlin, like other municipalities, is seeking designation as a tool to facilitate public and private investment. If our 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

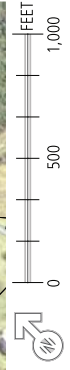
TO MONTPELIER

TO I-89 EXIT 7



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 County Credit Union
37. Hitchop Inn

8 October 2020



berlin town center plan

Overview. This plan presents the Town of Berlin's vision for a planned 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 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 (the owners of the Berlin Mall) 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 – 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

State of Vermont
Department of Housing and Community Development
Deane C. Davis Building – 6th Floor
One National Life Drive
Montpelier, VT 05620-0501

*Agency of Commerce and
Community Development*

[phone] 802-828-3211

DATE: December 11, 2020
TO: Tom Badowski, Berlin Assistant Town Administrator & Zoning Administrator
Brandy Saxton, PlaceSense
FROM: Jacob Hemmerick, DHCD Planning & Policy Manager
CC: Josh Hanford, DHCD Commissioner and Board Chair
Chris Cochran, CP+R Director
Joe Segale, VTrans Director of Planning & Policy
Billy Coster, ANR Director of Planning
Greg Boulbol, NRB General Counsel
RE: NEW TOWN CENTER APPLICATION AGENCY COMMENTS

Thank you for submitting Berlin's draft application for a new town center (NTC). We very are impressed by the volume of work and commend the town for its ability to maintain project focus and momentum during the pandemic.

This feedback memo is intended to flag questions or concerns prior to final submission. Thank you in advance for your patience and understanding if any of the comments are based on a misunderstanding or a misreading of the application. These types of questions are not unusual for an application of this scope and complexity.

Comments, questions, and requests are listed below to help the Town prepare its final application. The aim of the questions is to cast light on areas that may need more clarity or explanation in the final application.

The Department looks forward to continued consultation with the Town as it works to refine and submit its final application. Please feel free to contact me if you have any questions about the feedback or the requirements for the NTC designation. I can be reached at 828-5249 and jacob.hemmerick@vermont.gov.

Completeness of Draft Application. The Town submitted a draft application on November 12, 2020. The draft application is complete except for the following items.

- Final adoption of the Selectboard's application authorization;
- Final adoption of the draft regulatory and non-regulatory instruments (design regulations, official map, capital plan, and water/sewer ordinance);
- Execution of the community investment agreement;
- ANR-approved water and wastewater forms; and
- Build-out and reserve commitment/dedication of water and wastewater.

Final Application. A final application may be submitted as early as February 12th according to the program guidelines. The guidelines allow final submission as early as three months from receiving written feedback from the Department. This means the March Board meeting is the earliest



State of Vermont
Department of Housing and Community Development
Deane C. Davis Building – 6th Floor
One National Life Drive
Montpelier, VT 05620-0501

*Agency of Commerce and
Community Development*

[phone] 802-828-3211

opportunity for the Downtown Board to review the final application. Due to the pandemic, we expect all 2021 Board meetings will be conducted virtually.

All applications to the Board are due on the first Monday of the month by 4:30 p.m. in electronic format. Incomplete applications are not forwarded to Board. If an application is deemed incomplete by staff, the Department will provide written comments outlining the deficiencies and how to address them.

The Board requires applicants provide a 10-minute presentation describing the municipality's plans for the NTC. While the formal application addresses the required content, we have found slides with images depicting the key features of the application enhance understanding in the virtual format. If desired, the Department is happy to provide feedback on the Town's presentation.

NTC and Neighborhood Development Area Application Sequence. The State Board has 45 days to issue a NTC decision. Statute requires a "core" designation (i.e. downtown, village, or NTC) be in place before it may consider an application to designate a neighborhood development area. The Department therefore requests that the Town submit its final NTC application separate from its neighborhood development area (NDA) application. The Board reserves the right to continue its review to a subsequent meeting if they need more time to consider the application. The Board will review the complete NDA application at the next available meeting following an affirmative decision to designate the proposed NTC.

Act 250 Permit. The Town's application highlights a procedural consideration not anticipated in the program's statute or guidelines: the fact that the NTC contains lands jurisdictional to Act 250 with permit constraints that disallow the NTC development plan as proposed by the Town. The nature of these development constraints is detailed in the Town's application, beginning on p. 14 under 'State Agency Coordination'. Although the proposed NTC may be implementable if the District Environmental Commission approves a permit amendment that implements the NTC, the District Commission has independent jurisdiction, evaluates different standards than that of the State Board, and may either deny the permit amendment application or approve a plan that differs from the currently proposed NTC plan.

Staff understands that an Act 250 permit amendment to enable the NTC plan as proposed would likely have to undergo: 1) a '[Stowe-Highlands' analysis](#) to remove 'no build' areas, 2) master plan review prior to any further subdivision/allocation/development, and 3) review under the applicable criteria. In addition, the proposed plan will trigger several Department of Environmental Conservation (DEC) permits, typically sought prior to going to Act 250, such as the State Wetland Permit mentioned below. These permitting decisions may result in significant adjustments to the current NTC. Staff understands that the Town intends to come before the State Board prior to amendment of the Act 250 permit. As a result, if the State Board approves a NTC plan prior to an Act 250 amendment, it is probable that the Town would need to request a subsequent NTC amendment to bring the two plans into coherence.

- *What is the Town's plan to ensure conformance between the NTC and an amended Act 250 permit (and other requisite permits) if the permit(s) do not conform with a State Board designation approval?*



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- 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?

State Wetland Permit. State significant wetlands may be present across a greater area than currently depicted in the draft application, especially in the vicinity of residential use buildings B and C. Given the extent and cumulative effect of past wetland impacts in the area, obtaining permit authorization for additional impacts may be constrained. The Town should continue discussions with the DEC wetland program and report, if possible, on the status of those discussion in the final application.

Applicable Standards of Review. A new town center is reviewed according to the standards set forth in [24 V.S.A. § 2793b](#)(a)(1), (2), (3) and (b) and the program guidelines (emphasized below).

(24 V.S.A. §2793b(a)) A municipality, by its legislative body, may apply to the State Board for designation of an area within that municipality as a NTC development district, provided no traditional downtown or NTC already exists in that municipality.

Lack of Traditional Downtown or New Town Center. Statute defines ‘downtown’ distinctly from that of a village center. The Town of Berlin is eligible to apply for NTC designation because it has no traditional downtown or NTC.

(24 V.S.A. §2793b(a)(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.

Town Plan Statement of Intent to Seek Designation. The Town’s 2018-2026 Plan makes clear statements of intent to seek designation and how the designation would further the plan’s goals and goals of section 4302 of this title.

The Plan’s introduction states, “Berlin will be a town 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 residents”. The plan’s future land use chapter includes a section on the NTC and states, “To further their shared goals, the Town of Berlin and the Berlin Mall LLC have agreed to seek a NTC designation for the area from the state (see “NTC Map” on page 14).” This intent carries through to the implementation program, which outlines the action “to seek a NTC designation [...]”.

Town Plan Furtherance of Plan and Title Goals. The application includes a passage from the Plan that explains how the designation would further the Plan’s goals, including statements like:

- Reinforce the area as a regional service center;
- Offer higher density housing;
- Reduce the area devoted to surface parking;
- Infill undeveloped land, and underutilized parcels and parking lots;
- Be more competitive for seeking grant funding for projects benefiting the NTC;
- Allow the creation of a special taxing district for improvements in the center;
- Open eligibility for neighborhood development area designation; and



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- Increase the number of housing units that could be built without an Act 250 permit.

In addition to the Plan's narrative, statements of intent, and implementation actions, it also includes a table outlining the State's 14 municipal planning goals and the local policies and objectives related to each. Local objectives and statements of policy supporting the vision for a NTC are found throughout the plan. In relation to the State's foremost goal 'to plan development so as to maintain the historic settlement pattern of compact villages surrounded by rural countryside', the Plan cites eight objectives and ten policies embedded in six chapters. The land use chapter, for instance, includes a policy to "implement the recommendations for maintain, evolving and transforming land use set forth in Section 2D of the plan, listing statements of policy, like:

- Evolve the development pattern from a suburban, auto oriented commercial and service center to a more urban, pedestrian-oriented, mixed-use town center;
- Evolve the built form through: infill development with multistory, mixed-use buildings; more efficient use of land by reducing, redesigning and relocating surface parking; and improved walkability with sidewalks, crosswalks, paths, streetscaping, greens and pocket parks;
- Transform existing roads into complete streets so that people can safely walk or bike, including crossing Route 62 to link this area with Berlin Corners and the airport business park; and
- Transform the existing intersections with Route 62 to expand their capacity as needed to accommodate planned development, reduce congestion and maintain traffic flow, and better accommodate pedestrians and bicyclists.

(24 V.S.A. §2793b(a)(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.

Pre-Application. DHCD held two pre-application meetings with the Town of Berlin on April 19, 2016 and January 11, 2019, reviewing the program requirements, identifying possible designation boundaries, and issuing memos on the status of Berlin's readiness to apply. These memos provided advice informing this memo. In addition, the Department provided informal feedback throughout the project and authorized a Municipal Planning Grant to support NTC planning.

(Program Guidelines, 7) Benefits that the municipality hopes to obtain from the NTC designation.

Benefits Sought. The draft application memo highlights a variety of benefits that the town hopes to obtain from the NTC designation, including but not limited to:

- Encourage ongoing development and improvements that increase the taxable value;
- Integrate challenged retail properties into the surrounding community and convert vacant and underutilized space for mixed-uses;
- Provide a central place for workforce housing;
- Regulatory relief from lengthy and costly state permitting processes;
- Sustain and grow the student population;
- Create a recognizable identity for Berlin;
- Obtain a Municipal Planning Grant for Facilities Needs Assessment;
- Obtain a Transportation Alternatives Grant for Scoping of Multi-Use Path;
- Become Eligible for a Tax Increment Financing District;



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- Recognition of designation in Act 250 proceedings;
- Prospective exemption from Act 250 in legislation and other Act 250 reforms;
- Prospective amendment of the Vermont 'Billboard Law' restrictions on on-premise signs, to allow advertisement along Route 62; and
- Prospective relief from Route 62 screening requirements in the Act 250 permit.

(24 V.S.A. §2793b(a)(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.

Map of NTC. The draft application includes maps that comply with the guidelines, including the town-wide zoning map, and a detailed zoning map of the Town Center area. The proposed 118-acre NTC is located within an approximate 380-acre Town Center zoning district, which is zoned for similarly intense development and includes areas south of Paine Turnpike and Route 62 (a limited access highway creating a functional divide). The Town Center zoning district presently contains principally auto-oriented development hosting a very diverse mix of uses.

The proposed NTC includes several properties that are not included in the concept plan for redevelopment, including auto-dealerships and medical facilities. Why are designated NTC benefits needed for these properties if no change is envisioned in the next eight years.

24 V.S.A. §2793b(a)(3) 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.

RPC & RDC Notice. The Town notified the Regional Planning Commission and Regional Development Corporation on August 24, 2020.

(24 V.S.A. §2793b(b)(1)) [The municipality has] 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.

Confirmed Planning Process. The application includes a confirmation of the 2018 plan by the Central Vermont Regional Planning Commission dated October 30, 2018.

(24 V.S.A. §2793b(b)(2)) [The municipality has] 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:

Community Investment Agreement. The NTC's draft community investment agreement lists the following parties: Town of Berlin, Berlin Mall, LLC, Central Vermont Medical Center, Inc., Berlin S1 Realty, LLC and Berlin T1 Realty, LLC, Dousevicz, Inc., Washington Central Unified School District Corp., Downstreet Housing Community Development, and Evernorth. The agreement affirms the parties' commitment to activities and programs that support and enhance the economic and social health and viability of the town center designation and acknowledge and affirm the maps, land use and development regulations, capital improvement plan, official map, town plan, concept plan, wastewater letter, and the wastewater ordinance.

Very similar instruments were signed by NTC parties in Colchester and South Burlington.



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Given that the mall site is the locus of the proposed center and the sustained buy-in of Belin 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?

(24 V.S.A. §2793b(b)(2)(A)). A map of the designated NTC. The total area of land encompassed within a designated NTC shall not exceed 125 acres. ~~In a municipality with a population greater than 15,000, the total area of land encompassed within a designated NTC 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.~~

Acreage. The population of Berlin is approximately 2,800. The proposed NTC is 118.5 acres, approximately 6.5 less than the allowed maximum for a municipality with a population under 15,000.

(24 V.S.A. §2793b(a)(3)) The application shall also demonstrate that the proposed district meets the requirements set forth in subdivision 2791(11) [definition of NTC] of this title, as well as the standards for designation established in subsection (b) of this section.

(24 V.S.A. §2791(11)) "NTC" 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.

NTC Definition/Overview. Pages 6 -12 of the Town's draft application outline the Town's approach to a walkable, mixed-use town center, principally in conformance with the definition above. This approach includes the establishment of a street grid, creation of pedestrian connections, mall site infill, and the creation of multi-story and mixed-use development served by urban infrastructure.

Special focus has been given to well-designed and functional pedestrian features in the concept plan, and the proposal would make contributions to more compact development than exists today. The proposal clusters development in two separated nodes and appears less compact than the vision proposed for South Burlington's NTC and comparable to Colchester's NTC (developed as a new Planned Unit Development on undeveloped land with more surface parking surrounding inward-oriented/ clustered buildings distanced from US Route 7). The application notes that this is a sprawl repair project containing a mix of redevelopment and adjacent infill, a feature that distinguishes this project from the other NTCs.

The Town has given considerable attention to surface parking needs as it works to evolve a sprawling, auto-oriented retail and institutional center into a development characteristic of a traditional center, drawing comparisons to nearby traditional downtowns of Montpelier and Barre. These traditional downtown communities have seen many buildings razed since 1960 to accommodate mid-century urban renewal that advanced auto-oriented design values. Although the State's smart growth principals strive to counter policies that perpetuate auto-oriented places and erode the vitality of compact multi-modal urbanism, the Town pragmatically notes that traditional downtown revitalization efforts continue to be stymied by parking needs. The Agency's involvement in such projects confirms that -- even when parking requirements are not present in local bylaws -- parking requirements often remain as redevelopment constraints coming from investors and lenders. Local or state policies for walkable urbanism (places where most daily destination are within a 15-minute walk, bike, or ride) confront the reality that many other federal, state, and private policies underpin a built environment that accommodates automobiles as it



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adapts. Nevertheless, the concept of sprawl repair recognizes that an overproduction of parking remains costly to tenants, landowners, the environment, and governments and gradual transitions to more multi-modal place are possible and beneficial. The application aims to meet the present and future parking needs of the Central Vermont Medical Center, as well as the present parking needs of anchor retail tenants, but proposes no net increase of number of surface parking spaces to accommodate substantial new development.

- 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? Has the Town considered any plans to guide the management of public spaces?
- 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 association with an overproduction of parking, such as shared parking or employer transit benefits?
- How was a skybridge identified as the best available alternative for crossing Fisher Road? Staff recommends that the draft application consider crosswalk alternatives and pursue a scoping study in the capital plan to determine the most cost-effective solution.

Guidelines Checklist, 6). A municipal center plan (an articulated vision for the NTC – and next steps for implementing it).

Municipal Center Plan. In prior memos and through Municipal Planning Grant funding the Department has given strong support for a detailed and visual master plan to effectively guide physical improvements. The Town has prepared a very high-quality concept plan to articulate a vision for the NTC. Because features of this plan do not carry through into the proposed regulations, official map, or capital plan, staff requests that the concept plan 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.

- For instance, 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?

This memo contains additional questions about how the Town's proposed policies implement the vision. Staff recommends that aspirational features of the concept plan not supported by an implementation policy be removed from the concept plan to focus the plan on elements implemented by policy in the next eight years.

- Last, on the street grid and pedestrian spine maps (pp.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?



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(Guidelines Checklist, 6). Planning requirements: adopted bylaws and ordinances that implement the plan, including: An official map adopted according to 24 V.S.A. §4421.

Official Map. An [official map](#) is a regulatory tool that identifies future municipal utility and facility improvements (such as road or recreational path rights-of-way, parkland, utility rights-of-way, and other public improvements) in order to provide the opportunity for the municipality to acquire land identified for public improvements prior to development for other use and to identify the locations of required public facilities for new subdivisions and other development under review by the municipality. Building on the requests above, staff requests that the official map 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.

- Why is the proposed wetland enhancement and replication area not shown on the map; who will implement this?
- 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 *concept's vision for a grid at this node*?
- Why are some transit stops labeled red and some yellow?
- What is the yellow line (not in official map key)?
- What is the bolded gray line (not in the official map key)?
- 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)?
- Why does the official map show no water/sewer infrastructure; are no easements needed to accommodate build-out?
- Why are the recreational sites (aside from the wetland walk area and green) not included in the official map?
- 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?
- 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*?
- In the medical campus extension, what is the red dashed line on the official map?

(Guidelines Checklist, 6). Planning requirements: adopted bylaws and ordinances that implement the plan, including: A design review district or other regulations that adequately control the physical form and scale of development.

Bylaws & Design Review. In the most recent pre-application memo from staff, DHCD recommended:

- A focus on: setbacks, minimum lot sizes, roadway block standards in the Town Center, roadway curb standards, and building form (best guided by graphics).
- Address how changes to existing structures will be handled if the existing structure does not meet the new standards governing the form of new development.
- Clarify the hierarchy of streets, passageways that will provide structure for new development and include graphics to help applicants understand the intent of the requirements and should address how expansion or changes to existing auto-oriented properties will be permitted.



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The proposed bylaw amendment would replace the current Town Center zoning district's dimensional, walkability, architectural, and access management standards with new standards that apply to street types.

The application emphasizes the proposal's creation of a street grid, but it is unclear how the street grid shown on the concept plan would be implemented by these regulations absent inclusion on the official map. The grid is not consistently presented among the street grid and pedestrian spine maps (pp.7-8), the concept plan, the official map, and the design bylaws street map. Staff requests:

- That street grid exhibits be consistently shown;
- That the application clarify if private streets would be regulated distinctly from public streets or internal circulation drives and what classification elements of the grid fall within;
- That the application 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; and
- That the concept plan show conceptual lot configurations that signal intended parcelization patterns and frontage (some existing boundaries appear to bisect buildings).

Under the proposed bylaws, new or renovated development subject to major site plan review would have to meet architectural standards on (1) orientation and compatibility, (2) articulation, (3) facades, and (4) materials. These standards would create visual interest, soften the massing of large buildings, improve visual permeability through façade features, promote durable and interesting materials, and create visual interest.

- What exemptions are present from these standards and what is the review threshold for a major site plan approval to which these standards would apply under the proposed regulations?

The proposed application does not include the recommended block standards (like Colchester's and South Burlington's NTC regulations), and but does implement a street-based bylaw -- showing A, B, and C streets and enumerating additional street types a developer could apply to proposed streets not shown on the bylaw's map (D & P [pedestrian]). Block standards are a key characteristic of a traditional downtown. Compared to South Burlington and Colchester, the design regulations proposed for the NTC appear to be less prescriptively directed toward characteristics of a traditional downtown. Absent a gridded official map that implements the concept plan, block standards are necessary.

The street standards do not appear to require on-street parking on any regulated street type, nor curbed streets, nor sidewalks where streets adjoin a greenspace/undevelopable land/parking lot. These regulations would seem to enable streets that do conform to the definition of a NTC.

C streets appear to be less characteristic, and A and B streets more characteristic of a traditional downtown. C streets, for instance, would allow buildings to be setback as far as 80 feet from the street with parking in front. Staff recommends that the final application consider:

- Maintaining 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;



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- A narrower application of C streets in the NTC/C street standards 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);
- Street standards (excluding P streets) that would result in a curbed street and connected sidewalks implementing the concept plan; and
- Area-based block standards to deliver on the envisioned grid shown on the concept plan (if not shown on the official map).
- Are non-conforming uses present in the NTC, and if so, would they be subject to the proposed regulations?
- Why is the blue road (p.8) at the Rt. 62 gateway not shown as a mapped street type in the design bylaws?
- Why are the walkability standards eliminated in the proposal; how are they addressed elsewhere by these regulations?
- How is the build-to-line defined by the bylaws?
- What street intersection and access standards are in place to ensure safe, ADA compliant crosswalks?
- 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?
- 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?
- If a project is developed as a PUD with footprint lots, how would the parking setback be applied on a C street?
- Without a street identified in the medical campus extension, how would the NTC design standards apply to proposed development?
- 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?

(24 V.S.A. §2793b(b)(2)(B)). Regulations enabling high densities that are greater than those allowed in any other part of the municipality.

The following apply to the Town Center zoning district:

Lot Density. The draft regulations regulate lot density according to street type. A streets allow minimum lots of 10,000 s.f. (quarter-acre lots) with minimum lot width of 90 feet. B streets allow 15,000 s.f. minimum with minimum width of 75 feet. C streets establish a minimum lot size of 20,000 s.f. with minimum lot width of 90 ft. The district enables high lot density, greater than in other zoning districts. 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's quarter-acre minimum.

Building Dimensional Standard Density. The dimensional standards applicable to all street typologies enable building density/massing characteristic of a traditional downtown and greater



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than other parts of the municipality. Minimum setbacks are generally minimized, lot coverages maximized, and floor area ratios eliminated. The district enables high building dimensional standard density, greater than in other zoning districts.

Unit Density. The district applies no maximum residential unit density per 2101(D)(1). This is denser in the Town Center zoning district than in other parts of the municipality. Functionally, density is limited by the dimensional standards within which a dwelling or commercial unit could meet other regulations. The district enables high unit density, greater than in other zoning districts.

- 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?

(24 V.S.A. §2793b(b)(2)(C)) Regulations enabling multistory and mixed use buildings and mixed uses which enable the development of buildings in a compact manner.

Multi-Story Buildings. Building height is regulated according to street type. A streets allows for building heights of 2 story minimum and 60 ft. maximum. B streets allow for 1.5 story or 25 ft. minimum and 60 ft maximum. C streets allow for 20 ft. min and 60 ft maximum. B and C streets would allow for single-story development. The regulations enable multi-story buildings.

Mixed-Use Buildings & Mixed-Use Districts. Section 2505.B states, “Property owners may use a lot for any combination of uses allow in the zoning district.” The district identifies 36 permitted uses and 10 conditional uses. Staff understands that there are no specified regulatory limits on the density of residential or non-residential units within a building or on a lot. The regulations enable mixed-used buildings and mixed-use districts.

(24 V.S.A. §2793b(b)(2)(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.

Capital Improvement Program (CIP) or a Capital Budget and Program. The application emphasizes that this is a realistic, market-based development plan, and the capital plan proposes a municipal building, Center Street, town center path, town green, stormwater and wetland mitigation, Paine Turnpike North sewer, and a municipal water well. Staff requests that the capital plan include all public improvements shown on the concept plan and official map, and has the following questions:

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



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Drinking Water. The capital plan includes a well with funding in FY22 for construction (\$190,000) and ongoing debt service. Staff requests that the final application highlight where this is located and how this project prioritizes development in the NTC. Will any additional public upgrades or lines be needed in the NTC to accommodate development?

Wastewater. The capital plan includes sewer line funding in FY21 (\$54,000) for debt service. Staff requests that the final application highlight where this is located how this project prioritizes development in the NTC. Will any additional public upgrades be needed in the NTC to accommodate development?

Stormwater. The concept plan shows stormwater features and the capital plan includes town center stormwater and wetland mitigation funding beyond FY26 (\$300,000). The existing mall site will likely need to comply with the State's new 3-acres stormwater standards, and the proposed infill/expansion would need to meet the full suite of stormwater standards including but not limited to the 100-year storm, due to the large common plan at this location. Given the likely need for extensive stormwater treatment, it is unclear whether the draft plan has allocated enough space for stormwater infrastructure or whether infiltration is being considered more broadly across the site. How have the stormwater concepts been vetted for regulatory approvability?

Public Space. The capital plan includes a municipal building, with FY21 funding (\$24,200) for a phase one needs assessment. The capital plan includes a town green, with \$100,000 identified for beyond FY26 for full implementation. This item is further addressed below.

Lighting. Lighting is not separately addressed from other improvements in the capital plan but is integrated as a regulatory requirement for streets. Staff assumes that the facilities identified in the capital plan would include lighting in conformance with the regulations or concept plan for the center.

Transportation (including public transit, parking, and pedestrian amenities). The capital plan includes funding for center street (the spine of the NTC), with FY21 funding (\$75,000) for scoping, and additional funds committed in FY26. The proposed plan includes a town center path, with funding in FY22 (\$60,000), and additional funds committed beyond FY26.

- Why is no land & easement acquisition included; is no construction implementation planned prior to FY26 for these two items?
- What collaboration has occurred with Green Mountain Transit on the stops shown in the plan(s) – will any capital improvements be made by them as build-out occurs?

Staff recommends that the final application:

- 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.



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One National Life Drive
Montpelier, VT 05620-0501

*Agency of Commerce and
Community Development*

[phone] 802-828-3211

(24 V.S.A. §2793b(b)(2)(E)) A clear plan for mixed income housing in the NTC.

Mixed-Income Housing Plan. The Town is partnering with Evernorth and Downstreet Housing on a mixed-use building and pursuing a neighborhood development area designation as an add-on to the NTC designation to promote mixed-income housing. Included in the draft application is an MOU between the Town, Downstreet Housing, and Evernorth to establish by the spring of 2022 a proposed 30-dwelling unit project and childcare center labeled on the concept plan as ‘Fox Run’ on ‘outlot C’. This demonstrates a clear plan for mixed-income housing in the center.

(24 V.S.A. §2793b(b)(2)(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.

Public Buildings. The State Board has interpreted ‘public buildings’ in this context to include buildings that are open to the public including stores, restaurants, health clubs, hospitals, etc. These exist in the proposed NTC.

Civic Buildings. The application includes an adopted resolution of support signed by three of the five Selectboard members committing to giving priority consideration to the NTC for the location of a future civic building or municipality facilities. Two civic buildings are identified on the official map and capital improvement plan: a town green with a performance stage and a municipal building. Neither identifies land or easement acquisition construction funding beyond FY26, past the first mid-cycle check-in. The final application should clarify what will be held privately and what is intended to be publicly owned, and a target timeline for completion.

Note that the civic building requirement became a continued matter of discussion between the State Board and the Town of Colchester between 2015 and 2019. The Board acknowledged, in this case, that a Town-owned and programmed green and gazebo with full public access meets the requirements for a civic building in the NTC and required that the Town acquire the green and gazebo and solidify the Town’s commitment to continue civic use of the green by implementing the programming proposal.

- 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?

(24 V.S.A. §2793b(b)(2)(H)) Evidence that any private or municipal sewage system and private or public water supply serving the proposed NTC 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 NTC. Any municipality proposing a municipal sewage system and public water supply to serve the proposed NTC 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 NTC 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



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Agency of Natural Resources, and failure to construct was due to unavailability of sufficient State or federal funding.

System Overview. The proposed NTC is served by wastewater treatment operated by the City of Montpelier and a drinking water system operated by the Town of Berlin. The draft application includes a municipal water & wastewater allocation ordinance, water system permits from DEC, and draft compliance forms.

System Compliance. The final application must include evidence that any private or public sewage system and any private or public water supply system serving the proposed downtown district is in compliance with state requirements through a response from ANR. The drinking water compliance form is approved and ANR is prepared to finalize the Wastewater form once the compliance question is completed. 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. Signoff demonstrates that the municipality has dedicated adequate reserve commitment to accommodate future growth in the NTC.

Reserve Commitment. 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. It appears that no build-out identifying needs and dedication of unallocated reserves is included in the draft application. 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. (ANR approval is not required for either wastewater or drinking water system reserve commitments.)

Thank you for the opportunity to review the draft application and coordinate inter-agency comments.





REGIONAL PLAN COMMITTEE

RULES OF PROCEDURE

~~December 10, 2019~~

PURPOSE: To recommend updates to the Central Vermont Regional Plan and to oversee its implementation.

GENERAL ACTIVITIES:

- ◆ Foster public and member municipality engagement in regional planning in the region.
- ◆ Encourage intergovernmental cooperation on regionally important planning issues.
- ◆ Conduct an annual review of the Central Vermont Regional Plan and recommend updates in accordance with Title 24 Chapter 117 and the needs of the region for consideration by the Board of Commissioners.
- ◆ Develop and annually review a Five Year Work Program for the Commission that assists to translate Regional Plan priorities into an annual work program.
- ◆ Monitor the Commission's progress in implementing the Regional Plan and Five Year Work Program, report progress to the Board of Commissioners at least annually, and recommend Regional Plan or Work Program modifications as needed.
- ◆ Assist the Executive Committee and Board of Commissioners to review and comment on proposed policies, plans, and capital improvements of State Agencies in regards to CVRPC policy, Regional Plan conformance, funding, and project prioritization.
- ◆ Participate in special studies conducted by the Commission.
- ◆ Provide input and policy recommendations to the Board of Commissioners regarding pertinent land use issues and legislation as time and resources permit.

ADVISORY ROLE: The Regional Plan Committee shall be advisory to the Board of Commissioners. The ~~Regional Plan~~ Committee will offer advice, input, and opinions to the Agency of Commerce and Community Development and other organizations and individuals as appropriate, provided it is compatible with plans, policies, positions or resolutions adopted by the Board of Commissioners. Regional Plan Committee advice, input, and opinions may be reviewed, confirmed or reversed by the Board of Commissioners at the Board's discretion. New or amended plans, policies, positions or resolutions shall be ratified/approved by the Board of Commissioners.

MEMBERSHIP: ~~The Regional Plan Committee shall consist of five (5) Commissioners or Alternate Commissioners who shall be elected at the Board's Annual Meeting and shall serve two year terms. The Regional Plan Committee shall consist of five (5) representatives of the Board of Commissioners who~~

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802-229-0389 E Mail: CVRPC@CVRegion.com

~~serve one year terms.~~

OFFICERS/ELECTIONS: The Regional Plan Committee will elect a Chair and Vice-Chair annually at its first meeting of the fiscal year. The Chair will be responsible for running meetings, setting agendas in conjunction with staff, reviewing and signing correspondence on behalf of the Regional Plan Committee, and representing the Regional Plan Committee at various meetings as needed. The Vice-Chair will provide support to the Chair as needed. If the Chair or Vice-Chair should resign before term expiration, an interim election shall be held within two meetings of the committee or when regular elections are held, whichever is earlier.

ATTENDANCE AND QUORUMS: A quorum of the Committee shall consist of a majority of members, ~~currently three~~. Members are encouraged to attend all regular meetings and special meetings as they arise. Members with three consecutive unexplained absences will be contacted by the Committee Chair to determine if they still wish to serve on the Regional Plan Committee. The Regional Plan Committee shall meet at least four (4) times per year, or as determined by the Chair to be necessary to carry out the stated purpose.

COMMUNICATION AND COORDINATION:

- ◆ Meetings shall be noticed and held in accordance with Vermont Open Meeting Law.
- ◆ Draft policies and resolutions shall be forwarded to Regional Plan Committee members and interested/affected parties for comment before action by the Regional Plan Committee, or final action/approval by the Board of Commissioners.
- ◆ Minutes of all regular and special meetings will be prepared by staff, distributed to Regional Plan Committee members and interested parties, and made available to the public in accordance with open meeting and public records laws described in 1 V.S.A. §§310-320.
- ◆ Regional Plan Committee members are encouraged to offer input on all matters before the Committee, and are encouraged to bring up items of local or regional concern for Committee consideration.

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CONFLICT OF INTEREST: Upon joining the Commission or its committees, individuals must review and sign the Commission's most recently adopted Code of Conduct and Conflict of Interest Policy to indicate that they have read, understood, and agree to comply with it. In the event any Regional Plan Committee member has a personal or financial interest with any individual, partnership, firm or corporation seeking to contract with the CVRPC, or to provide materials or labor thereto, or has a personal or financial interest in any project being considered by the Regional Plan Committee, the member shall state on the record the nature of his or her interest. If the member feels this conflict interferes with his/her ability to be objective, the member shall not participate in any vote on any related motion. If the member is uncertain whether he/she should participate in the decision, the Regional Plan Committee shall determine by vote whether the member should participate.

The Committee may also make a determination of conflict of interest and disallow voting by a member if the majority of voting Committee members in attendance at the meeting determine a conflict of interest exists.

ADOPTION OF ORGANIZATIONAL PROCEDURES: The Regional Plan Committee may, at any time, vote to amend these procedures, ~~in accordance with quorum requirements noted above, upon 51% vote of the Regional Plan Committee membership (at least 3 votes in favor).~~ Proposed amendments will be forwarded to Regional Plan Committee members and interested parties before consideration at a regular Regional Plan Committee meeting. Amendments will then be forwarded to the Board of Commissioners for ratification.

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The Regional Plan Committee is a ~~special~~ **standing** committee of the Regional Planning Commission, and is therefore subject to the Commission's bylaws. ~~As such,~~ These Rules of Procedure, combined with Robert's Rules of Order, provide procedural and administrative guidance for the Regional Plan Committee.

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Recommended by the Regional Plan Committee: ~~10/24/19~~

Adopted by the Board of Commissioners: ~~12/10/2019~~

Laura Hill-Eubanks, Chair
CVRPC Board of Commissioners

CENTRAL VERMONT REGIONAL PLANNING COMMISSION

Project Review Committee

May 28, 2020 4:00 – 5:15 pm

Remote Participation via GoToMeetings

Draft Minutes

Project Review Committee Members:

<input checked="" type="checkbox"/>	Lee Cattaneo, Orange Commissioner
<input type="checkbox"/>	John Brabant, Calais Commissioner
<input type="checkbox"/>	Jerry D'Amico, Roxbury Commissioner (Alternate Seat)
<input checked="" type="checkbox"/>	Peter Carbee, Washington Commissioner
<input checked="" type="checkbox"/>	Janet Shatney, Barre City Commissioner
<input checked="" type="checkbox"/>	Bob Wernecke, Berlin Commissioner

Staff: Clare Rock, Zach Maia

Guests:

Janet called the meeting to order at 4:02pm

Adjustments to the Agenda

None.

Public Comments

None.

Act 250 / Section 248 Applications & Projects of Substantial Regional Impact

a) Presentation & Preferred Site Request by Aegis/ Emancipation Energy, 150 KW Solar Installation located at 58 Center Road, Middlesex

Niles Behn introduces himself, representing Kingsbury and Emancipation Shooting for the end of June to submit the CPG

Seeking letter, and have letters from Middlesex SB and PC and currently there is no solar in Middlesex, and Middlesex is working on their energy plan and recognizes the need

There will not need to be any clearing or excavation to build the road. The area is also mostly cleared. Existing trees provide screening and cannot be viewed from any

Question about deer wintering yard, ANR has provided some guidance on the deer wintering yard and has provided comments on fencing and setbacks to wetlands. Aegis will be adjusting fencing design based upon ANR comments, ANR prefers 8 ft fence so deer cannot jump and cannot jump and get trapped, smaller rodents will be able to travel through the fence.

What is rule 5.100 and 5.103 – that is the net meeting rule and PC is supporting the project but is saying that are

Proposal is seeking a reduced set back.

Committee question about whether adding this solar

Who is going to take the power from the project, the off taker is Kingsbury
Kingsbury is a new medical marijuana facility which has an interior greenhouse and will be utilizing the
amount of the power generated.

Committee discussion.

No conflict with the Rural Land Use area – Bob arrived late and isn't going to weigh in
Jerry doesn't see any conflict with the rural land use area, other committee members didn't

Would defer to Fish and Wildlife for managing possible impacts to deer wintering yards

Question about whether it's reasonable to run the lines underground. They are planning to install one
pole and then the lines would be underground.

Peter makes the motion, seconded by Jerry.

Lee abstained from the vote, as he has raised the issue to the Regional Planning Commission that CVRPC
needs to address renewable energy storage.

Jerry agrees with Lee's comment and thinks someone needs to address the overcapacity implications

Nils added a general comment about the other social and economic benefits.

Peter – aye

Bob – aye

Jerry – aye

Janet – aye

Motions carries.

Committee discussion about the need to have better guidance in the regional plan

Peter – we need to address the idea of storage on site, instead of flooding the daytime market with
renewables, and feels this should be addressed in the energy plan.

Lee – Wash CO was approved for a rate increase, which doubled the service charge, this has doubled
and this could go up even more and the homeowner is penalized for this. Lee has a 3.8kw and Jerry has
a 3.9kw array and has a Tesla back up battery.

b) Review *Project Review Summary* Sheet

No questions or comments

Spruce Place LLC recently submitted the revised plan for the sidewalk plan and it should be accepted by
the District Commission

Approve meeting minutes

Motion by L Cattaneo to approve the January 23, 2020 minutes, seconded by B Wernecke all in favor.

Motion carried.

1
2 **Two spelling errors – need to find them.....**

3
4 *Discussion about the traffic impacts in response to the last meetings minutes and the hospitals and this*
5 *was an issue*

6 *Update on the hospital project – it'll have to be re-designed due to the cos*

7
8 *Bob – aye*

9 *Jerry abstain*

10 *Lee – aye,*

11 *Peter, aye,*

12 *Janet, aye...*

13
14 **Adjournment**

15 *Motion by L Cattaneo to adjourn the Project Review Committee at 5:00 pm, seconded by B Wernecke, all*
16 *in favor. Motion carried.*