Town of Richmond
Planning Commission Meeting
AGENDA
Wednesday, January 5th, 2022, 7:00 PM
Richmond Town Offices, Third Floor Meeting Room
203 Bridge St., Richmond, VT 05477

This meeting is also accessible via Zoom:
Join Zoom Meeting: https://us02web.zoom.us/j/88419874605
Meeting ID: 884 1987 4605
Join by phone: (929) 205-6099

For additional information and accommodations to improve the accessibility of this meeting, please contact Ravi Venkataraman at 802-434-2430 or at rvenkataraman@richmondvt.gov.

1. Welcome, sign in and troubleshooting

2. Public Comment for non-agenda items

3. Adjustments to the Agenda

4. Approval of Minutes
   - December 1st, 2021

5. Preparation of draft regulations on wetlands, vehicle fueling station, and nonconforming structures and uses for Public Hearing

6. Creation of plan and timeline for upcoming Gateway District zoning discussion and update

7. Brief introduction to reorganization of Zoning Regulations

8. Other Business, Correspondence, and Adjournment

Table of Contents

Richmond Planning Commission
REGULAR MEETING MINUTES FOR December 1, 2021

Members Present:	Virginia Clarke, Dan Mullen, Mark Fausel, Chris Granda, Joy Reap, Jake Kornfeld, Lisa Miller, Alison Anand, Chris Cole
Members Absent:	
Others Present:	Ravi Venkataraman (Town Planner/Staff), MMCTV, Tina Heath, Regina Mahony, Taylor Newton

1. Welcome and troubleshooting

Virginia Clarke called the meeting to order at 7:04 pm.

2. Public Comment for non-agenda items

None.

3. Adjustments to the Agenda

None.

4. Approval of Minutes

The commission approved the minutes as written.

5. Review and Discussion of State Wetlands permitting for Mobil Gas Station

Clarke said that currently, the town does not allow any development within the wetlands and welands buffer, and that the commission is reconsidering this regulation in light of the Mobil gas station redevelopment request. Clarke asked Tina Heath about the review process, and aspects the town should look into with local review of development within wetlands.

Heath said that the project had been under review for five years, and that she will overview the review process in general. Heath said that the goal of the Wetlands Rules is to protect significant wetlands, that significant wetlands are wetlands with at least one of the ten functions and values, and that ANR has a system in place to identify and review wetlands to determine significance. Heath said that generally wetlands that are a half-acre or more in size and are associated with waterways are considered significant wetlands. Heath said that wetlands that are not considered significant are considered Class III wetlands. Heath said that the wetlands surrounding the Mobil gas station are considered significant because of its role in flood storage, water quality protection, and wildlife habitat. Heath said that when reviewing wetlands, they look at the larger system of wetlands because of the interconnectedness, and that the wetlands surrounding the Mobil gas station are associated with larger floodplain wetlands across Route 2.

Heath said that for the Mobil gas station they initially reviewed a redevelopment proposal that

encroached into the wetlands and that they advised the applicant that they wouldn't be able to encroach further into the wetland than existing conditions. Heath had reviewed different proposals before the agency approved the finalized proposal for redevelopment. Heath said that the agency issued two permits prior to the current redevelopment proposal—a redevelopment proposal in 2016, and a wastewater system overhaul in 2020. Regarding the current proposal to create an offsite wastewater system north of I-89, Heath said that the agency does not consider drilling underneath the wetlands to be an impact because it does not involve any physical alterations to the entry or exit point. Heath said that overall the current proposed project was pretty low impact, and that based on the minimizations the applicant used and their avoidance of two out of the three wetlands on project sites, the permit was issued.

Heath overviewed the review lens of the existing conditions, noting that the site is an existing filled site and therefore already disturbed, that the proposal did not call for any direct wetland impacts, that the proposal calls for impacts to a buffer that already functions poorly in terms of protecting the wetland and its functions, and that the redevelopment proposal would be on the existing disturbed footprint. Heath also noted the proposed additional minimization measures of landscaping and removal of stockpiled fill.

Chris Granda asked about the function of the buffer. Heath said that they are looking for buffers that protect the functions and values of the wetland, that forested or vegetated buffers protect the functions and values of wetlands. Heath said that proposals that impact managed buffers over naturalized (vegetated) buffers if the project has to impact buffers is considered a minimization attempt. Heath said that for projects with disturbed buffers or disturbed wetlands, additional minimization efforts are required such as restoration or enhancement of buffers and wetlands in the form of restoration or mowing restrictions. Heath said that the Mobil project team was under the assumption that since the buffer was already paved and disturbed a permit wouldn't be required and that she had to notify them that a permit is required to determine that the activities do not adversely impact the wetland.

Granda asked about the status of the directional drilling. Clarke said that the project team is keeping tabs on the sewer line extension project.

Granda asked Heath if an amendment to the permit would be needed if the wastewater connection is different from proposed. Heath said that amendments may be needed depending on the degree of change.

Cole asked if an oil/water filtration separator would be a requirement for the permit. Heath said that wetlands permitting is for physical alterations of wetlands, that they do not have a permit condition regarding the contaminants, and that discharges not associated with a conveyance within the wetland are not within jurisdiction. Heath noted that for this project stormwater management would be required.

Fausel asked about the buffer regulations. Heath said that federal regulations do not cover wetland buffers and that most states do not cover buffers. Fausel asked about the basis for the buffer distance. Heath said that for Class II wetlands the buffer requirement was based on compromise, and that for Class I wetlands, the buffer requirement may be more than the required 100 feet based on the context of the wetland and its buffer. Fausel asked for more information about the difference between Class II and Class III wetlands to determine possible buffer requirements. Heath said that Class II wetlands has one of the significant functions and values and therefore within jurisdiction; that Class III wetlands do not have any of the significant functions and values, are low in function, and therefore considered outside jurisdiction; and that to change the classification of a Class II wetland to a Class III wetland is a process. Heath said that generally wetlands that are a half-acre or more in size or are near waterways are

considered jurisdictional, significant wetlands. Heath said that vernal pools and bogs—wetlands could be are smaller than half an acre—are within jurisdiction. Fausel asked for clarification on the half acre threshold. Heath said that the wetland would have the hydrology, hydric soils, and wetlands-specific vegetation, and that there is a standard methodology set by the Army Corps of Engineers used for delineations.

Clarke asked about how the agency would evaluate amendments that request additional encroachments within the buffer. Heath said that for this site the existing development encroaches the buffer entirely, and that the site does not have much more buffer for the applicants to impact. Heath said that any further proposed encroachments would be wetlands impact and that any approvals for wetlands impact for this site would be highly unlikely.

Anand asked for clarification on Class III wetlands. Heath said that Class III wetlands may not have completely no value, that they may be under the jurisdiction of the Army Corps of Engineers. Heath said that Class III wetlands are small (half acre in size), and are usually found in managed farm fields, residences, in between parking lots, or in places due to stormwater runoff. Heath said that 80-85 percent of the time, they are dealing with Class II wetlands. Anand noted that while the proposed development to the site are improvements, the proposal does not maximize natural resource protection and she does not want applicants to have the impression that development with a lower regard for natural resource protection is allowed. Heath said that all applications require an alternatives analysis to prioritize natural resource protection, and that with this site the applicant is restricted to the existing disturbed area for redevelopment.

Fausel asked for clarification in the difference between the definition between a Class II wetland, a Class III wetland, and a stream. Heath referred back to the three qualities of wetlands (soils, vegetation, and hydrology); said that stream is not a wetland because of its difference in ecology, geology and function; and said that similarly a lake differs from a wetland. Heath said that on-site evaluations and delineations of wetlands help determine the various natural resources on site, and that wetland delineations are required for applications.

Clarke asked if the applicant had to validate their reasoning for redevelopment. Heath said that for this project they did not require a traffic study and other documents, that the standard of review for the impact the applicant was proposing did not require additional information, and that such information is required for large-impact projects (projects involving large-scale wetland fill and alteration, commercial projects, city center projects).

6. Discussion on ECOS Comprehensive Economic Development Strategy (CEDS) (8:09)

Regina Mahony introduced the Comprehensive Economic Development Strategy, explaining that the plan is required for receiving federal funds into the region—possibly used for workforce development or overall economic development--and is focused on the outlook of economic development in the region. Mahony said that the CEDS will be incorporated into an updated comprehensive ECOS plan for the entire county once the CEDS is complete.

Mahony asked the committee for general input. Reap noted the current need for employees to fill open jobs and for affordable housing. Dan Mullen asked which organizations Mahony are reaching out to within the BIPOC community. Mahony noted the Vermont Professionals of Color, Blink Equity, Peace

and Justice Center, Vermont Racial Justice Alliance, and Equity Coordinators in Burlington and Winooski. Clarke referred to the workforce recommendations in the Climate Action Plan, and asked about coordination with the Climate Action Plan, as well as the correlation between labor and housing. Taylor Newton said that the Climate Action Plan will be reviewed for integration in the CEDS. Newton said that the primary sources of funding linked to the CEDS does not fund housing, but housing will be stressed in the ECOS plan. Mahony said that CCRPC has had conversations with housing partners and that planning commissions have a larger role in removing barriers to create new housing. Cole identified housing, mobility and day care issues with the economic issues in Vermont, and recommended that CCRPC work with the federal government to push for more funding for housing to boost economic development. Clarke asked about the future of commercial spaces and expansion of broadband. Mahony said that only a small percentage of available jobs are work-from-home, and that regarding broadband, it is a challenge currently because the state funds are not directly accessible by some firms and certain regions are not served by eligible firms.

Miller asked if CCRPC had methods to inform the public on potential projects on the horizon, like broadband, and how the future will look like with the implementation of projects. Newton said that Miller's idea was a good idea, and that it could be incorporated into the ECOS project in the future. Mahony referenced the Vermont futures project as an example of Miller's idea. Clarke concurred on the need for more information and visualizations on implementation. Mahony said she identified the need of a public education component of the "Building Homes Campaign" but that more is needed with the general public. Mahony suggested presenting visualization of the built form to educate the public.

7. Discussion on FY23 UPWP

Venkataraman reviewed the ideas discussed during the last Planning Commission meeting: a Gateway District master plan, and bylaw revisions.

Mahony overviewed the UPWP, noting that if the project has a transportation component, CCRPC can hire a consultant and require a 20 percent match for the completion of the work, and if the project does not have a transportation component, CCRPC staff would assist and the town would bear the full cost of the project. Mahony said that they have been able to complete form-based code work with transportation funds, but that the project does not necessarily need to be a form-based code project and could be a combination land use/transportation scenario project. Newton suggested that the town start with a corridor plan and then possibly transition to an implementation of form-based code, referring to the Taft Corners project in Williston.

Newton noted that the zoning regulations could be updated in the Gateway District, specifically in terms of housing. Reap asked if the commercial use requirements are a factor. Newton said yes, if that is the case; the manner in which density is regulated inhibits full build-out; and height regulations. Clarke asked about methods to regulate height considering Richmond's lack of a ladder truck. Newton noted that typically for large buildings, fire codes require sprinklers, and that a mutual aid agreement could be arranged. Mahony said that she doesn't have a solution but is aware of towns with similar situations of having buildings taller than the ladder the town has.

Clarke asked Venkataraman about application deadlines on his end. Venkataraman overviewed the three projects the Transportation Committee forwarded to the Selectboard for approval to pursue, adding that one of the projects, a Route 2 scoping study, could integrate the Planning Commission's project idea.

Clarke asked about available funds. Venkataraman said as of now the transportation planning funds would be used entirely for transportation planning projects, and that he will have to talk to Mahony and Newton about budgets for the new proposed project scope.

Reap asked about the letter the commission prepared in support of expanding the water/sewer district. Clarke said that the letter was sent to the Water/Sewer Commission and the Selectboard, that outreach will need to be discussed, and that the Housing Committee distributed a letter of support.

Clarke asked Reap her opinion about the corridor study proposal. Reap said she would be in favor of the study, and noted the uncertainty on regulating uses, like Dollar General-type uses. Newton suggested restricting footprint size. Mahony suggested site layout regulations, and building height requirements.

Clarke asked the commission whether it wants to pursue the proposed project. Reap asked about the timeline for the project. Newton outlined the UPWP review period (6 months), project period (1 year), and implementation period (18 months to two years).

Fausel asked how the deliverable would look. Newton said that it could vary based on the town's needs. Fausel asked if form-based codes would be available as a deliverable. Newton said that it could be. Mahony referenced the need for a charrette to establish a vision for the corridor for form-based zoning, and said that the Route 2 corridor update could include the visioning piece. Fausel said that past outreach efforts could be incorporated in the project to guide the development of form-based code. Clarke said that outreach for this specific project would be necessary. Mahony said that finding consensus on the vision is vital for form-based code to work well. Clarke suggested undergoing a visioning process for the FY23 UPWP, and form-based code implementation for the FY24 UPWP.

Reap said that regardless of the expansion vote, she will be looking into extending the sewer line to her properties. Clarke said that zoning needs to be revisited and updated in the Gateway District. Cole concurred, especially considering state-wide housing needs, and said that housing will need to be emphasized to discourage strip development. Mahony called attention to Act 250 Criteria 9L. Newton said that the sewer extension would require Act 250 and that future development patterns will be reviewed.

Anand asked about government funding for the sewer extension project. Venkataraman said that the town received the Northern Borders Regional Commission grant for the sewer extension, that the primary reason a vote is going to be held to expand the water/sewer district is to make the town eligible for grant funds, that private property owners can hook up to the water and sewer if they'd like, and that since the town intends to extend infrastructure, it needs to be eligible for more funding.

8. Other Business, Correspondence, and Adjournment (9:27)

Clarke said that for the next meeting, the commission will discuss whether it wants to pursue the Gateway master plan project.

Clarke asked the commission if it would like to publicize the letter of support to expand the water/sewer district.

Motion by Cole, seconded by Anand to publicize the letter supporting voting in favor of expanding the water/sewer district. Voting: 7-0 (Reap abstained). Motion carried.

Clarke asked Cole for more information about the Transportation Committee's intent for the proposed Route 2 scoping project. Cole overviewed the project as an update to the 2014 Route 2 path scoping study, with an intersection study of Route 2, the park and ride, I-89 and VT-117, and a feasibility analysis of a path within the I-89 ROW between the park and ride and the schools. Clarke asked the commission on how it would like to proceed with the project. Cole said that adding the commission's requests to the Transportation Committee's project would dilute all the project elements. Miller noted that clarity on future roads is needed. Clarke said that clarity on the projects the Selectboard would like to support is needed to determine how it would like to proceed. Venkataraman said that the committee has a number of options on how to proceed. Clarke said she and Venkataraman will determine options for proceeding for the next meeting.

Motion by Cole, seconded by Anand to adjourn the meeting. Voting: unanimous. Motion carried. The meeting adjourned at 9:43 pm.

Respectfully submitted by Ravi Venkataraman, Town Planner

TO: Richmond Planning Commission

FROM: Ravi Venkataraman, Town Planner

DATE: December 30, 2021

SUBJECT: Proposed amendments to Wetlands, Nonconforming uses and structures, and Vehicle Fueling Stations

Materials for Consideration

For your consideration, enclosed are:

- Draft Regulations on Wetlands
- Draft Regulations on Nonconforming Structures and Uses
- Draft Regulations on Vehicle Fueling Stations
- Draft Municipal Bylaw Amendment Report
- A statement prepared by Virginia Clarke on the Planning Commission's rationale to limit the development of Vehicle Fueling Station uses to four pumping islands

Process Going Forward

If you are satisfied with the enclosed draft language, I recommend that you move to warn a public hearing for February 2, 2022.

Once finalized, the proposed amendments will be forwarded to the Town Attorney for legal review.

To facilitate action, I have prepared the following draft motion:

> *I,_____, move warn a public hearing for February 2, 2022 on the amendments to the Richmond Zoning Regulations 4.7, 4.8, 4.9, 4.14, 5.10.1, 6.9, and 7*

Wetlands -- clean copy 12.5.21

6.9 Wetlands

~~No building, roadway or septic system shall be constructed within 100 feet of a Class I wetland and within 50 feet of a Class II wetland. Classifications of wetlands are established by the State of Vermont.~~

~~In addition, no draining, dredging, filling, or alteration of the water flow shall occur within 50 feet of Class I and Class II wetlands, unless such use has been approved by the Vermont Department of Environmental Conservation's Wetlands Section through the issuance of a Conditional Use Determination.~~

6.9.1 Applicability.
No land development shall occur within a Class I or II wetland, or wetland buffer, except for the encroachments allowed under Section 6.9.3.

6.9.2 Wetland Buffers. All Class I and II wetlands shall be surrounded by a buffer of the following widths:

a) 100 feet for a Class I wetland;
b) 50 feet for a Class II wetland;

6.9.3 Allowed Encroachments.
6.9.3.1 Permitted—The following **wetland buffer** encroachments may be allowed upon issuance of a Zoning Permit by the Administrative Officer.

a) Stormwater management and treatment facilities that meet the accepted state sizing criteria and best management practices set forth in the Vermont Stormwater Management Manuals as most recently amended.
b) Constructed paths, trails and sidewalks that cross a wetland buffer for the purpose of public or private access or recreation only if there is no feasible alternative to the crossing.
c) Public or private roads or driveways that cross a wetland buffer for the purpose of providing safe access to a use only if there is no feasible alternative to the crossing.
d) Utility lines, including telephone, cable, sewer and water that cross a wetland buffer for the purpose of providing or extending service, only if there is no feasible alternative.

6.9.3.2 Conditional – The following **wetland** encroachments may be allowed upon issuance of a Conditional Use Approval by the DRB.

a) Constructed paths, trails and sidewalks that cross a wetland for the purpose of public or private access or recreation only if there is no feasible alternative to the crossing.
b) Public or private roads or driveways that cross a wetland for the purpose of providing safe access to a use only if there is no feasible alternative to the crossing.
c) Utility lines, including telephone, cable, sewer and water that cross a wetland for the purpose of providing or extending service, only if there is no feasible alternative

6.9.3.3 "Constructed" for this section shall mean adding and/or removing any material at the site of the crossing.

6.9.3.4 Conditional Use Approval may be granted for the reconstruction, replacement or relocation of nonconforming structures and existing impervious surfaces that encroach into a **wetland buffer** pursuant to Section 4.7. 8.

6.9.4 Development Review Standards

6.9.4.1 The proposed allowed encroachment must be designed to produce the least possible impact to the wetland or wetland buffer, and any incursions into a wetland shall have no or minimal impact to the functionality of the natural processes of the wetland. The encroachment shall be only to the minimum extent necessary to carry out the purpose of the development. "Least possible impact" shall include minimizing fill and impervious surfaces.

6.9.4.2 The creation of wetland crossings shall be installed in such a manner as to preserve hydrologic and ecological connectivity of the wetland, such as by means of a boardwalk or bridge over the surface of the wetland, or by culverts under the crossing that allow for the free flow of water.

6.9.4.3. The creation of new lawns or areas of pavement, including for parking, within wetlands or wetland buffers is prohibited, except as outlined in Section 6.9.3.3. Supplemental planting with appropriate native vegetation to restore and enhance the function of the wetland within the wetland and wetland buffer is allowed.

6.9.4.4. New on-site septic systems, including septic tanks and leach fields, are prohibited in wetlands and wetland buffers.

6.9.4.5. Storage of hazardous or other materials is prohibited in wetlands and wetland buffers.

6.9.5 Application Requirements. Applications for land development on a lot containing a known or suspected wetland, or wetland buffer, as indicated by the Vermont Significant Wetlands Inventory, the Wetlands Advisory Layers, or the Wetland Screening Tool shall provide the following:

a) A wetlands delineation and assessment of the wetland prepared by a professional wetlands ecologist in accordance with the Vermont Wetlands Rules put forth by the Agency of Natural Resources;
b) A site plan indicating the location of the proposed land development in relation to the wetland.
c) A Vermont Agency of Natural Resources Project Review Sheet;
d) An erosion prevention and sediment control plan in accordance with the current Vermont Standards and Specifications for Erosion Prevention and Sediment Control;
e) If applying for a permit for an encroachment, substantive evidence that no other feasible alternative to the proposed encroachment exists;
f) A permit obtained under these regulations for land development on a lot containing a wetland or wetland buffer shall not relieve the applicant of the responsibility to comply with all other state or federal regulations.

Amendments to Section 7 (Definitions)

Wetland – Those areas that are inundated by surface or groundwater with a frequency sufficient to support vegetation or aquatic life that depend on saturated or seasonally saturated soil conditions for growth and

reproduction. Such areas include but are not limited to marshes, swamps, sloughs, potholes, fens, river and lake overflows, mud flats, bogs, vernal pools and ponds, but excluding such areas as grow food or crops in connection with farming activities.

Wetland Buffer – The area contiguous to a wetland which serves to protect the values and functions of the wetland.

Nonconforming structures and uses -- proposed new language for 4.7 and 4.8 12.14.21
Current sections ~~4.7, 4.8~~ and ~~4.9~~ would be replaced by the following:

4.7. Nonconforming Structures

4.7.1. The regulations under this section does not construe or imply the permitting of the use of a structure declared unsafe by an appropriate governmental authority or the continuation of an establishment declared to be health hazard by an appropriate governmental authority.

4.7.2. Nonconforming structures may continue to exist unchanged indefinitely.

4.7.3. Nonconforming structures within the Flood Hazard Overlay District will also be subject to the regulations of Section 6.8.

4.7.4. Nonconforming structures may undergo normal repair and maintenance without a zoning permit provided that the structure's degree of nonconformity is not increased.

4.7.5. The Administrative Officer may approve the replacement, restoration, or reconstruction of a nonconforming structure after damage or destruction by fire, flood, collapse, explosion, or other similar casualty to its prior condition provided that:

a) the reconstruction does not increase the degree of nonconformity that existed prior to the damage; and

b) a zoning permit is obtained within 12 months of the date the damage occurred.

4.7.6. The Administrative Officer may approve the replacement, restoration, reconstruction, and expansion of a nonconforming structure for reasons other than damage or destruction provided that the structure's degree of nonconformity is not increased.

4.7.7. The Administrative Officer may approve the relocation of a nonconforming structure on the same property provided that the change in location of the structure does not increase the structure's degree of nonconformity.

4.7.8. The Development Review Board may grant Conditional Use Review approval to allow a nonconforming structure to extend, or further extend, into a wetland buffer thus increasing its degree of nonconformity provided that the following conditions are met:

~~a) No part of the structure or any other impermeable surface shall extend into the buffer further than one half (1/2) the required width of the buffer;~~

a) The need and justification for the buffer distance reduction shall be provided;

b) The buffer reduction will not pose any adverse effects to adjacent properties, roads or rights-of-way;

c) Overall, the proposed land development, even with the proposed buffer reduction, will improve the quality and function of the wetland that the buffer protects.

d) The Richmond Conservation Commission shall provide a letter indicating ~~the degree to which the conditions of Section 4.7.8 have been met~~. that they have reviewed the application and are of the opinion that the conditions of 4.7.8 have been met.

4.7.9 Any nonconforming structure shall be deemed discontinued by the Administrative Officer and may no longer be reoccupied if within a continuous period of 12 months any two of the following conditions occur:
a) The structure is unoccupied and not actively offered for sale or rent;
b) Regular maintenance of the structure is not performed; and
c) The structure is not served by activated utilities.

4.7.10. For the purpose of section 4.7, the phrase "degree of nonconformity" shall mean:
a) the square footage that the nonconforming structure's footprint occupies within a required setback, or,
b) the square footage that the nonconforming structure's footprint or any associated impervious surface occupies within a buffer, or,
c) the square footage by which the nonconforming structure exceeds any other required dimensional standard.

4.8 Nonconforming Uses
4.8.1 A non-conforming use may be continued indefinitely provided it remains unchanged.

4.8.2 The structure hosting a nonconforming use may undergo normal repair and maintenance without a zoning permit provided that it does not increase the degree of nonconformity of the use.

4.8.3. The Administrative Officer may approve the replacement, restoration, or reconstruction of a structure hosting a nonconforming use after damage or destruction by fire, flood, explosion, collapse, or other similar casualty to its prior condition provided that

a) the reconstruction does not increase the degree of nonconformity of the use; and
b) a zoning permit is obtained within 12 months of the date the damage or destruction occurred; and
c) all other requirements of the zoning district in which the structure hosting+ the use is located are met.

4.8.4 A nonconforming non-residential use that ceases for 12 or more months shall be deemed discontinued by the Zoning Officer and shall not be permitted to resume. A residential use may be resumed within a legal, vacant structure at any time.

<u>New Definitions (replace current):</u>

Buffer -- a measured zone of naturally occurring vegetation between a natural resource-- including but not limited to a wetland, river, stream, pond or lake-- and the edge of any structure or impervious surface on the lot that protects the ecological functions of a natural resource and minimizes the impacts of adjacent land development and sources of pollution.

Impervious surface – an area of ground which prevents or significantly restricts the penetration of water, including but not limited to buildings, rooftops, pavement, paving stones and compacted gravel or dirt.

(Setback – *same as new definition in vehicle fueling station)*
(Structure – *same as new definition in vehicle fueling station)*

Vehicle Fueling Station clean copy 12.5.21

Definitions:

Vehicle Fueling Station replaces: ~~**Automobile Service Station** – Any building, land area or other premises, or portion thereof, used for the retail dispensing or sales of vehicular fuels; servicing and repair of automobiles and light trucks; and including as an accessory use the sale and installation of lubricants, tires, batteries, and similar vehicle accessories. This definition does not include any other uses, such as restaurants, deli's, car washes, etc. which may only be allowed under separate review and approval under these Zoning Regulations.~~

Vehicle Fueling Station -- Any building, land area, or other premises, or portion thereof, used for the retail dispensing or sales of liquid or gaseous vehicular fuels including, but not limited to, gasoline, diesel, kerosene, ethanol, ammonia, methane (including natural gas), propane, or hydrogen, in addition to the retail dispensing of electric vehicle charge. An Accessory Electric Vehicle Charging Station shall not constitute a Vehicle Fueling Station.-

Powered Vehicle and/or Machinery Service - A commercial establishment, including land and buildings, for which the principal use is the repair and maintenance of powered vehicles and/or machinery. Accessory uses include rebuilding, reconditioning and body shop work; the sale and installation of parts and accessories, and the sale or leasing of no more than 4 vehicles at any one time.

Accessory Electric Vehicle Charging Station – A structure for the free or retail dispensing of electric vehicle charge within an on-street or off-street parking space, or incidental to a residential or commercial building that does not dispense liquid or gaseous fuel.

DC Fast Charger – a battery charger designed for use with commonly available electric vehicles that are capable of receiving direct current (DC) electricity. The DC Fast Charger will comply with Society of Automotive Engineers (SAE) standard J1772 and Underwriters Laboratory standard 2251, or successor standards, and will be rated at a minimum of 50 kilowatts electric power output.

Setback – *[replaces existing]* The distance from a lot line or, if applicable, from the center line of a road or highway right-of-way, to the edge of the building footprint or of any structure on the lot, including the edge of a deck or cantilevered area. The setback provisions of these Zoning Regulations do not apply to fences, accessory electric vehicle charging stations, roof overhangs or signs outside a road right-of-way, except where specifically provided.

Structure – *[replaces existing]* An assembly of materials for occupancy or use, including, but not limited to, a building, mobile home, sign, wall, fence, or storage tank for liquid or gas that is principally above ground. The term structure does not include tanks that are fully underground, septic system components, or impervious surfaces such as driveways or parking areas.

Regulations (new):

4.14 Vehicle Fueling Stations - All Vehicle Fueling Stations must adhere to the following requirements and standards:

4.14.1. Vehicle Fueling Stations may have up to four pumping islands, allowing up to eight vehicles to receive liquid or gaseous fuels at one time.

4.14.2. All Vehicle Fueling Stations shall have at least one DC Fast Charger electric vehicle charging station with a Society of Automotive Engineers (SAE) Combo (also called CCS for "Combo Charging System") connector for public use.

4.14.3. Customary accessory uses for Vehicle Fueling Stations include the retail sales of vehicle accessories; food and beverages prepared for off-premises consumption; and other convenience store items.

Possible Locations

Vehicle fueling station-- C, I/C (no outdoor storage) (***Let's take the area of the Mobil Station out of G and put it into I/C***)

5.10 Requirements for Specific Structures

5.10.1 Accessory Structure - An accessory structure includes any structure that is customarily incidental and subordinate to the principal structure or use on a lot, including but not limited to, fences, walls, barns, sheds, greenhouses, gazebos, patios, accessory electric vehicle charging stations, and free-standing garages. Accessory structures (except for non-structural fences and walls which mark property boundaries, or enclose portions of the property, and are less than 6 feet high, as well as accessory electric vehicle charging stations) shall conform to the setbacks established in the applicable Zoning District, unless a greater setback is required by these Zoning Regulations.

Planning Commission Reporting Form
for Municipal Bylaw Amendments
(Modifications to parts of the Zoning Regulations to clarify development rights for nonconformities, for properties within wetlands, and for EV charging)

This report is in accordance with 24 V.S.A. §4441 (c) which states:

When considering an amendment to a bylaw, the planning commission shall prepare and approve a written report on the proposal. A single report may be prepared so as to satisfy the requirements of this subsection concerning bylaw amendments and subsection 4384 (c) of this title concerning plan amendments...The report shall provide:

(A) Brief explanation of the proposed amendment and...include a statement of purpose as required for notice under §4444 of this title:

This Planning Commission proposal modifies zoning regulations for nonconforming uses and structures, vehicle fueling station uses, electric vehicle (EV) charging stations, vehicle and machinery repair uses, and development within wetlands. The proposal includes the rezoning of a parcel from the Gateway District to the Industrial/Commercial District. The proposal would clarify development rights for properties containing nonconforming uses and structures, and wetlands. The proposal would also further the Town's energy goals by stipulating EV charging station requirements for certain commercial uses.

And shall include findings regarding how the proposal:

1. *Conforms with or furthers the goals and policies contained in the municipal plan, including the effect of the proposal on the availability of safe and affordable housing:*

The Planning Commission concluded that the proposal conforms and furthers the goals contained in the municipal plan by promoting compliance with state statute. Specifically, the Planning Commission cited the following objectives from the 2018 Town Plan:

- Create clear guidelines and information resources for permit applicants, clarifying requirements and steps for permitting and approval.
- Support the installation of private and public electric vehicle (EV) charging stations in convenient locations. Consider installing one at the Town Center, the Park and Ride and along travel corridors.
- Consider requiring EV charging stations for new commercial development.
- Update zoning regulations to include language to clarify permitting requirements for new electric vehicle charging installations and support the ongoing development of this infrastructure.
- Encourage development that protects natural resources and preserves scenic and/or historic character of Richmond
- Utilize the best available science to inform the creation of supplemental land use regulations and maps that would further conserve or protect sensitive natural areas
- Review land use regulations to ensure compliance with all Vermont and federal regulations that provide surface water protection

2. *Is compatible with proposed future land uses and densities of the municipal plan:*

The Planning Commission concluded that the proposed new commercial uses and the proposed locations would be compatible with the 2018 Town Plan. The location of the proposed new commercial uses would be located within the following districts listed in the Future Land Use section of the 2018 Town Plan: Northwest Industrial-Commercial, Gateway, and Villages.

In addition, the Planning Commission concluded that the proposed rezoning of one parcel from the Gateway District to the Commercial/Industrial District would be compatible with future land uses specified in the 2018 Town plan.

Proposed amendments to regulations for nonconforming uses and structures and wetlands would not affect proposed future land uses and densities of the Town Plan.

3. Carries out, as applicable, any specific proposals for any planned community facilities:

The proposed amendments does not carry out any specific proposals for any planned community facilities. In addition, the proposed amendment does not conflict with any proposals for planned community facilities.

Vehicle Fueling Station – Proposed Rationale for Maximum of 4 Pumping Islands -- 11.7.21

In the course of updating and modernizing our vehicle fueling station definition and regulations, we have considered the issue of the number of pumping islands that might be incorporated into such a facility, and concluded that, for Richmond, the maximum number of islands should be four. The reasons for this fall into two categories: scale and energy transition.

Scale is relevant both in reference to the size of our region (Rt 2 corridor), our village, and to the size of the site. This location is not strictly "on" the interstate highway (I-89), although it is accessible from Exit 11, as is the Lucky Spot fueling station nearby on another state road, Rt 117. Fueling stations along Rt 2 between Richmond and Burlington, including at Exits 12 and 14, tend to have 2 – 4 pumping islands, generally in the stacked configuration (if 4). In this corridor, there are 2 stations with 5 pumping islands, both with 3 islands on one side of the convenience store building, and 2 on the other. This configuration reduces the massing effect which would occur if all islands were arranged together. These smaller stations along Rt 2 contribute to the sense that our region is a chain of villages linked by a local road to our small city. For those drivers that exit the interstate seeking fuel, they can feel that they are entering into the world of Vermont villages, even as they enjoy the proximity of the station close to the highway.

The section of Rt 2 between Exit 11 and Richmond's downtown has long been fiercely protected by Richmond citizens from excessive commercialization. Commercial uses have been welcomed, but a maximum footprint size and other restrictions have attempted to prevent "strip development" in this area, and continue to create a village-scale, welcoming, entrance to Richmond from the north and west with a mix of local businesses and housing. We feel that permitting a fueling station that exceeds the size of others in this area does not contribute to the desired village "character of the area."

The third point about scale is that the site itself is a small island created out of a wetland. The proposed design already pushes out into the wetland buffer and extends close to the edge of this island. This does not seem a suitable location for station that is a larger than usual for the region, with less of a buildable area.

The second category, energy transition, speaks to the fact that at the same time as this Mobil application is seeking approval for a 30% increase in gasoline pumping capacity, the state of Vermont is striving to reduce gasoline usage by electrifying a significant portion of our vehicle fleet. Currently, the transportation sector accounts for approximately 40% of greenhouse gas emissions in Vermont. The Global Warming Solutions Act, approved by the Vermont Legislature in 2020, mandates large greenhouse gas reductions by target dates of 2025, 2030 and 2050. The Climate Council is currently nearing completion of the first draft of the Vermont Climate Action Plan, mandated by the GWSA and due December 1, 2021, which includes, as a high priority, replacing a large portion of the cars on the road with electric vehicles. The LEAP modelling completed by the consultant (Cadmus) indicates that to meet the mandated goals, the EV share of automobile sales in Vermont needs to be 40% by 2025 and >80% by 2030. There is a serious commitment in this state to address the climate crisis, and even if we cannot get to these numbers, there will be, at the very least, significant movement in this direction.

The Mobil station applicant has clearly acknowledged this projected trajectory by committing to the installation of 3 DC fast charging EV chargers at the renovated station. As the Planning Commission has only recommended that a single fast charger be required at any new or renovated fueling station within Richmond, we applaud this applicant for thinking further ahead to this coming electrification. Since EV's will be replacing gasoline vehicles, we feel that the need for additional gas pumping islands will decrease rather than increase over the next decade. The 8 pumps plus the 3 chargers will allow a total of 11 vehicles to be fueled at any one time, which is an increase over the current situation.

Gateway – Initial Plan and Timeline – 12.27.21

Goals

1. Proposed zoning amendment by June 2022 (10 PC meetings)
2. Meet anti sprawl criteria of 9L
3. Maintain attractive village-scale entrance to Richmond with design criteria aka form-based elements
4. Provide additional housing +/- affordable housing with some green space amenities within walking distance (Willis Hill Preserve, other)
5. Mixed use to accommodate existing and planned commercial uses, but not sprawl
6. Work on bike/ped access to and within district

Activities

1. Discussion with residents of district,
2. possibly whole work session with Reaps, to discover their goals
3. Discussion with other concerned citizens
4. PC work sessions (with help, if available) to:
   - Arrive at design elements
     - Identify ideas for parking, curb cuts, internal circulation
     - Develop a design charrette for folks to visualize an initial set of Ideas
     - Look at similar towns' approaches to "gateways"
5. Develop initial set of ideas
   - Allowances for residential uses
   - Density for residential uses
   - Dimensional standards in the Gateway District to encourage pedestrian-oriented development
   - Permitting processes to streamline applications for mixed use development
   - Use development standards that would encourage multistory buildings
   - Site layout standards to encourage the consolidation of access to Route 2 and shared parking across
   - Develop design criteria
6. Public meeting(s) to present initial ideas
7. Refinement of amendments

Related activities:

8. Rewrite PUD section to be **required** for development of any lot over certain size; subdivision into multiple lots; other criteria
9. Rewrite adaptive use section to clarify and serve current needs

Proposed timeline:

Outreach (1,2,3) – Jan – Feb
Develop the vision (4, 5) – Mar
Visualize vision (6) – Apr
Review draft that evolves: achieves the vision? (7) – May

Public hearing and to SB – June
CCRPC help for visualization and draft if process extends into July-Aug (FY23)

STATE OF VERMONT – NATURAL RESOURCES BOARD
ACT 250 CRITERION 9(L) GUIDANCE

This Guidance was adopted by the Natural Resources Board on March 8, 2016, effective March 15, 2016, and supersedes the Criterion 9(L) Procedure adopted on October 14, 2014 (effective October 17, 2014).

Disclaimer: The following provides technical assistance on Act 250 Criterion 9(L) (settlement patterns), 10 V.S.A. § 6086 (a)(9)(L)[1] (effective June 1, 2014). Examples and figures in this guidance material are for illustrative purposes only.

10 VSA § 6086 (9)(L)

Settlement patterns. To promote Vermont's historic settlement pattern of compact village and urban centers separated by rural countryside, a permit will be granted for a development or subdivision outside an existing settlement when it is demonstrated by the applicant that, in addition to all other applicable criteria, the development or subdivision:

(i) will make efficient use of land, energy, roads, utilities, and other supporting infrastructure; and

(ii) (I) will not contribute to a pattern of strip development along public highways; or

(II) if the development or subdivision will be confined to an area that already constitutes strip development, will incorporate infill as defined in 24 V.S.A. § 2791 and is designed to reasonably minimize the characteristics listed in the definition of strip development under subdivision 6001(36) of this title.

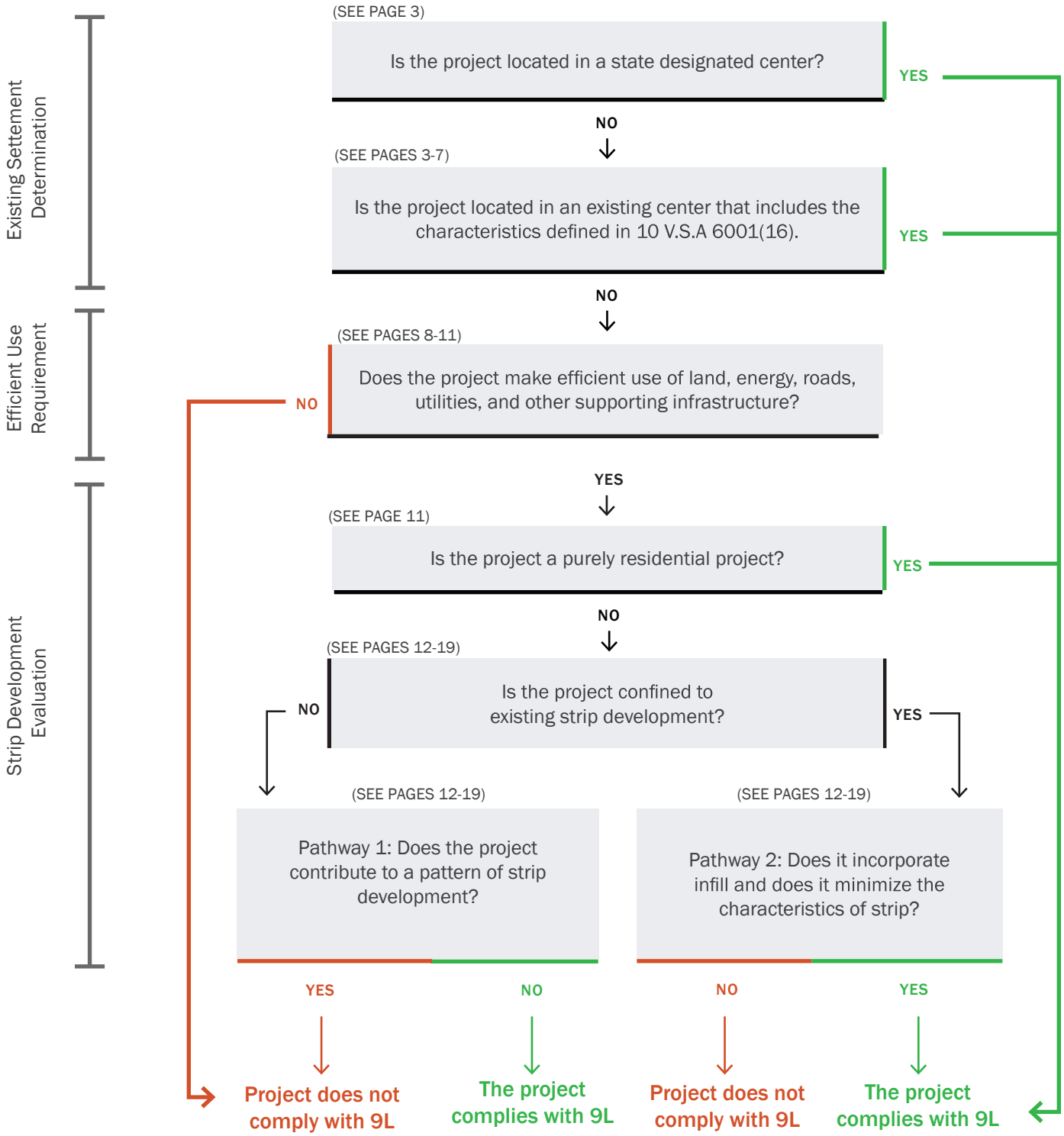
Guidance Overview

This guidance was developed using a collaborative process involving a number of stakeholders representing diverse interests pursuant to the Legislature's mandate (2015 Acts & Resolves No. 51, Sec. 5F.) This document is intended to help District Commissions, Act 250 applicants and concerned citizens understand the key concepts involved in the analysis and interpretation of the terms adopted by the Legislature, and to provide a mechanism that will help to insure consistency among the District Commissions regarding the Criterion 9(L) analysis. The information provided in the guidance is based on literature in the fields of land use planning and urban design, as well as evidence grounded in data and examples from Vermont. Ultimately the courts will issue decisions that interpret the statute. The document is divided into 3 sections:

1) Existing Settlement Determination
2) Efficient Use Requirement
3) Strip Development Evaluation

Hyperlinks included throughout this document have been included as footnotes for the benefit of anyone reading a paper copy of the guidance.

STATE OF VERMONT
NATURAL RESOURCES BOARD
GUIDANCE: CRITERION 9(L) FLOWCHART



Existing Settlement Determination

The first step is to determine whether the project is in an "existing settlement" as defined by statute. If a project is within an existing settlement, it complies with 9(L) and no further 9(L) analysis is required. If a project is not in an existing settlement, it can comply with 9(L) by meeting the efficient use requirement and, if applicable, satisfying the strip development evaluation (see proceeding sections of the guidance.) The burden of proof is on the applicant to establish that the project is in an existing settlement.

The definition of an existing settlement is found in 10 VSA 6001 (16.)[1] A project is considered to be inside an existing settlement if **either**:

1. The project is located inside a *designated center. A designated center means an area that is designated by the state pursuant to 24 V.S.A. chapter 76A[2] as a Downtown Development District, Village Center, Growth Center, New Town Center, Vermont Neighborhood or Neighborhood Development Area.* There are over 150 state designated centers in Vermont. Click here: http://smartgrowth.vermont.gov/ and enter the address of the development to determine if the project is located in a state designated center;

   OR

2. The project is located inside an area that meets the following definition: *An existing center that is compact in form and size; that contains a mixture of uses that include a substantial residential component and that are within walking distance of each other; that has significantly higher densities than densities that occur outside the settlement; and that is typically served by municipal infrastructure such as water, wastewater, sidewalks, paths, transit and public parks or greens*.

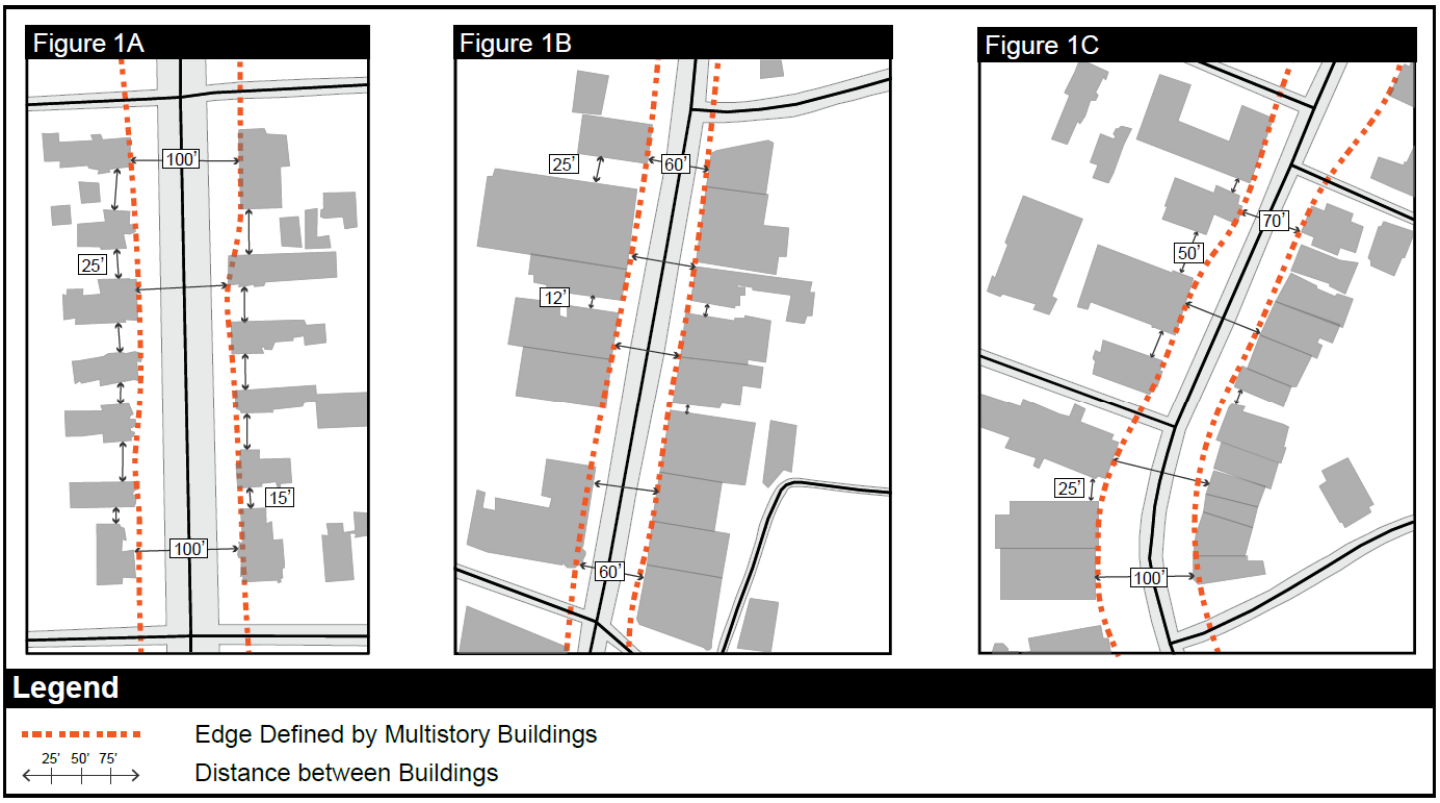
Guidance on how to evaluate whether or not an area has all of the elements of an existing settlement outside of a designated center is provided below. It should be noted that areas just outside the boundaries of state designated centers are often existing settlements, as they tend to be residential areas adjacent to commercial cores that include the four characteristics of existing settlements and thus meet the definition in statute. Existing settlements are not limited by political boundaries. Municipalities may have multiple existing centers.

Element #1 - An existing center that is compact in form and size.

Compactness as it relates to the built form of centers is a concept that has been present in land use planning and urban design literature for over half a century. The characteristics of a compact center include: relatively high density, mixed land uses (such as residential/commercial/civic/recreation etc.), opportunities for social interaction, and contiguous building patterns designed to encourage walking and cycling. An area that is compact should feel comfortable for pedestrians. Compact centers should generally have roads with speed limits of 30 miles per hour or slower, as faster roads are more dangerous for pedestrians. Streets should have clear and consistent edges defined predominantly by the placement of multi-story buildings close to the street, with few gaps between them, and that are architecturally oriented to pedestrians by having front doors facing the street[3,4].

[1] http://legislature.vermont.gov/statutes/section/10/151/06001
[2] http://legislature.vermont.gov/statutes/chapter/24/076A
[3] Campoli, J. (2012) *Made for Walking,* Cambridge, MA: Lincoln Institute of Land Policy
[4] United States Department of Transportation (2009) *Speed Concepts: Informational Guide*

FIGURE 1 (A, B & C): Compact form at different scales. The images below depict the building footprints that have clear and consistent edges defined by multistory buildings that are close to the street, have few gaps between them and have front doors oriented to pedestrians.



Figures 1A, 1B, and 1C depict typical building patterns that are compact in form for small, medium and larger Vermont municipalities. While communities may be vastly different in scale, streets within their existing settlements have consistent edges defined by multi-story buildings that are close to the street. There are some differences between the spacing of buildings in small villages and bigger centers, as one can see in the different examples provided in Figure 1. Occasional gaps, parks, waterways and topographic features typically provide breaks in the pattern. Figure 2 includes streetscape photos that show compact form within a medium sized downtown and a small village.

FIGURE 2: Compact form in a Vermont downtown and village.

Compact size as it relates to centers is a highly relative concept, especially in a state like Vermont where they can be as small as a country store, a post office, school or church, and a cluster of homes or as large as downtown Burlington and its surrounding area. Small towns, like Townshend, may have centers that are approximately 30 acres in size and less than half a mile from end-to-end. Bristol, a medium sized town has a center that is 1.3 miles across and 230 acres in size. Vermont's largest existing settlement (Burlington's downtown and surrounding area) is over 2.5 miles across and nearly 2000 acres in size. Most centers in Vermont are on the smaller end of that size range.

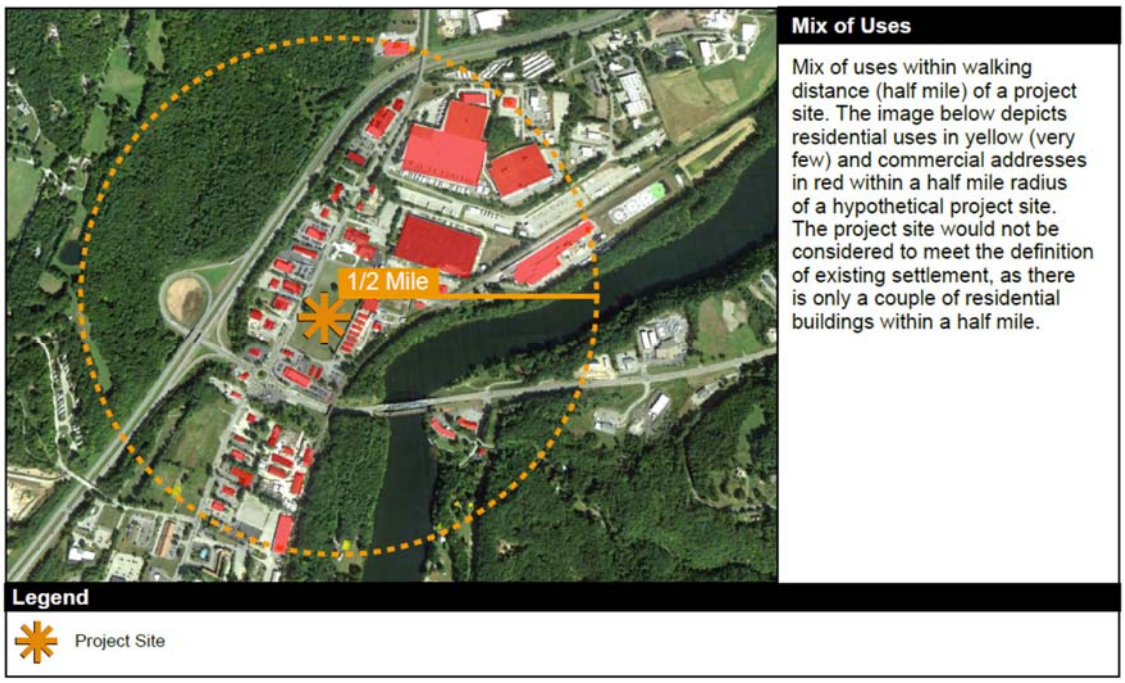
Element #2. An existing center that contains a mixture of uses that include a substantial residential component and that are within walking distance of each other.

An existing settlement includes a blend of retail, office, civic, institutional, cultural and recreational uses, as well as a substantial residential component. Human settlements have traditionally been built with a mix of different uses which reduces distances between where people live, work and access services.

To determine what a 'substantial residential component' was, we examined concentrated centers across Vermont and analyzed the building use types within them and within walking distance. The method we used to perform this analysis involved calculating the percentage of residential structures inside and within a quarter mile of the village centers and half mile of downtowns. These areas include a wide diversity of centers across Vermont, including some without centralized water and wastewater facilities. A minimum of 50% of habitable buildings in those areas are residential and the median % of residential structures is 76%. Based on this finding, this guidance recommends that a 'substantial residential component' is 50% or more.

The planning profession has consistently defined walking distance to be between one quarter and one-half mile. The vast majority of existing settlements in Vermont fit within a quarter mile radius of their commercial centers, while larger centers extend about a half mile from their commercial cores. One method of assessing whether or not there are a mix of uses with a substantial residential component within walking distance is to examine the ratio of uses within a half mile radius. If fewer than 50% of structures within a half mile of project are residential, the project is unlikely to be in an existing settlement as it may not qualify as having a substantial residential component.

FIGURE 3: Mix of uses within walking distance (half mile) of a project site. The image below depicts residential and commercial buildings within a half mile radius of a hypothetical project site. The project site would not be considered to meet the definition of existing settlement, as there is only one residential building within a quarter mile.

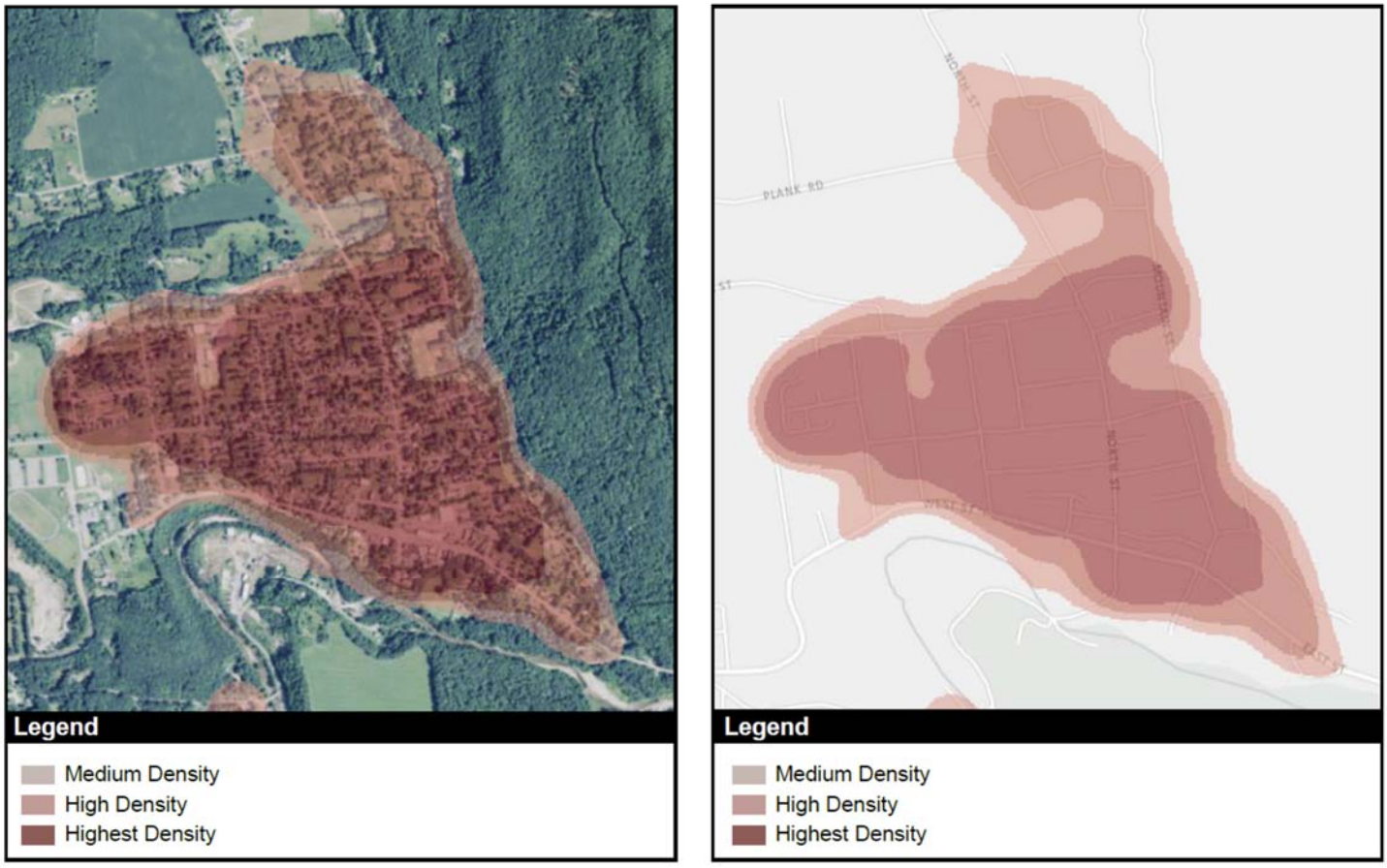


Element #3. An existing center that has significantly higher densities than densities that occur outside the settlement

Density can be measured in many different ways, such as the number of people, floor area or housing units per unit of area. Considering the different scales of settlements in Vermont, what qualifies as 'higher density' will vary considerably. The net neighborhood residential densities for existing centers in Vermont can range from over 20 units an acre in areas of Burlington to close to 1 unit an acre in smaller villages. Vermont's Neighborhood Development Area designation program requires that bylaws allow for a minimum of 4 units an acre and the program's design guidelines[5] include a definition for net residential density and a methodology for calculating it.

While many density calculations can be complex and challenging, one type of density that can be measured statewide with relative ease is E-911 point density, which is based on the street addresses of buildings. The 'Density of Habitable Structures' layer[6] depicted on the ANR Natural Resources Atlas[7] illustrates building densities throughout Vermont and can help assist in determining if the density of an area is significantly higher than surrounding areas. This approach can easily help illustrate if a project is located in an area of higher density (See Figure 4). The 'Density of Habitable Structures' is a statewide layer available for viewing on the ANR Natural Resources Atlas.

FIGURE 4: Screen shot of the 'Density of Habitable Structures' layer on the ANR Natural Resources Atlas. The areas shaded in pink represent areas that have higher densities of E-911 points, with the darkest shade representing the highest density. The image on the left depicts the density layer over an orthophoto while the photo on the right includes the road network of the same area.



[5] http://accd.vermont.gov/strong_communities/opportunities/revitalization/vermont_neighborhoods
[6] The 'Density of Habitable Structures' layer was created using July 2015 EmergencyE911_ESITE data in ArcMap and included all habitable buildings in a kernel density analysis with an output cell size of 10 meters and search radius of 200 meters).
[7] http://anrmaps.vermont.gov/websites/anra/

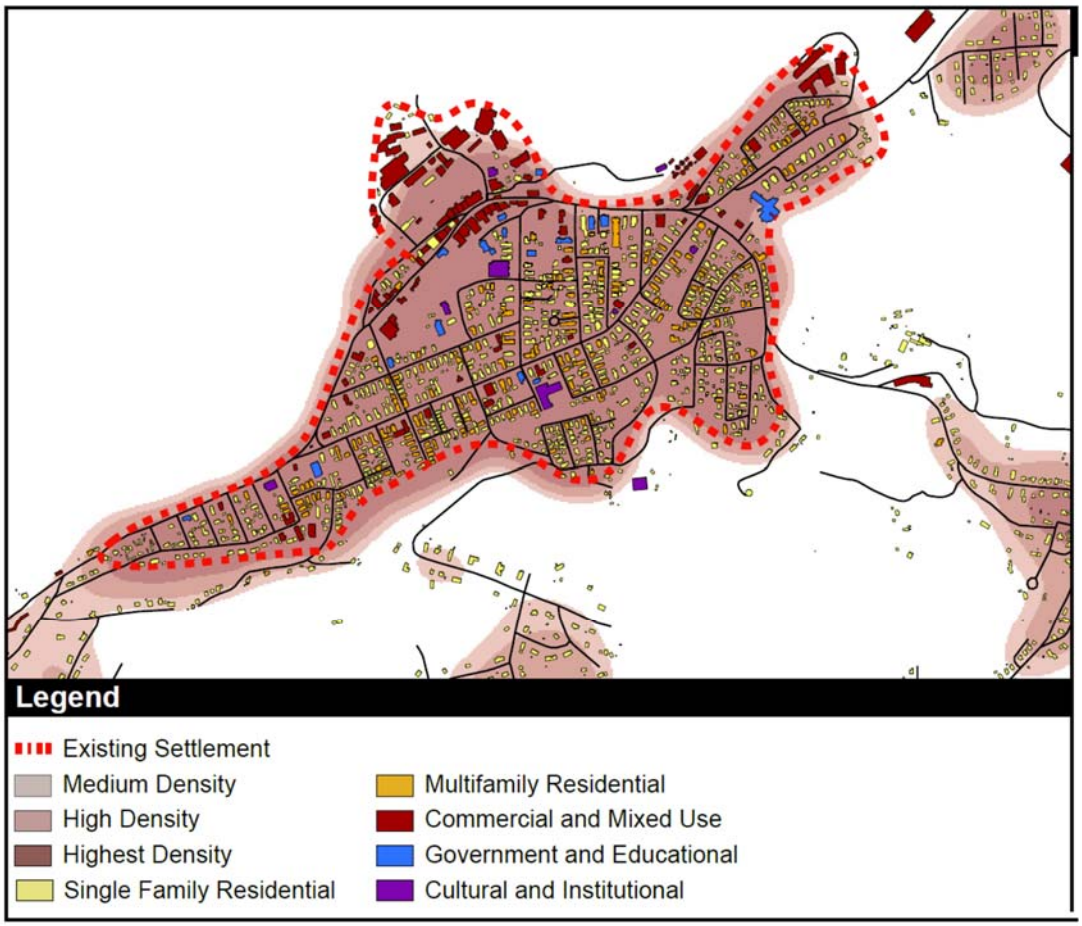
Element #4. An existing center that is typically served by municipal infrastructure such as water, wastewater, sidewalks, paths, transit, parking areas, and public parks or greens.

Evaluate the area to see if this municipal infrastructure is present. While no single one is determinative, areas without at least some of this municipal infrastructure are unlikely to qualify as existing settlements. Smaller existing settlements will be less likely to have all of these types of infrastructure.

Looking at the elements together.

Putting together the information described in the above mentioned four elements can be helpful in determining whether or not a project is located within an existing settlement. Figure 5 presents the area of an existing settlement by overlaying the building density, building footprints and uses for an area that is serve by all the infrastructure listed in Element #4. Buildings are predominantly multi-story buildings, close to the street, have few gaps between them and most are architecturally oriented to pedestrians by having front doors facing the street. Building densities are in the 'high' or 'highest' range on the data layer available on the Natural Resources Atlas. Speed limits within the area are 30 mph or lower, with the exception of a short segment of highway that has a speed limit of 35 mph. Residential structures in the area represent 79% of habitable buildings and all are within a half mile from the commercial core of the settlement. The edges of the settlement coincide with a sustained break in the building pattern.

FIGURE 5: An existing settlement boundary that is a center with compact form, significantly higher density than the surrounding area, and a mix of uses within half mile radius of the commercial core for an area served by a diversity of municipal infrastructure.



If a project is within an existing settlement, it complies with 9(L) and no further 9(L) analysis is required. If a project is not in an existing settlement, it can comply with 9(L) by meeting the efficient use requirement and, if applicable, by satisfying the strip development evaluation.

Efficient Use Requirement

If a project is outside an existing settlement, statute requires that the project must make efficient use of land, energy, roads, utilities and other infrastructure. Purely residential projects that meet the efficient use requirement comply with criterion 9(L). Commercial projects that meet the efficient use requirement must be reviewed under the 'strip development evaluation' section of the guidance beginning on page 10.

Projects that include the extension of utilities such as sewer, water, or power beyond areas already serviced, or where there are vacant lands between the proposed project and an existing settlement, must include evidence that the area is planned for growth and that the expansion is necessary to make efficient use of the land and will help minimize characteristics of strip development. Areas where municipal utilities will be expanded beyond existing service areas should be limited to those areas that municipalities have planned for growth where long term fiscal impacts associated with maintenance and eventual replacement of the infrastructure have been considered.

What will qualify as "efficient use" of the land, energy, roads, infrastructure, utilities and other infrastructure will vary widely and depend on the context of the property in relation to neighboring developed, undeveloped, and planned spaces, the nature of the use, the topography and existing natural features of the site. For example, what is considered an efficient layout for industrial uses that require a turnaround for large trucks and loading docks will be different than mixed-use retail, office and residential building.

General strategies to increase efficient use include:

- consolidating and coordinating utilities;
- consolidating and coordinating access;
- mixing uses, such as residential, office and retail;
- multistory buildings;
- clustering development;
- minimizing off street parking and using shared parking;
- using on street parking, which generally utilize half the space of off-street lots;
- planning to accommodate future development;
- design that fosters a grid network of roads;
- redeveloping existing buildings and site;
- minimizing setbacks;
- building energy efficient structures;
- integrating renewable energy generation.

Several examples of projects that make 'efficient use' and others that do not are provided below. The examples are provided to highlight some of the above mentioned points and each reflect their unique circumstances.

FIGURE 6: Efficient Use – Residential, Office and Retail Example

Project includes 122 dwelling units, 55,200 square feet of retail and 26,000 square feet of office on 16 acres of land with 3300 linear feet of road. The project redevelops a driving range and effectively mixes uses, uses on-street parking, shared parking, minimizes setbacks, connects to adjacent water and wastewater infrastructure, connects to an adjacent neighborhood, accommodates future connections, consolidates access to an arterial road and is served by public transit. All buildings in the project are multi-story.

Legend

- Commercial Mixed Use
- Multi-family Residential
- Two-family Residential

FIGURE 7: Inefficient Use – Residential and Office Example

Development includes 175 single family homes and 50,657 square feet of single story office on approximately 300 acres. 17,000 linear feet of road and approximately 6 times the amount of public water and sewer infrastructure as the mixed use project above. The project does not include: shared parking, on-street parking, shared access, accommodate future development, or connect the residential and commercial development.

FIGURE 8: Efficient Use – Industrial Example

Project is industrial park that includes approximately 500,000 square feet of manufacturing space on 60 acres. The park has 2600 linear feet of road with private communal community water and sewer. The buildings were built over time and range from 18,400 to 100,000 square feet – with the option of subdividing buildings down to 2,500 square feet with shared use of loading docks. The uses are limited to those industrial in nature allowing for minimized setbacks and parking.

FIGURE 9: Inefficient Use – Industrial and Office Example

Project includes 485,540 square feet of commercial space on 125 acres with 7245 linear feet of road. Public water and sewer were extended to to serve the project. The inclusion of office use in the park is setback from manufacturing uses. Some parking area were overbuilt and the layout does not make efficient use of the land area. Future expansions were not planned.

FIGURE 10: Efficient Use – Residential, Office and Retail Example

Project includes approximately 300,000 square feet of commercial space on and several hundred housing units on 16 acres. The project is a redevelopment of a strip mall that effectively mixes uses, uses on-street parking, shared parking in a parking garage, minimizes setbacks, connects to adjacent water and sewer pipes, connects to an adjacent neighborhood and is served by public transit.

FIGURE 11: Inefficient Use – Office Example

Project includes 300,000 square feet of office space on 56 acres of open space in 7 single story buildings. There is no shared parking, on-street parking, or connections to adjacent lands. Municipal water and sewer lines are extended 3,000 feet from the existing service area to the property and 6,500 new linear feet of roads are included in the project.

If a project does not make efficient use of land, roads, utilities and other infrastructure, it does not comply with 9(L). Purely residential projects that meet the efficient use requirement comply with criterion 9(L). Non-residential projects that meet the efficient use requirement must be reviewed under the 'strip development evaluation.'

Strip Development Evaluation

If a commercial project is outside existing settlement, but does make efficient use of land, roads, utilities and other infrastructure, an applicant must then demonstrate compliance with criterion 9(L) by showing that the project **either**:

> *(I) will not contribute to a pattern of strip development along public highways;*
>
> ***or***
>
> *(II) if the development or subdivision will be confined to an area that already constitutes strip development, will incorporate infill as defined in 24 V.S.A. § 2791 and is designed to reasonably minimize the characteristics listed in the definition of strip development under subdivision 6001(36) of this title.*

These are two separate pathways for satisfying 9(L). If one pathway is satisfied, a District Commission is not required to make findings regarding the other pathway. Projects that are confined to areas of existing strip development have the option of being evaluated under pathway 2, whereas projects that are outside of areas of existing strip development should be evaluated under pathway 1. The burden of proof is on the applicant to establish that at least one of the pathways is satisfied.

Because an understanding of the definition and characteristics of strip development is necessary under both pathways, the two pathways are described in detail following the explanation of the definition and characteristics of strip development.

DEFINITION OF STRIP DEVELOPMENT

Strip Development is defined in 10 V.S.A. 6001(36)[8]:

> *Strip development means linear commercial development along a public highway that includes three or more of the following characteristics: broad road frontage, predominance of single-story buildings, limited reliance on shared highway access, lack of connection to any existing settlement except by highway, lack of connection to surrounding land uses except by highway, lack of coordination with surrounding land uses, and limited accessibility for pedestrians. In determining whether a proposed development or subdivision constitutes strip development, the District Commission shall consider the topographic constraints in the area in which the development or subdivision is to be located.*

The first component of the definition states that strip development is "linear commercial development along a public highway."

"Linear commercial development" means development that is arranged along a road and lacks depth or additional layers of development away from the primary road.

"Commercial" is defined for purposes of Act 250 as "the provision of facilities, goods or services by a person other than for a municipal or state purpose to others in exchange for payment of a purchase price, fee, contribution, donation or other object or service having value."

"Public highway" is defined under Vermont law as "only such as are laid out in the manner prescribed by statute; or roads which have been constructed for public travel over land which has been conveyed to and accepted by a municipal corporation or to the State by deed of a fee or easement interest; or roads which have been dedicated to the public use and accepted by the city or town in which such roads are located; or such as may be from time to time laid out by the Agency or town. However, the lack of a certificate of completion of a State or town highway shall not alone constitute

[8] http://legislature.vermont.gov/statutes/section/10/151/06001

conclusive evidence that the highway is not public. The term "highway" includes rights-of-way, bridges, drainage structures, signs, guardrails, areas to accommodate utilities authorized by law to locate within highway limits, areas used to mitigate the environmental impacts of highway construction, vegetation, scenic enhancements, and structures…" 19 V.S.A. §1 (12).

The seven characteristics of strip development and examples of how a project can minimize them are listed below. Suggested ways to minimize the characteristics are included because they are relevant to Pathway II, discussed below.

Statute requires that the District Commission consider topographic constraints when evaluating whether or not a project is strip development, as the topography may make it impossible to avoid certain characteristics of strip development. An example of topographic constraint that may necessitate a characteristic of strip development is a steep ravine that prevents a connection to an adjacent property. Figure 16, below the listed characteristics, depicts a project that includes all seven characteristics of strip and Figure 17 illustrates an example of an infill project that has minimized characteristics of strip development.

A project is considered strip development for purposes of Act 250 if it includes three or more of the following characteristics:

1) Broad road frontage. Buildings or parking lots that extend along the highway, lack depth and have large side setbacks exhibit broad road frontage.

   Minimizing this characteristic: Adding new buildings in large parking areas and creating new streets and sidewalks that shorten block length is an approach to minimize this characteristic. In order to minimize this characteristic, parking lots should also be reoriented so that they do not dominate the frontage; for example, by adding on street parking relocating parking lots to the side or rear of the building (see Figure 12 A & B).

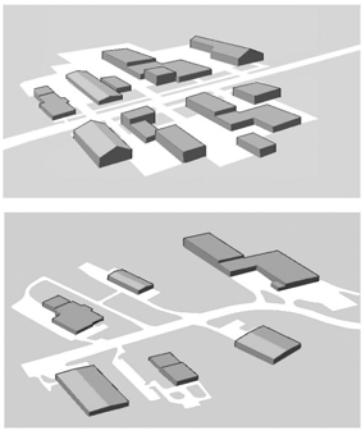
FIGURE 12 A & B: Infill project minimizing broad road frontage. Adding new multistory buildings to a large parking area in front of a strip mall breaks up broad road frontage and adds depth to the development.

2) Predominance of single-story buildings. If a majority of structures in a project are single story, the project exhibits a predominance of single-story buildings. Note that second story façades simulating two stories should not count as multi-story.

   Minimizing this characteristic: Construction of multi-story buildings or the addition of a second-story to existing buildings could minimize the predominance of single-story buildings. Locating multi story buildings in front of single story buildings can also help minimize this characteristic (see Figure 13 A & B).

3) Limited reliance on shared highway access. (i.e. exclusive access driveway). If the primary access to the project is directly onto the highway and if that access does not serve any surrounding development, the project exhibits limited reliance on shared highway access.

FIGURE 13: Shared highway access vs exclusive access drives.



Minimizing this characteristic: Closing existing curb cuts, consolidating accesses or connecting access with surrounding properties are approaches to minimize this characteristic (see Figure 13), as is providing shared access for multiple uses on a single property. Another way to minimize or avoid this characteristic is to reserve access for future development or redevelopment on adjoining properties. The District Commission should also consider access management plans and official maps adopted by local communities in accordance with Title 24, Chapter 117 to help determine the applicability of this characteristic.

4) Lack of connection to any existing settlement except by highway. If there are no sidewalks or other pedestrian multi-use infrastructure that connect a development to an existing settlement, the development displays this characteristic.

Minimizing this characteristic: Building a path or sidewalk connecting the project to an existing settlement would minimize this characteristic. On-street parking, where appropriate, can be part of a pedestrian friendly development and may minimize this characteristic. Depending on the nature of the project and the surrounding area, a plan for future pedestrian infrastructure may suffice to minimize this characteristic, provided that the design allows for connections and there is a reasonable likelihood that a connection to the existing settlement will be achieved in a reasonable timeframe based on municipal plans, plans of other developers, or similar factors.

5) Lack of connection to surrounding land uses except by highway. There is a lack of connection to surrounding land uses if one must drive back onto a highway in order to access a neighboring property. This characteristic considers the immediately surrounding area, while characteristic 4 considers the area between the proposed project and the nearest existing settlement.

Minimizing this characteristic: Providing pedestrian and bicycle access to adjacent properties is one way to increase connectivity. Another way to minimize or avoid this characteristic is to reserve access for future development or redevelopment on adjoining properties.

6) Lack of coordination with surrounding land uses. If the site layout of a property fails to consider its surroundings or doesn't anticipate future connections to surrounding properties – the project may lack coordination with surrounding land uses. This characteristic includes consideration of the built environment as well as the surrounding landscape and topography. Coordination with surrounding land uses does not mean that uses and building sizes need all be the same or similar, diversity does not mean lack of coordination. Some uses, such as heavy industrial or warehousing may not be compatible with other uses, such as residential, and thoughtful separation between them may be needed.

Minimizing this characteristic: Building or redeveloping a site in accordance with a plan for the area such as a regional or municipal plan is likely to minimize this characteristic. A plan should show how the area will develop over time, connecting properties and minimizing other strip characteristics.

7) Limited accessibility for pedestrians. If there aren't any pedestrian walkways separated from vehicular traffic that connect the sidewalk on the highway with the front door(s) of the development, the project has limited accessibility for pedestrians (see Figure 15).

Minimizing this characteristic: Minimizing this characteristic could include siting a building next to the street, orienting the front door to pedestrians and placing parking lots on the side or the rear of the building (see Figures 14 & 15). Walkways should connect pedestrians to transit stops, street crossings, buildings and store entry points, and central features and community spaces on or adjoining the site. Pedestrian infrastructure may take a different form in rural areas. On street parking can increase pedestrian accessibility by providing a buffer between walkways and moving traffic.

FIGURE 14: The upper image shows buildings closer to the street, with trees to serve as a buffer between pedestrian areas and traffic, with parking in the rear. The lower image is less accessible for pedestrians because they must cross the parking area to get to the building and there is little or no buffer between the pedestrians and traffic.

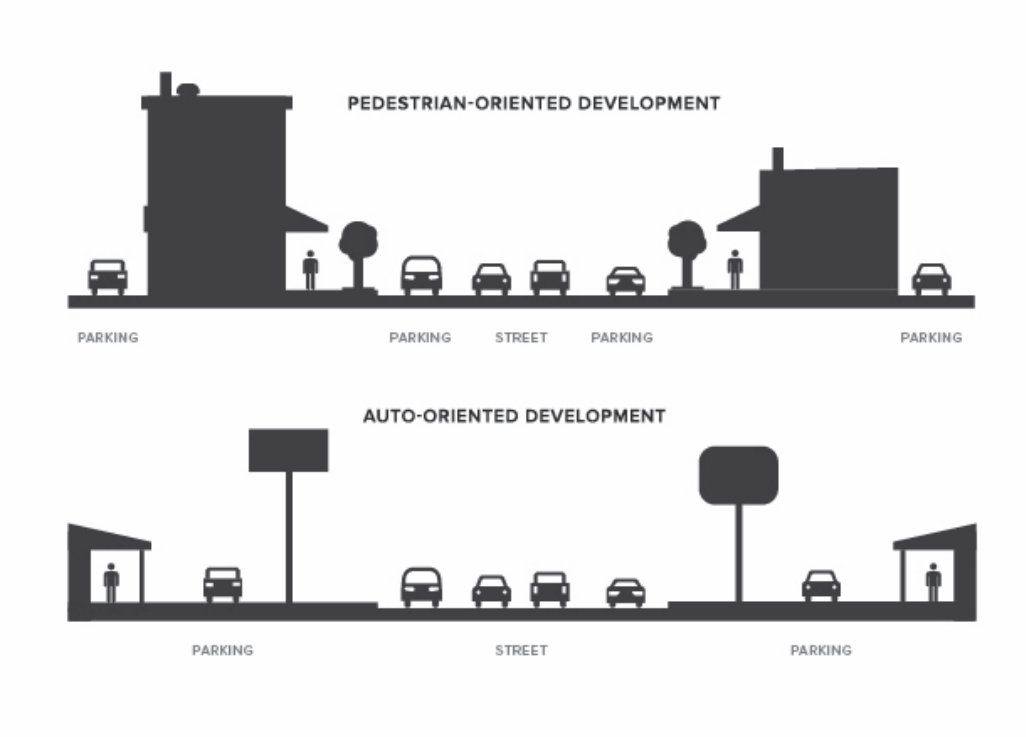
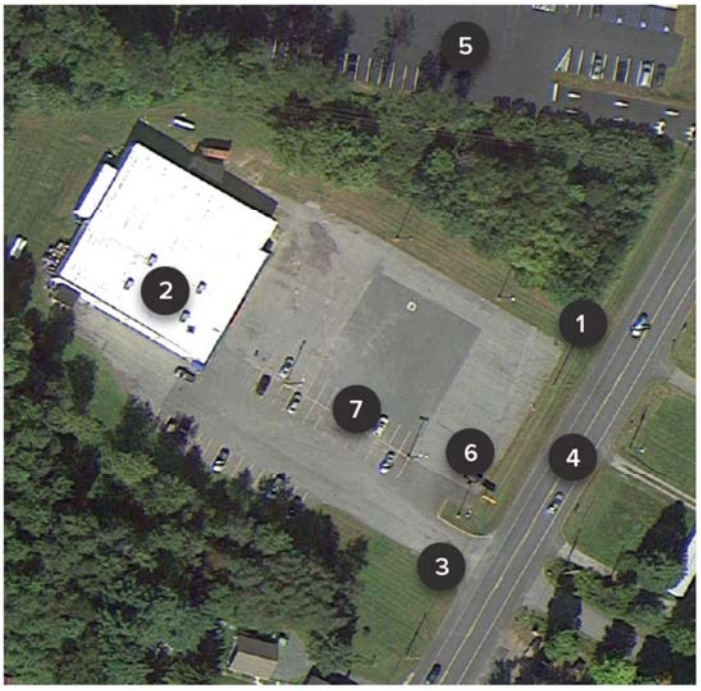


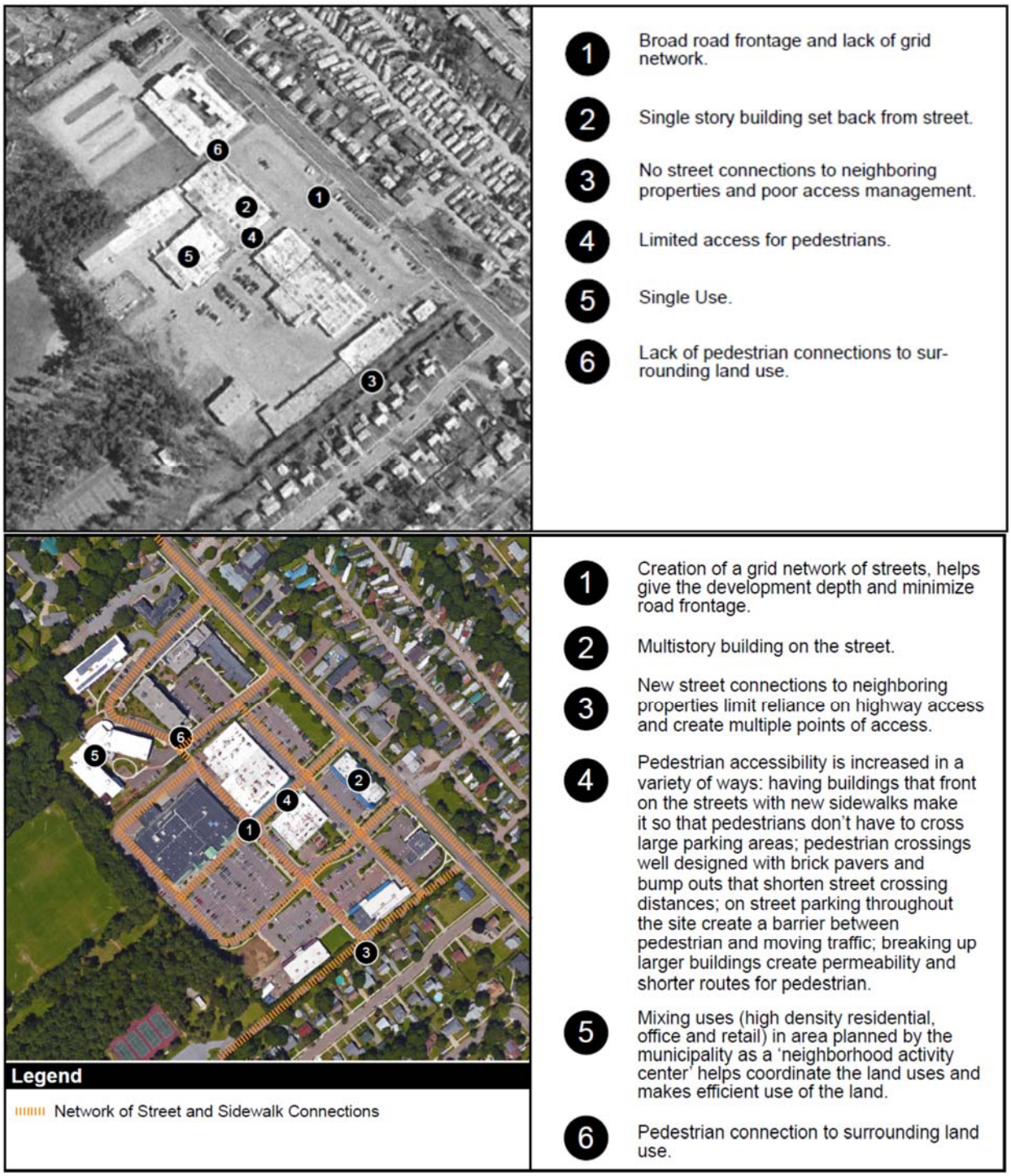
FIGURE 15: The development depicted below includes a multistory grocery store and retail building, both designed with entrances that are oriented to pedestrians and convenient to those using the parking lot.

FIGURE 16: Retail store that exhibits all 7 characteristics of strip development



1. Broad road frontage
2. Single story
3. Exclusive access drive
4. Lack of connection to existing settlement except by highway
5. Lack of connection to surrounding land uses except by highway
6. Lack of coordination with surrounding land uses
7. Limited accessibilty for pedestrians

FIGURE 17: Example[9] of infill project that minimizes some characteristics of strip development.



Analyzing whether or not a project is in an area of strip development will first help determine whether or not pathway 1 or pathway 2 is appropriate for a project. Projects that are confined to areas of existing strip development have the option of being evaluated under pathway 2, whereas projects that are outside of areas of existing strip development should be evaluated under pathway 1.

[9] Example used in Julie Campoli analysis for application #1R0948

PATHWAY I: THE PROJECT WILL NOT CONTRIBUTE TO A PATTERN OF STRIP DEVELOPMENT.

In determining whether a project will contribute to a pattern of strip development, the first question to ask is whether or not the project is strip development. For purposes of Act 250, a project constitutes strip development if it is linear commercial development along a public highway and has three or more of the seven characteristics of strip development (described on pages 11-13 of this document). If a project does not constitute strip development on its own and makes efficient use of land, energy, roads, utilities and other infrastructure, it is less likely that it will contribute to a pattern of strip development.

If a project does constitute strip development, the next question is whether or not there are circumstances that make the project more or less likely to contribute to a pattern of strip development. The context and character of the area, including configuration of the surrounding buildings, roads, parking, undeveloped spaces, and other uses on the land creates a "settlement pattern." "Settlement pattern" is different than site design, which is limited to the project site. In addition to the project use and design, the context of the surrounding settlement pattern is a factor to consider in evaluating whether or not project circumstances will contribute to a pattern of strip development.

Even if a project exhibits some of the characteristics of strip development, there may be circumstances where it does not contribute to a pattern of strip development. Generally, these circumstances are where the development is not likely to attract other types of commercial development that will contribute to a pattern of strip development. The following are factors which may result in a finding by a District Commission that a project will not contribute to a pattern of strip development:

- If the properties surrounding the project tract are conserved lands that are unable to be developed and the underlying zoning limits commercial development of these properties. Examples could include a winery, country inn, or cross country ski center.
- If the project is located within an industrial park[10].
- If the project is designed to have limited visibility from a public highway, does not use water or wastewater infrastructure and will not generate significant traffic. An example of this would be a self-storage facility.
- If the project is a use that contributes to and supports Vermont's working lands economy. Such projects traditionally fit into the rural landscape and traditional part of Vermont's countryside. Examples include sawmills or other forest products related facilities, stock yards, feed stores, agricultural processing facilities, small engine repair and agricultural or forestry equipment repair or supply.

Other circumstances may make a project likely to contribute to a pattern of strip development. Some uses, such as office, restaurants and retail uses are likely to attract additional linear commercial development. Projects containing any of these uses that are designed to include at least three characteristics of strip development are more likely to contribute to a pattern of strip development and therefore will not likely comply with 9(L).

Projects that do not meet the definition of strip development are less likely to contribute to a pattern of strip development and would therefore be more likely to comply with 9(L).

[10] The definition of industrial park in statute is "an area of land permitted under this chapter that is planned, designed, and zoned as a location for one or more industrial buildings, that includes adequate access roads, utilities, water, sewer, and other services necessary for the uses of the industrial buildings, and includes no retail use except that which is incidental to an industrial use, and no office use except that which is incidental or secondary to an industrial use 10 VSA 6001(37)."

PATHWAY II: IF A PROJECT IS CONFINED TO AN AREA THAT ALREADY CONSTITUTES STRIP DEVELOPMENT, COMPLIANCE WITH 9(L) MAY BE DEMONSTRATED IF THE PROJECT INCORPORATES INFILL AND IS DESIGNED TO REASONABLY MINIMIZE THE CHARACTERISTICS OF STRIP DEVELOPMENT.

A project is "confined to" existing strip development if it is surrounded by strip development on both sides of the project along the same side of the public highway, not merely near other strip development or in an area of scattered development or sprawl. Consistent with legislative intent, the "confined to" requirement ensures that this provision can apply only to sites fully within existing strip development, to guard against leapfrog development, rural sprawl, and any extension of existing strip.

FIGURE 18: Example of an area confined to existing strip development. The area outlined in red represents the area confined to existing strip development. Construction or development with in this area would be considered 'infill'.

If a project is confined to strip development the next question to ask is whether it incorporates infill. Infill is defined as "the use of vacant land or property within a built-up area for further construction or development" 24 V.S.A. § 2791[11]. An area that is confined to existing strip development is considered to be built up, therefore further construction or development in an area confined to strip should be considered infill.

If a project is confined to existing strip development and constitutes infill, the next step is to consider whether or not the project minimizes the characteristics of strip development. Refer to the seven characteristics described on pages of this document to help determine if the characteristics of strip development are being minimized.

Projects that are confined to strip development and minimize the characteristics of strip development comply with 9(L).

[11] http://legislature.vermont.gov/statutes/section/24/076A/02791

References & Background Information

Criterion 9(L)'s underlying goal of promoting Vermont's traditional settlement pattern of compact centers surrounded by working lands is rooted in state planning policy that dates back to "Vision and Choice: The Vermont state framework plan" produced in 1968 by the Vermont Planning Council. For a history of Vermont's commitment to promoting a traditional settlement pattern of compact centers surrounded by working lands refer to these publications:

Report of the Smart Growth Committee (2009)
- Committee created by Act 176 of the 2007 Legislative Session

Vermont by Design: Challenges and Recommendations on Improving the Structure of Planning in Vermont (2006)
- Vermont Council on Planning

Vermont Interstate Interchange Planning & Development Design Guidelines (2004)
-Department of Housing and Community Development (DHCD)

Status Report: 15 Years After Act 200 (2003)
-Department of Housing and Community Development (DHCD)

Legislative Council Staff Report on Mechanisms to Address the Issue of Cumulative Growth(2002)
- Alan Boright

History of Planning in Vermont (1999)
-Department of Housing and Community Development (DHCD)

Report of the Governor's Commission on Vermont's Future: Guidelines for Growth (1988)
-Commission established by Governor Kunin by Executive Order No. 50 in 1987

Vision and Choice: Vermont's Future, The State Framework Plan (1968)
-Vermont Planning Council

Richmond Zoning Regulations Updating and Reorganization Plan 12.27.21

For discussion and potential approval in concept at Jan. 5th meeting

Goals:

- Update structure
- Make document consistent with current state language
- Reduce redundancy
- Arrange more logically so it is easier to find related concepts that have been tacked on over the years; makes it easier to use by both planners and public

- Update concepts
- Make document consistent with 2018 Town Plan
- Make consistent with new state legislation and regulations
- Streamline some procedures
- Definitions are updated/modernized.

Proposed structure:

Current document is reorganized into 5 sections:

1. Establishment and Applicability of Zoning Regulations
2. Zoning Base Districts and Overlay Districts
3. Development and Performance Standards
4. Administrative Procedures
5. Definitions and Maps