

Town of Richmond
Planning Commission Meeting
AGENDA

Wednesday, February 16th, 2022, 7:00 PM
Online via Zoom

PLEASE NOTE: In accordance with Act 78, this meeting will be held online and conference call via Zoom only. You do not need a computer to attend this meeting. You may use the "Join By Phone" number to call from a cell phone or landline. When prompted, enter the meeting information provided below to join by phone.

For additional information about this meeting, please contact Ravi Venkataraman at 802-434-2430 or at rvenkataraman@richmondvt.gov.

The Zoom online meeting information is as follows:

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
 - February 2nd, 2022
5. Public Input Session on the Gateway District
6. Other Business, Correspondence, and Adjournment
 - Follow up on discussion on proposed zoning amendments to vehicle fueling station uses, wetlands and nonconforming uses and structures

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4. Approval of Minutes

- Page 3: February 2, 2022 Planning Commission Meeting Minutes

5. Public Input Session on the Gateway District

- Page 8: Gateway Outreach Discussion Document, prepared by Virginia Clarke
- On standalone documents:
 - “2-16-22_UpperGatewayMap.pdf” – Map of upper portion of Gateway area
 - “2-16-22_LowerGatewayMap.pdf” – Map of lower portion of Gateway area

6. Other Business, Correspondence, and Adjournment

- Page 9: Memo on Proposed Zoning Amendments to Wetlands, Vehicle Fueling Station uses, and Nonconforming Uses and Structures – Overview of proposed changes to the regulations and of procedures
- Page 11: Markup version of proposed Zoning Regulations
- Page 22: Clean version of proposed Zoning Regulations
- Page 31: Municipal Bylaw Amendment Report
- On standalone documents:
 - “CurrentZoning.pdf” – Map of current zoning map of the Exit 11 area
 - “ProposedZoning.pdf” – Map of proposed zoning map of the Exit 11 area

Richmond Planning Commission
REGULAR MEETING MINUTES FOR February 2, 2022

Members Present:	Virginia Clarke, Mark Fausel, Lisa Miller, Chris Granda, Alison Anand, Dan Mullen, Chris Cole,
Members Absent:	Joy Reap,
Others Present:	Ravi Venkataraman (Town Planner/Staff), MMCTV, David Rugh, Tom Frawley, Huseyin Sevincgil,

1. Welcome and troubleshooting

Virginia Clarke called the meeting to order at 7:02 pm.

2. Public Comment for non-agenda items

None

3. Adjustments to the Agenda

Clarke said that item 5 will include any comments and questions related to the Town Attorney's comments in general, and not limited to his comments regarding wetlands.

4. Approval of Minutes

No comments. The minutes are accepted into the record as written.

5. Discussion regarding proposed wetlands regulations

Clarke said that the discussion topic is related to the amendments under consideration for the public hearing and that the focus of the topic is to review the draft amendments with Town Attorney David Rugh of Stitzel, Page, and Fletcher, P.C. Clarke said that the commission may not be ready to forward the draft amendments to the Selectboard during this meeting, and that the commission may need to warn another public hearing based on the comments it receives and the revisions it needs to make.

David Rugh introduced himself to the commission, and overviewed the topic of wetlands regulations in Vermont. Rugh said that with wetlands, when local regulations conflict with state rules and the determinations the state and the municipality for permit applications differ, it can become fodder for litigation. Rugh said that the State Wetlands Rules have been revised twice in the last three to four years and that it will be revised again this year. Rugh recommend that the commission keep in mind the updated regulations when it prepares the town's wetlands regulations.

Clarke suggested that Ravi Venkataraman present the draft regulations Rugh had annotated, added that the commission will need to decide on which districts the vehicle fueling station use and powered machinery/repair use will be allow, and said that Venkataraman had included suggested districts to include the aforementioned uses in his submittal to Rugh for review.

Clarke pointed to Rugh's comment on discontinuing nonconforming structures, and said that his suggestion to remove the subsection seemed reasonable. Rugh said that his suggestion is based on what statute allows for the discontinuance of nonconforming structures versus nonconforming uses.

Clarke moved to Rugh's comment about the town's inability to require DC fast chargers with vehicle fueling station uses, and pointed to his suggestion of incentivizing the installation of DC fast chargers. Clarke said that in her interpretation the town is allowed to require the installation of DC fast chargers with the vehicle fueling station use per statute. Chris Granda asked if Rugh's comment regarding takings is specific to Vermont. Rugh said that the comment is Vermont-specific and that incentivizing electric vehicle chargers would be safer from legal challenge compared to a requirement. Rugh added that in response to Clarke's reference to statute, he does not find an electric vehicle charger to be a renewable energy resource. Granda said that he agrees with Clarke that the EV charger should be a requirement, adding that the commission shouldn't do something just because it would get legally challenged. Rugh said that he would like to see in statute the authority in municipalities to require the development of EV charging stations and that that authority currently does not exist in statute. Granda suggested to Venkataraman that the town may want to reach out to Curt McCormick, who Granda believes is still the chair of the house committee on transportation, on the EV charging station requirement issue. Chris Cole asked for clarification on Rugh's point regarding takings. Rugh referred to a recent supreme court case from California in which the U.S. Supreme Court found that requiring union representatives access to farmworkers constitutes a physical taking under the fifth amendment. Rugh said that takings traditionally meant a government's encroachment onto private property and that the town's requirement for an EV charging station could be read as a taking. Cole said that the proposed requirement wouldn't be a taking because it would only apply to gas stations that are looking to redevelop. Rugh said that this requirement would apply to all gas stations and any proposed new gas stations. Granda asked if the takings rule would apply to health and safety equipment. Rugh said that it would not apply to traditional government entry onto private property, including health and safety.

Mark Fausel asked about the possible language for the incentive and suggested requiring an EV charging station for vehicle fueling station uses with more than two pumping islands. Rugh said that Fausel's suggested language differs from an incentive and that it would be less likely to be challenged. Granda proposed a limit to a single gas pump at a vehicle fueling station and the incentive to build additional gas pumps for every EV charging station built. Rugh recommended more flexibility in the incentive language as more flexibility would reduce the likelihood of a legal challenge. Granda asked if there was an issue on limiting the number of liquid fueling pumps. Rugh said that he is unsure about that aspect, citing the case law surrounding gas stations from the early to mid-2000s, and adding that he could look into the subject matter. Clarke asked for Rugh to look into this subject.

Clarke suggested that the commission discuss on its own the limits on the number of seats for the vehicle fueling station use.

Clarke overviewed the wetlands regulations topic, and the town's current wetlands regulations. Clarke asked if the town could request an applicant's state wetlands permit when an applicant applies for a permit for development within a wetland or wetland buffer. Rugh suggested replacing the term "feasible" with "practicable" as "practicable" is used in the State Wetlands Rules. Rugh said that even though statute does not specify the town's authority to request a Conditional Use Determination from the state, there is little chance that the requirement to provide a Conditional Use Determination would be

challenged because an applicant would have to obtain a Conditional Use Determination for developing within wetlands or wetland buffers anyways.

Alison Anand asked Rugh to point out aspects in the draft regulations that are susceptible to a challenge. Rugh said that he is concerned about DRBs making decisions that are not consistent with the state's rules and that this difference may lead to legal challenges because the state wetlands division is staffed with scientists compared to DRBs, which means that DRBs are more likely to base a decision on a personal belief compared to the scientific basis of the decisions the state wetlands staff would apply. Anand asked if specific aspects of the draft regulations are inconsistent with the state wetlands rules. Rugh said he is more concerned about the possible outcomes rather than the specific rules in the draft regulations, citing an example in which a town faced a legal challenge for regulating Class III wetlands and decided to settle by deferring to the state's determinations.

Cole said he supports keeping the term "feasibility" in the draft regulations. Rugh said that there is case law stating that using "feasible" alone is not a clear enough regulatory standard in zoning regulations, and that the term "feasible" has to be further qualified.

Clarke thanked Rugh for his time and said that the commission may submit revised draft zoning documents for his review at a later date.

6. Public Hearing – Proposed zoning amendments to wetlands, vehicle fueling station, and nonconforming structures and uses

Motion by Cole, seconded by Granda, to open the public hearing. Voting: unanimous. Motion carried.

Clarke asked the public for comments. Tom Frawley praised the commission's efforts so far on the draft zoning regulations, and said that the commission should consider the impacts of requiring EV charging to the businesses because the rate of return of the EV charger compared to the cost of installation is low. Granda asked if Frawley is proposing any changes to his plans to install a DC fast charger. Frawley said that he is not and that he is concerned about the smaller gas station businesses.

Clarke asked Frawley about the limits on seating and whether a maximum seating of eight would fit his needs. Frawley suggested linking the number of seating to the square footage of the site or building space.

Fausel said he was concerned about opening up the possibility of sit-down dining. Clarke said that further discussions about sit-down dining and the Gateway are needed.

Frawley asked about allowances to replace existing septic systems located within wetlands and wetland buffers. Clarke affirmed that replacing existing septic systems within wetlands and wetland buffers would be allowed, and cited the reference to allowances for nonconforming structures in the draft zoning document. Huseyin Sevincgil suggested adding a clarification for the allowance to replace existing septic systems and clearing up a typo in the draft zoning regulations.

Clarke asked Frawley about the proposed limitation to four pumping islands. Frawley said that they will move forward with their plans with respect to this limitation, and that he has concerns about the traffic impacts the limitation will have for his site.

Lisa Miller said she had concerns about the regulations force fitting EV chargers in locations that would not have as much usage as a home would. Granda said that most users would not need an EV fast charger on a regular basis, that EV fast chargers would be used by users on long-distance travel, that he cannot provide comment on the business of EV fast chargers, and that he expects EV fast charging equipment to become cheaper over time. Clarke said that additional funding opportunities for creating EV chargers may come up in the near future.

Dan Mullen said he would like to discuss with the commission Rugh's comments regarding takings. Clarke overviewed Rugh's recommendations for incentives, and the Town Plan's energy goals. Mullen said that he doesn't buy into the argument regarding takings based on his understanding of constitutional law. Venkataraman said that he has heard of other municipalities and regional planning push for requiring EV charging stations for multifamily dwellings and that he needs to research whether EV charging stations could be required. Venkataraman also said that based on the statutory definition of renewable energy resources, he does not find an EV charger to qualify under the statute Clarke referenced. Granda supported Rugh's suggestion of an incentive-based system, and placing the limit for fuel-dispensing islands so low that a developer would be strongly encouraged to install an EV charging station. Cole said that he would prefer to have the EV charging station as a requirement, and recommended reaching out to the house transportation committee to include the EV charging station requirement into statute. Clarke asked if Granda had an objection to requiring the EV charging station. Granda said that he did not.

Clarke asked the commission about the seating limitation, clarifying that the seating limitation would not apply to the Gateway District because the commission intends to rezone the Mobil gas station. Clarke added that she would be in support of allowing for some seating in the convenience store portion of vehicle fueling station uses, as she understood that the accessory use is for people on the road and would not detract from businesses within the village. Cole concurred, adding that "fast charging" takes 20 minutes and that he appreciated the convenience of buying food when on the road. Fausel noted the strong pushback against allowing restaurants and fast food in discussions in past years regarding zoning regulations for the Gateway District, and supported allowing limited seating for vehicle fueling station uses. Clarke said that the allowance for restaurants in the Gateway District will be discussed at a later time. Anand said she appreciated being able to buy food while fueling her vehicle when traveling. Mullen said that based on his understanding the draft language does not forbid seating. Clarke said that currently the draft language may be read as too ambiguous. Cole suggested adding language that would allow for on-premise and off-premise consumption. Clarke said that the suggestion doesn't address whether or not tables and chairs would be allowed to enable on-premise dining. Venkataraman said that the issue at hand was that the commission had to define to what extent was seating "customary" in the context of a vehicle fueling station use. Cole said that it was up to the DRB to determine the limit of "customary". Clarke said that she will work on a revision and present it to the commission at a later date.

Clarke added that the commission will need to discuss where the vehicle fueling station and powered vehicle/machinery repair uses will be allowed, as well as the zoning map itself.

Motion by Cole, seconded by Granda, to close the hearing.

Venkataraman asked if the commission would like to continue the public hearing. Cole asked if the commission could accept public comments after the public hearing. Venkataraman said that it depends whether there will be additional comments that will need to be part of the record. Cole said that in this

case and context, he does not anticipate the need to keep the public hearing open for additional comments into the record. Fausel said that from his recollection, the commission will need to decide on whether it should forward the proposed zoning amendments to the Selectboard, and that if the commission will make changes to the proposal, it would need to warn a public hearing. Venkataraman said that the commission can close the hearing, make changes to the draft zoning amendments, and vote to forward the draft zoning amendments to the Selectboard at any time after the public hearing is closed. Venkataraman added that the general rule of thumb is that if the commission plans to make changes outside of the section headers it initially warned, the commission should warn another public hearing, and that the commission has a certain degree of flexibility in making changes to the draft zoning amendments at this point.

Cole suggested warning a public hearing to move the process forward. Venkataraman asked if the commission wants to make any changes outside of what was initially warned or discussed during the meeting. Clarke said no.

Voting: unanimous. Motion carried.

7. Other Business, Correspondence, and Adjournment

Clarke overviewed the Town of Hinesburg's proposed zoning amendments, and the Gateway District public input session during the next Planning Commission meeting.

Venkataraman said that the bicycle/pedestrian master plan public meeting is next Wednesday at 5:30 pm, and that people can provide comments via the Wikimap tool and physical maps at the library and Town Offices.

Motion by Granda, seconded by Miller to adjourn the meeting. Voting: unanimous. Motion carried. The meeting adjourned at 9:09 pm.

Respectfully submitted by Ravi Venkataraman, Town Planner

Gateway – outreach discussion document – 2.8.22

As part of the Planning Commission’s updating of the zoning regulations to reflect the 2018 Town Plan, we are currently looking at the “Gateway Commercial” Zoning District. The recent approval of the expansion of the water and sewer district into this area accelerated our efforts to plan for the Gateway. After an introductory discussion amongst the planning commissioners, we are now starting our **outreach** program.

Goal for PC meetings 2/16/22 and 3/2/22: listen to residents of the district and others about their vision, needs, desires and concerns for the area

General **planning goals** proposed by the Planning Commission for this area:

- Avoid commercial “strip development”
- Retain attractive, village scale entrance to Richmond village
- Add modest amount of housing and commercial opportunities to Richmond
- Position Richmond to expand water and sewer district to Exit 11 commercial area and Riverview Common if/when needed in the future
- Utilize extra capacity of Richmond sewage treatment plant
- Consider different strategies that would achieve shared goals for the area

Where we are now – 2 possible outcomes:

1. Sewer line is extended to the Mobil station
 - Expansion vote passed
 - Bond vote must pass
 - Act 250 must approve
 - Water line may or may not be extended (now or as future project)
 - Willis Farm and Mobil are added as capacity users -- water line desirable
 - Failing systems of current residents improved by municipal connections
 - More development enabled along Gateway, including more housing – water line needed
 - Planned development (=/- official map) of Gateway desirable

2. Sewer line is not extended to Mobil station
 - Bond vote fails
 - Act 250 denies permit
 - Willis Farm gets private sewer line from municipal line to schools
 - Mobil station drills under I-89 for septic system
 - Gateway still remains somewhat at risk for strip development under current zoning, but less so than if sewer is extended (private water and sewer capacity limited)

TO: Planning Commission

FROM: Ravi Venkataraman, Town Planner; and Virginia Clarke, Planning Commission Chair

DATE: February 11, 2022

SUBJECT: Proposed Zoning Amendments to Wetlands, Vehicle Fueling Station uses, and Nonconforming Uses and Structures

Summary List of Proposed Changes to the Zoning Regulations

In summation, listed are the significant proposed changes to the Zoning Regulations

- Addition of Vehicle Fueling Station Uses to the Commercial and Industrial/Commercial Zoning Districts
- Addition of Powered Vehicle and/or Machinery Service to the Commercial, Village Commercial, Industrial/Commercial, Gateway, and Residential/Commercial Zoning Districts
- Removal of references to “Automobile Service Station”, “Garage, Repair”, and “Garage, vehicle repairs and service”
- Clarification of rights for nonconforming uses and nonconforming structures
 - Per the recommendations of the Town Attorney, regulating discontinuing nonconforming structures has been removed. Regulating discontinuing nonconforming uses is still proposed
- Use standards for Vehicle Fueling Station uses, including:
 - A limit to four pumping islands that dispense liquid and gaseous fuel
 - A requirement to install at least one DC Fast Charger electric vehicle charging station
 - Allowances for accessory uses such as convenience stores, and for the allocation of 20 percent of the floor space within a building containing the accessory use for seating
- Allowances for development within wetlands and wetland buffers upon the provision of a state wetlands permit and a permitting process with the Town
- Allowances for expansion of nonconforming structures into wetlands and wetland buffers provided a state wetlands permit and a permitting process with the Town
 - This allowance is per the Town Attorney’s recommendations for regulating development within wetlands and wetland buffers
 - This iteration of the draft zoning regulations removes the burden of technical assessments and decision making on the Conservation Commission and the DRB, and places priority on the decisions the State Wetlands Program staff scientists render. Simultaneously, the draft regulations signal to applicants that the Town regards wetlands as important
 - The Town Attorney recommended requiring a State Wetlands Permit for a local permit.
- Definitions for “Accessory Electric Vehicle Charging Station”, “DC Fast Charger”, Powered Vehicle and/or Machinery Service”, “Vehicle Fueling Station”, and “Wetland Buffer”
- Modifications to the definitions for “Impervious Surface”, “Setback”, “Structure”, and “Wetland”
 - This iteration incorporates the Town Attorney’s recommendations for definitions for “Impervious Surface”, “Structure”, and “Setback”
- Deletion of definitions for “Automobile Service Station”, and “Garage, Repair”

- Rezoning the parcel containing the Mobil gas station from the Gateway Commercial Zoning District to the Industrial/Commercial Zoning District
 - This proposal is different from the draft zoning map initially proposed, which proposed rezoning the Park and Ride area and the parcel containing the Mobil gas station from the Gateway Commercial Zoning District to the Industrial/Commercial Zoning District. Rezoning only the parcel with the Mobil gas station is based on the Town Attorney's recommendations.

Process and Procedure

At this point, the Planning Commission may edit the draft amendments and the bylaw amendment report as needed based on the input provided during the public hearing.

When the Planning Commission has finalized the documents, it will need to approve the municipal bylaw amendment report and move to provide the proposed amendments for the Selectboard's consideration. The Planning Commission does not have a deadline after the public hearing to provide the documents to the Selectboard.

To facilitate action, I have prepared a draft motion:

I, _____, move to approve the enclosed Municipal Bylaw Amendment Report and forward to the Selectboard proposed amendments to the following sections of the Richmond Zoning Regulations: 3.3.2, 3.4.2, 3.5.2, 3.6.2, 3.7.2, 4.7, 4.8, 4.9, 4.10, 4.11, 4.12, 4.13, 5.10, 6.9, 7, and Appendix A1.

Proposed Zoning Regulations – Markup – 2/11/22

3.3 Residential / Commercial District (R/C)

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3.3.2 Allowable Uses Upon Issuance of Conditional Use Approval - The following uses shall be allowed in the R/C District upon issuance of a conditional use approval by the DRB. Unless otherwise provided, only one principal use, with its accessory structures, may be approved on any one lot.

- a) Adaptive uses as provided in Section 5.6.8.
- b) Artist/Craft studio.
- c) Cemetery.
- d) Cottage industry as provided in Section 5.6.7.
- e) Day care center.
- f) One multi-family dwelling with three or four dwelling units.
- g) Extraction of earth resources as provided in Section 5.6.6.
- h) Funeral parlor.
- i) Inn or guest house.
- j) Museum.
- k) Office, Business.
- l) Office, Professional.
- m) Personal service business.
- n) Planned Unit Development, which may be a Planned Residential Development, as provided in Section 5.12, if no subdivision of land is proposed (see Section 5.12.1).
- ~~n)p)~~ Powered Vehicle and/or Machinery Service
- ~~e)p)~~ Outdoor recreational facility or park.
- ~~p)q)~~ Religious or educational facility as provided in Section 5.10.4.
- ~~q)r)~~ Restaurant, standard.
- ~~r)s)~~ Retail business.
- ~~s)t)~~ Retirement community.
- ~~t)u)~~ State- or community-owned and operated facilities, to the extent allowed by Section 5.10.4.
- ~~u)v)~~ Agriculture, silviculture and horticulture, as provided in Section 2.4.5.
- ~~v)w)~~ Veterinary Clinics

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3.4 Gateway Commercial District (G)

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3.4.2 Allowable Uses Upon Issuance of Conditional Use Approval - The following uses, with accessory structures, may be allowed in the G District after issuance of conditional use approval by the DRB.

- a) Adaptive use as provided in Section 5.6.8.
- b) Amusement arcade.
- c) Artist/Craft studio.
- ~~d) Automobile service station.~~
- ~~e)d)~~ Bank.
- ~~f)e)~~ Business yard.
- ~~g)f)~~ Catering service.
- ~~h)g)~~ Cemetery.
- ~~i)h)~~ Cottage industry as provided in Section 5.6.7.
- ~~j)i)~~ Day care center.
- ~~k)j)~~ Dwelling, single-family attached to a principal structure approved for a permitted or conditional use.

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- h)k) Dwelling, two-family
- m)l) Dwelling, multi-family with three or four dwelling units.
- n)m) Educational or religious facility as provided in Section 5.10.4.
- o)n) Extraction of earth resources as provided in Section 5.6.6.
- p)o) Food processing establishment.
- q)p) Funeral parlor.
- ~~r) Garage, repair.~~
- s)q) Group home, as provided in Section 5.11.
- t)r) Hotel or motel.
- u)s) Inn or guest house.
- v)t) Kennel
- w)u) Light Manufacturing.
- x)v) Multi-use commercial building with uses from this section or 3.4.1.
- y>w) Museum.
- z)x) Offices, Business.
- aa)y) Offices, Professional.
- bb)z) Personal services.
- aa) Planned Unit Development, which may be a Planned Residential Development, as provided in Section 5.12, if no subdivision of land is proposed (see Section 5.12.1).
- ee)bb) ~~Powered Vehicle and/or Machinery Service~~
- dd)cc) Private club.
- ee)dd) Recreation, indoor or outdoor facility or park.
- ff)ee) Research laboratory.
- gg)ff) Retail business associated with light manufacturing with a maximum size of 3,000 square feet.
- hh)gg) Retirement community.
- ii)hh) State- or community-owned and operated institutions and facilities, to the extent allowed by Section 5.10.4.
- jj)ii) Tavern, provided that it is associated with an onsite distillery, brewery, or winery.
- kk)jj) Agriculture, silviculture and horticulture, as provided in Section 2.4.5.
- ll)kk) Veterinary Clinics

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3.5 Village Commercial District (V/C)

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3.5.2 Allowable Uses Upon Issuance of Conditional Use Approval - The following uses may be allowed in the V/C District after issuance of conditional use approval by the DRB. Unless otherwise provided, only one principal use, with its accessory structures, may be approved on one lot.

- a) Adaptive use as provided in Section 5.6.8.
- b) Bank.
- c) Catering service.
- d) Commercial multi-use building.
- e) Business yard.
- f) Educational facility as provided in Section 5.10.4.
- g) Equipment supply and/or rental.
- h) Funeral parlor.
- ~~i) Garage, vehicle repairs and service.~~
- j)i) Group home.
- k)j) Hotel or motel.
- l)k) Light manufacturing
- m)l) Lumber yard / Building supply business.

- m) Planned Unit Development as provided in Section 5.12, if no subdivision of land is proposed (see Section 5.12.1).
- n) Powered Vehicle and/or Machinery Service
- o) Private club.
- p) Recreation, indoor or outdoor, facility or park.
- q) Research laboratory.
- r) Restaurant, fast food or take-out.
- s) Retirement community.
- t) Rooming or boarding house.
- u) State- or community-owned and operated institutions and facilities, to the extent allowed by Section 5.10.4.
- v) Storage, outdoor as an accessory use to any permitted or conditional use.
- w) Tavern.
- x) Veterinary Clinics
- y) Wholesale trade.
- z) Dwelling Units as part of a Planned Unit Development.
- aa) Agriculture, silviculture and horticulture as provided in Section 2.4.5.

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3.6 Commercial District (C)

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3.6.2 Allowable Uses Upon Issuance of Conditional Use Approval - The following uses may be allowed in the C District after issuance of conditional use approval by the DRB. Unless otherwise provided, only one principal use, with its accessory structures, may be approved on one lot:

- a) Adaptive use as provided in Section 5.6.8.
- b) Amusement arcade.
- c) Automobile and/or marine sales.
- ~~d) Automobile service station.~~
- e) d) Bank.
- f) e) Business yard.
- g) f) Car wash.
- h) g) Catering service.
- i) h) Commercial multi-use building.
- j) i) Distribution Center.
- k) j) Educational facility as provided in Section 5.10.4 .
- l) k) Equipment supply and/or rental.
- m) l) Extraction of earth resources as provided in Section 5.6.6.
- n) m) Funeral parlor.
- ~~o) Garage, vehicle repairs and service.~~
- p) n) Group home.
- q) o) Hotel or motel.
- r) p) Light manufacturing
- s) q) Lumber yard / Building supply business.
- r) Planned Unit Development as provided in Section 5.12, if no subdivision of land is proposed (see Section 5.12.1).
- t) s) Powered Vehicle and/or Machinery Service
- u) t) Private club.
- v) u) Recreation, indoor or outdoor, facility or park.
- w) v) Research laboratory.
- x) w) Restaurant, fast food or take-out.
- y) x) Retirement community.

- z)y) Rooming or boarding house.
- aa)z) State- or community-owned and operated institutions and facilities, to the extent allowed by Section 5.10.4.
- bb)aa) Storage, outdoor as an accessory use to any permitted or conditional use.
- bb) Tavern.
- cc) Vehicle Fueling Station
- dd) Veterinary Clinics
- ee) Warehouse Use.
- ff) Wholesale trade.
- gg) Agriculture, silviculture and horticulture, as provided in Section 2.4.5.

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3.7 Industrial / Commercial District (I/C)

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3.7.2 Allowable Uses Upon Issuance of Conditional Use Approval - The following uses, with accessory structures, may be allowed in the I/C District after issuance of conditional use approval by the DRB.

- a) Adaptive use as provided in Section 5.6.8.
- b) Amusement arcade.
- c) Automobile and/or marine sales and/or service business.
- ~~d) Automobile service station.~~
- e)d) Commercial multi-use building
- f)e) Bank.
- g)f) Business yard.
- h)g) Communications, telecommunications, as provided in Section 6.12.
- i)h) Extraction of earth resources as provided in Section 5.6.6.
- ~~j) Garage, vehicle repairs and service.~~
- k)i) Hotel or motel.
- l)j) Kennel.
- m)k) Light manufacturing.
- n)l) Lumber yard or building supply business.
- o)m) Mobile home sales business.
- p)n) Outdoor storage as an accessory use to in connection with any conditional or permitted use.
- o) Planned Unit Development as provided in Section 5.12, if no subdivision of land is proposed (see Section 5.12.1).
- q)p) Powered Vehicle and/or Machinery Service
- r)q) Private club.
- s)r) Recreation facility, outdoor or indoor.
- t)s) Research laboratory.
- u)t) Restaurant, fast-food or take-out.
- v)u) Restaurant, standard.
- w)v) Retail business.
- x)w) Storage, indoor.
- y)x) State- or community-owned and operated institutions and facilities, to the extent allowed by Section 5.10.4.
- z)y) Tavern.
- z) Theater.
- aa) Vehicle Fueling Station
- bb) Veterinary Clinics
- cc) Agriculture, silviculture and horticulture, as provided in Section 2.4.5.

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4.7 Nonconforming Structures

The following shall apply to all nonconforming structures, except for those within the Flood Hazard Overlay District, which also must comply with the provisions of Section 6.8 of these regulations:

- a. May undergo normal repair and maintenance without a permit if such action does not increase the structure's degree of nonconformity
- b. May be restored or reconstructed after damage to its prior condition from any cause provided that the reconstruction does not increase the degree of nonconformity that existed prior to the damage, and provided that a zoning permit is obtained within 12 months of the date the damage occurred.

A Nonconforming structure may be replaced or restored after damage or destruction by fire or other casualty, and expansion may be permitted as long as the noncompliance of any aspect of the structure is not increased; provided, however, that such replacement or restoration shall be substantially complete within 365 days of the date of the damage or destruction. The DRB may permit such extensions of the 365-day time period as may be equitable, if the lot owner is prevented from commencing or substantially completing construction due to circumstances beyond the lot owner's control. A damaged or destroyed Nonconforming structure which is not substantially replaced or restored in compliance with this section shall not thereafter be used and shall be removed.

4.7.1. The regulations under this section do 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 issued 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 allow a nonconforming structure to extend, or further extend, into a wetland or wetland buffer, thus increasing its degree of nonconformity, provided that it is permitted by the state Wetlands Program as pursuant to Section 6.9.5.

4.7.9. For the purpose of Section 4.7, the phrase "degree of nonconformity" shall mean:

- a) the volume of the nonconforming structure within a required setback;
- b) The height of the nonconforming structure above a maximum height;
- c) the square footage that the nonconforming structure's footprint or any associated impervious surface occupies within a wetland buffer; or
- d) the extent to which the nonconforming structure exceeds any other required dimensional standard.

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4.8 Setback Modifications

Purpose—Richmond contains a large number of buildings that were built prior to the enactment of Richmond's Zoning Regulations and do not conform to setback and/or lot coverage requirements. Current zoning may prohibit even small increases in these buildings due to the restrictions on setbacks and lot coverage. Small increases in the size of these buildings may, in appropriate cases, be beneficial to landowners without adversely affecting neighbors or the interests protected by Richmond's Zoning Regulations. It is the purpose of this section to allow for such increases subject to conditional use review under Section 5.6, as needed to authorize the modification or waiver of district front, side and rear yard setback and lot coverage requirements in accordance with the Act [§4414(8)].

4.8.1 Applicability—The DRB may issue conditional use approval for the expansion of any nonconforming structure substantially completed prior to April 1, 1969 (an "existing building"). If lawful additions were made to any existing building after April 1, 1969, the term "existing building" shall include the original building and such additions. The conditional use approval may allow expansion of an existing building to occur no closer than five (5) feet to any lot line or edge of a public or private right of way and increases in lot coverage as a result of the expansion by no more than 10% of the total ground area of the lot. (For example, if the lot is 8,000 square feet, conditional use approval could allow an increase of 800 square feet in lot coverage.)

4.8.2 Selectboard Notification—The Administrative Officer shall notify the Selectboard of applications to modify setbacks that are adjacent to land owned by the Town and Town rights-of-way whether held as a right-of-way or fee title, at the same time such application is referred to the DRB.

4.8.3 Review Criteria—Prior to issuing conditional use approval for the waiver or modification of setback and coverage requirements, the DRB must find that the proposed expansion:

- a. is in compliance with conditional use criteria of these Zoning Regulations, including the general standards, specific standards and performance standards outlined under Section 5.6, and with state law, and
- b. the structure must be found to be otherwise in compliance with these Zoning Regulations.

4.8.4 Conditions of Approval—The DRB may require design modifications, screening or other conditions to mitigate Undue Adverse Effects to adjoining properties or public rights-of-way.

4.9 4.8 Nonconforming Uses

A Nonconforming Use may continue to exist, subject to the following:

A Nonconforming Use shall not be changed to other than a permitted use. Any Nonconforming Use that ceases for 365 consecutive days shall not be permitted to resume, and intent to abandon the use shall be conclusively presumed for such non-use unless it qualifies under the "Adaptive Use" section (5.6.8) of these Zoning Regulations. If it can be shown that the usage has traditionally been intermittent, the historical rate will be used to assess abandonment and continued use.

Any increase or expansion of a Nonconforming Use may occur only after DRB approval. The DRB may approve increases in nonconforming uses that involve an increase of 25% or less in physical characteristics such as, but not limited to, square footage or traffic flow, after Conditional Use Review.

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

4.8.2 The structure containing a nonconforming use may undergo normal repair and maintenance without a zoning permit provided that the nonconforming use is not changed, enlarged, expanded, moved or altered.

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

- a. the reconstruction does not change, enlarge, expand, move or alter the nonconforming use; and
- b. a zoning permit is issued within 12 months of the date the damage or destruction occurred; and

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c) all other requirements of the zoning district in which the structure containing the use is located are met.

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

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4.10.9 Noise

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4.109.1 Residential Noise

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4.109.2 Commercial Noise

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4.109.3 Terms.

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4.109.4 Exemptions.

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4.1110 Exterior Lighting

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4.1110.1 General Guidelines

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4.1110.2 General Requirements

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4.1110.3 Parking Lot & Security Lighting

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4.1110.4 Illuminated Signs

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4.1110.5 Roads or Highways Lighting.

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4.1110.6 Lighting of Gasoline Station Aprons and Canopies.

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4.1110.7 Lighting of Building Facades and Roofs.

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4.1211 Height of Buildings and Structures

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4.1211.1

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4.1312 Performance Standards

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4.13 Vehicle Fueling Stations - All Vehicle Fueling Stations shall adhere to the following requirements and standards:

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

4.13.2. All Vehicle Fueling Stations shall have one or more DC Fast Charger electric vehicle charging station(s) with a Society of Automotive Engineers (SAE) Combined Charging System (CCS).

4.13.3. Customary accessory uses for Vehicle Fueling Stations include the retail sales of vehicle accessories; food and beverages prepared for off-premises consumption, but which may be consumed on or off premises; and other convenience store items. Up to 20% of the floor space within a structure containing the aforementioned accessory uses may be used for tables and/or chairs.

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5. PERMITS AND APPROVALS

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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, and 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.

5.10.2 Seasonal Dwelling - A "seasonal dwelling" or "camp" structure shall not be occupied more than 180 days in any one-year period. Camps which are pre-existing nonconforming structures or nonconforming uses shall be

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governed by Sections 4.7 or ~~4.94.8~~ of these Zoning Regulations. New camps and conversions of camps to single-family dwellings shall be permitted wherever single-family dwellings are permitted as long as all requirements for a single-family dwelling are met. Each camp which is converted to year-round single-family use shall be located on a separate conforming lot on which there is no other principal structure.

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6. SPECIAL ZONING REGULATIONS

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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.** Any land development on a lot containing a known or suspected wetland shall require a zoning permit issued by the Administrative Officer.~~

~~**6.9.2** No land development shall occur within a Class I or II wetland, or wetland buffer, unless approved by or exempted from the Vermont Wetlands Program.~~

~~**6.9.3 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;~~

~~**6.9.4. Application Requirements.**~~

~~All lots mapped by the Vermont Significant Wetlands Inventory, the Wetlands Advisory Layers, or the Wetland Screening Tool shall be considered to contain a "known or suspected" wetland, and applications for development on such lots 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 and the wetland buffer;~~
- ~~c) If any development is planned within the wetland or the wetland buffer, a permit approving such development issued by the state Wetlands Program;~~
- ~~d) An erosion prevention and sediment control plan in accordance with the current Vermont Standards and Specifications for Erosion Prevention and Sediment Control.~~

~~**6.9.5** The Development Review Board may approve the reconstruction, replacement or relocation of a nonconforming structure and existing impervious surfaces that extend into, or further into, a wetland or wetland buffer provided that a permit approving such development is issued by the state Wetlands Program.~~

~~**6.9.6.**The creation of new lawns or areas of pavement, including for parking, within wetlands or wetland buffers is prohibited unless approved by the state Wetlands Program. Supplemental planting with appropriate native vegetation to restore and enhance the function of the wetland within the wetland and wetland buffer is allowed.~~

~~**6.9.7** New on-site septic systems, including septic tanks and leach fields, are prohibited in wetlands and wetland buffers. Replacement systems may be allowed with the appropriate state and federal permits.~~

~~**6.9.8** Storage of hazardous or other materials is prohibited in wetlands and wetland buffers.~~

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7. DEFINITIONS

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7.2 Specific

For the purpose of these Zoning Regulations, certain words and terms are hereby defined as follows:

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Accessory Electric Vehicle Charging Station – A structure or device for the free or retail dispensing of electricity as a vehicle fuel 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.

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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.

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.

Garage, Repair – Any building, premises, and land in which or upon which a business, service, or industry involving the maintenance, servicing, repair, or painting of vehicles is conducted or rendered.

Impervious Surface - An area which significantly restricts or prevents penetration such as but not limited to asphalt paving and concrete surfaces but not including a gravel or grassed surface. A manmade surface, including but not limited to a roof, or a paved or unpaved road, driveway, walkway or parkin area, from which precipitation runs off rather than infiltrates

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, the provision of electricity as a vehicle fuel, and the sale or leasing of no more than four vehicles at any one time.

Setback - The distance from a Llot Lline or, if applicable, from the center line of the Rroad or Hhighway right-of-way, to the edge of any structure on the Lot, including the building footprint, edge of deck, cantilevered areas, but not including the roof overhang the building footprint or of any structure on the lot, including the edge of a deck, cantilevered area, on-ground patio or parking area. However, the setback provisions of these Zoning Regulations do not apply to fences or signs outside of a road right-of-way, except where specifically provided. The setback provisions of these Zoning Regulations do not apply to fences, walls of 3 feet or less in height, roof

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overhangs that extend no more than three (3) feet from the structure, or signs outside a road right-of-way, except where specifically provided. Setbacks for septic systems shall be dictated by state law.

Structure - An assembly of materials for occupancy or use, including, but not limited to, a building, mobile home or trailer, sign, wall or fence, and except a wall or fence on an operating farm. The term Structure also includes storage tanks for liquid, and gas oil, propane, or other fuel storage tanks that are principally above ground. Unless otherwise specifically provided, (1) the term Structure does not include parking areas and driveways, (2) for purposes of determining setbacks, the term Structure does not include fences, except where specifically provided, and (3) for the determination of setbacks, septic systems shall not be considered structures and the setbacks shall be dictated by state law. See also Mobile Home, Recreational Vehicle. The term structure does not include tanks that are fully underground, septic system components, and impervious surfaces such as driveways or parking areas.

Vehicle Fueling Station -- Any building, land area, or other premises, or portion thereof, used for the retail dispensing or sale 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 electricity as a vehicle fuel. The presence of an Accessory Electric Vehicle Charging Station shall not alone render the use a Vehicle Fueling Station.

Wetlands - An area that is Means 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 and ponds, but excluding such areas as which 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.

3.3 Residential / Commercial District (R/C)

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3.3.2 Allowable Uses Upon Issuance of Conditional Use Approval - The following uses shall be allowed in the R/C District upon issuance of a conditional use approval by the DRB. Unless otherwise provided, only one principal use, with its accessory structures, may be approved on any one lot.

- a) Adaptive uses as provided in Section 5.6.8.
- b) Artist/Craft studio.
- c) Cemetery.
- d) Cottage industry as provided in Section 5.6.7.
- e) Day care center.
- f) One multi-family dwelling with three or four dwelling units.
- g) Extraction of earth resources as provided in Section 5.6.6.
- h) Funeral parlor.
- i) Inn or guest house.
- j) Museum.
- k) Office, Business.
- l) Office, Professional.
- m) Personal service business.
- n) Planned Unit Development, which may be a Planned Residential Development, as provided in Section 5.12, if no subdivision of land is proposed (see Section 5.12.1).
- o) Powered Vehicle and/or Machinery Service
- p) Outdoor recreational facility or park.
- q) Religious or educational facility as provided in Section 5.10.4.
- r) Restaurant, standard.
- s) Retail business.
- t) Retirement community.
- u) State- or community-owned and operated facilities, to the extent allowed by Section 5.10.4.
- v) Agriculture, silviculture and horticulture, as provided in Section 2.4.5.
- w) Veterinary Clinics

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3.4 Gateway Commercial District (G)

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3.4.2 Allowable Uses Upon Issuance of Conditional Use Approval - The following uses, with accessory structures, may be allowed in the G District after issuance of conditional use approval by the DRB.

- a) Adaptive use as provided in Section 5.6.8.
- b) Amusement arcade.
- c) Artist/Craft studio.
- d) Bank.
- e) Business yard.
- f) Catering service.
- g) Cemetery.
- h) Cottage industry as provided in Section 5.6.7.
- i) Day care center.
- j) Dwelling, single-family attached to a principal structure approved for a permitted or conditional use.
- k) Dwelling, two-family
- l) Dwelling, multi-family with three or four dwelling units.

- m) Educational or religious facility as provided in Section 5.10.4.
- n) Extraction of earth resources as provided in Section 5.6.6.
- o) Food processing establishment.
- p) Funeral parlor.
- q) Group home, as provided in Section 5.11.
- r) Hotel or motel.
- s) Inn or guest house.
- t) Kennel
- u) Light Manufacturing.
- v) Multi-use commercial building with uses from this section or 3.4.1.
- w) Museum.
- x) Offices, Business.
- y) Offices, Professional.
- z) Personal services.
- aa) Planned Unit Development, which may be a Planned Residential Development, as provided in Section 5.12, if no subdivision of land is proposed (see Section 5.12.1).
- bb) Powered Vehicle and/or Machinery Service
- cc) Private club.
- dd) Recreation, indoor or outdoor facility or park.
- ee) Research laboratory.
- ff) Retail business associated with light manufacturing with a maximum size of 3,000 square feet.
- gg) Retirement community.
- hh) State- or community-owned and operated institutions and facilities, to the extent allowed by Section 5.10.4.
- ii) Tavern, provided that it is associated with an onsite distillery, brewery, or winery.
- jj) Agriculture, silviculture and horticulture, as provided in Section 2.4.5.
- kk) Veterinary Clinics

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3.5 Village Commercial District (V/C)

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3.5.2 Allowable Uses Upon Issuance of Conditional Use Approval - The following uses may be allowed in the V/C District after issuance of conditional use approval by the DRB. Unless otherwise provided, only one principal use, with its accessory structures, may be approved on one lot.

- a) Adaptive use as provided in Section 5.6.8.
- b) Bank.
- c) Catering service.
- d) Commercial multi-use building.
- e) Business yard.
- f) Educational facility as provided in Section 5.10.4.
- g) Equipment supply and/or rental.
- h) Funeral parlor.
- i) Group home.
- j) Hotel or motel.
- k) Light manufacturing
- l) Lumber yard / Building supply business.
- m) Planned Unit Development as provided in Section 5.12, if no subdivision of land is proposed (see Section 5.12.1).
- n) Powered Vehicle and/or Machinery Service
- o) Private club.
- p) Recreation, indoor or outdoor, facility or park.
- q) Research laboratory.

- r) Restaurant, fast food or take-out.
- s) Retirement community.
- t) Rooming or boarding house.
- u) State- or community-owned and operated institutions and facilities, to the extent allowed by Section 5.10.4.
- v) Storage, outdoor as an accessory use to any permitted or conditional use.
- w) Tavern.
- x) Veterinary Clinics
- y) Wholesale trade.
- z) Dwelling Units as part of a Planned Unit Development.
- aa) Agriculture, silviculture and horticulture as provided in Section 2.4.5.

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3.6 Commercial District (C)

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3.6.2 Allowable Uses Upon Issuance of Conditional Use Approval - The following uses may be allowed in the C District after issuance of conditional use approval by the DRB. Unless otherwise provided, only one principal use, with its accessory structures, may be approved on one lot:

- a) Adaptive use as provided in Section 5.6.8.
- b) Amusement arcade.
- c) Automobile and/or marine sales.
- d) Bank.
- e) Business yard.
- f) Car wash.
- g) Catering service.
- h) Commercial multi-use building.
- i) Distribution Center.
- j) Educational facility as provided in Section 5.10.4 .
- k) Equipment supply and/or rental.
- l) Extraction of earth resources as provided in Section 5.6.6.
- m) Funeral parlor.
- n) Group home.
- o) Hotel or motel.
- p) Light manufacturing
- q) Lumber yard / Building supply business.
- r) Planned Unit Development as provided in Section 5.12, if no subdivision of land is proposed (see Section 5.12.1).
- s) Powered Vehicle and/or Machinery Service
- t) Private club.
- u) Recreation, indoor or outdoor, facility or park.
- v) Research laboratory.
- w) Restaurant, fast food or take-out.
- x) Retirement community.
- y) Rooming or boarding house.
- z) State- or community-owned and operated institutions and facilities, to the extent allowed by Section 5.10.4.
- aa) Storage, outdoor as an accessory use to any permitted or conditional use.
- bb) Tavern.
- cc) Vehicle Fueling Station
- dd) Veterinary Clinics
- ee) Warehouse Use.
- ff) Wholesale trade.

gg) Agriculture, silviculture and horticulture, as provided in Section 2.4.5.

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3.7 Industrial / Commercial District (I/C)

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3.7.2 Allowable Uses Upon Issuance of Conditional Use Approval - The following uses, with accessory structures, may be allowed in the I/C District after issuance of conditional use approval by the DRB.

- a) Adaptive use as provided in Section 5.6.8.
- b) Amusement arcade.
- c) Automobile and/or marine sales and/or service business.
- d) Commercial multi-use building
- e) Bank.
- f) Business yard.
- g) Communications, telecommunications, as provided in Section 6.12.
- h) Extraction of earth resources as provided in Section 5.6.6.
- i) Hotel or motel.
- j) Kennel.
- k) Light manufacturing.
- l) Lumber yard or building supply business.
- m) Mobile home sales business.
- n) Outdoor storage as an accessory use to in connection with any conditional or permitted use.
- o) Planned Unit Development as provided in Section 5.12, if no subdivision of land is proposed (see Section 5.12.1).
- p) Powered Vehicle and/or Machinery Service
- q) Private club.
- r) Recreation facility, outdoor or indoor.
- s) Research laboratory.
- t) Restaurant, fast-food or take-out.
- u) Restaurant, standard.
- v) Retail business.
- w) Storage, indoor.
- x) State- or community-owned and operated institutions and facilities, to the extent allowed by Section 5.10.4.
- y) Tavern.
- z) Theater.
- aa) Vehicle Fueling Station
- bb) Veterinary Clinics
- cc) Agriculture, silviculture and horticulture, as provided in Section 2.4.5.

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4.7 Nonconforming Structures

4.7.1. The regulations under this section do 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 issued 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 allow a nonconforming structure to extend, or further extend, into a wetland or wetland buffer, thus increasing its degree of nonconformity, provided that it is permitted by the state Wetlands Program as pursuant to Section 6.9.5.

4.7.9. For the purpose of Section 4.7, the phrase "degree of nonconformity" shall mean:

- a) the volume of the nonconforming structure within a required setback;
- b) The height of the nonconforming structure above a maximum height;
- c) the square footage that the nonconforming structure's footprint or any associated impervious surface occupies within a wetland buffer; or
- d) the extent to 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 containing a nonconforming use may undergo normal repair and maintenance without a zoning permit provided that the nonconforming use is not changed, enlarged, expanded, moved or altered.

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

- a) the reconstruction does not change, enlarge, expand, move or alter the nonconforming use; and
- b) a zoning permit is issued within 12 months of the date the damage or destruction occurred; and
- c) all other requirements of the zoning district in which the structure containing 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 Administrative Officer, regardless of the intent to resume the prior use, and shall not be permitted to resume. A residential use may be resumed within a legal, vacant structure at any time.

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4.9 Noise

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4.9.1 Residential Noise

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4.9.2 Commercial Noise

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4.9.3 Terms.

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4.9.4 Exemptions.

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4.10 Exterior Lighting

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4.10.1 General Guidelines

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4.10.2 General Requirements

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4.10.3 Parking Lot & Security Lighting

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4.10.4 Illuminated Signs

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4.10.5 Roads or Highways Lighting.

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4.10.6 Lighting of Gasoline Station Aprons and Canopies.

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4.10.7 Lighting of Building Facades and Roofs.

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4.11 Height of Buildings and Structures

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4.12 Performance Standards

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4.13 Vehicle Fueling Stations - All Vehicle Fueling Stations shall adhere to the following requirements and standards:

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

4.13.2. All Vehicle Fueling Stations shall have one or more DC Fast Charger electric vehicle charging station(s) with a Society of Automotive Engineers (SAE) Combined Charging System (CCS).

4.13.3. Customary accessory uses for Vehicle Fueling Stations include the retail sales of vehicle accessories; food and beverages prepared for off-premises consumption, but which may be consumed on or off premises; and other convenience store items. Up to 20% of the floor space within a structure containing the aforementioned accessory uses may be used for tables and/or chairs.

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5. PERMITS AND APPROVALS

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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, and 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.

5.10.2 Seasonal Dwelling - A "seasonal dwelling" or "camp" structure shall not be occupied more than 180 days in any one-year period. Camps which are pre-existing nonconforming structures or nonconforming uses shall be governed by Sections 4.7 or 4.8 of these Zoning Regulations. New camps and conversions of camps to single-family dwellings shall be permitted wherever single-family dwellings are permitted as long as all requirements for a single-family dwelling are met. Each camp which is converted to year-round single-family use shall be located on a separate conforming lot on which there is no other principal structure.

...

6. SPECIAL ZONING REGULATIONS

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6.9 Wetlands

6.9.1 Applicability. Any land development on a lot containing a known or suspected wetland shall require a zoning permit issued by the Administrative Officer.

6.9.2 No land development shall occur within a Class I or II wetland, or wetland buffer, unless approved by or exempted from the Vermont Wetlands Program.

6.9.3 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;

6.9.4. Application Requirements.

All lots mapped by the Vermont Significant Wetlands Inventory, the Wetlands Advisory Layers, or the Wetland Screening Tool shall be considered to contain a “known or suspected” wetland, and applications for development on such lots 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 and the wetland buffer;
- c) If any development is planned within the wetland or the wetland buffer, a permit approving such development issued by the state Wetlands Program;
- d) An erosion prevention and sediment control plan in accordance with the current Vermont Standards and Specifications for Erosion Prevention and Sediment Control.

6.9.5 The Development Review Board may approve the reconstruction, replacement or relocation of a nonconforming structure and existing impervious surfaces that extend into, or further into, a wetland or wetland buffer provided that a permit approving such development is issued by the state Wetlands Program.

6.9.6. The creation of new lawns or areas of pavement, including for parking, within wetlands or wetland buffers is prohibited unless approved by the state Wetlands Program. Supplemental planting with appropriate native vegetation to restore and enhance the function of the wetland within the wetland and wetland buffer is allowed.

6.9.7 New on-site septic systems, including septic tanks and leach fields, are prohibited in wetlands and wetland buffers. Replacement systems may be allowed with the appropriate state and federal permits.

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

...

7. DEFINITIONS

...

7.2 Specific

For the purpose of these Zoning Regulations, certain words and terms are hereby defined as follows:

...

Accessory Electric Vehicle Charging Station – A structure or device for the free or retail dispensing of electricity as a vehicle fuel 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.

Impervious Surface - A manmade surface, including but not limited to a roof, or a paved or unpaved road, driveway, walkway or parking area, from which precipitation runs off rather than infiltrates

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, the provision of electricity as a vehicle fuel, and the sale or leasing of no more than four vehicles at any one time.

Setback - The distance from a lot line or, if applicable, from the center line of the 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, cantilevered area, on-ground patio or parking area.. The setback provisions of these Zoning Regulations do not apply to fences, walls of 3 feet or less in height, roof overhangs that extend no more than three (3) feet from the structure, or signs outside a road right-of-way, except where specifically provided. Setbacks for septic systems shall be dictated by state law.

Structure - An assembly of materials for occupancy or use, including, but not limited to, a building, mobile home or trailer, sign, wall or fence, and storage tanks for liquid, gas oil, propane, or other fuel that are principally above ground. The term structure does not include tanks that are fully underground, septic system components, and impervious surfaces such as driveways or parking areas.

Vehicle Fueling Station -- Any building, land area, or other premises, or portion thereof, used for the retail dispensing or sale 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 electricity as a vehicle fuel. The presence of an Accessory Electric Vehicle Charging Station shall not alone render the use a Vehicle Fueling Station.

Wetland - An area that is 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 and ponds, but excluding such areas which 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.

**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 Commercial 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.