

Number	Staff/ Public Comment Received	Staff Recommendation/Comment	City Council Decision
1	All. Need global search and replace to switch "Historic Design Review District" for "Design Control District".	Noted by some readers that some HDRC references have not been replaced with DCD. Staff Supports making changes.	Council agrees to have global search and replace to switch "Historic Design Review District" for "Design Control District"
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3	Part 1		
4	1002. Public comment that the purpose statement in 1002 should be more detailed.	The purpose can be as long or short as you like. Nothing in the purpose is technically regulatory. The current zoning is one sentence and says the purpose of the zoning is to implement the goals and policies of 24 vsa chapter 117. We added some additional thoughts that it is also intended to implement the master plan and identifies some goals. Staff recommends keeping the purpose as it is.	Council agrees- No change
5	1009. Public comment that the Disclaimer of Liability is not necessary and not found in other bylaws.	While the fact that it is not necessary may or may not be true (I'll let lawyers argue that point), what I can say is that we have found disclaimers in other zoning regulations in the state that were not written by Ms. Saxton including the City of Burlington (section 1.1.11), the state's model floodhazard regulations (section III C), and - yes – even in our current zoning but only with respect to flood hazards (section 309.K). Using Flood Hazards as an example, the reason for the disclaimer is that we are requiring people to build above the base flood elevation but that does not mean we are saying you will not be damaged in a flood. We are minimizing risk not guaranteeing that someone will not flood. If you build to 100 year elevations and we get a 500 year event, then you will flood and when that happens you can't sue us for damages. That's what the liability disclaimer says. If that statement is not needed because of other statutory reasons then it is a common error in zoning throughout the state (including as noted above in the state's model flood hazard regulations). Some communities have extended that to the entire zoning bylaws by inserting it into the general provisions. I haven't spent more time looking for additional examples but the first two places that I looked I found disclaimers. Staff recommends keeping the disclaimer as it is.	Council votes to strike 1009 Disclaimer of liability in its entirety.
6	1101.A(2) Typo "unfished space" to "unfinished space"	Agreed. Staff Supports the change.	Council agrees -under 1101.A(2) replace "unfished space" to "unfinished space"
7	1101.A Montpelier Alive has provided some input that they would like a clearer comment that Parklets will be exempt from zoning because they will be regulated separately.	Staff agrees and will work to develop language.	Staff will develop and report back to Council
8	1101.A(8)(a) a public comment that the 20 cubic yard figure is too low.	This provision discusses how much material can be added or removed without needing a permit. If you need to add more then you would need a permit and we get involved with ensuring proper erosion control and other quesitons. A big single axle dump truck is generally about ten cubic yards so this would allow two big dump loads of fill without a zoning permit. We need some cutoff and the consultant and staff felt this was a common sense amount. Staff recommends not making changes.	Council votes to change 1101.A(8)(a) from 20 cubic yards to "30 cubic yards per year".

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9	1102.B(2) requiring permits for farm structures. Comment that state law exempts farm structures and that only a notification is required. Is the requirement to submit an application ok?	It is surprising how many farm projects do not qualify for farm exemptions. The best thing from a records standpoint is to receive an application describing the project and the ZA making a determination. I personally built a two story gambrel barn for my horses, sheep and goats and needed local permits because I did not qualify as a farm in the eyes of Ag. of Ag. We also need to determine if the setback requirements are met. <u>Staff recommends keeping the language as it is.</u>	Council agrees- No change
10	1203.D and .E and .F It was noted that each of these use the word MAY which is poor practice in writing regulations.	I think .D is unnecessary but harmless- Normal repair and maintenance are exempt under 1101.B(1). On .E "may" should be changed to "must"- If the applicant meets the requirements the ZA doesn't have the option to approve. On .F the "may" is ok because it is clarifying that a waiver can be applied for to be closer than the non-conforming line if waiver requirements are met. One thing I would add is "section 3002.J" to the end... (see sections 3002.J and 4602). <u>Staff recommends making changes to .E and .F as described above.</u>	Council agrees- make changes to 1203.E to change "may" to "shall" and in 1203.F to add "section 3002.J" to the end "(see sections 3002.J and 4602)"
11	1206.A Public comment that 6 months is too short	While 6 months sounds short, the requirement here is only to stabilize and secure. I think those can occur in 6 months. The provisions in .B allow for extensions in extenuating circumstances. <u>Staff recommends not making changes.</u>	Council agrees- No change
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14	Part 2		
15	Part 2. Public comment that under each figure in Part 2 or as a part of each figure that there should be a clearer note that all of these dimensional requirements are discussed further in section 3003 for accessory structures and 3002 for dimensional requirements.	Agreed. If it is confusing and not clear to many people (and it sounds like it is) then we should adjust the format to make it clear that these dimensional requirements apply to principal structures and that additional information is provided in 3002 and 3003 (for accessory). <u>Staff will bring suggested changes at a future meeting.</u>	Staff will develop and report back to Council
16	Part 2. Comment that city should focus development in the downtown.	The City cannot restrict development to occur only in the downtown. This draft has made a number of changes to increase the opportunities for development in the downtown but we cannot restrict development to only the downtown. <u>Staff does not recommend making any changes based on this suggestion.</u>	Council agrees- No change
17	Part 2. Consistency on some standards. Some height in feet and others in stories; some FAR has numbers and some say "Max".	Agreed. The PC discussed and approved changes to always be in feet for height but must not have caught all. Also, all FAR should say Max. <u>Staff recommends making those changes.</u>	Council agrees: Regarding height- stories needs to change from "2 stories" to "24 feet min" in Figures 2-01, 2-02, and 2-03; "Max" needs to be added to FAR requirements on Figure 2-06, 2-07 and 2-08.
18	Part 2. Councilor comment. In any district with a two story minimum. Will this impact smaller infill accessory buildings such as a carriage houses?	The intent to maximize dense mixed use development to facilitate vibrancy. Single use and single story buildings spread out uses and make communities less walkable which is why the two story minimum is imposed. Per 3002.H(2), only principal buildings must meet the minimum height requirements. The Council can consider removing the minimum height from some districts (riverfront or mixed use) but staff would recommend keeping the requirement in the Urban Center districts. Optionally you can keep it in all districts that it currently is in and allow waivers to make a one story building in certain instances. You have some options but <u>staff recommends keeping the language as presented.</u>	Council agrees- No change
19	2101.B(1) confusion over neighborhood name of "capitol complex"	Agreed that this name has created confusion. It was intended, nor was it being used to represent the legally defined "Capitol Complex" in a regulatory sense but as it does lead to confusion I recommend changing the name of the neighborhood to "Civic" which is what the area is called in the current zoning district. <u>Staff recommends changing neighborhood name to "civic".</u>	Council agrees to change name of "capitol complex" neighborhood in section 2101.B(1) and on the zoning map to "civic"
20	2101.E Confusing to know when architectural standards apply	Received this comment in many venues so we do need to clarify. Suggestions have ranged from providing an "informational note" to adding some other language. My suggestion to start would be to add "for major site plan applications" in place of "when required". In that way there is at least a clear indication up front in the district requirements that these apply only in a limited number of applications. If approved by council this would be replicated in sections 2102 to 2109. <u>Staff recommends making change as described above.</u>	Council agrees to add "for major site plan applications (see section 3201)" in place of "when required" for all architectural standards in sections 2101 to 2109.

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21	2101.E General comment that there was a concern that these architectural standards would not get us to where we want to go as a city (from a design perspective). The standards require change in roof form and wall plane etc.	This was part of a longer set of comments and staff disagrees with the concerns about changes in wall plane - we want to have a visually dynamic streetscape. It improves character and most of our historic buildings have these characteristics. Staff does agree with the concern that these rules will not get us where we want to go. Staff comments during the PC process were that form based codes or design guides (like our historic design control district) are a better approach. The PC heard a lot of comment about protecting character and because we don't have the time to do a big design review overhaul they felt this was a good step in the right direction. <u>At this time I will continue to recommend we keep the architectural standards in the various districts which they have been proposed.</u>	Council agrees- No change
22	2101.E Standards are confusing for general public to understand. Suggestion that diagrams be added to show what the requirements are.	Agreed. The city had not allocated money to diagrams because they can be more expensive feature and if rules are not adopted or changed then more money is needed to amend the drawings. If the council chooses to keep the architectural requirements then we will commission drawings to be added before adoption, if possible, or be incorporated into the next revision of the zoning. <u>Staff recommends adding diagrams as soon as practical following approval.</u>	Council agrees- No change
23	Figure 2-01 Typo- Note reference in Water is incorrect	Agreed. Note should read "2" not "1". <u>Staff recommends making change.</u>	Council agrees that note reference in Figure 2-01 for water is incorrect and should read "2" not "1"
24	Figure 2-01 and 2-02 couple comments that the water setback in UC-1 and UC-2 should not allow construction over the waterways as allowed in the notes.	This special exception (the note) was added because a developer commented during the planning commission process that he felt these should be allowed because they already exist on Elm Street and that these could be unique features for future downtown projects. Staff had some concern over the approval process because the land over water is not owned by abutters they are public waters owned by the state. The developer felt they had ways to meet that requirement so the PC allowed them. Staff would continue to have that concern about our ability to approve such an item. <u>Staff would recommend eliminating the second sentence in note 2.</u>	Council agrees- eliminate second sentence in note 2 in figures 2-01 and 2-02.
25	2102 Comment that the density on Main street is not appropriate.	Staff looked at dimensional requirements in this area and found these requirements were very consistent with what we find on the ground. If there is a specific dimension that does not look correct then we can take another look but we did check on this specifically during the Planning Commission hearing process. <u>Staff does not recommend making any changes to dimensional requirements.</u>	Council agrees to tentative change for front setback on Figure 2-02 from 5 feet minimum to 10 feet minimum with a new note added that "where existing buildings on abutting properties are closer to the street than 10 feet, new buildings can match building lines of adjacent buildings." Council will revisit to vote any changes.
26	Figure 2-02. This is the dimensional table for Urban Center 2. 5th and 6th stories are not appropriate in this area.	Staff agrees. This was voted to be removed by the planning commission but was not edited out. <u>Staff recommends removal of allowance for 5th and 6th stories.</u>	Council agrees. Strike "5th and 6th story setback: 16 foot minimum."

27	<p>2103 In the riverfront district there were two comments regarding the Crossroads neighborhood. Should the city consider changes to the purpose because it is described as "auto service" functions and questions were raised about the two story minimum requirement here (figure 2-03).</p>	<p>This neighborhood has been a unique case. It really is different from all other areas in town and is a tight area of auto service uses. We did not intend this to be to the exclusion of other uses but considering the need for auto service stations for the thousands of people who drive through town every day, we should not allow uses that would not be compatible with the existing uses in this area. Concerning the dimensional requirements like the two story minimum, I have considered before and will throw it out here whether this neighborhood should be its own zoning district with its own standards. The problem is the design and architectural standards, dimensional requirements, and uses are all set by Barre Street, River Street, and Berlin Street (the other parts of Riverfront district). Staff suggests making Crossroads neighborhood its own zoning district so staff can develop a quick set of rules. That would fix the purpose, character, and dimension inconsistencies. <u>Staff recommends making Crossroads into its own zoning district and adjusting the purpose and neighborhood character to be consistent with this area.</u></p>	<p>Council voted to change 2103.B(2) in the second and third sentences- In the second sentence change "should continue to be a" to "has historically served as a"; In the third sentence strike "however" and replace "maintain the neighborhood's service function while also improving" with the word "improve".</p>
28	<p>2105.A The purpose of the Western Gateway should discuss more uses than office, government, and civic.</p>	<p>Agreed. Even in the neighborhood description it talks about compatible light industrial and mixed use development. Staff recommends adding language to the end of 2105.A(1) "...as well as the development of a mix of new uses to support a vibrant campus and village setting at National Life and an attractive gateway with uses that support the downtown." I put that together as a place to start and Council can add or change what is suggested. <u>Staff supports amending the purpose.</u></p>	<p>Council agrees to add language to the end of 2105.A(1) "...as well as the development of a mix of new uses to support a vibrant campus and village setting at National Life and an attractive gateway with uses that support the downtown."</p>
29	<p>2106 to 2111 Concerns about 90% rule - i.e. that the maximum densities of residential districts is too high.</p>	<p>I believe we have provided sufficient information for why we chose to adjust density and lot size figures. Its both a matter of fairness and improves processing of applications if rules, in the very least, match the development on the ground. To deny an application for a new 0.9 acre building lot because it will be out of character (too small) when the abutters are all 0.3 acre lots just flies in the face of fairness. <u>Staff recommends keeping the district densities as they are unless a neighborhood or district has been misclassified.</u></p>	

30	2106.B(2) Comment that the court street neighborhood description states that proposed development should protect the residential scale and character of the neighborhood. The large parking lot adjacent to court street is a prime area for commercial development. There are very few residences on the block. Language could be a significant barrier to such development.	The large parking lot off court street is part of the downtown business neighborhood so any redevelopment of that area will need to meet the requirements of the UC-1 district (not these in Mixed Use Residential). The Court street neighborhood is a mix of both commercial and residential (6 offices and 7 residential) so it is a good candidate for this MUR district. The office buildings are mostly converted former residential units so the character of the street is one that tends to be of residential character. The description does not limit the uses allowed in the street (that is defined on table 2-14). This could be used to affect the chracter of buildings being developed though. <u>Staff recommends keeping these rules as they have been presented.</u>	
31	2107.B(1) change name of neighborhood from "college hill southwest" to "Hubbard Street"	I had notes that we would change the name but not too what. I've suggested Hubbard Street. <u>Staff recommends making the change.</u>	
32	2109. Public comment that Planning Commission did not reflect the input of the Parks Commission or Master Plan in zoning proposal regarding Sabins Pasture. The property owner responded with his proposal. These suggestions include dividing the pasture into mutliple distircts including ones to decrease the top to rural and others to increase the bottom to riverfront. Others have suggested keeping the same zoning boundaries as today (breaking into three districts).	Staff has provided input already about rationale behind Sabins zoning. The city cannot create a park through zoning. It would be unconstitutional to do so. If the City would like to make a park, the planning commission is prepared to create an official map to give us the power to do that. If it is not going to be a park then the planning commission created rules that would allow development at a density that creates great neighborhoods and still leaves room for clustering that would protect some open space (although it would not be publicly accessible open space). Res-6 is the same as College Hill. <u>Staff recommends keeping Res-6.</u>	
33	2109.B(5) Sabins pasture neighborhood description should be a more aspirational statement regarding open space. Mention PUD and clustering.	That is something that could be easily accommodated although if the pasture is divided into multiple districts then each area would be its own neighborhood. There could be a Lower Sabins Pasture and an Upper Sabins Pasture neighborhood (one being in the riverfront district and the other being in the res 17,000 for example). The description here may be appropriate for the lower pasture area. Staff will develop neighborhood descriptions based on final decisions and if the council decides to keep Sabins in one district then I will amend the description to meet those requests if that is the Councils wish. <u>Staff recommends waiting to change until final decisions are made.</u>	
34	Figure 2-10 comment that footprint requirement in Residential 9000 is too big at 4,000 square feet.	These footprint limits were really meant to put an upper limit on how big a building could be. For smaller parcels, clearly these buildings could never be built at this size but places like Crestview have been identified as somewhere where largehomes could be built to meet the needs of executive housing. They may build a 3,000 square foot home or larger. This would simply cap those at a certain size (4,000 squre feet in this case). Council can change it but I would keep it as presented. <u>Staff recommends keeping the requirements as presented.</u>	

35	2111. Public comment that density of Towne Hill (Res 17) is too high.	Staff has explained the reasoning before. Staff actually recommended res 15 as that would be a more appropriate density based on the neighborhood but Planning Commission settled on Res 17. <u>Staff recommends keeping Res 17 (PC recommendation) or increasing density to Res 15 (staff recommendation).</u>	
36	2111.D Councilor comment page 2-25 typo. 2111.D -refers to Residential 9000 when it should read "17,000"	Staff agrees. <u>Staff recommends fixing typo.</u>	Typo- automatic approval
37	2112. Rural minimum lot size is two acres and minimum lot size is 1 unit per 2 acres. Councilor comment that this appears low and will not protect rural character. Public comment is that rural density too low and should be higher.	This was debated by the planning commission and we can see both sides. The current zoning is one acre (and one unit per acre) so moving to two acres was felt to be a step in the right direction. Two acres is the minimum to fit septic and well with protection distances between them. Staff thinks two acres is a good balance. It should not be less but could be a small bit more. I would not go much larger than 3 acres though as subdivisions start to become very consumptive. <u>Staff recommends keeping rural density as presented at two acres.</u>	
38	Zoning Map- Zoning District change recommended. Recommendation to change CCV, Turtle Island (2 parcels), and the City rec fields to change from Residential 9000 to Mixed Use Residential.	Staff recommends approving this change. It was proposed and removed during the planning commission process but these 4 non-conforming uses are distinctly different than their surrounding uses and it limits logical reuse of these properties. <u>Staff recommends changing the zoning for the parcels identified to be mixed use residential.</u>	
39	Zoning Map- Cliff Street neighborhood design review.	Does the Council desire any changes to this boundary?	
40	Figure 2-14 recommendation to add greenhouses as conditional uses to all districts in which it is not permitted.	These greenhouses are the commercial kind (not backyard greenhouses) but these could be in any district depending on the nature of the business. It makes sense that they would be Conditional Uses and let the DRB decide if the specific application will have an impact on traffic or neighbors. <u>Staff recommends adding greenhouses as a CU in all districts where it is currently not allowed.</u>	
41	Figure 2-14 Add bus stop as a conditional use in the Rural district.	Agreed. <u>Staff Supports the change.</u>	
42	Figure 2-14 Concern from terrace street resident (Res 9) that new zoning would allow 6 new markets to be built on Terrace and Bailey	The count is technically correct based on the written specific use in 3117 and the number of neighborhoods in that area. The reality is that these are the maximum possible number and each new market is a conditional use and can be denied. Because these are targeted to markets (selling staple foods) and not retail we don't expect to have more than two exist. We would be happy to get one but we cannot allow any if we don't at least make them a CU in the table. <u>Staff recommends keeping the rules as presented.</u>	
43	Figure 2-14 Page 2-29 typo "Zoning district" misspelled	Agreed. <u>Staff Supports the change.</u>	Typo- automatic approval

44	Figure 2-14. Public comment that the uses allowed in RES 17 district on Figure 2-14 may not be appropriate for the district.	The permitted uses in this district include single and two family uses, religious facility, nature or recreational park, grade school, cemetery, family child care home (registered), bus stop, certain utilities, and ag and forestry. Nearly all of these are uses that receive some statutory protections or would not significantly impact the character of the neighborhood. Religious, grade schools, utilities, ag and forestry all have statutory protections. Registered child care homes are limited in size and are encouraged in the City Mater Plan as important for a number of goals. The conditional uses are allowed only after public hearing and must meet requirements that they will not affect the character of the neighborhood. As noted by public comment, the Planning Commission did allow the possibility of a major group home, senior housing, B&B, inn, academic institution, library, museum, and licensed child care facility, as well as a stable, greenhouse, or rural enterprise. Council certainly can disallow these if they choose. Major group homes are ones that are larger than the regular group homes which are exempt by statute. These group homes are for mentally and/or physically handicapped not drug rehab or half way houses for inmate reintegration. Academic institutions have some statutory protections as well making it impossible to deny them anyways. Adding or removing allowed uses is a policy decision. We created Res 17 to match the uses in Res 9. It may be appropriate to have things be different. Under current zoning (LDR) child care homes (P), group homes (C), B&B (C), academic (P), museum (C), cemetery (P), religious (P), and many more uses are allowed.	
45	Continued from previous	[Continued comments from previous] Overall, fewer uses are recommended to be allowed in this draft than current zoning but Council is free to add or remove as they feel necessary. <u>Staff is ok with uses as they are but is also ok if you want to make some changes.</u>	
46	Figure 2-14 page 2-32 surface parking. Request to add surface parking a conditional use in Res 1.5.	Staff agrees but also suggests adding in Mixed Use Residential as conditional use as well. <u>Staff recommends changing surface parking to conditional use in MUR and Res 1.5.</u>	
47	2201.H(1)(c) Typo - appears to be missing the end of the sentence.	Absolutely correct... should go on to say "...be required for clarification, along with the manufacturer's catalog data and illustrations, if applicable. "	
48	2201.C Page 3-34. ZA Comment- This section states that "not structure may be erected, reconstructed, substantially altered, restored moved, or demolished..." without review by the DRC. Section 4301(A) states land developemtn within the Design Control OVerlay District must be refered to the DRC. Also current regulations require fences and above ground storage tanks to go to DRC.	Good catch. This is because we cut and pasted current zoning requirements. I recommend adding "including fences and above ground storage tanks" after the word "structures" in section 2201.C (even though I would have considered them to be structures. In 4301.A I would revise to read "...all applications requiring review under section 2201.C and within the Design Control District District to the Design Review Committee...". <u>Staff recommends making the changes as described above.</u>	

49	2201.G Demolition- The ZA noted that this provision should moved to Section 3004 where .B would be removed and these provisions added in a new section after .D	Agreed. As written today, any historic structure in the city, regardless of whether it is in design review or not, cannot be demolished without meeting these requirements. Having those rules in design review would mean they no longer apply outside of the area. <u>Staff recommends moving 2201.G to 3004 and placed after .D</u>	
50	2201.G Demolition- Comment that the standards seem overly proscriptive and (3) appears to allow the DRB to establish the requirements ... "chall consider at least the following.."	These are the rules that are in effect today. We recognized that many requirements need to be adjusted but the decision of the Planning Commisison was to let the Historic Preservation Commission develop an alternative set of regulations and proposed them rather than take time to amend the current regulations. <u>Staff recommends keeping the rules as they are until the HPC can propose new rules to replace them.</u>	
51	2201.H.2.f page 2-39 ZA comment. This provision states that "internally lit pastice signs are not permitted in design review" while 3012.C.9 is more restrictive. These should be consistent.	I think the stricter would apply in this case based on how they are worded but to be consistent I recommend changing 2201.H.2.f to read "internally illuminated signs are not permitted..." <u>Staff recommend making the change as stated above.</u>	
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55	Part 3		
56	Fix page numbering	numbers did not reset at the start of the section	Typo- automatic approval
57	3001.B Zoning Administrator pointed out that the use table on Figure 2-14 describes residential uses as "structures" so she was unclear if 5 single family dwellings on a single parcel are approved as single family dwellings or a multifamily.	I think a new section in between .B and .C would work that states that residential uses are classified by the number of units per parcel for the purpose of Figure 2-14. Therefore if someone had 20 acres in rural (two acres per unit) would be entitled to 10 units but could not put more than 4 without subdividing or creating a PUD because multifamily is not allowed in rural. <u>Staff recommends making clarification described above and will prepare specific language if approved.</u>	
58	3002.C(2)(b) refers to wetlands mapped on the Vermont Significant Wetlands Inventory and should refer to wetlands on "identified on the Montpelier Natural Resources Inventory Map".	Agreed. When we administer these regulations we have specific data layers on our GIS that we will be looking at and these will be the Natural Resource Inventory map. <u>Staff recommends correcting that reference error.</u>	
59	3002.D(2) add a new (a) stating maximum residential density may be limited by the amount of steep slopes on the parcel. See section 3007 for additional details and for districts in which those requirements may apply."	Agreed. That would be a good clarifying addition. <u>Staff recommends making that change.</u>	
60	3002.F (1) zoning administrator noted that approval of a ROW generally requires DRB approval; (2)(a) wording is confusing (heard from multiple sources); (3)(b) comment that 15 feet is too narrow.	Agreed on all three counts. (1) recommend adding ", approved by the Development Review Board, that is..." after the word right-of-way; (2) reword to say "... shall be maintained on at least one street in each district where the lot has frontage."; (3) In subsection 3b the minimum is 15 feet rather than the 20 feet in part a. Staff did not recommend allowing any new lots that do not have frontage and therefore wanted to strike 3b altogether but some members of the PC were insistent on allowing new lots without frontage. If kept I recommend being consistent and changing to 20 feet. <u>Staff recommends changes as described above.</u>	
61	Figure 3-01 has an illustration for LOT FRONTAGE which references section 3203. That reference is incorrect	Reference should be 3002.F(3)	Typo- automatic approval
62	3002.H - Public comment that height regulations will promote the development of flat roof buildings in the city.	The Planning Commission reviewed a few alternatives on how to measure height. In the end, the Staff noted that there have been no comments or complaints about how the current zoning regulates height (until the hearing process) and there have been no problems of people developing flat roofs so perhaps keep the rules the same. The Planning Commission voted to use the same rules as are in effect today. <u>Staff recommendation is to leave the definition of height as it is. If council wants a change then please provide direction as to how.</u>	
63	3002.H(3) why is a and b listed separately.	They each are qualified statements so it is probably clearer being written separately than to try to combine them. <u>Staff recommends keeping it as written.</u>	

64	Figure 3-06 waivers. Recommendation that side and rear waivers not be allowed; and height waiver not be allowed. New zoning rules have reduced the minimum standards such that these should no longer be needed.	I tend to agree somewhat but wonder what happens in specific cases where it is needed. I think a better approach may be to tighten the rules in figure 4-02 to make those waivers more difficult to issue rather than not allow them at all. <u>Staff recommends keeping these as they are and revisit this issue in section 4 when figure 4-02 is reviewed.</u>	
65	Figure 3-06 waivers. Note that height waiver is still in stories when that was eliminated in rest of bylaws.	If this remains it must be converted to feet. <u>Staff recommends a not to exceed of 5 feet rather than a full story.</u>	
66	Figure 3-06 Footprint waiver. It has been noted that in some cases a larger footprint for a building may not be a bad thing and that in certain conditions larger buildings can be better. One option proposed for exceeding footprint requirements would be to allow waivers up to certain percentage of the base (say 300% bigger) if they meet Conditional Use requirements. We would need to add those here if we wanted that option.	I think this is a viable option. Footprint requirements were added because of the Sibley project (large lot allowed property owner to build large building in neighborhood of smaller homes). It's a policy question. I think we want to limit the footprints and allow waivers if it is exceeded. How much latitude the Council gives the DRB should be added to the waiver provision. Both a project on Elm Street and Sabins pasture could want to cluster development into single large structures away from neighbors. Council could give unlimited latitude and let the DRB make the decision based on the specific conditions of the application. <u>Staff recommends, at a minimum, increasing the maximum waiver to 300% provided the applicant can demonstrate compliance with conditional use requirements.</u>	
67	Figure 3-07 (regarding accessory structures) max of two garages carports and barns- should this apply to rural; Same limit on sheds or similar small accessory; also only discusses allowing them in rear and side yards.	I think the first one is written correctly with the qualifier that "unless meeting all the dimensional standards for principal buildings in the district." The intention of these rules is to allow accessory buildings closer to the property lines than principal buildings. You can always have more accessory buildings but only two (or three) can be in the setback area of the principal building. I think this is clear in the statement 3003.C(1). That phrase should be added to the "sheds" line as well. It may not be clear because it does not expressly state it but accessory structures would be allowed in the "front yard" but not "in the front setback area". Accessory structures still need to meet the setbacks for principal buildings. <u>Staff recommends adding the "unless meeting..." language from above to the sheds section and keeping the rest the same.</u>	
68	3004.B Demolition note that earlier comment proposed adding demolition from 2201.G and deleting .B	agreed.	Note of earlier change of moved infor being inserted here

69	3005.B Applicability of riparian areas. Why no preservation of riparian in UC1, UC2, and riverfront. Shouldn't we preserve existing vegetation.	The Planning Commission felt that requiring vegetative buffers on the channelized portions of the Winooski and North Branch would make a lot of non-conforming development and require additional reviews to projects that probably should be allowed. Think of the NECI building as an example. If they looked at redeveloping their site, what would we require? If they tore down the building by the river should they be prohibited from building with 10 feet of the river and have a 10 foot vegetated buffer? The PC said no- The urban core can be developed. <u>Staff supports the Planning Commission in exempting these districts. Currently no riparian requirements exist in the city zoning and now it will be introduced fist to the less developed parts of the City.</u>	
70	3005 typo Natural Resources <i>Inventory</i> Map	agreed.	Typo- automatic approval
71	3005.D reference is to 3005.E and 3005.F but should be 3005.E(3) and 3005.F(3).	Technically the general references are ok and are actually preferable in this case. Development can be uses or structures so 3005.F(1) would allow a change of use (development) of an existing building in the riparian area. If we only referred to .F(3) we would miss this in (1). <u>Staff recommends keeping as written.</u>	
63	3006.D Add "to the greatest extent feasible" before "land development must be designed to:" and change (2) to read "... within wetland buffers and vernal pool buffers including..."	This conservation commission comment was to clarify a grammatical concern - is it "wetlands" and "vernal pool buffers" or is it "wetland and vernal pool" buffers. This clarifies. <u>Staff supports adding language in both places.</u>	
64	3007.C steep slopes - recommendation to add to the list of 'normal property maintenance or management activities' the removal of invasive species.	Agreed. <u>Staff recommends adding "removal of invasive species and" after "such as"</u>	
65	3007.E change "conditional use" in title and "conditional use approval from" in the text to "Hearing requirement" and "a required hearing by" respectively. Also Figure 3-08 will need to reflect the change from CU to just referring to a hearing.	Agreed that the conditional use requirements (traffic?, impact on community facilities? Character of the neighborhood?) don't really apply in the review of these plans. What is desired is a hearing so the public and neighbors are noticed of significant clearing of steep slopes. <u>Staff recommends making the changes outlined above.</u>	
66	3007.F typo should read figure 3-09	agreed	Typo- automatic approval
67	Figures 3-08, 3-09, and 3-10 should be more consistent with each other. 08 and 09 are listed shallow to steep but 10 is steep to shallow; the professional plan requirement is a percentage for steep slopes plan and square feet for erosion control plan; EC requirements change at a different rate than SS requirements	Agreed. I think a number of these could be made more consistent so it is easier to read and to know when extra engineering is needed. Adjust 3-10 to read steep to shallow; 3-09 should be twice the square footages in 3-08; requirements in 3-10 should match 3-09 (keeping the >10% requirement at 10,000). <u>Staff recommends making the changes described above.</u>	
68	3007.H(15) suggestion to strike	Agreed. This requirement to add to bad design. <u>Staff recommends striking (15).</u>	
69	3008 Erosion control- question about applicability. Who does this apply to and who needs a professional plan.	Everyone must meet the requirements but only those that are more than 3-10 need a plan. Those projects that receive a state permit are exempt locally. <u>Staff recommends keeping requirements as they are.</u>	

70	3008.C are "professional plans" necessary for larger projects?	These are developments with larger clearing of land on steeper slopes that require plans. Commission believes this was a good requirement. Staff will check with DPW to determine what they would like to see.	
71	3008.D(1) incomplete sentence. Needs word "development" after proposed.	Agreed.	Typo- automatic approval
72	3009 Stormwater- DPW and ZA recommend adding in the language from section 723 in the current zoning to section 3009 until new language can be developed.	Agreed. Staff recommends adding the language from the current zoning.	
73	3009 when will new language be ready. After Master Plan is complete?	It's timing is separate from the master plan update. The new language needs a few pieces- final state rules (so we can match our requirements to theirs), a new impervious cover data layer from UVM (we have agreed to pay for a new high accuracy data layer), and then some time to make rules to implement. We think this could be this winter depending on how we prioritize work plans (official map, design review, stormwater, master plan deadline in 6 months or one year, etc).	Informational question
74	3010 has a number of references to DRB. Which projects need DRB approval?	Good catch. This is because we had originally had these requirements imbedded within site plan (and prior to administrative site plans) so many requirements mention the DRB. The DRB references in 3010.B(2), (3), and (9) are ok- approvals are administrative unless you want a special consideration. (4) can be fixed striking (a) which requires higher requirements and replace "on low volume streets" with "based upon the site and street conditions". That way this becomes a waiver as well (meet the rules in 3-11 unless you go to DRB). (5) add "at the time of subdivision..." to the start of the second sentence. Subdivisions always go through the DRB and are the most likely time to require connection between lots. (7) combine the two sentences by striking "the development review board may require the applicant to provide" and add the word including. (8) change "the development review board may require the applicant" to "the applicant may need". Staff supports making the above changes.	
75	3010.B last sentence before the numbered list is confusing.	Agreed. It should read that the public works specifications will take precedence over the standards of this section and that the standards of this section take precedence over the B-71 standards. Staff supports making that change to the language.	
76	3011.F question whether loading should be limited to times when on busy (rush hours)	I think the loading area is off street it should not matter when the trucks arrive. If they are on street we have other mechanisms to force them to adjust their schedule. I would not suggest getting into scheduling deliveries. Staff recommends leaving language as presented.	
77	3011.I(1)(a) what about other durable paving materials (permeable).	Good catch. Staff recommends rewording the end of (a) to read "asphalt, concrete, or other durable materials."	

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78	3012.C(12) confusing. According to figure 3-16 the biggest sign is 40 square feet but now its 150 square feet (?)	The provision is not necessary because of the regulations later in the section. The 150 square feet comes from the billboard law. Staff recommends strikeing 3012.C(12).	
79	3012.C(9) Internally illuminated are prohibited here and them allowed later. Makes for confusion.	Agreed. It should read "Unless otherwise allowed herein..." The intention was to make sure those were not allowed at all but them some allowance were made later on. Staff recommedns making the addition discussed above.	
80	3012.C(11) recommend striking as difficult to enforce.	Agreed. Staff recommends striking.	
81	3012.D(11) suggestion to strike or amend the exemption of signs on the inside of the glass to target specific neon open signs, etc.	This was a large and well documented comment. As this would be a significant change in policy I would like to recommend that more outreach is taken on this issue. What does the business community think? Montpelier Alive? Does a percentage of the public have similar concerns? In general I would not recommend regulating these but perhaps Mont Alive could develop good downtown practices for businesses to adhere to rather than a new zoning regulation.	
82	3012.D exempt signs. Are political signs exempt and if so should they be added to the list?	While I heard a number of comments about poilitical signs I'm pretty sure we cannot regulate them. I will follow up with our attorneys. If so we should add political signs to the list on 3012.D.	
83	3012.G question of enforcement of these rules. What is the procedure for enforment?	All signs need permits so these rules will be enforced through the administrative process. Signs constructed would be a violation and be subject to enforcement as any violation would be. Enforcement is discussed in Chapter 470.	Informational question
84	3012.G(5)g confusing requirement.	Agreed. Not entirely sure what the requirement is here for this one. Recommend striking. Staff recommedns striking 3012.G(5)g.	
85	3012.G(10) and figure 3-15 talk about both portable and temporary signs. Unclear what the difference would be. Sandwich boards are exempt which would presumably be a portable sign so that should be struck from figure 3-15. Other temporary signs would presumably need a permit.	Agreed to strike potable signs from Figure 3-15. Yes temporary signs need permits. Staff supports striking the portable signs from figure 3-15.	
86	3012.I(1)(b) reference error	Correct. Was referencing a provision that was later deleted. Strike "...of Paragraph Error Reference source not found."	Typo- automatic approval
87	3012.M what about adding Capital Stationers sign on the side of the building to the list of landmark signs.	I personally do not like these exemptions but they have been maintained by the Planning Commission. The listed signs would be simply pre-existing non-conforming signs which would be allowed to exist indefinitely until abandoned. By giving them a special status and are not non-conforming so they can be changed and will never go away. Barre City had one of these on Summer Street for Bond Auto which they replaced with a new giant Bond Auto sign while I was there (over my objection) and will now presumably be a giant O'Riley Auto Parts signs. Hardly seems fair and equitable for competing auto parts stores. Staff does not recommend adding any additional signs to the landmark list.	

88	3102.B(1) does this include parking spaces or public rights of way?	This should be clearer about whether this is discussing public or private. Construction dumpsters of public property must get approval from the public works director. This should apply only to private property. <u>Staff recommends adding the language "on private property" after "A construction dumpster" and to add 3102.C Construction dumpsters on public property including streets and public parking areas must receive approval from the Director of Public Works.</u>	
89	3104.A(3) suggestion to increase limit on accessory apartments to 1,200 square feet and 45%	In 3002.C(4)(b) we already extended the right to property owners to make duplexes anywhere there are Single family dwellings provided they were on a conforming lot and have sewer and water. The recommendation to go to 45% is almost a duplex anyways (remember 50% is half the home) and 1,200 square feet would be larger than many older homes. I think the rules as constructed are good. Only non-conforming structures will be limited to 900 square feet and 30%. <u>Staff does not recommend making changes.</u>	
90	3104.A(4) in A and A(4) it talks about owner occupied. How would this ever be enforced?	I would support eliminating the owner occupied requirement for that reason. Staff recommends striking owner occupied from the .A requirement and strike (4) as it would then be unnecessary.	
91	3107.D Question of why we would call something group home major.	There are a number of requirements in order to be considered a group home (which is a protected class of housing under Vermont law). The question comes up of what happens if someone wants to do something that is a group home but doesn't meet the requirements. For example I worked in Richford where a proposal came in for a home for people with Alzheimer's. It was an old house with 8 beds and licences from the state. It met state law for a group home except that it was within 1,000 of another home for something else. So now what do you do? But for the other home they would not even need to get a zoning permit at all but now they have no way to apply for a permit. We put this provision in to cover those types of applications- maybe it has 10 beds, maybe it is near another group home, etc. In those cases- group homes major are classified as conditional uses on figure 2-14 use table so neighbors would be notified and a hearing held. <u>Staff recommendation is not to change the proposal.</u>	
92	3108.A(1) noted that a lot with three or more does not have any days as a qualifier. Three tents for one day makes you a campground?	Good point. It doesn't come up a lot. As written yes one day would make you a campground but this is looking to catch the problem cases (e.g. people having multiple RVs with guests). Council is welcome to make changes but I think it is a use that will not receive much use. <u>Staff recommends not changing the proposal.</u>	

93	3110 B&Bs - Do these regulations address Air B&Bs?	Yes and no. There are not specific regulation of air B&Bs but they would technically still need to meet the requirements of B&B if it is in an occupied home. We should look at developing rules for short term rentals if Council thinks it makes sense. For the most part they are not really B&Bs. Most of the time someone is renting out their entire house or apartment unit for a day or a week. Those will be difficult to catch and regulate but we can discuss. <u>At this time, staff does not recommend making a change to the zoning.</u>	
94	3122. Has this been reviewed by experts?	No we have not sent it to someone for review but the consultant reviewed the 248 standards. Wireless telecommunication facilities continue to be partly (mostly) exempt from local zoning. The legislature just extended the section 248 exemption until 2020 although the municipality CAN, if they choose give a local alternative pathway. The assumption of this language was that we would need something on the books if the state pre-emption was lifted. In theory developers can choose which path to go if we allow them a path. I think these rules are way too much but considering developers will simply choose section 248, I'm not worried. As staff we chose our battles for what to go after to redraft and we felt this one could stay and get a review on the next zoning update. Its exempt for the next three years (effectively). We can address it between now and then. <u>Staff recommends keeping language as presented.</u>	
95	3201 major site plan approval - it appears major site plans would require professionally prepared landscape plans and lighting plans. Mention was made at meeting to flag for change	Yes. Major site plans would be required to meet those standards. It's a policy question for the City if they want to require professional plans or not. Staff does not have an opinion except that it is easier to approve professional plans because it clearly shows locations and items. If someone can present a plan that shows they meet the standards then it probably doesn't matter if it was professionally prepared.	
96	3203.F(3) should include a reference to figure 3-20.	Agreed. <u>Staff recommends adding "figure 3-20 and" after "accordance with".</u>	
97	3206.E Energy code comment whether this is needed considering it looks redundant to 3207.C(6)	Agreed. It looks redundant to 3207 and should be removed. <u>Staff recommends removing 3206.E</u>	
98	3206.G unclear why this is here.	Agreed. <u>If council wishes to keep this staff recommends moving to 3202 and add as .C</u>	
99	3207.C introductory statement needs grammar edits.	Agreed. Staff recommends rewording to say "Applications required to meet this section shall meet the following:"	
100	3207.C(4)(a) building materials "high quality building materials" is squishy	Good point. We don't need to justify our regulations in them so we do not need the end of the sentence. It is that part of the sentence that adds problems. <u>Staff recommends strike everything from "... that conveys a sense of durability..." to the end.</u>	
101	3207.C(7) residential bulk storage Why require this?	Agreed. <u>Staff recommends striking.</u>	

102	3303.B concerns using levels of service and what these mean	Staff received a comment from Tom MacArdle that he wanted to provide some edits to this section. He is not a fan of LOS and thinks we can come up with something better. Staff will develop an alternative with Tom and bring to Council.	
103	3304.A Character of the neighborhood. This requires projects to meet the potential impacts on both neighborhoods if a project is adjacent to two neighborhoods. The pit off Court street is an area of concern.	Agreed this provision could result in impacts to a project on the boarder of two areas. Council has two choises, to elimiate the consideration of the abutting neighborhood or to insert langage to soften the impact (abutting neighborhoods will be given consideration but not to the extent that it prohibits otherwise allowed development in the base neighborhood."	
104	3304.C Staff comment that "development should be compaitble" should be replaced with, with not have an undue advers affect upon"	That phrase is a legal term of art that is used in land use law and has a tried and tested prociess for making decisions. <u>Staff recommends making that change in language.</u>	
105	Chapter 340 general comment on density bonuses being too generous in PUDs. Perhaps reduce to just 25% to 50%.	That will be a policy question. I think they would need to be examined on a case by case. I think the reality is that they will not be used or if they did could be denied by the board if not of good deisgn or if it impacts abutters.	
106	3401.B Can we create visual descriptions of the amount of infill development that could occur under infill development?	Infill PUD is only allowed on lots less than 2 acres in the higher density neighborhoods. So a 25% or 50% increase in a small number is usually not too much on a small lot. The reality is that most development does not maximize development because they still need to meet other requirements (parking, setbacks on the perimeter) and also any requirements for maximum development. It is why I have said I will be surprised if in 10 years any applications for any PUDs happen except for campus PUD on VCFA. "Worst case scenario" ... A 2 acre lot in res 1500 can have 29 units an acre or 58units total at maximum build out! Now they get an addition 50% bonus for building with the infill requirements (87 units). Assuming they meet all other requirements for parking etc. this would be about 45 units an acre and before everyone thinks this is insane, we are not yet as dense as the Lane Shops. Keeping that in mind- THESE WOULD BE CONDITIONAL USES IN THAT DISTRICT. Anything more than 4 requires conditional use and if the development would result in a project that impacts the character of the area then it could be denied. Nothing in these PUD sections are adminsitrative approvals. It would be impossible to map out all the possibilities but, it gives the DRB the ability to approve a higher density project if they use good design. MOst applciations if they come will be someone trying to add one unit to a small lot and looking for an avenue to get that approved. While some other PUDs may need a more careful review of the density bonus- this one is fine. <u>Staff does not recommend changing the proposal.</u>	
107	3401.B Recommendation to remove Res 6 and Res 9 from applicability.	In light of some of the comments above about limitations of use above, anything more than 4 units is a CU in res 6 and not allowed at all in res-9. <u>Staff would recommend keeping these provisions as a possibility in these districts.</u>	

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108	3401.C(5) Suggest clarifying this to be a pre-PV HERS score	Beyond my skill to make a recommended change. Staff will reach out to the energy committee and efficiency vt for a suggestion.	
109	3401.D(3) recommendation to strike this provision as this is a list of what applicant may do (and this statement is negative).	Agreed. Staff recommends striking (3).	
110	3401.F(2) should we be clearer about how we measure 1/4 mile walk (publicly accessible paths and sidewalks?)	I think we can develop a sub (a) that addresses how we will make that calculation. Staff will develop this and get back to council.	
111	3402.B Add cottage cluster to rural as well.	Agreed. Staff recommends adding rural to the list of allowed districts for cottage cluster.	
112	3403.B(9) Community buildings in other section have more descriptions. We should be consistent.	Agreed. We should match to 3402.J but not include (1). Also change "cottages" to "manufactured homes". Staff recommends making those changes.	
113	3404.B(2) typo change units to lots.	This was a staff comment. As written any large apartment building will be forced to go through these requirements even if they are not subdividing.	Typo- automatic approval
114	3404.B(2) how is 10 years tracked.	This is a tough one. In some ways it will be difficult to track but in the same way if it is not there then an applicant can simply subdivide 39 lots this year and 39 more lots next year. It becomes too easy to avoid the rules. This at least makes it more difficult (and opponents will always remember these rules and tell us if we forget.). Staff recommends keeping it despite its limitations.	
115	3404.C(5) Suggest clarifying this to be a pre-PV HERS score	Beyond my skill to make a recommended change. Staff will reach out to the energy committee and efficiency vt for a suggestion.	
116	3404.J New neighborhood open space. Section refers to requirement to create open space but previous comments were that the city cannot create a park through zoning. How do these relate.	The difference is that parks have public access. We can require Murray Hill to have a swimming pool for its guests and residents but we cannot require them to let everyone in town swim in their pool. Similarly we can require a subdivision to set aside open space for the enjoyment of people living in the PUD but we cannot require it to be open to the public.	Informational question
117	3404.J(1) increase 5% to much higher number; clustering should be required	The purpose for the minimum is to address projects on properties that lack any natural resource features and are not on the official map. In the least, all projects should conserve at least 5% for open space. That number could grow to as high as 40% on parcels that have a lot of lands needing protection. The Planning Commission drafted these rules to protect those properties that had lands in need of protection and left other properties alone. The new neighborhood has a requirement in .B requiring the pUD which in effect requires clustering. Staff does not recommend making additional changes in these areas.	
118	3404.J(2) comment that it could be clearer that the developer can conserve more than 40% if they choose but DRB can only require up to 40%.	Agreed but I think that could go without saying. To add that language can complicate how the rest is written and may confuse things. Staff does not recommend making changes to this provision.	

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119	3404.J(4) Concern that developer could cover entire open space with solar panels	This is entirely a policy question. These areas have been set aside primarily for environmental reasons though which may make that more difficult. I think it depends on what the open space was for. If it is on the official map and the city does not want to assume the acquisition then I don't see why use for solar would not be inappropriate. If it is set aside for wetlands then it would be a problem to have solar. It's worth the discussion.	
120	3405 title conservation subdivision- what is it	These are classic PUDs that some people do to conserve open space. Rather than subdivide 20 acres into ten 2 acre lots they cluster the development into 10 one acre lots and leave 10 acres as protected open space.	Informational question
121	3405.I "with with" repeat	agreed. Typo	Typo- automatic approval
122	3406.A term major light industrial is not defined.	Agreed. "Major light industrial" should be replaced with "manufacturing". <u>Staff recommends making change.</u>	
123	3406.k The allowable size and height of main entrance signs seem extremely large. Maybe make smaller and allow DRB to make larger	Agreed. Ground mounted signs are currently proposed with a maximum of 32 square feet (12 feet high) so that would be a better default. <u>Staff recommendeds chaging those numbers for entrance sign to 32 square feet and 12 feet high with a new statement at the end that the Development Review Board may approve waivers to the standards not to exceed 100% in size and 50% in height provided the additional size will not negatively affect the character of the neighborhood. "</u>	
124	3503.C add new (3) Buildings and building envelopes on recorded plat shall be representative only and placed only to demonstrate a suitable area for development. Approval of a plat with a house site or building envelope shall not be infered as a permit to build such structure nor shall it be a limitation to future development outside of the envelope or house site unless included as a condition of approval."	This is designed to make sure plats approved in the past with these characteristics do not reaquire someone to go back and amend their plat before building their house 10 feet to the left or right of the identified hous on the plat. <u>Staff approves this recommendation.</u>	
125	3504.A concern that any project - no matter how small - will need a traffic study.	No. Only subdivisions resulting in 75 trips per day will need th professional study. 75 trip would be a big project considering the Sibley project (16 new residential units) was NOT going to trigger a traffic study. <u>Staff does not recommend changing this provision.</u>	
126	3504.B concerns using levels of service and what these mean	Staff received a comment from Tom MacArdle that he wanted to provide some edits to this section. He is not a fan of LOS and thinks we can come up with something better. Staff will develop an alternative with Tom and bring to Council.	
127	3505.B(8) add new "All new lots shall contain sufficient buildable area to meet minimum density requirements of section 3002.C."	Agreed. <u>Staff recommends making that addition.</u>	
128	3506.A(1)g suggest adding a comma after "wide"	Sounds good.	Typo- automatic approval
129	3506.A(5) need to add "may" after DRB	Agreed	Typo- automatic approval
130	3506.I(1)b should we be clearer about how we measure 1/4 mile walk (publicly accessible paths and sidewalks?)	I think we can develop a sub (c) that addresses how we will make that calculation. Staff will develop this and get back to council.	

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131	3506.B(2) discusses pedestrian and multiuse but not explicitly "bike paths". We should have on road bike lanes when streets are part of a subdivision.	Agreed. Neither of these (1) or (2) explicitly discusses bikes. It could be tricky to rewrite because not all roads need bike lanes. Low volume streets can safely be sharrowed and the narrower street also reduces impervious cover. I think we should add a (3) though that expressly mentions bikes. Staff will develop some language for council to consider.	
132	3507.A similar to comment under 3304 where projects on the boarder of two neighborhoods must be consistent with both neighborhoods.	Whatever the decision is for 3304 should be replicated here for consistency sake. Staff recommends being consistent with 3304.	
133	3508.B(4) extraneous "	agreed.	Typo- automatic approval
134			
135			

136	PART 4		
137	4201.D Should the Zoning Administrator provide other codes as well.?	The ones listed in .D are the ones the Administrative Officer is required to provide by law. We are always able to provide others at a cost. <u>Staff does not recommend changing the provisions as written.</u>	
138	4201.H Should we provide a definition of "promptly"?	This was discussed by the planning commission and other communities set days. The issue comes when unusual situations arise and we trip a required date that is set by the bylaws but not set under state law and an application becomes deemed approved. As this is not a problem in Montpelier we suggested leaving this as a general statement knowing we typically issue permits on the day a completed application is received for permitted uses. <u>Staff does not recommend making any changes.</u>	
139	4207.D requires applicants to go to Superior Court to get deemed approval from an administrative officer's failure to act. Why not simply say it is deemed approved?	First the deemed approval is set in statute and simply says applications were deemed approved. No one knew how "deemed approved" would actually happen. We need a paper trail and someone to determine that the deemed approval was warranted. Maybe someone dropped off their zoning application at the Fire Department and now simply declares that I submitted to the city an application and did not get a reply in 30 days so it's approved. Maybe the administrative officer told them they needed more information and they failed to provide it. Maybe the administrative officer sent it to the state for comment (which automatically stays the 30-day clock) but a member of the public may simply decide on their own that the permit is deemed approved. The Courts stepped in to provide the remedy which is an appeal to Superior Court and a judge will determine if it is warranted. While this may seem onerous to the applicant there is more to it than simply the issuance of a permit. The second key point to keep in mind is the neighbors. Imagine if Doug Zorzi put in an application to develop 500 units in Sabins Pasture and in the confusion of doing things it took 35 days to issue the permit. Without a court hearing the permit would be issued and the abutters all have no opportunity to comment on the application their rights would have been lost due to the failure of the administrative functions of the city. It would not be fair to those neighbors to lose their rights for our error. The Court makes sure those rights are observed. <u>Staff does not recommend making any changes to the draft.</u>	
140	4207.G(3) typo should be "explains" not "explain"	Agreed	Typo- automatic approval

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141	4302.B Conservation commision has a 21 day requirement to act but Design Review (also an advisory board) does not have such a requirment. Should there be a requirement for DRC?	There CAN be a requirement set but there has not been an issue with this committee in the past (and there isn't a requirement under current zoning). The Conservation is new and the PC was concerned that the board meets once a month and a mistimed application could cause a 5 week day to a project. While the PC wanted to extend the priveledge of commenting on applications to the CC they wanted to make sure they would hold special meetings as need to ensure no additional delays are added to applciations. <u>Staff does not recommend making any changes.</u>	
142	4501.A(2) states "at least one more" when state law requires "at least two more"	Agreed. <u>Staff recommends changing "one" to two".</u>	
143	4505.H wording not clear	Agreed. The best way to make this clear is to break into a list of (1) send a copy to applicant and others...; (2) file a copy with AO...and (3) record in land records. <u>Staff recommends breaking into a list.</u>	
144	4505.L odd statement in this location. Should be removed	Agreed. Statement out of place here and should be removed. Permits run with the land. A decision is necessary to issue a permit. <u>Staff recommends deleting 4505.L.</u>	
145	Figure 4-02 had three sets of comments. First the requirements in the table are blank (no check boxes indicating which are required. Second, should character of the area or district be "character of the area or neighborhood"; and third, these do not appear to match state law and they should match state law.	On the first, agreed. In fact this has been an item on the PC fix list a few times and each time it gets worse (going from what was unclear markings to no markings at all). Table must once and for all be updated with "X" in the appropriate boxes. Second I think "district" should be replaced with "neighborhood" but, except for waivers, these rules are set by state law and should match (see third point). Third, I agree that this must match state law and while it simply rewords state law to be clearer, I think I would prefer the exact wording from statute. While tables and graphics can be used to simplify and clarify laws and regulations, sometimes they are unnecessary and make things more confusing. <u>Staff recommendation would be to remove the table; insert per state law the requirements into 4603.D (1) and (2) the requirements for general varaiances and renewable variances, and insert waiver requirements into 4602.C.</u>	
146	4701.B delete " at end of line	agreed	Typo- automatic approval
147	4701.F typo/reword	agreed. Would be clearer to say "The City shall observe any limitations on enforcement proceedings set forth in the Act (24 VSA 4454)." <u>Staff recommends making the change as stated above.</u>	

148	4701.G confusion.	Lots of confusion on this one including for me. Technically this can be deleted as it is a part of the limitations that are talked about in .F above it. If anyone cares... what the state law said was that if a permit is issued but not recorded in the land records that the city cannot enforce a zoning violation on that property. So we issue a permit to build a garage 10 feet from the property line and you build it 5 feet from the line- we would be unable to enforce a violation if the permit is not issued. It is a terrible law that is rife with unintended consequences but the law is what it is. <u>Staff recommendation is to strike .G as it is already included above in .F.</u>	
149	4701 or 4702 add restorative justice option	After some consideration I think this one will need to wait for a time when we can do more homework on it. While we refer people to community justice for neighbor disputes, that is different than enforcement of violations. Under state law the Administrator is required to 'literally enforce the bylaws'. The restorative process would not be legal or appropriate in determining whether violations exist. We spend no time today enforcing in court and collecting fines so I'm not sure how restorative justice would apply. I would suggest that before we institute ticketing (these bylaws will enable that but not institute it) we should look at restorative. Both of those decisions can wait until later. <u>Staff suggests not changing anything at this time.</u>	
150	4702.C and 4307.B Taken together it looks like if someone is notified of a violation and doesn't fix it for 4 days then day 1 is first offence, day 2 is second offence, etc. and then we transfer to Env Court after 4 days. Correct?	Its not quite that cut and dry. 4704 talks about the required notice of violation. That notice requires a statement giving property owners seven days to cure the violation before we can enforce. That notice of violation, though, can be appealed within 15 days of being sent (and usually is) so we generally do not enforce for the first 15 days (to see if they appeal the NoV). If they do not contest it or lose on appeal then we can begin enforcing. We have two avenues at that point- go directly to superior court or (if we institute it) issue tickets. The "day offense" is regarding tickets. Yes, after a number of tickets those would also be transferred to superior court as well.	Informational question
151	4704.A section says "the Administrative Officer may issue a notice of violation..." statement should be revised to read that " the Administrative Officer shall issue a notice of violation..." Enforcement is not discretionary.	Agreed. <u>Staff recommends that "may" should be replaced with "shall"</u>	
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155	PART 5		
156	5001.D Ordinance uses "will" and "must" to refer to mandatory actions. The appropriate convention is "shall".	Staff agrees. Technically, though, it is not improper to use "will" and "must" but the convention is to use shall. The consultant preferred "will" and the commission was ok with that approach. A global search and replace would require a careful proofread but could be done. If Council wants it changed we can do it.	
157	His/Her should be replaced with "his or her"	I found 6 locations where that occurred - 1206.B, 4201.H, 4203.B, 4503.B, 4601.A (in the information bullet) and 4604.A (information bullet). Staff agrees they should be replaced.	
158	And/or is not a word; it should be replaced with one or the other depending on context.	I was surprised how often this appeared (84 times) in the bylaws but many were ok. The and/or can be eliminated in some cases by rewording sentences to say "shall include at least one of the following." In many cases where and/or is used, what is being expressed is that you must do one but that would not prohibit you from doing more. So, for example there is a requirement to "either mitigate and/or minimize noise". I think you can simply say "or" but developers may question whether they must do one or the other (not both) to meet the requirement. I don't think it is wrong to say and/or but we could adjust them to say or. I did not review all 84 to see if some were incorrectly applied. Staff recommends changing and/or to "or" and proofreading each to ensure it is appropriate.	
159	5101 generally. Should we be including definitions of things defined in state law? Should we simply delete them or reference the state statute?	In many cases we do not need to use state law and we can use alternative definitions. I think if we are using a state law we can simply reference state law. For example 5101.H(3) restates state law 10 VSA 6602(4). The advantage of restating is the AO and public do not need to research state law to find the definition. The disadvantage is that the state sometimes changes statelaw and if you rewriting it in the bylaws then you could have a conflict. Its a policy decision. In the past I usually placed the reference (where it came from) and then copied it into the ordinance so that it would be easy to find when we needed it. Truely a policy decision. We can do it either way.	
160	5101.B(6) bedrooms- requiring bedrooms to have a closet. Can we remove closet requirement?	Bedrooms appear in only 3 places - accessory dwelling units must be a "studio or one-bedroom apartment"; B&Bs cannot have "more than 5 guest bedrooms"; and extended stay hotel rooms must have "separate bedroom/sleeping space". I don't think the closet is critical in any of these. I question, based on where and how the term is used whether the definition is needed at all. I think a one-bedroom apartment speaks for iteself (you don't need to define bedroom to understand what that means; 5 guest bedrooms could easily be 5 guest rooms and mean the same thing, and bedroom/sleeping space is understood without definition. Staff recommends striking definition of bedroom.	

161	5101.D(16) definition of 3&4 dwellings includes mention of separate entrances while multifamily does not. Add for consistency?	I actually would remove the requirement from the previous. Leaving it unsaid means the developer can meet with separate doors or single vestibule or by some other means or combination. <u>Staff recommends striking "and with each unit having a separate entrance from the outside or through a common vestibule" from 5101.D(15)</u>	
162	5101.D(14) to (16) each of these does not contemplate multiple buildings on one parcel. Should that be addressed here or somewhere else?	The concern here is that someone with 20 acres in rural are entitled to 10 residential units. As written if they put 10 single family homes (without subdividing) one foot away from each other they would all be permitted uses and could proceed development pretty easily and without . If those same 10 units shared a wall they would be a multifamily structure and not be allowed because multi family structures are not allowed in rural. Is that OK? The ZA and Director have different views on what should be ok but we know we need to be clear which it should be. Director feels the definition should be changed to read "parcel" rather than "structure" so that a single parcel with 5 single family homes would be considered a multifamily use on the use table -depending on the district that could mean it will not be allowed or be pushed into conditional use. The ZA believes this is an unusual way of doing this and that continuing to build single family homes should be permitted.	
163	5101.L(7) Locally produced. Vermont Farm to Plate uses a different definition which is Vermont plus 30 miles. Should we change to match others.	The original draft was really small (maybe Washington County) and then it was expanded to Vermont plus 30 miles but then backed down to Vermont. <u>Staff would support adding the "plus 30 miles" back in.</u>	
164	5101.S(16) do we need to clarify that basements and attics are not counted in stories?	I actually think the correct thing to do is to strike the second sentence. If we want to discuss "how to measure height" then we should add that language to section 3002.H (where that topic is discussed). That line is inappropriate as a part of a definition of story. <u>Staff recommends striking the second sentence.</u>	
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