

State of Vermont
Department of Housing and Community Development
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*Agency of Commerce and
Community Development*

[phone] 802-828-3211

[VIA EMAIL]

TO: Josh Hanford, Commissioner, Vermont Department of Housing & Community Development
FROM: Jake Hemmerick, Planning & Policy Manager
CC: Chris Cochran, Director, Division of Community Planning & Revitalization
Downtown Board [upon signature]
Interested Parties to the Application [upon signature]
DATE: June 27, 2022
SUBJECT: BERLIN NEW TOWN CENTER SATISFACTION OF CONDITIONS AND EFFECTIVE DATE

I'm writing to brief you on the Town of Berlin's progress on the fourth condition [*emphasized below*] of its new Town Center (NTC) conditional approval from the Downtown Board for your determination to recognize the designation effective. It says:

4. *The Chair will issue a memorandum to the applicant and interested persons recognizing the effective date of the designation upon satisfaction of the following [sub-conditions listed below].*

Staff reviewed the amendments to the Town of Berlin's Land Use and Development Regulations dated June 6, 2022, and prior correspondence related bylaw preparation.

The Town's adopted regulations will become effective 21 days after the date of adoption, unless put to a vote by the Selectboard or a petition for a popular vote is filed. I therefore recommend that you recognize the designation effective June 27, 2022 (unless made subject to a popular vote), based on the following review of the conditions.

- a. *The regulating street map must establish all streets as A, B, and P streets in the NTC (including the §2101.E street standards as they apply to A, B, and P streets), and A, B, and P streets must apply when proposing to construct an unmapped street;*

Section 210 of the regulating street map now classifies all streets as A and B streets within the NTC, and all new or reconstructed streets must meet the standards established in Paragraph 2101.E (per §2101.D(3)(c)). The street classifications determine the dimensional standards for development fronting on each street types (per §2101.D(3)(b)).

Paragraph 2101.E maintains the standards applicable to A, B & P Streets that are consistent with a New Town Center.

Any proposal to construct an unplanned street or develop a site or building that does not front on a street or street segment classified on the regulating map, must select a type for the street or street segment and within the NTC, and only A, B & P streets will be allowed in the New Town Center (per §2101.D(3)(d)).



- b. *A and B streets may establish necessary dimensional waivers to accommodate permanently affordable housing development;*

This condition is optional. No action was necessary or taken by the Town.

- c. *A and B streets must require on-street parking;*

The Town's regulations in paragraph 2101.E establish that within the NTC on-street parking is required along any street segment that will serve as frontage for new development (per §2101.E(3)(c)), which includes the division of parcel into two or more parcels; the construction, reconstruction, conversion, structural alteration or relocation or enlargement of any structure, mining excavation or filling; or any change in, or extension of, the use of land or a structure (per §5201.L). The section further clarifies that on-street parking may be provided for on one or both sides of A & B streets.

- d. *§2101.E street standard curbing waivers must only be allowed in situations where developments implement street stormwater treatment approaches in Vermont's Green Streets Guide and the center's proposed integrated stormwater plan;*

The street standards also establish that new or reconstructed streets must be curbed except on P (pedestrian streets) or when the development review board grants a waiver upon demonstration by the applicant that the street is designed for slow traffic speeds (which applies to all NTC streets) and in accordance with Vermont's Green Streets Guide.

In a meeting with the Town on Dec. 16, 2021, staff inquired about the status of the center's stormwater plan. The Town explained that there will be no municipal planning for stormwater; it will be prepared by private property owners in the NTC. The Town expects to bring an update to the State Board on the stormwater planning/permitting progress. NTC street development will be subject State-approved stormwater plans. The Town reported that there will be no municipally owned infrastructure, but a possible easement for access to the public facility may be needed. If the streets are built to standard, the Town may take over streets.

Overall, the condition recognizes the relationship between streets, curbing, and responsible stormwater management. So, if there is an ANR-stormwater plan compatible with the New Town Center requirements and the Town's regulations require curbing or otherwise comply with Vermont's Green Streets guide, staff finds that this condition is adequately satisfied, in recognition that the stormwater plan will have to meet both State permit and New Town Center street requirements.

- e. *The NTC regulations must not allow a development envelope without street frontage, or otherwise allow an envelope or lot to front parking lots or service and circulation drives without connected street frontage (2101.D);*

The Town's amended regulations close a loophole that previously appeared to allow development inconsistent with the New Town Center program and the State's smart growth principles by clarifying that service and circulation drives will not be considered streets unless they meet all the standards for roads, including the streets standards of 2101.E (per §2101.D(3)(f)). And, although a road is defined in the regulations as a vehicular way that provides access to 3 lots, 6 dwellings, or 3 non-residential principal buildings (per §5201.R), the NTC provisions will take precedence over this definition (per §2101.D(4)), and staff understands that the regulations require that 1) land development front on a street, 2) that lots and development envelopes must front a street, 3) that the street types determine

dimensional standards for land and building development, and 4) that streets must meet the standards of §2101.E.

- f. The NTC regulations must not allow a second, detached principal building to be constructed on large lots or envelopes (such as lots greater than 1,000% (10x) the minimum lot size for the regulating street) without connected street frontage, or otherwise allow the build-out of a large lot or envelope with multiple “back lot” buildings surrounded by parking lots or service and circulation drives, without connected street frontage (2101.D & 3505.A). 1,000% = 2.3 ac. on A streets, 3.4 ac. on B streets, and 1.3 ac. on P streets; and*

Of concern here, and related to the prior condition, was that the prior regulations would have allowed the development of a lot or building envelope in a manner that would not be consistent with NTC standards: such as secondary buildings on a lot or within an envelope without connected, regulating street frontage to apply the A, B, or P street standards.

Although a development envelop may still contain one or more buildings, parking areas and/or greenspace features (2101.D(2)(c), 2101.D(2)(d) says that development envelopes will not be approved for the purpose of avoiding prohibitions or limitations on locating parking between buildings and the streets. The regulations now make clear that development envelopes must be defined to apply the form-based dimensional standards according to street types, and that the development of a site or building that does not front on a street must select a regulating street type (2101.D(3)(d).

Although the amended regulations are not framed to apply maximum lot sizes, the proposed regulations address the concern by disallowing the development of detached principal buildings on lots or envelopes surrounded by parking lots and service and circulation drives without connected street frontage to a regulating A, B, or P street type. All lots, building envelopes and principal buildings are subject to the regulating street standards, including a build-to-line and primary street façade; in other words, this development must have adjacent street frontage, even if located within a building envelope. Approvals inconsistent with this would be grounds for review of the designation by the State Board.

- g. The Route 62 gateway must include the street block on the official map and regulating street map (as envisioned on p.8 of application and the center plan) unless a traffic/engineering study (done in partnership and coordination with the RPC and VTrans) or other State regulations demonstrate that it is not feasible as envisioned.*

The Regulating Map in section 210 and the adopted Official Map dated December 2021 include the street block as envisioned in the NTC application.

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Last, the Town’s Zoning Administrator has reviewed this draft memo for accuracy and would like to update the Downtown Board on its New Town Center activity and progress in July and apply for a Neighborhood Development Area designation.

ATTACHMENTS:

1. Approved Amendments to the Town of Berlin Unified Development Regulations
2. State Board Facts, Findings and Conditions of Approval

COMMISSIONER DECISION:

As Board Chair, I recognize the Berlin New Town Center designation effective June 27, 2022 (unless made subject to a popular vote), based on staff's review this 27th day of June, 2022, and instruct staff to notify the applicant, members of the Board, and interested persons.

We look forward to following the Town's progress on development subject consistent with the New Town Center program and the Board's approval and conditions, as applied by applicants, the Zoning Administrator, and Development Review Board.

A handwritten signature in black ink that reads "Josh Hanford". The signature is written in a cursive, flowing style.

Commissioner Josh Hanford