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- c) whether the proposed facility employs available stealth techniques, or is otherwise camouflaged to the extent possible, in order to minimize the visual impact of the facility upon the adjoining streets and surrounding neighborhood.
- d) the proximity of the facility to residential dwellings and the visual and aesthetic impacts on such residences.

8.4.6.2 Annual RF emissions monitoring is required for all sites by an independent RF engineer to be hired with the Planning Board approval and at the applicant's expense. Test results will be submitted to the Town as soon as available, and not later than the close of the calendar year. Annual testing of electromagnetic emission shall be required to ensure continual compliance with the FCC regulations.

8.4.6.3 A special permit shall only be granted if the Planning Board determines that the intent of this Bylaw and the criteria of Section 9.2.4 are met.

8.4.7 Severability

The invalidity of any section or provision of this bylaw shall not invalidate any other section or provision herein.

SECTION 8.5.0 TOWN CENTER OVERLAY DISTRICTS

8.5.1 The Town Center is hereby adopted to achieve the following purposes and objectives:

The fulfillment of goals and strategies enumerated in the 1993 Land Use Element of the Master Plan and the 2004 Community Development Plan involving aesthetic and functional improvements to the Town Center;

The enhancement and improvement of existing historic structures and properties around the Town Common;

The enhancement and improvement of existing properties and/or structures relative to pedestrian access, vehicular circulation, and signage;

The implementation of design and development standards to guide future development and re-use proposals which reflect the historic and governmental features of the neighborhood;

The implementation of design and development standards that encourage parking areas to be subordinated in relation to buildings, landscaping, and pedestrian access;

The encouragement of communication and shared redevelopment efforts among adjoining property owners to help achieve their long term goals and objectives; and,

The promotion of increased density where utility and transportation infrastructure already exist to better accommodate future growth;

The promotion of a mixture of uses to reduce vehicle trips, such that residents and area employees can walk to needed services and amenities, and to conversely provide a built-in demand for the local commercial and retail uses;

The encouragement of in-fill development;

The reutilization of properties that have reached their market or physical obsolescence;

The clustering of buildings and mixing of uses in exchange for some portion of land to be set aside as public area or green space;

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The application of “Smart Growth Principles” as enumerated by the Commonwealth of Massachusetts to the future redevelopment of the Town Center;

The provision of incentives to accomplish the above objectives.

8.5.2 District Boundaries

The Town Center is herein incorporated as two (2) overlay districts, superimposed over other districts established by this Bylaw said districts to be known as: the “Civic Center” (CC) and the “Central Business District” (CBD). The districts shall include all areas as reflected on a map titled "Town Center Overlay Map: Civic Center and Central Business Districts", prepared by Town of Burlington Planning Department, dated December 2005. This map as may be amended from time to time is hereby made a part of this Bylaw.

8.5.3 General Requirements and Applicability

All land located within the Civic Center and Central Business Districts shall be subject to the use restrictions or prohibitions as identified in Sections 4.2.0, 4.3.0 and 4.4.0 of this Zoning Bylaw. Uses not specifically permitted in these schedules shall be prohibited. Where land falls within the 100-Year Flood Plain District, Wetlands Districts, Aquifer or Water Resource Districts, such land shall be governed by the additional requirements or prohibitions of such districts.

8.5.4 Permitted Uses

8.5.4.1 Uses permitted by Site Plan and Special Permit

A Site Plan for all uses and activities proposed in the Town Center, except for single family dwellings, shall be required to be submitted in accordance with Section 9.3.0 of this Bylaw and the Site Plan Rules and Regulations of the Planning Board.

In the use regulations schedules of Sections 4.2.0, 4.3.0 and 4.4.0 of this Zoning Bylaw:

Where a use is designated as “YES” in the CC and CBD Districts, such use shall be permitted only if said use is permitted in the underlying zoning district, and any requirement for a special permit in the underlying zoning district shall govern.

Where a use is designated as “YES1” in the CC or CBD Districts, such use shall be permitted by right, even where the underlying zoning district may prohibit such use or require a special permit for such use.

Where a use is designated as “SP” in the CC or CBD Districts, such use shall require a Special Permit in accordance with the procedures specified in Section 9.2.0 of this Bylaw, even where the underlying zoning district may permit such use by right. Such designation shall not supersede a prohibition of an underlying zoning district.

Where a use is designated as “SP1” in the CC or CBD Districts, such use may be permitted by a Special Permit, even where the underlying zoning district may prohibit such use.

Where a use is designated as “NO” in the CC or CBD Districts, such use shall be prohibited regardless of the provisions of the underlying zoning district.

8.5.4.2 Housing Production and Residential Uses in the Town Center

8.5.4.2.1 *(This section deleted in it's entirety September 2010 Town Meeting)*

8.5.4.2.2 Maximum Residential Component:

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No additional Multiple-Family Dwellings shall be permitted beyond those units already permitted or applied for as of June 8, 2010

8.5.5 Dimensional Requirements

8.5.5.1 Minimum Lot area

Lot area requirements shall be as required in the underlying zoning district pursuant to Section 5.2.0 of this Bylaw.

8.5.5.2 Minimum Lot Frontage

Frontage requirements shall be as required in the underlying zoning district pursuant to Section 5.2.0 of this Bylaw.

8.5.5.3 Minimum Front Yard

Front yard setback may be zero, subject to inclusion of minimum 10 feet wide pedestrian area along the front face of any structure, where such area may include walkways and other pedestrian amenities including seating areas, benches, landscaping, lighting, awnings, trash receptacles, and similar features as may be approved by the Planning Board pursuant to a Site Plan.

8.5.5.4 Minimum Side Yard and Rear Yard

Side yard setback may be zero, except where abutting use is a one family dwelling, in which case a minimum 15' landscaped buffer is required.

8.5.5.5 Minimum Buffer to Adjoining RO Districts

The minimum buffer to adjoining residentially zoned property shall be 20% of the average depth and/or width of the lot as applicable, with a minimum of 25' and a maximum requirement of 50'. Abutting residentially zoned property shall include lots that are adjacent to a private or public way, connecting said residential property and the CC or CBD Districts. This buffer is not applicable to front yard setbacks on Cambridge Street, Center Street, and Winn Street. The buffer shall consist of natural vegetation and/or landscaping designed and constructed to mitigate the impact of any commercial use within the CC or CBD Districts on the abutting residential district. The buffer shall be designed and constructed to minimize the visual effect of the bulk and height of buildings, structures, parking areas, lights, or signs, and shall be kept free of encroachment by all buildings, structures, storage areas, and parking, except that bicycle paths and fences may be sited within such buffer area if approved pursuant to a site plan review by the Planning Board but subject to a minimum 20' setback for bicycle paths.

8.5.5.6 Maximum Aggregate Building-to-Ground Area Percentage

33 1/3 %, except that the Planning Board pursuant to a Site Plan or Special Permit may permit the Maximum Aggregate Building to Ground Area Percentage to increase to 40% where such application is consistent with the purposes of the Town Center and meets one or more of the following criteria:

- a) Pedestrian and bicycle amenities are provided that are distinctly separated from drive aisles and parking, that provide active public spaces to foster social interaction, that encourage walking between businesses, that offer ease of access to public transit systems, and that enhance safety and access to adjoining properties and streets;
- b) Landscaping is provided of a density, diversity, and maturity that fosters the creation of public spaces, and that promotes connections to landscaped spaces on adjoining properties;

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- c) Any housing component where at least 15% of the units are set aside as permanently affordable housing units.
- d) Offsite mitigation is implemented within the Town Center that substantially advances the purposes and objectives of the Town Center.

Pursuant to a special permit granted under Section 8.5.9 Transfer of Development Rights, the Planning Board may permit a Maximum Aggregate Building to Ground Area Percentage to increase to 50% where such application is consistent with the purposes of the Town Center and meets the criteria of any design review guidelines established by the Planning Board.

8.5.5.7 Maximum Building & Structure Height

For nonresidential and mixed use structures within 100' of abutting residential district, including measurement across public or private ways = 30'.

For nonresidential and mixed use structures greater than 100' but less than 200' from abutting residential district, including measurement across public or private ways = 35'.

For nonresidential and mixed use structures greater than 200' from abutting residential districts, including measurement across public ways = 40'.

For multifamily structures within 100' of abutting residential district = 30'

For multifamily structures greater than 100' from abutting residential district = 40'.

For one family dwellings = 30'.

8.5.5.8 Minimum Feet between Buildings

Not less than required by the State Building Code.

8.5.5.9 Maximum Floor Area Ratio

For properties whose underlying zoning designation is General Industrial, the Floor Area Ratio may be increased to 0.50 pursuant to a special permit granted by the Planning Board in accordance with the provisions of Section 8.5.5.6. Floor Area Ratio shall not apply to other properties in the CC or CBD.

8.5.6 Nonconforming Uses, buildings, structures and premises

In addition to the criteria of Sections 6.1.1 and 6.1.2 of this Bylaw, proposed alteration, expansion, and/or change of nonconforming uses, buildings, structures or premises shall be subject to site plan review and aesthetic criteria of any design review regulations adopted by the Planning Board.

8.5.7 Parking Requirements

Parking requirements shall be as specified in Article VII of this Bylaw.

8.5.8 Design Requirements

The Planning Board shall adopt and maintain design review regulations to govern the future construction and reuse of properties in the Town Center. Adoption and amendment to such regulations shall require a public hearing in accordance with Section 9.6.0 of this Bylaw, and with notice to Town Meeting Members. Such regulations shall address:

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1. Facade and exterior building treatment, including the style and sizes of all signage affixed to buildings;
2. A minimum percentage of landscaped surface area;. All open space, landscaped and usable, shall be designed to add to the visual amenities of the area by maximizing, in so far as practical, its visibility for persons passing the site or overlooking it from nearby properties.
3. A reduction in the number of existing curb openings that exist on the premises;
4. The placement of utilities and wiring underground to the extent possible;
5. The placement of HVAC equipment, fans, generators, and other site related structures and items so that they are not visible on roofs or building frontage areas, or that such features are suitably screened from view;
6. The layout & design of parking and loading spaces;
7. Other design standards and conditions deemed appropriate by the Planning Board; and,
8. Pedestrian amenities - sidewalks to provide access between parking areas and uses, and between properties.
9. Preservation and enhancement of landscaping. The landscape shall be preserved in its natural state, insofar as practicable, by minimizing tree and soil remove and any grade changes shall be in keeping with the general appearance or neighboring developed area.
10. Relation of buildings to environment. The proposed development shall be related harmoniously to the terrain and to the design, scale, and architecture of existing buildings in the surrounding area that have visual relationship to the proposed buildings, in so far as practical. Proposed buildings shall be related to their surroundings with respect to:
 - a) Street facade and exterior walls visible from public ways.
 - b) Variations and breaks in wall and/or roof planes.
 - c) Materials, textures and color
 - d) Roof slopes and materials
 - e) Domestic scale should be produced through massing devices such as breaks in wall and roof planes and through design of architectural features.
 - f) The building should not be made, in effect, a sign, through painting with bold patterns, checks, logos or other graphic devices, use of lighting or use of unconventional building form.
 - g) External lighting
 - h) External windows
11. Heritage. Proposals to remove or disrupt historic or traditional structures, or architectural elements shall be minimized.
12. Cost. The Planning Board shall be obligated to be sensitive to potential financial burden to the applicant, where the applicant is only making improvements to comply with the Americans with Disabilities Act requirements.

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8.5.9 Transfer of Development Rights

The Planning Board may, by Special Permit, consider requests to transfer development capacity between parcels of land in the Town Center. The Planning Board shall base its decision on the purposes and objectives criteria of Section 8.5.1. A major purpose of this provision is to provide a buffer between the adjoining established neighborhoods and the Town Center where no such buffer currently exists. Transferred development rights may be used for residential or nonresidential uses.

Development rights may not be transferred from land which may not be otherwise developed because of deed restrictions, easements, prior transfer of development rights, or other reasons that render the land not developable, including land with conservation restrictions, land owned by a government agency or a nonprofit corporation or other entity for park, open space, agricultural, historical, or conservation purposes.

Transfer of development rights is contingent upon placing a permanent deed restriction and recording such restriction at the South Middlesex Registry of Deeds, the form of which is subject to approval by Town Counsel, on the land from which the development rights are being transferred and restricting the use of the land to agriculture, forestry, open space, passive or active recreation, or deeding the land to the Town of Burlington as permanent open space or parkland.

Development rights may be transferred from a sending parcel with the accompanying deed restriction and held indefinitely by the owner of the parcel before being transferred to a receiving parcel. Development rights may be transferred by sale or other means and may subsequently be transferred to any owner of receiving parcels in the Town Center allowed pursuant to this bylaw.

8.5.10 Criteria for approval

The Planning Board shall not approve any application for approval of a site plan or special permit in the Town Center District unless it finds that all the following conditions are met:

1. The use or uses as proposed to be developed, and as reflected on the Site Plan and/or Special Permit application, will further the goals enumerated in the 1993 Land Use Element of the Master Plan and 2004 Community Development Plan for the Town Center, and the objectives listed in this section;
2. The use or uses proposed to be developed will enhance and improve pedestrian access, vehicular circulation, and the aesthetic appearance and function of the property and the area; and,
3. All criteria for approval listed in Sections 9.2.4 and 9.3.4 of this Bylaw.