

Burlington Development Review Board

Department of Permitting & Inspections

645 Pine Street

Burlington, VT 05401

www.burlingtonvt.gov/DPI/DRB

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Evan Gould, (Alternate)



Development Review Board

Tuesday, February 18, 2025, 5:00 PM

645 Pine Street, Front Conference Room or Remote on Zoom:

Please click the link below to join the webinar:

Zoom: <https://us02web.zoom.us/j/83225696227?pwd=SGQ0bTdnS000Wkc3c2J4WWw1dzMxUT09>

Webinar ID: 832 2569 6227

Passcode: 969186

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1. Agenda

2. Communications

3. Minutes

4. Public Hearing

4.1.

ZP-25-36; 1 North Avenue (RC, Ward 3) City of Burlington / Carrie Cobb

Proposed variance request, previously warned under ZPF-25-3, for clear sight triangle to construct a fence around Burlington Police Department's North Parking lot for security. (Project Manager, Mary O'Neil)

5. Certificate of Appropriateness

5.1.

ZP-24-533; 276 Ethan Allen Parkway (RL, Ward 7) Ann Lander / Joseph Lander

Continued review of after-the-fact tree removal. (Project Manager, Garret King)

5.2.

ZP-24-526; 72 Temple Street (RL, Ward 7) Green Mountain Habitat for Humanity

**Continued review for additional after-the-fact tree removal and new plantings.
(Project Manager, Scott Gustin)**

6. Adjournment

7. Informational and Non-Discrimination Statements

7.1.

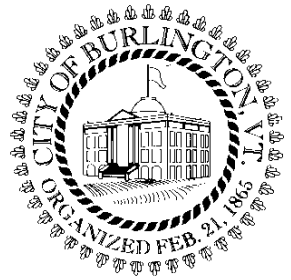
Plans may be viewed upon request by contacting the Department of Permitting & Inspections between the hours of 8:00 a.m. and 4:30 p.m. Participation in the DRB proceeding is a prerequisite to the right to take any subsequent appeal. Please note that ANYTHING submitted to the Zoning office is considered public and cannot be kept confidential. This may not be the final order in which items will be heard. Please view final Agenda, at www.burlingtonvt.gov/dpi/drb/agendas or the office notice board, one week before the hearing for the order in which items will be heard.

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Department of Permitting and Inspections

Zoning Division
645 Pine Street
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<https://www.burlingtonvt.gov/439/Zoning-Division>
Telephone: (802) 865-7188
(802) 865-7195 (FAX)

William Ward, Director
Scott Gustin, AICP, CFM, Principal Planner
Mary O'Neil, AICP, Principal Planner
Garret King, Associate Planner
Steven Cormier, Zoning Compliance Officer
Joseph Cava, Planning Technician
Ted Boylan, Permit Administrator



MEMORANDUM

To: Development Review Board
From: Mary O'Neil, AICP, Principal Planner
Date: February 18, 2025
RE: ZP-25-36 1 North Avenue

Note: These are staff comments only. Decisions on projects are made by the Development Review Board, which may approve, deny, table or modify any project. THE APPLICANT OR REPRESENTATIVE MUST ATTEND THE MEETING.

File: ZP-25-36

Location: 1 North Avenue

Zone: RC **Ward:** 3

Parking District:

Date application accepted: January 29, 2025

Applicant/ Owner: Pomerleau Foundation / City of Burlington

Request: Proposed variance request to waive Clear Site Triangle requirement to construct a fence around the Burlington Police Department's parking lot.

With the Assistance of VHB, the Pomerleau Foundation has successfully identified a fence installation that avoids the *Clear Site Triangle*; the basis of the Variance request.

A revised fence permit application has been administratively approved, and a Variance is no longer necessary. The matter is resolved.

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Joseph Cava, Permit Technician
Steve Cormier, Code Compliance Officer
Ted Boylan, DPI Administrator



TO: Development Review Board
FROM: Garret King
DATE: February 13th, 2025
RE: ZP-24-533; 276 Ethan Allen Parkway

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Zone: RL Ward: 7

Owner/Applicant: Joseph Lander

Request: (After-The-Fact) Removal of trees.

This application first came to the DRB on January 7th 2025, where the DRB requested that the applicant returned to the DRB with a landscaping plan that includes plantings of replacement trees along the periphery of the subject area that will create a visual buffer from adjacent homes. The applicant has requested an extension to the next available DRB meeting. The next available meeting for this project will be the March 18 DRB meeting.

-Staff, Garret King

February 12, 2025

Dear Mr. Garret King,

We are in the process of reviewing options for a proposed planting plan and gathering information as to appropriate plantings to address the Board's request from the January 7, 2025 hearing. We would ask that the DRB continue our application to the next available hearing date so that we may be better prepared to discuss a planting plan with the Board at that time. Please let us know if granting this extra time is possible. We appreciate your assistance with this matter.

Sincerely,

Ann and Joseph Lander

Department of Permitting & Inspections

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TO: Development Review Board
FROM: Scott Gustin
DATE: February 18, 2025
RE: ZP-24-526; 72 Temple Street

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Note: These are staff comments only; decisions on projects are made by the Development Review Board, which may approve, deny, table or modify any project. THE APPLICANT OR REPRESENTATIVE MUST ATTEND THE MEETING.

Zone: RL Ward: 7N

Owner/Applicant: Green Mountain Habitat for Humanity

Request: Amend ZP-24-526 for additional after-the-fact tree removal and new plantings.

Applicable Regulations:

Article 5 (Citywide General Regulations)

Background Information:

The applicant is seeking after-the-fact approval for tree clearing associated with construction of a new duplex home and related site improvements. A zoning permit for tree cutting was initially approved prior to any construction activity in February 2023. The approved duplex site plan depicted a building envelope within the approved extent of tree clearing. During construction, clearing extended beyond that originally approved along the western and eastern side property boundaries. New plantings are included in this application in order to mitigate loss of the previous vegetation.

The Development Review Board originally considered this application January 7, 2025. Significant public testimony centered on the extent of clearing that was done and on the need for stronger mitigation measures. The Board re-opened the public hearing and required that the applicant develop a revised, remedial planting plan with more substantial tree plantings along the north, west, and east sides of the property. A revised planting plan addressing the Board's requirement has been provided.

Previous zoning actions for this property are noted below.

- 12/5/23, Approval to construct new duplex and associate site improvements
- 2/7/23, Approval for tree clearing
- 3/24/22, Approval of lot line adjustment with neighboring property
- 11/24/98, approval of lot line adjustment with neighboring property
- 7/16/85, Approval to construct new single family home (not built)

Recommendation: **Certificate of Appropriateness approval** as per, and subject to, the following findings and conditions:

I. Findings

Article 5: Citywide General Regulations

Sec. 5.5.4, Tree Removal

(a) Review criteria for zoning permit requests for tree removal

(1) Grounds for approval

Tree removal involving six (6) or more trees, each of ten (10) inches or greater in caliper or the removal of ten (10) or more trees, each of which is three (3) inches or greater in caliper during any consecutive twelve (12) month period may be permitted for any of the following reasons:

A. Removal of dead, diseased, or infested trees;

Not applicable.

B. Thinning of trees for the health of remaining trees according to recognized accepted forestry practices;

Not applicable.

C. Removal of trees that are a danger to life or property; or,

Not applicable.

D. As part of a development with an approved zoning permit.

The original tree clearing permit was approved in preparation for development of the lot. As there was ledge present, the applicant needed to accomplish this preliminary work on the heavily wooded lot to best create a plan for the new development. The zoning application for construction of a duplex was received shortly after approval of the tree cutting permit. The additional cutting that occurred during construction was directly related to construction of the duplex, driveway, and related site work.

The revised landscape plan contains additional trees along the north, east, and west sides of the property as required by the Development Review Board. The proposed plantings contain deciduous and coniferous trees of native species, along with several varieties of shrubbery and ground cover. Slope stabilization measures are noted on the revised plan as well. **(Affirmative finding)**

(2) Grounds for denial

Tree removal involving six (6) or more trees, each of ten (10) inches or greater in caliper or the removal of ten (10) or more trees, each of which is three (3) inches or greater in caliper during any consecutive twelve (12) month period may be denied if existing healthy trees are known to be:

A. Providing a significant privacy or aesthetic buffer or barrier between properties;

The property to the west is vacant. The property to the east contains a home with a shared vegetated area along the boundary line. The revised planting plan includes an increase to 10 deciduous trees that are proposed around the perimeter of the development site in addition to

previously proposed conifers, shrubs, and ground cover to lessen the impact of the clearing. **(Affirmative finding)**

B. Providing stabilization on slopes vulnerable to erosion;

There is an approved erosion prevention and sediment control plan for the construction activity. **(Affirmative finding)**

C. Located within a riparian or littoral buffer;

72 Temple Street is not within the Natural Resource Protection Overlay zone; nor in the Riparian Littoral Overlay. **(Affirmative finding)**

D. Provide unique wildlife habitat;

The parcel does not fall within any of the Recreation, Conservation and Open Space Districts; or the Natural Resource Protection Overlay District. **(Affirmative finding)**

E. A rare northern Vermont tree species as listed by the Vermont Natural Heritage Program;

The original tree clearing application narrative defines poplar and pine trees onsite; neither of which are considered rare. **(Affirmative finding)**
or,

F. A significant element or, or significantly enhances, an historic site.

Not applicable.

II. Conditions of Approval

1. All plantings included in this permit shall be installed within one year of the date of permit approval.
2. Standard Conditions 1-15 (with zoning permit timeline limited to 1 year).

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Steve Cormier, Code Compliance Officer
Ted Boylan, DPI Administrator*



TO: Robin Pierce
FROM: Scott Gustin
DATE: January 7, 2025
RE: ZP-24-526; 72 Temple Street

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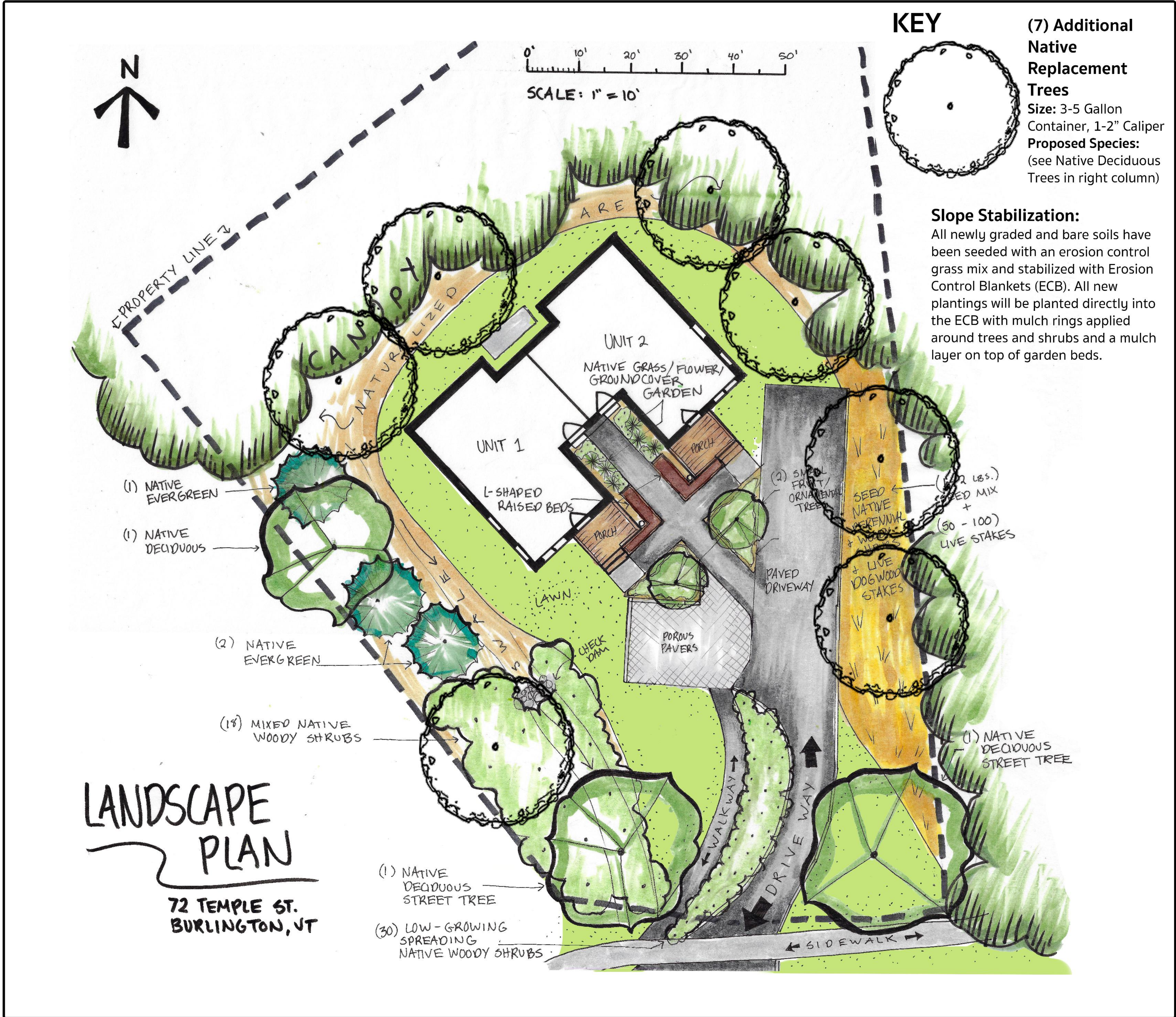
At its meeting January 7, 2025 the Development Review Board moved to reopen review of your after-the-fact tree cutting application for 72 Temple Street.

Motion: AJ LaRosa

Within 30 days, the applicant shall bring forward a revised, remedial planting plan with more substantial tree plantings on the north, west, and east sides of the property identifying the tree size, type, and caliper to be planted and that also includes slope stabilization details.

Second: Leo Sprinzen

Vote: 6-0-0, motion carried.



KEY

(7) Additional Native Replacement Trees
Size: 3-5 Gallon Container, 1-2" Caliper
Proposed Species: (see Native Deciduous Trees in right column)

Slope Stabilization:

All newly graded and bare soils have been seeded with an erosion control grass mix and stabilized with Erosion Control Blankets (ECB). All new plantings will be planted directly into the ECB with mulch rings applied around trees and shrubs and a mulch layer on top of garden beds.

PLANT LIST

(2) Small Fruit/Ornamental Trees

Proposed species:
Dwarf/Semi-dwarf Apple, Peach, Plum, Pear, Sweet Cherry, Crabapple
h (height): 12-15', s (spread): 12-15'
Kousa Dogwood, Cornus kousa - h: 15-20', s: 15-20'

Native Grasses/Flowers/Groundcovers

(6) Tall Flowering or Grass species:
Switchgrass, Panicum virgatum - h: 3-6', s: 2-3'
Big Bluestem, Andropogon gerardii - h: 4-6', s: 2-3'
Bergamot, Monarda fistulosa - h: 2-4', s: 2-3'
Anise Hyssop, Agastache foeniculum - h: 2-4', s: 1-3'
Culver's Root, Veronicastrum virginicum - h: 4-7', s: 2-4'
Blackeyed Susan, Rudbeckia hirta or other spp. - h: 2-3', s: 1-2'

(42) Groundcovers:

Wild Geranium/Cranesbill, Geranium maculatum - h: 1-2', s: 1-2'
Chives/Nodding Onion/Ornamental Onion, Allium spp. - h: 1-3', s: 6-12"
Moss Phlox/Creeping Phlox, Phlox subulata/stolonifera - h: 3-6", s: 1-2'
Barren Strawberry, Waldsteinia ternata - h: 3-6", s: 1-2'
Yarrow, Achillea millefolium - h: 2-3', s: 1-2'
Butterflyweed, Asclepias tuberosa - h: 1-2', s: 1-2'
Beardtongue, Penstemon digitalis - h: 3-4', s: 1-2'
Aromatic Aster, Symphyotrichum oblongifolium - h: 2-3', s: 1-2'

(10) Native Deciduous Trees

Proposed species:
Red Maple, Acer rubrum - h: 40-70', s: 30-50'
Sugar Maple, Acer saccharum - h: 40-80', s: 30-60'
Linden/Basswood, Tilia americana - h: 50-80', s: 30-50'
Swamp White Oak, Quercus bicolor - h: 50-60', s: 40-50'
Red Oak, Quercus rubra - h: 60-70', s: 40-50'

(3) Native Evergreen Trees

Proposed species:
Balsam Fir, Abies balsamea - h: 50-70', s: 15-25'
White Spruce, Picea glauca - h: 40-60', s: 10-20'
N. White Cedar/Arborvitae, Thuja occidentalis - h: 25-35', s: 10-20'

(18) Mixed Native Shrubs

Proposed species:
Red Osier Dogwood, Swida/Cornus sericea - h: 4-9', s: 4-9'
Black Chokeberry, Aronia melanocarpa - h: 3-6', s: 3-6'
Witchhazel, Hamamelis virginiana - h: 15', s: 15'
Shrubby Cinquefoil, Dasiphora/Potentilla fruticosa - h: 2-4', s: 3-5'
American Cranberrybush, Viburnum trilobum - h: 8-12', s: 6-12'
Wild Raisin/Witherod, Viburnum cassinoides - h: 5-10', s: 5-8'
Arrowwood, Viburnum dentatum - h: 6-10', s: 6-10'
Pussy Willow, Salix discolor - h: 6-15', s: 4-12'
Ninebark, Physocarpus opulifolius - h: 5-8', s: 4-6'

(30) Low-growing Spreading Shrubs

Proposed species:
Dwarf Fragrant Sumac, Rhus aromatica 'Grow Low' - h: 2-3', s: 6-8'
Lowbush Honeysuckle, Diervilla lonicera - h: 2-3', s: 3-4'
Black Chokeberry, Aronia melanocarpa - h: 3-6', s: 3-6'



Drawn by Holly Greenleaf for Green Mountain Habitat for Humanity
A VNLA Volunteer Project Outreach Committee Project
Fall 2024



GREENLEAF DESIGN, LLC
ECOLOGICAL LANDSCAPE DESIGN
ILLUSTRATION & GRAPHIC DESIGN

PLANT LIST

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Proposed species:

Dwarf/Semi-dwarf Apple, Peach, Plum, Pear, Sweet Cherry, Crabapple
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Bergamot, Monarda fistulosa - h: 2-4', s: 2-3'
Anise Hyssop, Agastache foeniculum - h: 2-4', s: 1-3'
Culver's Root, Veronicastrum virginicum - h: 4-7', s: 2-4'
Black-eyed Susan, Rudbeckia hirta or other spp. - h: 2-3', s: 1-2'

(12) Groundcovers:

Wild Geranium/Cranesbill, Geranium maculatum - h: 1-2', s: 1-2'
Chives/Nodding Onion/Ornamental Onion, Allium spp. - h: 1-3', s: 6-12"
Moss Phlox/Creeping Phlox, Phlox subulata/stolonifera - h: 3-6', s: 1-2'
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(3) Native Deciduous Trees

Proposed species:

Red Maple, Acer rubrum - h: 40-70', s: 30-50'
Sugar Maple, Acer saccharum - h: 40-80', s: 30-60'
Linden/Basswood, Tilia americana - h: 50-80', s: 30-50'
Swamp White Oak, Quercus bicolor - h: 50-60', s: 40-50'

(3) Native Evergreen Trees

Proposed species:

Balsam Fir, Abies balsamea - h: 50-70', s: 15-25'
White Spruce, Picea glauca - h: 40-60', s: 10-20'
N. White Cedar/Arborvitae, Thuja occidentalis - h: 25-35', s: 10-20'

(18) Mixed Native Shrubs

Proposed species:

Red Osier Dogwood, Swida/Cornus sericea - h: 4-9', s: 4-9'
Black Chokeberry, Aronia melanocarpa - h: 3-6', s: 3-6'
Witchhazel, Hamamelis virginiana - h: 15', s: 15'
Shrubby Cinquefoil, Dasiphora/Potentilla fruticosa - h: 2-4', s: 3-5'
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QUESTIONS & CONCERNS regarding GMHFH's "72 Temple St. Revised Landscape Plan"
prepared by Ali Lanzetta, co-owner, Rockland Condominiums (3 Rockland St., Burlington), direct
abutters to 72 Temple St.

SLOPE STABILIZATION:

As we all know, the applicant has cleared what was a naturally graded, forested slope, and replaced it with a two-family home, long paved driveway and multiple parking areas. The stand of (very) mature trees that were supposed to remain along our shared property line were removed, and a retaining wall and severely graded hill (a cliff, really) were constructed over and beside it, in their place. **What is being proposed to stabilize the constructed slope?** This plan seems not to propose anything new whatsoever. Mulch is noted multiple times. Mulch and grass may (or may not) contribute somewhat to controlling aboveground erosion. **But what is being proposed here to mitigate the severe *underground* erosion hazard** created by this permit violation (the removal of all those extra trees on the property line)?

The unlawfully removed trees directly abutted our (existing) mature trees; it was one, unified forested area. We can safely assume their roots reached deep into the earth and wicked up much of the groundwater flowing under the surface down the existing natural hill. Now there's an extra-steep constructed hill, effectively dead inside because everything aboveground was destroyed. Grass was planted on top. One large tree already failed as a result of the additional clearing, which fell onto our home in July and collapsed part of our roof. It's safe to assume that the roots of the cleared mature trees along our property line are still incorporated into the slope, but those roots are dead or dying now. **Can the applicant please explain what actual measures they're proposing to prevent underground erosion around our (abutting downhill) property's existing vegetation, and help protect against the failure of our remaining mature trees and minimize the hazard that failure poses to our property and residents?**

PROPOSED PLANTINGS: *SPECIES, VOLUME, MAINTENANCE*

This plan proposes to plant **two** 1-2" caliper deciduous trees (= 8-12' tall on average for the proposed species) to make up for the unlawful destruction of an approximately 800 square foot stretch of mature forest, and continues to avoid specifying the species of said plantings, deferring to a list of 5 "native deciduous trees" whose growth rates range from (in ideal growing conditions) 12" per year (Sugar Maple) to 3' per year (Linden/Basswood).

- How is the applicant planning to substantively address the severe loss of privacy caused by their unlawful extra tree clearing that violated their original permit and brazenly defied the city's code?

This revised plan doesn't address it in any meaningful way, and differs from the last plan (which was denied as insufficient last month) only very slightly if at all.

- Who will be caring for these saplings once they're planted to make sure they survive and thrive where they're planted? What is the scope of that care?

- Why isn't the applicant proposing to plant any evergreens? Evergreens provide year-round privacy and have a faster growth rate in some cases than the (5) deciduous trees proposed by the applicant. One

evergreen from their list of "native evergreen trees", White Spruce, can grow 13-24" per year in ideal growing conditions, which is as much or more than nearly all the deciduous trees proposed.

Green Giant Arborvitaes (cedars) grow 3-5' per year. They aren't native but a) nativeness isn't required; b) they thrive in our area; c) they are in keeping with our neighborhood, and d) they would much better mitigate the drastic loss of privacy caused by the applicant's permit violation and disregard for city code. The Green Giant Arborvitaes' faster growth rate would also help stabilize the slope faster if planted at a reasonable size (1-2" caliper / 6-8') in a regular volume for a screen (5-6' apart) along the eastern property line, because their more mature roots and faster growth rate would incorporate into the hill more readily.

DENIAL REQUEST & REVISION PROPOSAL:

This revised plan does next to nothing to mitigate the loss of privacy and hazardous conditions created by the applicant's rogue activities on this building site and defiance of their city-approved permits. **The residents of Rockland Condominiums would like to see this revised plan denied** on the grounds that it still fails to meaningfully address the applicant's permit violations and their consequences for the abutting properties.

We would like to see a plan to plant reasonably mature Green Giant Arborvitaes along the entire violation area / cleared eastern property line, in the standard volume/spacing for cedar screens: 1-2" caliper (6-8' tall), 5-6' apart. We would also like to see an honest plan for their maintenance to ensure they survive (and thrive) so that they can ultimately help stabilize the unauthorized slope the applicant has constructed along our property line.

Yearly zone 5 growth rate (in ideal growing conditions) for the "native deciduous trees" in 72 Temple Street Revised Landscape Plan:

- Sugar Maple: 12"
- Red Maple: 12-18"
- Swamp Shite Oak: 12-18"
- Red Oak: 1-3'
- Linden/Basswood: 2-3'