

## **Burlington Conservation Board**

645 Pine Street  
Burlington, VT 05401  
<http://www.burlingtonvt.gov/dpi>  
Telephone: (802) 865-7188

Rebecca Roman, Chair  
Ryan Crehan  
Zoe Richards  
Don Meals  
Ethan Ely  
Evan Horne  
Dale Azaria  
Kelly Farrell  
Alan Reichard



# **Conservation Board Meeting Public Notice**

**Monday, December 1, 2025, 5:30 PM**

**311 North Avenue, Conference Room or Remote via Zoom**

Zoom: <https://zoom.us/j/95590052709?pwd=MIhQcTVTNmUydW5qelBLlFUwZk9LZz09>

Webinar ID: 955 9005 2709

Password: 346560

Telephone: 1 929 205 6099

## **1. Minutes**

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1.1. Accept minutes from November 3, 2025 meeting

## **2. Board Comment**

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2.1. OSP Planning Commission

## **3. Public Comment**

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## **4. Project Review**

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4.1. ZP-25-527; 116 Sunset Cliff Rd (RL, Ward 4) Thomas Ellis  
Proposed reconstruction of deteriorating seawall.

4.2. ZP-25-378; 451 Appletree Point Rd (RL, Ward 4) Jamie Spano  
After-the-fact tree removal and replacement with new trees. Replaced failing seawall and added additional seawall length.

## **5. Update & Discussion**

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5.1. Urban Reserve Map  
Discussion with Emmett Wood re: map per Interim Use & Stewardship Plan.

5.2. Burlington Wetland Map  
Discussion of 2009 map and whether there is a need to update.

5.3. 2026 Meeting Schedule  
Review and approve 2026 meeting schedule.

## **6. Adjournment**

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## **7. Informational and Non-Discrimination Statements**

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The City of Burlington will not tolerate unlawful harassment or discrimination on the basis of political or religious affiliation, race, color, national origin, place of birth, ancestry, age, sex, sexual orientation, gender identity, marital status, veteran status, disability, HIV positive status, crime victim status or genetic information. The City is also committed to providing proper access to services, facilities and employment opportunities. The programs and services of the City of Burlington are accessible to people with disabilities. Individuals who require special arrangements, auxiliary aid, service for effective communication, or a modification of policies or procedures to participate in a program, service, or activity of the City of Burlington, should contact the office of the Title II Burlington ADA Coordinator at 802-865-7000 as soon as possible but no later than 48 hours before the scheduled event.

## Burlington Conservation Board

645 Pine Street  
Burlington, VT 05401  
<http://www.burlingtonvt.gov/DPI/CB>  
Telephone: (802) 865-7189

*Rebecca Roman, Chair  
Ryan Crehan, Vice Chair  
Zoe Richards  
Don Meals  
Ethan Ely  
Dale Azaria  
Evan Horne  
Kelly Farrell  
Alan Reichard*



## Conservation Board Meeting Minutes

Monday, November 3, 2025 – 5:30 pm  
In Person Meeting

### Attendance

- **Board Members:** Rebecca Roman (RR), Ryan Crehan (RC), Zoe Richards (ZR), Dale Azaria (DA), Evan Horne (EH), Ethan Ely (EE), Don Meals (DM), Alan Reichard (AR)
- **Absent:** Kelly Farrell (KF)
- **Public:** Nick Warner, Lauren Chicote, Alison Spasyk
- **Staff:** Dan Cahill (Parks & Rec)

RR, chair, called the meeting to order at 5:33 p.m.

### Minutes

October 6, 2025 minutes

A MOTION was made by RC and SECONDED by ZR:

Approve the October 6 minutes as written.

Vote: 6-0-2, motion carried.

### Board Comment

New board member welcome, Alan Reichard's first meeting. Board members present went around to do introductions and share a bit about themselves.

RR shared that she sent the letter to City Planning regarding the Plan BTV North End. The letter is in the packet for the meeting.

Other board members expressed appreciation for RR doing this.

RR asked RC which parcels he was referencing in regard to impervious surface lots that could be considered for development before looking at parks.

DM heard a loon overhead recently and was enthused by this.

DA raised a question about Governor Scott's executive order to promote housing development and if the board should look at that. One way that it does that is to change the scope of wetland permits so that you don't have to have a permit if the wetland is not already mapped. DA asked if we should be looking at Burlington's wetlands and discussing. ZR and DM thought it was a good idea, and DM shared we should become familiar with what the process is for designating a wetland.

RC noted the City has done a wetland mapping exercise and we should look at it. RC offered to do a review of the existing maps to aid in further board discussion.

RR recommended this be placed on the agenda for the December meeting.

RC shared that he planted some native trees/shrubs (with the support of BPRW's Conservation Team) to plant a recent buyout property on Riverside Ave.

### **Public Comment**

None.

### **Project Review**

#### **1. ZP-25-526; 702 Lake St (UR, Ward 2) City of Burlington / Lee Perry**

Renewal of zoning permit for City of Burlington and Marketplace snow storage

Lee Perry appeared on behalf of this application.

RR prefaced the item with an overview that DPW comes before the Conservation Board every 2 years to get a permit for snow storage at the "flying A" site in the Urban Reserve.

Lee Perry introduced himself and gave an overview of how they use the space for snow storage and efforts to prepare for the upcoming season.

DM asked if there are any informal uses of the snow piles in the Flying A (kids for sledding or snowboarding).

A MOTION was made by DM, and SECONDED by RC:

Approve the renewal of zoning permit for City of Burlington and Marketplace snow storage.

Vote: 8-0-0, motion carried

### **Update & Discussion**

#### **1. Vermont Flood Safety Act (Act 212)**

Presentation and discussion with Alison Spasyk

Alison Spasyk appeared on behalf of this item.

Alison Spasyk gave an overview of the flood safety act.

DM asked if there has been consideration of the management of intermittent streams as a part of Act 121. Alison shared that her understanding is that intermittent streams would fall to municipalities to regulate.

EE asked, what is the new regulation? Is it banning development in river corridors? Alison confirmed that we don't know yet. The development of Act 121 is in the early stages.

EE asked what happens with municipalities in the river corridor, if they "undevelop" a downtown area? In this scenario would they be able to develop again? Alison noted this may be governed more by ACT 181, but we will soon know more about whether Act 121 will also address this.

RC encouraged Alison to look closely at the delegated authority and ensure that the authority exists within a local body with the ability to uphold standards (in Burlington's case Conservation Board reviews permits yet is advisory and lacks ability to fully uphold its determinations).

RR asked how Act 121 will affect river corridor easements. Alison noted this is a really good question.

EE asked, if a town chooses not to regulate itself, does that mean development permits in the river corridor would be a state permit process? Alison confirmed, yes.

### **Executive Session**

As to real estate

A MOTION was made by DM, and SECONDED by EE:

Approve the Board to enter into Executive Session at 6:45pm.

Vote: 8-0-0

The Board moved to leave executive session at 7:35pm

### **Adjournment**

7:36 PM.

**Burlington Planning Commission**

149 Church Street  
Burlington, VT 05401

[www.burlingtonvt.gov/cityplanning](http://www.burlingtonvt.gov/cityplanning)

*Andy Montroll, Chair  
Alex Friend, Vice Chair  
Michael Gaughan  
Erhard Mahnke  
Ryan Nick  
Erin Malone  
Julia Randall*

**TO:** Burlington City Council  
**FROM:** Burlington Planning Commission  
**DATE:** November 14, 2025  
**RE:** Referring Open Space Plan for Adoption

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The Planning Commission is pleased to refer the proposed Open Space Plan to the City Council for adoption following multiple reviews over the past several months. We acknowledge and greatly appreciate the work completed by staff through the Open Space Plan Working Group, as well as the great work done by the consultant team at Agency.

The Commission enthusiastically supports the strategies outlined in the Open Space Plan. However, in referring the Plan to City Council, Commissioners feel that, while the Plan is grounded in the ecological conditions of our open spaces, it does not fully acknowledge the current social challenges affecting both public and privately owned open spaces across Burlington today.

As is often discussed by both the Planning Commission and the City Council, Burlington is experiencing a variety of complex challenges, including those related to public health, community safety, and housing affordability. Over the last few years, these challenges have changed how many residents and visitors engage with or comfortably access our open spaces. The City's open land and parks are used by community members in a variety of ways, including our unhoused residents who often have limited or no alternatives or resources for housing and supportive services. Commissioners recognize that these issues are complex, hopefully time-limited, and extend beyond the scope of the Open Space Plan, and do not expect this document to provide solutions to our city's broader public health and community safety challenges. We are also hopeful that they will prove to be temporary within the context of a long-range plan.

The Commission supports the vision outlined in the Plan for Burlington as a nature-filled city where both people and ecosystems can thrive together. However, because this Plan serves as a roadmap toward that vision, it is important to acknowledge the current conditions and pressures affecting our open spaces. This includes the limited options for unhoused residents of Burlington, resulting in their need to find shelter in the City's natural areas, as well as the potential challenges this situation may pose in achieving the Plan's goals.

The Commission is working with staff to develop additional language reflecting this context, which will be available to the City Council following its first read of the Plan. These challenges will also be further discussed and addressed as part of the Citywide Comprehensive Plan, which is currently underway.

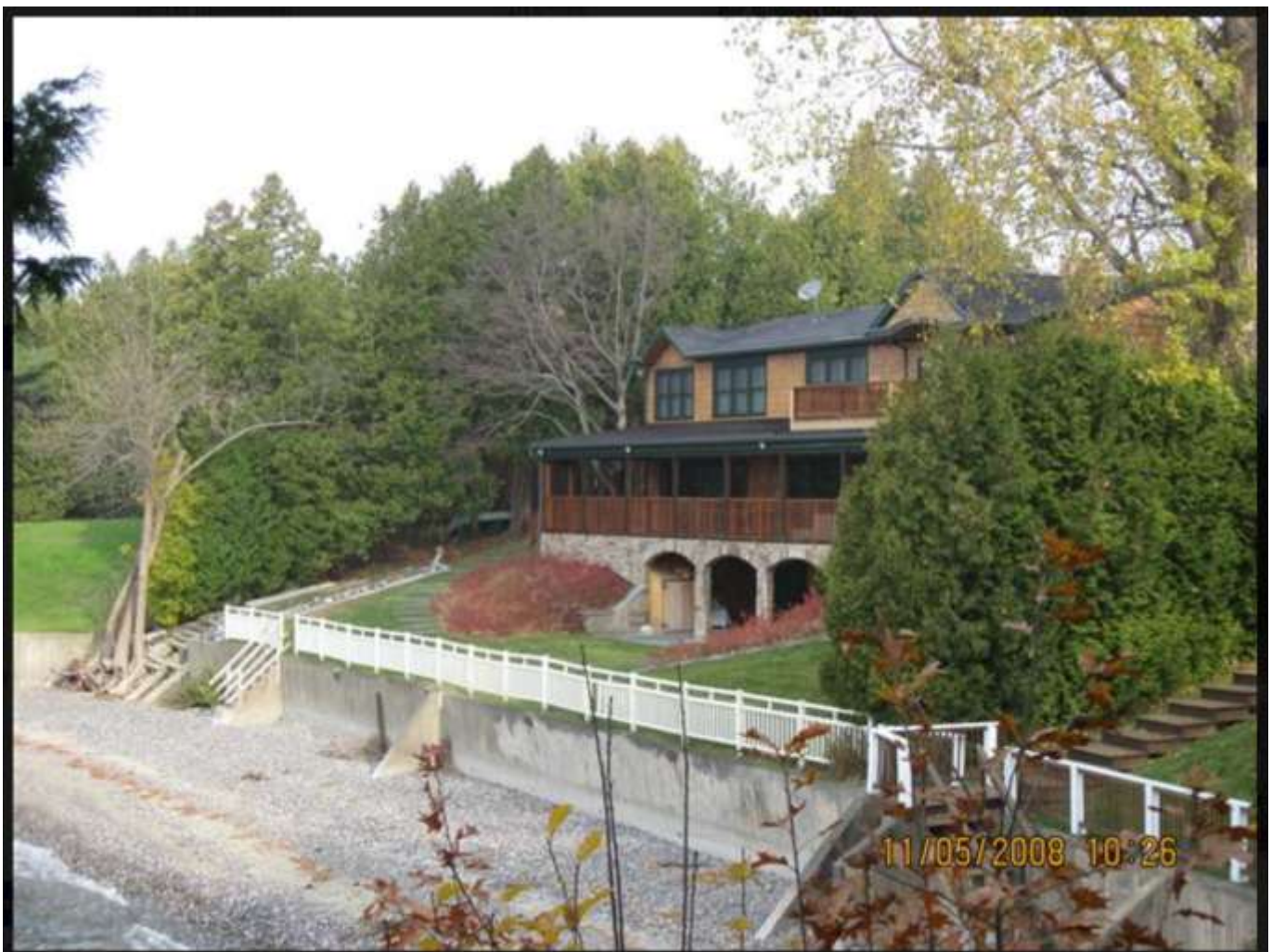
**Ellis Residence**  
116 Sunset Cliff Road  
Burlington, VT 05408

**Thomas Ellis**  
339-927-5194  
tmellis@gmail.com

Tax Parcel ID: 030-3-022-000  
SPAN Number: 114-035-13145  
Land Use: R1 - Single Fam  
Zoning: Residential – Low Intensity  
Lot Area: 31,574 Sq.Ft.

**Project Scope:**

This project involves the replacement of a previously existing concrete bulkhead/seawall style wall. The image below (found on the Burlington Property Database website) shows the existing conditions of the property in 2008. Sometime between 2008 and 2020 (when the Ellis Family purchased the property) the concrete wall was removed and replaced with natural stone boulders.



The image(s) below show the existing conditions of the property (photos taken 8/5/2025). For scale reference the average size of the stone boulders are 2' tall x 4' long x 2' deep. The wall is failing due to erosion behind the wall caused by wave action from the lake. You can see in the image that many of the boulders have tipped backwards toward the house. The intent would be to install a new poured concrete wall and to reinstall the boulders on the lake side of the wall for both aesthetic purposes and as a secondary protection of the new concrete wall. The length of the wall is @ 135 linear feet and the location of the proposed wall would be in the same location as the existing boulder wall. Site plans and wall construction details are provided in a separate document.





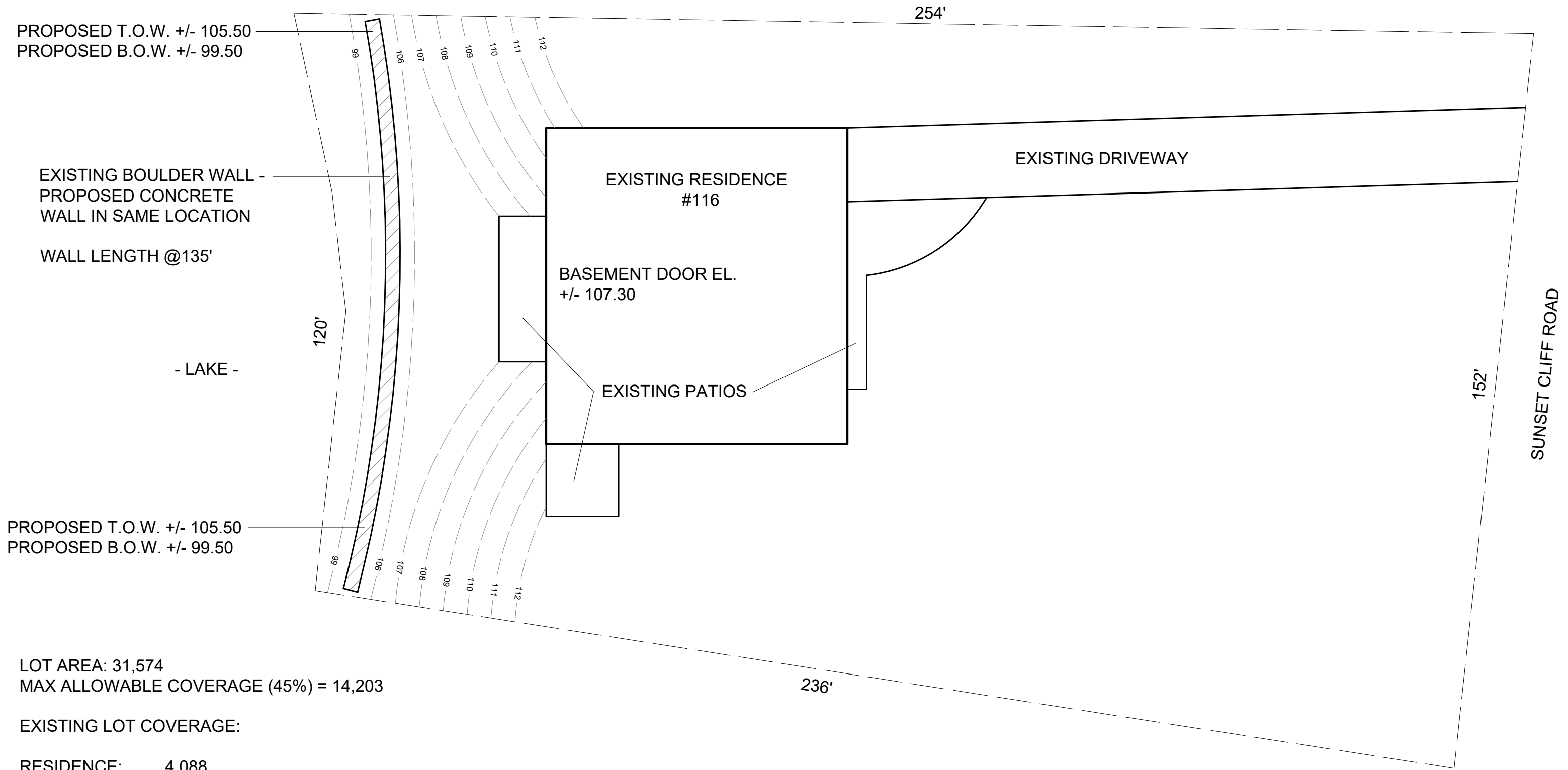
View of South–East property corner showing the last remaining section of concrete wall that was removed and replaced with boulders. This section of wall is to remain and the new wall will but up to the existing remaining section of concrete wall.



View of North-West property corner. The Ellis's property corner is about 10' off of the green metal stairway (which is on a community shared easement). The proposed work will not impact the existing stairway or any portion of the community association property.



Photo showing the erosion and failing wall stones



LOT AREA: 31,574  
MAX ALLOWABLE COVERAGE (45%) = 14,203

EXISTING LOT COVERAGE:

RESIDENCE: 4,088  
DRIVEWAY: 2,137  
PATIOS: 919  
BOULDER WALL: 405

TOTAL: 7,549 = 23.9%

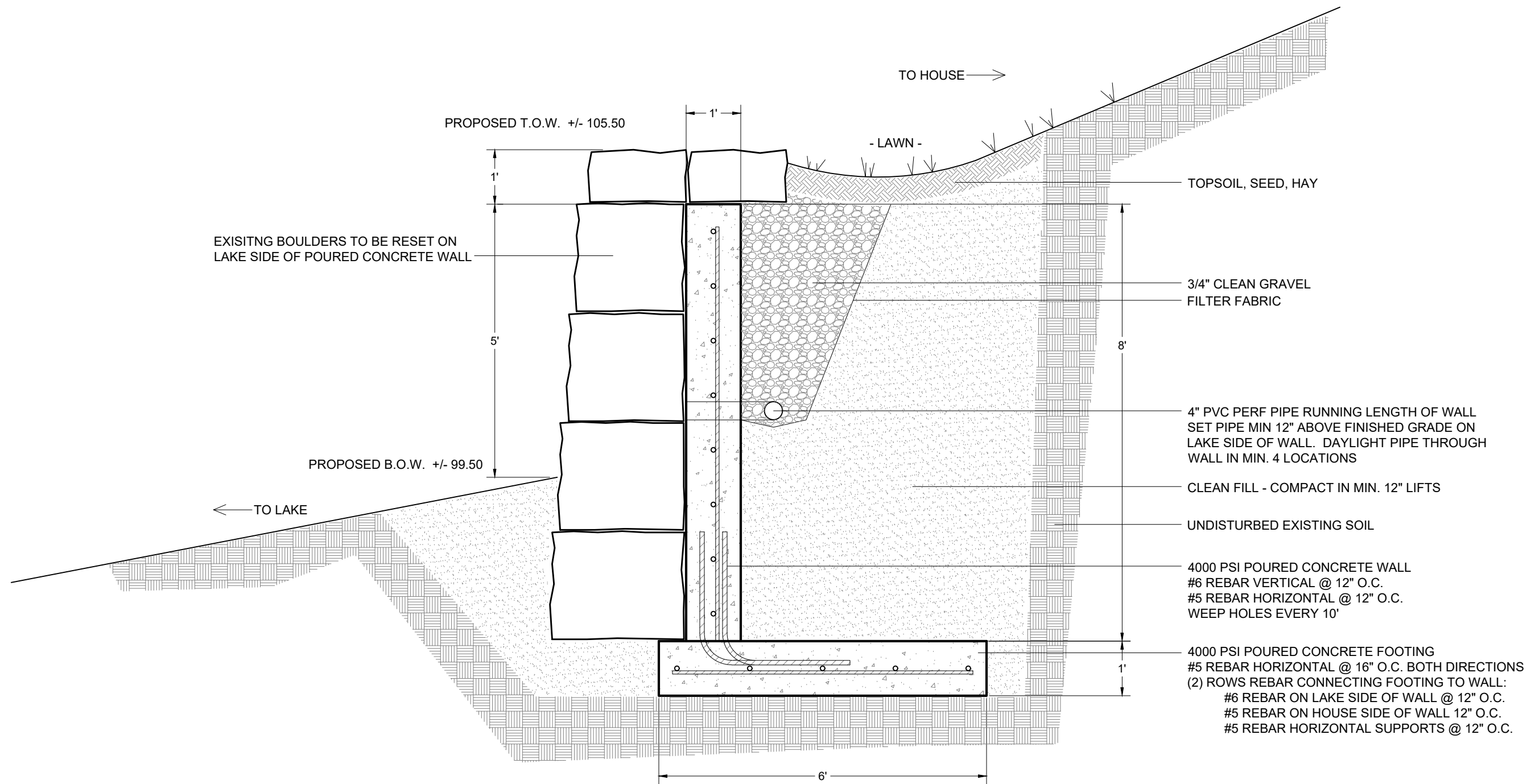
PROPOSED LOT COVERAGE:  
NO CHANGE - SAME AS EXISTING

EXISTING ELEVATION AND CONTOUR DATA TAKEN FROM 'PROPOSED CONDITIONS SITE PLAN' - 'SHORELINE STABILIZATION' DRAWING NUMBER C1.1, DATED 3/13/2018 PREPARED BY CIVIL ENGINEER ASSOCIATES INC, 10 MANSFIELD VIEW LANE, SOUTH BURLINGTON, VERMONT.

SITE PLAN  
1" = 30' - 0"

11/3/2025

**ELLIS RESIDENCE**  
**116 SUNSET CLIFF ROAD**  
**BURLINGTON VT 05408**

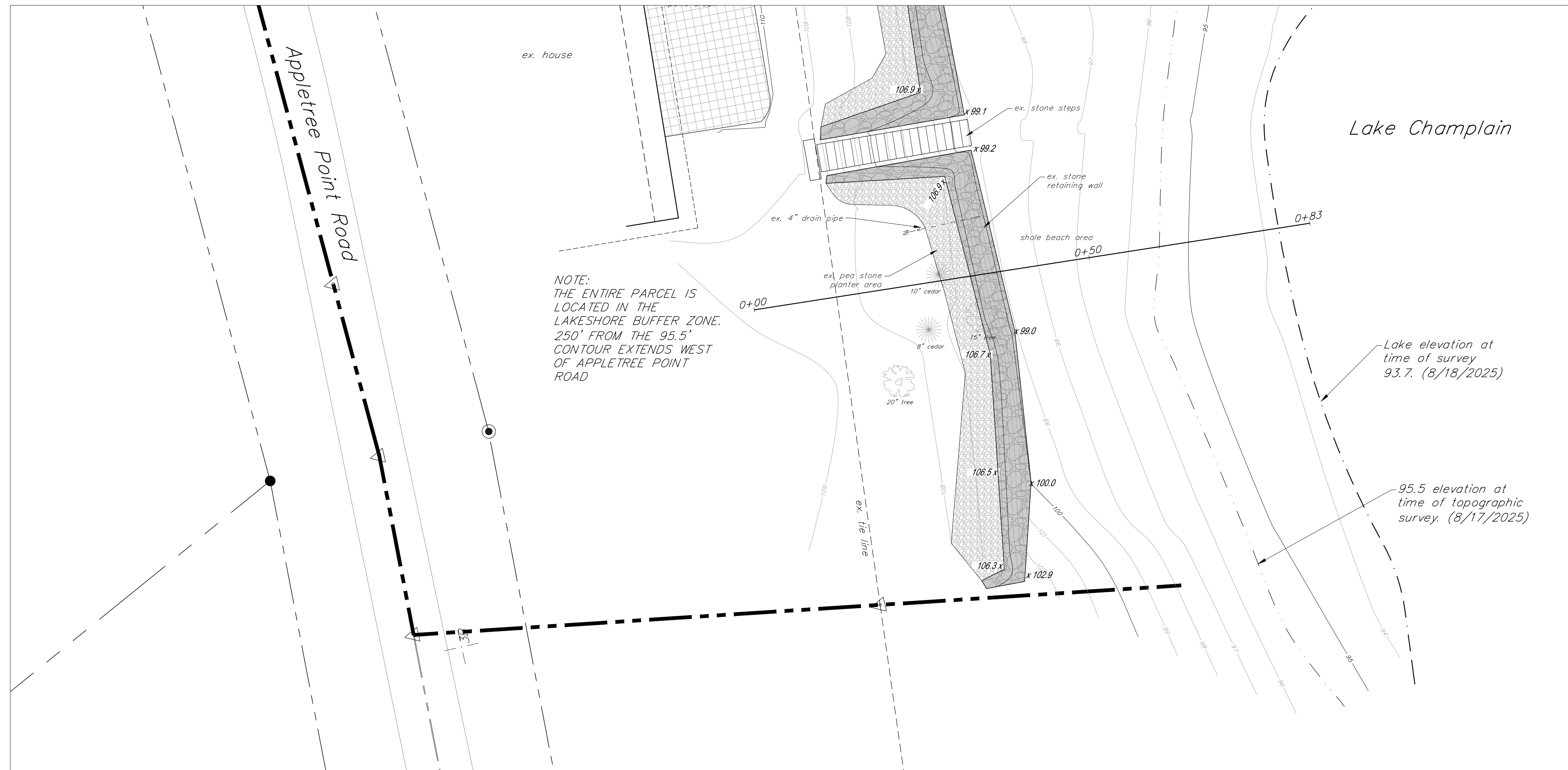


WALL CONSTRUCTION DETAIL

1/2" = 1' - 0"

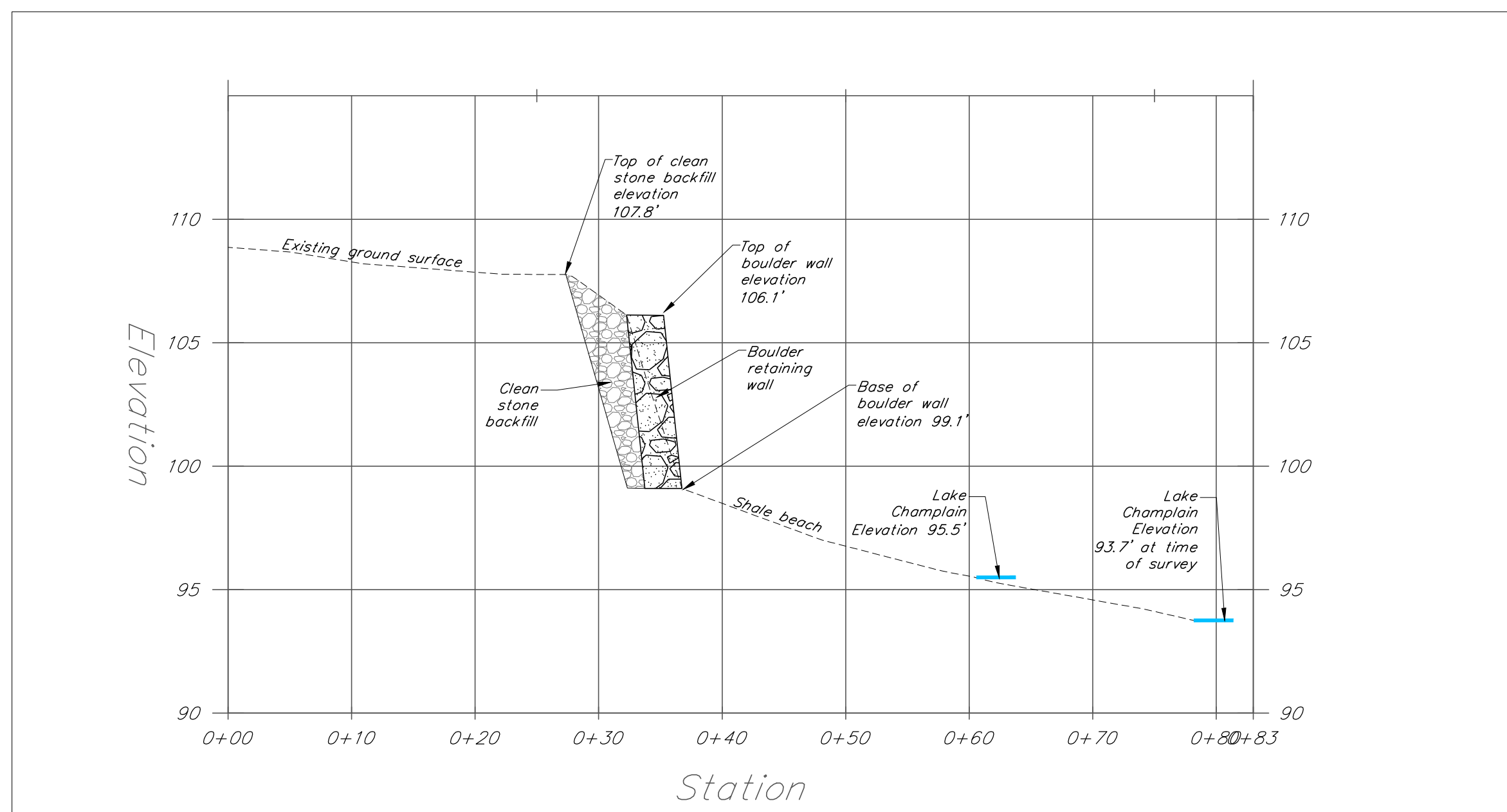
11/3/2025

ELLIS RESIDENCE  
116 SUNSET CLIFF ROAD  
BURLINGTON VT 05408



Site Plan

Horizontal Scale 1"=10'



Sea Wall Cross Section

Horizontal Scale 1"=10'  
Vertical Scale 1"=5'



LOCATION MAP

SCALE: 1" = 5,000 FT

LEGEND

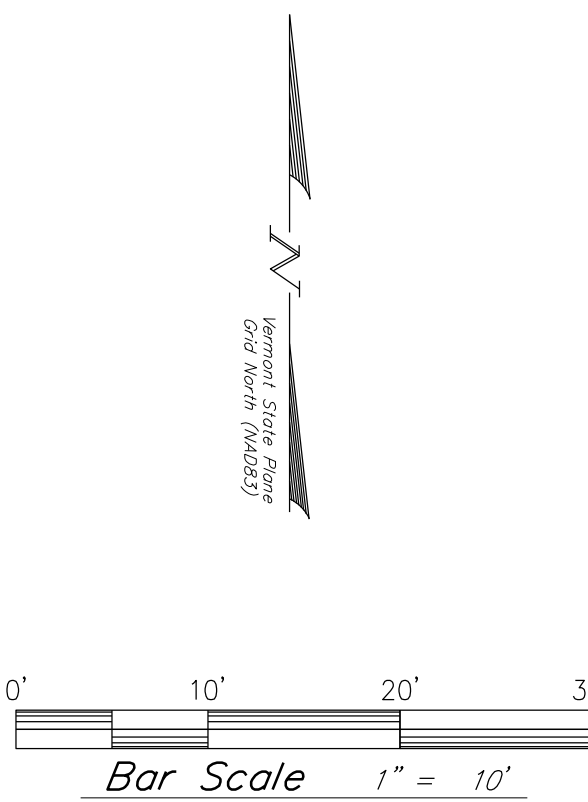
- Survey Control Point
- Existing Sign
- Existing Light Pole
- Existing Deciduous Tree
- Existing Evergreen Tree
- Existing Spot Grade Elevation
- Existing Contour
- Existing Gas Line/Valve
- Existing Sewer Line/Manhole
- Existing Sewer Forcemain
- Existing Storm Line/Manhole/Basin
- Existing Overhead Electric Line/Power Pole
- Existing Overhead Utility
- Existing Communications Line
- Existing Tree Line
- Existing Stockade Fence
- Existing Underground Power
- Existing Water Line/Hydrant/Valve/Shutoff
- Approximate Property Line
- Existing Setback
- Existing Easement
- Existing Stone Retaining Wall
- Existing Pea Stone with Landscaping Area

NOTES

1. This plan is not intended to be a boundary survey. Property lines are based on physical evidence and a Boundary Line Adjustment Survey completed by Krebs and Lansing in March 2015.
2. The horizontal coordinate system is based on NAD83 Vermont State Plane 4400 (US Survey Feet). Elevations are based on NAVD88 datum (US Survey Feet).
3. Existing conditions are based on a topographic survey completed by Krebs & Lansing in August 2025.
4. Utilities are based on visible structures located during the topographic survey and are not warranted to exact or complete. Contractor shall contact Dig Safe and other non-member utilities prior to beginning any excavation.

**KREBS & LANSING**  
CONSULTING ENGINEERS  
164 Main Street, Suite 201  
Colchester, Vermont 05446  
P: (802) 878-0375  
www.krebsandlansing.com

STAMP:



Project:

451  
APPLETREE  
POINT ROAD

Project No.

25251

Scale

as noted

Drawn by

TJB/AMR

Checked by

Date

08/29/2025

Revisions

No.	Date	Description
1	11/04/2025	cross section

Drawing Title

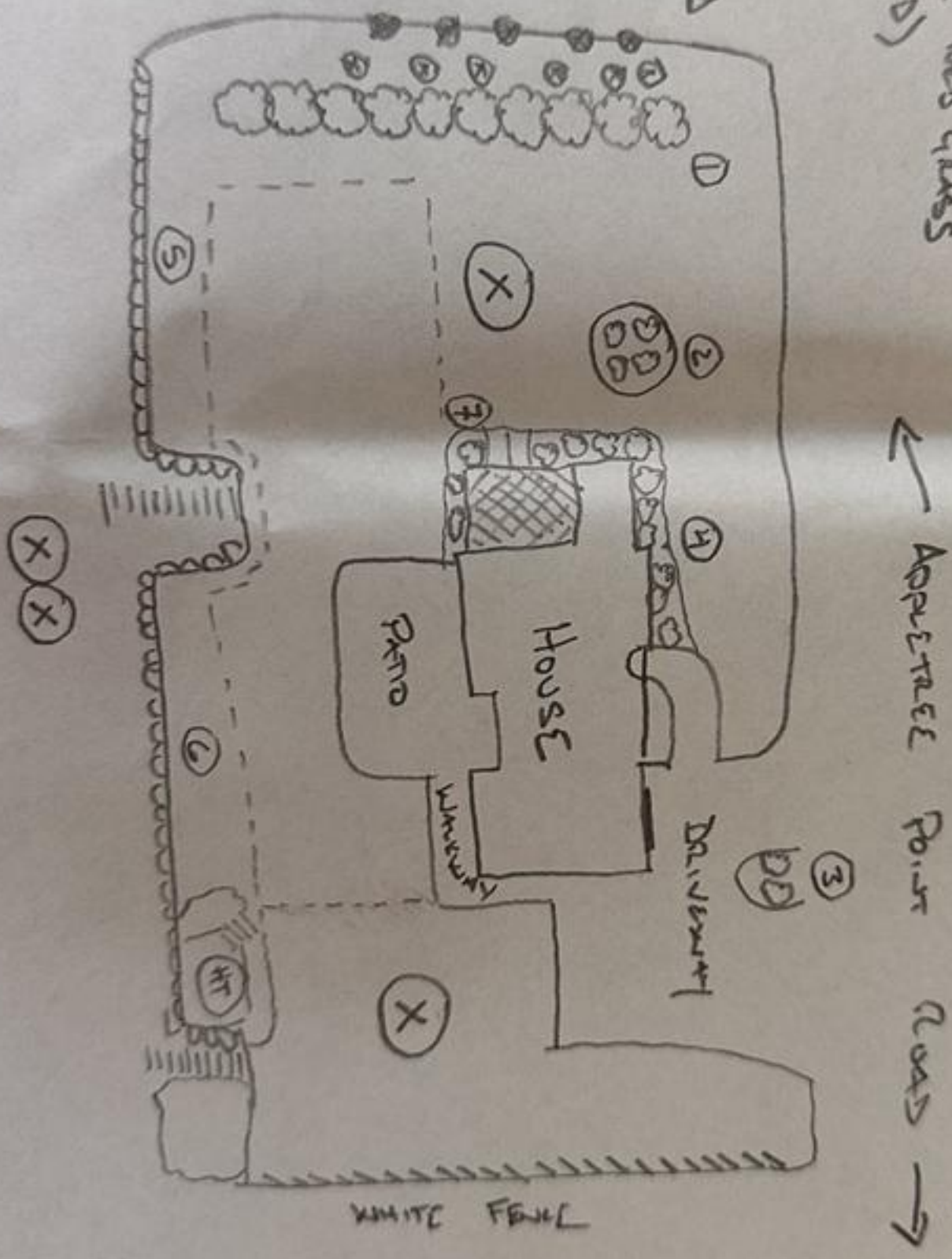
Existing  
Conditions Plan

Drawing No.

X-1

- ① - 10 BLUE POINT SWIPER
- ② - 4 GLOBE KEBOE VMIES
- ③ - 2 GLOBE ARBORVITICES
- ④ - HY DRANGES
- ⑤ - WHITE & MAY NIGHT SWEET
- ⑥ - WHITE & MAY NIGHT SWEET
- ⑦ - KARL FOREST FARMER RED GRASS
- ⓧ - REMOVES TREE (D.D.D)
- (HT) - HOT TUG

- FIGURE REMOVES  
 // WHITE FIGURE INSTALLED





Blue Point Juniper



Globe Arborvitae



Annabelle Hydrangea



Fire Light Tidal Hydrangea



PJM Rhododendron



Green Velvet Boxwood



Karl Foerster Grass



Autumn Joy Sedum



White Swan Sage



Plum Dazzled Sedum



May Night Sage

COMMON NAME	
TREES	Blue Point Juniper
	Globe Arborvitae
	Fire Light Tidal Hydrangea
SHRUBS	Annabelle Hydrangea
	PJM Rhododendron
	Green Velvet Boxwood
	Fire Light Tidal Hydrangea
HERBAGEOUS	Karl Foerster Feather Reed Grass
	Autumn Joy Sedum
	White Swan Sage
	Plum Dazzled Sedum
	May Night Sage















11/02/2018 10:26



11/02/2018 10:27



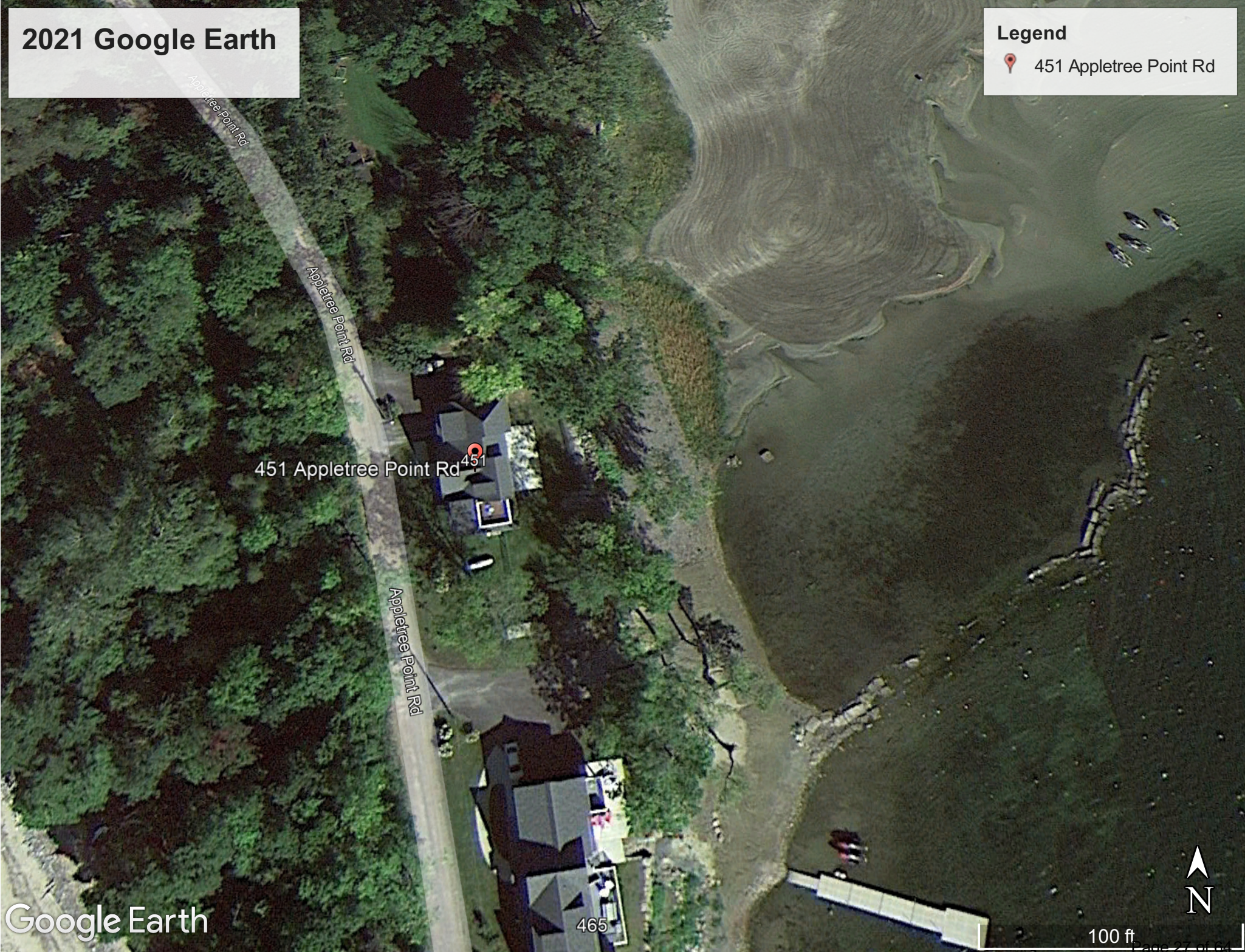
11/02/2018 10:28



11/02/2018 10:29

2021 Google Earth

**Legend**  
📍 451 Appletree Point Rd



451 Appletree Point Rd 451

Appletree Point Rd

Appletree Point Rd


Google Earth

465


100 ft



**Legend**

-  451 Appletree Point Rd



451 Appletree Point Rd 

465

  
N

 100 ft

Original seawall 2021



Replacement seawall 2023



Replacement seawall 2025



JESSICA C. BROWN, ESQ.  
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KIMBERLEE J. STURTEVANT, ESQ.  
ACA, Director of Litigation  
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ERIK RAMAKRISHNAN, ESQ.  
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Gov't & Transactional Services  
EMMETT WOOD, ESQ.  
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CITY OF BURLINGTON, VERMONT  
OFFICE OF  
THE CITY ATTORNEY  
AND  
CORPORATION COUNSEL

**Date:** 11/24/25  
**To:** The Conservation Board  
**From:** Emmett Wood, Assistant City Attorney for the City of Burlington  
**Re:** History of the Urban Reserve and the need to update the existing map

The story of the City of Burlington has been defined by the history of its waterfront. In 1823 the Champlain Canal opened and connected Lake Champlain to the Erie Canal, the Hudson River, and the markets down in New York City. Burlington, with a protected bay and ready access to the Vermont hinterland, was uniquely placed to exploit the early American lumber industry. The waterfront changed from a natural crescent of sandy shore to a bustling wharf with large stacks of timber, railroad cars, and warehouses. Within only three decades, Burlington's waterfront became the third largest lumber port in the country. To support this expansion in lakeside industry, over 60 acres of land were infilled according to the state-mandated Public Trust Doctrine that reserved land under the lake for the public good.

The lumber industry did not last in Vermont. The large stacks of timbers were replaced by trainyards, the warehouses replaced by petroleum tanks. Coal, oil, and gasoline were all delivered by barge to Burlington's wharfs. After purchasing a portion of the waterfront land from the railroad, the City and Burlington Electric built the coal-powered Moran Generation Station which began producing electricity in 1954. The Moran plant, along with the dozens of petroleum storage tanks, dominated the waterfront for thirty years until the 1980s, when a new vision of the waterfront started to emerge.

The aging Moran plant was decommissioned in 1986, moving Burlington's electricity generation to the Intervale area and away from the lake. Following that, Mayor Bernie Sanders and his new Community and Economic Development Office (CEDO) began the acquisition of the rusting, contaminated industrial area that was once Burlington's sandy crescent beach. A landmark Vermont Supreme Court case in 1989 established that the land infilled from the lake still needed to be used for the public good under the Public Trust Doctrine.

In 1991, the City, through CEDO, began the process of acquiring sixty acres of waterfront land, from Central Vermont Railway, subject to the Public Trust Doctrine. In 1992, the Vermont Housing Conservation Board (VHCB) granted the City \$200,000.00 to assist in the acquisition of the railway land. This land, which came to be known as the "Urban Reserve," stretches north between the marina and the new developments at Cambrian Rise, and was set aside with conservation in mind.








In exchange for the \$200,000.00 grant conveyed through the attached “Grant Agreement #90-097,” the City of Burlington granted the Vermont Housing Conservation Board the development rights, right of first refusal, and a perpetual conservation easement over the Urban Reserve in a document entitled “Grant of Development Rights and Conservation Restrictions for the Urban Reserve,” also attached to this memo. These agreements were approved by the City Council during the summer of 1992. As a part of the grant agreements, VHCB requested that the City establish a one-hundred-foot shoreline buffer for the purpose of conserving Lake Champlain’s natural shore. Furthermore, the City agreed that a protected “natural area” would be established to ensure the conservation of the endangered Prairie Redroot plant found growing there. The agreement went on to contemplate that in addition to the two aforementioned conservation areas, the City was to designate at least fifty percent of the Urban Reserve for open and public recreational space or conservation purposes only. Through the agreement, the City was granted the right to identify the restricted portions of the Urban Reserve in its own sole discretion.

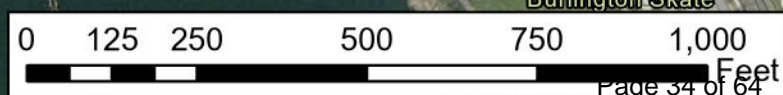
The agreements between VHCB and the City was filed in the land records in 1992, at which time VHCB expected the City to identify fifty percent of the Urban Reserve to be used solely as public open recreation space or for conservation purposes. While VHCB likely expected the City to designate this land soon after the execution of the original agreement and filing of the preliminary conservation map, those designations still have not been made. Now, over thirty years later, the office of the City Attorney has collaborated with both the City’s Land Steward, Dan Cahill, as well as the City’s Geographic Information Systems and Asset Management Coordinator, Warren Rich, to develop an updated map of the Urban Reserve attached to this memo. This map includes the designations that the Housing Conservation Board asked the City to make in the initial 1992 agreement, including 19.6 acres of open public recreation land; a 6.5-acre shoreline buffer; 1.6 acres of conservation land for the protection of the Prairie Redroot plant; and a 1.4-acre greenway buffer. The designations of this conservation and recreation land will finally fulfill the City’s promise to designate fifty percent of the Urban Reserve accordingly. The office of the City Attorney is seeking comment from the Conservation Board prior to moving forward with the Vermont Housing Conservation Board in order to approve a final version of the map of the Urban Reserve which, as stated above, is far more detailed than the “Preliminary Conservation Map” crafted in 1992 and attached to the Grant of Development Rights and Conservation Restrictions. This map has been in the making for over thirty years, and the office of the City Attorney would greatly appreciate the support of the Conservation Board to help ensure the protection of this land both for the betterment of the environment and to provide clarity to future Burlingtonians.

# Burlington, VT Urban Preserve Conserved Areas



## Legend









- |   |   |
|---|---|
|  Urban Reserve                                | <b>P.O.R. Areas</b>   |
|  Greenway 25ft<br>Buffer - 1.4 acres          |  P.O.R. Area 1 - 3.4<br>acres  |
|  Shoreline 100ft<br>Buffer - 6.5 acres        |  P.O.R. Area 2 - 0.5<br>acres  |
|  Natural/<br>Conservation Area -<br>1.6 acres |  P.O.R. Area 3 - 15.7<br>acres |

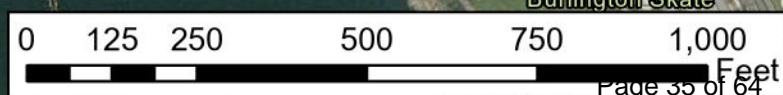


# Burlington, VT Urban Reserve Conserved Areas



## Legend

-  Urban Reserve
-  Greenway 25ft Buffer - 1.4 acres
-  Extended Shoreline Protection Area - 1.46 acres
-  Shoreline 100ft Buffer - 6.56 acres
-  Natural/Conservation Area - 1.6 acres
- P.O.R. Areas**
-  P.O.R. Area 1 - 3.4 acres
-  P.O.R. Area 2 - 0.5 acres
-  P.O.R. Area 3 - 15.7 acres



**GRANT AGREEMENT**

**between the**

**VERMONT HOUSING AND CONSERVATION BOARD**

**and the**

**CITY OF BURLINGTON**

**Urban Reserve, VHCB #90-097**

**I. GRANT AGREEMENT**

- A. This Grant Agreement (hereinafter "Agreement") is made and entered into by and between the Vermont Housing and Conservation Board, 136½ Main Street, Montpelier, Vermont 05602 (hereinafter "Grantor" or "Board") and City of Burlington, City Hall, Burlington, Vermont 05401 (hereinafter "Grantee" or "City").

This Agreement consists of the body and the following attachments which are incorporated herein:

Attachment A - Grant Purpose and Conditions - City of Burlington, Urban Reserve

- B. Together they embody the entire commitment by the Grantor with respect to the subject matter. All prior agreements, representations, statements, negotiations, and understandings with respect to this matter on the part of the Grantor are superseded hereby.

**II. AUTHORITY**

This grant is made under the provisions set forth in the "Vermont Housing and Conservation Trust Fund Act" (10 V.S.A. Chapter 15) and the rules promulgated thereunder.

**III. PERIOD OF PERFORMANCE**

This Agreement becomes effective when signed by both parties, and remains in effect until the conditions set forth herein are met.

**IV. GRANT AWARD**

- A. In consideration of the Grantee's satisfactory compliance with the terms of this Agreement and conditions specified in Attachment A, the Grantor shall provide to the Grantee a grant in an amount of up to two hundred thousand dollars (\$200,000),

to be used for the acquisition of the Urban Reserve, consisting of approximately 45 acres on the shore of Lake Champlain, from the Central Vermont Railway

- B. It is expressly understood and agreed that in no event shall the total funds provided by the Grantor under this grant exceed the amount specified in A above.
- C. In no event shall this Agreement be construed as a commitment by the Grantor to future funding under this Program.

## V. PROGRAM SUMMARY

- A. In November 1990, the residents of Burlington approved by a 2:1 margin the Urban Renewal Plan for the Waterfront. This plan was the result of a comprehensive planning process to determine the best public uses for the waterfront. A total of 36 public meetings were held to assist with the formulation of the plan. The plan holds that there should be generous park and open space for public enjoyment; public development should occur without imposing a significant burden on the property taxpayer; the waterfront should be available for use year-round; infrastructure improvements should be provided which ensure safe pedestrian and vehicular access; use of the automobile should be minimized; patterns of development should reflect the patterns in the center City, primarily Church street and should occur incremental; the Waterfront should complement downtown and should be connected through walkways; a large part of the Waterfront should be preserved for future generations; indoor uses should be incorporated; present buildings should be renovated or adapted for public uses; affordable housing should be incorporated into downtown and waterfront development activities; and access to the lake through boating and fishing should be incorporated into public development activities. The plan includes 13 separate projects, including the creation of an Urban Reserve north of the Moran Plant.
- B. The Urban Reserve is defined in the Urban Renewal Plan for the Waterfront with a goal of the citizens of Burlington owning and controlling the area, resulting in increased public access and remediation of contaminated areas. A commitment that at least 50% of this area would always be used for open space/recreation was also adopted as part of this plan. Future generations will decide the land uses of the area. The purposes of the Urban Reserve are to preserve a large natural area from unwanted commercial development, to reserve the right for future generations to determine what level of development should occur at the site, and to concentrate development activities within the downtown business district and waterfront commercial district, east of Lake Street. Almost half of the Urban Reserve parcel is filled land and subject to the Public Trust Doctrine.
- C. Under the Public Trust Doctrine, private ownership of filled lands remains as long as the uses are for railroad, wharfing, storage, or other public uses as determined by the Legislature. The land is currently used as oil tank farms and storage of old railroad ties and materials. The allowable uses of the filled land on this property

were increased by H.233, which passed this legislative session. The law adds the following public uses to the existing public trust uses: governmental facilities such as water and sewer plants, Coast Guard and naval facilities, roads and transportation facilities that are accessory to the uses allowed under the law; indoor or outdoor parks and recreation uses, including marinas which are open to the public, water dependent uses, boating and related services; educational and cultural activities including theaters and museums; fresh water and other environmental research activities; and services that are accessory to the above listed uses.

- D. The Grantee purchased the Urban Reserve from the Central Vermont Railway ("CVR") for \$1,800,000 on October 15, 1991. The Grantee financed the purchase with the proceeds from a General Obligation Bond of \$1,000,000 and \$820,000 from the Trust for Public Lands ("TPL"), a national conservation organization with tax exempt status under §501(c)(3) of the Internal Revenue Code. In addition, \$200,000 of Grantor's funds will be used for acquisition of the Urban Reserve.
- E. TPL provided the Grantee with interim financing and fundraising assistance for a total price of \$1,148,000. The contract with TPL provides that the Grantee has a right to extinguish TPL's right to purchase a portion of the Urban Reserve (the unfilled lands) by paying TPL the sum of \$1,148,000 two years from the date of closing with CVR. If the Grantee fails to do so, TPL may acquire title to the unfilled lands by paying the Grantee the sum of \$328,000. However, if TPL does so, it will be subject to the Grant of Development Rights and Conservation Restrictions ("Conservation Easement") and the Housing Subsidy Covenant ("Covenant"), described in Attachment A.
- F. In addition to the purchase price, the Grantee will also use City or other funds to remediate the filled portion of the Urban Reserve. As the current home to oil storage tanks and railroad storage, the site will require intensive clean-up before it can be used by the public. A remediation consultant estimates that basic remediation of the site will cost \$735,000 but the Grantee estimates that the cost will not exceed \$500,000. The Grantee believes that it's estimate of cost is reasonable, based on past experience with other clean-up on the waterfront.
- G. It is a condition of this award that Grantee agree that 50% of the Urban Reserve shall be used for "public open/recreation space or conservation land purposes only". The Grantee has already identified approximately 9 acres (100' setback from Lake Champlain and a natural area for an endangered plant) which will be restricted to these uses in perpetuity. The remaining acreage will be identified in the future by the Grantee. As discussed in Attachment A hereto, prior to disbursement of Grantor's funds, the Grantee, on behalf of itself and all future owners of the Urban Reserve, will convey a Conservation Easement to the Grantor. This Easement will be amended in the future when the Grantee identifies all the restricted property.
- H. It is a condition of this award that Grantee agree that 25% of any housing built on the Urban Reserve will be affordable. As discussed in Attachment A, prior to

disbursement of Grantor's funds, the Grantee, on behalf of itself and all future owners of the Urban Reserve, will sign a Covenant when it closes with Grantor. The terms of this Covenant are modeled after the Grantee's Ordinance of Inclusionary Zoning.

#### **VI. INDEMNIFICATION**

The Grantee shall indemnify, defend, and save harmless the Grantor and its officers and employees from liability and any claims, suits, judgments, and damages arising as a result of the performance of the obligations of this Agreement by the Grantee or any designee, subgrantee, contractor, or person.

#### **VII. OBLIGATIONS OF GRANTEE**

- A. The Grantee shall remain fully obligated and liable under the provisions of this Agreement, notwithstanding the designating, subgranting, or contracting with any third party or parties for the undertaking of any or all of the program being assisted under this grant.
- B. The Grantee shall require any third party to comply with all lawful requirements necessary to insure that the program is carried out in accordance with this Agreement.
- C. The Grantee agrees to comply with the requirements of Title 21, V.S.A. Chapter 5, Subchapter 6, relating to fair employment practices, to the extent applicable, and agree further to include a similar provision in any and all subcontracts.
- D. The parties agree that the Grantee, and any agents and employees of the Grantee, shall act in an independent capacity and not as officers or employees of the Grantor.

#### **VIII. MISCELLANEOUS PROVISIONS**

- A. The Grantee shall maintain all books, documents, payrolls, papers, accounting records and other evidence pertaining to costs incurred under this Agreement and made them available at reasonable times during the period of this contract and for three years thereafter for inspection by any authorized representative of the Grantor. If any audit, claim, or litigation, is started before the expiration of the three year period, the records shall be retained until all litigation, claims, or audit findings involving the records have been resolved.
- B. The Grantor, by any authorized representative, shall have the right at all reasonable times, to inspect or otherwise evaluate the work performed or being performed under this Agreement.
- C. Payments may be withheld in whole or in part in the event of failure by the Grantee to comply with the terms of this Agreement.

- D. No changes, modifications, or amendments in the terms and conditions of this Agreement shall be effective unless reduced to writing, numbered and signed by the duly authorized representatives of the Grantor and Grantee.
- E. Substantial changes to the Project may require changes, modifications, or amendment to this Agreement and the Grantee agrees herein to timely notification of the Grantor of such changes.
- F. This Agreement shall be governed by the laws of the State of Vermont.

Dated this 10 day of June, 1992.

VERMONT HOUSING AND CONSERVATION BOARD

By: Robert E. Woolmington  
Robert E. Woolmington, Chairman

Dated this 30<sup>th</sup> day of June, 1992.

CITY OF BURLINGTON

By: [Signature]  
Its Duly Authorized Agent

## ATTACHMENT A

The Board has provided Burlington with a grant of up to \$200,000 to be used exclusively for the acquisition of approximately 45 acres of property located on the Burlington Waterfront from Central Vermont Railway and for the protection of the habitat of endangered plant species there. The following conditions are attached to this award:

### Special Conditions

1. The City of Burlington shall place a conservation easement on the Urban Reserve, so that at least fifty percent (50%) of the property shall be used for public open recreation space or conservation land purposes only. Such easement shall constitute a perpetual servitude on the property to conserve recreational opportunities and activities, and other natural resource and scenic values and shall include a requirement that there be a one hundred foot (100') buffer zone from the shoreline (setback requirement) where no development is allowed. The form of the conservation easement shall be acceptable to the City and VHCB;
2. Prior to disbursement of funds, VHCB staff, in consultation with the Board Chair (or his designee) shall review and approve the conservation easement. The conservation easement shall be conveyed to the VHCB but the instrument of conveyance may include a right of assignment to any enforcing entity, provided that it is eligible for VHCB funds and acceptable to VHCB;
3. The conservation easement shall be superior to all liens and mortgages on the property or other interests of record which may be inconsistent with the easement, including any Option to Purchase or agreement to convey the Urban Reserve, or a portion thereof, to any third party, including the Trust for Public Lands (the "TPL") except the option to purchase held by Eastern Development Corporation for approximately 1.5 acres;
4. Holders of the conservation easement shall have a ninety (90) day right of first refusal on the restricted property should the City ever convey it. This provision shall not preclude the City from conveying the filled land to TPL, or from leasing some or all of the property, provided that such use is consistent with the easement.
5. During the period that the City has an obligation to convey the unfilled land to TPL (or another third party), VHCB shall have the right, but not the obligation, to match the terms of any proposed conveyance of the unfilled land to TPL and assume all rights and responsibilities of TPL with respect to the unfilled land.
6. The City, in consultation with the Nongame and Natural Heritage Program, shall document the area required by the endangered plant species on the property, and this area shall be restricted by conservation easements for use as a natural area at closing;

7. Prior to disbursement, VHCB staff shall review and approve all legal documents between the City and TPL related to the acquisition of the property. VHCB approval shall not be unreasonably withheld;
8. Prior to disbursement, the City, on behalf of itself and its successors and assigns (future owners) shall sign a Housing Subsidy Covenant of perpetual duration which requires that 25% of all residential units developed on the unfilled land shall be "affordable inclusionary units" as defined in the City's Inclusionary Zoning Ordinance in effect on the date of this award. It shall also require the City to make every reasonable effort to provide these units to households with incomes less than or equal to 80% of median income, at initial occupancy;

The form of the covenant shall be acceptable to the City and VHCB staff. The covenant shall be superior to all liens and mortgages on the property or other interests of record which may be inconsistent with it, including any Option to Purchase or agreement to convey the Urban Reserve, or a portion thereof, to any third party, including TPL;

For purposes of this covenant, units are affordable where households occupying them pay (i) no more than 30% of Household Income, at their date of initial occupancy, for rent or (ii) monthly mortgage payments, ground lease or condominium fee (if applicable) and property taxes and insurance, of not more than 30% of the household income at the time of occupancy or acquisition or (ii) monthly mortgage payment, ground lease or condominium fee (if applicable), taxes and insurance, heat and utilities under the Energy Efficient Mortgage Program of not more than 35% of family income; the housing units, upon reletting or resale, shall be made available only to households who meet the aforementioned definition of income and only at rents or sale prices that enable the new tenant or owner to occupy and pay the expenses for the housing units in accordance with the aforementioned definition of affordable housing and affordability.

The Covenant shall define "affordable inclusionary units" as those units which (i) rent for a price, including utilities, that is affordable to a household earning 65% of median income, adjusted for household size; or (ii) sell for a price, including principal, interest, taxes, insurance and condo association fees, that is affordable for households earning 75% of median income, adjusted for family size.

The City must target households with incomes at or below 80% of median for occupancy, but will be allowed to rent or sell to households with incomes at or below median (the VHCB statutory ceiling), at initial occupancy.

9. Since the Board intends to use bond proceeds for this award, the City shall use VHCB funds exclusively for the cost of acquisition and other expenses approved by VHCB staff and State of Vermont bond counsel prior to closing;

11. The City shall place an appropriate sign or plaque on the property which states that the project received funding from the Vermont Housing and Conservation Board.

**Reporting Requirements:**

- A. The Grantee shall submit the following reports to the Vermont Housing and Conservation Board:
  1. Within 60 days of closing - Grantee shall submit to Grantor a report on the project, including but not limited to how it has fulfilled the conditions of this grant; financial statement; closing documents (copy of recorded documents including Book and Page at which the documents are recorded in the Land Records) and other reasonable documentation requested by the Grantor.
  2. Within one year of closing - Grantee shall submit a report documenting and changes in the project to Grantor.
  3. Grantees shall annually report to VHCB satisfaction on the use of the property. Other annual reports may be requested by the Grantor at its discretion.

**B. On Request:**

Within 15 days of a request from the Grantor the Grantee must be able to show compliance with any particular term or condition of this agreement.

Failure to comply with any terms or conditions contained herein may be deemed a breach of agreement and grounds for withholding and/or repayment of funds.

**Payment Conditions:**

Payment of the monies awarded under this Agreement and this Attachment will be made upon written request of the Grantee, provided that the Grantee has provided the Grantor with documentation satisfactory to the Grantor as meeting the conditions described herein.

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① *Dive*  
*City's Office*  
CITY CLERK'S OFFICE  
Received 6-29 19 92 at 9:00 P.M.  
and recorded in Vol. 456 on Page \_\_\_\_\_  
of Burlington Land Records.  
Vermont Property Transfer Tax 32 V.S.A. Chap. 231  
-ACKNOWLEDGEMENT-  
Return, Certificate & Payment Received  
Attest: *J. E. Rader*  
James E. Rader, City Clerk

GRANT OF DEVELOPMENT RIGHTS AND CONSERVATION  
RESTRICTIONS FOR THE URBAN RESERVE

WHEREAS, the City of Burlington (the "City") is the owner of certain land on the waterfront of Lake Champlain which it has purchased from the Central Vermont Railway consisting of approximately twenty (20) acres of filled lands and approximately twenty five (25) acres of unfilled lands;

WHEREAS, allowable uses of the filled lands are detailed in Act No. 55, An Act Relating to Authorizing Additional Public Uses on the Filled Public Trust Lands Located on the Burlington Waterfront, effective July 1, 1991 provided that such uses benefit the public and are available to the public on an open and nondiscriminatory basis;

WHEREAS, Urban Renewal Plan for the Waterfront Revitalization District adopted by the Burlington City Council on September 24, 1990 (the "City Urban Renewal Plan") provides that the City should pursue acquisition of the Central Vermont Railway land to create an Urban Reserve to preserve a large natural area from unwanted commercial development, to reserve the right for future generations to determine the level of development, if any, which should occur on this land, and to concentrate the efforts of the City's development activities within the downtown business district and the waterfront commercial district to the east of Lake Street;

WHEREAS, the City Urban Renewal Plan provides that no less than fifty percent (50%) of the "North 40" property should be retained as public open/recreation space or conservation land and that the purchase could be financed with funds received from the Vermont Housing and Conservation Board;

WHEREAS, the Vermont Housing and Conservation Board (the "Board") is a public instrumentality of the State of Vermont existing by virtue of the Vermont Housing and Conservation Trust Fund Act, 10 V.S.A. §311 (the "Act"), which provides grants and loans to eligible entities for projects which fulfill the dual goals of creating affordable housing for Vermonters and conserving and protecting Vermont's agricultural land, historic properties, important natural areas and recreational lands;

WHEREAS, the Act provides that in the best interests of all of its citizens and in order to improve the quality of life for all Vermonters and to maintain for the benefit of future generations the essential characteristics of the Vermont countryside, Vermont should assist in creating affordable housing and in preserving the state's agricultural land, historic properties, important natural areas and recreational lands;

WHEREAS, eligible activities under the act include, but are not limited to, the protection of important wildlife habitat and important natural areas, the preservation of historic properties or resources and the protection of areas suited for outdoor public recreational activity;

*For Partial Release*  
*see vol. 893 pg. 414*  
*930 pg. 83*

WHEREAS, the City and the Board have signed Grant Agreement #90-097 (the "Agreement") which requires, in part, that in return for a grant in the amount of Two Hundred Thousand Dollars (\$200,000) the City use at least fifty percent (50%) of the Urban Reserve for public open recreation space or conservation land purposes only. Such use restriction shall be a perpetual servitude on the Urban Reserve to provide recreational opportunities and activities and protect natural resource and scenic values;

WHEREAS, on March 3, 1992 the City voters approved a ballot item which authorized the City to accept funds from the Board for the purposes of this Grant;

WHEREAS, the City plans to remediate portions of the Urban Reserve by removing existing oil tanks and facilities in order to fulfill the purposes of the City Waterfront Plan according to a timetable established by the City;

WHEREAS, except for a one hundred foot (100') buffer zone on the shoreline and an identified Natural Area, the City may in its sole discretion identify the portion of the Urban Reserve which is restricted in accordance with the Agreement and this Grant;

WHEREAS, the City and the Board have agreed that remediation and limited uses will be allowed upon recording of this Grant and a Preliminary Conservation Map in the City of Burlington Land Records and that further development shall be allowed only after the City has identified all the property restricted by this Grant and filed a Conservation Map;

WHEREAS, parties agree that no use shall be made of the property restricted by this Grant and no activity shall be permitted which is or may possess the potential to become inconsistent with the intent of this Grant, such intent being the restoration and preservation of the natural and historic integrity and scenic beauty of the property, its use for public open recreation space and conservation purposes, protection of the Natural Area and sound utilization and conservation of the shoreline resources;

KNOW ALL PERSONS BY THESE PRESENTS that the CITY OF BURLINGTON, on behalf of itself and its successors and assigns (hereinafter "Grantor"), pursuant to the authority granted in Title 10 V.S.A. Chapters 34 and 155 and by Resolution of the City Council of the City of Burlington dated June 22, 1992 and in consideration of the payment of One Dollar and other valuable consideration paid to its full satisfaction, does freely give, grant, sell, convey and confirm unto the VERMONT HOUSING AND CONSERVATION BOARD, a public instrumentality of the State of Vermont with an address of 136 1/2 Main Street, Montpelier, Vt. 05602 and its respective successors and assigns (hereinafter "Grantee"), the development rights, right of first refusal, and a perpetual conservation easement and restrictions (all as more particularly set forth below) in a certain tract of land (hereinafter "Protected Property") situated in the City of Burlington, Chittenden County, State of Vermont, said Protected Property being a portion of approximately 45 acres of land located on the Burlington Waterfront, more particularly described in Schedule A attached hereto and incorporated herein (the "Urban Reserve").

The development rights hereby conveyed to the Grantee shall include all development rights except those specifically reserved by the Grantor herein and those reasonably required, to carry out the permitted uses of the Protected Property as herein described. The conservation easement and restrictions hereby conveyed to the Grantee consists of covenants on the part of the Grantor to do or refrain from doing, severally and collectively, the various acts set forth below. It is hereby acknowledged that these covenants shall constitute a servitude upon the land and run with the land. Grantee accepts such covenants in order to conserve public open recreational opportunities and activities, and other natural resource and scenic values of the Protected Property for present and future generations.

The Protected Property shall consist of at least twenty two and one half (22 1/2) acres, consisting of the following:

1. a portion of Urban Reserve along the shoreline of Lake Champlain which covers the length of the Urban Reserve and has a width of at least one hundred feet (100') east of the average high water mark (99.08 feet above sea level) of Lake Champlain, as shown generally on the map attached hereto as Schedule B (the "Preliminary Conservation Map"). This portion consists of at least eight (8) acres and shall be referred to herein as the "Shoreline Area";
2. a portion of Urban Reserve which will remain in its natural state in order to protect an endangered plant species. This portion consists of at least one and one half (1 1/2) acres, is shown generally on the Preliminary Conservation Map and shall be referred to herein as the "Natural Area"; and
3. a portion of the Urban Reserve consisting of at least thirteen (13) acres identified by the Grantor prior to the commencement of construction of any buildings or structures on the Urban Reserve. This portion shall be incorporated into a site plan which shall be signed by the Grantor and the Board and shall be referred to as the "Conservation Map" and attached hereto as Schedule D. Prior to the date that this Grant is amended to include the Conservation Map, no use shall be made of the property north of a line running west from southern end of Lakeview Terrace to Lake Champlain on the Urban Reserve, as shown on the Preliminary Conservation Map, except for those permitted uses specified below. Said amendment shall be recorded in the City of Burlington Land Records. This portion of the Protected Property shall be referred to as the "Public Open Recreation Area".

Notwithstanding the provisions of this Grant, prior to filing the Conservation Map, the Grantor may commence construction of improvements and allow uses not permitted by this Grant south of the aforesaid line but not including the Shoreline Area, as shown generally on the Preliminary Conservation Map. This portion consists of approximately six and one half (6 1/2) acres and shall be referred to as the "Interim Development Area".

Upon amendment of this Grant and recording of the Conservation Map in the City of Burlington Land Records, the Protected Property shall consist of the Shoreline Area, the Natural Area and the Public Open Recreation Area as identified on the Conservation Map

**Restricted Uses of Protected Property.**

Except for those permitted uses specified below, the restrictions hereby imposed upon the Protected Property, and the acts which Grantor shall do or refrain from doing, are as follows:

1. The Protected Property shall be used for public open space, public recreation and conservation purposes only. No residential, commercial, industrial, or mining activities shall be permitted, and no building or structure shall be constructed, created, erected or moved onto the property, except as specifically permitted under this Grant.
2. No rights-of-way, easements of ingress or egress, driveways, roads, parking areas or utility lines shall be constructed, developed or maintained into, on, over, under, or across the Protected Property, except as specifically permitted under this Grant.
3. There shall be no signs, billboards, or outdoor advertising of any kind erected or displayed; provided, however, that the Grantor may erect and maintain reasonable signs indicating the name of the property, boundary markers, directional signs, signs restricting access to the Natural Area, signs informing the public about reasonable use, memorial plaques, or historical markers.
4. After remediation of the Protected Property, there shall be no disturbance of the surface, including but not limited to filling, excavation, removal of topsoil, sand, gravel, rocks or minerals, or change of the topography of the land in any manner, except as may be reasonably necessary to carry out the uses permitted on the Protected Property under the terms of this Grant. In no case shall surface mining of subsurface oil, gas, or other minerals be permitted.

**Restricted Uses of the Natural Area.**

5. The Natural Area shall be maintained in its natural condition as a natural area which is the critical habitat for an endangered species of plant. Notwithstanding the above, Grantor shall permit reasonable activities which protect the ecological communities and systems in and around the Natural Area, provided that such activities are consistent with the recommendations of the State of Vermont Natural Heritage Program and the City of Burlington Conservation Board. The Natural Area may be posted or fenced to protect significant ecological resources.

**Permitted Uses of the Shoreline Area.**

Notwithstanding the foregoing, Grantor shall have the right to make the following uses of the Shoreline Area, provided that pedestrian circulation is not unreasonably impaired:

6. The right to remediate the Protected Property provided that such remediation is conducted in a manner which is consistent with applicable federal and state law and City Ordinance.

7. The right to clear, construct and maintain an area for the purpose of moving the existing Bike Path to the Shoreline Area, provided that such path is limited to walking, skiing, bicycling and other non-motorized recreational activities and the right to create, repair, maintain and replace utilities and other improvements associated therewith;

8. The right to clear, construct, and maintain trails for walking, skiing, bicycling and other non-motorized recreational activities within and across the Protected Property.

9. The right to construct, maintain and replace benches and playground equipment for small children and to seed, plant, cultivate and maintain public lawns and vegetable or flower gardens;

10. After filing the Conservation Map, the right to construct, maintain and replace access to public wharfs, public marinas, and to construct, maintain and replace public boat access to Lake Champlain and the right to create, repair, maintain and replace utilities and improvements associated therewith.

11. The right to construct, maintain and replace structures (but not buildings) such as walkways, planters, benches, fountains, works of art, sitting walls and other improvements which will enhance the pedestrian environment.

12. The right to create, repair, maintain and replace water lines, sewer lines, electrical lines and fixtures now existing and the right to create, repair, maintain and replace other utility lines associated with uses permitted under this Grant or on unrestricted portions of the Urban Reserve, provided that such activities do not unreasonably interfere with uses permitted on the Shoreline Area.

**Permitted Uses of the Public Open Recreation Area.**

Notwithstanding the foregoing, Grantor shall have the right to make the following uses of the Public Open Recreation Area:

13. The right to remediate the Protected Property provided that such remediation is conducted in a manner which is consistent with applicable federal and state law and City Ordinance.

14. The right to clear, construct, and maintain trails for walking, skiing, bicycling and other non-motorized recreational activities within and across the Protected Property.

15. The right to construct, maintain and replace playground equipment for small children, benches, rest areas and related facilities, and to seed, plant, cultivate and maintain public lawns and vegetable or flower gardens.

16. The right to construct, maintain and replace playing fields and courts, lights, fences, and temporary spectator seating, and the right to create, repair, maintain and replace utilities associated therewith, provided that such activities do not unreasonably interfere with uses permitted on the Protected Property under this Grant.

17. The right to construct, maintain and replace access to public wharfs and public marinas, and to construct, maintain and replace public boat access to Lake Champlain and the right to create, repair, maintain and replace utilities and improvements associated therewith.

18. The right to construct, maintain and replace structures such as walkways, planters, benches, fountains, works of art, sitting walls and other improvements which will enhance the pedestrian environment.

19. The right to use the Protected Property for open-air markets and theatres, provided that no permanent structures are constructed and pedestrian circulations is not unreasonably impaired.

20. The right to repair, maintain and replace water lines, sewer lines, electrical lines and fixtures now existing and the right to create, repair, maintain and replace other utility lines associated with activities permitted by this Grant or on unrestricted portions of the Urban Reserve, provided that such activities do not unreasonably interfere with uses permitted on the Protected Property under this Grant.

**Enforcement of the Restrictions.**

Grantees shall make reasonable efforts from time to time to assure compliance by Grantor with all of the covenants and restrictions herein. In connection with such efforts, Grantees may make periodic inspection of all or any portion of the Protected Property, and for such inspection and enforcement purposes, the Grantees shall have the right of reasonable access to the Protected Property. In the event that a Grantee becomes aware of an event or circumstances of non-compliance with the terms and conditions herein set forth, Grantees shall give notice to Grantor and the other Grantees of such event or circumstance of non-compliance via certified mail, return receipt requested, and demand corrective action by the Grantor sufficient to abate such event or circumstance of non-compliance and restore the Protected Property to its previous condition. In the event there has been negotiation and voluntary compliance, Grantor shall reimburse Grantee all reasonable costs incurred in investigating the non-compliance and in securing its correction.

Failure by the Grantor to cause discontinuance, abatement, or such other corrective action as may be demanded by the Grantee within a reasonable time after receipt of notice and reasonable opportunity to take corrective action shall entitle the Grantee to bring an action in a court of competent jurisdiction to enforce the terms of this Grant and to recover any damages arising from such non-compliance. Such damages, when recovered, may be applied by the Grantee to corrective action on the Protected Property, if necessary. If the court determines that the Grantor has failed to comply with this agreement, Grantor shall reimburse the Grantees for any reasonable costs of enforcement, including court costs and reasonable attorney's fees, in addition to any other payments ordered by such court. In the event that a Grantee initiates litigation and the court determines that the Grantor has not failed to comply with this agreement and that the Grantee has initiated litigation without reasonable cause or in bad faith, then the Grantee shall reimburse Grantor for any reasonable costs of defending such action, including court costs and reasonable attorney's fees. The parties to this Grant specifically acknowledge that events and circumstances of non-compliance constitute immediate and

irreparable injury, loss, and damage to the Protected Property and accordingly entitle Grantees to such equitable relief, including but not limited to injunctive relief, as the Court deems just. The remedies described herein are in addition to, and not in limitation of, any other remedies available to the Grantees at law, in equity, or through administrative proceedings.

No delay or omission by the Grantee in the exercise of any right or remedy upon any breach by Grantor shall impair the Grantee's rights or remedies or be construed as a waiver.

**Right of First Refusal.**

The Grantor hereby gives to the Grantee a Right of First Refusal to purchase the Protected Property which shall be of perpetual duration. The conditions of this Right of First Refusal shall be such that whenever the Grantor decides to sell the Protected Property and receives a written offer from a responsible person or persons to purchase all or any part of the Protected Property, Grantor shall deliver to the Grantee by certified mail, return receipt requested, a duplicate original of the written offer, together with such other instruments as may be required to show the bona fides of the offer. The Grantee may elect to purchase the premises for the offered price and upon such other terms and conditions not less favorable to the Grantor than those contained in the offer by giving to the Grantor by certified mail, return receipt requested, written notice of such election within ninety (90) days after delivery of the offer to the Grantees. If the Grantee does not elect to meet such offer within the ninety-day period, Grantor may accept the offer as written.

This Right of First Refusal shall not apply to any sale or conveyance of any part of the unfilled portion of the Protected Property to the Trust for Public Lands (the "Trust") pursuant to a Memorandum of Agreement between the Trust and the Grantor dated October 15, 1991 and recorded at Volume 438, Page 399 of the City of Burlington Land Records or to any sale or conveyance of any part of the unfilled portion of the Protected Property to Von Turkovich pursuant to a Real Estate Contract, Deposit Receipt Sales Agreement dated February 1, 1990 assigned to the City of Burlington and referenced in the Deed from the Central Vermont Railway to the City of Burlington dated October 15, 1991 and recorded in Volume 438, Pages 402-417 of the City of Burlington Land Records. The Right of First Refusal shall apply to all other sales and conveyances of the Protected Property.

**Miscellaneous Provisions.**

IT IS HEREBY AGREED that remediation of the Urban Reserve and construction of any buildings, structures or improvements, or any use of the land otherwise permitted under this Grant, shall be in accordance with all applicable ordinances, statutes and regulations of the City of Burlington, the State of Vermont and the United States of America.

The Grantee shall transfer the development rights, right of first refusal, conservation easement and restrictions conveyed by Grantor herein only to a State agency or qualified organization, as defined in Title 10 V.S.A. Section 6301a, ("qualified organization") provided that such agency or qualified organization agrees to enforce the purposes of this Grant in perpetuity, all in accordance with the laws of the State of Vermont and the regulations established by the Internal Revenue Service governing such transfers. Provided further, that

the Grantee shall seek the Grantor's consent prior to transfer of the development rights, right of first refusal, conservation easement and restrictions to a qualified organization which consent shall not be unreasonably withheld or conditioned. No consent shall be required prior to transfer to a State agency.

If the Grantor decides that a change in use which is not permitted by this Grant is in the public interest, the Grantor may request an amendment to this Grant permitting such change. The Grantee shall give due consideration to such request and may consent to such amendment if the change in use is consistent with the intent of this Grant, such intent being the restoration and preservation of the natural and historic integrity and scenic beauty of the Protected Property, its use for public open recreation space and conservation purposes, protection of the Natural Area and sound utilization and conservation of the shoreline resources;

In the event the development rights or conservation easement and restrictions conveyed to the Grantee herein are extinguished by eminent domain or other legal proceedings, Grantee shall be entitled to any proceeds which pertain to the extinguishment of Grantee's rights and interests.

In any deed or lease conveying an interest in all or part of the Protected Property, Grantor shall make reference to the conservation easement and restrictions described herein and shall indicate that said conservation easement and restrictions are binding upon all successors in interest in the Protected Property in perpetuity. Grantor shall also notify the Grantee of the name(s) and address(es) of Grantor's successor(s) in interest.

The term "Grantor" shall include the successors and assigns of the original Grantor, the CITY OF BURLINGTON. The term "Grantee" shall include the successors and assigns of the original Grantee VERMONT HOUSING AND CONSERVATION BOARD. INVALIDATION of any provision hereof shall not affect any other provision of this Grant.

TO HAVE AND TO HOLD said granted development rights, right of first refusal, and conservation easement and restrictions, with all the privileges assigns, does covenant with the said Grantee VERMONT HOUSING AND CONSERVATION BOARD, its their successors and assigns, that until the ensealing of these presents, the CITY OF BURLINGTON is the sole owner of the premises, and has good right and title to convey the same in the manner aforesaid, that they are free from every encumbrance, except those liens and use restrictions detailed in Schedule C.

IN WITNESS WHEREOF Peter Clavelle, duly authorized agent for the CITY OF BURLINGTON and pursuant to appropriate authority, hereunto sets his hand and seal this 50<sup>th</sup> day of June 1992.

CITY OF BURLINGTON, GRANTOR:

Jay M. Lewis  
Witness

[Signature]  
Its Duly Authorized Agent

David Palmer  
Witness

STATE OF VERMONT  
CHITTENDEN COUNTY SS.

At Burlington, Vermont this 27<sup>th</sup> day of June 1992, Peter Clavelle personally appeared, and he acknowledged this instrument, by him sealed and subscribed, to be his free act and deed and the free act and deed of the CITY OF BURLINGTON

Before me,  
[Signature]  
Notary Public

Approved and Accepted by the VERMONT HOUSING AND CONSERVATION BOARD

By: [Signature]  
Lawrence W. Mires  
Its Duly Authorized Agent

Date: 6/29/92

GRANT OF DEVELOPMENT RIGHTS AND  
CONSERVATION RESTRICTIONS FOR THE  
URBAN RESERVE

Schedule A  
Description of Urban Reserve

A parcel or parcels of land containing 46 acres, more or less, as shown on a survey entitled "A Portion of Central Vermont Railway, Inc. Lands, Burlington, Vermont, Property Plat" prepared by Donald L. Hamlin Consulting Engineers, Inc., Essex Junction, Vermont, and shown on Drawings 1 dated 12/15/83 and Drawing 3 dated 4/84 with a latest revision date of 10/1/91. Copies of such surveys being recorded in the Burlington Land Records at Map Hangers 241-A, B, C, D, E and F and 242 A & B.

Being all of the same land and premises conveyed to the City of Burlington by Deed of Central Vermont Railway, Inc., dated October 15, 1991 and recorded in Volume 438 Pages 402-417 of the City of Burlington Land Records.

Reference is hereby made to the above-mentioned Deed and records and the Deed and records therein referred in further aid of this description.


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SCHEDULE B


519


Scale = 1:4000

# Urban Reserve Preliminary Conservation Map

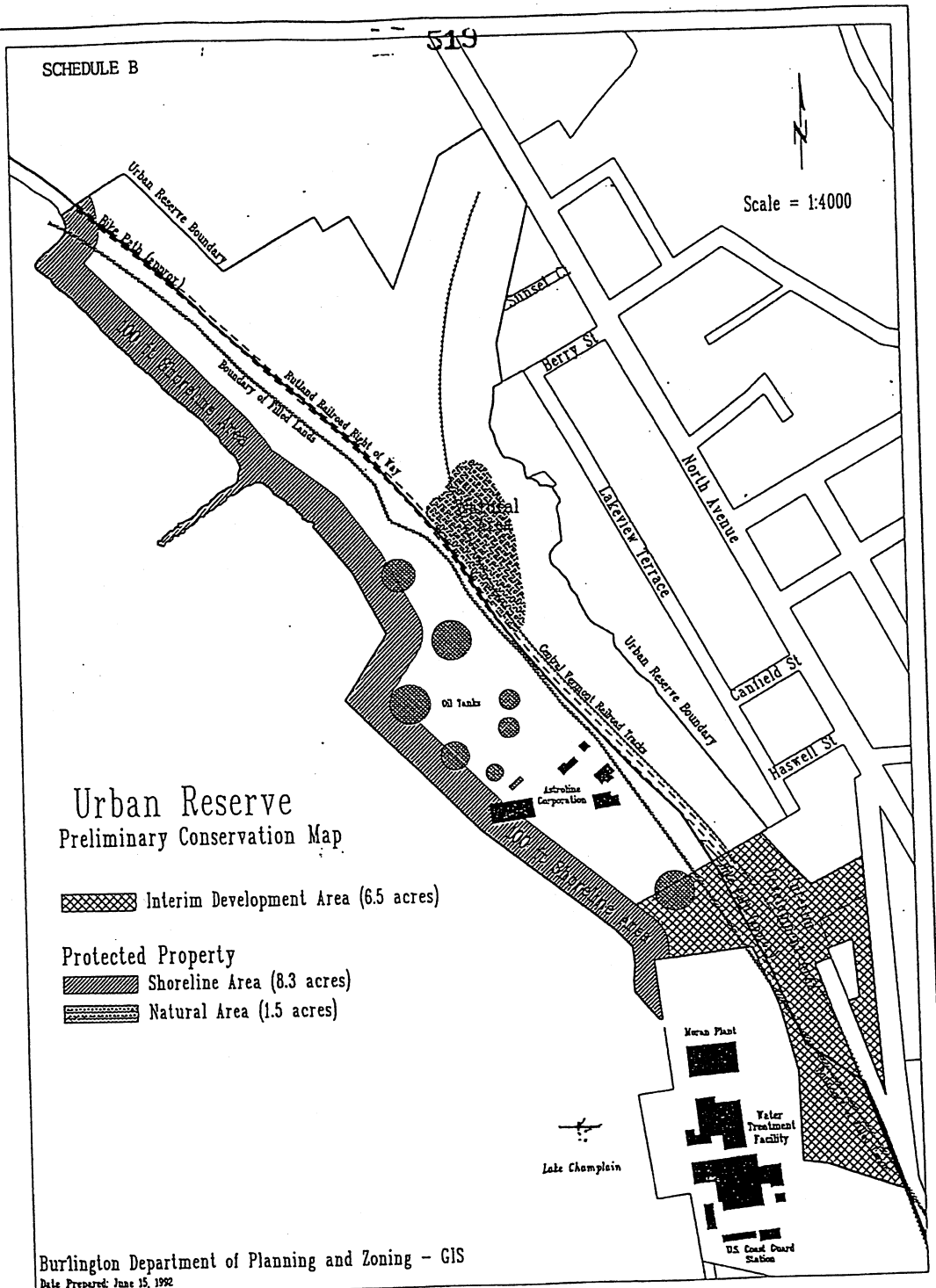
 Interim Development Area (6.5 acres)

### Protected Property

 Shoreline Area (8.3 acres)

 Natural Area (1.5 acres)

Burlington Department of Planning and Zoning - GIS  
Date Prepared: June 15, 1992



GRANT OF DEVELOPMENT RIGHTS AND  
CONSERVATION RESTRICTIONS FOR THE  
URBAN RESERVE

Schedule C  
Liens and Use Restrictions

The Urban Reserve is subject to the encumbrances described in the following documents and the records therein referred:

Deed of Central Vermont Railway, Inc. to the City of Burlington dated October 15, 1991 recorded in Volume 438, Pages 402-417 of the City of Burlington Land Records.

Assignment and Assumption Agreement between Central Vermont Railway, Inc. and the City of Burlington dated October 15, 1991 and attached as Schedule E.

Purchase and Sale Contract pertaining to the unfilled land on the Burlington Waterfront between the City of Burlington and the Trust for Public Land dated September 6, 1991, and attached as Schedule F, Memorandum of Agreement recorded in Vol. 438, Page 399 of the City of Burlington Land Records.

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ASSIGNMENT AND ASSUMPTION AGREEMENT

This Agreement is by and between CENTRAL VERMONT RAILWAY, INC., a Vermont corporation with a principal place of business in St. Albans, Vermont ("CVR") and CITY OF BURLINGTON, a municipality of the State of Vermont ("City").

WHEREAS, the City and CVR entered into a Purchase and Sale Agreement dated September 6, 1991.

WHEREAS, Paragraph 7 of the Purchase and Sale Agreement provides, in part:

"At closing CVR will assign to the City all rights and interests CVR may have in regard to the encumbrances listed on Exhibit B and in any other encumbrances which relate to the Property shall the City shall assume all duties and obligations in regard to such encumbrances which relate to the Property and may exercise any right or interest."

NOW THEREFORE, in consideration of the mutual promises contained herein and other valuable consideration, the receipt of which is hereby acknowledged, the parties agree as follows:

1. CVR assigns all rights and interest it may have in regard to any and all encumbrances which relate to the lands and premises conveyed in a deed of even date, except Agreement 9245 with the Vermont Railway, Inc. in regard to joint operation of rail traffic on CVR tracks or except as otherwise provided herein or in the deed.
2. The City assumes all duties and obligations in regard to such encumbrances which relate to the lands and premises conveyed in a deed of even date.
3. Without limiting the generality of the foregoing, CVR specifically assigns all rights and interests in regard to encumbrances listed on Exhibit 1 attached hereto and the City assumes all duties and obligations under those listed encumbrances.
4. Without limiting the generality of the foregoing, the Grantor specifically assigns all rights and interests it may have to a lease dated June 13, 1977 with Astroline Petroleum, a memorandum of such lease being recorded in Volume 242 at Page 378 of the Burlington Land Records, and to the Agreement for Cancellation of Lease dated August 1990, and the City hereby assumes all duties and obligations in regard to such lease and agreement. CVR reserves all claims for rents due for periods prior to sale.
5. Without limiting the generality of the foregoing encumbrances, the Grantor specifically assigns all rights and interest it may have to a Real Estate Contract, Deposit Receipt

and Sales Agreement, between the Grantor and Eastern Development Corporation dated February 21, 1990, as amended by a letter agreement dated August 12, 1991. The portions of the property subject to the Real Estate Contract are described in Exhibit 2 attached hereto. The parcel described as Parcel A in such Exhibit 2 is subject to claims of Francis and Edward von Turkovich or their heirs, administrators, successors or assigns, pursuant to a deed of record in Volume 368 at Page 515 of the Burlington Land Records, and Central Vermont Railway, Inc. does not provide any warranty of title in regard to such Parcel A. The City hereby assumes all duties and obligations in regard to such contact as amended.

6. Without limiting the generality of the foregoing encumbrances on the property, the Grantor specifically assigns all rights and interests it may have to a lease dated January 1, 1964 with the State of Vermont for a 15 foot wide right of way which extends over a portion of the CVR Retained Railroad Strip and over a portion of lands and premises proceeding north from the north end of the retaining wall as depicted on the Hamlin Survey to the northerly boundary of the conveyed property. Cancellation of this lease may be limited by Rutland-Canadian Railroad Co. v. Central Vermont Railway, Inc., 72 Vt. 128 (1900). The lease is amended by a letter agreement between CVR and the Vermont Railway dated July 6, 1990. The City hereby assumes all duties and obligations in regard to such lease and such July 6, 1990 letter agreement with the exception that CVR will retain the responsibility of providing the railroad storage as set forth in Paragraph 2 of the July 6, 1990 letter agreement.

DATED at Burlington, Vermont, this 15th day of October, 1991.

[Signature]  
[Signature]

CITY OF BURLINGTON

By:

[Signature]  
Peter Clavelle, Mayor

STATE OF VERMONT  
CHITTENDEN COUNTY, SS.

At Burlington, this 15th day of October, 1991, personally appeared Peter Clavelle, Mayor of the CITY OF BURLINGTON, and he acknowledged this instrument, by him sealed and subscribed, to be his free act and deed and the free act and deed of the CITY OF BURLINGTON.

Before me,

[Signature]  
Notary Public

CENTRAL VERMONT RAILWAY, INC.

L L Murphy  
Christopher J. Burger By: [Signature]  
 Christopher J. Burger  
 Duly Authorized Agent

STATE OF VERMONT  
CHITTENDEN COUNTY, SS.

At Burlington, this 15th day of October, 1991, personally appeared Christopher J. Burger, Duly Authorized Agent of CENTRAL VERMONT RAILWAY, INC., and he acknowledged this instrument, by him sealed and subscribed, to be his free act and deed and the free act and deed of CENTRAL VERMONT RAILWAY, INC.

Before me, L L Murphy  
Notary Public

EXHIBIT 1  
to Assignment and Assumption Agreement

List of Certain Encumbrances

- 5304 Dated 3/1/31, between CV and GMPC re wire crossings (term was 1 year; may be canceled upon 30 days written notice) as it applies to the conveyed lands only
- 5304-81 Permit under master contract 5304
- 5304-101 Permit under master contract 5304
- 6010 Dated 6/11/1897, 25' ROW along common boundary of Parcels C and D (City of Burlington/Water Works Right of Way)
- 7949 Dated 1/1/52, between CV and New England Telephone & Telegraph Company (may be canceled upon 90 days written notice) as it applies to the conveyed lands only
- 7949-366 Permit under master contract 7949
- 7949-398 Permit under master contract 7949
- 8590 Blanket Agreement dated 5/1/58, between CV and Burlington Electric Light Department (term expired 7/31/88; may be canceled upon 60 days written notice) as it applies to the conveyed lands only
- 8590-1 Permits under master contract 8590
- 8590-2 "
- 8590-7 "
- 8590-8 "
- 8590-9 "
- 8590-10 "
- 8590-14 "
- 8590-18 "
- 8590-19 "
- 8590-20 "
- 9228 Dated 1/1/64, lease to State of Vermont/Sublease to Vermont Railway, Inc. (15' ROW) (Lease states that it may be canceled upon 90 days written notice but

such cancellation may be limited by Rutland-Canadian Railroad Co. v. Central Vermont Railway, Inc., 72 Vt. 128 (1900)). The State and the Vermont Railway, Inc. have agreed to relocation of the right of way under certain conditions. However, such agreement was not executed. Central Vermont Railway, Inc. and Vermont Railway, Inc. have agreed to the removal of the northern 1600' of track by letter agreement dated July 6, 1990.

- 9563 Dated 6/1/78, between CV and City of Burlington re underground water pipe crossing under right of way and tracks of the Railway (may be canceled upon 30 days written notice)
- 9816 Dated 4/1/74, between CV and City of Burlington re installation, maintenance and repair of 16" water line recorded in 219/743 (may be canceled upon 6 months notice)
- 9922 Dated 6/13/77, Astroline lease (Memo of Lease dated 6/13/77 and recorded in 242/378) and sublease to BED dated 5/31/80 (sublease may be canceled upon 30 days written notice of default). Agreement for Cancellation of Lease dated August, 1990. CV reserves any claims for rents due for periods prior to sale.
- 9924 Dated 7/1/77, Astroline lease re oil pipeline. Is given for a period coterminus with the term of a lease dated 6/13/77 (#9922). CV reserves any claims for rents due for periods prior to sale.
- 10345 Dated 8/1/82, lease to City of Burlington for sewage disposal (8" and 4" ductiles) (may be canceled upon 30 days written notice)
- 10512 Dated 3/12/84, between CV and City of Burlington, Water Resources Department re 13,000 volt underground duct bank and two manholes, effective November 1982 (may be canceled upon 30 days written notice by Licensee)

10779-21 Dated 4/30/87, between CV and Vermont Gas Systems re: gas line (may be canceled; year to year lease, April 30-April 29)

11084 Dated 9/1/89, between CV and Independent Cement Corporation re: sidetrack, switch and lease agreement (may be canceled upon 30 days written notice)

11310 Dated 2/21/90, Real Estate Contract, Deposit Receipt and Sales Agreement, between CV and Eastern Development Corporation re: 1.5 +/- acres. Closing date extended by Letter Agreement dated August 12, 1991 (See B-2).

-- 10" Water Line. Provides water service from Burlington Water Department to unknown located off the survey. There is no record or other information regarding any easement granted or lease for such pipe.

-- 8" Water Line. Fire hydrant line along bike path. There is no record or other information regarding any easement granted or lease for such pipe.

-- 1" Water Line. (Located above concrete slab and grass area.)

# CITY OF BURLINGTON

## Revised Wetland Map

The wetlands shown on this map have not been field-delineated. They are based on an identification process that used aerial photos, soils, and other data. A sample of these wetlands were field checked. The entire process is described in a report titled "The City of Burlington, Revision of the City's Wetlands Map," dated October 14, 2009.




0 0.15 0.3 0.6 0.9 1.2 Miles

0 400 800 1,600 2,400 3,200 4,000 Feet

1 inch = 800 feet

### Legend

#### 2009 Revised Wetland Layer

-  Unchanged from Original
-  Area modified from Original
-  New wetland polygon

**CONSERVATION BOARD**

January - December 2026

Regularly Scheduled Meetings - 1st Mondays

Date of Meeting	Day of Week	Time	Location
January 5, 2026	Monday	5:30 PM	311 North Avenue
February 2, 2026	Monday	5:30 PM	311 North Avenue
March 2, 2026	Monday	5:30 PM	311 North Avenue
April 6, 2026	Monday	5:30 PM	311 North Avenue
May 4, 2026	Monday	5:30 PM	311 North Avenue
June 1, 2026	Monday	5:30 PM	311 North Avenue
July 6, 2026	Monday	5:30 PM	311 North Avenue
August 3, 2026	Monday	5:30 PM	311 North Avenue
September 14, 2026	Monday	5:30 PM	311 North Avenue
October 5, 2026	Monday	5:30 PM	311 North Avenue
November 2, 2026	Monday	5:30 PM	311 North Avenue
December 7, 2026	Monday	5:30 PM	311 North Avenue

Date adjustment for  
Labor Day

**OPEN SPACE SUBCOMMITTEE**

January - December 2026

Regularly Scheduled Meetings - 1st Mondays

Date of Meeting	Day of Week	Time	Location
January 5, 2026	Monday	4:30 PM	311 North Avenue
February 2, 2026	Monday	4:30 PM	311 North Avenue
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May 4, 2026	Monday	4:30 PM	311 North Avenue
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July 6, 2026	Monday	4:30 PM	311 North Avenue
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December 7, 2026	Monday	4:30 PM	311 North Avenue

Date adjustment for  
Labor Day