

Burlington Development Review Board

Department of Permitting & Inspections
645 Pine Street
Burlington, VT 05401
www.burlingtonvt.gov/DPI/DRB
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AJ LaRosa
Caitlin Halpert
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Marina Campbell, (Alternate)
Chase Taylor, (Alternate)



Development Review Board

Tuesday, May 19, 2026, 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

Telephone: US +1 929 205 6099 or +1 301 715 8592 or +1 312 626 6799 or +1 669 900 6833 or +1 253 215 8782
or +1 346 248 7799

1. Agenda

2. Communications

3. Minutes

4. Consent

4.1. ZP-26-159; 1127 North Avenue (NAC, Ward 4) Hauke Building Supply, Inc. / David Hauke
Conditional use to expand existing North End Brew Pub into 1,200 sq. ft. of existing space. (Project Manager, Scott Gustin)

5. Public Hearing

5.1. ZAP-26-4; 88 Lafountain Street (RM, Ward 2) SWB, LLC / Michael Alvanos
Appeal of administrative denial of ZP-26-78 for the after-the-fact installation of gravel for driveway. (Project Manager, Scott Gustin)

5.2.

ZAP-26-5; 261 South Winooski Avenue (RM, Ward 6) Field Stone Property Management, LLC / Ryan Field

Appeal notice of zoning violation for unpermitted window replacement. (Project Manager, Collin Naheedy)

6. Adjournment

7. Informational and Non-Discrimination Statements

7.1.

Plans may be viewed upon request by contacting the Department of Permitting & Inspections at (802) 865-7188 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 <https://burlingtonvt.portal.civicclerk.com/> 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 & Inspections

Zoning Division
645 Pine Street
Burlington, VT 05401
Telephone: (802) 865-7188

William Ward, Director
Scott Gustin, AICP, CFM, Principal Planner
Mary O'Neil, AICP, Principal Planner
Kirk Dressing, Associate Planner
Joseph Cava, Permit Technician
Collin Naheedy, Code Compliance Officer



TO: Development Review Board
FROM: Scott Gustin
DATE: May 19, 2026
RE: ZP-26-159; 1127 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.

Zone: NAC Ward: 4

Owner/Applicant: Hauke Building Supply, Inc / David Hauke

Request: Proposed expansion of existing North End Brew Pub into 1,200 sq. ft. space previously occupied by Burlington Barber Shop.

Applicable Regulations:

Article 3 (Applications, Permits, & Project Reviews), Article 6 (Development Review Standards)

Background Information:

The applicant is requesting approval to expand brewing capacity for the existing North End Brew Pub into adjacent commercial space. The brewing activity falls within "food and beverage processing" in *Appendix A – Use Table* of the Comprehensive Development Ordinance and requires conditional use review in this zoning district. Almost all of the work is interior. The only exterior change is the installation of a new overhead door into the space.

Previous zoning actions for this use are noted below.

- 5/31/16, Approval for microbrewery signage.
- 3/23/16, Approval to establish a microbrewery in former tanning space.

Recommendation: Consent approval as per, and subject to, the following findings and conditions:

I. Findings

Article 3: Applications, Permits, and Reviews

Part 5, Conditional Use & Major Impact Review:

Section 3.5.6 (a) Conditional Use Review Standards

Approval shall be granted only if the DRB, after public notice and public hearing, determines that the proposed conditional use and associated development shall not result in an undue adverse effect on each of the following general standards:

1. *Existing or planned public utilities, facilities or services are capable of supporting the proposed use in addition to the existing uses in the area;*

The entire shopping center wherein the brew pub is located is served by city water and wastewater. The Department of Public Works, Water Resources Division, has submitted comments and related documentation relative to this application. Breweries produce high strength wastewater. Follow up coordination with the Water Resources Division will be required. Water and wastewater impact fees, as determined by Water Resources, will also likely be required within 30 days of issuance of the related building permit. **(Affirmative finding as conditioned)**

2. *The character of the area affected as defined by the purpose or purposes of the zoning district(s) within which the project is located, and specifically stated policies and standards of the municipal development plan;*

The subject property is located within the Neighborhood Activity Center zone and is comprised of a wide variety of commercial uses. The existing 1,800 sf brew pub will expand by 1,200 sf within existing commercial space. Minimal exterior alteration is proposed. The use is permissible via conditional use approval and is consistent with the character of the shopping center and of the NAC district generally. **(Affirmative finding)**

3. *The proposed use will not have nuisance impacts from noise, odor, dust, heat, and vibrations greater than typically generated by other permitted uses in the same zoning district;*

No perceptible impacts from odor, noise, dust, heat, or vibrations are anticipated as a result of the 1,200 sf interior expansion. **(Affirmative finding)**

4. *The transportation system is capable of supporting the proposed use in addition to the existing uses in the area. Evaluation factors include street designations and capacity; level of service and other performance measures; access to arterial roadways; connectivity; transit availability; parking and access; impacts on pedestrian, bicycle and transit circulation; safety for all modes; and adequate transportation demand management strategies;*

No traffic analysis has been provided, or is required for, this application. The proposed expansion is related to increased brewing capacity. No expansion in days and hours of operation are proposed, nor is any expansion in patron capacity. **(Affirmative finding)**

and,

5. *The utilization of renewable energy resources;*

Nothing within the application will preclude the use of wind, solar, geothermal, or other renewable energy resource. **(Affirmative finding)**

and,

6. *Any standards or factors set forth in existing City bylaws and city and state ordinances;*

The expanded brew pub will need to comply with applicable city bylaws and state ordinances, including, but not limited to, wastewater standards. **(Affirmative finding as conditioned)**

Article 6: Development Review Standards

Part 3, Architectural Design Standards

Sec. 6.3.2, Review Standards

The only exterior change is a new overhead door on the eastern façade. The door is similar to one already in place and is acceptable. **(Affirmative finding)**

II. Conditions of Approval

1. Follow up coordination with the Water Resources Division as to wastewater discharge is required.
2. **Impact fees may be due within 30 days of issuance of the related building permit**, as determined by the Water Resources Division of the Department of Public Works based on water and wastewater flows.
3. Standard Conditions 1-15.

4/8/2026 1:16:00 PM S:\1-S+P-Projects\1-COMMERCIAL\HAUKE Development\North Ave\Building G_Timberlane Dental\Suite 8_North End Brew Pub\Drawings\Revit\NORTH END BREW PUB_125.rvt

ETHAN ALLEN SHOPPING CENTER NORTH END BREW PUB

PROJECT LOCATION:

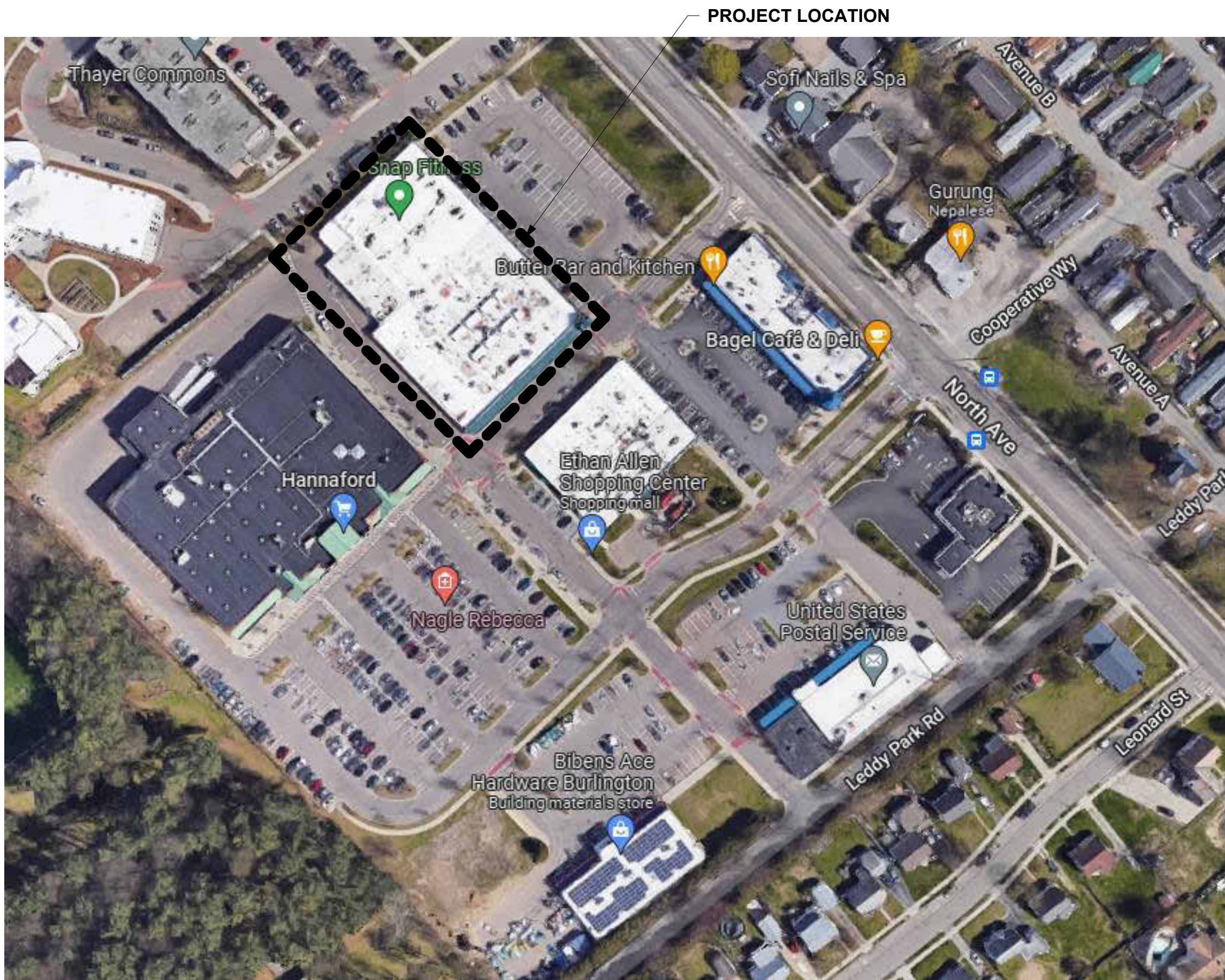
1127 North Avenue, Suite 8
Burlington, VT 05408

Owner
Hauke Building Supply, Inc.
1127 North Avenue
Burlington, VT 05408
P: (802) 658-6688
E: dhaukevt@comcast.net
Contact: David Hauke

Architect
Scott + Partners, Inc.
7 Carmichael Street, Suite 102
Essex, VT 05452
P: (802) 879-5153
E: jessica@scottpartners.com
Contact: Jess Gasek

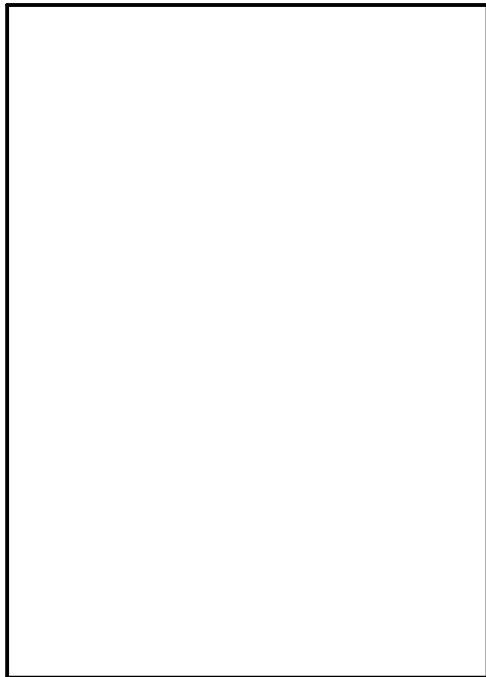
Note: This drawing package is for architectural scope only. Any required Civil, Structural, Mechanical, Electrical, Plumbing, or Fire Protection work to be managed by the Owner.

SYMBOL LEGEND			
WALL TAG		WALL TYPE	
WINDOW TAG		WINDOW TYPE	
DOOR TAG		DOOR NUMBER	
ROOM TAG	Room name	ROOM NAME	
	101	ROOM NUMBER	
	150 SF	AREA	
SECTION MARK			
	SIM	DRAWING NUMBER	
	A101	SHEET NUMBER	
EXTERIOR ELEVATION			
		DRAWING NUMBER	
	A4.1	SHEET NUMBER	
INTERIOR ELEVATION			
		DETAIL NUMBER, TYP	
	1	DRAWING NUMBER	
	A8.1	SHEET NUMBER	
DETAIL SECTION			
	SIM	DRAWING NUMBER	
	A101	SHEET NUMBER	
FLOOR FINISH TAG			
	Floor Material	FLOOR MATERIAL	
DETAIL			
	SIM	DRAWING NUMBER	
	A101	SHEET NUMBER	



DRAWINGS:

- A1 LIFE SAFETY CODE SUMMARY
- A2 FLOOR PLANS



SCOTT + PARTNERS
ARCHITECTURE

7 CARMICHAEL ST. ESSEX JUNCTION, VT 05452
P 802.879.5153 F 802.872.2764 SCOTTPARTNERS.COM

project name:

NORTH END BREW PUB

project address:

1127 NORTH AVENUE, SUITE 8
BURLINGTON, VT 05408

scale:	1/4" = 1'-0"
project no.	16-1123
checked by:	KT
drawn by:	JLG
proj. date:	04/08/26
sheet date:	04/08/26

No	Date	Revisions

sheet title:
COVER SHEET

sheet no.
A0

CONSTRUCTION PERMIT SET 04/07/2026

CONSTRUCTION PERMIT SET
04/08/26

LIFE SAFETY CODE REVIEW

Project: Hauke Building Supply: North Ave Tenant Fit-up: Suite 8
04/06/2026

PROJECT SUMMARY:

The project is a tenant fit-up within an existing strip mall building. The existing building is type 5B construction, equipped with an automatic sprinkler system and a fire alarm system. The existing tenant demising walls are 1-hr rated. The project classifies as a change of use with renovation. The use is changing from a Baber Shop (Business occupancy) to an expansion of the adjacent Brewery (General Industrial occupancy).

BUILDING AREA

- Existing Gross Building Area: 34,000 SF
- Tenant Fit-Up Area: 1,200 SF
- Existing Building Height: 16'
- Stories: 1

ADOPTED CODES AND AMENDMENTS

This project is submitted under the following codes adopted by the State of Vermont:

- 2025 VT Fire & Building Safety Code, as adopted on November 04, 2025 (abbreviated as VTFBSC)
- 2021 NFPA 101 Life Safety Code (Ch 43 + *Applicable NFPA 101 Occupancy Chapter*)
- 2021 NFPA 1 Fire Code
- 2021 IBC (applies to structural requirements only)
 - o Refer to NFPA 220 for Construction Type
- 2012 Vermont Access Rules, as amended November 15, 2013 (hereafter abbreviated as VTAR)
- 2020 Vermont Commercial Building Energy Standards (CBES)

The NFPA 101 Life Safety Compliance Option will follow the Prescriptive-based provisions described in Chapter 4.4 (Ch 1-3, 4.5-4.8, 6-11, *Applicable NFPA 101 Occupancy Chapter*, 43). The *Applicable NFPA 101 Occupancy Chapter* will supersede chapters 1-11. Where requirements conflict between Ch 1-11, the stricter requirement will apply.

Applicable NFPA 101 Occupancy Chapter: Chapter 40 Industrial

2021 IBC and 2021 NFPA 101 CODE SUMMARY, as amended by the 2025 VT Fire & Building Safety Code (VFBSC)

IBC Section	NFPA 101 Section	Subject	
Building Rehabilitation			
	43.7.2	Change of Use	Where a change of occupancy classification occurs to an occupancy classification of higher hazard classification category, the building shall comply with the requirements of the occupancy chapters applicable to new construction for the occupancy created by the change.
Occupancy/Use Classification			
3	6	Occupancy	NFPA: 101 Industrial, General IBC: Low-hazard Factory Industrial, Group F-2
1004	Table 7.3.1.2	Occupant Load	100 SF/Person. Existing Production Space: 1,120 SF = 11 people Additional Production Space: 1,200 SF = 12 people Combined Total Production Space: 2,320 SF = 23 people
Special Requirements of Use & Occupancy			
			None apply
General Building Heights and Areas			
504.3 & 504.4	Building Height and Number of Stories	5B: sprinklered = 60 ft; Actual: 16' / 25' to tower	
	Building Area	5B: sprinklered = 3; Actual: 1	
506.2		5B: 31 = 36,000 SF; Actual: 13,000 SF	
	6.1.14.4.1(a)	Mixed Use & Occupancy Separations	Proposed Industrial occupancy required to be separated from adjacent occupancies by 2-hr fire rated barriers (building is fully sprinklered – reduces to 1-hr rating); Actual: tenant demising walls are 1-hr rated.
Types of Construction			
	Table A.8.2.1.2 (NFPA 220)	Fire Resistance Ratings	Type 5B (no ratings)
	Table 602	Fire Rating of Exterior Walls	5B: X > 30 = 0
Fire & Smoke Protection Features			
	40.3.2.1 & 40.3.2.4	Protection from Hazards	High-hazard occupancies, operations or processes shall be protected by an automatic sprinkler system – <i>not applicable to this project, but existing system will be maintained.</i> Hazardous areas protected by a sprinkler system are exempt from smoke-resisting enclosure requirement of 8.7.1.2
Fire Protection			
	40.3.5	Automatic Sprinkler Systems	Not required, but existing system will be maintained.
	9.9 (amended by VFBSC 101.9.9) & NFPA 1: 13.6	Fire Extinguishers	Required per Table 13.6.1.2 Class A/ordinary hazard: 75' max travel distance; 2-A rated; 1,500 SF max area per unit of A; 11,250 SF max floor area per extinguisher (1 required for tenant SF)
	40.3.4	Detection, Alarm & Communications Systems	existing system will be maintained
Means of Egress			
	40.3.6.1 & 7.1.3.1	Exits Access Corridors	The provisions of 7.1.3.1 shall not apply
	7.1.5 & 40.2.5.3	Ceiling Height	7'-6" minimum in means of egress

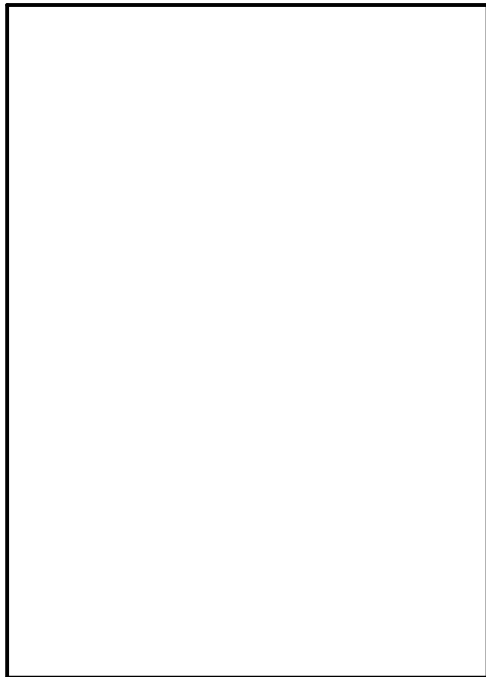
	7.2.1.2.3.2	Door Width	32" min clear
	7.2.1.4.2	Door Leaf Swing Direction	Doors must swing in the direction of egress (unless from a room or space with less than 50-person occupant load)
	7.3.4.1 & 40.2.3.2	Egress Capacity – minimum width	36" min width (<50 occupants)
	7.4 and 40.2.4.1.2	Number of exits	Single means of egress permitted, provided that the exit can be reached within the distance permitted as a common path of travel <i>Existing single exit is reached within 100' common path, but 2nd exit is provided in new work area.</i>
	7.5.1.3.3 and 40.2.5	Arrangement of Means of Egress:	Dead End Corridors: max 50' (sprinklered) Common Path of Travel: max 100' (sprinklered) Travel Distance to Exit: max 250' (sprinklered)
	7.8 & 40.2.8	Illumination of Means of Egress	Shall be provided
	7.9 & 40.2.9	Emergency Lighting	Shall be provided
	7.10 & 40.2.10	Marking of Means of Egress	Signage shall be provided
Interior Environments			
	40.3.3.2 & 10.2	Wall & Ceiling Finish	Class A, B or C
	40.3.3.3 & 10.2	Floor Finish	Class I or II
Special Inspections			
1705		Required Special Inspections	N/A (single-story building, ordinary hazard, not in a seismic design category, no changes being made to the existing structure or thermal envelope)

2010 ADA Standards, as amended by the 2012 Vermont Access Rules (VAR)

General Requirements		
202.3	Existing Buildings and Facilities	Alterations: Where existing elements or spaces are altered, each altered element or space shall comply with the applicable requirements of Chapter 2.
206	Accessible Routes	At least one accessible route shall connect accessible building or facility entrances with all accessible spaces and elements within the building or facility which are otherwise connected by a circulation path.
211	Drinking Fountains	Where drinking fountains are provided, they shall conform to the requirements of Section 211. <i>The existing drinking fountain is to remain.</i>
IPC Table 403.1	Service Sinks	1 required

2020 Vermont Commercial Building Energy Standards

General		
101.4.2	Scope and Administration	Existing buildings shall follow the provisions of Chapter 5
Alterations		
503.1	General	Alterations to an existing building or system, or portion thereof, shall conform to the provisions of this code for new construction. Unaltered portions of the existing building or system are not required to comply with this code. Exceptions: ceiling, wall, or floor cavities exposed during construction, provided they are filled with insulation – This project does not propose any changes to the building envelope, or the existing systems.



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ARCHITECTURE

7 CARMICHAEL ST. ESSEX JUNCTION VT 05452
P 802.879.5153 F 802.872.2764 SCOTTPARTNERS.COM

project name:
NORTH END BREW PUB

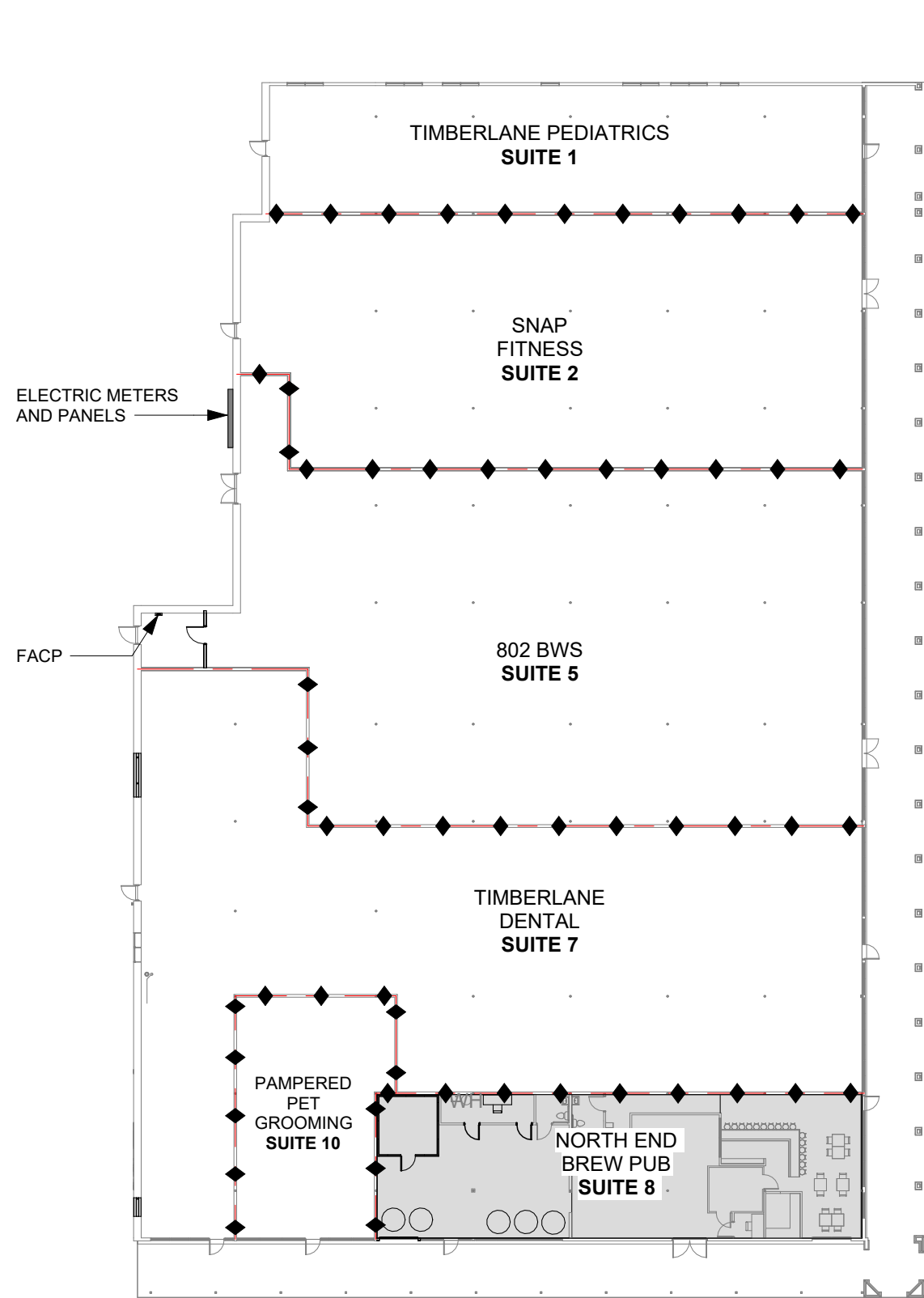
project address:
1127 NORTH AVENUE, SUITE 8
BURLINGTON, VT 05408

scale:	As indicated
project no.	16-1123
checked by:	KT
drawn by:	JLG
proj. date:	04/08/26
sheet date:	04/08/26

No	Date	Revisions

sheet title:
**LIFE SAFETY
CODE SUMMARY**

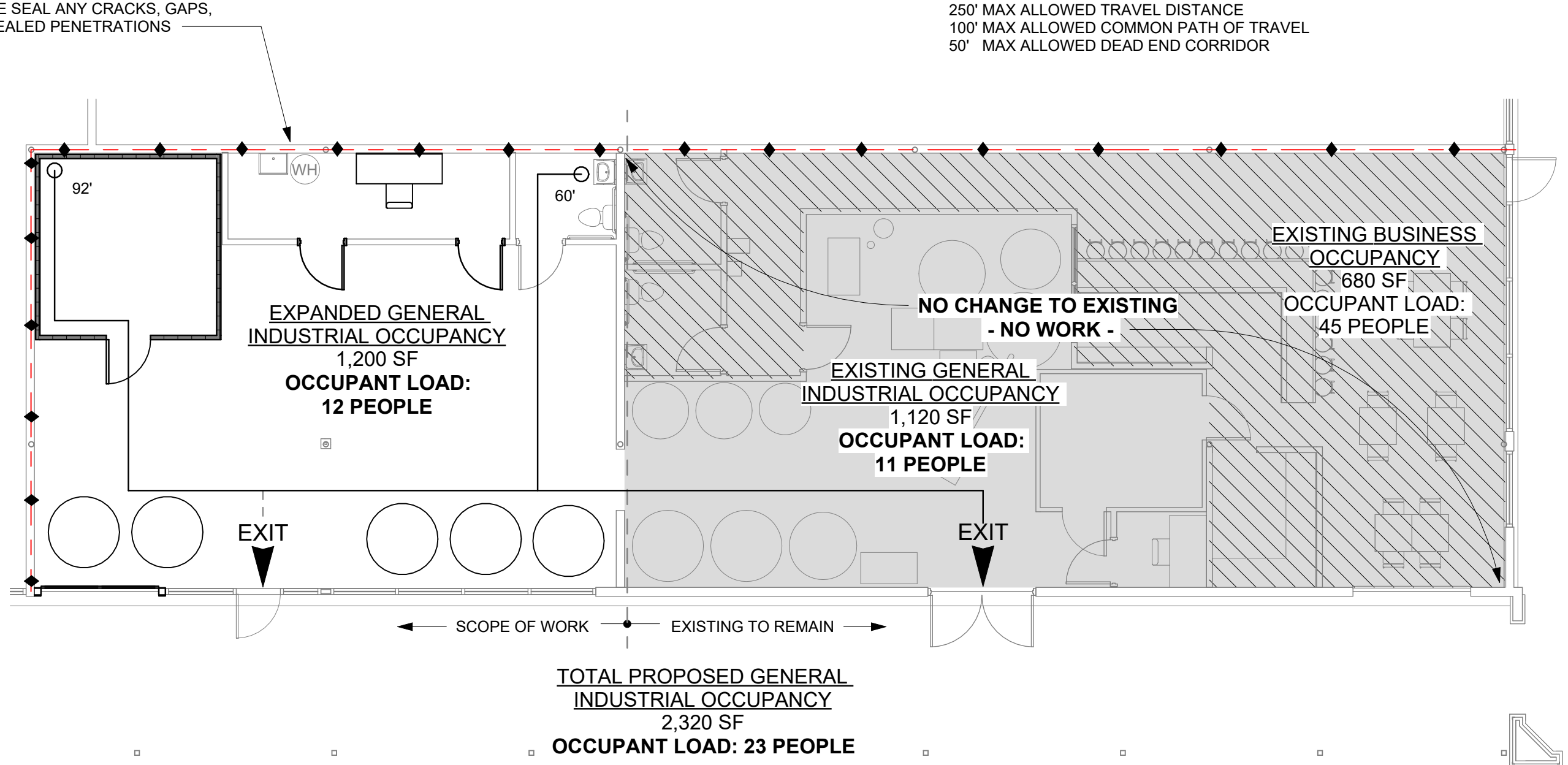
sheet no.
A1



1 BUILDING G KEY PLAN
1/32" = 1'-0"

TOTAL BUILDING AREA = 34,000 SF

EXISTING 1-HR RATED DEMISING WALLS -
CONFIRM INTEGRITY DURING CONSTRUCTION -
PATCH AND FIRE SEAL ANY CRACKS, GAPS,
HOLES OR UNSEALED PENETRATIONS



2 TENANT SPACE LIFE SAFETY PLAN
1/8" = 1'-0"

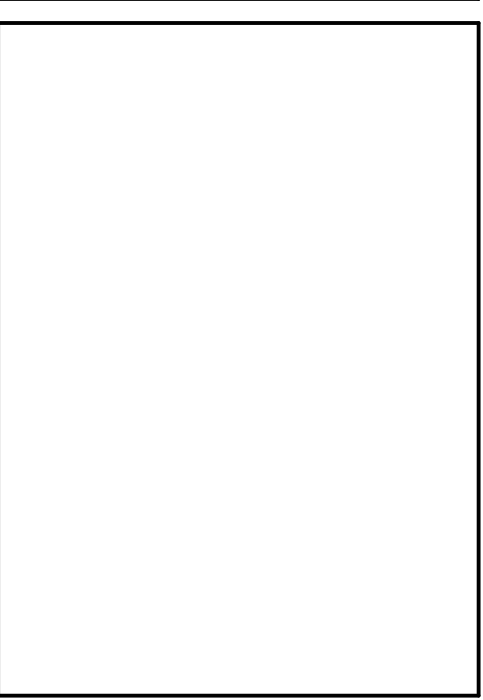
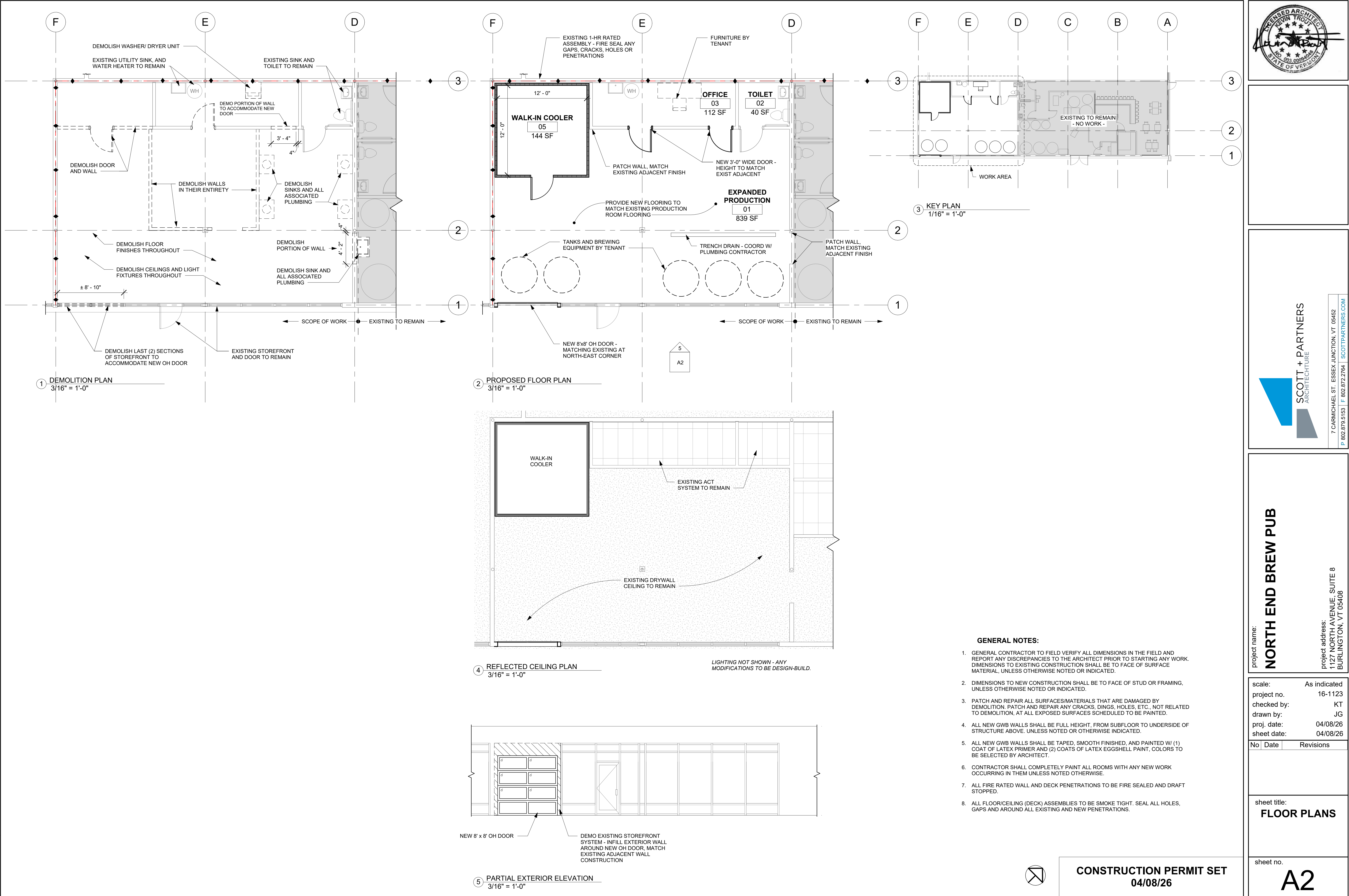
EXISTING PRODUCTION SPACE: 1,120 SF
ADDITIONAL PRODUCTION SPACE: 1,200 SF
TOTAL PRODUCTION SPACE: 2,320 SF

EXISTING LEASE SPACE: 1,800 SF
ADDITIONAL LEASE SPACE: 1,200 SF
TOTAL LEASE SPACE: 3,000 SF

NOTE: LEASE SPACE IS MEASURED FROM THE
CENTERLINE OF DEMISING WALLS, THE INTERIOR FACE
OF EXTERIOR WALLS WHERE FENESTRATION < 50%,
AND THE CENTERLINE OF EXTERIOR WALLS WHERE
FENESTRATION > 50%.



CONSTRUCTION PERMIT SET
04/08/26



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No	Date	Revisions

sheet title:
FLOOR PLANS

sheet no.
A2

Date: 5/8/2026

Re: Burlington Water Resources comments to the DRB regarding the proposed expansion of the Upper Pass pub/brewery into the adjacent 1,200 square foot commercial space located as 1127 North Avenue.

1. See attached for a recent email to Businesses and Industrial customers related to an update on the Industrial Pollution Prevention Program which is applicable to breweries.
2. Burlington Water Resources review and approval of plans as well as inspection and testing of infrastructure is required. The development team shall ensure Burlington's water infrastructure construction standards are met. The following link has additional information about water connections in Burlington:
<https://www.burlingtonvt.gov/340/Connection-Requirements>
3. The development team shall work with Water Resources to satisfy all parts of the latest version of the Capacity Review Checklist which is attached. The development team is expected to work with Water Resources to resolve comments associated with the review process.
4. The development team shall work with Water Resources to satisfy all parts of the latest version of the Water System and Sewer System Checklist which is attached. The development team is expected to work with Water Resources to resolve comments associated with the review process.
5. Development team shall provide record drawings stamped by a PE. The record drawings shall include detailed mechanical drawings.
6. Testable backflow preventers appropriate for the level of risk based on the proposed use of the buildings shall be installed on water services 1.5" diameter and larger. All fire suppression systems shall include backflow prevention devices.
7. Fire suppression system shall be designed by a licensed designer. Fire flows shall be approved by the Burlington Fire Marshall and Burlington Water Resources. Peak instantaneous fire flow and hydrant flow testing data is required prior to approval and installation of fire services.
8. Water meter shall be sized appropriately for the proposed building and the meter shall be installed by Water Resources in accordance with the manufacturer's guidelines. Project team to provide fixture units and mechanical drawing showing the location and layout of water service entry, meter and backflow prevention devices.

Martin Lee

From: Megan Moir
Sent: Monday, April 20, 2026 4:39 PM
To: Megan Moir
Cc: Michael Schramm; Robert Goulding; Seth Kuchenbecker; Amelia McClure; Eleonore Walker; Jessica Lavalette; Chapin Spencer
Subject: Update on Industrial Pollution Prevention Program
Attachments: Proposed SUO Revisions_Clean.pdf

Dear Business Owner,

I'm writing to give you an update on the City of Burlington's efforts to launch a local Industrial Prevention Pollution Program that will ensure that all discharges to the City's wastewater system are compliant with State (10 VSA §1263) and Federal Law (40 CFR Part 403). The timing of this update is relevant for a few reasons – chief among them:

1. As part of a grant we received to support compliance with these State and Local regulations, we are required to advance several updates to our Sewer Use Ordinance (see more below)
2. We have been working with the State Legislature to update 10 VSA 1263 so that compliance with the above State and Federal regulations can be addressed at the municipal level in Burlington vs. permitting by the State.

It is important that you know that neither of these updates create any immediate changes for you or your facility. However, as they are part of a larger trajectory that will involve your cooperation and compliance, we wanted to make sure you were aware of them.

In the recent year, the Vermont Department of Environmental Conservation (VTDEC) has made it clear to the Burlington Water Resources Division (BWRD), as the holder of the discharge permits for our City's Wastewater Treatment Plants, that industrial users in Burlington will need to fully comply with all applicable State and Federal laws. While they have not established a definitive timeline, it is BWRD's understanding that there needs to be movement towards correcting any gap no matter the regulatory framework.

As you may or may not recall through past conversations with BWRD or our consultant Hoyle Tanner, it is a regulatory requirement that the following types of industrial users be reviewed and, in many cases, ultimately be regulated by facility specific pre-treatment permits that establish limits and other requirements regarding the amount of pollutants that can be discharged to the wastewater system:

1. industrial users who discharge or have the potential to discharge certain pollutants (e.g. heavy metals etc.) that may harm the wastewater facility; and/or
2. industrial users who discharge or have the potential to discharge significant volumes of high strength (containing organic material which has high biological oxygen demand - BOD) wastewater that may harm the wastewater facility.

These determinations and any resulting permit requirements are different from the biological oxygen demand (BOD) surcharge fee agreements that are in place for many of you.

Local Pre-treatment Program vs. State Regulation of Burlington Industrial Users

The City has also been working with VTDEC and the Legislature to develop a mechanism that would authorize the State to delegate the administration of pre-treatment requirements to a municipal wastewater

utility. This is the model followed in many other states. It has the benefits of reducing the need for duplicative review, permitting and fees and maintaining a direct relationship to maximize collaboration between utility operations and technical staff and the municipality's industrial users. The amendment to §1263 is currently in the House Environment Committee and we hope to see legislation passed this session. VTDEC would still be the authority reviewing and approving any proposed local program.

Sewer Use Ordinance Update

As you may also remember, in recent years, BWRD has been performing work to review the breadth of industrial users of all sizes, do initial calculations regarding how much of certain pollutants BOD the plant can handle, and develop a framework for how BWRD might be able to directly regulate industrial users vs. the State regulating the City's industrial users. Recently, this work was supported by a State ARPA (American Rescue Plan Act) grant. Part of the ARPA grant requirement includes the need to complete updates to our Sewer Use Ordinance before the end of August 2026. BWRD is introducing a draft of these proposed updates at the Burlington City Council Meeting on April 27. It will then be referred to the Ordinance Committee of the City Council for additional review in the intervening months and eventual recommendation back to the City Council before the end of August.

The DRAFT Sewer Use Ordinance updates include the following elements, several of which also apply to non-industrial water/wastewater connections:

- Authority and framework to adopt regulations, in general
 - The update does NOT adopt the regulations. That would be a future step and would involve additional stakeholder outreach.
- Authority and framework for Council to adopt fees for permits
 - The update does NOT adopt those fees
- Pre-treatment Requirements Section
 - Allows the City Council to adopt interim local limits (these are the "total" amount of a pollutant that the wastewater system can receive, not the total amount a specific user can discharge) and future updated surcharge fees.
 - If authority to delegate is granted by the Legislature and the State approves the local program for delegation (see Next Steps: Local Implementation Framework) and the City provides public notification:
 - Establishes general pre-treatment requirements for the City's sewer system
 - Allows a governing body of the City (currently the Public Works Commission but this could change) to adopt pre-treatment regulations. Regulations are the mechanism by which future local industrial user permitting would occur.
 - These would only be advanced after a stakeholder process and a public hearing.

The current draft revisions to the ordinance are attached for your review. We anticipate that language may change during the course of review by the Ordinance Committee.

Next Steps

There are a few near term steps that we feel are important to outline:

- **Additional Sampling Round of Large High Strength Users:** It is of utmost importance to BWRD that any individual pre-treatment permits issued to the significant (larger) high strength industrial users (regardless of whether from the State or the municipality) contain relevant and reasonable pollutant limits and that the data used to determine these limits reflects current operations. As

such, a necessary step in the longer trajectory of permitting is the collection of additional samples from your facility's effluent. BWRD will be procuring technical services to conduct an additional round of sampling in the coming months. We will also use this data to update any concentrations that are currently used in the calculation of BOD surcharge fees as we understand many of you have already been working to reduce your BOD discharges. In the same vein, we would also like to review your current process water flow metering (if any) to ensure we are using the best possible estimates of wastewater flow for both your surcharge fee calculation and your retail wastewater charges. We will contact you with more information on scheduling this sampling.

- **Additional Outreach to Industrial Users with other Pollutants of Concern:** BWRD will be working with any smaller scale industrial users who potentially discharge pollutants of concern other than organics (e.g. metals) to review operations and determine whether these businesses, might, through a change in operations, qualify for a "no discharge" determination.
- **Local Program Implementation Framework:** If the Legislature passes the desired statutory change, there will still be significant additional work to develop all the components of a local pollution program and to have it reviewed and approved by the VTDEC before any permitting actions can be taken at the local level. Part of this process will be to finalize and adopt the pre-treatment regulations that are enabled (but not adopted) in the Chapter 26 Ordinance update mentioned above. There will be additional and more detailed outreach to the identified industrial users before the regulations are advanced.

If you have any questions regarding this update or the City's efforts to pursue a local Industrial Prevention Pollution Program, please let us know. My team and I will be happy to set up a meeting to discuss any questions or concerns you may have about the proposed trajectory of compliance and how they might affect you. Otherwise, we will continue to reach out with updates on the above and on specifics as they are available for your particular facility.

Best Regards,

Megan

Megan Moir (*she/her*)

Division Director - Water Resources

Burlington Public Works Department

P (802) 863.4501

C (802) 734.4595

Email: mmoir@burlingtonvt.gov



[Book time to meet with me](#)

Please note that this communication and any response to it will be maintained as a public record and may be subject to disclosure under the Vermont Public Records Act.

26-71 Use of Public Sewers Generally

- (a) Every person owning or having the care of buildings abutting on a street in this city through which a sanitary or combined sewer has been or shall hereafter be constructed shall drain such buildings wastewater into the sanitary or combined sewer, at their own expense, provided that all connections into the public sewers be made under the direction of the director upon the written application of such person. The director shall supervise the making of all such connections.
- (b) Every person owning or having the care of lands and buildings abutting on a street in this city through which a storm or combined sewer has been or shall hereafter be constructed shall drain stormwater from such land and buildings after treatment and/or attenuation into the storm or combined sewer or natural outlet, at his own expense, provided that all connections into the public sewers and natural outlets be made under the direction of the director upon the written application of such person and in accordance with the provisions of this chapter. The director shall supervise the making of all such connections.
- (c) Adoption of regulations.
 - (1) Use of the city's sewers is subject to compliance with such regulations as the public works commission may deem necessary or convenient to protect public health, safety, and welfare or the environment, to comply with state and federal law, or to safeguard the city's treatment works.
 - (2) Such regulations shall be adopted at the recommendation of the public works director or designee following a public hearing.
 - (3) Notice of the hearing shall be included in the warned agenda for said meeting, and it shall be posted on the city's website and published in a newspaper of general circulation within the city at least three calendar days prior to the hearing. The published hearing notice shall include a link the draft regulations.
 - (4) The hearing may be continued from time to time, and republication of the hearing notice shall not be required if the continued hearing date, time, and location are announced on the record at the time of the continuance. A final decision of the commission shall be made at the same or a subsequent meeting as the meeting where the hearing was conducted.
 - (5) The record for the commission's decision shall consist of the draft regulations, any written or oral staff report, public comments received at the hearing, and any written comments received at least twenty-four (24) hours prior to the opening of the hearing.
 - (6) Regulations approved by the commission shall take effect seven (7) calendar days after publication on the city's website.

(7) A violation of the commission's regulations may be enforced pursuant to section 26-4 of this code.

(d) Express prohibitions.

- (1) It shall be unlawful for any person to place, deposit, or permit to be deposited in any unsanitary manner on public or private property within the city or in any area under the jurisdiction of the city, any human or animal excrement, garbage, or objectionable waste.
- (2) Except as provided herein, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of wastewater.
- (3) No person shall discharge, cause or permit to be discharged any stormwater, surface water, groundwater, foundation drains, roof runoff, subsurface drainage, cooling water, or industrial process waters to any sanitary sewer. This prohibition does not apply to the combined or separate storm sewers.
- (4) No person shall discharge or cause to be discharged any of the following described waters or wastes to any public sewers or natural outlet:
 - a. Any gasoline, benzene, naphtha, fuel oil, or other flammable or explosive liquid, solid or gas.
 - b. Any waters containing toxic or poisonous solids, liquids or gases in sufficient quantity, either singly or by interaction with other wastes, to injure or interfere with any waste treatment process, constitute a hazard to humans, animals or property, create a public nuisance, or create any hazard, including fire or explosion, in the receiving waters of the wastewater treatment plant or wastes exerting an excessive chlorine requirement. The limiting concentrations of such substances that create hazards as aforesaid are subject to modification by the director as affected by applicable state or federal regulations or guidelines.
 - c. Any waters (except acidic rainfall) or wastes having a pH lower than five (5) or greater than nine and five tenths (9.5), or which due to its nature or content, becomes less than five (5) or greater than nine and five tenths (9.5) during transmission through the sewers, or having any other corrosive property capable of causing damage or hazard to structures, equipment, and personnel of the wastewater facilities or treatment works.
 - d. Solid or viscous substances in quantities or of such size capable of causing obstruction to the flow in sewers, or other interference with the proper operation of the wastewater facilities such as, but not limited to, animal waste, ashes, bones, cinders, sand, mud, sediment, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood or cellulose, unground garbage, whole blood, paunch manure, hair and fleshings, entrails and paper dishes, cups, milk containers, either whole or ground by garbage grinders.

- e. Radioactive materials of such half-life or concentration as may exceed limits established by the director of water pollution control in compliance with applicable state or federal regulations.
 - f. Wastewater that has or may cause an offensive odor or nuisance in the wastewater facilities and treatment works, and without limiting the generality of the foregoing, wastewater containing hydrogen sulfide, carbon disulfide, ammonia, trichloroethylene, sulfur dioxide, formaldehyde, chlorine, bromine, or pyridine.
 - g. Wastewater having a temperature higher than one hundred fifty (150) degrees Fahrenheit (sixty-five (65) degrees Celsius).
 - h. Wastewater containing more than fifteen (15) milligrams per liter, whether emulsified or not, of petroleum oil, nonbiodegradable cutting oils, or products of mineral oil origin.
 - i. Wastewater containing more than one hundred (100) mg/l of oil, fat and grease of animal and vegetable origin.
 - j. Wastewater containing floatable oils, fat or grease.
 - k. Wastewater containing pharmaceuticals or endocrine disrupters.
- (e) The owner(s) of all houses or buildings, used for human occupancy, employment, recreation, or other purposes, situated within the city and abutting on any street, alley, or right-of-way in which there is now located or may in the future be located a public sanitary or combined sewer of the city is hereby required, at the owner(s)' expense, to install suitable toilet facilities therein, and to connect such facilities directly with the proper public sewer in accordance with the provisions of this article within ninety (90) days after date of official notice to do so, provided that said public sewer is within a reasonable distance of the property line as determined by the director.
- (f) Stormwater and other unpolluted drainage may be discharged to a storm sewer or to a natural outlet as approved by the director when suitable treatment and/or attenuation has been provided in accordance with the provisions of this chapter. Stormwater and other unpolluted drainage may be allowed to be discharged to a combined sewer as approved by the director provided that it does not violate wastewater facility NPDES permit requirements. Industrial cooling or unpolluted process waters may be discharged to a storm sewer or natural outlet as approved by the director provided that these waters do not result in adverse undue thermal impacts to receiving waters.
- (g)
- (1) The following described substances, materials, waters or wastes shall be limited in discharges to municipal systems to concentrations or quantities which will not harm either the sewers, wastewater treatment process or equipment, will not have an adverse effect on the receiving stream, or will not otherwise endanger lives, limb, public property, or constitute a nuisance.

- (2) The director may set limitations lower than the limitations established in the regulations below if in his opinion such more severe limitations are necessary to meet the above objectives. In forming this opinion as to the acceptability, the director will give consideration to such factors as the quantity of subject waste in relation to flows and velocities in the sewers, materials of construction of the sewers, the wastewater treatment process employed, capacity of the wastewater treatment plant, degree of treatability of the waste in the wastewater treatment plant, and other pertinent factors.
- (3) The limitations or restrictions on materials or characteristics of waste or wastewaters discharged to the sanitary sewers which shall not be violated without approval of the director are as follows:
- a. Wastewater of which the BOD₅ exceeds four hundred (400) milligrams per liter.
 - b. Wastewater in which suspended solids exceed five hundred (500) milligrams per liter, or the organic content of such suspended solids or of dissolved solids is unusually small.
 - c. Any garbage that has not been properly shredded. Garbage grinders may be connected to sanitary sewers from homes, hotels, institutions, restaurants, hospitals, catering establishments, or similar places where garbage originates from the preparation of food in kitchens for the purpose of consumption on the premises or when served by caterers.
 - d. Quantities of flow, concentrations, or both which constitute a slug as defined herein.
 - e. Waters or wastes containing substances which are not amenable to treatment or reduction by the wastewater treatment processes employed, or are amenable to treatment only to such degree that the wastewater treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters.
 - f. Any water or wastes which, by interaction with other water or wastes in the public sewer system, release obnoxious gases, form suspended solids which interfere with the collection system, or create a condition deleterious to structures and treatment processes.
- (h) If any waters or wastes are discharged or are proposed to be discharged to the public sewers, which waters contain the substances or possess the characteristics, enumerated in subsections (d)(4) and (i) above, and which in the judgment of the director may have a deleterious effect upon the wastewater facilities or treatment works, processes, equipment, or receiving waters, or which otherwise create a hazard to life or constitute a public nuisance, the director may:
- (1) Reject the wastes.

- (2) Require pretreatment to an acceptable condition for discharge to the public sewers.
- (3) Require control over the quantities and rates of discharge.
- (4) If the director permits the pretreatment or equalization of waste flows, the design and installation of the plants and equipment shall be subject to the review and approval of the director, and subject to the requirements of all applicable codes, ordinances, laws, and the municipal discharge permit. Further, such pretreatment installations must be consistent with the requirements of any state pretreatment permit issued to the owner.
- (i) Grease, oil, and sand interceptors shall be provided when, in the opinion of the director, they are necessary for the proper handling of liquid wastes containing floatable grease in excessive amounts or any flammable wastes, sand or other harmful ingredients; except that such interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be of a type and capacity approved by the director, and shall be located as to be readily and easily accessible for cleaning and inspection. In the maintaining of these interceptors the owner shall be responsible for the proper removal and disposal by appropriate means of the captured material and shall maintain records of the dates and means of disposal which are subject to review by the director. Any removal and hauling of the collected materials not performed by owner's personnel must be performed by qualified waste disposal firms.
- (j) Where pretreatment or flow equalizing facilities are provided or required for any waters or wastes, they shall be maintained continuously in satisfactory and effective operation by the owner at his sole expense.
- (k) When required by the director, the owner of any property serviced by a building sewer carrying industrial wastes shall install a suitable structure together with such necessary meters and other appurtenances in the building sewer to facilitate observation, sampling, and measurement of the wastes. Such structure when required, shall be accessibly and safely located and shall be constructed in accordance with plans approved by the director. The structure shall be installed by the owner at his sole expense and shall be maintained by him so as to be safe and accessible at all times.
- (l) All industries discharging into a public sewer shall perform such monitoring of their discharges as the director and/or other duly authorized employees of the city may reasonably require, including installation, use, and maintenance of monitoring equipment, keeping records, and reporting results of such monitoring to the director. Where industrial pretreatment permits are issued by the State of Vermont, monitoring records must also be submitted to the secretary in accord with such permit. Such records of any monitoring shall be made available upon request by the director to the secretary or to other agencies having jurisdiction over discharges to the receiving waters.

The director shall require forty-five (45) days' prior notification by any person or persons of a proposed substantial change in volume or character of pollutants over that being discharged into the treatment works; a proposed new discharge into the treatment works of pollutants from any source which would be a new source as defined in the federal

Water Pollution Control Act as amended, if such source were discharging pollutants; or a proposed new discharge into the treatment works of pollutants from any source which would be subject to the federal Water Pollution Control Act, as amended, if it were discharging such pollutants.

- (m) All measurements, tests and analyses of the characteristics of waters and wastes to which reference is made in this article shall be determined in accordance with the latest edition of "Standard Methods for the Examination of Water and Wastewater," published by the American Public Health Association. Sampling methods, location, times, durations, and frequencies are to be determined on an individual basis subject to approval by the director.
- (n) No statement contained in this division shall be construed as preventing any special agreement or arrangement between the city and any industrial concern whereby an industrial waste of unusual strength or character may be accepted by the city for treatment, to an extent fixed by agreement with the city under such conditions with respect to payment or otherwise as may be necessary to compensate for any additional costs of treatment; provided that such agreements do not contravene any requirements or existing federal laws and are compatible with any user charge and industrial cost recovery system in effect. Any such agreement shall be subject to the approval of the state department of environmental conservation.
- (o) No statement contained in this division shall be construed to interfere with any additional requirements that may be imposed by the city health officer.
- (p) No unauthorized person shall uncover, make any connections with or opening into, use, alter, or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the director per Division 1 of this article. Any person proposing a new discharge into the system, or a substantial change in the volume or character of pollutants that are being discharged into the system, shall notify the director at least forty-five (45) days prior to the proposed change or connection.
- (q) Applications for a plumbing permit shall be filed with the department of public works and must be approved before any work commences. Fees associated with this permit are outlined in the permit application.
- (r) All costs and expenses incidental to the installation and connection of the building sewer shall be borne by the owner. The owner shall indemnify the city from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.
- (s) A separate and independent building sewer shall be provided for every building; except where one (1) building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard, or driveway, the front building may be extended to the rear building and the whole considered as one (1) building sewer, but the city does not and will not assume any obligation or responsibility for damage caused by or resulting from any such single connection.

- (t) Old building sewers may be used in connection with new buildings only when they are found, on examination and test by the director to meet all requirements of this article.
- (u) The size, slope, alignment, materials of construction of a building sewer, and the methods to be used in excavating, placing of the pipe, jointing, testing, and backfilling the trench, shall all conform to the requirements of the building and plumbing code or other applicable rules and regulations of the city.
- (v) Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such building drain shall be lifted by an approved means and discharged to the building sewer.
- (w) The connection of any building sewer into the public sewer shall conform to the requirements of the building and plumbing code and all other applicable rules and regulations of the city. All such connections shall be made gastight and watertight and verified by proper testing. Any deviation from the prescribed procedures and materials must be approved by the director before installation.
- (x) The applicant for any building sewer permit shall notify the inspector when the building sewer is ready for inspection and connection to the public sewer. The connection and testing shall be made under the supervision of the inspector.
- (y) All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parking and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the city and consistent with the requirements of Chapter 27 of this Code.

26-76 Wastewater Permit Fees

- (a) Certain activities pursuant to this chapter require a permit or other approval, plan check, investigation, or review by the director or their designee. The city also incurs costs associated with the physical connection of property to public sewers, as well as costs associated with certain intensive uses of the city's treatment works. The city council finds that the direct and indirect cost of providing such services should not be borne by ratepayers generally but instead should be the responsibility of benefitted property owners.
- (b) The city council shall establish by resolution fees for activities described in this chapter, which fees shall be reasonably related to the direct and indirect costs of said activities. The city council shall also establish by resolution administrative rules for the collection of fees imposed pursuant to this section, including, without limitation, any provision for fee waivers; the handling, use, and deposit of fees; recording keeping; appeals; and any annual inflation factors to be applied.

- (c) No work shall be commenced until any permit or other approval required under this article shall have been received by the party submitting the application and all applicable fees have been paid.
- (d) In case of preemption, in addition or in lieu of such fees as may be authorized pursuant to this section, the director shall charge such fees as may be allowed or required by federal or state law.

Division 5. Pretreatment Requirements

26-77 Effective Date and Interim Regulations.

The provisions of this division commencing with section 26-78 shall take effect twenty-one (21) days after the director of public works or designee posts on the city's website and publishes notice in a newspaper of general circulation that authority has been delegated to the city to issue permits for discharges to the city's treatment works, pursuant to 10 V.S.A. § 1263, as the same may be amended or renumbered from time to time. Until such effective date, if necessary or convenient to protect the public health, safety, and welfare or the environment, to comply with state and federal law, or to protect existing infrastructure, the city council may, by resolution, adopt interim effluent limitations and surcharges for industrial users. Notification of such interim regulations shall be published, and such interim regulations shall become effective, in the same manner as for an ordinance, pursuant to section 49 of the city's charter.

26-78 Purpose and Policy.

This division sets forth uniform pretreatment requirements for indirect discharges by users of the publicly owned treatment works of the city. The intent of this division is to enable the city to comply with all applicable state and federal laws relating to the subject matter hereof, including, without limitation, the federal Clean Water Act and the general pretreatment regulations codified at part 403 of title 40 of the Code of Federal Regulations, as the same may be amended or renumbered from time to time. The specific objectives of this division are to:

- (a) Authorize the director to establish regulations implementing the requirements of this division, in substantial conformance with the U.S. Environmental Protection Agency's Model Pretreatment Ordinance, or such other guidance as the federal or state governments may prescribe from time to time relating to the subject matter of this division;
- (b) Provide for remedies for violations of said regulations, as required, authorized, or encouraged pursuant to applicable federal or state law;
- (c) Prevent the introduction of pollutants into the publicly owned treatment works that will interfere with its operations;
- (d) Prevent the introduction of pollutants into the publicly owned treatment works that are likely to pass through said works, inadequately treated, into the waters of the State of Vermont and of the United States;

- (e) Protect city personnel and members of the public who may be affected by wastewater and sludge not adequately pretreated;
- (f) Provide fee authority, as set forth in section 26-84, below; and
- (g) Enable the city to comply with all applicable federal or state permits required to operate its publicly owned treatment works.

26-79 Definitions.

As used in this division, the following terms have the following meanings:

- (a) Director means the city's director of public works or designee; provided that the city council may designate another city officer or employee as the "director" by resolution, solely for purposes of this division.
- (b) Indirect discharge means the introduction of any pollutant into the publicly owned treatment works from a nondomestic source.
- (c) Interference means any indirect discharge that, alone or in conjunction with other discharges, that inhibits or disrupts the publicly owned treatment works, their treatment processes or operations, or their sludge processes, use, or disposal, so as to interfere substantially with the purposes and policies set forth in section 26-78, above.
- (d) Publicly owned treatment works, or "POTW", means all of the city's infrastructure for the collection, transportation, and treatment of wastewater.
- (e) Passthrough means a discharge that exits the POTW into the waters of the State of Vermont or of the United States in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, would result in a violation of any requirement of any federal or state permit applicable to the POTW, including an increase in the magnitude or duration of an existing violation.
- (f) Regulations means the regulations adopted pursuant to section 26-82, below.
- (g) User means any source of indirect discharge.

26-80 Prohibited Discharges.

The following indirect discharges are prohibited:

- (a) Any indirect discharge that results in passthrough or interference.
- (b) Any indirect discharge that would violate 40 C.F.R. Section 403.3(b), as the same may be amended or renumbered from time to time, or that would otherwise violate federal law, state law, a permit issued under section 26-80, the regulations, or any other provision of this chapter.
- (c) Any indirect discharge done without a permit under section 26-81.

26-81 Permits Required.

- (a) No indirect discharge shall be permitted without a permit issued pursuant to the regulations.
- (b) The regulations may provide for general permits and permit waivers.
 - (1) General Permit. For those indirect discharges not requiring special conditions, including, without limitation, special conditions relating to pretreatment of indirect discharges, monitoring, and reporting, the regulations may provide for the issuance by the director of a general permit. Any user desiring to operate under the general permit shall register under that permit with the director in a manner specified in the regulations, pay any fee required pursuant to section 26-84, below, and comply with all conditions of the general permit, as specified in the regulations. More than one classification of general permit may be established by the regulations for different types of uses.
 - (2) Permit Waiver. The regulations may exempt any indirect discharge from the requirement to obtain a permit to operate, as otherwise required by subsection (a), above, based on the size, nature, or other characteristics of the indirect discharge, as specified in the regulations. Operation within the limits of the waiver and otherwise in strict conformance with all applicable laws shall be deemed the functional equivalent of operating under a permit.
- (c) Permits may be specific to the user or may run with the use, as specified in the regulations.
- (d) If a user is required to obtain a permit, the director shall provide notification to the user by first class mail at the user's physical address and mailing address for utilities billing, if different. The user shall then have thirty (30) days submit a complete application for a permit, subject to reasonable extensions granted by the director. If allowed by regulations adopted pursuant to this division, the notification may impose reasonable interim measures that the user shall take to limit interference and passthrough, pending an application for a permit. . Any indirect discharge by any user following the issuance of a permit shall be deemed a violation of section 26-80(c), above.

26-82 Regulations.

- (a) Regulations Authorized. The director is hereby authorized to issue regulations, in the manner descried in this section, to achieve the purposes set forth in section 26-78, above.
- (b) Adoption of Regulations. Regulations drafted by the director shall be subject to review and approval by the city's public works commission following a noticed public hearing conducted at a regular meeting of the commission. Notice of the hearing shall be included in the warned agenda for said meeting, and it shall be posted on the city's website and published in a newspaper of general circulation within the city at least three calendar days prior to the hearing. The published hearing notice shall include a link the draft regulations. The hearing may be continued from time to time, and republication of the hearing notice shall not be required if the continued hearing date, time, and location are announced on the record at the time of the continuance. A final decision of the commission shall be made at

the same or a subsequent meeting as the meeting where the hearing was conducted. The record for the commission's decision shall consist of the draft regulations, any written or oral staff report, public comments received at the hearing, and any written comments received at least 24 hours prior to the opening of the hearing. Regulations approved by the commission shall take effect seven calendar days after publication on the city's website.

- (c) Amendment to Regulations. Any regulation may be made in the same manner as for the original adoption of the regulation.

26-83 Violations.

- (a) For purposes of this section, a violation of this division includes any act or omission committed by a user that violates any provision of this division or that causes or enables a violation to occur.
- (b) Violations of this division are subject to section 1-9 of this ordinance code. A violation may be abated as a public nuisance and prosecuted civilly or criminally as set forth in that section, and the director shall be authorized to issue municipal tickets thereunder. Notwithstanding section 1-9, the maximum fine for a violation under this division shall be the greater of the maximum fine available under section 50 of the city's charter or 40 C.F.R. § 408.8(f)(1)(vi)(A), as the same may be amended or renumbered from time to time. If a court of competent jurisdiction determines that the foregoing federal law does not preempt the city's charter, then the maximum fine shall be determined by charter.
- (c) The director may report any violation to appropriate federal and state officials and may issue such orders to any user to comply with this division or to cease and desist from any violation thereof as may be necessary or convenient to achieve the objects and purposes set forth in section 26-78, above. An order shall contain notice that an appeal of the order must be filed with the director in writing within 15 calendar days thereof. Such an appeal shall be heard by the public works commission at its next regular meeting unless a different hearing date is agreed between the user and the director. If the order is upheld by the commission, then it shall be appealable to the superior court pursuant to rule 74 of the Vermont Rules of Civil Procedure. Refusal to comply with a final order shall be subject to subsection (b) of this section. The City Attorney may also bring an action to enforce the order and, if relief is granted, shall be entitled to an award of reasonable attorneys' fees and costs.
- (d) If necessary following repeated and severe violations of this division or to avoid a substantial likelihood of significant environmental harm or of harm to any person or real property of another, the director may take such actions as may be reasonable necessary to cease indirect discharges from any user, including by shutting off the user's water supply.
- (e) Any individual or property owner who suffers substantial bodily harm or property damage as a proximate cause of any violation of this division may bring an action to recover the individual or property owner's actual damages, pursuant to section 54 of the city charter.

- (f) In case of any physical harm to the POTW proximately caused by any violation of this division, the city may bring an action to recover its actual damages, attorneys' fees, and costs.
- (g) The remedies set forth in this section are cumulative with one another and with those provided by federal or state law.

26-84 Fees.

The city council may, by resolution, adopt a fee schedule setting forth fees for permit applications and for activities under the regulations requiring significant staff time, including any reasonable fees for the filing of an appeal under section 26-83(b), above, or for inspections and related activities.

BURLINGTON DPW - WATER SYSTEM REVIEW

Capacity Review Checklist November 2023

PROJECT NAME: [Click here to enter text.](#)LOCATION: [Click here to enter text.](#)OWNER: [Click here to enter text.](#)DATE REC'D: [Click here to enter text.](#)DATE REV'D: [Click here to enter text.](#)PLAN DATE/REV: [Click here to enter text.](#)REV'D BY: [Click here to enter text.](#)

	Yes	No	N/A	Insuff. Info
1. Have flows been calculated for the project in conformance with Vermont Environmental Protection Rules Chapter 1?	☐	☐	☐	☐
a. Notify the applicant that state Wastewater System and Potable Water Supply Permit may be applicable.				
b. If it appears that the project may be exempt from a state Wastewater System and Potable Water Supply Permit (i.e. flow increase within existing building footprint), cite the possible exemption and let the applicant know that they may be exempt provided per §1-304 (13)(B) & (14)(C) that a certified designer supply a letter stating that the existing water and sewer services can handle the additional flow.				
2. Is project over 1,000 gpd of sewer demand?	☐	☐	☐	☐
a. If yes, more detailed review is needed and a professional consultant should likely be submitting flow calculations.				
b. If yes, Burlington's CSO offset policy may apply.				
c. If no, there still may need to be a professional consultant providing flow calculations if the project is not straightforward.				
3. Did this project go before the TRC?	☐	☐	☐	☐
a. If yes, check on any special considerations from the TRC review process.				
b. If no, and the project is over 1,000 gpd in demand, ensure that Department Head is aware of the project prior to issuing a capacity to serve letter.				
4. Does this project include the installation of any new buried water, sewer and/or stormwater infrastructure?	☐	☐	☐	☐
a. If yes, ensure the project is submitting a plan developed by a consultant.				
b. If yes, ensure the plan is developed using Burlington's latest standard details. City staff should review the plan to ensure compliance with Burlington's standards and expectations per the latest water and sewer checklist.				
c. If yes, let the project know that an EPSC plan may be required.				
d. If yes to stormwater infrastructure, ensure Stormwater Program Manager is aware of the proposed work.				

- | | <u>Yes</u> | <u>No</u> | <u>N/A</u> | <u>Insuff.
Info</u> |
|--|------------|-----------|------------|-------------------------|
|--|------------|-----------|------------|-------------------------|
- 5.Has the water distribution system and collection system infrastructure been reviewed for the project, particularly if the calculated flows are >10,000 gpd?
- ☐ ☐ ☐ ☐
- a. For the sewer system check for items like pump stations (private or public), and if the user is connected to a private septic system (not common). Make note of anything the project should be aware of. If the project will be flowing to a public pump station the capacity should be reviewed especially for the larger projects.
 - b. If a high instantaneous demand is going to be placed on the water distribution system (i.e. fire suppression system demand) the project should provide the peak instantaneous flow for the City to model and review.
 - c. If a high sewer flow is being introduced to the collection system, the capacity of the system should be reviewed to the level necessary for the project. Here are some examples of methods for review: model flows in PCSWMM, have level sensors or flow meters installed, and/or have the project team help with the analysis.
 - d. Developer may be required to upsize or loop water mains or upsize sewer pipes in our system to accommodate the project.

6.Has the project been reviewed for the need of a potable water backflow preventer?

- ☐ ☐ ☐ ☐
- a. Potable water backflow preventers shall be installed per the city ordinance and the latest version of Burlington's backflow preventer policy.
 - b. Domestic booster pumps for buildings requires a backflow preventer, engineered controls, and administrative controls. A domestic booster pump cannot be installed without being reviewed by the Water Resources engineering team. Additional considerations for booster pumps includes, ensuring proper maintenance, low pressure cut off, max design flow is not an undue burden on the distribution system, and an agreement may be required with the City.
 - c. Applicable backflow preventer expectations should be confirmed with the Plumbing Inspector and passed along to the project team.

7.Has the project been reviewed for the need of special wastewater considerations?

- ☐ ☐ ☐ ☐
- a. Restaurants and certain industrial users are required to install a grease trap per the plumbing code. Applicable grease trap expectations should be confirmed with the Plumbing Inspector and passed along to the project team.
 - b. Pretreatment policy may apply for certain industrial users that may require special on site pre-treatment of wastewater prior to discharging and/or a special agreement with the City for continuous discharge of wastewater that is not in compliance with the Ordinances. See the latest pretreatment policy to ensure proper guidance and also check with the Chief Wastewater operator.
 - c. Groundwater and/or foundation drain additions to the sewer system are not wanted. Developments shall not introduce new groundwater to the sewer system and appropriate design measures shall be followed. Appropriate site inspection measures and design

measures may include but are not limited to the following: test borings, test pits, groundwater pumping test, waterproofing foundations, structural designs adequate for high groundwater, and not constructing a finished space below ground level.

8. Capacity Letter Complete ☐ ☐ ☐ ☐

9. Update unreserved capacity spreadsheet ☐ ☐ ☐ ☐

*for projects that are greater than 10,000 gpd in flow - review the unreserved capacity spreadsheet and provide an assessment of the wastewater plant capacity prior to issuing a capacity letter.

COMMENTS

This review is not a permit and this review does not alleviate the Owner from obtaining necessary city, state or federal permits. Additional reviews may be required as this project advances. Following are project specific notes:

BURLINGTON DPW - WATER SYSTEM REVIEW

water&sewer_checklist_rev021524

PROJECT NAME: [Click here to enter text.](#)LOCATION: [Click here to enter text.](#)OWNER: [Click here to enter text.](#)ENGINEER: [Click here to enter text.](#)DATE REC'D: [Click here to enter text.](#)DATE REV'D: [Click here to enter text.](#)PLAN DATE/REV: [Click here to enter text.](#)REV'D BY: [Click here to enter text.](#)

	Yes	No	N/A	Insuff. Info
1.Are the water mains located under/adjacent to the proposed street(s)?	☐	☐	☐	☐
2.Are the public water mains C900 PVC pipe, 8" minimum with tracer wire and underground warning tape?	☐	☐	☐	☐
3.Is the depth of all water mains between 6' and 9' below grade?	☐	☐	☐	☐
4.Does the proposed design avoid 90 degree bends?	☐	☐	☐	☐
5.Does the proposed design eliminate dead ends?	☐	☐	☐	☐
6.Do new tee connections include valves on all three legs?	☐	☐	☐	☐
7.If the mains are shown bending vertically or horizontally, do they conform to allowable pipe deflection radii or have fittings?	☐	☐	☐	☐
8.Do all mains meet horizontal/vertical separation from sewers & storm, namely 10'/18" from sewer and 5'/18" from storm?	☐	☐	☐	☐
9. Do all mains have adequate horizontal separation from other utilities, namely 10' edge to edge from water to new excavation and 18" vertical?	☐	☐	☐	☐
10. Fire hydrants shall be provided for detached one- and two-family dwellings in accordance with both of the following: The maximum distance to a fire hydrant from the closest point on the building shall not exceed 600 ft and the maximum distance between fire hydrants shall not exceed 800 ft.	☐	☐	☐	☐
11. Fire hydrants shall be provided for buildings other than detached one- and two-family dwellings in accordance with both of the following: The maximum distance to a fire hydrant from the closest point on the building shall not exceed 400 ft and the maximum distance between fire hydrants shall not exceed 500 ft.	☐	☐	☐	☐
12. Are new fire hydrants located within 400' of a sprinklered building and 100' of a building with a standpipe as well as an FDC? Note that BFD may need to be consulted for significant projects to ensure compliance and preference.	☐	☐	☐	☐
13. Are fire hydrants set back at least 3' from paved areas?	☐	☐	☐	☐
14. Do fire hydrants meet City specifications?	☐	☐	☐	☐
15. Are the fire hydrants connected to main with 6" pipe and valve?	☐	☐	☐	☐
16. Are hydrants at high point(s) or air releases to aid in air removal?	☐	☐	☐	☐
17. Are there mechanical thrust restraints and thrust blocks at all fittings?	☐	☐	☐	☐
18. Do all valves meet City specifications (open right)?	☐	☐	☐	☐
19. Are all valves and curbstops located within City right-of-way?	☐	☐	☐	☐
20. Are there any special easement requirements on this project?	☐	☐	☐	☐

- | | | | | |
|--|--------------------------|--------------------------|--------------------------|--------------------------|
| 21. Do valves include a valve box at grade w/covers marked "WATER"? | ☐ | ☐ | ☐ | ☐ |
| 22. Do the plans include a water system specifications drawing? | ☐ | ☐ | ☐ | ☐ |
| 23. Do the plans include water use estimates using the applicable table from the latest Vermont Environmental Standards? | ☐ | ☐ | ☐ | ☐ |
| 24. Is the project large enough to require Needed Fire Flow (NFF) and/or hydraulic analysis for domestic and fire flow demands, or to prove whether or not the project may have an adverse impact to existing customers? | ☐ | ☐ | ☐ | ☐ |
| 25. Is the project large enough to have a looped water system? | ☐ | ☐ | ☐ | ☐ |
| 26. Do multifamily dwellings have means for separate metering? | ☐ | ☐ | ☐ | ☐ |
| 27. Do the plans meet City standards for pressure testing and disinfection? | ☐ | ☐ | ☐ | ☐ |
| 28. Are fixture counts available for meter sizing? | ☐ | ☐ | ☐ | ☐ |
| 29. Are all services up to 2" using type K copper or CTS pipe w/tracer? | ☐ | ☐ | ☐ | ☐ |
| 30. Do all services leave water mains and enter buildings at right angles? | ☐ | ☐ | ☐ | ☐ |
| 31. Are service penetrations in a sleeve or core twice the pipe diameter? | ☐ | ☐ | ☐ | ☐ |
| 32. Are service fittings upstream of the meter compression-type only? | ☐ | ☐ | ☐ | ☐ |
| 33. If service entrance details are provided, does the meter have manufacturer's recommended straight pipe diameters upstream/downstream? | ☐ | ☐ | ☐ | ☐ |
| 34. Is freeze protection required for service(s)? | ☐ | ☐ | ☐ | ☐ |

COMMENTS

BURLINGTON DPW - SEWER SYSTEM REVIEW

water&sewer_checklist_rev_021524

PROJECT NAME: [Click here to enter text.](#)

LOCATION: [Click here to enter text.](#)

OWNER: [Click here to enter text.](#)

ENGINEER: [Click here to enter text.](#)

DATE REC'D: [Click here to enter text.](#)

DATE REV'D: [Click here to enter text.](#)

PLAN DATE/REV: [Click here to enter text.](#)

REV'D BY: [Click here to enter text.](#)

	Yes	No	N/A	Insuff. Info
1. Are the sewers located under the proposed street(s)?	☐	☐	☐	☐
2. Are the sewer pipes SDR 35 PVC or approved equal?	☐	☐	☐	☐
3. Are the pipe depth(s) between 4 ft and 8 ft, or approved?	☐	☐	☐	☐
4. Are sewer pipe penetrations sealed at the manholes?	☐	☐	☐	☐
5. Are the new lateral connections water-tight?	☐	☐	☐	☐
6. For laterals 8" diameter or greater or equal to sewer diameter, does it terminate at a new manhole?	☐	☐	☐	☐
7. Are manholes located at changes in direction or grade?	☐	☐	☐	☐
8. Are manholes every 400 to 600 feet for maintenance access?	☐	☐	☐	☐
9. Are manholes precast w/plastic rungs and cover marked "SEWER"?	☐	☐	☐	☐
10. Do the manholes have adequate invert(s) and bench?	☐	☐	☐	☐
11. Does the project plans include ave. and peak estimated flows?	☐	☐	☐	☐
12. Does this project discharge sewage into a combined sewer system?	☐	☐	☐	☐
a. If yes, is the applicant compliant with the draft css offset policy?	☐	☐	☐	☐
13. Does this project discharge to a city pump station?	☐	☐	☐	☐
a. If yes, is a pump station capacity study warranted?	☐	☐	☐	☐
b. Does the station have adequate emergency storage for this project?	☐	☐	☐	☐
14. Does the project require construction of a new pump station?	☐	☐	☐	☐
a. If yes, is it on a future public road for DPW to own?	☐	☐	☐	☐
b. If the developer wants DPW to own, does the station meet State and DPW standards?	☐	☐	☐	☐

Station type:[Click here to enter text.](#) Capacity:[Click here to enter text.](#)

COMMENTS

Consider adding items to review for the following:

1. Use of sealant between manhole sections
2. Minimum manhole cover diameter
3. Minimum manhole diameter (structure)
4. Riser/grade ring type – donut or bricks
5. Use of underground warning tape (assuming City preference)
6. Types of manhole penetration seals (boot, link seal, etc.)
7. Use of exterior manhole coatings

Department of Permitting & Inspections

Zoning Division
645 Pine Street
Burlington, VT 05401
Telephone: (802) 865-7188
(802) 865-7195 (FAX)

William Ward, Director
Scott Gustin, AICP, CFM, Principal Planner
Mary O'Neil, AICP, Principal Planner
Kirk Dressing, Associate Planner
Joseph Cava, Permit Technician
Collin Naheedy, Code Compliance Officer



TO: Development Review Board
FROM: Scott Gustin
DATE: May 19, 2026
RE: ZAP-26-4; 88 Lafountain Street

=====

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: RM Ward: 2

Owner/Appellant: SWB, LLC / Michael Alvanos

Request: Appeal of administrative denial of ZP-26-78 for the after-the-fact installation of gravel for driveway.

Overview:

The appellant is contesting the administrative denial of a zoning application (ZP-26-78) for installation of a gravel driveway between 88 Lafountain Street and 86 Lafountain Street. A complaint was filed in early 2026 about the driveway installation, and a notice of zoning violation was issued in February 2026. The zoning violation notice was not appealed. The property owner filed an after-the-fact zoning application seeking approval of the driveway. That application was denied and is the subject of this appeal.

Recommendation: **Uphold administrative decision** based on the following findings:

I. Findings:

Zoning application ZP-26-78 was submitted March 5, 2026 and was made complete March 13, 2026. The application was filed after-the-fact for installation of a driveway to the south of the multi-family apartment building on the subject property. The application was filed following issuance of a zoning violation notice about the unpermitted driveway.

The application site plan included a statement that the gravel was installed within an existing driveway that predates current ownership and that the new gravel solely reestablishes a proper base for the driveway. The application site plan depicts the subject driveway immediately alongside the side property boundary with 86 Lafountain Street and includes a lot coverage calculation of 84%.

The subject property is located within the medium intensity residential zone. Per the residential district standards of Sec. 4.4.5 of the Comprehensive Development Ordinance, accessory features, including driveways, are subject to a minimum side yard setback of 5,' and standard lot coverage is limited to 55% (and up to 10% more for open air amenities like decks and open porches).

Given the uncompliant nature of the driveway, permit and photographic records were reviewed prior to acting on the application. There are no prior zoning permits containing site plans for the subject property. Orthophotos from 1978 to 2025 largely depict green space and even a fence out by the sidewalk where the subject driveway is located. None of the orthophotos clearly depict a driveway or even vehicles in this location.

The zoning application was denied March 18, 2026 for the following reasons:

The subject driveway conflicts with the dimensional standards of Sec. 4.4.5, Residential Districts, of the Comprehensive Development Ordinance. Specifically, it sits within the minimum required 5 ft side yard setback and increases the nonconforming lot coverage to 88% (55% is the maximum permissible). The photographic records demonstrate that this driveway does not qualify as a pre-existing nonconformity per Article 5, Part 3, Non-Conformities, of the Comprehensive Development Ordinance.

An appeal was filed on March 24, 2026, within the 15-day appeal period of the zoning application denial. The appeal starts out by asserting that it is an appeal of the zoning violation notice. The zoning violation notice was issued February 12, 2026. This appeal was filed more than a month later and well past the 15-day appeal period. If this appeal is intended to be of the notice of zoning violation, then it can simply be dismissed as untimely.

Upon denial of the subject zoning application, the applicant stated in the chat feature that he wished to appeal the denial. Shortly thereafter, the appeal was filed. If the appeal is intended to be of the zoning application denial, then it is timely.

The appeal focuses on the claim that the subject driveway is a preexisting nonconformity. As such, its location within the side yard setback and excessive lot coverage are acceptable. Placement of new gravel within the driveway does not increase the existing degree of nonconformity.

There are eight orthophotos from 1978 to 2025 that do not depict a driveway or vehicles in the area of the subject driveway. A legitimate preexisting nonconformity is predicated on continuous existence since at least April 26, 1973. Perhaps the area has been used intermittently as a driveway, but the records do not support continuous existence of a driveway in this location. The burden of proof to demonstrate a legitimate preexisting nonconformity has not been met. Zoning application ZP-26-78 was properly denied.

II. Recommended Motion:

Uphold the administrative decision.

JRMA design studio

architecture - planning - development

To: Burlington Development Review Board
Department of Permitting and Inspections
645 Pine Street
Burlington, Vermont 05401

From: Michael Alvanos, AIA
architect - partner
JRMA design studio
175 Summit Circle
Shelburne, Vermont 05482

RE: - 88 Lafountain Street - Zoning Violation

Dear Members of the Development Review Board,

I'm writing on behalf of the owner of 88 Lafountain Street to appeal the Notice of Zoning Violation related to work performed within the existing driveway along the southern portion of the property. I want to provide some straightforward context and clarify the nature of the work so the Board has a clear, accurate understanding of what occurred.

88 Lafountain Street is an existing multi-family property that has long contributed to the City's housing stock. Prior to the current ownership, the building had fallen into a period of deferred maintenance. Since acquiring the property, the new owner has focused on addressing life safety concerns, fire safety upgrades, and general stabilization. The intent has been simple: preserve and improve existing housing in a responsible way.

The violation centers on the placement of gravel within the footprint of a driveway that has existed historically along the southern edge of the site. It's important to be clear on this point: this was not the creation of a new driveway, nor was there any expansion of its footprint. There was no new curb cut, no increase in use, and no change in intensity. Just as importantly, there was never any conversion of this area into green space or a pervious landscaped surface. The driveway has remained a driveway in both function and intent.

The work performed was limited to placing gravel to stabilize the surface. From a practical standpoint, this is routine maintenance. It improves safety, reduces erosion, and keeps the existing feature usable without altering its size or role on the site.

From a zoning perspective, the question is whether this type of work constitutes development, or whether it falls under maintenance of a preexisting condition. Under the Burlington Comprehensive Development Ordinance, the driveway qualifies as a lawful preexisting condition. Article 5 recognizes that such conditions may continue and be maintained, provided they are not expanded or intensified.

That is exactly the case here. The footprint has not changed. There is no meaningful increase in impervious coverage beyond what has historically existed. The use remains the same. The gravel simply restores and stabilizes an existing condition.

The Burlington Zoning Ordinance, along with Vermont statute, allows for the maintenance and repair of nonconforming features. In practice, this kind of surface work is consistent with that allowance. It does not introduce a new site feature or alter the dimensional characteristics of the existing one.

There is also reference to a 2021 image suggesting the driveway was not in use. A temporary lapse in use or a period of deterioration does not eliminate the existence of a long-established site feature, nor does it convert it into something else. This area was not redefined as green space, and no action was taken to abandon its use as a driveway.

In short, this is a case of maintaining an existing condition, not creating a new one.

The owner has made a good-faith effort to improve the property in a way that aligns with the broader goals of safety, functionality, and preservation of housing. The driveway work is consistent with that effort and with the intent of the ordinance.

For these reasons, we respectfully ask that the Board grant the appeal and rescind the Notice of Zoning Violation.

Thank you for your time and consideration.

Michael Alvanos
JRMA design studio



City of
Burlington, Vermont
645 Pine Street

Zoning Permit – Reasons for Denial

ZP #: 26-78

Tax ID: 039-2-007-000

Issue Date: March 18, 2026

Decision: Denied

Property Address: 88 Lafountain Street

Description: After-the-fact installation of gravel driveway.

Reasons for Denial:

The subject driveway conflicts with the dimensional standards of Sec. 4.4.5, *Residential Districts*, of the Comprehensive Development Ordinance. Specifically, it sits within the minimum required 5 ft side yard setback and increases the nonconforming lot coverage to 88% (55% is the maximum permissible). The photographic records demonstrate that this driveway does not qualify as a pre-existing nonconformity per Article 5, Part 3, *Non-Conformities*, of the Comprehensive Development Ordinance.

An interested person may appeal a decision of the Zoning Administrator to the Development Review Board within 15 days after the decision date per Sec. 12.2.2, *Appeals of Administrative Officer Decisions*. Appeals may be filed online at [burlingtonvt.viewpointcloud.com/categories/1098](https://www.burlingtonvt.viewpointcloud.com/categories/1098) or in-person at 645 Pine Street, Burlington, Vermont. <https://www.burlingtonvt.gov/DPI/Appealing-a-Zoning-Decision>

Proposed remedy of Notice of Violation (NOV) under ZCPT-26-6 for the after-the-fact installation of gravel for driveway.

This application is submitted in response to the recent Notice of Zoning Violation (ZCPT-26-6) and seeks review of the existing driveway condition on the southern portion of the property.

The driveway in question predates the current owner and has historically served as an access drive to the lot. Over time, repeated vehicular use resulted in significant tire ruts and surface degradation. These depressions created uneven conditions that posed potential safety concerns for both vehicles and pedestrians, particularly during periods of inclement weather.

To stabilize the surface and restore safe, functional access, a layer of gravel was installed. The gravel was added solely to reestablish a proper structural base, improve drainage, and prevent further erosion and deterioration of the existing driveway surface. This corrective measure was undertaken as a safety improvement to ensure reliable access for tenants and to maintain the long term integrity of the drive.

PROJECT INFORMATION

PROJECT DESCRIPTION: CONVERT EXISTING REAR PORCH TO ENCLOSED HEATED SPACE BEDROOMS AND UPDATE REAR ENTRY

PROJECT ADDRESS: 88 LA FOUNTAIN STREET

ARCHITECT: JRMA design studio
175 SUMMIT CIRCLE
SHELBURNE, VERMONT 05482
CONTACT: MICHAEL ALVANOS

PROPERTY OWNER: SWB LLC
100 NORTH STREET
BURLINGTON, VERMONT 05401

SPAN NUMBER: 114-035-13759

CURRENT ZONING RM
PROPOSED ZONING RM

ZONING CALCULATIONS

	EXISTING	PROPOSED
LOT SIZE	7,051 SQ.FT	7,051 SQ.FT
BUILDING	2,420 SQ.FT	2,420 SQ.FT
DRIVEWAYS	2,831 SQ.FT	2,831 SQ.FT
SIDE DRIVEWAY	607 SQ.FT	607 SQ.FT
WALKWAYS / STEPS	52 SQ.FT	52 SQ.FT
PORCHES/DECKS	48 SQ.FT	48 SQ.FT
SHEDS	N/A	N/A

TOTALS 5,958 SQ.FT 5,958 SQ.FT

TOTAL LOT COVERAGE ALLOWED 55%
EXISTING LOT COVERAGE 84%
PROPOSED LOT COVERAGE 84%

PARKING N/A N/A
BICYCLE PARKING N/A N/A

BUILDING HEIGHT 2 STORY 35' - 0" +/-
ALLOWABLE DENSITY 4 DU MAX PRIMARY 1,800 SQ.FT
4 DU MAX SECONDARY 1,100 SQ.FT

OCCUPANCY R-2
CONSTRUCTION TYPE V-B (NON SPRINKLED)

ZONING - ARTICLE 4 REFERENCES

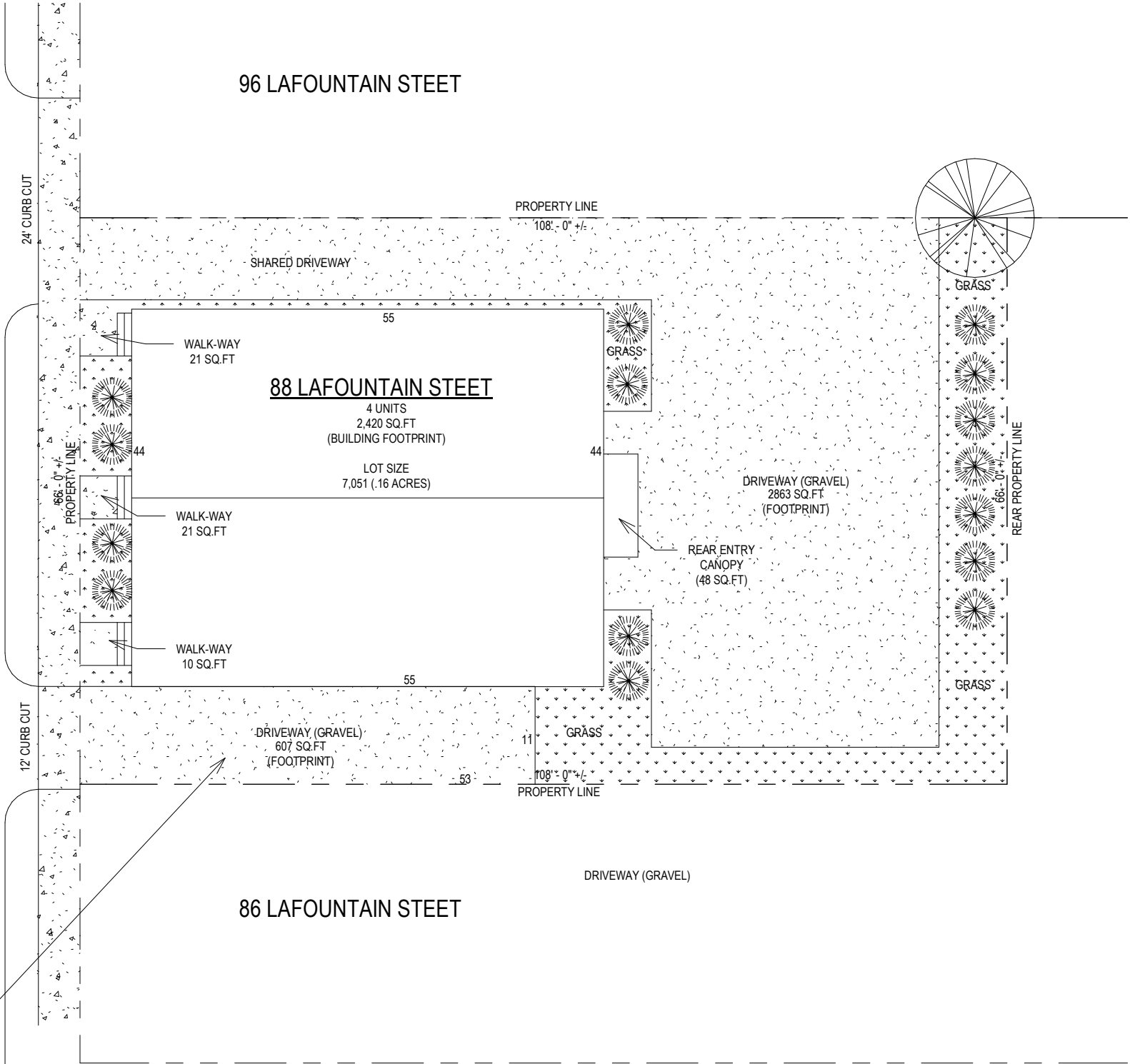
NOTE ON (ZCPT-26-6)

THIS APPLICATION IS SUBMITTED IN RESPONSE TO THE RECENT NOTICE OF ZONING VIOLATION (ZCPT-26-6) AND SEEKS REVIEW OF THE EXISTING DRIVEWAY CONDITION ON THE SOUTHERN PORTION OF THE PROPERTY.

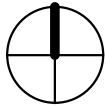
THE DRIVEWAY IN QUESTION PREDATES THE CURRENT OWNER AND HAS HISTORICALLY SERVED AS AN ACCESS DRIVE TO THE LOT. OVER TIME, REPEATED VEHICULAR USE RESULTED IN SIGNIFICANT TIRE RUTS AND SURFACE DEGRADATION. THESE DEPRESSIONS CREATED UNEVEN CONDITIONS THAT POSED POTENTIAL SAFETY CONCERNS FOR BOTH VEHICLES AND PEDESTRIANS, PARTICULARLY DURING PERIODS OF INCLEMENT WEATHER. TO STABILIZE THE SURFACE AND RESTORE SAFE, FUNCTIONAL ACCESS, A LAYER OF GRAVEL WAS INSTALLED.

THE GRAVEL WAS ADDED SOLELY TO REESTABLISH A PROPER STRUCTURAL BASE, IMPROVE DRAINAGE, AND PREVENT FURTHER EROSION AND DETERIORATION OF THE EXISTING DRIVEWAY SURFACE. THIS CORRECTIVE MEASURE WAS UNDERTAKEN AS A SAFETY IMPROVEMENT TO ENSURE RELIABLE ACCESS FOR TENANTS AND TO MAINTAIN THE LONG TERM INTEGRITY OF THE DRIVE.

LA FOUNTAIN STREET



1 SITE PLAN
1/16" = 1'-0"



PLEASE NOTE: THIS IS NOT A SURVEY. ALTHOUGH JRMA DESIGN STUDIO HAS, TO THE BEST OF ITS ABILITY AND PROFESSIONAL CAPABILITIES TRIED TO ENSURE ACCURACY, THIS DRAWING DOES NOT REPRESENT ANY GUARANTEE OR VALIDATE ANY INFORMATION PROVIDED. THE INFORMATION HEREIN WAS PRODUCED FROM THE BURLINGTON VERMONT ASSESSORS DATABASE, BURLINGTON ZONING MAPS, G.I.S DATA, AND GOOGLE MAPS.

1978 Ortho Photo

88 Lafountain St



88 Lafountain St



88 Lafountain St



2009 Ortho Photo

2009 Lafountain St



88 Lafountain St



88 Lafountain St



88 Lafountain St



88 Lafountain St



1/15/26, 12:17 PM

123° SE

90 Lafountain St
Burlington VT 05401





86 Lafountain St



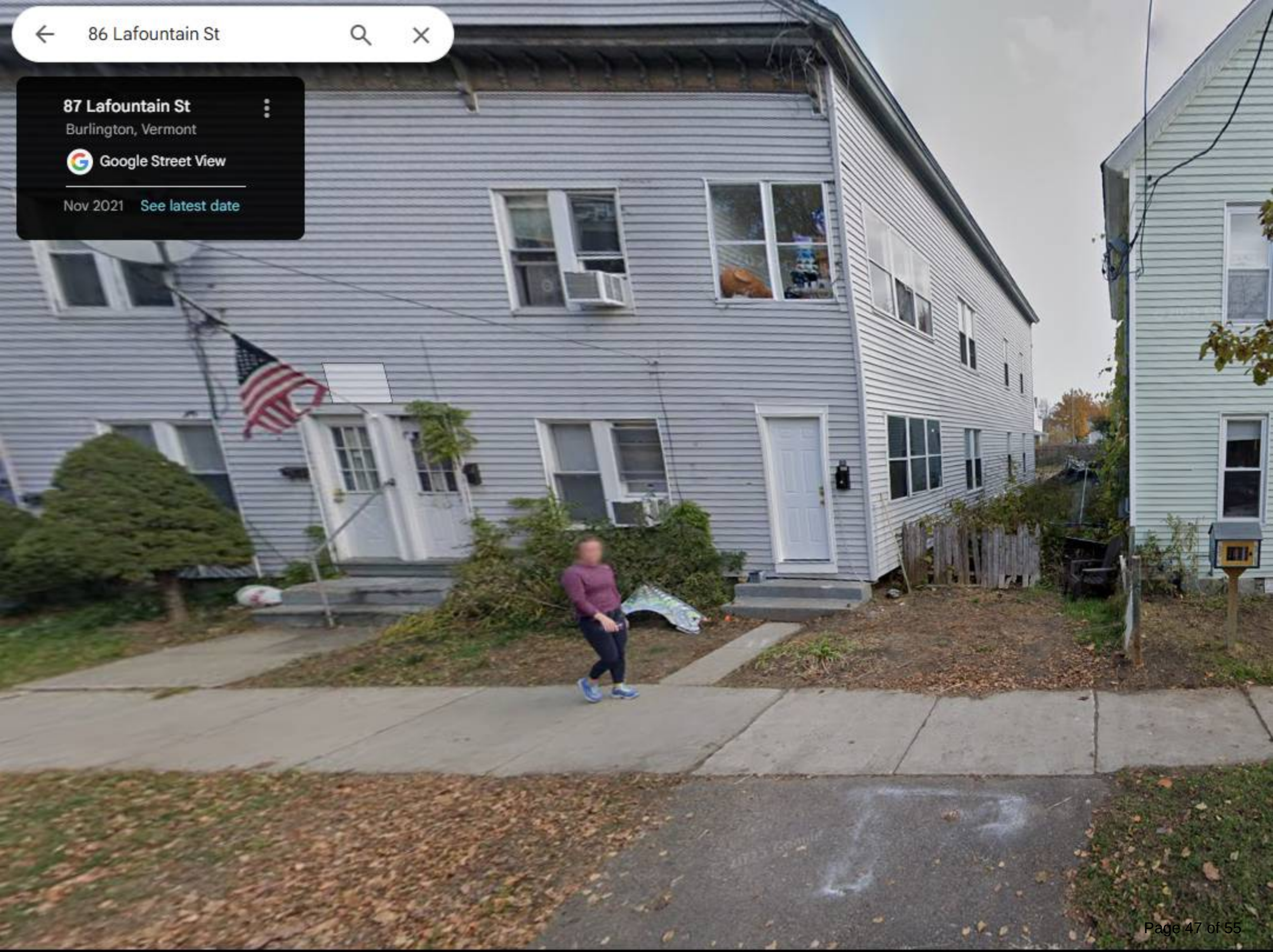
87 Lafountain St

Burlington, Vermont



Google Street View

Nov 2021 [See latest date](#)





Department of Permitting & Inspections

Zoning Division
645 Pine Street
Burlington, VT 05401
Telephone: (802) 865-7188
(802) 865-7195 (FAX)

*William Ward, Director
Scott Gustin, AICP, CFM, Principal Planner
Mary O'Neil, AICP, Principal Planner
Kirk Dressing, Associate Planner
Joseph Cava, Permit Technician
Collin Naheedy, Code Compliance Officer*



TO: Development Review Board
FROM: Scott Gustin
DATE: May 19, 2026
RE: ZAP-26-5; 261 South Winooski Avenue

The notice of zoning violation subject to this appeal has been resolved by way of a zoning permit issued, with some required changes, for the previously unpermitted windows. A withdrawal of the appeal is anticipated. If not received prior to the DRB hearing, this appeal can be dismissed as moot.



City of
Burlington, Vermont
645 Pine Street

Zoning Permit – Conditions of Approval

ZPW: 26-41

Tax ID: 049-4-151-000

Issue Date: April 29, 2026

Decision: Approve

Property Address: 261 South Winooski Ave

Description: After-the-fact replacement of old and damaged windows.

Project Permit Conditions:

1. Muntins (grilles) and mullions for the modified and new windows shall be adhered to the exterior of the windows.
2. Vermont Residential Building Energy Standards apply to this project. Compliance with the standards is the Owner's responsibility. Prior to requesting a Certificate of Occupancy, a copy of a completed Vermont Residential Building Energy Standards Certificate shall be submitted with a Certificate of Occupancy (final or temporary) request, and filed in the Land Records located at the Clerk/Treasurers office in City Hall (149 Church Street). For more information, see http://publicservice.vermont.gov/energy_efficiency

Standard Permit Conditions:

1. **Other City, State or Federal Permits.** The owner is solely responsible for obtaining all other required City, state and federal approvals. Failure to do so may invalidate this Zoning Permit and result in enforcement actions. Wastewater permits are issued by the State and are frequently required as a result of expansion or change in use.
Note: All projects receiving a Zoning Permit also require a Construction Permit or written confirmation that a Construction Permit is not required from the Department of Permitting & Inspections Trades Division. All construction permits must be closed out by way of approved inspections by Trades before issuance of a Zoning Certificate of Occupancy (ZCO) by the Zoning Division as per Condition 3, below. **Note:** All projects involving earth disturbance of 400 square feet or more require a reviewed and approved erosion prevention and sediment control (EPSC) permit prior to the start of construction. This review is closed out by way of a completed EPSC Permit and an inspection by Stormwater Program staff or their designee before issuance of a ZCO as noted above.
2. **Time Limits.** This zoning permit shall become invalid unless work or action authorized by the permit is commenced within 1 year of approval. The owner shall complete the approved project and obtain a ZCO (combined Zoning and Building certificates of occupancy, still applicable even if a zoning or building permit was not required) within 3 years or be subject to enforcement actions.

These time limits are binding upon the owner unless one of the following apply: a) longer or shorter time limits are specifically imposed by a condition of approval; or b) the time limits are

tolled by additional state or federal permitting for the project or by an appeal; or c) an extension of time has been granted. An extension of time must be requested in writing PRIOR to the expiration of the permit. If the owner has enacted the permit and it lapses, the owner may be responsible to obtain a new zoning permit, if required, which shall be subject to the current Comprehensive Development Ordinance (CDO).

3. **Zoning Certificate of Occupancy (ZCO):** It shall be unlawful to use or occupy (or allow the use or occupancy of) any land or structure or part thereof which has been created, changed, converted, or wholly or partly altered or enlarged in its use or structure without a ZCO.

If the project is partially completed, meets “prior to issuance of a ZCO” conditions of approval, meets all life and safety standards, and all municipal fees for the project are paid, a Temporary Zoning CO may be requested and issued. **Upon completion of the project**, applicant shall request and obtain a Final ZCO from the Zoning Division (located at 645 Pine Street). Additional information on how to request and obtain this ZCO is available at this office. **Failure to obtain a Zoning certificate of occupancy** places the property in violation of the CDO and is subject to enforcement.

In addition, **Failure to obtain a ZCO within the time limits above is subject to** “after the fact” fees ranging from \$75 - \$1500.

4. **Project Modifications.** The project shall be completed, operated, and maintained in accordance with: (a) the conditions of this permit and (b) the permit application, plans (which have been stamped “approved” and dated by the administrative officer), and exhibits on file with the Board or administrative officer and other material representations. In the event of any conflict, the terms and conditions of this permit shall supersede the approved plans and exhibits. The project shall not deviate from the approved plans or conditions of approval without prior written approval from the administrative officer.
5. **Property Inspection.** By acceptance of this permit, the owner authorizes City Officials and/or their authorized representatives, access to the subject property for the purpose of observing work in progress, inspecting and/or measuring the property or improvements until such time the project has been issued a Final ZCO.
6. **Completion and Maintenance of Improvements and Landscaping.** Owner or successor in interest is responsible for completing all improvements shown on approved plans. By acceptance of this permit, Owner agrees to maintain all improvements in a satisfactory condition. Any landscaping installed according to the approved plan which becomes diseased or dies shall be replaced by similar species and size no later than the first available planting season.
7. **Off-Site Drainage.** Issuance of this permit does not authorize the discharge of stormwater runoff or other surface drainage from the subject premises onto adjoining property or properties including but not limited to the public Right of Way.
8. **Errors.** The owner is solely responsible for the accuracy of all information contained in the Zoning Permit application. Any errors contained therein may invalidate the Zoning Permit and may result in enforcement action by the City.
9. **Transfer of Ownership. All zoning permits run with the land.** In the event of a transfer of ownership, partial or whole, of the subject premises, the transferee shall become permittee and subject to compliance with the terms and conditions of this permit.

10. **Violations/Penalties.** A violation of any of the conditions of this permit or of any provision of the CDO may result in enforcement actions, including but not limited to a penalty of up to two hundred dollars (\$200) per day, municipal tickets, and/or additional permitting fees.
11. **Incorporation and Reference of All Plans Presented.** This approval incorporates by reference all plans and drawings presented and all verbal representations by the applicant on the subject application to the extent that they are not in conflict with other stated conditions or regulations.
12. **For Properties Involved in Boundary Disputes.** Boundary disputes are not within the jurisdiction of the administrative officer or the Development Review Board. When an application is submitted and the boundary of the subject property is called into question, the boundary will be determined based upon the best evidence available, for instance a survey or other official document. If a permit is issued and contrary evidence is presented to the City after the fact, such as a survey or Superior Court ruling with respect to the boundary lines, the permit may be amended or revoked by the City.
If the permit is amended or revoked, owner shall bear all costs to remedy the situation, including removal of the structure(s) if necessary, that is if the structure(s) is/are unable to meet the requirements of the CDO and receive an amended permit in light of the actual boundary line.
13. **Damage to City Property.** The Owner is responsible for any damage to the City of Burlington's property, including but not limited to its right-of-way, sewer/water lines, etcetera, that occurs during the site improvements authorized by this permit. If damage occurs, the Owner shall restore the property to a condition equal to or better than the condition of the property prior to such damage.
14. **City Rights-of-Way and Ownership.** Permit approval does NOT authorize any work to be undertaken within the public ROW. Any work in the ROW can only occur with prior authorization by DPW and/or City Council, as required. Any work or improvements that are taken within the City's right of way does not diminish the City's ownership or authority regarding said right of way.
15. **Liquor License Required.** An approval of any use that includes the sale of alcoholic beverages is contingent upon the receipt of a liquor license from the City of Burlington or the State of Vermont, whichever is applicable.

An interested person may appeal a decision of the Zoning Administrator to the Development Review Board within 15 days after the decision date per Sec. 12.2.2, *Appeals of Administrative Officer Decisions*. Appeals may be filed online at <https://burlingtonvt.portal.opengov.com/categories/1098/record-types/6521> or in-person at 645 Pine Street, Burlington, Vermont.

[Appealing a Zoning Decision | Burlington, VT](#)



PERMITTING & INSPECTIONS

645 Pine Street, Ste. A | PO Box 849
Burlington, VT 05402-0849

Housing: (802) 863-0442

Trades: (802) 863-9094

Zoning: (802) 865-7188

NOTICE OF ZONING VIOLATION (NOV ZCPT-26-5)

March 12, 2026

Mailed Certified Mail 9590-9402-8556-3186-4498-38
And FIRST CLASS MAIL

FIELD STONE PROPERTY,
MANAGEMENT, LLC
2056 NORTH AVE
BURLINGTON, VT 05408

NOTICE OF VIOLATION AT:
Address: 261 South Winooski Avenue,
BURLINGTON, VT
TAX LOT 049-4-151-000

Zoning Violation ZCPT-26-5

Dear Owners,

It has come to the attention of this office that a zoning violation exists at 261 South Winooski Avenue, Burlington, Vt.

Description of Violation: Windows have been replaced without Zoning approval. At least three (3) windows on both the East & South elevations have been replaced, in addition to two (2) windows on the North elevation (8 windows total).

Burlington Comprehensive Development Ordinance (CDO) Article(s): 2, 3, 4, 12, and 24 VSA §4451.

Please be advised that violations of the CDO are subject to fines of up to two hundred dollars (\$200.00) for each day that a violation continues. You may submit an application to attempt correction of the violation, however, be advised application and filing fees are subject to a fee increase for permits required to correct a violation.

This correspondence serves as a formal notice of a zoning violation pursuant to 24 V.S.A §4451. You have seven (7) days from receipt of this notice to cure the referenced violation. Additional warnings for the violation are not required and will not be forthcoming. In the event that the violation is not cured or remedied as provided for in this notice, the City will pursue enforcement of the violation as provided for by law.

This Notice of Violation (NOV) may be appealed to the Burlington Development Review Board in accordance with the provisions of CDO Sections 2.7.12 and 12.2.2 provided that such appeal is filed within fifteen (15) days of the date of this NOV March 12, 2026, online at <https://burlingtonvt.viewpointcloud.com/categories/1098> and accompanied by the appropriate fee, (\$250), in accordance with Sec. 3.2.4(a) of the CDO. Or Appeal fee and complete application shall be filed with the City's Zoning Office (645 Pine Street) by **4 pm on March 27, 2026**; an appeal shall not be perfected until the fee is received.

If you have any questions, please call Collin Naheedy or William Ward at (802) 863-0442.

Sincerely,

Sincerely,

William Ward
Zoning Administrative Officer

Collin Naheedy
Code Compliance Officer

Cc: Land Records for Tax Lot 049-4-151-000

VIOLATION DETAILS

LOCATION: 261 South Winooski Avenue, Burlington

DECISION DATE: March 12, 2026

VIOLATION DESCRIPTION: Windows have been replaced without Zoning approval. At least three (3) windows on both the East & South elevations have been replaced, in addition to two (2) windows on the North elevation (8 windows total).

FINDINGS:



REMEDY OPTIONS: Within seven (7) days from receipt of this notice you may cure the violation by:

- 1) Removing the violation noted above by doing removing the above depicted windows **and restoring the Premises to its prior state, and informing the Zoning Office that the violation has been removed so our office may verify compliance; or**
- 2) Obtaining approval from the City's Zoning Office for replacing windows without an approved zoning permit (permit application fee is doubled if complete application is submitted within seven days from receipt of the NOV, tripled if a complete application is submitted 7-15 days from receipt of the NOV, or triple plus \$75 per hour of staff time (up to \$500) if a completed application is submitted after 15 days from date of NOV receipt). See CDO Section 2.7.8.
PLEASE NOTE: If the zoning permit request is denied, the violation is **NOT** cured. Owner shall be required to remove the violation as noted in #1 above or

request an agreement as noted in #3 below within five (5) business days from date of the permit denial; **or**

- 3) Entering into an Agreement with the City of Burlington to extend deadlines in which to come into compliance with the City's ordinance (administrative fees required).

APPEAL RIGHTS: You have the right to appeal the enforcement officer's decision that a zoning violation exists on your property to the Development Review Board in accordance with the provisions of Articles 2.7.12 and 12.2.2 of the CDO within fifteen (15) days **from the date of this notice**. **The deadline for filing an appeal is 4 pm on March 27, 2026.** Submit a complete application with ZV # and appropriate fee, (\$250), to the City's Zoning Office at 645 Pine St, or online at <https://burlingtonvt.viewpointcloud.com/categories/1098> accompanied by a memo stating the ZV#, the owner's name and address, a brief description of the property with respect to which the appeal is taken, a reference to the regulatory provisions applicable to that appeal, the relief you are requesting, and the alleged grounds why such relief is believed proper under the circumstances. *Failure to appeal constitutes admission that the violation exists, and the decision of the enforcement officer shall be binding 24 V.S.A §4472(d).*

REGULATION CITATION: CDO Article(s): 2, 3, 4, 12 and 24 VSA §4451