

Burlington Development Review Board

149 Church Street, City Hall

Burlington, VT 05401

www.burlingtonvt.gov/PZ/DRB

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Geoff Hand
Jim Drummond (Alt)
Wayne Senville (Alt)



BURLINGTON DEVELOPMENT REVIEW BOARD Tuesday November 17, 2015 PUBLIC HEARING NOTICE

The Burlington Development Review Board will hold a meeting on **Tuesday November 17, 2015 at 5:00 p.m. in Contois Auditorium, City Hall.**

1. **16-0239CA; 18 Adsit Court (RL, Ward 1E) Eugene Day III**
Appeal of zoning permit denial to replace main and center wooden porch posts with PT lumber, also replace railings/cross bars with PT lumber. Replace wooden porch ceiling in-kind. Replace wooden flooring with composite material.
2. **16-0325CU; 34 Spring Street (RM, Ward 2C) Christopher Valin**
Establish bed and breakfast utilizing back yard cottage and also establish boarding house within existing home.
3. **16-0151DT; 2-8 Hickok Place (RM, Ward 2C) Diemer Apartments, LLC**
Appeal of adverse determination relative to grandfathering of five and six bedroom usage of four living units.
4. **16-0477AP; 99 Loomis Street (RL, Ward 1E) Jonathan E. Lubas**
Appeal of Zoning Violation #291859 relative to occupancy by unrelated adults.

Plans may be viewed in the Planning and Zoning Office, (City Hall, 149 Church Street, Burlington), 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 Planning and Zoning office is considered public and cannot be kept confidential.

This may not be the final order in which items will be heard. Please view final Agenda, at www.burlingtonvt.gov/pz/drdb/agendas or the office notice board, one week before the hearing for the order in which items will be heard.

The programs and services of the City of Burlington are accessible to people with disabilities. Individuals who require special arrangements to participate are encouraged to contact the Department of Planning & Zoning at least 72 hours in advance so that proper accommodations can be arranged. For information call 865-7188 (TTY users: 865-7142).

Department of Planning and Zoning

149 Church Street
Burlington, VT 05401

<http://www.burlingtonvt.gov/PZ/>

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Mary O'Neil, AICP, Senior Planner
Elsie Tillotson, Department Secretary
Anita Wade, Zoning Clerk



MEMORANDUM

To: Development Review Board
From: Mary O'Neil, AICP, Senior Planner
Date: November 17, 2015
RE: ZP16-0406CA/CU, 69 Scarff Avenue

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

File: 16-0406CA/CU
Location: 69 Scarff Avenue
Zone: RL **Ward:** 5S
Date application accepted: September 23, 2015
Applicant/ Owner: Matthew & Julia Leach
Request: Construct new single family home on vacant lot.
Estimated Construction Cost: \$475,000.



Background:

- o Zoning Permit 14-0831CA/CU; construct new single family home on vacant lot. May 2014. Permit relinquished May 2015.
- o Zoning Permit 13-1283LL, Lot line adjustment with adjacent single family house lot at 75 Scarff Avenue. June 2013.

Overview: Although a previous permit was approved to construct a new single family home, that project did not advance. This is a new application with a new design for a single family residence. Although the proposed use is a permitted use, the nonconforming lot frontage of 52.09' requires conditional use review.

The **Design Advisory Board** reviewed the application at their October 13, 2015 meeting and voted unanimously to recommend approval with the following conditions and comments:

- a. The applicant meets the requirement that the garage door not exceed 10' in width. The board agrees that the aesthetic of the garage door (single larger door) is in keeping with the building design, but have advised the applicant that it doesn't meet the ordinance.
- b. The applicant must consider snow storage for the west balcony area.
- c. The DAB finds the front entrance clearly articulated, and is comfortable with its location, satisfying ordinance requirement for a clearly discernable entry.
- d. Driveway cannot exceed 18' in width.

Applicable Regulations: Article 3 (Applications, Permits and Project Reviews), Article 4 (Zoning Maps and Districts), Article 5 (Citywide General Standards), Article 6 (Development Review Standards), and Article 8 (Parking.)

Recommendation: Consent approval, per the following findings and conditions:

I. Findings

Article 3: Applications, Permits and Project Reviews

Section 3.5.6 Review Criteria

(a) Conditional Use Review Standards (as adopted by City Council 8.10.2015)

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 proposed single family home will have minimal impact on existing community facilities. Impacts fees will off-set any particular impact on identified departments. A state wastewater permit will be required. **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;*

This is an existing, developed residential neighborhood. The addition of a new single family home is entirely in keeping with the character of the area. Support from the Municipal Development Plan may be found here:

- *Conserve and strengthen residential neighborhoods.* MDP, Land Use Plan, Page I-2.
- *Support the development of additional housing...* MDP, Housing Plan, Page IX-1.
- *Conserve the existing element and design characteristics of its neighborhoods, and maintain neighborhood proportions of scale and mass.* MDP, Built Environment, Page III-1.

- *Encourage new land uses and housing designs that serve changing demographics and benefit from new technologies where appropriate.* MDP, Built Environment, Page III-1.
- *Ensure building design and public amenities take into account Burlington's northern climate.* MDP, Built Environment, Page III-2.

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;*

The new single family residence will have the same impacts as similar uses in the low density residential district. **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;*

Scarff Avenue is an accepted city street, with an established pedestrian sidewalk network that connects to Shelburne Road and Richardson Street. Route 7 (Shelburne Road) is immediately available to the east, with a full complement of public transportation access: pedestrian, bicycle, vehicle and CCTA bus service. **Affirmative finding.**

and

5. *The utilization of renewable energy resources;*

The proposal does not prohibit the use of water, wind, solar, geothermal or other renewable energy resources. **Affirmative finding.**

and

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

Impact fees will be required for the new gross floor area; a state wastewater permit will be required for the residential dwelling unit. **Affirmative finding as conditioned.**

(c) Conditions of Approval

In addition to imposing conditions of approval necessary to satisfy the General Standards specified in (a) or (b) above, the DRB may also impose additional conditions of approval relative to any of the following:

1. *Mitigation measures, including but not limited to screening, landscaping, where necessary to reduce noise and glare and to maintain the property in a character in keeping with the surrounding area;*

No identified adverse impacts have been presented; any additional mitigation measures are at the discretion of the DRB. **Affirmative finding.**

2. *Time limits for construction.*

The permit is valid for 2 years from the date of decision. **Affirmative finding as conditioned.**

3. *Hours of operation and/or construction to reduce the impact on surrounding properties.*

Identifying hours of operation is not applicable for a single family home.

Typically acceptable hours of construction are Monday-Friday 7:30- 5:30 pm, with Saturday construction limited to interior work only. **Affirmative finding as conditioned.**

4. *That any future enlargement or alteration of the use return for review to the DRB to permit the specifying of new conditions,*

This is a statutory requirement. Future expansion or enlargement will be subject to review under the regulations in effect at the time of application. **Affirmative finding.**

and

5. *Such additional reasonable performance standards, conditions and safeguards as it may deem necessary to implement the purposes of this chapter and the zoning regulations.*

This remains at the discretion of the Board.

Article 4: Zoning Maps and Districts

Section 4.4.5

(a) 1. Residential Low Density (RL) district *is intended primarily for low-density residential development in the form of single detached dwellings and duplexes.*

A single detached dwelling is proposed. **Affirmative finding.**

(b) Dimensional Standards and Density

Table 4.4.5-1 Minimum Lot Size and Frontage

While 69 Scarff Avenue meets a minimum lot size of 6,000 sf. (8704 sf), it does not meet the minimum frontage requirement of 60' (52.09' by survey.) This is a pre-existing lot; however it is subject to conditional use review due to the non-conformity. As was noted in the previous review for a single family home on this parcel, just two of the fourteen homes on this block of Scarff Avenue have at least 60' road frontage; the rest have about 50', consistent with this parcel. See Section 3.5.6, above for Conditional Use review standards.

Table 4.4.5-2 Base Residential Density

Low Density: RL 7 units/acre. Proposed units: $1 / (8704 \text{ lot size} / 43560 \text{ acre})$ or $1 / .19 = 5.26$; < 7 unit per acre limitation. The proposal complies with base residential density of the zoning district. **Affirmative finding.**

Table 4.4.5-3 Residential District Dimensional Standards

Zoning District	Max. Lot ₁ Coverage	Setbacks			Height:
		Front	Side	Rear	
RL; WRL	35%	Min/Max: Ave. of 2 adjacent lots on both sides +/- 5-feet	Min: 10% of lot width Or ave. of side yard setback of 2 adjacent lots on both sides Max required:	Min: 25% of lot depth but in no event less than 20' Max required: 75-feet	35-feet

69 Scarff as proposed	33.8%	27'	5' 3 5/8 "(10% lot width)	42' 9 1/8" (25%)	34'6" to ridgeline.
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Affirmative finding.

(c) Permitted and Conditional Uses

A single family detached dwelling is a permitted use in the RL zoning district. **Affirmative finding.**

(d) District Specific Regulations

1. *Setbacks*

No setback encroachments are proposed or sought. Not applicable.

2. *Height*

No height exception is proposed or sought. Not applicable.

3. *Lot Coverage*

No exceptions to lot coverage are included or sought. Not applicable.

4. *Accessory Residential Structures and Uses*

The garage is integrated into the design of the home, and is subject to applicable standards of Section 5.6.2.2. (h), below.

5. *Residential Density*

The occupancy of the dwelling unit is limited to members of a family as defined in Article 13. Any divergence from the limitations of functional family and occupancy of more than four unrelated adults is subject to Conditional Use Review and approval by the DRB.

Affirmative finding as conditioned.

6. *Uses*

There is no Neighborhood Commercial Use at this location. Not applicable.

7. *Residential Development Bonuses*

No development bonuses are included or sought. Not applicable.

Article 5: Citywide General Standards

Section 5.2.3 Lot Coverage Requirements

See Table 4.4.5-3, above.

Section 5.2.4 Buildable Area Calculation

The parcel is not greater than 2 acres. Not applicable.

Section 5.2.5 Setbacks

See Table 4.4.5-3, above.

Section 5.2.6 Building Height Limits

See Table 4.4.5-3, above.

Section 5.2.7 Density and Intensity of Development Calculations

See Section 4.4.5-2, above. **Affirmative finding.**

Section 5.4.9 Brownfield Remediation

Not applicable.

Section 5.5.1 Nuisance Regulations

None identified. **Affirmative finding.**

Section 5.5.2 Outdoor Lighting

Lighting is limited to downlights to be installed in the entry overhangs. **Affirmative finding.**

Section 5.5.3 Stormwater and Erosion Control

An Erosion Prevention and Sediment Control plan has been prepared and submitted for review by the Stormwater Engineering team. An email dated October 27, 2015 indicated that the plan was under review, noting “The EPSC looks great and I don’t foresee any changes needing to be made there.” It was suggested that the design team meet with engineering staff to discuss maximizing stormwater mitigation. Any plan will require approval by that department.

Affirmative finding as conditioned.

Article 6: Development Review Standards

Part 1: Land Division Design Standards

Not applicable.

Part 2: Site Plan Design Standards

Sec. 6.2.2 Review Standards

(a) Protection of Important Natural Features:

This is almost entirely a grassy lawn. No significant natural features have been identified.

Affirmative finding.

(b) Topographical Alterations:

There are no notable topographic alterations proposed; the site is flat. **Affirmative finding.**

(c) Protection of Important Public Views:

There are no protected public views from this site. Not applicable.

(d) Protection of Important Cultural Resources:

Burlington’s architectural and cultural heritage shall be protected through sensitive and respectful redevelopment, rehabilitation, and infill. Archeological sites likely to yield information important to the city’s or the region’s pre-history or history shall be evaluated, documented, and avoided whenever feasible. Where the proposed development involves sites

listed or eligible for listing on a state or national register of historic places, the applicant shall meet the applicable development and design standards pursuant to Sec. 5.4.8(b).

There are no historic structures or sites on this parcel. Not applicable.

(e) Supporting the Use of Renewable Energy Resources:

There is nothing within the application to suggest the use of wind, water, geothermal, solar or other alternative energies. **Affirmative finding.**

(f) Brownfield Sites:

None identified. Not applicable.

(g) Provide for nature's events:

Special attention shall be accorded to stormwater runoff so that neighboring properties and/or the public stormwater drainage system are not adversely affected. All development and site disturbance shall follow applicable city and state erosion and stormwater management guidelines in accordance with the requirements of Art 5, Sec 5.5.3.

Design features which address the effects of rain, snow, and ice at building entrances, and to provisions for snow and ice removal or storage from circulation areas shall also be incorporated.

One entrance is articulated on the east side, with direction from an access walkway from the public sidewalk. There is a modest roof overhang that will have a recessed lighting fixture. There may be another entrance on the rear addition, first floor east side, also surrounded by dark siding and under an overhang.

The stylized roofline provides for a sleek, clean volume, intended to create a thermal envelope. If the applicant proposes using the roof deck in the winter, a plan for snow storage will need to be identified so it is not thrown on neighboring properties, which are approximately 5' away.

Affirmative finding as conditioned.

(h) Building Location and Orientation:

The building is a gable front orientation to the public street, referencing a typical residential orientation. The building front is aligned with the front façade of neighboring buildings, reinforcing the street edge.

The site plan has been altered from the original submitted to conform to the ordinance requirements for setbacks and driveway width.

The street facing garage wall is set back approximately 32' from the front property line, meeting the required 25' setback.

The garage entrance constitutes more than 50% of the width of the street facing façade; this may be permitted if the garage entrance is within a single roofline and wholly integrated into the overall design with living space above. It is a requirement that the primary pedestrian entrance offers a clear and welcoming entrance from the street. In this case, the door is not visible from the street, but wrapped around the east side under a recess. This standard states: *Principal buildings shall have their main entrance facing and clearly identifiable from the public street.*

The Design Advisory Board differentiated between the *door* and the *entrance*, and using a literal interpretation found that the *primary entrance* was clearly discernable from the street due to the access walkway and recessed lit entrance; meeting this standard.

A clear and welcoming primary entrance is a requirement for allowing a street facing garage wall to utilize more than 50% of the building front, as this project proposes.

This standard also requires that each bay of the garage shall have a separate entrance door of no more than 10' in width. As proposed, the garage door will exceed this standard. Although the DAB supports the design of a single width garage door, particularly with the proposed plan, they have advised the applicant that the standard limits any garage door to 10' in width. **Affirmative finding as conditioned.**

(i) Vehicular Access:

There is currently no curb cut to the property. A curb cut permit will be required from the Department of Public Works.

A driveway is proposed directly from Scarff Avenue, which may require the removal of 2 street trees within the right-of-way. If so, the city arborist must provide consent and the opportunity to condition their replacement.

The driveway is proposed to meet the 18' limitation for residential driveways.

The driveway and parking area are required to meet a minimum 5' side yard setback.

Affirmative finding as conditioned.

(j) Pedestrian Access:

A walkway is proposed between the public sidewalk and the primary entrance. **Affirmative finding.**

(k) Accessibility for the Handicapped:

This is not a requirement for a single family home, but encouraged. Vermont "visibility" standards may apply. **Affirmative finding.**

(l) Parking and Circulation:

For a single family residence, 2 parking spaces will be required. The application proposes a two car garage, and a driveway that could accommodate tandem parking. A curb cut permit will be required from the Department of Public Works. **Affirmative finding as conditioned.**

(m) Landscaping and Fences:

A landscaping plan will be required prior to review by the Development Review Board. It appears that two street trees may be removed to accommodate the new driveway. Consultation with the Department of Public Works and specifically the city arborist will be required to confirm the acceptability of the plan, and to arrange for replacement street trees that conform to the city Master Tree Plan. **Affirmative finding as conditioned.**

(n) Public Plazas and Open Space:

None are required from this private parcel. Not applicable.

(o) Outdoor Lighting:

Where exterior lighting is proposed the applicant shall meet the lighting performance standards as per Sec 5.5.2.

See Section 5.5.2, above.

(p) Integrate infrastructure into the design:

Exterior storage areas, machinery and equipment installations, service and loading areas, utility meters and structures, mailboxes, and similar accessory structures shall utilize setbacks, plantings, enclosures and other mitigation or screening methods to minimize their auditory and visual impact on the public street and neighboring properties to the extent practicable.

Utility and service enclosures and screening shall be coordinated with the design of the principal building, and should be grouped in a service court away from public view. On-site utilities shall be placed underground whenever practicable. Trash and recycling bins and dumpsters shall be located, within preferably, or behind buildings, enclosed on all four (4) sides to prevent blowing trash, and screened from public view.

Any development involving the installation of machinery or equipment which emits heat, vapor, fumes, vibration, or noise shall minimize, insofar as practicable, any adverse impact on neighboring properties and the environment pursuant to the requirements of Article 5, Part 4 Performance Standards.

New utility lines must be buried. No ground mounted mechanical equipment is proposed. All meters, mailboxes, and utility connections must be identified on the site plan and/or building elevations as appropriate. Screening may be required for meters and HVAC equipment. Trash and recycling are proposed to be located within the garage. **Affirmative finding as conditioned.**

Part 3: Architectural Design Standards

Sec. 6.3.2 Review Standards

(a) Relate development to its environment:

1. Massing, Height and Scale:

In low and medium density residential districts, the height and massing of existing residential buildings are the most important consideration when evaluating the compatibility of additions and infill development.

The proposed new structure will be limited in width by the narrow lot and required setbacks. The DAB found that the proposed 2 ½ story gable front structure consistent in massing, height and scale with neighboring residential properties.

Buildings should maintain consistent massing and perceived building height at the street level, regardless of the overall bulk or height of the building. Buildings should maintain a relationship to the human scale through the use of architectural elements, variations of proportions and materials, and surface articulations. Large expanses of undifferentiated building wall along the public street or sidewalk shall be avoided. The apparent mass and scale of buildings shall be broken into smaller parts by articulating separate volumes reflecting existing patterns in the

streetscape, and should be proportioned to appear more vertical than horizontal in order to avoid monotonous repetition.

The modernist vocabulary eschews architectural detailing, preferring to speak as a punctuated volume with large areas of vertical sheathing. The easterly façade offers greater interest in the modernized pavilion announced in darker, horizontal sheathing which is referenced in the rear wing. The DAB was supportive of the proposed design, scale and massing. **Affirmative finding.**



2. Roofs and Rooflines.

The project location is within a neighborhood of traditional domestic style architecture featuring eaves front gabled and more complex hip, dormered and shed roofs. The modern aesthetic proposed tips it hat to the gable front orientation, but evolves into a flat roofed structure by the easterly projecting pavilion and rear one story. **Affirmative finding.**

3. Building Openings

Windows are rhythmically placed and consistent in size within the building volume. A third floor assembly of windows and patio door are largely inconspicuous from the street, but should make available a westerly view with an evening light advantage. **Affirmative finding.**



(b) Protection of Important Architectural Resources:

Burlington's architectural and cultural heritage shall be protected through sensitive and respectful redevelopment, rehabilitation, and infill. Where the proposed development involves buildings listed or eligible for listing on a state or national register of historic places, the applicant shall meet the applicable development and design standards pursuant to Sec. 5.4.8. The introduction of new buildings to a historic district listed on a state or national register of historic places shall make every effort to be compatible with nearby historic buildings.

Not applicable.

(c) Protection of Important Public Views:

Not applicable.

(d) Provide an active and inviting street edge:

The Design Advisory Board was supportive of the proposed design, and found it an attractive addition to the streetscape. **Affirmative finding.**

(e) Quality of materials:

All development shall maximize the use of highly durable building materials that extend the life cycle of the building, and reduce maintenance, waste, and environmental impacts. Such materials are particularly important in certain highly trafficked locations such as along major streets, sidewalks, loading areas, and driveways. Efforts to incorporate the use of recycled content materials and building materials and products that are extracted and/or manufactured within the region are highly encouraged.

The applicant's architect defined metal siding, with closed cell foam in the roof to accommodate the cathedral ceiling. Marvin Ultimate windows and doors (aluminum clad at the exterior, wood on the interior) are proposed. All are considered of acceptable durability. **Affirmative finding.**

(f) Reduce energy utilization:

All new construction is required to meet the Guidelines for Energy Efficient Construction pursuant to the requirements of Article VI. Energy Conservation, Section 8 of the City of Burlington Code of Ordinances.

New structures should take advantage of solar access where available, and shall undertake efforts to reduce the impacts of shadows cast on adjacent buildings where practical, in order to provide opportunities for the use of active and passive solar utilization.



The design chooses not to take advantage of the available southerly exposure for passive solar gain; however the owner informed that the particular interior space will be a theatre room where darkness is desired.

Shadows are not anticipated to immediately present negative impact to adjacent properties. The third floor element is likely to minimally cast a shadow on the garage area of 75 Scarff Avenue, not living space. **Affirmative finding as conditioned.**

(g) Make advertising features complementary to the site:

No signage is proposed. Not applicable.

(h) Integrate infrastructure into the building design:

See Section 6.2.2. (l), above.

(i) Make spaces secure and safe:

The proposed building must comply with all building and life safety code as defined by the building inspector and fire marshal. **Affirmative finding as conditioned.**

Article 8: Parking

Per Table 8.1.8-1, single family dwellings require 2 parking spaces in the Neighborhood Parking District. The integrated garage and driveway will provide all required parking for the use.

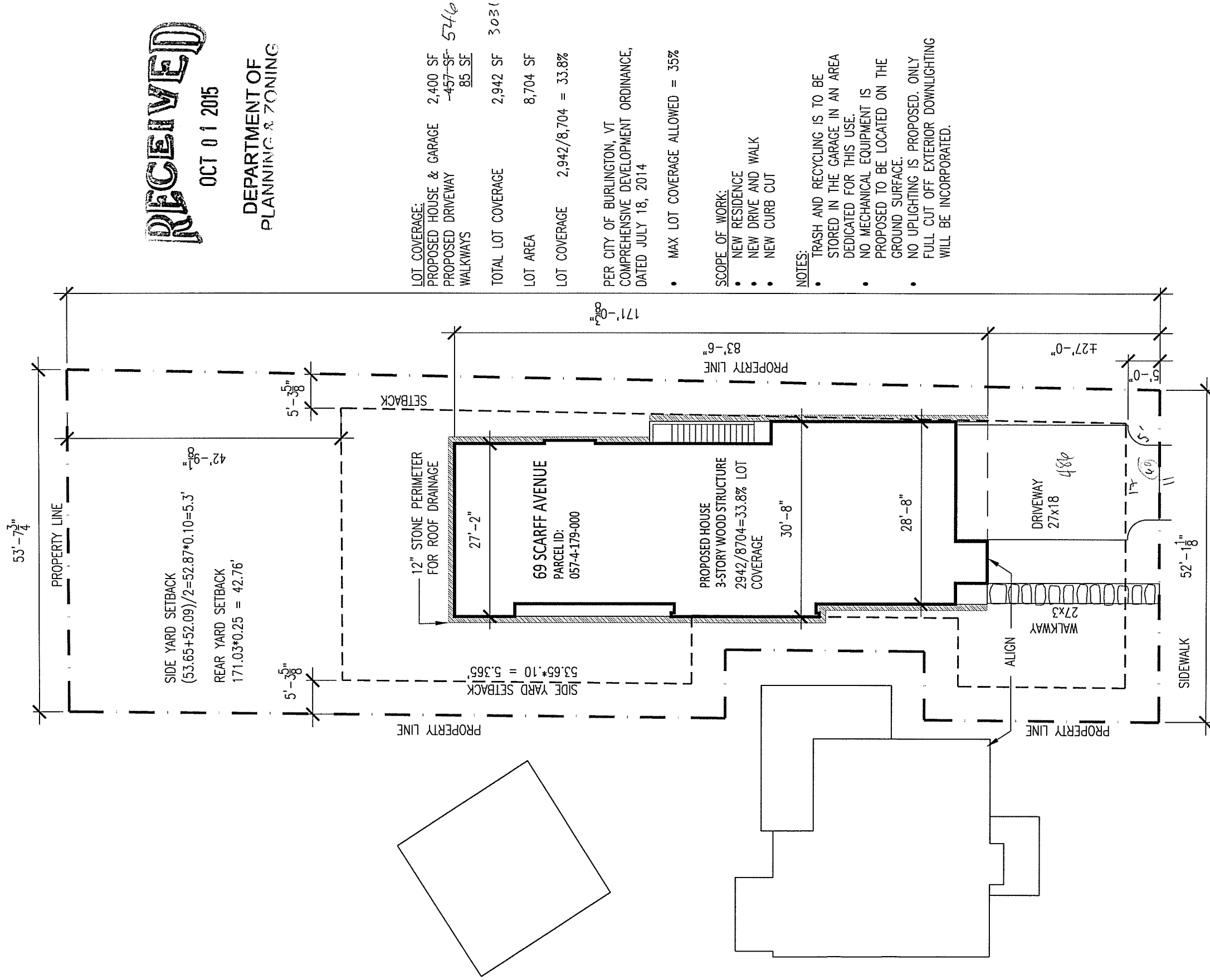
Affirmative finding.

II. Conditions of Approval

1. At least 7 days prior to the issuance of a certificate of occupancy, the applicant shall pay to the City Treasurer's Office or Planning and Zoning office impact fees as calculated by staff based on the net new square footage of the proposed development.
2. **Prior to release of the zoning permit**, all meters, mailboxes, and utility connections must be identified on the site plan and/or building elevations as appropriate. Screening may be required.

3. A landscaping plan will be required prior to review by the Development Review Board.
4. A new EPSC and Stormwater Plan specific to this development will require approval of the stormwater engineer.
5. Setbacks will have to meet Table 4.4.5-3 of the Comprehensive Development Ordinance.
6. Driveway width is limited to 18'.
7. Each bay of the garage shall have a garage door not exceeding 10' in width.
8. Hours of construction are limited to Monday-Friday 7:30 am to 5:30 pm; Saturday construction hours are limited to interior work unless specific allowances are granted by the DRB.
Construction is not permitted on Sundays.
9. The property will be subject to limitations of the Functional Family provisions of the ordinance.
Not more than four unrelated adults may occupy the residential unit.
10. A curb cut permit from the Department of Public Works is required.
11. Trees within the public right-of-way shall not be removed or altered without the expressed consent of the city arborist.
12. A State of Vermont wastewater permit is required.
13. Standard Permit Conditions 1-15.

NOTE: These are staff comments only. The Development Review Board, who may approve, table, modify, or deny projects, makes decisions.



2 SITE PLAN - 69 SCARFF AVENUE

SCALE: 1/16" = 1'-0"

LOT COVERAGE:
PROPOSED HOUSE & GARAGE 2,400 SF
PROPOSED DRIVEWAY 457-SF-524
WALKWAYS 85 SF

TOTAL LOT COVERAGE 2,942 SF 3031

LOT AREA 8,704 SF

LOT COVERAGE 2,942/8,704 = 33.8%

PER CITY OF BURLINGTON, VT
COMPREHENSIVE DEVELOPMENT ORDINANCE,
DATED JULY 18, 2014

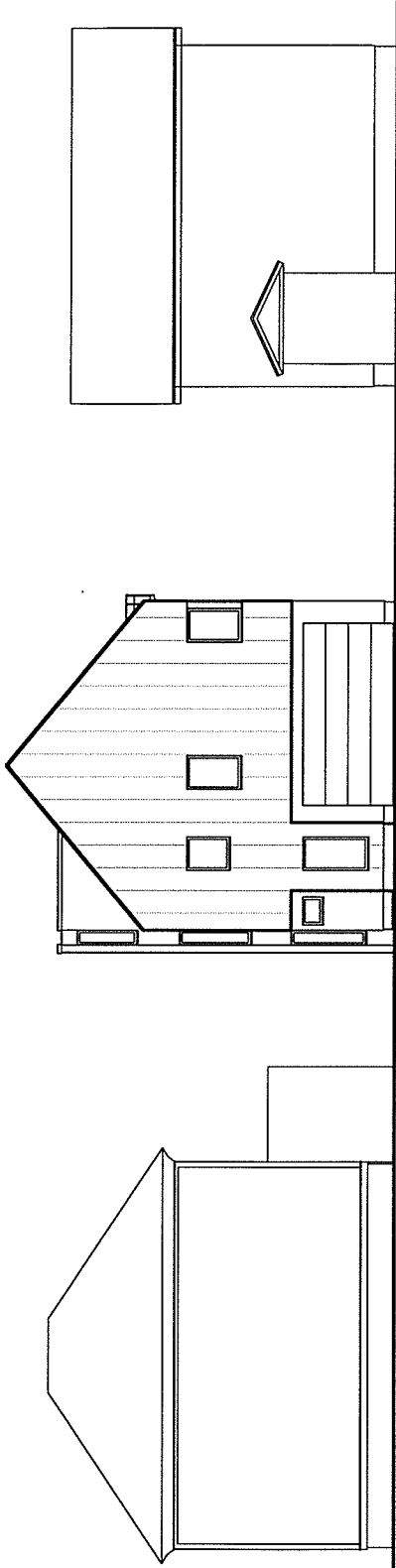
- MAX LOT COVERAGE ALLOWED = 35%

SCOPE OF WORK:

- NEW RESIDENCE
- NEW DRIVE AND WALK
- NEW CURB CUT

NOTES:

- TRASH AND RECYCLING IS TO BE STORED IN THE GARAGE IN AN AREA DEDICATED FOR THIS USE.
- NO MECHANICAL EQUIPMENT IS PROPOSED TO BE LOCATED ON THE GROUND SURFACE.
- NO UPLIGHTING IS PROPOSED. ONLY FULL CUT OFF EXTERIOR DOWNLIGHTING WILL BE INCORPORATED.



1 STREET ELEVATION

SCALE: 1/16" = 1'-0"

REVISED 10/1/2015

RECEIVED

OCT 01 2015

DEPARTMENT OF
PLANNING & ZONING

RECEIVED
SEP 23 2015
DEPARTMENT OF
PLANNING & ZONING



1 **RENDERING OF VIEW FROM STREET**
SCALE: NTS

RECEIVED

SEP 23 2015

DEPARTMENT OF
PLANNING & ZONING

WINDOWS: MARVIN ULTIMATE – WOOD ALUMINUM CLAD
DOORS: MARVIN ULTIMATE – WOOD ALUMINUM CLAD
SIDING: METAL (RHEINZINK OR SIMILAR)



1 NORTH ELEVATION
SCALE: 1/8" = 1'-0"

PLANNING AND ZONING

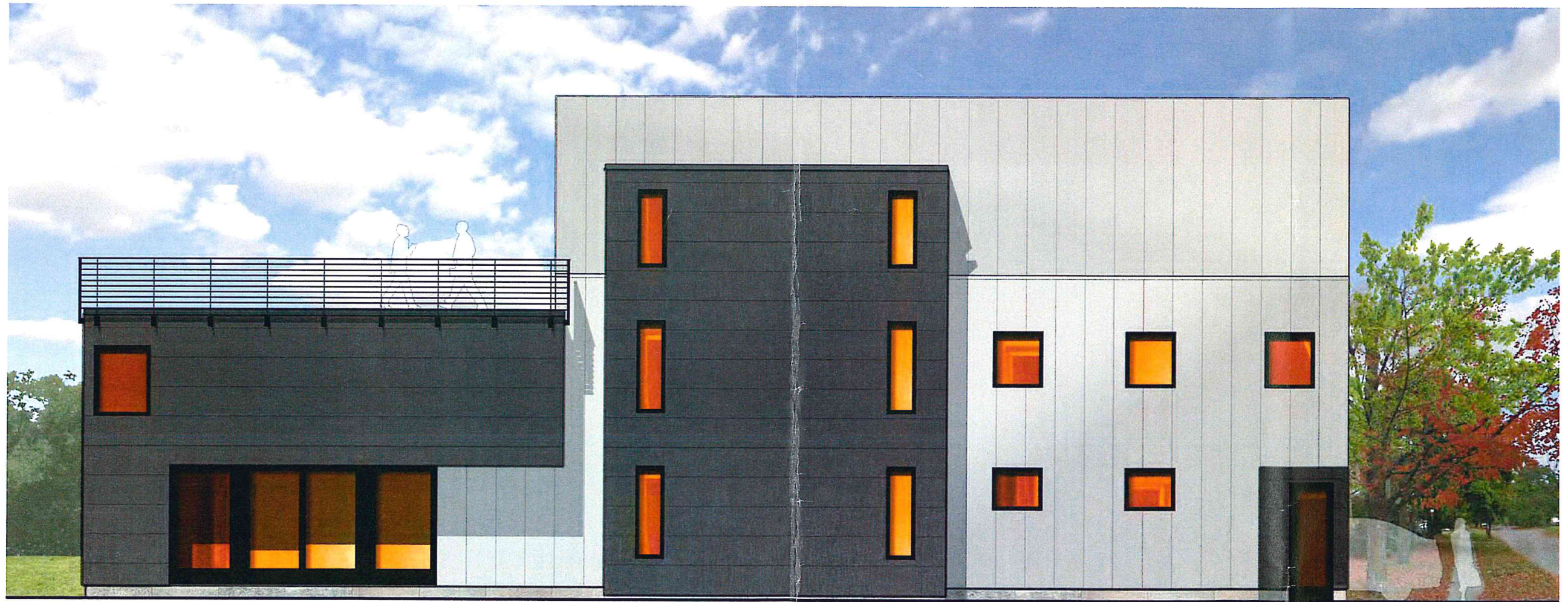
EACH RESIDENCE

FOR KREDEL ARCHITECTS

WINDOWS: MARVIN ULTIMATE – WOOD ALUMINUM CLAD
DOORS: MARVIN ULTIMATE – WOOD ALUMINUM CLAD
SIDING: METAL (RHEINZINK OR SIMILAR)

RECEIVED
SEP 23 2015

DEPARTMENT OF
PLANNING & ZONING



1 EAST ELEVATION
SCALE: 1/8" = 1'-0"

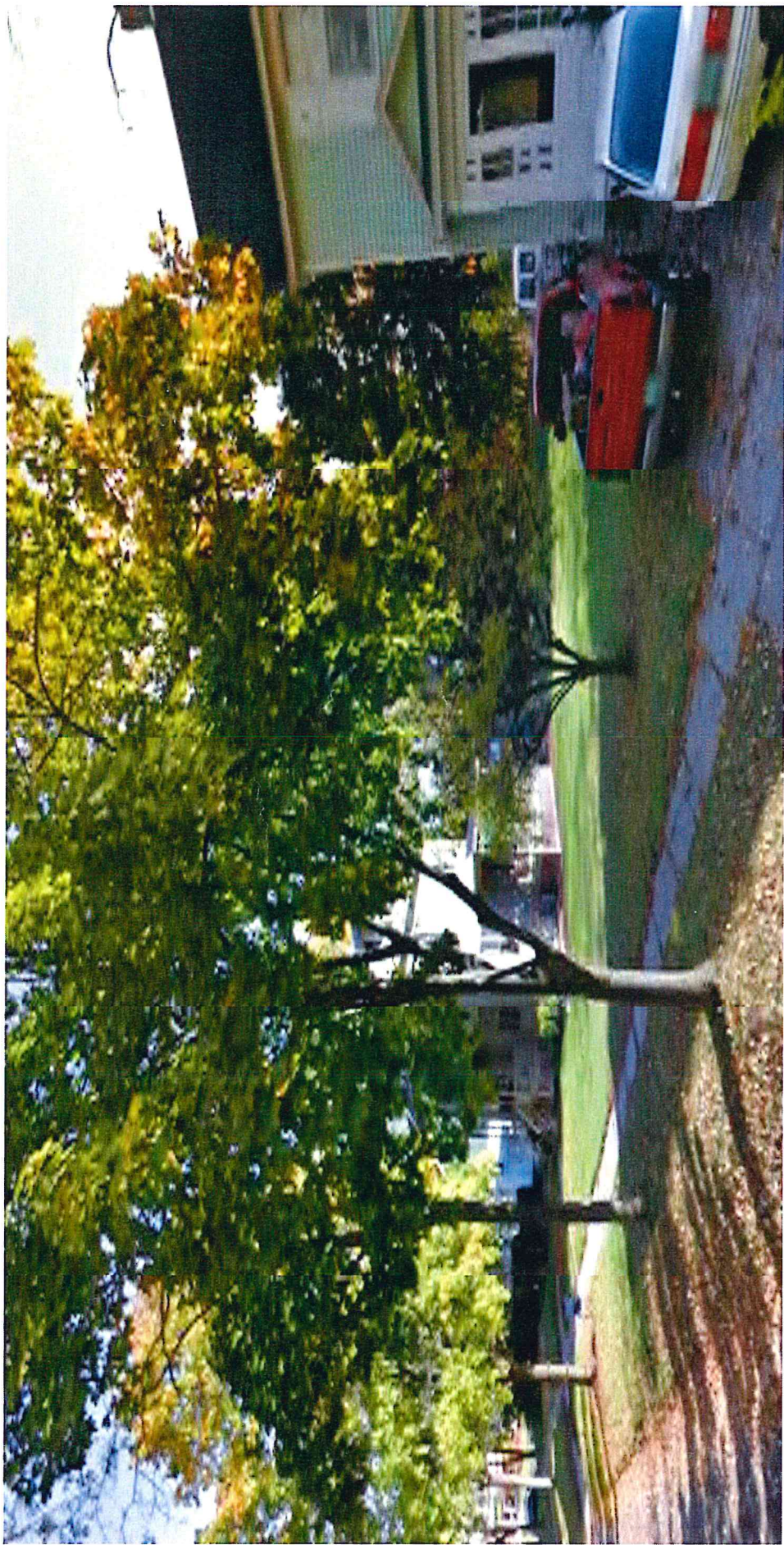
WINDOWS: MARVIN ULTIMATE – WOOD ALUMINUM CLAD
DOORS: MARVIN ULTIMATE – WOOD ALUMINUM CLAD
SIDING: METAL (RHEINZINK OR SIMILAR)

RECEIVED
SEP 23 2015

DEPARTMENT OF
PLANNING & ZONING

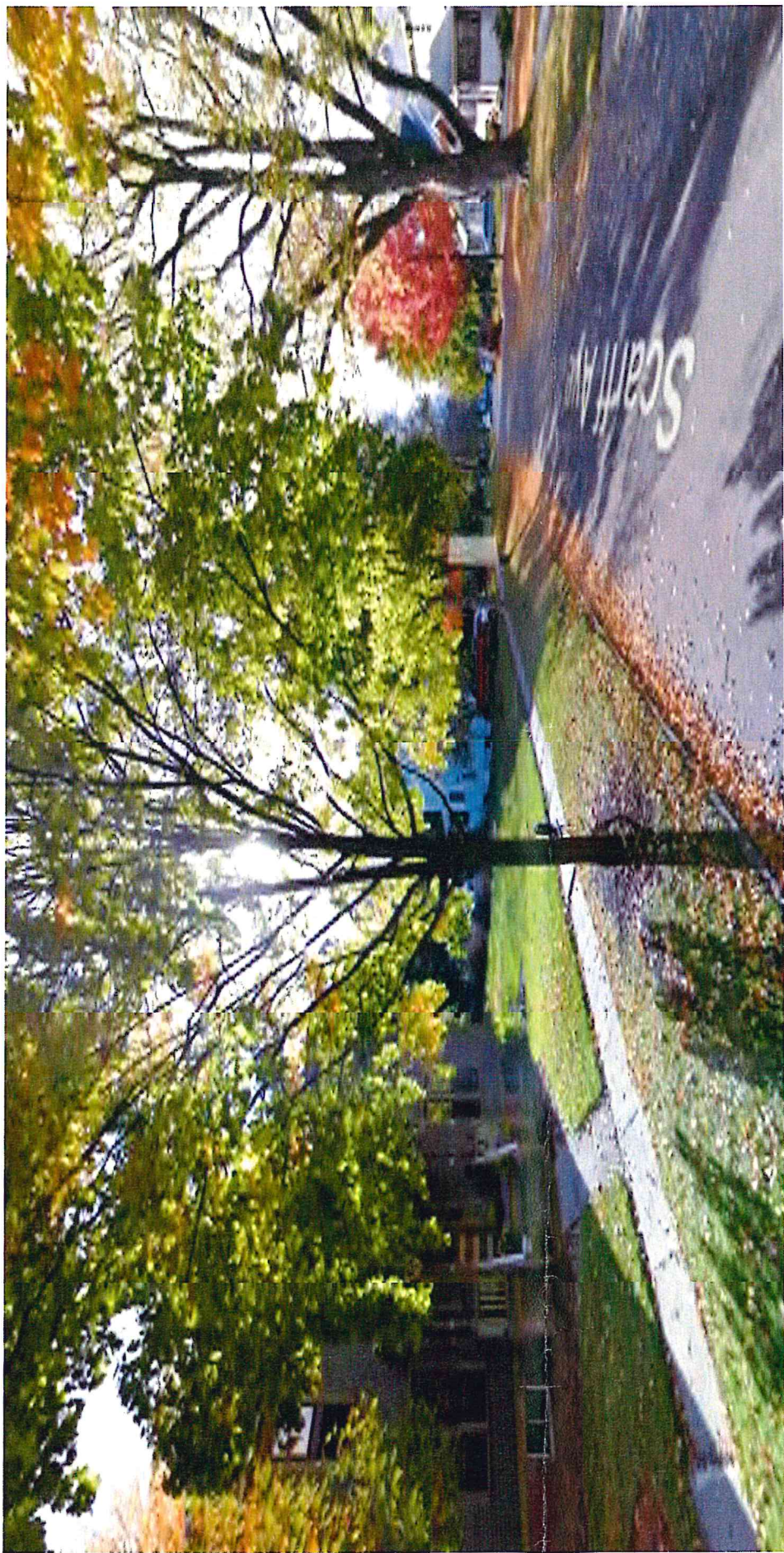


1 WEST ELEVATION
SCALE: 1/8" = 1'-0"



2 SITE PHOTO - LOOKING EAST

SCALE: N.T.S.



1 SITE PHOTO - LOOKING WEST

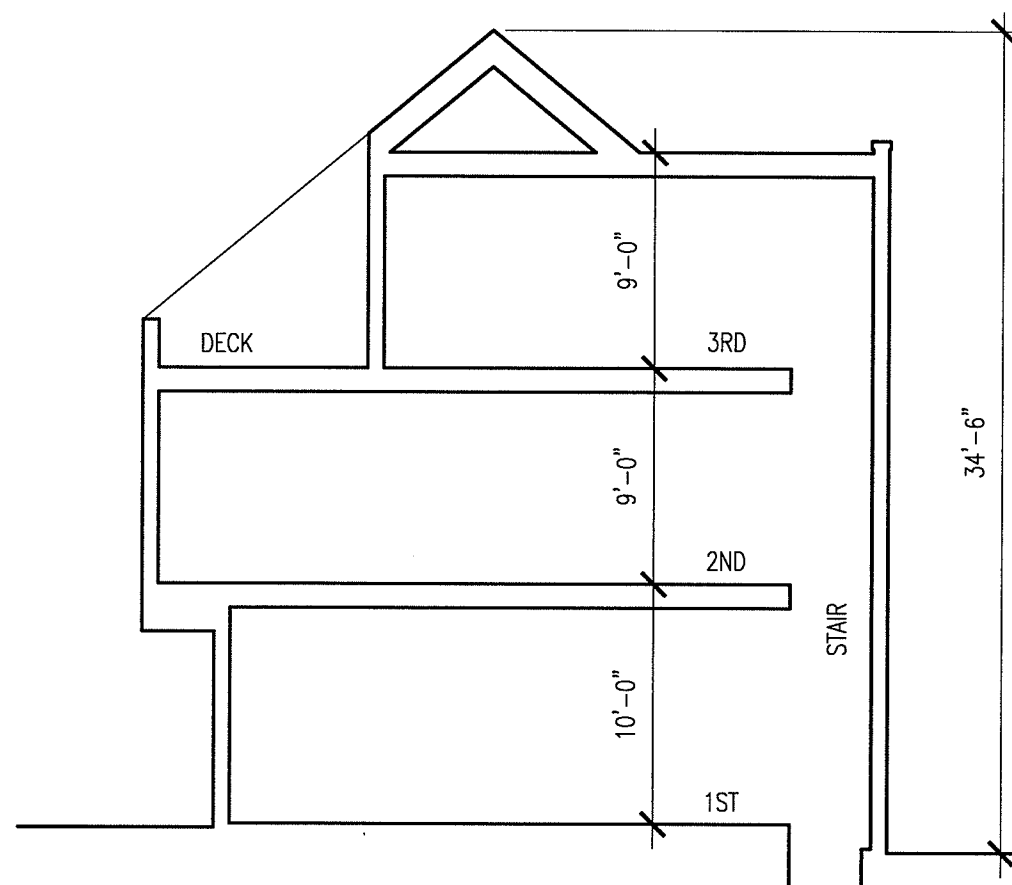
SCALE: N.T.S.

RECEIVED
SEP 23 2019
DEPARTMENT OF
PLANNING & ZONING

RECEIVED

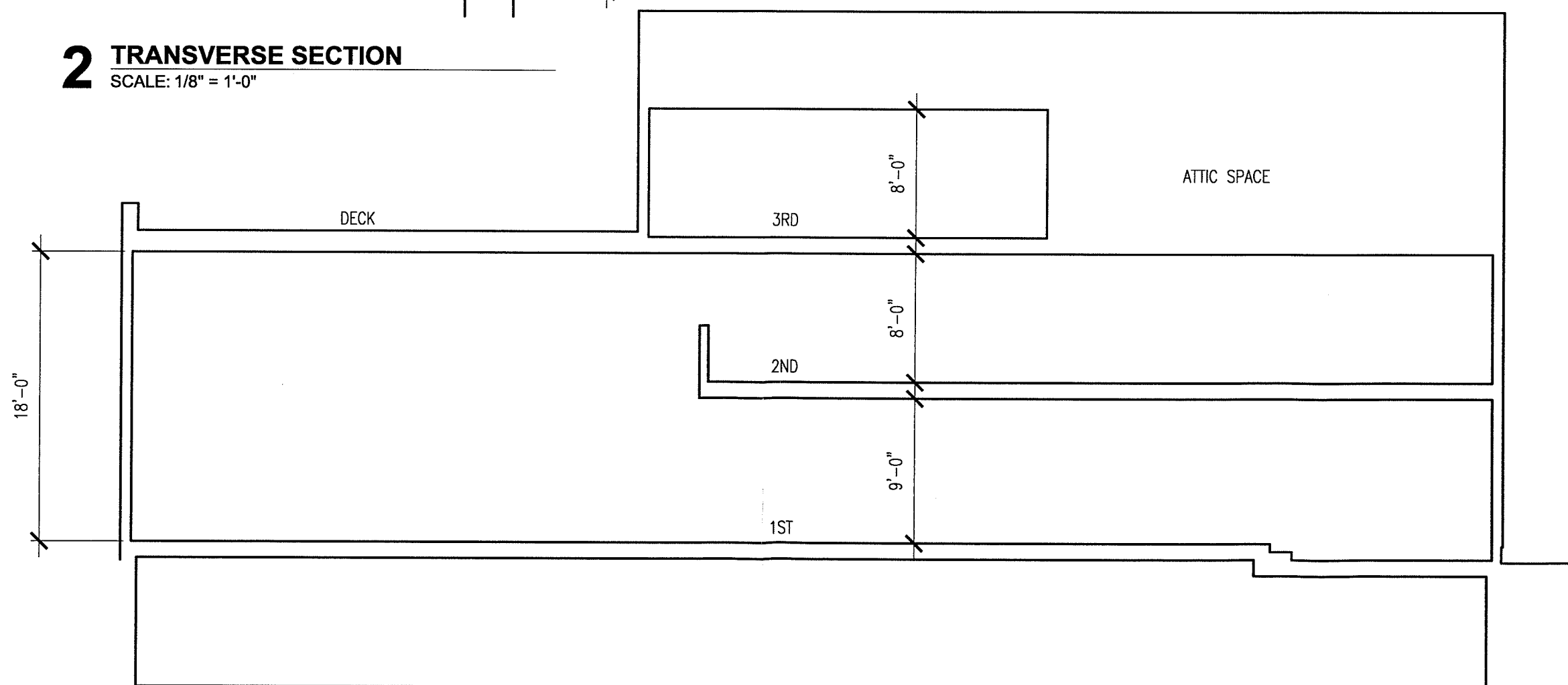
SEP 23 2015

DEPARTMENT OF
PLANNING & ZONING



2 TRANSVERSE SECTION

SCALE: 1/8" = 1'-0"



1 LONGITUDINAL SECTION

SCALE: 1/8" = 1'-0"

RECEIVED
SEP 23 2015
DEPARTMENT OF
PLANNING & ZONING

WINDOWS: MARVIN ULTIMATE – WOOD ALUMINUM CLAD
DOORS: MARVIN ULTIMATE – WOOD ALUMINUM CLAD
SIDING: METAL (RHEINZINK OR SIMILAR)



1 SOUTH ELEVATION
SCALE: 1/8" = 1'-0"

PLANNING AND ZONING
LEACH RESIDENCE
EOD KREDEL ARCHITECTS

Burlington Development Review Board

149 Church Street, City Hall
Burlington, VT 05401

www.burlingtonvt.gov/pz/DRB

Telephone: (802) 865-7188

Fax (802) 865-7195

Austin Hart
Brad Rabinowitz
Jonathan Stevens
Alexandra Zipparo
Israel Smith
AJ LaRosa
Geoff Hand

Wayne Senville, (Alternate)
Jim Drummond, (Alternate)



BURLINGTON DEVELOPMENT REVIEW BOARD Tuesday November 17, 2015, 5:00 PM Contois Auditorium, City Hall, 149 Church Street, Burlington, VT AMENDED AGENDA

- I. **Agenda**
- II. **Communications**
- III. **Minutes**
- IV. **Consent**
 - 1. **16-0406CA/CU; 69 Scarff Avenue (RL, Ward, 5S) Matthew H. Leach**
Construction of new single family dwelling with attached garage.
(Project Manager, Mary O'Neil)
- V. **Public Hearing**
 - 1. **16-0477AP; 99 Loomis Street (RL, Ward 1E) Jonathan Lubis**
Appeal of Zoning Violation #291859 relative to occupancy by unrelated adults.
(Project Manager, Jeanne Francis)
 - 2. **16-0239CA; 18 Adsit Court (RL, Ward 1E) Eugene Day III**
Appeal of zoning permit denial to replace main and center wooden porch posts with PT lumber, also replace railings/cross bars with PT lumber. Replace wooden porch ceiling in-kind. Replace wooden flooring with composite material. (Project Manager, Scott Gustin)
 - 3. **16-0325CU; 34 Spring Street (RM, Ward 2C) Christopher Valin**
Establish bed and breakfast utilizing back yard cottage and also establish boarding house within existing home. (Project Manager, Scott Gustin) *Applicant has requested deferral to future date.*
 - 4. **16-0151DT; 2-8 Hickok Place (RM, Ward 2C) Diemer Apartments, LLC**
Appeal of an adverse determination relative to grandfathering of five and six bedroom usage of four living units. (Project Manager, Scott Gustin)
- VI. **Certificate of Appropriateness**
 - 1. **16-0375CA; 311-329 North Ave (RM, Ward 7) BC Community Housing LLC**
Continued review of five year tree maintenance plan for 311 and 329 North Avenue. (Project Manager, Scott Gustin)
- VII. **Other Business**
- VIII. **Adjournment**

Plans may be viewed in the Planning and Zoning Office, (City Hall, 149 Church Street, Burlington), 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 Planning and Zoning office is considered public and cannot be kept confidential.

This may not be the final order in which items will be heard. Please view final Agenda, at www.burlingtonvt.gov/pz/drdb/agendas or the office notice board, one week before the hearing for the order in which items will be heard.

The programs and services of the City of Burlington are accessible to people with disabilities. Individuals who require special arrangements to participate are encouraged to contact the Department of Planning & Zoning at least 72 hours in advance so that proper accommodations can be arranged. For information call 865-7188 (TTY users: 865-7142).
Printed on 100% Recycled Paper

Department of Planning and Zoning

149 Church Street
Burlington, VT 05401
Telephone: (802) 865-7188
(802) 865-7195 (FAX)
(802) 865-7142 (TTY)

David White, AICP, Director
Meagan Tuttle, AICP, Comprehensive Planner
Jay Appleton, GIS Manager
Scott Gustin, AICP, Principal Planner
Mary O'Neil, AICP, Principal Planner
Anita Wade, Zoning Clerk
Elsie Tillotson, Department Secretary



TO: Development Review Board
FROM: Scott Gustin
DATE: November 17, 2015
RE: 16-0239CA; 18 Adsit Court

=====

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

Zone: RL Ward: 1E

Owner/Appellant: Eugene Day III

Request: Appeal of zoning permit denial to replace main and center wooden porch posts with PT lumber, also replace railings/cross bars with PT lumber. Replace wooden porch ceiling in-kind. Replace wooden flooring with composite material.

Overview:

The appellant is seeking approval to remove existing wooden porch flooring and to replace it with a PVC-base composite flooring material. Both materials are tongue-in-groove. The home is listed on the Vermont Register of Historic Places and is subject to the standards of Sec. 5.4.8, *Historic Buildings and Sites*, of the Comprehensive Development Ordinance (CDO). The zoning permit application was denied, and an appeal has been filed.

Recommendation: **Uphold zoning denial** based on the following findings and conditions:

I. Findings:

On August 14, 2015, the appellant submitted a zoning permit application for renovations to the front porch of his home at 18 Adsit Court. Among the renovations, the existing wooden porch flooring was to be removed and replaced with Aeratis Traditions porch flooring (a PVC-base composite material).

After review of the application, zoning staff contacted the appellant on September 3, 2015 to inform him that removal of wooden material and replacement with composite material would be problematic under the historic preservation standards of Sec. 5.4.8. The appellant considered alternatives and responded to zoning staff on September 10, 2015 that he would like to pursue use of the composite flooring material.

On September 14, 2015, the zoning application was denied per the following reasons:

1. The subject property is included in the Vermont Historic Sites & Structures survey and is subject to review under the historic preservation criteria of Sec. 5.4.8, *Historic Buildings and Sites*, of the Comprehensive Development Ordinance. The sites & structures listing for

this property notes the front porch on the home and, in particular, the architectural details on this important building feature. Of the four Craftsman style Vernacular homes on Adsit Court, the listing notes that this house and the one next door (14 Adsit Court) are the best preserved examples of a style rare in Burlington. Sec. 5.4.8, (b) *Standards and Guidelines*, states that the removal of distinctive materials is to be avoided. Distinctive materials and features are to be preserved. Deteriorated historic features should be repaired. If replacement is needed, replacement materials should match existing. The proposed composite (PVC) porch flooring is a material change from the existing tongue-in-groove wooden porch flooring and is inconsistent with the standards of Sec. 5.4.8.

On September 25, 2015, the appeal was filed within 15 days as required. The appeal notes the deteriorated condition of the existing wooden porch flooring and the need to replace it. The appeal asserts that the composite material is similar in appearance to the wooden flooring and is expected to resist rot and hold paint better. The appeal also asserts that the denial prioritized materials over appearance.

Sec. 5.4.8, *Historic Buildings and Sites*, of the Comprehensive Development Ordinance is aimed at protecting historically significant buildings – to protect those buildings that are well preserved and also to stem the flow of deterioration of others that have been altered over time. The home at 18 Adsit Court is very well preserved with exceptional integrity. Building form, style, and materials all remain intact. The proposed work is within the front porch, part of the building's primary façade. The standards of Sec. 5.4.8 are aimed at preserving the appearance of building features and also at preserving materials. Under the standards of Sec. 5.4.8, there is longstanding precedent for materials retention, whether wooden windows, slate roofing, or wooden balusters. Some examples of historically significant properties with in-kind wooden porch floor replacement include 35 Isham Street, 272 Church Street, and 12 Brookes Avenue.

In sum, denial of the zoning permit application is appropriate per the following:

- The home at 18 Adsit Court retains integrity of building form, style, and materials.
- Sec. 5.4.8 calls for retention of historic features, including materials.
- Exterior materials composition has remained intact since construction in 1909.
- The proposed alteration is on the primary façade of this historic structure.

II. Recommended Motion:

Uphold the denial of zoning permit application 16-0239CA.



Department of Planning and Zoning

149 Church Street, City Hall

Burlington, VT 05401-8415

Phone: (802) 865-7188

Fax: (802) 865-7195

www.burlingtonvt.gov/pz

RECEIVED
SEP 25 2015

Appeal of an Administrative Decision Request

DEPARTMENT OF
PLANNING & ZONING

Use this form to appeal any Administrative Decision or Notice of Violation - See Sec. 12.2.2 of the Zoning Ordinance.

SUBJECT LOCATION ADDRESS: 18 ADSIT CT

Subject Property Owner: GENE DAY

Appellant: GENE DAY

Agent/Representative: N/A

Mailing Address: 18 ADSIT CT

City, St, Zip: BURLINGTON, VT 05401

Day Phone: 802-735-2020 Email: ddayiii@gmail.com

Appellant Signature: [Signature] Date: 9-24-2015

In order for your request to be considered complete, **ALL** of the following information **must** be provided, as applicable:

- ☒ The Appeal fee of \$250;
- ☒ Description of the decision under appeal;
- ☒ Description of the property subject to the appeal;
- ☒ Reference to the regulatory provisions applicable to the appeal;
- ☒ Relief requested by the appellant;
- ☒ Alleged grounds why such requested relief is believed proper under the circumstances.

Office Use Only:

Check No. 137 Amount Paid 250.- Zoning Permit # 16-0239CA

Available online at <http://bit.ly/1MLC7qo>

18 Adsit Front Porch A Case for Aeratis Traditions

Gene Day

ddayiii@gmail.com

802.735.2020

My Front Porch is Rotting Away



Tongue and groove floor is soft and won't hold paint.

Wherever the floor meets a column, there is serious rot.

Plan to Repair for Long-Term Durability and Appearance

Replace posts and rails with pressure-treated wood, paint to match current color scheme

Replace ceiling with matching wood material, paint to match current color scheme

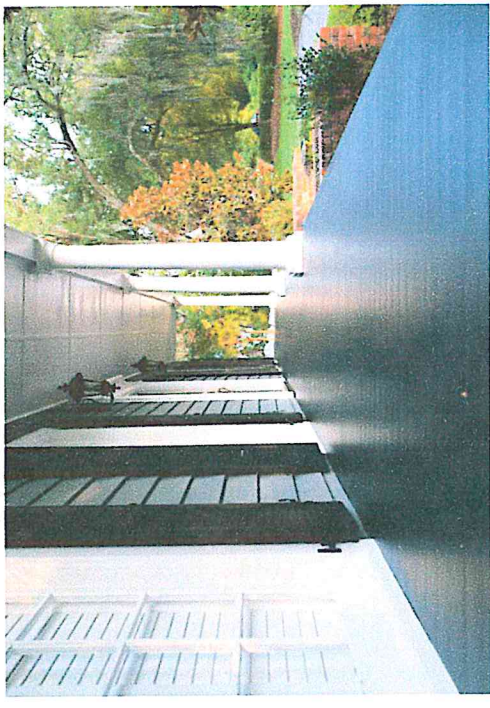
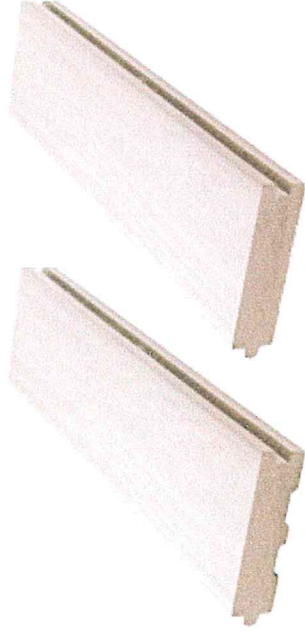
Replace floor with [Aeratis Traditions tongue & groove boards](#), paint to match current color scheme

What Is Aeratis Traditions?

Aeratis Traditions is an uncolored, paint-ready, pvc-based board that is designed specifically for those who want the look of a traditional painted porch.

Traditions can be painted or stained in any color.

Historically accurate profile and virtually indistinguishable from wood when painted.



Advantages of Aeratis Traditions

20 year warranty, ADA slip-compliant, Class A fire rating

Termite and mold proof

Dimensionally stable

5-A paint adhesion, the strongest paint adhesion in the industry. Paint literally bonds to the product. I soaked a painted sample in a bucket of water for a month. The paint didn't come off; the product didn't swell. It's been sitting outside on my porch for over a year with no change due to temperature or precipitation.

Approved in 48 states for historic restorations and restorations on National Register properties.

The Problem with Tongue & Groove Wood Porch Floors

Tongue & groove wood boards are not designed to be exposed to water.

- Water seeps through cracks
- Water is trapped by the tongue and distributed along the groove
- Wood retains the moisture, **paint loses adhesion**
- Boards **prematurely rot**

Old tongue & groove floors lasted longer because the wood was old growth which better resists moisture and rot.

- Most available wood products are not old growth; those forests are gone. My seven year old tongue and groove fir back porch floor is already rotting and has required repainting four times.
- Even pressure-treated tongue & groove porch floors [require priming on all six sides.](#)

Permit Approval Seems Obvious, Right?

Historically accurate look that is virtually indistinguishable from wood and has been used on National Historic Register properties

Less maintenance

Lasts longer

Lower cost of ownership over the lifetime of the product due to less maintenance and no rot

No run-down, worn-off, peeling paint look so common in this college ghetto

Permit Denied Based on [Section 5.4.8!!!](#)

		Zoning Permit - COA Level I - Reasons for Denial	
City of Burlington, Vermont 149 Church Street		ZP #: 16-0239CA	Tax ID: 045-2-221-000
		Issue Date: September 14, 2015	Decision: Denied
		Property Address: 18 ADSIT COURT	

Description: Replace main and center wooden porch posts with PT lumber, also replace railings/cross bars with PT lumber. Replace wooden porch ceiling in-kind. Replace wooden flooring with composite material.

Reasons for Denial:

1. The subject property is included in the Vermont Historic Sites & Structures survey and is subject to review under the historic preservation criteria of Sec. 5.4.8, *Historic Buildings and Sites*, of the Comprehensive Development Ordinance. The sites & structures listing for this property notes the front porch on the home and, in particular, the architectural details on this important building feature. Of the four Craftsman style Vernacular homes on Adsit Court, the listing notes that this house and the one next door (14 Adsit Court) are the best preserved examples of a style rare in Burlington. Sec. 5.4.8, (b) *Standards and Guidelines*, states that the removal of distinctive materials is to be avoided. Distinctive materials and features are to be preserved. Deteriorated historic features should be repaired. If replacement is needed, replacement materials should match existing. The proposed composite (PVC) porch flooring is a material change from the existing tongue-in-groove wooden porch flooring and is inconsistent with the standards of Sec. 5.4.8.

The State has decided my property has some [historic interest](#) due to its architecture. The City has invoked section 5.4.8 to deny the use of Aeratis Traditions flooring.

Note that section 5.4.8 indicates these are CONCEPTS that should be applied in a REASONABLE manner.

5.4.8 Historic buildings and sites.

(b) *Standards and Guidelines:* The following development standards, following the Secretary of the Interior's Standards for the Treatment of Historic Properties, shall be used in the review of all applications involving historic buildings and sites subject to the provisions of this section and the requirements for Design Review in Art. 3, Part 4. The Secretary of the Interior's Standards are basic principles created to help preserve the distinctive character of a historic building and its site. **They are a series of concepts** about maintaining, repairing and replacing historic features, as well as designing new additions or making alterations. These Standards are **intended to be applied in a reasonable manner**, taking into consideration economic and technical feasibility.

Distinctive Material Change?

Aeratis Traditions is a material change, but it is **not distinctive material change**. What makes the porch floor authentic and distinctive is the look of painted tongue and groove boards. Aeratis Traditions maintains that distinction.

The City has interpreted Sec 5.4.8 incorrectly, prioritizing materials over appearance. It believes the use of a wood trumps all other considerations, including historical accuracy:

Gene Day: If I chose a wood like ipe and didn't paint it, would that be acceptable?

Scott Gustin: Wood of any species would be acceptable.

Ipe is NOT a traditional material. Vermonters in the early 1900s did not import ipe from the Brazilian rainforest and oil down their porches. They used tongue and groove fir boards from old growth trees and painted the floors. 18 Adsit Court is no exception; it has a painted fir front porch.

Aeratis Traditions does a better job preserving the historically accurate, painted tongue & groove board distinction than wood like ipe. And, since the paint adheres better, that look persists without looking run down, making it better than any wood product.

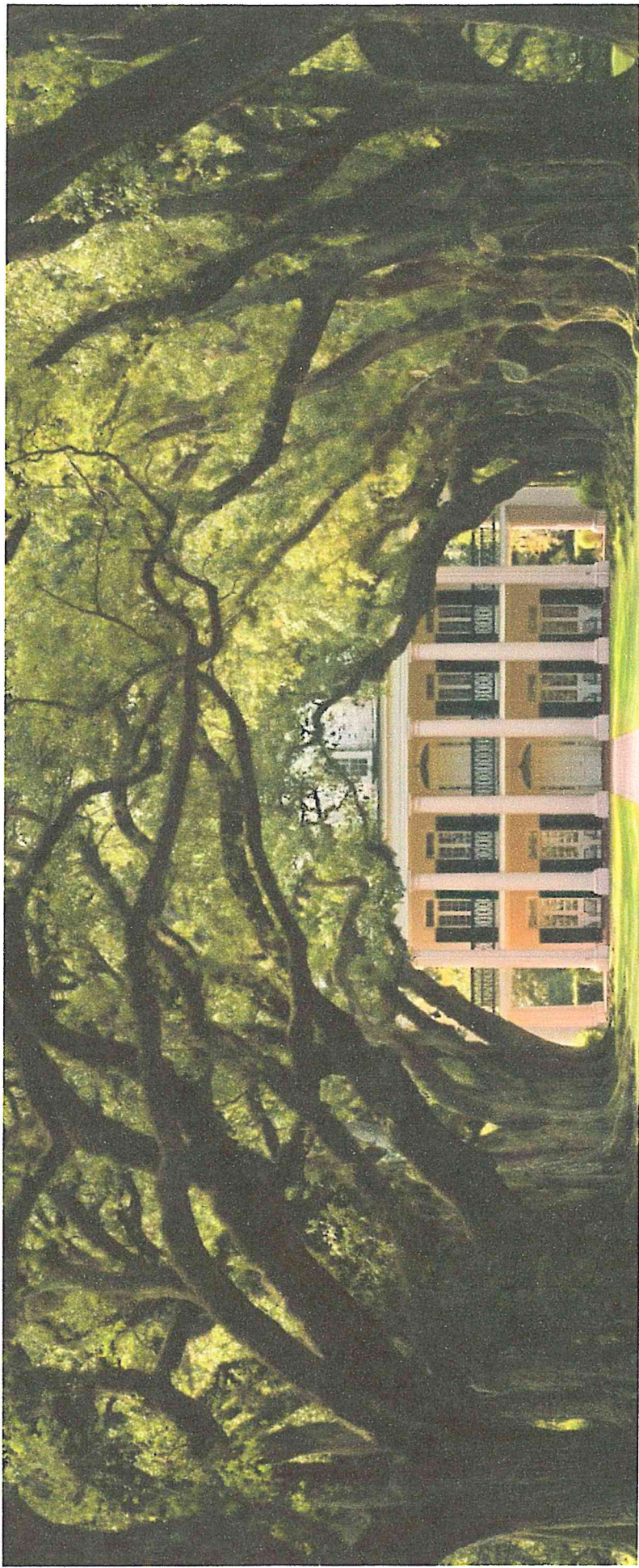
Approve this Appeal

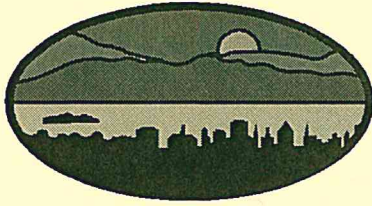
Aeratis Traditions has been approved and used on National Historic Register properties

Aeratis Traditions might not be a traditional material, but it offers the look of a traditional painted front porch. And, since paint adheres so much better than wood, that look lasts longer. It does not violate the intent of Section 5.4.8.

Aeratis Traditions fights neighborhood blight. A nice looking, well-maintained front porch shows that the owner cares. Worn down, peeling paint wood porches are just like [broken windows](#). Adsit Court is fighting for its neighborhood and losing to college kids and drug dealers.

Aeratis Traditions is good enough for the [Oak Alley Plantation](#) but not 18 Adsit Court?!?!





**ZONING REQUEST DENIAL
CERTIFICATE OF APPROPRIATENESS**

City of Burlington, Vermont
Department of Planning and Zoning

Application Date: 08/14/2015

Appeal Expiration Date: 09/29/2015

Project Location: 18 ADSIT COURT

District: RL

Owner: Eugene Day III

Ward: 1E

Address: 18 Adsit Court
Burlington, VT 05401

Tax ID: 045-2-221-000

Project Type: Residential - Renovation/Facade

Project Description: Replace main and center wooden porch posts with PT lumber, also replace railings/cross bars with PT lumber. Replace wooden porch ceiling in-kind. Replace wooden flooring with composite material.

Construction Cost:	\$2,500	Lot Size (Sq Ft):	5,000
Net New Habitable Sq Ft:	0.00	Net New # of Housing Units:	0
Existing % Lot Coverage:	0.00	Existing # of Parking Spaces:	0
Proposed % Lot Coverage:	0.00	Proposed # of Parking Spaces:	0
Net New % Lot Coverage:	0.00	Required # of Parking Spaces:	0

Zoning Permit #: 16-0239CA

Decision By: Administrative

Level of Review: 1

Decision: Denied

See Reasons for Denial

Decision Date: September 14, 2015

Project File: NA

Zoning Administrative Officer

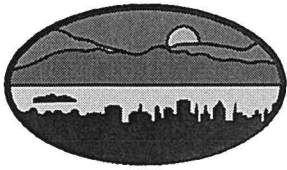
An interested person may appeal a decision of the Zoning Administrator to the Development Review Board until 4 pm on September 29, 2015.

Fee Type	Amount	Paid in Full	Balance Due: \$0.00
Application Fee:	\$80.00	Yes	Date Paid: _____
Development Review Fee:	\$0.00	NA	Check # _____
Impact Fee:	Not Applicable		

Building Permit Required: **Not Applicable**

Received by: _____

Date: _____



City of
Burlington, Vermont
149 Church Street

Zoning Permit - COA Level I – Reasons for Denial

ZP #: 16-0239CA

Tax ID: 045-2-221-000

Issue Date: September 14, 2015

Decision: Denied

Property Address: 18 ADSIT COURT

Description: Replace main and center wooden porch posts with PT lumber, also replace railings/cross bars with PT lumber. Replace wooden porch ceiling in-kind. Replace wooden flooring with composite material.

Reasons for Denial:

1. The subject property is included in the Vermont Historic Sites & Structures survey and is subject to review under the historic preservation criteria of Sec. 5.4.8, *Historic Buildings and Sites*, of the Comprehensive Development Ordinance. The sites & structures listing for this property notes the front porch on the home and, in particular, the architectural details on this important building feature. Of the four Craftsman style Vernacular homes on Adsit Court, the listing notes that this house and the one next door (14 Adsit Court) are the best preserved examples of a style rare in Burlington. Sec. 5.4.8, (b) *Standards and Guidelines*, states that the removal of distinctive materials is to be avoided. Distinctive materials and features are to be preserved. Deteriorated historic features should be repaired. If replacement is needed, replacement materials should match existing. The proposed composite (PVC) porch flooring is a material change from the existing tongue-in-groove wooden porch flooring and is inconsistent with the standards of Sec. 5.4.8.



STATE OF VERMONT
Division for Historic Preservation
Montpelier, VT 05602

HISTORIC SITES & STRUCTURES SURVEY
Individual Structure Survey Form

COUNTY:	Chittenden
TOWN:	Burlington
LOCATION:	18 Adsit Court. Two lots east from the corner of North Willard Street.
COMMON NAME:	
FUNCTIONAL TYPE:	House
OWNER:	William & Paula Dame
ADDRESS:	18 Adsit Court Burlington
ACCESSIBILITY TO PUBLIC:	Yes ☐ No ☒ Restricted ☐
LEVEL OF SIGNIFICANCE:	Local ☐ State ☒ National ☐

GENERAL DESCRIPTION:

Structural System

1. Foundation: Stone ☐ Brick ☒ Concrete ☐ Concrete Block ☐
2. Wall Structure
 - a. Wood Frame: Post & Beam ☐ Balloon ☒
 - b. Load Bearing Masonry: Brick ☐ Stone ☐ Concrete ☐ Concrete Block ☐
 - c. Iron ☐ d. Steel ☐ e. Other:
3. Wall Covering: Clapboard ☐ Board & Batten ☐ Wood Shingle ☒ Shiplap ☐ Novelty ☐ Asbestos Shingle ☐ Sheet Metal ☐ Aluminum ☐ Asphalt Shingle ☐ Brick Veneer ☒ Stone Veneer ☐ Bonding Pattern: Other:
4. Roof Structure
 - a. Truss: Wood ☒ Iron ☐ Steel ☐ Concrete ☐
 - b. Other:
5. Roof Covering: Slate ☒ Wood Shingle ☐ Asphalt Shingle ☐ Sheet Metal ☐ Built Up ☐ Rolled ☐ Tile ☐ Other:
6. Engineering Structure:
7. Other:

Appendages: Porches ☒ Towers ☐ Cupolas ☐ Dormers ☐ Chimney ☒ Sheds ☐ Ells ☐ Wings ☐ Bay Window ☐ Other:

Roof Style: Gable ☒ Hip ☐ Shed ☐ Flat ☐ Mansard ☐ Gambrel ☐ Jerkinhead ☐ Saw Tooth ☐ With Monitor ☐ With Bellcast ☐ With Parapet ☐ With False Front ☐ Other:

Number of Stories: 2½

Number of Bays: 4x3

Approximate Dimensions: 20x20

SURVEY NUMBER:

0402

NEGATIVE FILE NUMBER:

83-A-113

UTM REFERENCES:

Zone/Easting/Northing
18/642700/4926700

U.S.G.S. QUAD. MAP:

Burlington 7.5

PRESENT FORMAL NAME:

William Dame House

ORIGINAL FORMAL NAME:

Carl H. Carroll House

PRESENT USE: House

ORIGINAL USE: House

ARCHITECT/ENGINEER:

Unknown

BUILDER/CONTRACTOR:

Unknown

PHYSICAL CONDITION OF STRUCTURE:

Excellent ☐ Good ☒
Fair ☐ Poor ☐

STYLE: Vernacular-Craftsman

DATE BUILT:

1909

THREAT TO STRUCTURE:

No Threat ☐ Zoning ☐ Roads ☐
Development ☐ Deterioration ☐
Alteration ☐ Other:

LOCAL ATTITUDES:

Positive ☐ Negative ☐
Mixed ☐ Other:

Entrance Location: Gable front
right.

ADDITIONAL ARCHITECTURAL OR STRUCTURAL DESCRIPTION:

2½ story overlapping double gable facade with first story brick and dominant second story block wood shingle with flaired course line and exposed joists on fascia board dividing stories. Raking eaves with exposed rafter and geometric relief narrow verge boards. Opposite side gables. 6/1 sash windows with plain surrounds; splayed brick lintels on first story. Single fixed attic windows in front gable peaks. Gabled front entry porch with steeply pitched roof, exposed rafter tails, stickwork on vertical boards in gable peak, square posts and diagonal stick railing. Front door half small panes, half raised panels. West side first story rectangular bay window with bracket supports. Rear enclosed gabled porch.

RELATED STRUCTURES: (Describe)

Gable end aluminum sided garage (c.1980) replaced original.

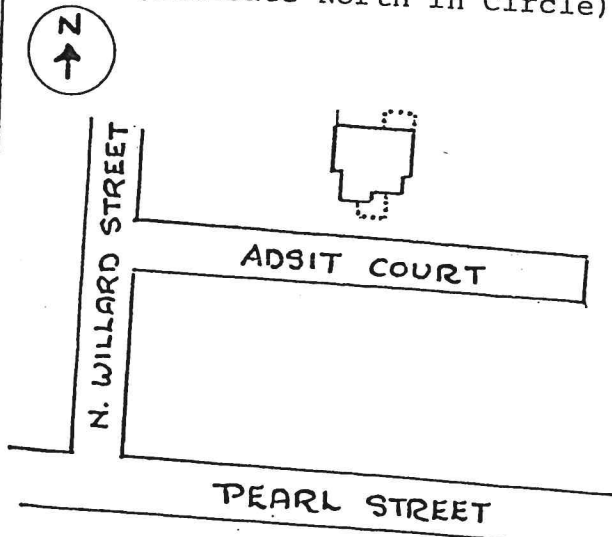
STATEMENT OF SIGNIFICANCE:

Of four Craftsman style Vernacular houses built on Adsit Court, this house and the one next door (14 Adsit Ct) are the best preserved examples of a style rare in Burlington. They were the first house on the street, developed by the Adsit family. Later Colonial Revival structures were built 1960. The original garage was removed (c.1980) due to age and poor condition.

REFERENCES:

Burlington Directory, 1909

MAP: (Indicate North in Circle)



SURROUNDING ENVIRONMENT:

Open Land ☐ Woodland ☐
Scattered Buildings ☐
Moderately Built Up ☐
Densely Built Up ☒
Residential ☒ Commercial ☐
Agricultural ☐ Industrial ☐
Roadside Strip Development ☐
Other:

RECORDED BY:

Karen Czaikowski

ORGANIZATION:

Div. for Hist. Pres.

DATE RECORDED:

June 16, 1982

Scott Gustin

From: Gene Day <ddayiii@gmail.com>
Sent: Thursday, September 10, 2015 10:31 AM
To: Scott Gustin
Subject: Re: 18 Adsit Court

Hi Scott,

I was thinking about ipe for the last couple days. While ipe is beautiful, it does not look historically accurate and isn't even a traditional material. It really needs to be a painted porch floor. That has traditionally been tongue and groove fir. Unfortunately, that doesn't hold paint very well and is a maintenance headache. For the first few years, it looks great, then it's scraping and painting every couple of years.

With Aeratis Traditions, I get the historically accurate look with a much better pain adhesion. I believe that maintaining the historic appearance is more important than just ensuring I use some wood product.

So, I guess you need deny my application, and I'll be appealing.

Thanks!
Gene

On Tue, Sep 8, 2015 at 3:22 PM, Scott Gustin <SGustin@burlingtonvt.gov> wrote:

Hi Gene,

Wood of any species would be acceptable.

Scott

Scott Gustin, AICP, CFM

Senior Planner

Dept. of Planning & Zoning

149 Church Street

Burlington, VT 05401

(802) 865-7189

From: Gene Day [mailto:ddayiii@gmail.com]
Sent: Tuesday, September 08, 2015 3:19 PM

To: Scott Gustin <SGustin@burlingtonvt.gov>
Subject: Re: 18 Adsit Court

Thanks, Scott. I would need to understand the tax credits before I decide if I would like to appeal before the Development Review Board. If I chose a wood like ipe and didn't paint it, would that be acceptable? Gene

On Tue, Sep 8, 2015 at 2:36 PM, Scott Gustin <SGustin@burlingtonvt.gov> wrote:

Hello Gene,

Inclusion on the list makes the applicability of the city's historic preservation criteria clear cut. That said, a property only needs to be "eligible" for inclusion on the list for the historic preservation criteria to apply. In other words, if you were to seek removal from the list, the criteria would still apply. The list is put together under the purview of the VT Division for Historic Preservation, but the criteria ([Sec. 5.4.8 of the Comprehensive Development Ordinance](#)) are part of the city's zoning code. In Sec. 5.4.8, you won't find anything that says don't use Aeratis, or vinyl siding, but you will find language that speaks to retention of existing materials. That's what leads to retention of wooden windows, slate roofs, and the like. Inclusion on the historic list does open the door to tax credits for appropriate building renovations. Your best point of contact for that is the VT Division for Historic Preservation. Mary O'Neil, our resident historic preservation expert and cc'd on this note, could also provide you with information relative to tax credits. If you want to continue to pursue use of the Aeratis flooring, you could always appeal an administrative zoning permit denial to the Development Review Board. Doing so takes additional time and an appeal fee, but the Board could rule in your favor. As staff, we really don't have the ability to veer away from the standards or set precedent.

Let me know how you'd like to proceed.

Scott

Scott Gustin, AICP, CFM

Senior Planner

Dept. of Planning & Zoning

149 Church Street

Burlington, VT 05401

[\(802\) 865-7189](tel:(802)865-7189)

From: Gene Day [mailto:ddayiii@gmail.com]
Sent: Monday, September 07, 2015 8:28 PM
To: Scott Gustin <SGustin@burlingtonvt.gov>
Subject: Re: 18 Adsit Court

Hi Scott,

Sorry I wasn't able to reply sooner; I was on vacation in a very rural part of Vermont without cell or internet service.

I have a few questions and concerns:

- Has Aeratis Traditions been evaluated by the City or State? It is not your regular pvc decking like trex actually looks like painted wood. It has been used on historic restorations in 48 states, including properties listed on the National Historic Register.
- If my property wasn't on the Vermont Historic Sites & Structures Survey, would the Aeratis Tradition flooring be acceptable?
- Does this historic survey offer any benefits, such as tax deductions or grants to offset the costs of maintaining the property according to historic standards? My house wasn't on this survey when I bought it in 2001. I shouldn't have to pay for added costs associated with a standard arbitrarily imposed upon my property.
- Who is the contact for this survey? I noticed errors in the survey for my property and for the survey of 14 Adsit. I also find it odd that two almost identical houses up the street from me are not on this survey. I can provide some good arguments about how those two houses are better representations of the architecture than mine is.
- Could you point me to the City Statutes that indicate Aeratis is not an acceptable option?

I guess you can tell I really want to use Aeratis Traditions. :-) If I have to work with the people who did the historic survey, I'm willing to do that.

Thanks for your help, Scott!

Gene

On Thu, Sep 3, 2015 at 3:44 PM, Scott Gustin <SGustin@burlingtonvt.gov> wrote:

Good afternoon Gene,

I've looked over your zoning permit application for front porch work at 18 Adsit Court. Generally, the proposed work is acceptable. The PVC material, regrettably, is not. This home is on the Vermont Historic Sites & Structures Survey and is subject to the city's historic preservation standards. These standards call for retention of historic materials. In plain English, the wooden decking and ceiling can be replaced with new wooden decking and ceiling, but not with PVC. Your options are to revise the application or to keep it as is for a denial. You could appeal the denial to the Development Review Board if you wish. Doing so unfortunately takes more time and an appeal fee. I'm sorry that I don't have better news. Let me know how you'd like to proceed.

Scott

Scott Gustin, AICP, CFM

Senior Planner

Dept. of Planning & Zoning

149 Church Street

Burlington, VT 05401

(802) 865-7189



Department of Planning and Zoning

149 Church Street, City Hall
Burlington, VT 05401-8415
Phone: (802) 865-7188
Fax: (802) 865-7195

www.burlingtonvt.gov/pz

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DEPARTMENT OF
PLANNING & ZONING

Zoning Permit Application

Use this form for ALL zoning permit applications. See the relevant checklist for specific requirements.

PROJECT LOCATION ADDRESS: 18 Adsit Court

PROPERTY OWNER*: GENE DAY

*If condominium unit, written approval from the Association is also required

APPLICANT: Same

POSTAL ADDRESS: 18 ADSIT CT

POSTAL ADDRESS: _____

CITY, ST, ZIP: BURLINGTON, VT 05401

CITY, ST, ZIP: Same

DAY PHONE: 802-735-2020

DAY PHONE: _____

EMAIL: dlayiii@gmail.com

EMAIL: _____

SIGNATURE: [Signature]
I am the owner. In addition, I duly authorize the applicant (if noted) to act on my behalf for all matters pertaining to this zoning permit application.

SIGNATURE: _____

Description of Proposed Project: See <https://goo.gl/0Ncd72> for project description and photos

Existing Use of Property: ☒ Single Family ☐ Multi Family: # _____ Units ☐ Other: _____

Proposed Use of Property: ☒ Single Family ☐ Multi Family: # _____ Units ☐ Other: _____

- Does your project involve new construction, addition, alteration, renovation, or repair to a structure that is heated or cooled? Yes ☐ No ☒
(If yes, the Vermont Residential Building Energy Standards (VRBES) apply. Visit the P&Z Office, Public Service Board or PSB website for details)
- Will 400 sq ft or more of land be disturbed, exposed and/or developed? Yes ☐ No ☒
(If yes, you will need to submit the 'Erosion Prevention and Sediment Control Plan' questionnaire, with a site plan)
- For Single Family & Duplex, will total impervious area be 2500 sq ft or more? Yes ☐ No ☒
(If yes, you will need to submit the 'Stormwater Management Plan' questionnaire, with a site plan)
- Are you proposing any work within or above the public right of way? Yes ☐ No ☒
(If yes, you will need to receive prior approval from the Department of Public Works)

Estimated Construction Cost (value)*: \$ 2500.00

(*Estimated cost a typical contractor would charge for all materials and labor, regardless of who physically completes the work)

Within 30 days of submission, the permit application will be reviewed for completeness, and, if complete, will be processed administratively or referred to a board for review. All permit approvals or denials are subject to an appeal period (15 days for administrative permit; 30 days for board permit). A building (and/or electrical, mechanical, plumbing, curb cut) permit will also be required. Contact the Department of Public Works at 802-863-9094 to inquire. Please ask for assistance if you have any questions about filling out this form. Call the Planning and Zoning at 802-865-7188, or visit the office in the lower level of City Hall, 149 Church Street.

Office Use Only: Zone: RL Eligible for Design Review? ☒ Age of House 1989 Lot Size 5000
Type: SN _____ AW _____ FC _____ BA _____ COA 1 ☒ COA 2 _____ COA 3 _____ CU _____ MA _____ VR _____ HO _____ SP _____ DT _____ MP _____
Check No. 1360 Amount Paid 80 Zoning Permit # 16-0239CA

See <https://goo.gl/ONCd72> for the online version of this document which contains links to supporting photos and websites.

Front Porch Project

Location: 18 Adsit Court, Burlington, Vermont

Owner: Gene Day, ddayiii@gmail.com, 802.735.2020

Current Condition:

- Right post is rotten at the bottom (1/3 of the bottom is wood filler)
- Wood floor and structural elements under right post are rotten
- Porch on right side has sunk down an inch or two due to rotting wood
- Floor boards are rotten/soft. Can't hold paint.
- Middle railing post is rotten and provides no support (will break if someone leans on it)

Goals:

- Repair and replace elements necessary to restore porch
- Paint all elements to match current color scheme
- Improve curb appeal

Details:

- Tongue and groove flooring needs to be replaced, preferably with Aeratis Traditions porch flooring. Will be painted shortly after installation.
 - Paint-ready, historically accurate, and architecturally correct PVC tongue and groove porch flooring.
 - Looks just like painted wood. Approved for many historical projects.
 - Paint adheres better to this product than to wood, meaning less maintenance, better appearance, and a nicer neighborhood
- Both of the main posts need to be replaced with pressure treated lumber. Water from the floor runs onto these posts, so untreated wood will rot. Will be primed and painted after they dry out.
- Center railing post needs to be replaced with pressure treated, and the replacement needs to be secured in a better way (not just to flooring but to boards underneath). Again, primed and painted after dried out.
- Tongue and groove ceiling needs to be replaced with the same tongue and groove wood material. Will be primed and painted shortly after installation.
- Railings, cross-bars need to be rebuilt with pressure treated lumber since water sits where they cross and where they meet the floor. Will be primed and painted after they dry out.



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DEPARTMENT OF
PLANNING & ZONING

TREE MAINTENANCE PLAN
FOR
BC COMMUNITY HOUSING, LLC



October 8, 2015

Burlington Community Housing, LLC
Tree Maintenance Plan
October 8, 2015



Prepared by:

Scott Moreau & Addison Kasmarek, Foresters
Greenleaf Consulting Inc.
Fairfax, Vermont

Ned Meehan, Certified Arborist
Meehan Tree Service
Westford, Vermont

Brett Engstrom, Ecologist/Botanist
Marshfield, Vermont

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A. Brett Engstrom Comments

B. Tree Management Map

~~C. T.J. Boyle Associates Site Concept Plans~~

~~D. Civil Engineering Associates, Inc. Plans~~

C. Soil Description

D. Invasive Exotic Plants Information Sheet

E. ISA ANSI Pruning standard Practices and Best Management Practices

Section I. PROPERTY DATA SUMMARY

Property Concern: BC Community Housing, LLC

Address: Farrell Real Estate Company
875 Roosevelt Highway
Colchester, VT 05446

Property Location: 311 North Avenue, Burlington, VT

Orthophoto Number: 092220; Series 5000, 2013

Section II: INTRODUCTION

Taking into consideration the conservation values of the property, this plan is designed to integrate the ownership objectives with the principles of sound forest and plant management, wildlife management, aesthetics, recreational use and other land use planning considerations.

The functions of this plan are designed to:

- Describe the woodland and open areas found on the Burlington Community Housing (BCCH) property which are as follows:
 - 1) ~~Eastern Cottonwood~~ White Poplar-Mixed Hardwood Woodland Restoration Area
 - 2) Black Locust Woodland Restoration Area
 - 3) Open Space to be Maintained for Public Access and Recreation
 - 4) Red Oak-Woodland Restoration Area
 - 5) Mid-Successional Woodland
- Document the various zoning and planning requirements to oversee all tree related issues
- ~~• Provide assistance when planning for annual work plans and budgets~~
- ~~• This plan is intended to make this parcel of land free of invasive species and to make it a clean walk-able forest with lake views while using sound silvicultural and arboricultural techniques. All activities will be overseen by a qualified consulting forester and/or a certified arborist.~~ This plan is intended to promote the native plants which may have naturally occurred in this area by making this parcel of land free of invasives species
- ~~All~~ Silvicultural and arboricultural activities will be overseen by a qualified consulting forester and/or a certified arborist
- Encourage natural forest dynamics by retaining some coarse woody debris, snags and dead limbs where not along major trails

- Take into consideration the ecological characteristics of the site, including its potential former natural communities and any rare, threatened, and endangered species
- Take into consideration the public safety of those who use the land from hazardous trees and individuals seeking illegal shelter in the woods

Section III. PROPERTY DESCRIPTION

The BCCH property is located in between the New and Old North End neighborhoods in western Burlington. It was formerly the orphanage of the Catholic Diocese and was subsequently purchased by Burlington College. Burlington College sold approximately 28 acres to BCCH of which the College retained approximately 6 acres. The property overlooks the shore and waters of Lake Champlain. The BCCH property shares 900 feet of frontage with the Burlington bike path, which runs parallel to the shoreline. The boundary line extends approximately 45 feet beyond the bike path towards the Lake.

To the south, BCCH neighbors City of Burlington land, a portion of which was the former Texaco parcel. To the west, the land abuts the Burlington Bike Path. BCCH owns approximately 1,000 feet of lake frontage beyond the bike path. This beach is commonly referred to as Texaco Beach. To the east, BCCH meets North Avenue. Lakeview Cemetery borders the property to the north.

In general, the land owned by BCCH is flat to gently sloping. The greatest change in terrain from is in the western portion of the property where the bank which drops to the lake level. This bank affords views towards Lake Champlain and New York State. The slope of the bank is fairly consistent, with two small ravines being the only exception. The surface area from the top of the bank to the bike path varies from 50 feet to 150 feet. The slope from the bike path to the shoreline is fairly consistent in both grade and distance.

In general the overall health and vigor of the plants growing at BCCH is considered fair-good in the northwest to poor in the southeast. The soil type is Adams-Windsor loamy sand which has limited growth potential (see Appendix D). Maximum productivity occurs when these soils are occupied with red oak, white pine or other relatively drought resistant plants. Other tree species found occupying the area are considered growing in an offsite condition and therefore don't express optimal growth and vigor. The key to achieving maximum growth and vigor of trees at BCCH is to encourage the growth of the tree species best suited to the site which include, but are not limited to: Northern Red Oak, White Oak & White Pine as well as specimen trees of varying species. When tree removal is required, discriminate against the removal of drought-resistant trees, such as those listed above. This approach will provide BCCH an increasingly more vigorous stand of trees, resulting in less maintenance costs and more overall enjoyment by the community. It has been stated that the open, grassy areas and those portions of map areas 3 and 3A are reclaimed sand pit.

Invasive and Non-Native Plants:

Invasive plants pose a threat to the natural health of forest lands, open lands, and wetlands in Vermont. Generally speaking, they are often non-native species that have escaped cultivation. After escaping, they tend to proliferate through aggressive propagation methods and colonize large areas. Populations are often very high and colonies can be very dense. Their aggressiveness excludes the

native plants. Ecosystem functions are negatively altered at the infestations sites. These plants generally do not provide the proper nutrients, habitat, or structure the native species provide. Nutrient, hydrologic, and fire regimes are also disrupted. Many of the species are also persistent, in that they can maintain their populations in small numbers until conditions are right for rapid spread.

A number of non-native and invasive plants are found on the BCCH property. Along with proper forest silvicultural practices, and wildlife enhancement projects, invasive species management places a vital role in fulfilling the commitment to natural resource health. The bulk of the invasive species include Common Buckthorn, Bush Honeysuckle and Oriental Bittersweet. These plants will aggressively be managed in the fall of 2015 and then subsequently on an annual basis.

Section IV. ~~LEGAL AND~~ ECOLOGICAL REVIEW

~~An in-depth review of state and local statutes and ordinances was conducted to ensure the actions recommended within this plan are in compliance. See Appendix A for a description of all applicable and pertinent legal documents to this project.~~

A review of ecological resources within the project area was conducted. This review analyzed the presence of rare, threatened & endangered species/natural communities, wetlands, riparian zones or any other unique features that would impact management decisions. According to data provided by the State of Vermont, there is one aquatic species and one natural community that are both mapped in close proximity to the project area. The aquatic species, Horned Pondweed, is categorized as critically imperiled in the State. This plant was last observed in 1985 along North Beach. A Lake Sand Beach natural community, which is categorized as imperiled in the State, is mapped along Texaco Beach. Additionally, the Department of Parks & Recreation has reported the presence of state-threatened Harsh Sunflower at the site.

We consulted with Mr. Brett Engstrom, an ecological and botanical consultant specializing in the inventory and mapping of wetland and upland natural communities, and the inventory of rare, threatened and endangered plants, in Vermont and adjacent states. Brett indicated an endangered plant, known as Prairie Red Root, has been previously identified on the City of Burlington lands south of the BCCH property. Although not mapped on the BCCH property, this is a very unique plant that has the propensity to grow in the area and should be monitored for. Mr. Engstrom felt confident that the invasives work could be completed provided the work crews are aware of the possibility of this plant.

In Vermont, Adams-Windsor soils are characteristic of the imperiled Sandplain Pine-Oak-Heath Forest natural community. While this rare natural community may have once occupied this site, it no longer exists, at least functionally, due to the site's extensive land use history.

Mr. Engstrom conducted an ecological inventory of the property to search for rare, threatened, and endangered species, and to assess native understory species, both shrubs and herbaceous species, which would enhance the natural character of the woodlands (See Appendix A). No rare, threatened, or endangered plants were located during his inventory. No significant natural communities are extant on the property due to the extensive land use history of the parcel. Brett's recommendation for restoration of the site is consistent with the management goals of this plan, namely invasive plant control and native species encouragement.

Section V. PLAN OVERVIEW

~~This plan is designed to integrate the current natural resource base with the development of a 570-unit housing program.~~ This plan provides descriptions of five distinct vegetation zones as indicated on the tree management map (See Appendix B). Management recommendations provided are aimed at maintaining and optimizing the health and vigor in each unit described. Within each vegetation management unit, recommendations will be made to retain specific groups or individual trees. These recommendations include: the protection and maintenance of bank stability, selection criteria for tree removal, wildlife habitat enhancement, invasive plant control, native plant species promotion and, specimen tree retention and enhancement.

At all times tree and shrub work completed will be overseen by a qualified forester and/or arborist. The chosen professional will be consistent with maintaining erosion hazards along the fragile bluff soils. ~~Consideration of views to the shore from the housing program area will be commensurate with views from the shore.~~

Section VI: AREA DESCRIPTIONS AND RECOMMENDATION

For management purposes, the property has been divided into five units or stands, which are defined as areas of relative similarity (such as age, species, topography, etc.) which can be treated uniformly. The land use areas are identified on the Tree Management Map, located in Appendix B. Each land use area included in this section contains a description, management objectives and recommendations section. ~~(see Appendix A).~~

MAP AREA I & IA: 3 Acres

~~EASTERN COTTONWOOD~~-WHITE POPLAR-MIXED HARDWOOD WOODLAND RESTORATION AREA

DESCRIPTION:

This area is located in the southern portion of the property. The majority of this area is located north of the main recreation trail which enters into the property from North Avenue by the Community Garden. The vegetation consists of mixed hardwood tree and shrub species. A full species list is located at the end of this map area section. The overstory consists of small sawtimber (11.5"-17.5" diameter at breast height-DBH) trees. Structural defects and abnormalities are common throughout the overstory. The less desirable species, which include the Boxelder, aspen and poplar are less vigorous in the long term. The understory-midstory shrub layer is dense in this area. A multitude of invasive plants have established and are impeding the establishment and vigor of native species. The shrub/herbaceous layer consists primarily of buckthorn, honeysuckle and jewelweed as well as stinging nettles.

A small portion of this map area, occupying 0.08 acre, is located within the 250' setback from the 100' mean water table within which area special parameters must be met. More discussion of these parameters will be forthcoming in subsequent map area discussions.

A number of specimen trees have been identified in this area. A specimen tree is one that draws attention because of uniqueness or special beauty. Specimen trees in this area include a rather large White Oak, ~~Hackberry~~, American Elm and a Boxelder (Note: The Boxelder is on the boundary line with the City of Burlington Lands). The Boxelder has dozens of hypertrophies surrounding the stem and is located immediately adjacent to the main recreation trail.

Wildlife relies on a number of food sources to survive. One of the most important food sources is tree nuts and seeds, also known as mast. Oak is an important mast producer in Vermont. Other mast producers found in this area are black cherry, ~~hackberry~~, elm and butternut. Many den trees, or those with open holds or cavities in the main stem of the tree, were identified in this area. Standing dead trees, or snags, are found in this area. Snags are important as they provide both a shelter for nesting and food sources such as insects which live within the dead wood. A variety of bird species utilize snags including as chickadees, woodpeckers, and flickers among others.

MANAGEMENT OBJECTIVES AND RECOMMENDATIONS:

Restoration of the area is a primary objective. Invasive plant removal is necessary to encourage native understory vegetation. Specimen trees will be retained and their crowns should be maintained and released from competition with other trees. Mast-producers should be retained wherever possible and where they don't pose a safety threat to recreational path users.

An additional objective is to ~~maintain a generally neat appearance and~~ provide a safe environment for users of the recreational path. Trees that are located adjacent to the recreational path in high traffic areas must be treated as a valuable aesthetic resource and be maintained to provide a safe environment. Trees that are dead, dying or damaged should be removed for user safety. This includes trees with grape intertwined in their crowns, which can become a safety hazard in the event of a wind

storm. Review the woodlot on an annual basis, after leaf drop and add the clean-up work to the spring clean-up list. ~~From an aesthetic perspective, a broken limb or wind-thrown tree is eye-catching. Trees showing these conditions should be pruned or removed to provide a continuously safe environment, which also provides a visually pleasing woodlot.~~ Obviously dangerous trees should be pruned or dropped immediately. Coarse & fine woody debris should be retained according to commonly accepted guidelines, which are to maintain at least 3-5 stems at least 18" DBH and 10 stems at least 14" DBH per acre. Retain as many dead/dying trees as possible where they do not pose a public safety risk. During any management activities, protect the herbaceous/native shrubs as much as possible.

For the most part current stocking levels of mature and immature trees will ensure a continuous density of stems that provide the visual buffer desired. Single tree selection thinning is suggested to maintain good growth and sustainability of this stand. Recommended light thinnings will not affect the stand as a screen from the lake and bike path. ~~Tree crowns will be lifted and thinned to reduce wind "sail", thus minimizing the potential for wind damage.~~

Tree Species List:

Red Maple
Red Oak
Paper Birch
Butternut
American Elm
Norway Maple (Class B Noxious Weed)
Black Cherry
White Poplar
American Elm
~~Hackberry~~
~~Eastern Cottonwood~~
Striped Maple
White Oak
Black Locust
Boxelder

Shrub List:

Dogwoods (various species)
Grape
Canada Yew
Bush Honeysuckle (Class B Noxious Weed)
Common Buckthorn (Class B Noxious Weed)
Multi-Flora Rose (Invasive Species)
Bittersweet (Class B Noxious Weed)
Japanese Barberry (Class B Noxious Weed)

MAP AREA 2: 0.65 ACRE

BLACK LOCUST WOODLAND RESTORATION AREA

DESCRIPTION:

This area is located in the southernmost tip of the property, south of the recreational path and west of Map Area 1. The primary vegetation is black locust which established approximately sixty years ago. This species has a beautiful fragrant spring flower, and nutritious seed source for a variety of wildlife species that may frequent these wooded corridors. Black locust has nitrogen-fixing bacteria on its root system, allowing it to establish on nutrient-poor soils. Although this species is a prolific root sprouting plant, there isn't a dense under/midstory cohort of black locust regeneration. In fact, the shrub-small tree layer in this stand is fairly open. Associated species include honeysuckle and dogwoods. Black Locust is not native to Vermont, although it is not listed as a noxious weed. One specimen tree, a healthy butternut, has been identified in this area. The shrub/herbaceous layers are absent in this stand.

Oak, butternut and locust are three important mast producers found in this area. Several den trees, or those with open holds or cavities in the main stem of the tree, were identified in this area. Some standing dead trees, or snags, are found in this area. Snags are important as they provide both a shelter for nesting and food sources such as insects which live within the dead wood. A variety of bird species utilize snags including as chickadees, woodpeckers, and flickers.

MANAGEMENT OBJECTIVES AND RECOMMENDATIONS:

Restoration of the area is a primary objective. Invasive plant removal is necessary to encourage native understory vegetation. The single butternut tree will be retained and their crowns should be maintained and released from competition with other trees. Mast-producers should be retained wherever possible and where they don't pose a safety threat to recreational path users. Retain as many dead/hazard trees as possible where they do not pose a public safety risk.

An additional objective is to ~~maintain a generally neat appearance and~~ provide a safe environment for users of the recreational path. Trees that are dead, dying or damaged should be removed for user safety. This includes trees with grape intertwined in their crowns, which can become a safety hazard in the event of a wind storm. Review the woodlot on an annual basis, after leaf drop and add the clean-up work to the spring clean-up list. ~~From an aesthetic perspective, a broken limb or wind-thrown tree is eye-catching. Trees showing these conditions should be pruned or removed to provide a continuously safe environment, which also provides a visually pleasing woodlot.~~ Obviously dangerous trees should be pruned or dropped immediately. Coarse & fine woody debris should be retained according to commonly accepted guidelines, which are to maintain at least 3-5 stems at least 18" DBH and 10 stems at least 14" DBH per acre. Retain as many dead/dying trees as possible where they do not pose a public safety risk. During any management activities, protect the herbaceous/native shrubs as much as possible. ~~Tree crowns will be lifted and thinned to reduce wind "sail", thus minimizing the potential for wind damage.~~

Tree Species List:

Black Locust
Boxelder
Red Maple
Butternut
Red Oak

Shrub List:

Dogwoods (various species)
Grape
Virginia Creeper
Bush Honeysuckle (Class B Noxious Weed)
Common Buckthorn (Class B Noxious Weed)

MAP AREA 3 & 3A: 0.76 ACRE

OPEN SPACE TO BE MAINTAINED FOR PUBLIC ACCESS AND RECREATION

DESCRIPTION:

This area includes five groupings of trees and a small (6/10ths of an acre) peninsula of trees. The five groupings of trees are situated in a field which is annually mowed. The groupings consist of cherry, aspen, gray birch and speckled alder. The peninsula is comprised of mixed hardwoods, primarily black locust.

Of the five groupings, one is located within the 250' setback from the 100' mean water table within which area special parameters must be met. A sliver of the peninsula also falls within the setback. The grouping and portion of the peninsula which fall within the setback will be passively managed (i.e. left alone).

The existing vegetation in the groupings and the peninsula is fairly young (<30 years) and is not desirable for retention silviculturally or aesthetically. Neither specimen trees nor significant wildlife habitat features have been identified in these areas. Common Buckthorn, a Class B Noxious Weed, is found within the groupings and the peninsula area. The area is surrounded by the only open land found within the area described in this plan, rendering it unique.

This area has a high value for recreational use and access. Currently the existing parking area is located south of the stone house ~~which is immediately adjacent to the proposed housing units #1 & #2. There is concern that the public will utilize the parking designated for residents of these units to access the recreational trails. The area currently occupied by the peninsula would provide a parking area for those accessing the recreational area, thereby removing the parking pressure from the resident parking.~~ The area is currently occupied by the groupings would provide an open grassy area for various recreational uses, such as soccer, football and wiffleball among others.

Another factor limiting the vigor of all of the trees in the area is mower damage. The damage is evidenced by open wounds and scar tissue on tree trunks at ground level. While many of the trees are capable of surviving this damage it limits the potential vigor of the trees and eventually can cause a hazard as the callous tissue repairing the wounds is not as strong as the original stem tissue. Over time, many of the trees would likely die due to excessive stress and damage caused by the ongoing mowing.

MANAGEMENT OBJECTIVES AND RECOMMENDATIONS:

Management of this area has one main purpose: recreation. With the exception of area 3a, the groupings should be removed for the creation of open recreational areas. Replacement plantings are recommended to enhance the landscape value. Suggestions for replacement species include native lilacs, viburnams, dogwoods and/or apple trees.

Tree Species List:

Gray Birch
Speckled Alder
Eastern Cottonwood
Black Cherry
Black Locust
Green Ash
White Pine
American Elm
Wild Apple

Shrub List:

Common Buckthorn (Class B Noxious Weed)

MAP AREA 4: 1.92 ACRES

NORTHERN RED OAK-WOODLAND RESTORATION AREA

DESCRIPTION:

This area is located in the northwestern and westernmost portion of the property and abuts the bike path right-of-way to the west. The vegetation consists of medium sawtimber sized (17.5" – 23.5" DBH) red oak, black oak and eastern cottonwood. This area is distinctly two-aged with a super-story canopy of oak-cottonwood and an under/midstory of Boxelder and Common Buckthorn. Common Buckthorn is a great forest health concern in this area as it has begun to dominate the understory.

There has been no disturbance in this area for decades, resulting in the most stately and oldest trees found on the property. The area is diverse topographically with the eastern sections situated on an escarpment and ravines to the west and the north. This diversity has resulted in a damp microclimate where jewelweed has established densely in the herbaceous layer. Stinging nettles are also abundant.

A number of specimen trees have been identified in this area. A specimen tree is one that draws attention because of uniqueness or special beauty. Specimen trees in this area include particularly large red oak, black oak and two very large (>40" DBH) cottonwoods.

Wildlife relies on a number of food sources to survive. One of the most important food sources is tree nuts and seeds, also known as mast. Oak is an important mast producer in Vermont. A few den trees, or those with open holds or cavities in the main stem of the tree, were identified in this area. Very few standing dead trees, or snags, are found in this area. Snags are important as they provide both a shelter for nesting and food sources such as insects which live within the dead wood. A variety of bird species utilize snags including as chickadees, woodpeckers, and flickers.

The primary recreational trail runs through this area and leads down to the bike path. Due to the sloping topography, there is a high risk for erosion due to runoff along this stretch of the trail. Most of this area falls within the 250' setback from 100' elevation.

MANAGEMENT OBJECTIVES AND RECOMMENDATIONS:

Restoration of the area is a primary objective. Invasive plant removal is necessary to encourage native understory vegetation. Specimen trees will be retained and their crowns should be maintained and released from competition with other trees. Mast-producers should be retained wherever possible and where they don't pose a safety threat to recreational path users. Retain as many dead/dying trees as possible where they do not pose a public safety risk.

An additional objective is to ~~maintain a generally neat appearance and~~ provide a safe environment for users of the recreational path. Trees that are located adjacent to the recreational path in high traffic areas must be treated as a valuable aesthetic resource and be maintained to provide a safe environment. Trees that are dead, dying or damaged should be removed for user safety. This includes trees with grape intertwined in their crowns, which can become a safety hazard in the event of a wind storm. ~~From an aesthetic perspective, a broken limb or wind thrown tree is eye catching. Trees showing these conditions should be pruned or removed to provide a continuously safe environment, which also~~

~~provides a visually pleasing woodlot.~~ Review the woodlot on an annual basis, after leaf drop and add the clean-up work to the spring clean-up list. Obviously dangerous trees should be pruned or dropped immediately. Coarse & fine woody debris should be retained according to commonly accepted guidelines, which are to maintain at least 3-5 stems at least 18" DBH and 10 stems at least 14" DBH per acre. During any management activities, protect the herbaceous/native shrubs as much as possible.

~~The area has high value for potential views of Lake Champlain and New York from proposed housing units #6-8. Trees will be lifted and the crowns will be thinned to remove deadwood and reduce wind obstruction by reducing the "sail" of the crowns. All work in this manner will consider both views to and from the lake.~~

Tree Species List:

Red Oak
Black Oak
Eastern Cottonwood
Black Locust
Gray Birch
Paper Birch

Shrub List:

Grape
Common Buckthorn (Class B Noxious Weed)
Bittersweet (Class B Noxious Weed)
Japanese Barberry (Class B Noxious Weed)
Bush Honeysuckle (Class B Noxious Weed)
Staghorn Sumac

MAP AREA 5: 0.47 ACRE

MID-SUCCESSIONAL WOODLAND

DESCRIPTION:

This area is located south of map area 4. The bike path right-of-way abuts this area to the west. The vegetation consists of mixed hardwood tree and shrub species. A full species list is located at the end of this map area section. The overstory consists of pole-sized trees (5.5"-11.5" DBH). This area constitutes the berm of what was historically used as a gravel pit and is one of the youngest areas. The understory-midstory shrub layer is moderately stocked in this area. This area falls entirely into the 250' setback from 100' Elevation.

MANAGEMENT OBJECTIVES AND RECOMMENDATIONS:

Restoration of the area is a primary objective. Invasive plant removal is necessary to encourage native understory vegetation. Specimen trees, if identified, will be retained and their crowns should be maintained and released from competition with other trees. Mast-producers should be retained wherever possible and where they don't pose a safety threat to recreational path users. Red Oak and high-quality Paper Birch are preferred for retention as they're exhibiting the greatest vigor and are the most aesthetically appealing trees in this area.

An additional objective is to ~~maintain a generally neat appearance and~~ provide a safe environment for users of the recreational path. Trees that are located adjacent to the recreational path in high traffic areas must be treated as a valuable aesthetic resource and be maintained to provide a safe environment. Trees that are dead, dying or damaged should be removed for user safety. This includes trees with grape intertwined in their crowns, which can become a safety hazard in the event of a wind storm. ~~From an aesthetic perspective, a broken limb or wind thrown tree is eye-catching. Trees showing these conditions should be pruned or removed to provide a continuously safe environment, which also provides a visually pleasing woodlot.~~ Review the woodlot on an annual basis, after leaf drop and add the clean-up work to the spring clean-up list. Obviously dangerous trees should be pruned or dropped immediately. Coarse & fine woody debris should be retained according to commonly accepted guidelines, which are to maintain at least 3-5 stems at least 18" DBH and 10 stems at least 14" DBH per acre. During any management activities, protect the herbaceous/native shrubs as much as possible.

Tree Species List:

Red Oak
Black Cherry
Eastern Cottonwood
Black Locust
Gray Birch
Paper Birch

Shrub List:

Grape
Common Buckthorn (Class B Noxious Weed)
Bittersweet (Class B Noxious Weed)
Japanese Barberry (Class B Noxious Weed)
Bush Honeysuckle (Class B Noxious Weed)
Staghorn Sumac

Section VII. SCHEDULE OF ACTIVITIES

MAP AREA	YEAR	DESCRIPTION
All	Annually	Assess ground and tree conditions and maintain as necessary
All	Annually	Manage for control of the invasive plants to include all invasives such as buckthorn and honeysuckle
1	2015	Removal of dead, dying, damaged or hazard trees, in particular there are many dead <u>poplar</u> and poor quality hazard box elder trees to be removed, there is also a specimen Hackberry that will be released. Trees will be pruned to ISA standards and Best Management Practices. Specifically manage for late successional species such as the oaks
2	2015	This area has a specimen butternut that will be released. Manage the invasives and prune to reduce branch hazards. Trees will be pruned to ISA standards and Best Management Practices. This area will be managed for Black Locust
3	2015	Clear groupings and portion of peninsula for recreational areas, the alder patch will remain
4	2015	Removal of dead, dying, damaged or hazard trees including and especially the several box elder trees which are over hanging the several trails in this area. Manage for the control of the many invasive species. Prune & Lift for view clearing following the ISA pruning standards and Best Management Practices. This area will be primarily managed for the oak species and cottonwoods
5	2015	Removal of dead, dying, damaged or hazard trees Crop Tree Release of Red Oak & Paper Birch Prune & Lift for view clearing . Trees will be pruned to ISA standards and Best Management Practices. This area will be specifically managed for the large and small oaks as well as the white birch component.
All	2020	Review Objectives & Update Tree Maintenance Plan

**** All activities will be completed in a way to ensure the continued stability of the escarpment on top of slope soils**

APPENDIX

APPENDIX A.
BRETT ENGSTROM COMMENTS

**APPENDIX B.
TREE RESOURCE MAP**

APPENDIX C. SOIL DESCRIPTION

ADAMS SERIES

The Adams series consists of deep, loose, excessively drained soils that are sandy throughout. These soils are level to steep. The larger areas are in Milton, Jericho, and Essex, east of the Windsor soils, and at higher elevations. Smaller areas of Adams soil are in Underhill, Bolton, and Richmond, and in stream valleys of the Green Mountains.

These soils developed in sandy beaches, deltas, and terraces. The sand is deeper than 4 feet. In most places it is underlain by stratified sand, gravel, sandy loam, loam glacial till, clay, silt, or bedrock.

In a representative profile the surface layer is an unplowed area is black loamy sand, high in content of organic matter, and about 1 inch thick. Under this is a layer of light brownish-gray loamy sand about 6 inches thick. In cultivated areas, these two layers are mixed with some of the subsoil to form the very dark grayish-brown loamy sand plow layer. The subsoil is very friable or loose loamy fine sand about 23 inches thick. It is dark reddish brown in the upper part, dark yellowish brown in the middle part, and yellowish brown in the lower part. The substratum is grayish-brown loamy fine sand to a depth of about 45 inches or more.

The bright colors and lack of mottles in the Adams soils indicate that they are well aerated and porous. The soils are rapidly permeable, have a moderately low available moisture capacity, and have very low natural fertility. These soils are filled to capacity with available moisture at the start of the growing season. As the growing season progresses, rain normally is not adequate to replenish the soil moisture used by plants. Crops, therefore, show signs of lack of moisture during the growing season. These soils warm faster in the spring than the more silty, more clayey, or wetter soils in the county. These soils are susceptible to soil blowing where un-vegetated. Adams soils have a low shrink-well potential.

The Adams soils are used mainly for corn, pasture, and hay in farming areas and for housing developments, industrial sites, and roads near villages and cities. They have been farmed intensively, but many areas of Adams soils are now in trees or brush.

ADAMS AND WINDSOR LOAMY SANDS, 0 TO 5 PERCENT SLOPES

The Windsor soil is predominant in this mapping unit, but an area may consist of either the Adams soil, the Windsor soil, or of a mixture of the two. These soils occupy irregularly shaped terraces 2 to 200 acres in size. The irregular shape is due to the many gullies dissecting the sand plains. The profiles of the Adams and Windsor soils are the ones described as representative for the respective series.

Included with these soils in mapping are some areas of Adams and Windsor soils that have a thin surface layer where soil blowing has taken place. These areas are roughly circular in shape and less than 100 feet in diameter. Also included are areas of soil in which the content, by volume, of gravel, cobblestones, and stones averages more than 15 percent between depths of 10 and 40 inches. Some of the areas mapped contain areas of Deerfield soils and Colton soils. Areas that have stones and cobblestone on the surface are also included. In a few areas, the surface layer is sand or fine sand. In many areas this mapping unit is slightly acid or neutral throughout.

These soils are used for truck gardening, inter-tilled farm crops, hay, and pasture. They have few limitations for many non-farm uses such as housing developments. A large part of this mapping unit is woodland or idle.

Surface runoff is very slow. The ground should be kept well covered by vegetation to prevent soil blowing. On these soils the hazard of water erosion is very slight, even in non-vegetated areas. (Both parts, capability unit IIIs-I; both parts, woodland suitability group 4sl).

Information taken from:
Chittenden County Vermont USDASCS; 1974

APPENDIX D.
INVASIVE EXOTIC PLANTS INFORMATION SHEET

APPENDIX E.
ISA ANSI PRUNING STANDARD PRACTICES AND BEST MANAGEMENT PRACTICES

Submitted at DRB
10/6/15

BRETT ENGSTROM – ECOLOGIST & BOTANIST
836 RT. 232, MARSHFIELD, VT 05658
(802) 426-3534
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Ecological Assessment of BC Community Housing, LLC, property
Burlington, Vermont

6 October 2015

This ecological assessment represents the results of a ten-hour field inventory of the BC Community Housing property I made on October 5 for owner Eric Farrell. I used the stand data and descriptions in the Tree Maintenance Plan, September 2015, by Greenleaf Forestry of Westford, VT, as background information, and will refer to the five woodland areas of the Tree Management Map of that plan in this report.

Woodland areas 1-4, plus the woodland within the planned housing area, are composed of canopy, understory, and groundcover plants indicative of highly disturbed forests. These woodlands are dominated by non-native species, some of which are invasive, and early successional and/or weedy native species. The prevalence of black locust, box elder, cottonwood, quaking aspen, white poplar, and Norway maple as canopy or subcanopy trees; common buckthorn and other woody invasives in the understory; and invasive garlic-mustard and non-native celadine in the ground layer is characteristic of areas that were cleared of native forest, and where the soil has been disturbed. A review of old aerial photographs of the property reveals that much of what is forested today was field or developed ground in 1937, with the notable exception of the west corner (area 4) and slope down to what is now the bike path (area 5). Furthermore, a 1974 photo shows sand was removed from a large area in what is now the lowest portion of field and woodlands.

✓ The result of this past heavy land use history is that the woodland areas 1-4 are not recognizable as any natural community in the Vermont natural community classification (as described in Thompson & Sorenson's *Wetland, Woodland, Wildland*). In the "Redevelopment of the Catholic Diocese Property: Report for the Mayor of the City of Burlington" dated Nov. 12, 2001, Eric Sorenson, Community Ecologist for the Vermont Fish & Wildlife Department, describes a remnant patch of pine-oak-heath sandplain forest in woodland area 4. This is a rare natural community in Vermont that once characterized the extensive post-glacial delta sand deposits of western Chittenden County. Given the Adams-Windsor sandy soils characteristic of the sandplain community at the site, he describes the remnant as potentially of local significance, but not of statewide significance. I revisited this area and relocated the group of red oak and red maple he describes, but no characteristic sandplain natural community shrubs and groundcover. Instead I found many weedy species that would indicate moister soil conditions than typical sandplain natural community. There is a small flat area at the top of the slope in area 4 that the cemetery is currently using as a leaf/branch/stump dump that may have had some remnant sandplain species, but have been smothered by the dumping of organic material.

Woodland area 5 includes the very steep bluff slope leading down to the bike path. From an ecological perspective, I found this to be the most intact woodland on the property. It has a red oak-red maple dominated canopy with lesser amounts of a variety of other native hardwoods, and one pitch pine. The understory and groundcover includes many native shrubs and herbs, and few non-native and/or invasives. Interestingly, the species composition of the forested slope does not fit a pine-oak-heath sandplain forest natural community type. Instead, it might be classified as a red oak-northern hardwood forest type.

- ✓ I found no rare, threatened, or endangered plants during my autumn field inventory, though there was potential habitat for some rare species that I am familiar with from sandplain forest and other natural communities in western Chittenden County. In his comments on the Tree Maintenance Plan, Dan Cahill, Land Steward of the city's Park & Recreation Department, mentions the presence of Harsh Sunflower (*Helianthus strumosus*) on the property. I contacted Bob Popp, the Nongame and Natural Heritage Program botanist, who stated he had no
- ✓ knowledge of this state-threatened species at the site. Nor does the species appear at this site in the BioFinder GIS database on the web. I searched for the Harsh Sunflower and did not find it, though I did find a closely related Woodland Sunflower (*Helianthus divaricatus*) on the steep slope of woodland area 5. Woodland Sunflower is not a listed species in Vermont.

I could not confirm the species identity of Serviceberry, or Juneberry (*Amelanchier* sp.), that I found growing as a small tree/tall shrub on the bluff slope in woodland area 5. Based on the leaf shape, it might be *Amelanchier canadensis*, a species ranked SH, or State Historical, because it is known only from historical specimens. A return visit when it flowers in the spring is needed to positively identify the species.

As a final comment, I would recommend that the tree maintenance program strongly encourage the native species present at the site by removal of non-natives, and by thinning of both native and non-native species that would allow a greater diversity of native plants to thrive at the site. I am very much in favor of the idea of restoring the forest natural community at the site. But this goal is problematic, and would take a long time. It is problematic because it is not clear exactly what the presettlement natural community was at the site due to its heavily altered current condition. Also, many species that were part of the original natural community are no longer present and must migrate back to the site, or be reintroduced. Finally, the site is plagued with an abundance of invasive species.

Department of Planning and Zoning

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David White, AICP, Director
Meagan Tuttle, AICP, Comprehensive Planner
Jay Appleton, GIS Manager
Scott Gustin, AICP, Principal Planner
Mary O'Neil, Principal Planner
Anita Wade, Zoning Clerk
Elsie Tillotson, Department Secretary



TO: Development Review Board
FROM: Scott Gustin
DATE: November 17, 2015
RE: 16-0375CA; 311 & 329 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: WRM Ward: 4N

Owner/Applicant: BC Community Housing, LLC / Eric Farrell

Request: Tree maintenance plan for 311 & 329 North Avenue

Applicable Regulations:

Article 5 (Citywide General Regulations)

Background Information:

The applicant is seeking approval of a Tree Maintenance Plan per Sec. 5.5.4, *Tree Removal*, of the Comprehensive Development Ordinance. This section allows property owners to address tree removal and maintenance on their property in 5-year increments without the need for separate zoning permits for each individual tree removal project.

The Development Review Board initially considered this request at their October 6, 2015 meeting. The Board deliberated on October 21, 2015 and, due to concerns about the possible extent of tree clearing, moved to reopen consideration of the proposed tree maintenance plan, subject to review and comment by the Conservation Board with a site visit to the property.

The site visit with members of the Conservation Board took place October 29, 2015. A revised tree maintenance plan was reviewed by the Conservation Board shortly thereafter on November 2, 2015. At that meeting, the Conservation Board voted unanimously to recommend approval of the tree maintenance plan and to commend the quality of the plan.

Previous zoning actions for this property are noted below.

- 9/1/15, Approval for addition of curb cut and drive to 351 North Ave
- 7/12/12, Approval to install wire fence
- 12/16/11, Approval to install 5 replacement windows
- 11/3/10, Approval to change use from institutional office & group home to college

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

I. Findings

Sec. 5.5.4, Tree Removal:

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

See (b) below.

(b) Tree Maintenance Plans

1. A Tree Maintenance Plan prepared by a certified arborist shall be submitted as a Level I Certificate of Appropriateness... This plan shall include general and specific criteria for removing trees based on the criteria as per Sec. 5.5.4 (a).

The proposed Tree Maintenance Plan has been prepared by a team consisting of consulting foresters and a certified arborist as required. The plan focuses on the area of property that may ultimately be conveyed to the city as some sort of public land. Within this area, the plan delineates several distinct forest community types and notes specific management objectives for each. Several corses within “area 3” are to be removed, consistent with the surrounding open lawn. In the rest of the woodland communities, the revised tree maintenance plan emphasizes removal of invasive species and retention/promotion of native species. Revisions to the tree maintenance plan also include new emphasis on preserving dead and dying trees for wildlife and protection of native ground cover during maintenance activities. Limbing up trees has been deemphasized in the revised tree maintenance plan.

The proposed tree maintenance plan touches on each of the criteria of Sec. 5.5.4 (a) as required. Dangerous trees will be removed, particularly those close to paths. Thinning will be aimed at invasive growth in the understory – such as the abundant buckthorn. Revisions note that coarse and fine woody debris will be retained. Mast-producing species will also be retained. The westernmost portion of the property is affected by the Riparian & Littoral Conservation Zone running 250’ inland from the 100’ elevation along Lake Champlain. The proposed tree maintenance plan acknowledges this overlay zone, and proposed tree clearing will be within the permitted 25% limit articulated under Sec. 4.5.4 (c).

Staff from the Department of Parks & Recreation had commented on the original tree maintenance plan and expressed concerns relative to its potential impacts on the woodlands, particularly with the extent of clearing and pruning. Revisions to the tree maintenance plan address those concerns by deemphasizing limbing up of trees and emphasizing the retention of native understory and dead and dying trees for their value as wildlife habitat. **(Affirmative finding)**

2. The Tree Maintenance Plan if approved...

This Tree Maintenance Plan, when approved, will be valid for 5 years. **(Affirmative finding as conditioned)**

3. In order to continue tree removal...

For ongoing tree removal on the subject lands beyond the initial approval, the Tree Maintenance Plan must be updated or re-written and approved by the DRB at 5 year intervals. **(Affirmative finding as conditioned)**

II. Conditions of Approval

1. This tree maintenance plan, as revised October 8, 2015, is valid for a period of 5-years from the date of approval.

Department of Planning and Zoning

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Elsie Tillotson, Department Secretary



TO: Development Review Board
FROM: Scott Gustin
DATE: November 17, 2015
RE: 16-0151DT; 2-8 Hickok Place

=====

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: 2C

Owner/Appellant: Diemer Apartments, LLC

Request: Appeal of adverse zoning determination relative to grandfathering of five and six bedroom usage of four living units.

Overview:

The appellant is seeking an affirmative determination that units 2B, 4B, 6B, and 8B at 2-8 Hickok Place, with 5 and 6 bedrooms, are legitimately grandfathered. Sec. 4.4.5 (d) 5, C, *Residential Occupancy Limits*, of the Comprehensive Development Ordinance (CDO) limits occupancy of all dwelling units within the residential zones to a family as defined in Article 13. The definition of family has several subsections including (c): "No more than four unrelated adults and their children." This provision of the CDO limits occupancy of dwelling units throughout the city's residential zones to families with kinship, group homes, "functional families," or up to 4 unrelated adults. This same provision was originally adopted in November 2000 (in just the RL and RM zones) and was incorporated into the Zoning Ordinance in effect at that time. Prior to adoption of this provision, the city's zoning regulations prohibited occupancy of dwelling units as "group quarters." Group quarters includes shared student housing (in re: *Mentes*) such as that at 2-8 Hickok Place. The prohibition of group quarter occupancy of dwelling units dates back to December 21, 1970.

The subject dwelling units at 2-8 Hickok Place are student apartments occupied by more than 4 unrelated adults (5-6 occupants), and the appellant wishes to have these apartments grandfathered as legitimately pre-existing nonconformities. The determination request was denied and has been appealed to the Development Review Board. Note that the appeal also requests city recognition of 8 dwelling units at the property. While the research associated with the determination request turned up a discrepancy in the number of permitted dwelling units, unit count was not part of the determination request and cannot be wrapped into the appeal.

Recommendation: Uphold zoning denial based on the following findings and conditions:

I. Findings:

On July 30, 2015, the appellant submitted a zoning determination request seeking grandfathered status of units 2B, 4B, 6B, and 8B with 5 + 6 bedroom usage at 2-8 Hickok Place. Much of the supporting information pertained to bedroom counts back to the appellant's date of acquisition in 2003.

On August 26, 2015, the appellant met with zoning staff to review the pending request. The appellant was advised to demonstrate consistent *occupancy* of the subject dwelling units, not just bedroom counts. Following this initial meeting, zoning staff consulted with the City Attorney's Office and worked with the Code Enforcement Office in reviewing rental registration records and other pertinent city records that might establish consistent occupancy of the subject dwelling units.

On September 10, 2015, the appellant again met with zoning staff and provided additional information. At that point, consistent occupancy of the subject dwelling units by 5-6 students back to April 2001 had largely been demonstrated by the rental registration records. Evidence extending further back remained sparse.

Following a final review of the determination request with Code Enforcement Office and the City Attorney's Office, an adverse determination was issued on September 30, 2015:

This determination is in regard to the above-referenced property, specifically your request that the City of Burlington recognize 5 & 6-bedroom usage (5 & 6 person occupancy) of units 2B, 4B, 6B and 8B as grandfathered (legally pre-existing non-conformities). The City reviewed the following documents/evidence to form its determination:

- The City's zoning permit records
- The City's property assessment records
- The City's rental registration records
- Code Enforcement zoning compliance memo
- Affidavits of
 - Richard M. Diemer and Jill M. Diemer
 - Vincent A. Paradis
 - John F. Shea, Jr.
- The City's determination regarding onsite parking
- Floor plans of the residence
- State of Vermont wastewater permit records
- *In re: Appeal of John Mentos*, Docket No. 132-6-00 Vtec (Vt. Env'tl. Div. October 22, 2001 and May 10, 2002)
- Burlington zoning regulations including, but not limited to, the following versions: 2008 Comprehensive Development Ordinance and as amended, ZA #2000-01 Residential Districts Established passed November 22, 2000, Burlington Zoning Ordinance approved December 21, 1970

Based on the review of these items, it is the determination of the Planning and Zoning Department that insufficient evidence has been provided to grandfather 5 & 6-bedroom occupancy of the subject dwelling units. Grandfathered or pre-existing legal non-conformities pertain to lots/parcels/structures/uses that are non-compliant with a current zoning regulation, but were compliant prior to a change in the

regulations. While Sec. 4.4.5 (d) 5, C, *Residential Occupancy Limits*, was approved in November 2000, pursuant to *In re: Appeal of John Mentas*, Docket No. 132-6-00 Vtec (Vt. Env'tl. Div. October 22, 2001 and May 10, 2002), the city's zoning ordinance in effect prior to the November 2000 amendment prohibited occupancy of dwelling units as "group quarters". The case found "shared student housing" to be "group quarters". The inclusion of the "group quarters" exclusion can be found in the Burlington Zoning Ordinance starting in 1970 (Burlington Zoning Ordinance approved December 21, 1970). As such, evidence would need to be provided that the occupancy of the requested units was 5 and 6 unrelated persons prior to December 21, 1970 and has continued as such. Such evidence was not provided and therefore, the grandfathering determination request must be DENIED.

The appeal of the adverse determination was filed October 8, 2015, within 15 days as required.

The appeal is brief and largely points to documentation submitted in support of the determination request. The appeal notes that the building was constructed in 1894 as an apartment house and that the use has not changed. The appeal does not directly contest the reasons for the adverse determination.

The central matter here is "grandfathering." As noted in the adverse determination, grandfathered status (i.e. pre-existing legal non-conformities) pertains to lots/parcels/structures/uses that are non-compliant with a current zoning regulation, but were compliant prior to a change in the regulations. This determination request is not a Bianchi or 15-year statute of limitation request; it is a grandfathering request. In order to issue an affirmative grandfathering determination, the appellant in this case would need to demonstrate consistent 5-6 person occupancy of the subject apartments to at least December 20, 1970.

On December 21, 1970, the city adopted an amended zoning ordinance. In part, the amendments included provision to exclude "group quarters" from the definition of "family." Then, as now, dwelling units are to be occupied by families. Family was defined as:

One or more persons occupying a dwelling unit and living as a single nonprofit housekeeping unit, but not including group quarters such as dormitories, sororities, fraternities, convents, and communes.

At that point, the city prohibited occupancy of dwelling units as group quarters. The present occupancy of the dwelling units at 2-8 Hickok Place by unrelated students amounts to group quarters.

The Mentas case from 2001 and 2002 is fundamentally important to the subject appeal. This case, decided by the Vermont Environmental Court, stemmed from an appeal by John Mentas against the Zoning Administrator's decision not to take enforcement action against the owners of a 7-bedroom home at 36 North Willard Street occupied by seven unrelated students. "Family" and "group quarters" were central to that case. The 1999 zoning regulations in effect at the time contained the same definition of "family" as adopted December 21, 1970. The Court found that "...to fall within the zoning use category of a single detached dwelling, the occupants of the house must satisfy *both* prongs of the definition of family. ...The shared student housing at issue... met the first prong of this test, in that the students were living as a single, nonprofit housekeeping unit,

but found that material facts were disputed as to whether or not they also fell outside of the category of ‘group quarters.’” The Court decided that occupancy by unrelated adult students amounted to group quarters and was, therefore, prohibited under the zoning ordinance.

While the *Mentes* case was pending, the city amended its zoning ordinance November 22, 2000 to address residential occupancy limits (see attached City Council resolution “Appendix A, Zoning #2000-01). The present language, Sec. 4.4.5 {d} 5, C, *Residential Occupancy Limits*, is below.

Residential Occupancy Limits.

In all residential districts, the occupancy of any dwelling unit is limited to members of a family as defined in Article 13. Notwithstanding the following, the minimum square footage requirements shall be reduced by ten (10%) percent in situations where the residential premises are owner occupied.

Subject to Conditional Use approval by the DRB, a dwelling unit may be occupied by more than four (4) unrelated adults if it contains at least twenty-five hundred (2,500) square feet excluding its attic and basement pursuant to the following:

- (i) If in a RL district, the dwelling unit also contains at least an additional two hundred fifty (250) square feet and one (1) additional parking space per adult occupant in excess of four (4); or,
- (ii) If in a RM district, the dwelling unit also contains at least an additional two hundred (200) square feet and one (1) additional parking space per adult occupant in excess of four (4).
- (iii) If in a RH district, the dwelling unit also contains at least an additional 150 square feet and 1 additional parking space per adult occupant in excess of four (4).

Family: One or more persons occupying a dwelling unit and living as a single nonprofit housekeeping unit, but not including group quarters such as dormitories, sororities, fraternities, convents, and communes. Occupancy by any of the following shall be deemed to constitute a family:

- (a) Members of a single family, all of whom are related within the second degree of kinship (by blood, adoption, marriage or civil union).
- (b) A “functional family unit” as defined in Article 30, Sec. 30.1.2(1).
- (c) Persons with disabilities as so defined in Title VII of the Civil Rights Act of 1968, as amended by the “Fair Housing Amendments Act of 1988”.
- (d) A state registered or licensed day care facility serving six or fewer children as required by 24 V.S.A. 4409(2), as the same may be amended from time to time.
- (e) No more than four unrelated adults and their minor children.

Provided that a dwelling unit in which the various occupants are treated as separate roomers cannot be deemed to be occupied by a family.

For purposes of this definition of family, a group of adults living together in a single dwelling unit and functioning as a family with respect to those characteristics that are consistent with the purposes of zoning restrictions in residential neighborhoods shall be regarded as a “functional family unit” and shall also qualify as a family hereunder...

While commonly thought of as a restrictive provision, the amendment is actually permissive in light of the *Mentes* case. *Mentes* found that occupancy by unrelated adults constituted group quarters and was, therefore, prohibited. The *residential occupancy limits* amendment added provision for up to 4 unrelated adults within the definition of “family” and established criteria for occupancy exceeding 4 unrelated adults. This amendment enabled occupancy of dwelling units by up to 4 unrelated adults, and under certain criteria, occupancy by more than 4 unrelated adults. The residential occupancy limits amendment originally pertained only to the residential medium density and residential low density zones. It was later expanded to include the residential high density zone. The subject property is within the residential medium density zone.

This appeal for an affirmative grandfathering determination cannot be upheld.

- The subject apartments are presently occupied by more than 4 unrelated adults without any zoning permit to do so.
- Under the case law established by *Mentes*, this occupancy amounts to group quarters.
- Group quarters are specifically excluded from the definition of family.
- Dwelling units must be occupied by a family; occupancy of the apartments as group quarters is not allowed.
- Occupancy of dwelling units as group quarters became prohibited December 21, 1970.
- Consistent use of the subject dwelling units as group quarters with 5-6 unrelated adult occupants would need to be demonstrated back to at least December 20, 1970.
- Neither city records nor documentation provided by the appellant demonstrate consistent use of the subject apartments as group quarters with 5-6 unrelated adult occupants back to at least December 20, 1970.

The property at 2-8 Hickok Place appears to have been used as an apartment building since its construction in 1894. While it may be possible that some of the apartments have been used as group quarters since at least December 20, 1970, there is simply no documentation to support consistent occupancy as such. As a result, no affirmative grandfathering determination can be issued.

II. Recommended Motion:

Uphold the denial of determination request 16-0151DT.

appealform.pdf | Download | of 1

OCT 08



Burlington
Planning and Zoning

Department of Planning and Zoning
149 Church Street, City Hall
Burlington, VT 05401-8415
Phone: (802) 865-7188
Fax: (802) 865-7195
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DEPARTMENT
PLANNING & ZONING

Appeal of an Administrative Decision Request

Use this form to appeal any Administrative Decision or Notice of Violation - See Sec. 12.2.2 of the Zoning Ordinance.

SUBJECT LOCATION ADDRESS: 2-8 Hickok Place

Subject Property Owner: Diemer Apartments, LLC

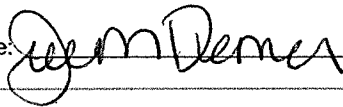
Appellant: Diemer ~~Dean~~ Apartments, LLC

Agent/Representative: Mike + Julie Diemer owner/manager

Mailing Address: 14 Bacon St. Suite 205

City, St, Zip: Burlington VT 05401

Day Phone: 802 951 2457 Email: diemerproperties@yahoo.com

Appellant Signature:  Date: 10/7/15

In order for your request to be considered complete, ALL of the following information must be provided, as applicable:

- ☐ The Appeal fee of \$250;
- ☐ Description of the decision under appeal;
- ☐ Description of the property subject to the appeal;
- ☐ Reference to the regulatory provisions applicable to the appeal;
- ☐ Relief requested by the appellant;
- ☐ Alleged grounds why such requested relief is believed proper under the circumstances.

Office Use Only:

Check No. 5263 Amount Paid 250. Zoning Permit # 16-0151DT

July 2012



Diemer Apartments, LLC
14 Bacon Street, Suite 205
Burlington, VT 05401

RECEIVED
OCT 08 2015
DEPARTMENT OF
PLANNING & ZONING

City of Burlington

Department of Planning & Zoning

149 Church Street

Burlington, VT 05401

October 7, 2015

RE: Appeal to Zoning Decision; 2-8 Hickok Place

Decision: Adverse: Stating we need additional documentation dating back to 1970.

Property Description: 8 Unit, Residential apartment building, containing 33 approved bedrooms.

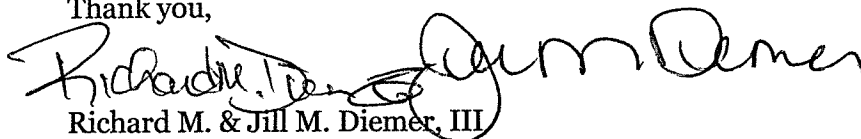
Reference to Provisions:

- We maintain we have done nothing wrong.
- The City gave us clearance when we purchased the building.
- We have not changed the use of the building.
- The building was built in 1894 as an apartment/tenement house.
- We have provided a plethora of proof showing that the 5 & 6 bedrooms have been continuously used as rented bedrooms within the unit.

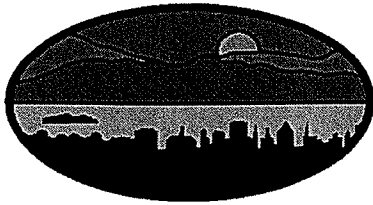
Relief Requested: Overturn /Grant Grandfathered status to 2B-4B-6B & 8B Hickok Place.

- Request that this decision be overturned.
- Request that 2-8 Hickok Place is given official Grandfathered status.
- Request that the City officially recognizes the building as having 8 dwelling units.

Thank you,


Richard M. & Jill M. Diemer, III

Diemer Apartments, LLC



ZONING DETERMINATION

ADVERSE

City of Burlington, Vermont
Department of Planning and Zoning

Application Date: 07/30/2015

Appeal Expiration Date: 10/15/2015

Project Location: 2-8 HICKOK PLACE

District:

Owner: Diemer Apartments LLC

Ward: 2C

Address: 14 BACON ST SUITE 205
BURLINGTON VT 05401

Tax ID: 044-4-165-000

Determination Type: Residential - Use - Existing

Determination Description:

Determination of five and six bedroom useage grandfathered at four living units.

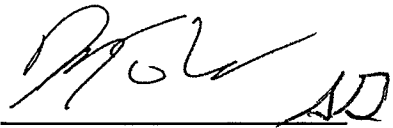
Zoning Review #16-0151DT

Decision Type: Administrative

Decision: Adverse

See Determination Findings

Decision Date: September 30, 2015


Zoning Administrative Officer

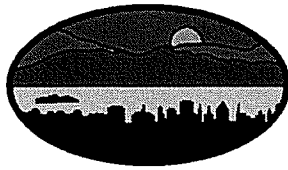
An interested person may appeal a decision of the Zoning Administrator to the Development Review Board until 4 pm on October 15, 2015.

Fee Type	Amount	Paid in Full	Balance Due: \$0.00
Application Fee:	\$80.00	Yes	Date Paid: _____ Check # _____

Building Permit Required: **No**

Permit Received By: _____

Date: _____



City of
Burlington, Vermont
149 Church Street

Zoning Determination – Findings

ZP #: 16-0151DT

Tax ID: 044-4-165-000

Issue Date: September 30, 2015

Decision: Adverse

Property Address: 2-8 HICKOK PLACE

Description: Request for a grandfathering determination of five and six bedroom usage within four living units at the property.

This determination is in regard to the above-referenced property, specifically your request that the City of Burlington recognize 5 & 6-bedroom usage (5 & 6 person occupancy) of units 2B, 4B, 6B and 8B as grandfathered (legally pre-existing non-conformities). The City reviewed the following documents/evidence to form its determination:

- The City's zoning permit records
- The City's property assessment records
- The City's rental registration records
- Code Enforcement zoning compliance memo
- Affidavits of
 - Richard M. Diemer and Jill M. Diemer
 - Vincent A. Paradis
 - John F. Shea, Jr.
- The City's determination regarding onsite parking
- Floor plans of the residence
- State of Vermont wastewater permit records
- *In re: Appeal of John Mentis*, Docket No. 132-6-00 Vtec (Vt. Env'tl. Div. October 22, 2001 and May 10, 2002)
- Burlington zoning regulations including, but not limited to, the following versions: 2008 Comprehensive Development Ordinance and as amended, ZA #2000-01 Residential Districts Established passed November 22, 2000, Burlington Zoning Ordinance approved December 21, 1970

Based on the review of these items, it is the determination of the Planning and Zoning Department that insufficient evidence has been provided to grandfather 5 & 6-bedroom occupancy of the subject dwelling units. Grandfathered or pre-existing legal non-conformities pertain to lots/parcels/structures/uses that are non-compliant with a current zoning regulation, but were compliant prior to a change in the regulations. While Sec. 4.4.5 (d) 5, C, *Residential Occupancy Limits*, was approved in November 2000, pursuant to *In re: Appeal of John Mentis*, Docket No. 132-6-00 Vtec (Vt. Env'tl. Div. October 22, 2001 and May 10, 2002), the city's zoning ordinance in effect prior to the November 2000 amendment prohibited occupancy of dwelling units as "group quarters". The case found "shared student housing" to be "group quarters". The inclusion of the "group quarters" exclusion can be found in the Burlington Zoning Ordinance starting in 1970 (Burlington Zoning Ordinance approved December 21, 1970). As such, evidence would need to be provided that

the occupancy of the requested units was 5 and 6 unrelated persons prior to December 21, 1970 and has continued as such. Such evidence was not provided and therefore, the grandfathering determination request must be DENIED.



Department of Planning and Zoning

149 Church Street, City Hall

Burlington, VT 05401-8415

Phone: (802) 865-7188

Fax: (802) 865-7195

www.burlingtonvt.gov/pz

RECEIVED

JUL 30 2015

DEPARTMENT OF
PLANNING & ZONING

Zoning Permit Application

Use this form for ALL zoning permit applications. See the relevant checklist for specific requirements.

PROJECT LOCATION ADDRESS: 2-4-6-8 Hickok Place Burlington, VT

PROPERTY OWNER*: Diemer Apartments, LLC

APPLICANT: Same

*If condominium unit, written approval from the Association is also required

POSTAL ADDRESS: 14 Bacon St.

POSTAL ADDRESS: _____

CITY, ST, ZIP: Burlington, VT 05401

CITY, ST, ZIP: Same

DAY PHONE: 802 951 2457

DAY PHONE: _____

EMAIL: diemerproperties@yahoo.com

EMAIL: _____

SIGNATURE: Jim Diemer

SIGNATURE: _____

I am the owner. In addition, I duly authorize the applicant (if noted) to act on my behalf for all matters pertaining to this zoning permit application.

Description of Proposed Project: GRANDFATHERED
Determination of 5th bedroom use
at 2B 4B 6B 8B Hickok Place

Existing Use of Property: ☐ Single Family ☒ Multi Family: # 8 Units ☐ Other: _____

Proposed Use of Property: ☐ Single Family ☐ Multi Family: # _____ Units ☐ Other: _____

• Does your project involve new construction, addition, alteration, renovation, or repair to a structure that is heated or cooled? Yes ☐ No ☒

(If yes, the Vermont Residential Building Energy Standards (VRBES) apply. Visit the P&Z Office, Public Service Board or PSB website for details)

• Will 400 sq ft or more of land be disturbed, exposed and/or developed? Yes ☐ No ☒

(If yes, you will need to submit the 'Erosion Prevention and Sediment Control Plan' questionnaire, with a site plan)

• For Single Family & Duplex, will total impervious area be 2500 sq ft or more? Yes ☐ No ☒

(If yes, you will need to submit the 'Stormwater Management Plan' questionnaire, with a site plan)

• Are you proposing any work within or above the public right of way? Yes ☐ No ☒

(If yes, you will need to receive prior approval from the Department of Public Works)

Estimated Construction Cost (value)*: \$ 0

(*Estimated cost a typical contractor would charge for all materials and labor, regardless of who physically completes the work)

Within 30 days of submission, the permit application will be reviewed for completeness, and, if complete, will be processed administratively or referred to a board for review. All permit approvals or denials are subject to an appeal period (15 days for administrative permit; 30 days for board permit). A building (and/or electrical, mechanical, plumbing, curb cut) permit will also be required. Contact the Department of Public Works at 802-863-9094 to inquire. Please ask for assistance if you have any questions about filling out this form. Call the Planning and Zoning at 802-865-7188, or visit the office in the lower level of City Hall, 149 Church Street.

Office Use Only: Zone: Rm Eligible for Design Review? Y Age of House 16 Yr Lot Size 5000
Type: SN AW FC BA COA 1 COA 2 COA 3 CU MA VR HO SP DT MP
Check No. 5027 Amount Paid \$80 Zoning Permit # 14-0151DT



RENTAL UNIT REGISTRATION APPLICATION



Page 1 of 2

Required Information:

In Compliance with Chapter 18 of the City of Burlington Code of Ordinances, residential rental-property owners are required to submit this form with related documents and fees by April 1 of each year.

- Rental registration information provides vital information for public safety and welfare, and your cooperation is appreciated. Please see accompanying letter and instructions regarding REQUIRED information.
- If any information has changed, please note the updated information on this form.
- Note: If you have sold your residential rental property, return form with name and address of new owner.

People Information:

Owner Diemer Apartments LLC *(Richard m. Diemer, II)*
Address: ~~83 NORTH UNION STREET~~ P.O. Box 64678
City, State, Zip BURLINGTON VT 05406-4678 ✓
Phone: 951-2457 Other Phone: _____
E-Mail: _____

Is owner/principal party on active military duty or expect to be active in the next 12 months?

Circle One YES ☒ NO

Date of Birth 6/28/68 REQUIRED

Owner DIEMER APARTMENTS LLC, *Richard m. Diemer, II*

Address: P.O. BOX 64678
City, State, Zip BURLINGTON VT 05406-4678

Phone: (802) 951-2457 Other Phone: _____

E-Mail: _____

Is owner/principal party on active military duty or expect to be active in the next 12 months?

Circle One YES ☒ NO

Date of Birth 6/28/68 REQUIRED

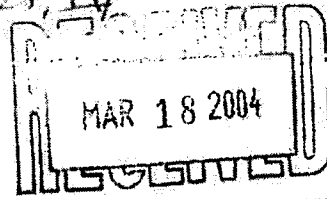
Property Manager

Jill Diemer

Address: P.O. Box 64678
City, State, Zip Burlington VT 05406-4678

Phone: (802) 951-2457 Other Phone: _____

E-Mail: _____



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APR 15 2004

INIT

*Signature
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Missing*

1-3-05

** Please
NOTE
ZIP code*

*1-3-05
00*

City of Burlington Rental Registration Property Information Sheet

The Following information is required by law. Please review the below information regarding your rental units and correct the information as needed.

PROPERTY LOCATION: 2-8 HICKOK PL

Unit	Exempt?	# Bedrooms	# Residents	# Family	# Unrelated	Functional Family	# Parking	# Vehicles	Accessibility
2A		1	2	0	0		1	1	
2B		6	6	0	5		3	3	
4A		1	1	0	0		0	0	
4B		5	5	0	5		3	3	
6A		1	2	0	0		1	1	
6B		5	5	0	5		3	3	
8A		1	1	0	0		1	0	
8B		5	5	0	5		3	3	



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JUL 25 2003

RENTAL UNIT REGISTRATION APPLICATION

INIT _____



1. **Required Information.** In compliance with Chapter 18 of the City of Burlington Code of Ordinances, residential rental-property owners are required to submit this form with related documents and fees by April 1 of each year.
- Rental-registration information provides vital information for public safety and welfare, and your cooperation is appreciated. Please see accompanying notification packet for important information.
 - Note: If you have sold your residential rental property, return form with name and address of new owner.
2. **Owner Information** (if corporation attach information for president and registered agent; if partnership attach for registered agent & general partners): **REQUIRED**
- a) Name: DIEMER APARTMENTS, LLC
- b) Street Address: PO Box 164678
- c) City, State, Zip Burlington VT 05406 Day Phone: 951-2457 Email: _____
- d) Is owner/principal party on active military duty or expect to be active in the next 12 months?
Circle one (required): Yes ☐ No ☒
- e) Date of Birth _____ (required unless corporation/partnership) **REQUIRED**
3. **Local Manager** (must be located in Chittenden County Vermont and be either owner, or an agent authorized to represent owner for compliance matters): **REQUIRED**
- a) Name: Mike + Jill Diemer
- b) Street Address: PO Box 164678
- c) City, State, Zip Burlington Day Phone: 951-2457 Email: _____
4. **"Service of Process" Contact** (owners who do not live in Chittenden County must designate agent for receipt of legal documents; can be same as local manager) **REQUIRED**
- a) Name: same
- b) Street Address: _____
- c) City, State, Zip _____ Day Phone: _____ Email: _____
- d) Is owner/agent on active military duty or expect to be active in the next 12 months?
Circle one (required): Yes ☐ No ☐
- e) Date of Birth _____ (required)
5. **Emergency Contact** (all properties must have designated emergency contact person within Chittenden County Vermont; may be local manager or service of process contact) **REQUIRED**
- a) Name: same
- b) Street Address: _____
- c) City, State, Zip _____ Day Phone: _____ Evening Phone: _____
6. **List residential rental properties and also fill out an attached property information sheet for each rental property (attach added sheets if necessary):** **REQUIRED**
- a) _____ b) _____
- c) _____ d) _____
- e) _____ f) others: _____
7. **Total number of residential UNITS** for above properties: 8
8. **Total UNITS X \$50/unit =** _____ **TOTAL FEE DUE.**
9. **Submit this form and property information sheets with check made payable to: City of Burlington DPW, and return to Code Enforcement Office, P.O. Box 878, Burlington VT 05402. If you make payment after April 1, you will owe a \$13.00 late fee and simple interest of 1% per month on the total owed for each separate property (not each individual rental unit).**
10. **I HAVE READ AND UNDERSTAND THE ATTACHED REGISTRATION INFORMATION AND OWNER'S RESPONSIBILITIES. I UNDERSTAND THAT THIS FORM MUST BE COMPLETED AS REQUIRED BY LOCAL REGULATIONS.**

Legible Owner/Agent signature: Mike Diemer

Date: _____

OVER →

JUL 21 2003

PROPERTY INFORMATION SHEET- PLEASE USE SEPARATE SHEET FOR EACH PROPERTY.

The following information is required by law. Please list your residential rental property with unit information below. If you own multiple properties, make separate copy of information sheet for each rental property.

ENTER PROPERTY ADDRESS HERE: 2-8 Hickok Place

Burlington, VT 05406



FILL IN INFORMATION FOR EACH UNIT AS FOLLOWS:

LIST EACH UNIT # (OR LETTER) ON LINES BELOW ↓	Rental Unit?	Fee exempt?	#Bedrooms	#Residents	#Families	#Unrelated	Functional Family?	#Parking Spaces	#Vehicles	Accessibility
	Indicate if not rental unit. If not insert "N".	Indicate if fee exemption claimed (per information page). If yes, insert "Y".	Enter maximum number of bedrooms.	Enter maximum number of residents.	Enter maximum number of families (Insert number if more than 1).	Enter maximum number of unrelated adults if more than 4.	If number of unrelated adults is more than 4, is functional family claimed? If yes, insert "Y".	Enter maximum number of site parking spaces.	Enter maximum number of vehicles used by residents.	Is the unit accessible to persons with disabilities? (Optional; to assist disabled citizens). If yes, insert "Y".
2A	✓		1	2				1	1	
2B			6	6		6		2-3	2-3	
4A			1	2				0	0	
4B			5	5		5		2-3	3	
6A			1	2				0	0	
6B			5	5		5		2-3	3	
8A			1	2				1	1	
8B			5	5		5		2-3	3	

↑ depends on size of unit



RENTAL UNIT REGISTRATION APPLICATION

13548

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1. **Required Information.** In compliance with Chapter 18 of the City of Burlington Code of Ordinances, residential rental-property owners are required to submit this form with related documents and fees by April 1 of each year.
- Rental registration information provides vital information for public safety and welfare, and your cooperation is appreciated. Please see accompanying notification packet for important information.
 - Note: If you have sold your residential rental property, return form with name and address of new owner.
2. **Owner Information** (if corporation attach information for president and registered agent; if partnership attach information for registered agent & general partners): **REQUIRED**
- a) Name: LABRIE + PARADIS
- b) Street Address: P.O. Box 235
- c) City, State, Zip: ESSEX VT 05453 Day Phone: 985-4154 Email: _____
- d) Is owner/principal party on active military duty or expect to be active in the next 12 months? Circle one (required): Yes ☐ No ☒
- e) Date of Birth: N/A (required unless corporation/partnership) **REQUIRED**
3. **Local Manager** (must be located in Chittenden County Vermont and be either owner, or an agent authorized to represent owner for compliance matters): **REQUIRED**
- a) Name: DAVID LABRIE
- b) Street Address: 7892 Spear Street
- c) City, State, Zip: Shelburne, VT 05482 Day Phone: 985-4154 Email: _____
4. **"Service of Process" Contact** (owners who do not live in Chittenden County must designate agent for receipt of legal documents; can be same as local manager) **REQUIRED**
- a) Name: Vincent A PARADIS
- b) Street Address: 40 ALPINE DRIVE
- c) City, State, Zip: JERICHO, VT 05461 Day Phone: 899-2936 Email: _____
- d) Is owner/agent on active military duty or expect to be active in the next 12 months? Circle one (required): Yes ☐ No ☒
- e) Date of Birth: over 21 (required)
5. **Emergency Contact** (all properties must have designated emergency contact person within Chittenden County Vermont; may be local manager or service of process contact) **REQUIRED**
- a) Name: DAVID LABRIE
- b) Street Address: 7892 Spear Street
- c) City, State, Zip: Shelburne VT Day Phone: 985-4154 Evening Phone: _____
6. **List residential rental properties and also fill out an attached property information sheet for each rental property (attach added sheets if necessary):** **REQUIRED**
- a) 66 Murray Street ✓
- b) 16 Green Street ✓
- c) 155 North Street ✓
- d) 97-99 Bell Street ✓
- e) 35 North Winooski Ave ✓
- f) others: 155 Maple Street ✓
7. **Total number of residential UNITS for above properties:** 53
8. **Total UNITS X \$50/unit =** 2650 **TOTAL FEE DUE.**
9. **Submit this form and property information sheets with check made payable to: City of Burlington DPW, and return to Code Enforcement Office, P.O. Box 878, Burlington VT 05402. If you make payment after April 1, you will owe a \$13.00 late fee and simple interest of 1% per month on the total owed for each separate property (not each individual rental unit).**
10. **I HAVE READ AND UNDERSTAND THE ATTACHED REGISTRATION INFORMATION AND OWNER RESPONSIBILITIES. I UNDERSTAND THAT THIS FORM MUST BE COMPLETED AS REQUIRED BY LOCAL REGULATIONS.**

Legible Owner/Agent signature: [Signature]

Date: 3/10/02

OVER →

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MAR 14 2002

PROPERTY INFORMATION SHEET: USE SEPARATE SHEET FOR EACH PROPERTY.
 The following information is required by law. Please list your residential rental property with unit information below.
 If you own multiple properties, make separate copy of information sheet for each rental property.
 ENTER PROPERTY ADDRESS HERE: 2168 Hickok Pl
 AUTHORIZED SIGNATURE AND DATE: [Signature] 3/13/02



LIST EACH UNIT # (OR LETTER) ON LINES BELOW	FILL IN INFORMATION FOR EACH UNIT AS FOLLOWS:										
	Rental Unit	Exempt	Exemption	Maximum number of bedrooms	Maximum number of bathrooms	Maximum number of furnished units	Maximum number of furnished units (more than 4)	Maximum number of furnished units (more than 4)	Maximum number of furnished units (more than 4)	Maximum number of furnished units (more than 4)	Maximum number of furnished units (more than 4)
216				1	2	1	1	1	1	1	1
217				1	2	1	1	1	1	1	1
218				1	2	1	1	1	1	1	1
219				1	2	1	1	1	1	1	1
220				1	2	1	1	1	1	1	1
221				1	2	1	1	1	1	1	1
222				1	2	1	1	1	1	1	1
223				1	2	1	1	1	1	1	1
224				1	2	1	1	1	1	1	1
225				1	2	1	1	1	1	1	1
226				1	2	1	1	1	1	1	1
227				1	2	1	1	1	1	1	1
228				1	2	1	1	1	1	1	1
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253				1	2	1	1	1	1	1	1
254				1	2	1	1	1	1	1	1
255				1	2	1	1	1	1	1	1
256				1	2	1	1	1	1	1	1
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265				1	2	1	1	1	1	1	1
266				1	2	1	1	1	1	1	1
267				1	2	1	1	1	1	1	1
268				1	2	1	1	1	1	1	1
269				1	2	1	1	1	1	1	1
270				1	2	1	1	1	1	1	1
271				1	2	1	1	1	1	1	1
272				1	2	1	1	1	1	1	1
273				1	2	1	1	1	1	1	1
274				1	2	1	1	1	1	1	1
275				1	2	1	1	1	1	1	1
276				1	2	1	1	1	1	1	1
277				1	2	1	1	1	1	1	1
278				1	2	1	1	1	1	1	1
279				1	2	1	1	1	1	1	1
280				1	2	1	1	1	1	1	1
281				1	2	1	1	1	1	1	1
282				1	2	1	1	1	1	1	1
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285				1	2	1	1	1	1	1	1
286				1	2	1	1	1	1	1	1
287				1	2	1	1	1	1	1	1
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289				1	2	1	1	1	1	1	1
290				1	2	1	1	1	1	1	1
291				1	2	1	1	1	1	1	1
292				1	2	1	1	1	1	1	1
293				1	2	1	1	1	1	1	1
294				1	2	1	1	1	1	1	1
295				1	2	1	1	1	1	1	1
296				1	2	1	1	1	1	1	1
297				1	2	1	1	1	1	1	1
298				1	2	1	1	1	1	1	1
299				1	2	1	1	1	1	1	1
300				1	2	1	1	1	1	1	1

entered 7/6/01 -CO

13548



RENTAL UNIT REGISTRATION APPLICATION



1. **Required Information.** In compliance with Chapter 18 of the City of Burlington Code of Ordinances, residential rental-property owners are required to submit this form with related documents and fees by April 1 of each year.
 - Rental registration information provides vital information for public safety and welfare, and your cooperation is appreciated. **Please see accompanying notification packet for important information.**
 - Note: If you have sold your residential rental property, return form with name and address of new owner.
2. **Owner Information** (if corporation attach information for president and registered agent; if partnership attach for registered agent & general partners):
 - a) Name: LABRIE i PARADIS
 - b) Street Address: P O Box 235
 - c) City, State, Zip Essex Junction VT 05453 Phone: 985-4154 Email: _____
 - d) Is owner/principal party on active military duty or expect to be active in the next 12 months?
Circle one (required): Yes ☐ No ☒
 - e) Date of Birth N/A (required unless corporation/partnership)
 - f) Driver's License Number and State N/A (required unless corporation/partnership)
3. **Local Manager** (must be located in Chittenden County Vermont and be either owner, or an agent authorized to represent owner for compliance matters):
 - a) Name: DAVID LABRIE
 - b) Street Address: 7892 Spruce Street
 - c) City, State, Zip Shelburne, VT Phone: 985-4154 Email: _____
4. **"Service of Process" Contact** (owners who do not live in Chittenden County must designate agent for receipt of legal documents; can be same as local manager)
 - a) Name: Vincent A PARADIS
 - b) Street Address: 70 ALPINE DRIVE
 - c) City, State, Zip Truette, Vermont Phone: 899-2936 Email: _____
 - d) Is owner/agent on active military duty or expect to be active in the next 12 months?
Circle one (required): Yes ☐ No ☒
 - e) Date of Birth over 21 (required) Driver's License Number and State Vermont (required)
5. **Emergency Contact** (all properties must have designated emergency contact person within Chittenden County Vermont; may be local manager or service of process contact)
 - a) Name: DAVID LABRIE
 - b) Street Address: 7892 Spruce Street
 - c) City, State, Zip Shelburne VT Phone: 985-4154 Email: _____
6. **List residential rental properties and also fill out an attached property information sheet for each rental property (attach added sheets if necessary):**

a) <u>66 MORROW STREET BUR</u>	b) <u>16 Green Street BUR</u>	/ <u>3 Spruce Street BUR</u>
c) <u>155 North Street BUR</u>	d) <u>97-99 Birch Street BUR</u>	/ <u>21 Hazard Street BUR</u>
e) <u>35 W. Main Ave BUR</u>	f) others: <u>155 maple Street BUR</u>	/ <u>BUR</u>
7. **Total number of residential UNITS** for above properties: 53
8. **Total UNITS requiring fee** X \$50/unit = 2650 **TOTAL FEE DUE.**
9. **Submit this form and property information sheets with check made payable to:** City of Burlington DPW, and return to Code Enforcement Office, P.O. Box 878, Burlington VT 05402. If you make payment after April 1, you will owe a \$13.00 late fee and simple interest of 1% per month on the total owed for each separate property (not each individual rental unit).
10. **I HAVE READ AND UNDERSTAND THE ATTACHED REGISTRATION INFORMATION AND OWNER'S RESPONSIBILITIES. I UNDERSTAND THAT THIS FORM MUST BE COMPLETED AS REQUIRED BY LOCAL REGULATIONS.**

Legible Owner/Agent signature: _____

Date: 4/1/01

PROPERTY INFORMATION SHEET: USE SEPARATE SHEET FOR EACH PROPERTY.

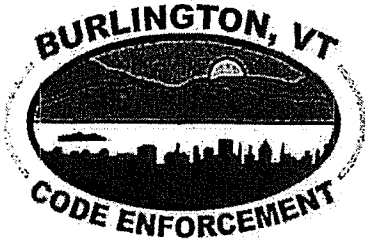
The following information is required by law. Please list your residential rental property with unit information below. If you own multiple properties, make separate copy of information sheet for each rental property.

ENTER PROPERTY ADDRESS HERE: 2708 Hickock Pl.

AUTHORIZED SIGNATURE AND DATE: [Signature] 3/20/01



LIST EACH UNIT # (OR LETTER) ON LINES BELOW	FILL IN INFORMATION FOR EACH UNIT AS FOLLOWS:									
	Rental Unit	Fee Exemption	Bedrooms	Bathrooms	Maximum number of families	Maximum number of adults (more than 4)	Maximum number of unrelated adults (more than 4, is functional family claimed? If yes, insert "Y")	Maximum number of vehicles parked	Maximum number of vehicles used by residents	Accessibility
3A			1	2				1	1	
3B			6	6		6		3	3	
4A			1	2				0	0	
4B			3	5		5		3	3	
6A			1	2				1	1	
6B			5	3		5		3	3	
8A			1	2				1	1	
9B			3	5		5		3	3	



City of Burlington Vermont
Code Enforcement
645 Pine Street
Burlington, VT 05401
PHONE: (802) 863-0442
FAX: (802) 652-4221

**2007 Account Statement
Owner Reference File 140808**

Diemer Apartments LLC
Richard M. Diemer, ■
P. O. Box 64678
Burlington VT 05406-4678

APR 06 2007

Summary of Charges	Amount Due
2007 Rental Registration Fee	600.00
See reverse side for detail of charges	
Total Amount Due by April 2, 2007	\$600.00

Submit this form and completed owner registration information sheets with check for the amount stated on the 2007 Account Statement, made payable to:

Burlington Code Enforcement
645 Pine Street
Burlington, VT 05401

If we do not receive your payment within 30 days, you will owe a \$13.00 per property late fee.

I HAVE READ AND UNDERSTAND THE ATTACHED REGISTRATION INFORMATION AND INSTRUCTION SHEETS. THE INFORMATION PROVIDED IS TRUE AS OF THE DATE OF FILING AND I UNDERSTAND THAT I MUST SUPPLEMENT THE INFORMATION IMMEDIATELY IF IT CHANGES.

Authorized Owner / Agent Signature: Richard M. Diemer

Date: 4/2/07

RENTAL HOUSING REGISTRATION FORM 1996

****PLEASE READ INFORMATION ON BACK OF FORM****

In compliance with Chapter 18, City of Burlington, Code of Ordinances requiring the registration of rental properties, please answer the following questions completely and return to **Burlington Public Works Dept., Attn: Minimum Housing Program, P.O. Box 878, Burlington, VT 05402** by **April 1, 1996** with check payable to: **City of Burlington**.

☐ CHECK IF BELOW LISTED PROPERTY HAS BEEN SOLD, STOP HERE AND RETURN FORM.

1. 2-8 Hickok Place, Burlington 05401
Address of Rental Property
2. DAVID C. LABRIE
Owner Name
3. 985-4154
Owner Telephone Number
4. Box 235
Street Address of Owner
5. Essex Junction 05403
City, State, and Zip
6. N/A
Name of Manager (if different from Owner)
7. _____
Telephone Number of Manager
8. N/A
Street Address of Manager
9. _____
City, State, and Zip of Manager
10. N/A
Name of Emergency Contact (if different from manager or owner)
11. _____
Telephone Number of Emergency Contact
12. N/A
Street Address of Emergency Contact
13. _____
City, State, and Zip of Emergency Contact
14. _____
Name of person designated for Service of Process.
(Required if you live out of State. This person is responsible for receipt of legal documents in your absence.)
15. _____
Address of person designated for Service of Process

RENTAL HOUSING REGISTRATION FEE

The property listed above is owned by me, and contains:

16. 8 Number of Residential Units at property location
17. 0 Number of Units claimed as exempt from the registration fee.
18. 8 Total non-exempt units x \$25.00 per unit = 200.00
(line 16 minus line 17) Amount Enclosed

MAIL

TO: LABRIE DAVID C &
VINCENT A PARADIS
P O BOX 235
ESSEX JCT, VT 05452

2
Signature of Owner or Agent

OK 1153
3/19/96
(9)

AFFIDAVIT

TO WHOM IT MAY CONCERN:

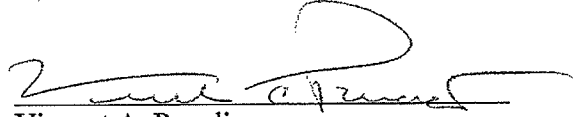
I, Vincent A. Paradis, hereby state as follows:

1. That David C. LaBrie and I were the owners of property known and designated as 2-4-6-8 Hickok Place in the City of Burlington from March 10, 1986, until May 2, 2003.

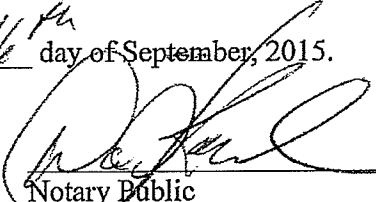
2. During our ownership of the property, the building contained eight (8) separate units with a combined total of 25 bedrooms. The eight units consisted of four one bedroom units and the following:

- One unit containing 6 bedrooms, which was continuously rented by 6 individuals;
- Three units containing 5 bedrooms, each of which were continuously rented by 5 individuals; and

Dated this 16th day of September, 2015.


Vincent A. Paradis

Sworn and subscribed to before me this 16th day of September, 2015.


Notary Public
My Commission Expires: 2/10/2019

Scott Gustin

From: Diemer Properties <diemerproperties@yahoo.com>
Sent: Monday, September 14, 2015 2:28 PM
To: Scott Gustin
Subject: 2-8 Hickok

Hi Scott,

Just to follow up on our meeting and the two items that you asked me to look into.

1. I checked with BPW regarding building permits for 2-8 Hickok Place and I sent you one of the 19 items last week.

2. I spoke with Gail Champnois from UVM's office of community relations. She said it is next to impossible to get the number of people who lived in an off campus from 2000 or before. She said that presently they are working getting on better records for off campus housing students but they are so not good at all. Most students will only give their permanent home address.

Vince Paradis will be in the office on Wed. and will have his affidavit notarized. It will state the continuous use of the 5 & 6 bedrooms (by individuals) prior to our purchase in 2003 as well as before 2000. Do you need the original or may I have them fax it to you directly?

Thanks, Jill Diemer

Scott Gustin

From: Diemer Properties <diemerproperties@yahoo.com>
Sent: Friday, September 11, 2015 12:31 PM
To: Scott Gustin
Subject: Fw: Scanned Image
Attachments: doc032395.pdf

Hi Scott,

Here is a building permit from 1986. It shows putting an old kitchen back in the 2nd floor.

My guess is this is for the 6 bedroom unit #2B.

I have a lease from 2A dating back to 1993 for the one bedroom so this would make sense that the bedroom was adjusted in 1986. It matches the building blue prints from 6/9/1986.

Thanks, Jill

On Friday, September 11, 2015 11:28 AM, Holly Lane <hlane@burlingtonvt.gov> wrote:

-----Original Message-----

From: scanner@burlingtonvt.gov [mailto:scanner@burlingtonvt.gov]
Sent: Friday, September 11, 2015 11:08 AM
To: Holly Lane
Subject: Scanned Image

TASKalfa 5551ci
[00:c0:ee:3e:8e:18]

AMANDA 5/4/21/2003/12 - User Holly Lane Signed on to AMANDA Production

Search Edit View Reports Window Help

File Edit View Reports Window Help

Print Screen

Folder Property (1) People (2) Info (4) Fee/Charge Process Document Inspection Req Comment Attachment

Folder #	Gen. Yr.	Sequence	Sec	Rev.	Type	Status
1986 000326 000 00 EP	4485					
1986 010767 000 00 PP	4553					
1986 010791 000 00 PP	4648					
1986 017261 000 00 BP	4362					
1986 017422 000 00 BP	4781					
1986 017450 000 00 BP	4821					
1986 017495 000 00 BP	4984					
1986 017510 000 00 BP	5029					
1989 001826 000 00 EP	11420					
2003 003575 000 00 RR	14080					
2003 042975 000 00 QC						
2004 103353 000 00 RB	14080					
2004 110154 000 00 BP						
2005 102187 000 00 RB	14080					
2005 117956 000 00 RI						
2006 102345 000 00 RB	14080					
2006 104727 000 00 EP						
2006 108398 000 00 MH						
2007 102049 000 00 RB	14080					
2007 120846 000 00 EP						
2007 126671 000 00 EP						
2008 130569 000 00 RB	14080					
2009 102355 000 00 RB	14080					

Gen. Yr. Sequence Sec Rev. Type Status

Number 86 017510 000 00 BP Building Permit Closed

Property

House Pwrta Street Type Direction Unit Type Unit

Address 2-8 Hickok Place

City Burlington Zip 05401 Parcel ID 044-4-165-000 Property Row ID 5483

Location 044-4-165-000 Folder Unit

Indicators

Violations ☐

Properties ☐

Parent ☐

Child ☐

Due \$1.00

In Date Aug 4, 1986 Issue/Approval Aug 4, 1986 Expires

Reference File # 5029 By Final Date Mar 28, 1988

Sub Historic Permit Work Proposed Historic Permit

Name 2-8 HICKOK PL Priority

Description Fire Rate Highway - Put kitchen back into 2nd floor

Conditions

Group Construction Permits Parent ID Row ID 17510

List View Fielded View Copy Create Child Revise Issue/Approve Print Re-Default Summary

Show no. of rows on tabs

40 Rows Returned

CONDITIONS OF PERMIT: All work performed by the applicant shall comply with the codes and ordinances of the City of Burlington. This permit authorizes the applicant to proceed with the work described above in accordance with these codes. This permit shall not be construed as authority to violate, cancel or set aside any of the provisions of the codes. The applicant must contact the department to schedule inspections of the work and obtain final project approval.

APPLICANT SIGNATURE:

LICENSE #:

Ready



11:06 AM
9/11/2015

Inspector

Date

Diemer Apartments, LLC

14 Bacon ST Suite 205

Burlington, VT 05401

September 9, 2015

Scott Gustin

City of Burlington Zoning Dept.

City Hall Church St

Burlington, VT 05401

Affidavit

We Richard M Diemer, II and Jill M Diemer dba Diemer Apartments, LLC ,

hereby swear that the following is true.

1. In 2003 we purchased 2-8 Hickok Place Burlington VT, as an 8 unit building. We purchased this with confidence and clear title based on the clearance letter from Zoning Specialist, Jeanne Francis and with recognition of the building being 8 approved rental units from then Code Chief Code Enforcement Officer, Ray O'Connor. Ms. Francis confirmed, in writing, that after her personal search of all city records there were no past or present code or zoning violations.
2. We have never received a zoning violation from the City of Burlington during our ownership.
3. We were given a copy of the City of Burlington's "Certificate of Compliance" for 8 units at 2-8 Hickok Place dated 3/19/03 from the previous owners, Labrie and Paradis.
4. From date of purchase until the present, we have always had and or received our "Certificate of Compliance" from Burlington Code Enforcement for 2-8 Hickok Place. It was always noted as an 8 unit rental property. For Burlington Code Inspections, the inspector has always gone through the entire building viewing the occupancy of all of the bedrooms (none have been empty).
5. We have always paid our yearly Code Enforcement dues based on 8 units.
6. Prior to our purchase in 2003, we have Labrie & Paradis leases/documents showing that five and six individuals were living in 2B-(6 bedroom) 4B (5bedroom)-6B (5bedroom)-8B (5bedroom) Hickok Place.
7. We have original leases dating back to our purchase date in 2003 to 2015 showing continuous use of the 5 & 6 bedroom units and as having 5 and 6 individuals living in them.
8. We have a copy of our rental registration from 2004 showing 5 & 6 individuals were residing in 2B-4B-6B-8B Hickok Place.
9. All of our onsite parking is grandfathered per the City of Burlington.

10. We have the original blue prints dating back to 6/9/1986 showing 8 units and 33 bedrooms which have been approved by the State of Vermont.

11. Every year since our purchase of 2-8 Hickok Place, as a condition of our mortgage, we have been required to submit our entire "rent roll" to TD Bank , 110 Main ST Burlington VT. These rent rolls show first names of individual residents and/or the addresses and rental amounts we receive from each unit. Again, substantiating the 5 and 6 individuals continuously living in 2B-4B-6B-8B Hickok Place.

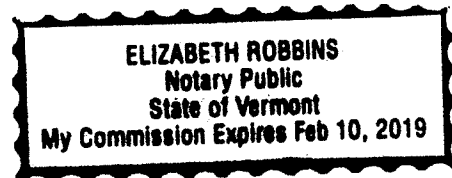
Richard M Diemer, II Richard M. Diemer owner member

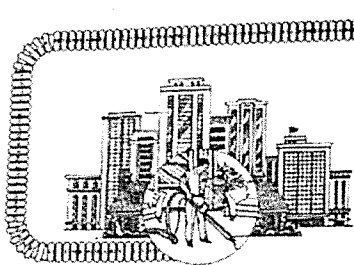
Jill M Diemer Jill M Diemer owner, manager

Sworn and subscribed to before me this 10th day of September, 2015.

Notary Public Elizabeth Robbins

My Commission expires 2-10-2019





Champlain Carpet Cleaning Inc.

133 Blakely Road, Suite 204

Colchester, Vermont 05446

802-879-1839 • 802-860-2849

Affidavit

The Bane-Clene Way
Approved by leading carpet makers

July 29, 2015

To Whom It May Concern,

Champlain Carpet Cleaning Inc. has been all the cleaning the carpets in 2-8 Hickok Place Burlington, VT, for Diemer Apartments LLC, since May 29, 2009.

Diemer Apartments have the carpets cleaned every time/every year someone moves out so I am very familiar with the building.

The first invoice for the 5 & 6 bedroom apartments dates back to May 29, 2009. 4B Hickok Place invoice #2900252, 2B Hickok Place invoice 2900254. May 30, 2009, 6B Hickok Place invoice #2900260, 8B Hickok Place invoice #2900261. I have reprinted these invoice's for your convenience.

The configuration of the units were/are:

2B - 6 bedroom unit, **4B**-5 bedroom unit, **6B**- 5 bedroom, **8B** -5 Bedroom

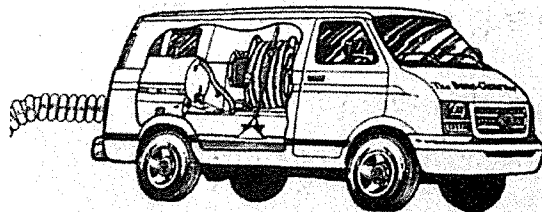
My company most recently cleaned every unit in the building (except 6A & 8B) in May of 2015. All the unit configurations were the same in 2015 as they were in 2009.

Thank you,
John Shea, President

John F. Shea Jr.

Nancy Randall

Notary Public My commission expires 2/10/19



REC'D
AUG - 6 2015
DEPARTMENT
PLANNING

Auzelina Triebel # 802-399-6005

290 Hinesburg Road~ S. Burlington, VT 05401

Affidavit

July 28, 2015

To Whom It May Concern,

In 2003, Mike and Jill Diemer, Diemer Apartments, LLC purchased 2-8 Hickok Place in Burlington, VT.

Since I was already cleaning their rental properties they asked if I could clean this property as well (when needed). The first time that I and / or my team cleaned it was during apartment turnover in May/June of 2004. The units were:

2A- 1-2 bedrooms and 1 bathroom /kitchen /living room/ den

2B - 6 bedroom- 2 showers/ kitchen/ living room /porch

4A- 1-2 bedrooms 1 bathroom/kitchen living room /den

4B- 5 bedroom 2 bathrooms/ kitchen/ living room /porch

6A- 1-2 bedrooms 1bathroom/kitchen /living room /den

6B- 5 bedrooms 2 bathrooms /kitchen/living room/ porch

8A- 1-2 bedrooms 1 bathroom/ kitchen/ living room /den

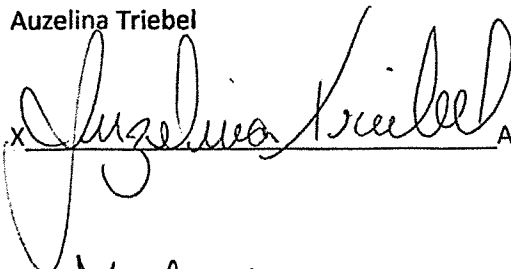
8B -5 Bedrooms 2 showers/ kitchen/ living room/porch

1 laundry room

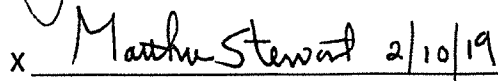
I most recently cleaned in this building in May/June of 2015 and the units were the same.

Thank you,

Auzelina Triebel

x 

Auzelina Triebel

x  2/10/19 Notary Republic of Vermont

RECEIVED
JUL 30 2015
DEPARTMENT
PLANNING & ZONING



AFFIDAVIT

TO WHOM IT MAY CONCERN:

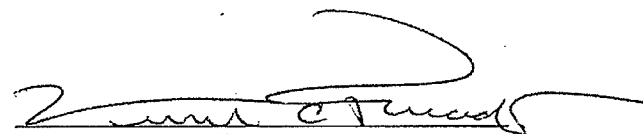
I, Vincent A. Paradis, hereby state as follows:

1. That David C. LaBrie and I were the owners of property known and designated as 2-4-6-8 Hickok Place in the City of Burlington from March 10, 1986, until May 2, 2003.

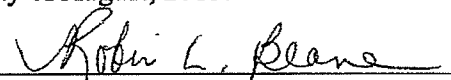
2. During our ownership until we sold the property in May of 2003, the building contained eight (8) separate units with a combined total of 25 bedrooms. The eight units consisted of:

- One unit containing 6 bedrooms
- Three units containing 5 bedrooms
- Four units containing 1 bedroom

Dated this 5th day of August, 2015.


Vincent A. Paradis

Sworn and subscribed to before me this 5th day of August, 2015.


Notary Public
My Commission Expires: 2/10/2019

RECEIVED
AUG - 6 2015
DEPARTMENT OF
PLANNING & ZONING



DAVID LABRIE
VINCENT A. PARADIS
BOX 235
ESSEX JUNCTION, VERMONT 05453-0235
RECORD-A-PHONE 985-4154

985-3729

DECEMBER 17, 2002

INFO SHEET FOR 2-8 HICKOK PLACE, BURLINGTON, VT.

APT. 2A-LARGE VERY NICE 1ST FLOOR ONE BEDROOM
APT. 2B-LARGE 2ND AND 3RD FLOOR SIX BEDROOM
APT. 4A-LARGE VERY NICE 1ST FLOOR ONE BEDROOM
APT. 4B-LARGE 2ND AND 3RD FLOOR FIVE BEDROOM
APT. 6A-LARGE VERY NICE 1ST FLOOR ONE BEDROOM
APT. 6B-LARGE 2ND AND 3RD FLOOR FIVE BEDROOM
APT. 8A-LARGE VERY NICE 1ST FLOOR ONE BEDROOM
APT. 8B-LARGE 2ND AND 3RD FLOOR FIVE BEDROOM

RENTS ARE AS FOLLOWS. RENTS INCLUDE HEAT & ALL UTILITIES. THIS PROPERTY HAD EXTENSIVE ROOF WORK DONE IN 2002 AND NEW FURNACES INSTALLED IN 2000. THERE IS A VERY NICE LAUNDROMAT IN THE BASEMENT.

RENTS:

APT. 2A-
APT. 2B-S
APT. 4A-S
APT. 4B-S
APT. 6A-S
APT. 6B-S
APT. 8A-S
APT. 8B-S

TOTAL YEARLY RENT===== \$
LESS 2% VACANCY RATE----- \$
ADJUSTED GROSS RENT===== \$

AS OF 6/1/03 LEASES

RECEIVED
JUL 30 2015

*DOES NOT INCLUDE LAUNDRY

DEPARTMENT OF
PLANNING & ZONING
PAGE 1 OF 2

THESE FACTS + FIGURES ARE
ACCURATE PER 2001 TAX FORMS
+ 2002 ACTUAL NUMBERS.

DAVE LABRIE

STATE OF VERMONT
CHITTENDEN COUNTY, SS.

AFFIDAVIT

NOW COMES David C. Labrie and Vincent A. Paradis and hereby state under oath as follows:

1. We are the owners of those lands and premises known and designated as 2, 4, 6, 8 Hickok Place, Burlington, Vermont.
2. This property was conveyed to us by Russell Fellows by Warranty Deed dated March 10, 1986.
3. It is our understanding that prior to our purchase of this property parking of motor vehicles has occurred in the area in front of 2, 4, 6, 8 Hickok Place, Burlington, Vermont, for over fifty (50) years. Reference is made to Exhibits A & B attached hereto.
4. The City of Burlington recognized this parking area on April 23, 1990, by the issuance of a "curb cut" permit, a copy of which is attached hereto as Exhibit "C".
5. This "grandfathered use" was confirmed by a letter of Stephen Znamicrowski dated November 1, 1990, a copy of which is attached hereto as Exhibit "D".
6. The parking area to which these curb cut permits apply is shown on the plan of land attached hereto as Exhibit "E".

Dated at Essex Junction, Vermont, this 27th day of March, 2003.


David C. Labrie


Vincent A. Paradis

Sworn and subscribed to before me this 27th day of March, 2003.


Jennifer L. Goodman
Notary Public

My Commission Expires: 2/10/07

RECEIVED

JUL 30 2015

DEPARTMENT OF
PLANNING & CONSTRUCTION



Diemer Apartments, LLC

14 Bacon St, Suite 205~ Burlington, VT 05401

July 25, 2015

To whom it may concern,

I, Jill M Diemer, confirm that Diemer Apartments, LLC purchased 2A, 2B, 4A, 4B, 6A, 6B, 8A, 8B Hickok Place in 2003.

We were told by the previous owners (David Labrie and Vince Paradis) that the breakdown of rental units during their ownership (approximately twenty years) was as follows:

2A – One to 2 bedrooms

4A - One to 2 bedrooms

6A -One to two bedroom

8A- One to two bedrooms

2B- Six bedrooms

4B - Five bedrooms

6B - Five bedrooms

8B- Five bedrooms

Since Diemer Apartments, LLC's purchase in 2003, we have continued to use the building in the same manner and we have never had a vacancy in all years of ownership.

Jill M. Diemer

owner/manager Dated 7-30-15

7-30-2015

Notary of Public-Dated Exo. 7.6.10.2015

PAMELA D. AUDETTE

Notary Public, State of Vermont
Expires Feb. 10, 2016

RECEIVED
JUL 30 2015
DEPARTMENT
PLANNING & ZONING



Diemer Apartments, LLC

14 Bacon St, Suite 205~ Burlington, VT 05401

July 25, 2015

To whom it may concern,

I, Richard M. Diemer, II, confirm that Diemer Apartments, LLC purchased 2A, 2B, 4A, 4B, 6A, 6B, 8A, 8B Hickok Place in 2003.

We were told by the previous owners (David Labrie and Vince Paradis) that the breakdown of rental units during their ownership (approximately twenty years) was as follows:

2A – One to 2 bedrooms

4A - One to 2 bedrooms

6A -One to two bedroom

8A- One to two bedrooms

2B- Six bedrooms

4B - Five bedrooms

6B - Five bedrooms

8B- Five bedrooms

Since our purchase in 2003 we have continued to use the building and units in the same manor and we have never had a vacancy in all years of ownership.

Richard M. Diemer, II

Richard M. Diemer owner/member

owner/member Dated 7-30-15

Pamela D. Audette

Notary of Public-Dated

7-30-15

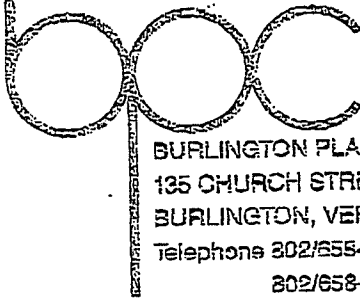
PAMELA D. AUDETTE
Notary Public, State of Vermont
My Commission Expires Feb. 10, 2019

RECEIVED

JUL 30 2015

DEPARTMENT OF
PLANNING & ZONING

Exhibit D



BURLINGTON PLANNING COMMISSION
135 CHURCH STREET
BURLINGTON, VERMONT 05401
Telephone 802/658-9300 Ext. 155
802/658-9300 (TDD)

11/1/90

David LaBrie
Vincent Paradis
Box 235
Essex Jct., VT
05452

Re: 2 - 4 Hickock Place

Dear Mr. LaBrie & Mr. Paradis:

Please find enclosed a "no-permit" permit pertaining to the curb cuts and front yard parking at 2 - 4 Hickock Place. This office has determined that front yard parking has been on-going prior to the adoption of the Burlington zoning code, and is therefore a "grandfathered" use. No extension of this use, (as shown on curb cut permit #284, issued by Public Works Dept. April 23, 1990) will be allowed without further approval from this office.

If you have any further questions regarding this matter please feel free to contact this office at the above number.

Sincerely,

Stephen Znamierowski
Zoning Enforcement Officer

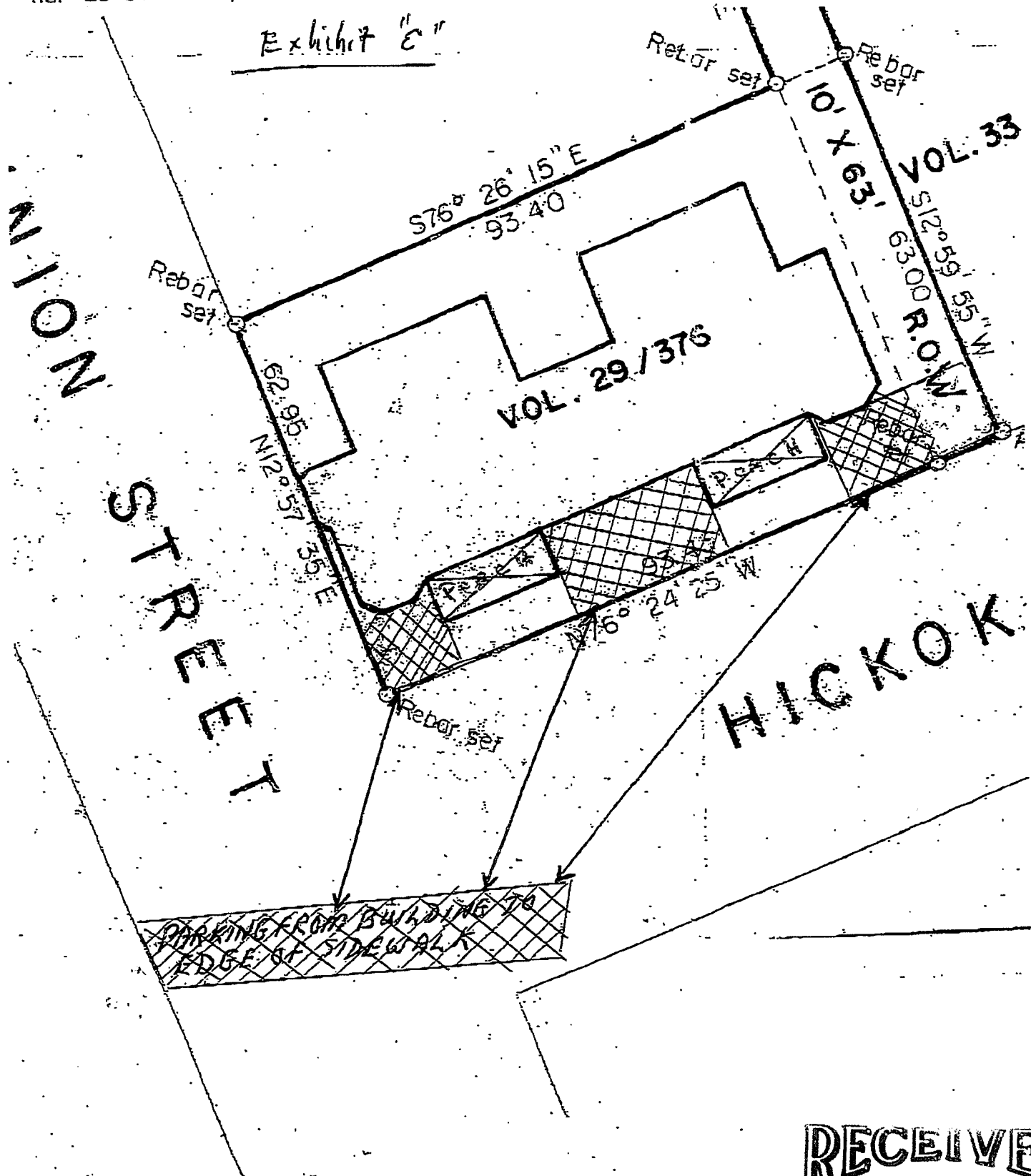
RECEIVED

JUL 30 2015

DEPARTMENT OF
PLANNING & ZONING



Exhibit "E"

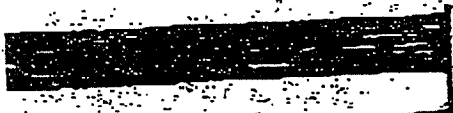


RECEIVED

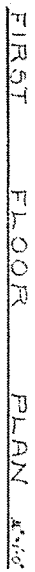
JUL 30 2015

DEPARTMENT OF
PLANNING & ZONING

100'



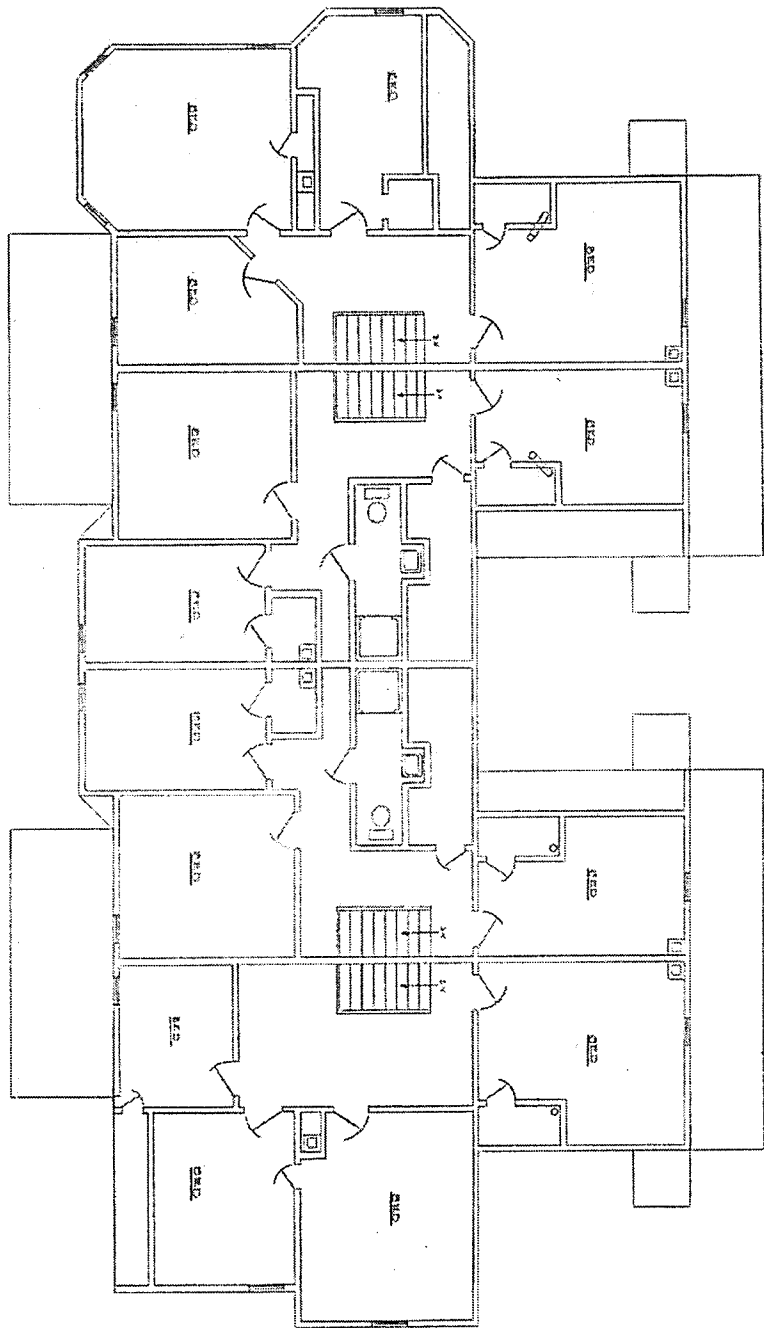
RECEIVED
JUL 30 2015
DEPARTMENT OF
PLANNING & ZONING



MECHANICAL CONSULTING ENGINEERS 100 Park Road West Nyack, New York	
HICKOX PLACE NORTH 215 PARK AVENUE NEW YORK, N.Y. 10021 PHONE 212-633-1100 TELEX 270000	
LEBRIE & FARRADIS 100 PARK ROAD WEST NYACK, N.Y. 10994 PHONE 914-339-1100 TELEX 270000	



NICKOK PLACE APTS		UNIT NO.	
2 3 NICKOK PLACE		RENTAL UNIT	
MO	DATE	RENTAL \$	DATE
ROBBIE & PANDIG		RENTAL \$	
SECOND FLOOR		RENTAL \$	

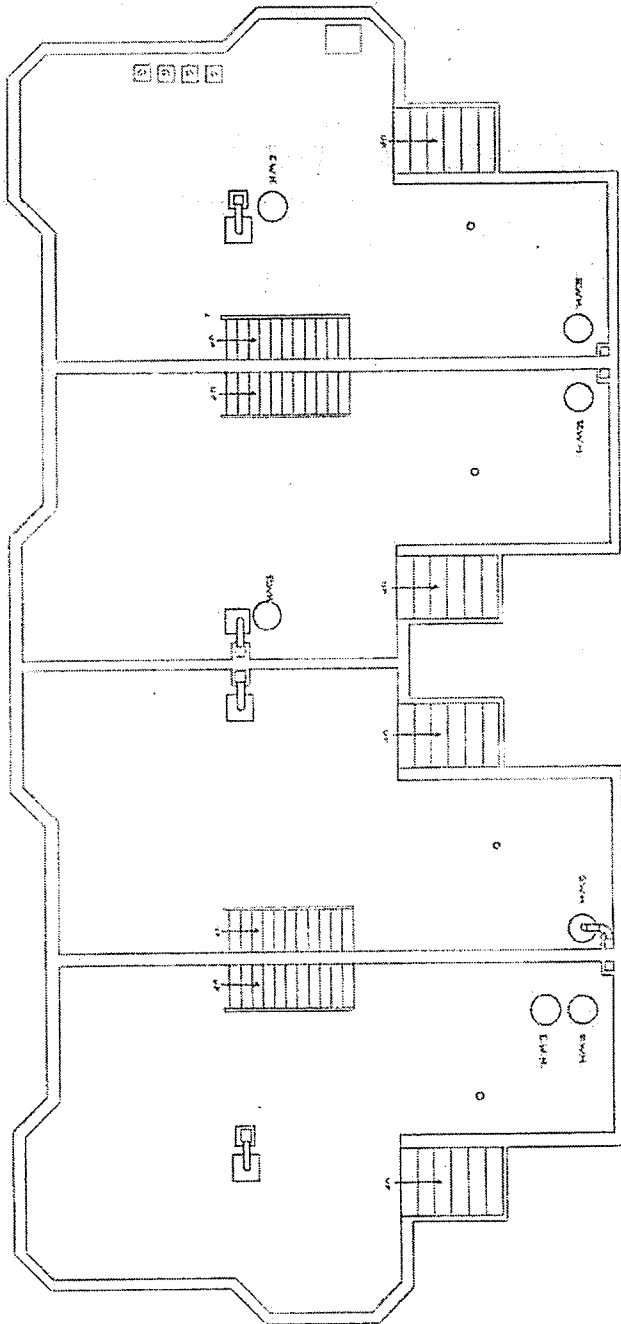


THIRD FLOOR PLAN 8'x10'

14

MECHANICAL
CONSULTING
ENGINEERS
 2000 10th Avenue
 Suite 100
 Denver, CO 80202
 303.733.1000

HICKORY PLACE APARTS	
DATE: 12/10/00	PROJECT NO: 00-0000
BY: J. L. BROWN	DATE: 12/10/00
L. BROWN & PARTNERS	
THIRD FLOOR	

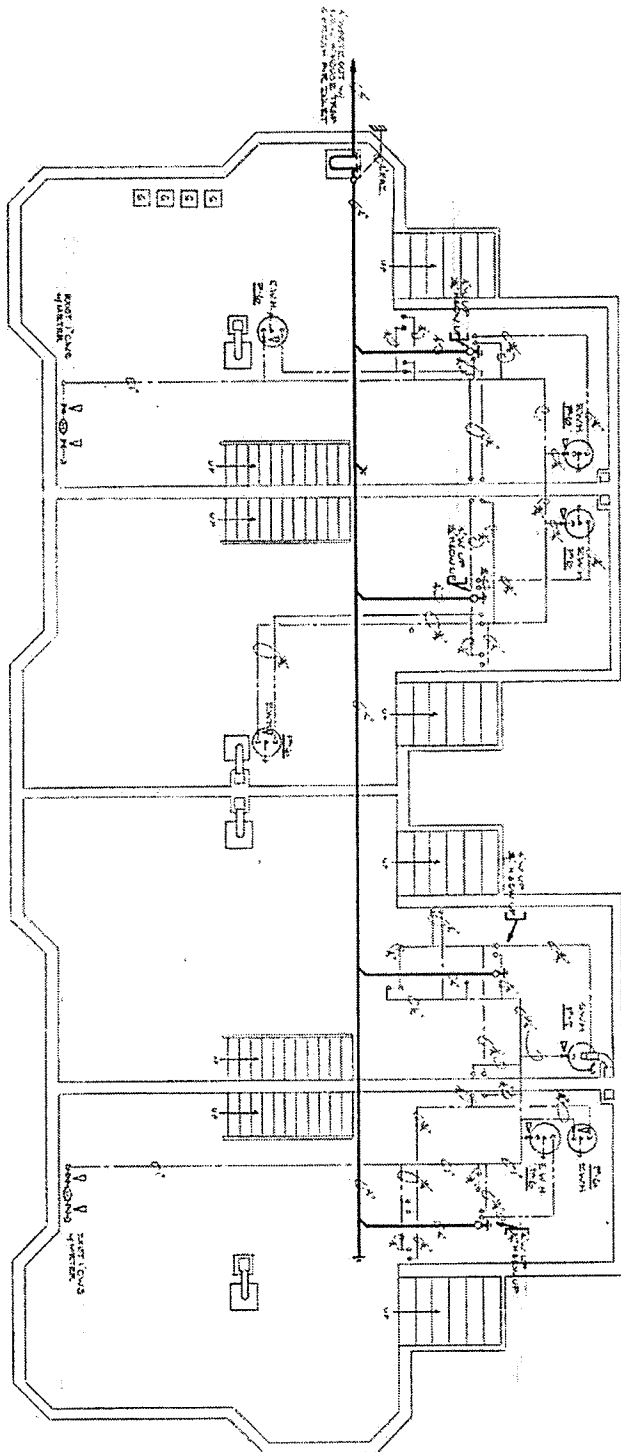


BASEMENT

PLAN 4-10

MECHANICAL
CONSULTING
CS SERVICES
1000 10th Ave NW
Seattle, WA 98107

HICKORY PLACE APARTMENTS
1000 10th Ave NW
Seattle, WA 98107
1000 10th Ave NW
Seattle, WA 98107
1000 10th Ave NW
Seattle, WA 98107



BASEMENT PLAN A100

PLUMBING

FIXTURE

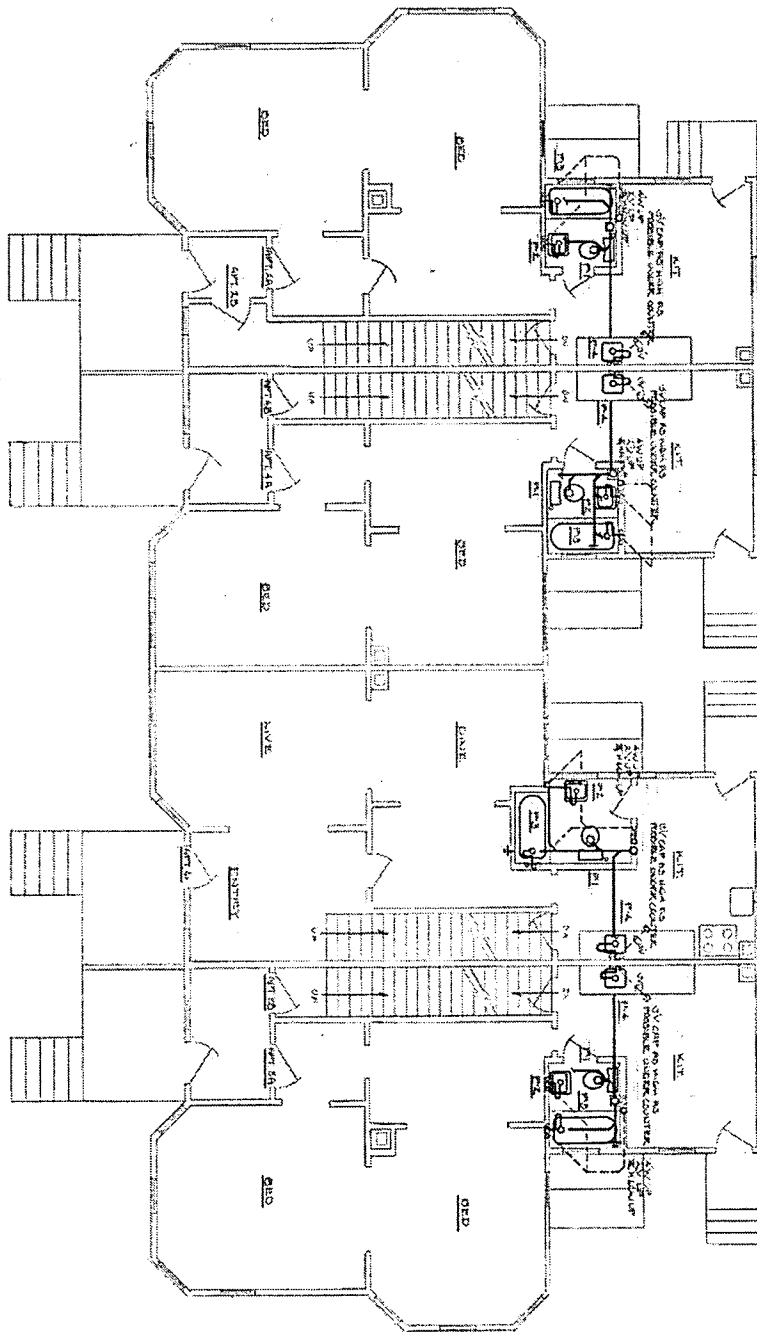
SCHEDULE

NO.	QTY	DESCRIPTION	REMARKS
1	1	WATER CLOSET	
2	1	WATER CLOSET	
3	1	WATER CLOSET	
4	1	WATER CLOSET	
5	1	WATER CLOSET	
6	1	WATER CLOSET	
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100	1	WATER CLOSET	

MECHANICAL
CONSULTING
SERVICES
1000 10th Ave. S.W.
Seattle, WA 98108

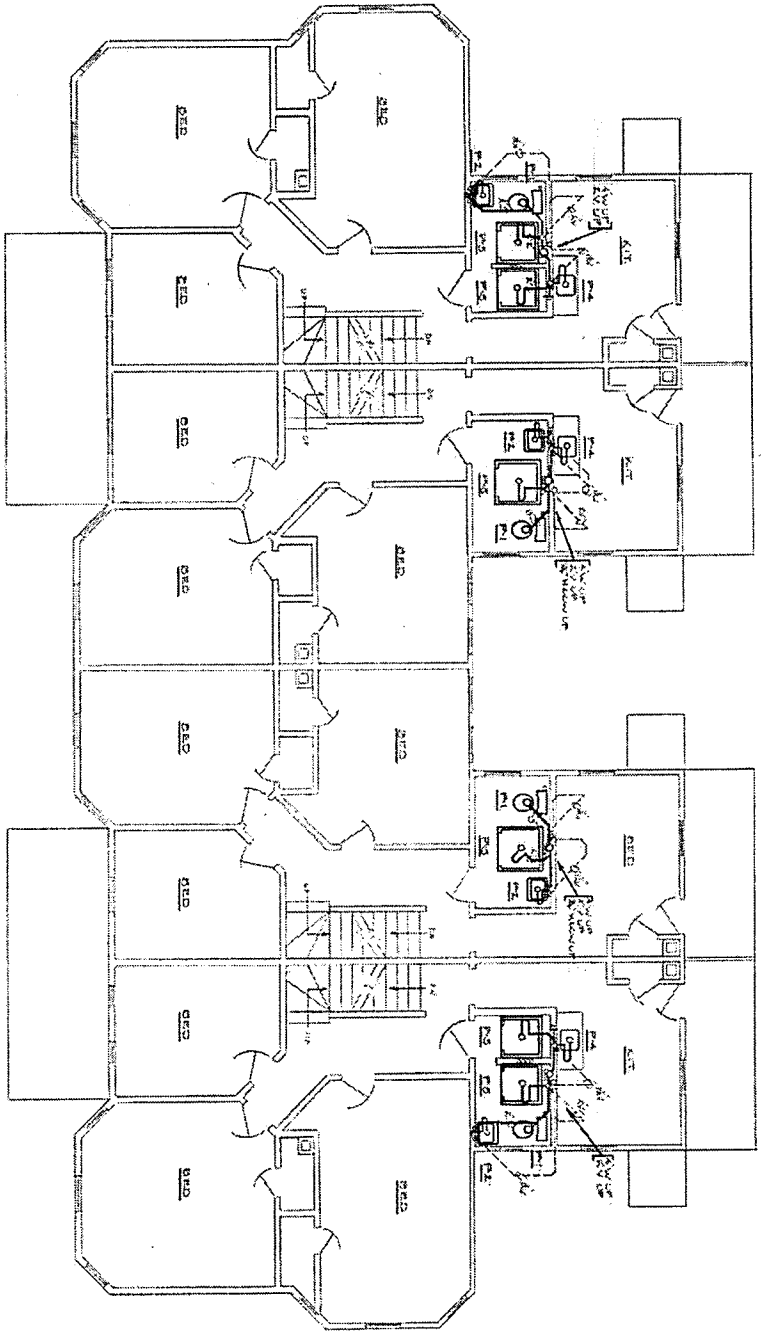
HICKOX PLACE APTS
5-5 HICKOX PLACE
1-0 BRYE & PARADIS
1000 10th Ave. S.W.
Seattle, WA 98108

FIRST FLOOR PLAN 4/1/0



MECHANICAL
CONSULTING
SERVICES
1000 10th Ave
San Francisco, CA 94103

HICKOX PLACE APARTMENTS
218 10th Ave
San Francisco, CA 94103
LABRIE & PARADIS
FIRST FLOOR PLAN 4/1/0

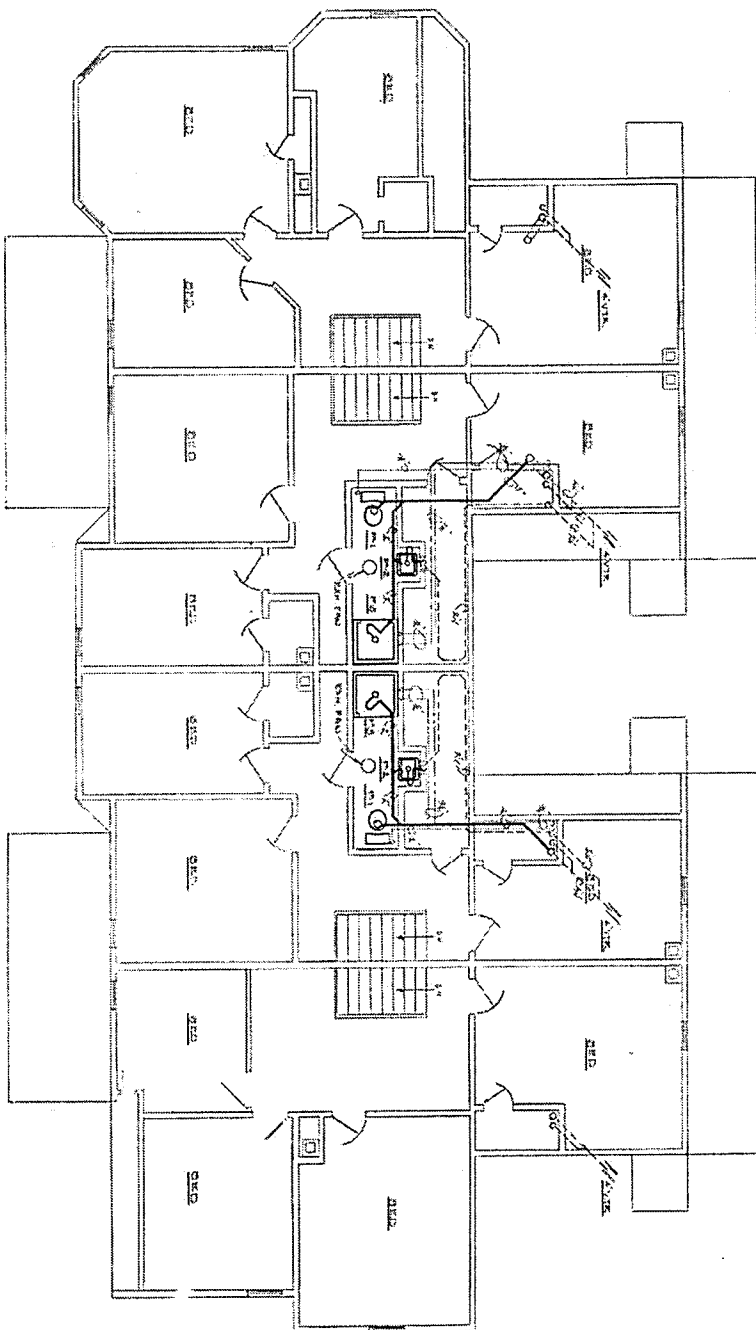


SECOND FLOOR PLAN 4'x10'

MECHANICAL
CONSULTING
SERVICES
1000 17th St.
Denver, CO 80202

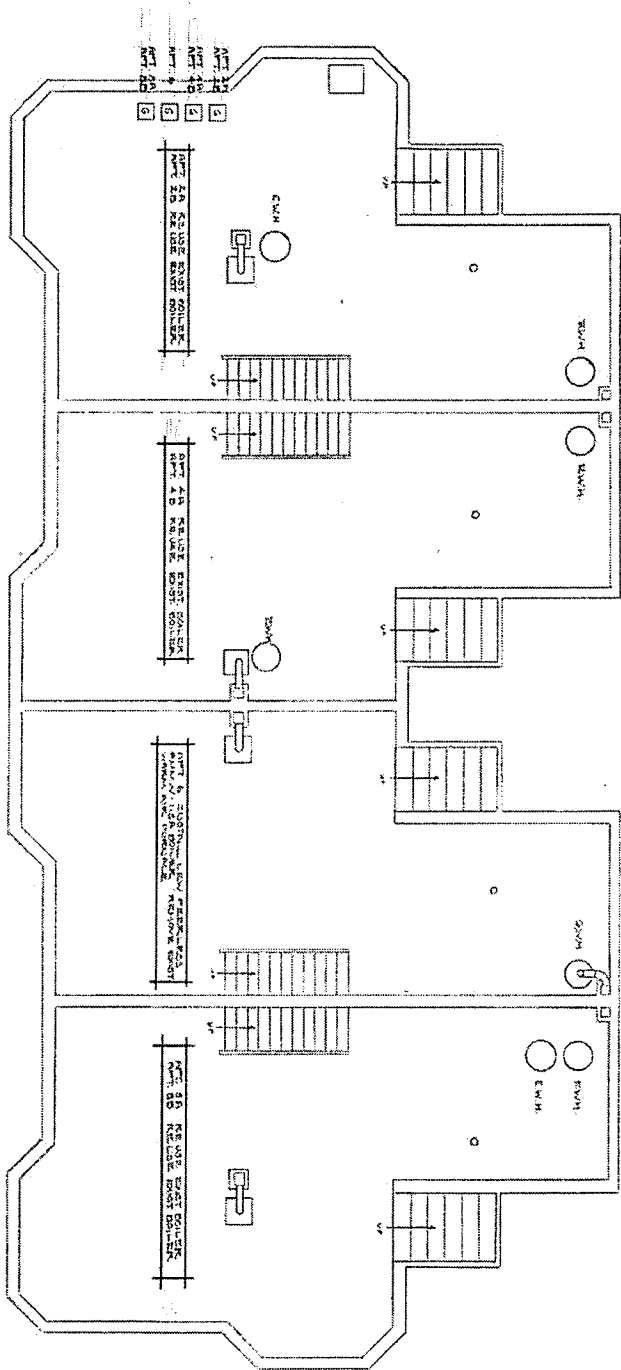
HICKOK PLACE APARTMENTS
1 & 2 HICKOK PLACE
DENVER, CO 80202
LABRIE & PARADIS
SECOND FLOOR PLAN
P-3

THIRD FLOOR PLAN



MECHANICAL
CONSULTING
SERVICES
1000 10th Ave. N.
St. Paul, MN 55102

HOOVER PLACE 2005
MECHANICAL
LABOUR & MATERIALS
THIRD FLOOR PLUMBING



BASEMENT PLAN 4'x10'

MECHANICAL
CONSULTING
SERVICES
1000 W. 10th St.
Burlington, VT 05401
(802) 254-1111

HICKOX PLACE APARTS
1000 W. 10th St.
Burlington, VT 05401
L. BRILL & PARADIS
HEAT PUMP HEATING H.T.



HICKON PLACET APIS	
2 & HICKSON BRACE	PROBATIONARY
DATE	APPROVED BY
SIGNATURE	NAME & POSITION
LABRIE & PARADIS	FORM B-1
WORLD FLYING HEATING	H-3





RECEIVED
JUL 29 2015

DEPARTMENT OF
PLANNING & ZONING

Diemer Apartments, LLC

14 Bacon Street~ Suite 205~ Burlington, VT 05401

July 24, 2015

City of Burlington Vermont

Planning & Zoning and Code Enforcement

1 Church St & 685 Pine St

Burlington, VT 05401

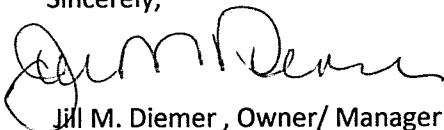
Dear Mr. Gustin, (Planning Zoning) and Mr. Ward (Code Enforcement),

This letter is to confirm the historical five and six bedroom usage as well as the grandfather parking/curb cuts at 2B-4B-6B-8B Hickok Place in Burlington, Vermont. Diemer Apartments, LLC has owned and managed this property since 2003.

We purchased the building in 2003 from Dave Labrie & Vince Paradis. In 2003, before purchasing, we confirmed 5 & 6 bedroom, eight unit usage with Ray O'Conner, Chief Code enforcement officer at in the time. We also received a letter from the State of Vermont confirming and re-stating approved use of 33 bedrooms in the building.

Attached is supporting documentation of usage dating back to 1965, fifty years.

Sincerely,


Jill M. Diemer , Owner/ Manager

Diemer Apartments, LLC

Jill Diemer appeared before me.
This 30 Day of July 2015



PAMELA D. AUDETTE
Notary Public, State of Vermont
My Commission Expires Feb. 10, 2019

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JUL 30 2015

DEPARTMENT OF
PLANNING & ZONING

The breakdown is as follows:

2A- 1-2 bedrooms and 1 bathroom

2B - 6 -7 bedrooms- 1 bathroom/2 showers

4A- 1-2 bedrooms 1 bathroom

4B- 5-6 bedrooms 2 bathrooms

6A- 1-2 bedrooms 1 bathroom

6B- 5-6 bedrooms 2 bathrooms

8A- 1-2 bedrooms 1 bathroom

8B -5-6 Bedrooms 1 bathroom/2 showers

1 laundry room

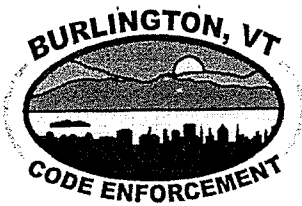
Enclosures:

1. Approved City of Burlington permit from 1965 Raymond LaChance taking a nine bedroom and making it into 2 units at 8 Hickok Place.
2. Copied and reduced original 2-8 Hickok Place Blue Prints from Labrie and Paradis that were prepared by Mechanical Consulting Services of S Burlington VT on 06-09-1986. This shows a total of 33 bedrooms as well as the location of every room in the building.
3. Signed and stamped State of Vermont Notice Waste Water Permit Recording /amendment dated 4-23-2003. Vol. 801 page 437. This re-confirming the original 33 bedroom approval from 1986.
4. City of Burlington Certificate of Occupancy dated 3-19-2003. Donald Robar inspected all units, 2A 2B 4A 4B 6A 6B 8A 8B as well as entire building.
5. Original Sales paperwork from Dave Labrie dated 12-17-02, stating breakdown of all units to include 2B as a six bedroom, 4B as a five bedroom, 6B as a five bedroom, 8B as a five bedroom.
6. Signed and notarized affidavit Labrie & Paradis stating grandfathered parking usage and curb cuts.
7. Land Plat Survey.
8. Letter/packet confirming Grandfathered parking and curb cuts Status from City of Burlington, Stephen Znamierowski, Zoning Enforcement Officer.
9. Letter from Ray O'Conner, Chief Code Enforcement Officer in 2003, stating number of building units being 8.
10. BTV Code Enforcement Document from 2003 showing 8B Hickok Place as a 5 bedroom unit.
11. Signed and notarized affidavit from Vince A . Paradis, prior owner of 2-8 Hickok Place regarding his confirmed five and six bedroom usage during their ownership. (David Labrie has since passed away).
12. Signed and notarized Affidavit from Diemer Apartments LLC, Jill Diemer stating confirmed usage of five and six bedrooms.

13. Signed and notarized affidavit from Diemer Apartments, LLC , Richard M Diemer II, stating confirmed usage of five and six bedrooms.
14. Signed and notarized Affidavit from Auzelina Pham Cleaning Company stating five and six bedroom usage since 2003.
15. Signed and notarized Affidavit from John Shea, Champlain Carpet Cleaning, stating confirmed usage of five and six bedrooms since they started cleaning in 2009.
16. Certificate of Compliance from Burlington Code Enforcement for 2A 2B 4A 4B 6A 6B 8A 8B.
Dated 8-21-2014.

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JUL 30 2015

DEPARTMENT OF
PLANNING & ZONING



CODE ENFORCEMENT OFFICE

645A Pine St, PO Box 8
Burlington, VT 05402-08
VOICE (802) 863-04
FAX: (802) 652-42

**CITY OF BURLINGTON RENTAL HOUSING INSPECTION PROGRAM
CERTIFICATE OF COMPLIANCE**

RE: 2-8 Hickok Place
Units: 8.0
Property Owner: Diemer Apartments LLC
14 Bacon St. Suite 205
Burlington, VT 05401

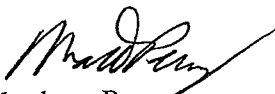
This rental property is subject to periodic inspection under the City's Minimum Housing Standards Ordinance according to Chapter 18 of the City of Burlington Code of Ordinances.

This document certifies that the subject rental property is registered as required by the aforementioned ordinance, Sec. 18-18, and on 08/18/2014 was found to be in compliance with the standards of that ordinance.

It is a violation of Chapter 18 to rent housing without a current Rental Certificate of Compliance.

This permit expires on: 08/18/2017, or when a violation is noted at the property due to complaint or other inspection, or upon failure to respond to a request for inspection.

Note: Routine inspection of rental units by a Code Inspector may be scheduled once every 12 to 18 months.


Matthew Perry
Housing Inspector

August 21, 2014

Folder RSN: 275187

RECEIVED

JUL 30 2015

DEPARTMENT OF
PLANNING & ZONING

RAY O'CONNOR
Chief Code Enforcement Officer
865-5382

JEANNE FRANCIS
Zoning Specialist
865-7544

KATHLEEN BUTLER
Health Specialist
865-7510



RICHARD NEBBET
Housing Inspector
865-7544

FRANCES POLI
Housing Inspector
865-7544

DONALD ROBE
Housing Inspector
865-7544

CODE ENFORCEMENT OFFICE

645A Pine St, PO Box 849
Burlington, VT 05402-0849

(802) 865-7544; FAX: (802) 863-0466

MEMORANDUM

TO: Vincent A. Paradis and David C. LaBrie
FROM: Jeanne Francis, Zoning Specialist
DATE: May 2, 2003
RE: Zoning Compliance Request for 2-4-6-8 Hickok Place, Burlington, VT

Thank you for your affidavit dated April 28, 2003 regarding the above-referenced property. Based upon said affidavit, documentation you have provided to the City and our meeting on April 25, 2003, our office determines that the park spaces identified in the attached affidavit and photographs dated April 25, 2003, for 2-4-6-8 Hickok Place, have existed continuously for more than 15 years and are grandfathered. As per our conversation on April 25, 2003, at most only 10 vehicles are allowed in the area identified as 10'x43.45 feet area at the most extreme northeast corner of the property.

Based upon that determination, your commitment to landscape and maintain the two triangular areas (with dimensions 5' x 5' x 7'5" and 12'6" x 5'4" x 13'3") in the southwesterly corner of the property (see attached sketch) with landscape specified by the City of Burlington and a review of our files, there are no outstanding claims by the City that a zoning violation exists nor any zoning violation complaints, in the Code Enforcement Office, as of this date, for the property located at 2-4-6-8 Hickok Place, Burlington, Vermont.

Should you have any questions please call me at 865-7544.

Disclaimer: An on-site inspection of premises located at 2-4-6-8 Hickok Place, Burlington, VT has not been conducted by zoning officials. Therefore, this memo only addresses ZONING complaints and violations on record in the City of Burlington; Code Enforcement zoning records.

IMPORTANT NOTE: This memo does not include research of zoning permit files to insure appropriate Zoning Permits and Zoning Certificates of Occupancy have been issued for the above property. In addition, you should submit separate request forms to the Department of Public Works, Building Inspection and Minimum Housing (if appropriate) to insure the property is in compliance with their ordinance.



CODE ENFORCEMENT OFFICE

645A Pine St, PO Box 849
Burlington, VT 05402-0849

RAY OCONNOR

Chief Code Enforcement Officer
TEL: (802) 863-0442
FAX: (802) 863-0466

RECEIVED
AUG 27 2015

DEPARTMENT OF
PLANNING & ZONING

LABRIE DAVID C & VINCENT A PARADIS

PO BOX 235
ESSEX JCT, VT 05453

April 30, 2003

Dear Owner(s):

RE: 2-8 HICKOK PL

This letter is sent to you to confirm that our Office has recorded the use of the subject property as having eight (8) approved dwelling units.

Please feel free to contact me for any further information.

Sincerely,


Ray O'Connor
Chief Code Enforcement Officer

JOHN O'CONNOR
Chief Code Enforcement Officer
865-5382

JEANNE FRANCIS
Zoning Specialist
865-7544

KATHLEEN BUTLER
Health Policy and Case
Management Specialist
865-7510



CODE ENFORCEMENT OFFICE

645A Pine St, PO Box 849
Burlington, VT 05402-0849
(802) 863-0442; FAX: (802) 863-0466

3/19/2003

GEORGE COUTER
Housing Inspector
865-5382

MATTHEW P.
Housing Inspector
865-5382

FRANCES PO
Housing Inspector
865-5382

DONALD RO
Housing Inspector
865-5382

JOHN I.
Housing Inspector
865-5382

CITY OF BURLINGTON RENTAL HOUSING INSPECTION PROGRAM CERTIFICATE OF COMPLIANCE

RE: 2-8 HICKOK PL
Units: 8

Property Owner: LABRIE DAVID C & VINCENT A PARADIS

This rental property is subject to periodic inspection under the City's Minimum Housing Standards Ordinance.
(Chapter 18)

This document certifies that the subject rental property is registered as required by the aforementioned ordinance.
Sec. 18-18, and on 1/14/2003 was in compliance with the standards of that ordinance.

It is a violation of Chapter 18 to rent housing without current certificate of compliance.

This permit expires on or before: 3/19/2006

Donald Robear
Housing Inspector

You may contact the City of Burlington Code Enforcement Office at 863-0442 for information on
the City's rental housing inspection program.

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JUL 30 2015

A. O'CONNOR
Chief Code Enforcement Officer
865-5382

JEANNE FRANCIS
Zoning Specialist
865-7544

KATHLEEN BUTLER
Health Policy and Case
Management Specialist
865-7510



CODE ENFORCEMENT OFFICE

645A Pine St, PO Box 849
Burlington, VT 05402-0849
(802) 863-0442; FAX: (802) 863-0466

3/19/2003

GEORGE COUTER
Housing Inspector
865-5382

MATTHEW P.
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865-5382

FRANCES PO
Housing Inspector
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Housing Inspector
865-5382

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Housing Inspector
865-5382

CITY OF BURLINGTON RENTAL HOUSING INSPECTION PROGRAM CERTIFICATE OF COMPLIANCE

RE: 2-8 HICKOK PL
Units: 8

Property Owner: LABRIE DAVID C & VINCENT A PARADIS

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Donald Robear
Housing Inspector

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the City's rental housing inspection program.

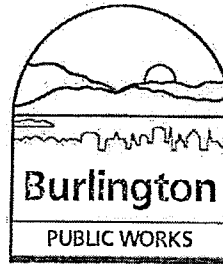
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JUL 30 2015

DEPARTMENT

Scott Johnstone
DIRECTOR OF PUBLIC WORKS

Steven Goodkind, P.E., City Engineer
ENGINEERING DIVISION



Working together for Burlington

P.O. BOX 849 • BURLINGTON, VT 05402-08
(802) 863-9094 BUS. • (802) 863-0466 FA
(802) 863-0450 (T.T.Y.) For Hearing Impaired

Friday, March 07, 1997

LABRIE DAVID C &
VINCENT A PARADIS
P O BOX 235
ESSEX JCT, VT 05452

RE: 2 HICKOK PL Rental Apartments

Units: 8

Dear Owner(s):

Thank you for completing repairs at the above referenced property as per my order of Wednesday, January 15, 1997.
My findings were as follows:

2A:	#6989-1	All Violations Resolved.
2B:	#6989-2	All Violations Resolved.
4A:	#6989-3	No Violations found.
4B:	#6989-4	No Violations found.
6A:	#6989-5	All Violations Resolved.
6B:	#6989-6	All Violations Resolved.
8A:	#6989-7	No Violations found.
8B:	#6989-8	No Violations found.

Based on these results a 6 year Certificate of Compliance is enclosed. We appreciate the effort you have put forth to maintain quality housing in the city of Burlington.

Sincerely,

Donald Robear
Minimum Housing Inspector

cc: City Clerk
Files



NOTICE OF APPEAL TO ZONING BOARD OF ADJUSTMENT
CITY OF BURLINGTON, VERMONT

NAME RAYMOND C. LACHANCE
ADDRESS 44 GREENE ST
ADDRESS OF PROPERTY REFERRED TO IN APPEAL #8 HICKOK PLACE
APPEAL FROM DECISION OF ZONING ADMINISTRATOR AS OF 16 MAR 65
date
GROUNDS OF APPEAL: SEEKING PERMISSION FOR
CONVERTING (1) GROOM APT INTO
2 APT'S (1 on ea. FLOOR) #8 HICKOK PLACE
for 2 total of 7 Apartments BURLINGTON VT
DATE 16 MAR 65 SIGNED R. C. Lachance
APPELLANT

RULES REGARDING APPEALS

1. ALL APPEALS FROM THE DECISION OF THE ZONING ADMINISTRATOR SHALL BE MADE IN WRITING ON THE ABOVE FORM PROVIDED BY THE ZONING BOARD ADMINISTRATOR PRIOR TO THE NEXT REGULAR MEETING OF THE BOARD OF ADJUSTMENT.
2. PLANS, SPECIFICATIONS AND PLOT PLANS SHALL ACCOMPANY ALL APPEALS.
3. THE PERSON (OR HIS REPRESENTATIVE) APPEALING TO THE BOARD SHALL APPEAR AT THE MEETING OF THE BOARD OF ADJUSTMENT WHEN HIS APPEAL IS CONSIDERED.
4. NOTICES OF APPEAL MUST BE FILED IN DUPLICATE: ONE WITH THE ZONING ADMINISTRATOR AND ONE WITH BOARD OF ADJUSTMENT.
5. FEE OF \$12.00 MUST ACCOMPANY NOTICE OF APPEAL.
6. BOARD OF ADJUSTMENT MAY REQUIRE GIVING OF NOTICE BY MAIL.

UPON THE FILING OF AN APPEAL WITH THE BOARD, SUCH APPEAL WILL AUTOMATICALLY STAND FOR HEARING AT THE SECOND NEXT SUCCEEDING REGULAR MEETING OF THE BOARD, UNLESS THE BOARD OTHERWISE ORDERS.

DATE OF MEETING 4/20/65

DATE OF PUBLIC HEARING _____ DECISION OF BOARD Approved

(THE ZONING BOARD OF ADJUSTMENT MEETS REGULARLY THE FIRST AND THIRD TUESDAY OF EACH MONTH IN ROOM 34, CITY HALL AT 4:00 P.M.)

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JUL 30 2015

DEPARTMENT

STATE OF VERMONT
 AGENCY OF NATURAL RESOURCES
 DEPARTMENT OF ENVIRONMENTAL CONSERVATION
 DIVISION OF WASTEWATER MANAGEMENT
 10 V.S.A. CHAPTER 64

NOTICE OF PERMIT RECORDING

To: Municipal/City Clerk, Burlington

Subject: Wastewater System and Potable Water Supply Permit # WW-4-1819

Landowner: Vincent A. Paradis & David C. Labrie

Land Identified In:

Deed Book	Deed Page
328	582

As Municipal Clerk for the town/city, you are hereby notified that this Notice of Permit Recording and above-referenced Wastewater System and Potable Water Supply Permit are to be recorded in the Municipal Land Records under the authority of 24 V.S.A. §1154 and 1161. The grantor(s) shall be the above-referenced landowner whose lands are identified in the Book(s) and Page(s) specified above and the grantee shall be the State of Vermont, Agency of Natural Resources. The grantor(s) and the grantee shall be listed in the general index for deeds.

The grantee's interest is limited to the lands of the grantor(s) identified in the Book(s) and Page(s) specified above as delineated in the above-referenced Wastewater System and Potable Water Supply Permit issued under the authority of 10 V.S.A. Chapter 64 and the Environmental Protection Rules.

I swear that, to the best of my information and belief, the statements made above are true.

Dated at Essex Regional Office, Vermont, on April 23, 2003.

For the Wastewater Management Division

Sydney Wyman
 Irene L. Roberge
 DEC Regional Office Coord

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JUL 30 2015

DEPARTMENT OF
 PLANNING & ZONING

John J. Bergeron
Michael D. Danley
Priscilla B. Dubé
Edward D. Fitzpatrick
Douglas G. Kallen
Daniel P. O'Rourke
Vincent A. Paradis
Kerin E. Stackpole

OF COUNSEL:
John W. O'Donnell

BERGERON PARADIS
& FITZPATRICK LLP
ATTORNEYS

REPLY TO:
34 Pearl Street
P.O. Box 174
Essex Jct., VT 05452-017
Tel (802) 879-6304
Fax (802) 879-6533
www.bpflegal.com

March 25, 2003

Ernest P. Christiansen, Regional Engineer
Department of Environmental Conservation
Wastewater Management Division
111 West Street
Essex Junction, VT 05452

Re: Vincent A. Paradis & David C. Labrie
2-8 Hickok Place, Burlington, VT

Dear Ernie:

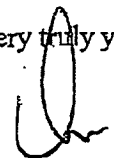
Enclosed herewith is a Wastewater System & Potable Water Supply Permit Application for an amendment to existing Permit #PB-4-1182 issued in 1986. A copy of the existing Permit #PB-4-1182 is also enclosed.

The apartment building located at 2-8 Hickok Place in Burlington, Vermont, contains 8 dwelling units, while the existing permit and approved plans indicated that the property contained 7 dwelling units. The previously approved plans depicted a total of 33 bedrooms. The actual renovations completed in 1986 which increased the number of dwelling units to 8 did not increase the number of bedrooms; accordingly, there is no change in the water supply or wastewater disposal system flows. There was no change to the approved building footprint or exterior water/sewer lines. The City of Burlington does recognize the property as containing 8 dwelling units, as evidenced by the enclosed Certificate of Compliance dated March 19, 2003.

Also enclosed herewith is a check in the amount of \$37.00 to cover the filing fee for this amendment application.

If you have any questions or concerns regarding this matter, or need any further information, please don't hesitate to contact me.

Very truly yours,


Vincent A. Paradis

VAP/rb

Enclosures

RECEIVED
JUL 30 2015
DEPARTMENT OF
PLANNING & ZONING

BURLINGTON OFFICE:

33 Main Street • P.O. Box 825 • Burlington, Vermont 05402-0925 • Tel (802) 863-1191 • Fax (802) 863-5798



State of Vermont

801 431

WASTEWATER SYSTEM AND POTABLE WATER SUPPLY PERMIT

DOCUMENTS
for
RECORDING

LAWS/REGULATIONS INVOLVED

Environmental Protection Rules

Effective August 16, 2002

Case Number: WW-4-1819

PIN: EJ03-0069

Landowner: Vincent A. Paradis

Address: P.O. Box 235

Essex Junction VT 05452

Benjamin
CITY CLERK'S OFFICE
Received 4-24-2003 at 1:00 PM
and recorded in Vol. 801 on Page 437
of Burlington Land Records, Attest:
J. Ramarche, Asst. City Clerk

This project, consisting of amending the approval for a previously approved seven unit apartment building, to an eight unit building, thirty-three bedroom remains the same, no increase in municipal water or sewer flows, no changes to the footprint of the building or the exterior water or sewer services, located at 2 through 8 Hickok Place in Burlington, Vermont is hereby approved under the requirements of the regulations named above, subject to the following conditions.

1. This permit does not relieve the permittee from obtaining all other approvals and permits as may be required from the local officials prior to proceeding with this project.
2. The project shall not deviate in a manner, which would change, or affect the exterior water supply or wastewater disposal, building location or the approved use of the building without prior review and written approval from the Wastewater Management Division.
3. The conditions of this permit shall run with the land and will be binding upon and enforceable against the permittee and all assigns and successors in interest. The permittee shall be responsible for the recording of this permit and the "Notice of Permit Recording" in the Burlington Land Records within thirty, (30) days of issuance of this permit and prior to the conveyance of any lot subject to the jurisdiction of this permit.
4. All conditions set forth in Permit #PB-4-1182 shall remain in effect except as modified or amended herein.
5. The Wastewater Management Division now reviews the water and wastewater disposal systems under 10 V.S.A., Chapter 64 - Potable Water Supply and Wastewater System Permit.
6. By acceptance of this permit, the permittee agrees to allow representatives of the State of Vermont access to the property covered by the permit, at reasonable times, for the purpose of ascertaining compliance with the Vermont environmental and health statutes and regulations.

Dated at Essex Junction, Vermont on April 23, 2003.

Jeffrey Wennberg, Commissioner
Department of Environmental Conservation

By *Jessanne Wymah*
Jessanne Wymah
Assistant Regional Engineer

C For the Record
Burlington Planning Commission & Select Board

RECEIVED
JUL 30 2015

DEPARTMENT

STATE OF VERMONT
AGENCY OF NATURAL RESOURCES
DEPARTMENT OF ENVIRONMENTAL CONSERVATION
DIVISION OF WASTEWATER MANAGEMENT
10 V.S.A. CHAPTER 64

NOTICE OF PERMIT RECORDING

To: Municipal/City Clerk, Burlington

Subject: Wastewater System and Potable Water Supply Permit # WW-4-1819

Landowner: Vincent A. Paradis & David C. Labrie

Land Identified In:

Deed Book	Deed Page
328	582

As Municipal Clerk for the town/city, you are hereby notified that this Notice of Permit Recording and above-referenced Wastewater System and Potable Water Supply Permit are to be recorded in the Municipal Land Records under the authority of 24 V.S.A. §1154 and 1161. The grantor(s) shall be the above-referenced landowner whose lands are identified in the Book(s) and Page(s) specified above and the grantee shall be the State of Vermont, Agency of Natural Resources. The grantor(s) and the grantee shall be listed in the general index for deeds.

The grantee's interest is limited to the lands of the grantor(s) identified in the Book(s) and Page(s) specified above as delineated in the above-referenced Wastewater System and Potable Water Supply Permit issued under the authority of 10 V.S.A. Chapter 64 and the Environmental Protection Rules.

I swear that, to the best of my information and belief, the statements made above are true.

Dated at Essex Regional Office, Vermont, on April 23, 2003.

For the Wastewater Management Division

Sydney Wyman
Irene L. Roberge
DEC Regional Office Coord

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JUL 30 2015

DEPARTMENT OF
PLANNING & ZONING

- (8) Tenant relocation requirements as per Article 15, Housing Replacement, shall be met. The seller or converter of the unit shall be responsible for any tenant relocation costs.
- (9) The neighborhood is not overburdened with other day care centers.
- (c) **Large day care center:** A state-licensed facility providing day care services for children without regard to the number of children served shall be:
 - (1) A permitted use in a commercial or industrial zoning district.
 - (2) A conditional use in residential districts.
 - (3) Considered a nonresidential use and subject to the requirements of Article 15, Housing Replacement.
 - (4) Large day care centers shall be subject to the parking requirements of Article 10.

Demolition: See Low or moderate-income housing.

Design review: Design review is the review of height, bulk, open space, massing, traffic access, circulation, parking, landscaping and all other site and architectural features.

Duplex: A structure designed and constructed for two (2) separate living units, regardless of the type of construction.

Dwelling: A building or portion thereof used exclusively for residential purposes, including one-family, two-family, and multiple-family dwellings, but not including hotels and boarding or lodging houses.

Dwelling unit: A room or set of rooms fitted with a private bath and kitchen facilities comprising an independent, self-contained dwelling unit occupied by a family and where rooms are not let to individuals.

Dwelling unit, single detached: Free standing residential structure containing a single family unit occupied by a single nonprofit housekeeping unit, but not including group quarters; see definition of "family" and where rooms are not let to individuals.

Estimated Cost Calculation: Fees are calculated based upon building construction, alteration, and/or site improvement expenses. Not included in this figure is the purchase price of the land and the final interior finishes relative to a specific tenant, ie. specialized equipment, finishes, furniture, drapes, etc.

→ **Family:** One or more persons occupying a dwelling unit and living as a single nonprofit housekeeping unit, but not including group quarters such as dormitories, sororities, fraternities, convents, and communes.

Floor area ratio: The ratio of gross floor area to gross site area.

Building Code of the City of Burlington, Title 5, Chapter 1, Revised Ordinances of 1962, as amended, incorporating the currently adopted editions of the National Board of Fire Underwriters Building Code and Fire Codes, shall prevail.

(1) Accessory Building or Use:

A use, or detached building, which is subordinate to the main use, or building, and located on the same lot with the main building or use, the use of which is customarily incidental to that of the main building or to the use of the land. Where a substantial part of a wall of an accessory building is part of the wall of a main building, or where an accessory building is attached to the main building, such accessory building shall be counted as a part of the main building.

(2) Alteration:

Alteration means the rearrangement of interior space, including the addition of walls, halls, steps, elevators, escalators, the rearrangement of the exterior bearing walls, including new doors, windows, exits or facades, but not including ordinary maintenance or repairs.

(3) Apartment House:

A building or portion thereof used or designed to be used as a residence for three (3) or more families living in units independently of one another.

(4) Boarding or Rooming House:

A building or premises, other than a hotel, inn, motel, tourist court or lodging house, where less than five (5) rooms are let and where meals may be regularly served by prearrangement for compensation; not open to transient guests; in contradistinction to hotels, restaurants, tourist homes, which are open to transients.

(5) Building Lot:

A building lot is that area of land described in an application for a building permit or an application to the Board of Adjustment for a permit or a variance, or otherwise defined as the area on which a structure is to be constructed or a certain use is to be carried on. A building lot shall not include any part of a street which is relied upon to qualify the lot as to frontage.

(6) Design Review:

Design review is the review of Height, Bulk, Open Space, Massing, Traffic Access, Circulation, Parking, Landscaping and all other architectural features, as provided for in Section 6526 Waterfront Design Control District, by the Planning Commission.

(7) Family:

One or more persons occupying a dwelling unit and living as a single non-profit housekeeping unit, but not including group quarters such as dormitories, sororities, fraternities, convents, and communes. ←

(8) Floor Area:

Net Floor Area: The interior floor area of a dwelling unit, exclusive of basements, stair wells, halls, bath rooms, corridors, attics, walls, partitions and attached accessory buildings.

Gross Floor Area: the exterior measurement of a building exclusive of porches, stairs and all other structures not enclosed by interior walls.

(9) Garage:

A building or structure or a portion thereof in which motor vehicles or equipment are housed.

a. Garage, private: a garage, but not for commercial repair of vehicles, or the commercial storage or rental of more than two (2) stalls.

b. Garage, public: a garage, other than a private garage, as defined

CITY OF BURLINGTON

Two
In the Year One Thousand Nine Hundred

An Ordinance in Relation to

APPENDIX A, ZONING #2000-01
Residential Districts Established
(Quality of Life - Zoning Approach)

Sponsor:
Montroll, Bushor, Shaver
ORDINANCE

First reading: 8-9-99
Referred to: Ordinance Committee
Rules suspended and placed in all
stages of passage:
Second reading: 10-16-00
Action: Passed
Date: 10-16-00
Signed by Mayor: _____
Published: _____
Effective: _____

It is hereby Ordained by the City Council of the City of Burlington, as follows:

That the Code of Ordinances of the City of Burlington be and hereby is amended by amending
Appendix A, Zoning, Sec. 3.1.4, Residential Districts Established, subsections (a) and (b);
Sec. 30.1.2, Definitions (Dwelling Unit and Family); and Sec. 17.1.5, Conditional Uses to add a
new subsection (d), to read as follows:

Sec. 3.1.4 Residential Districts Established. The following residential districts are established:

Residential-low density (RL), waterfront residential-low density (WRL), residential-medium density (RM and WRM) and residential-high density (RH). Each of these districts is intended to secure for the persons who reside there a comfortable, healthy, safe, and pleasant environment in which to live, sheltered from incompatible and disruptive activities that properly belong in nonresidential districts. Certain nonresidential uses, including public and semi-public uses and neighborhood-oriented commercial and service uses, are permitted in certain residential districts upon conditional use approval.

(a) The RL and WRL districts are intended primarily for low density residential development in the form of single detached dwellings, and/or planned residential developments. In such RL and WRL districts, occupation of a dwelling unit is limited to members of a family as defined in Article 30, Section 30.1.2. If the dwelling unit contains at least twenty-five hundred (2500) square feet excluding its attic and basement, it may be occupied by more than four (4) unrelated adults if the building also contains at least an additional two hundred fifty (250) square feet per adult occupant in excess of four (4) and if the proposed use is also approved as a conditional use by the Zoning Board of Adjustment. Notwithstanding the foregoing, the minimum square footage requirements shall be reduced by ten (10%) percent in situations where the residential premises are owner occupied. Except as otherwise provided for by this ordinance, density is limited to 4.4 dwelling units per acre.

An Ordinance in Relation to APPENDIX A, ZONING #2000-01
Residential Districts Established

(b) The RM district is intended primarily for medium density residential development in the form of single detached dwellings, duplexes, apartments, and/or planned residential developments. The waterfront medium density district (WRM) is intended to establish a neighborhood which provides open space and convenient lake access. In such RM and WRM districts, occupation of a dwelling unit is limited to members of family as defined in Article 30, Section 30.1.2. If the dwelling unit contains at least twenty-five hundred (2500) square feet excluding its attic and basement and if it also contains at least an additional two hundred (200) square feet per adult occupant in excess of four (4), a proposed use of more than four (4) unrelated adults may be approved as a conditional use by the Zoning Board of Adjustment. Notwithstanding the forgoing, the minimum square footage requirements shall be reduced by ten (10%) percent in situations where the residential premises are owner occupied. Except as otherwise provided for by this ordinance, density is limited to twenty (20) units per acre. The waterfront medium density district (WRM) is intended to establish a neighborhood which provides open space and convenient lake access.

(c) As written.

Sec. 30.1.2 Definitions.

Family: One or more persons occupying a dwelling unit and living as a single nonprofit housekeeping unit, but not including group quarters such as dormitories, sororities, fraternities, convents and communes. Occupancy by any of the following shall be deemed to constitute a family:

1. Members of a single family, all of whom are related within the second degree of kinship (by blood, adoption, marriage or civil union).
2. A "functional family unit" as defined in Art. 30, Sec. 30.1.2(1).
3. Persons with disabilities as so defined in Title VII of the Civil rights Act of 1968, as amended by the "Fair Housing Amendments Act of 1988".
4. A state registered or licensed day care facility serving six or fewer children as required by 24 V.S.A. 4409(2), as the same may be amended from time to time.
5. No more than four unrelated adults and their minor children.

Provided, that a dwelling unit in which the various occupants are treated as separate roomers cannot be deemed to be occupied by a family.

For purposes of this definition of family, a group of adults living together in a single dwelling unit and functioning as a family with respect to those characteristics that are consistent with the purposes of zoning restrictions in residential neighborhoods shall be regarded as a "functional family unit" and shall also qualify as a family hereunder.

An Ordinance in Relation to

APPENDIX A, ZONING #2000-01
Residential Districts Established

(1) In determining whether or not a group of unrelated adults is a "functional family unit" under the standard set forth above, the following criteria must be present:

(a) The occupants must share the entire dwelling unit. A unit in which the various occupants act as separate roomers cannot be deemed to be occupied by a functional family unit.

(b) The household must have stability with respect to the purpose of this chapter. Evidence of such stability may include but not be limited to, the following:

[1] Minor dependent children regularly residing in the household, and school-age children are enrolled in local schools.

[2] Proof of the sharing of expenses for food, rent or ownership costs, utilities and other household expenses and sharing in the preparation, storage and consumption of food.

[3] Whether or not different members of the household have the same address for purposes of:

[a] Voter registration.

[b] Drivers' licenses.

[c] Motor vehicle registration.

[d] Summer or other residences.

[e] The filing of taxes.

[4] Common ownership of furniture and appliances among the members of the household.

[5] Employment of householders in the local area.

[6] A showing that the household has been living together as a unit for a year or more, whether in the current dwelling unit or other dwelling units.

[7] Any other factor reasonably related to whether or not the group or persons is the functional equivalent of a family.

(2) The initial determination of whether a "functional family unit" status exists shall be made by the Code Enforcement Office ("CEO"). The burden will rest upon the individuals claiming "functional family status" to submit information to the CEO to substantiate their claim. Some of the information provided to the CEO as part of a "functional family unit" status request, as well as the CEO's initial determination, may be highly confidential and, thus, will be maintained in a separate "red envelope" in the property file. It will be left to the CEO to determine whether the information is sensitive enough to be retained in the "red envelope". Information maintained in the "red envelope" will be considered confidential and thus used only by the CEO. Access to the "red envelope" by persons outside of the CEO will only be allowed under court order or during litigation regarding said property.

Dwelling unit: A room or set of rooms fitted with a private bath, and kitchen, and living facilities comprising an independent, self-contained dwelling unit space occupied by a family, and where rooms are not let to individuals. Bathroom, kitchen and living facilities must be separate and distinct from bedroom facilities. Each bedroom must contain a minimum square footage consistent with the current minimum housing standards. Separate bathroom facilities will be deemed to exist only when it is possible to access such bathroom facilities without passing through a room which is designated as a bedroom. If there is more than one meter for any utility, address to the property, or kitchen; or if there are separate entrances to rooms which

could be used as separate dwelling units; or if there is a lockable, physical separation between rooms in the dwelling unit such that a room or rooms on each side of the separation could be used as a dwelling unit, multiple dwelling units are presumed to exist; but this presumption may be rebutted by evidence that the residents of the dwelling share utilities and keys to all entrances to the property and that they (A) share a single common bathroom as the primary bathroom or (B) share a single common kitchen as the primary kitchen. Each dwelling unit must have a minimum of one hundred eighty (180) square feet of parking space on the premises for every two occupants thereof, such parking area may not be in the front yard.

Sorority/Fraternity: A multiple dwelling used and occupied by a cooperating group of university or college students and containing and providing domestic and social facilities and services thereto.

2. Sec. 17.1.5 Conditional Uses.

(a) through (c) As written.

(d) In considering a request for a conditional use permit relating to a greater number of unrelated individuals residing in a dwelling unit within the RL, WRL, RM and WRM districts than is allowed as a permitted use, in addition to the criteria set forth in Subsection (a) hereof, no conditional use permit may be granted unless all facilities within the dwelling unit, including bathroom and kitchen facilities are accessible to the occupants without passing through any bedroom. Additionally, each room proposed to be occupied as a bedroom must contain at least one hundred twenty (120) square feet. There must also be a parking area located on the premises at a location other than the front yard containing a minimum of one hundred eighty (180) square feet for each proposed adult of the dwelling unit in excess of the number of occupants allowed as a permitted use. All other green space standards must be observed.

2002 WL 34151285 (Vt. Envtl. Ct.) (Trial Order)
Vermont Environmental Court.

In re: Appeal of John MENTES.

No. 132-6-00 Vtec.
May 10, 2002.

Decision and Order on Cross-Motions for Summary Judgment

Merideth Wright, Environmental Judge.

Appellant John Mentes appealed from the May 31, 2000 decision of the then-Zoning Board of Adjustment (ZBA) of the City of Burlington, affirming the Zoning Administrator's decision not to take enforcement action against Appellees Charles and Cynthia Burns under the 1999 Zoning Regulations¹. Appellant is represented by Norman Williams, Esq.; Appellees Charles and Cynthia Burns are represented by Stuart M. Bennett, Esq.; the City is represented by Kimberlee J. Sturtevant, Esq.

In October 2001 the Court ruled on summary judgment on some issues in the matter. In February 2002, after the parties had failed to agree on working definitions of the five illustrative terms in the "group quarters" definition, the Court directed that this matter be set for trial. However, the parties again requested to submit the remaining issues by summary judgment.

In the October 2001 order, the Court noted that the ordinance did not present a choice between either "a single nonprofit housekeeping unit" or "group quarters." Rather, to fall within the zoning use category of 'single detached dwelling,' the occupants of the house must satisfy *both* prongs of the definition of family. The October 2001 order found that the shared student housing at issue in the present case met the first prong of this test, in that the students were living as a single, nonprofit housekeeping unit, but found that material facts were disputed as to whether or not they also fell outside of the category of "group quarters."

The present motion asks the Court to determine whether the 'shared housing' use of the house falls within the category of "group quarters," that is, whether it is similar to or different from the "group quarters" examples of dormitories, sororities, fraternities, convents, or communes. The parties agreed as to definitions of the terms 'convent' and 'commune'², but did not in the end agree on definitions of dormitory, sorority or fraternity.

Because of that lack of agreement, the parties went off on a tangent aimed at further defining the terms 'dormitory,' 'sorority' and 'fraternity.' That focus was misplaced for two reasons. First and most importantly, 'group quarters' is defined by example only, not by an exclusive list. It is less important precisely to define these terms than it is to understand their common elements, and to determine whether the shared student housing use of Appellees' property shares those common elements. Second, Appellant's April 1, 2002 filing is correct that the use of the terms in the ordinance is a legal question, not a question of material fact suitable either for presentation by affidavit or by evidence.

The use categories of dormitories, sororities and fraternities are all provided for in some zoning districts within the City, notably those zoning districts associated with colleges and universities. Their common element is housing for students living as a group, that is, with shared dining, bathroom, and living room or common room facilities. They do not imply any philosophical commonality. The residents have the opportunity to share meals and household responsibilities.

The use categories of convent and commune do not imply that the residents are students, but do share the common element that the residents are living as a group, as opposed to renting single rooms in a motel or renting single dwelling units such as studio apartments. The residents share meals and household responsibilities.

Appellees argue that the shared student housing use of their property is distinct from these 'group quarters' uses, in that the residents are not members of a larger organization and are merely a group of friends who wanted to live together, at least while they were attending college.

We must conclude from the ordinary meaning of the terms used in the ordinance that the shared student housing use of Appellees' property is similar to the five listed 'group quarters' uses, especially that of commune, in that the students are living as a group and share household chores and responsibilities. Therefore it does fall within the 'group quarters' exclusion of the 1999 Ordinance, and is prohibited under the ordinance, even though the students are living in a house and as a single, nonprofit housing unit.

The parties did not in the end brief the question of whether the 1999 ordinance was unconstitutional due to the fact that this type of group quarters use (shared student housing) is not otherwise provided for anywhere in the City. Indeed, not only did Appellees argue that this shared student housing use did not fall within the category of 'group quarters,' but Appellees also argued that the 'group quarters' category was a constitutional category under equal protection analysis. In any event, the Court will not reach a constitutional argument unnecessary to the outcome of a particular case and not raised by the parties.

The present ruling, that the shared student housing use of Appellees' house is prohibited under the 1999 ordinance, concludes the above-captioned appeal. Any further challenge to that ordinance is not presented by the Statement of Questions for the present appeal.

Done at Barre, Vermont, this 10th day of May, 2002.

Merideth Wright

Environmental Judge

Footnotes

- 1 The Zoning Regulations have since been amended with respect to their treatment of shared housing.
- 2 Commune: Any closely-knit community primarily organized to share a common philosophy; a relatively small, often rural community whose members share common interests, work, and income and often own property collectively.
Convent: a community of persons devoted to religious life and a common religious faith; a building or buildings occupied by such a society.

In connection with this determination, the parties may want to brief the constitutionality, on equal protection grounds, of the category of “group quarters” residential uses, especially regarding those such uses (including convents, communes, and perhaps also this type of shared student housing) not otherwise provided for in the Zoning Ordinance.

We will hold a conference in person at the Costello Courthouse, Monday October 29, 2001 at noon, to discuss how the parties may wish to proceed.

Done at Barre, Vermont, this 22nd day of October, 2001.

Merideth Wright

Environmental Judge

Footnotes

- 1 We note that the parties have not provided this decision and therefore the Court’s understanding of it is deduced from the parties’ memoranda.
- 2 The parties do not address whether the property is leased to students at the present time, or whether such a use is allowed or addressed by the 2000 Zoning Ordinance. Accordingly, the only question in the present case is whether this use of the property was allowed or was a violation under the previous (1999) Zoning Ordinance.
- 3 Public/Institutional use categories include the residential uses of “sorority/fraternity” and “dormitory,” under the category of “College/Schools/Educational Institutions.”
- 4 It appears to the Court that the Zoning Ordinance uses the term “commune” in its 1960s sense to mean a communal living arrangement, rather than in the 1790s French Revolution sense stated by Appellees of a self-governing town or village.

End of Document

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2001 WL 35959904 (Vt. Envtl. Ct.) (Trial Order)
Vermont Environmental Court.

In re: Appeal of John MENTES.

No. 132-6-00 Vtec.
October 22, 2001.

Decision and Order on Cross-Motions for Summary Judgment

Merideth Wright, Environmental Judge.

Appellant John Mentes appealed from the May 31, 2000 decision of the then-Zoning Board of Adjustment (ZBA) of the City of Burlington, affirming the Zoning Administrator's decision not to take enforcement action¹ against Appellees Charles and Cynthia Burns under the 1999 Zoning Regulations. Appellant is represented by Norman Williams, Esq.; Appellees Charles and Cynthia Burns are represented by Stuart M. Bennett, Esq.; the City is represented by Kimberlee J. Sturtevant, Esq. Appellant and Appellees have each moved for summary judgment.

Appellant has moved for summary judgment that the use by seven unrelated students of Appellees' property at 36 North Willard Street falls within the definition of "group quarters" rather than that of a single-family home, in violation of § 5.1.4, § 30.1.2, and Table 5-A of the Burlington Zoning Ordinance. Appellees have moved for summary judgment that the § 30.1.2 definition of "family" is unconstitutionally vague.

The following facts are undisputed unless otherwise noted.

Appellees own a seven-bedroom single-family residence at 36 North Willard Street in the City's Residential-Low Density zoning district. The residence has a common kitchen and living room, two common bathrooms, seven bedrooms, common parking, and a common back yard. The house has one electric meter, one gas meter, and one telephone line. None of the bedroom doors has a lock.

By a lease executed on January 29, 1999, Appellees rented the house as a whole, that is, not divided into separate apartments or rented out as separate rooms, to seven students of the University of Vermont (UVM), for a term of one year, from June 1, 1999 to May 31, 2000. By a lease executed on March 16, 2000, Appellees again rented the property to seven UVM students under a one-year lease from June 1, 2000 to May 31, 2001.² Four of the named lessees under the 1999 lease remained lessees under the 2000 lease. During the summers of each lease period, some subtenants lived at the residence, instead of the named lessees. Generally the tenants shared household expenses by paying their respective shares of the rent or utility bills, either to the landlord or the utility, or to the specific lessee in whose name the utility service was registered.

Residential use categories provided for as such³ in the Zoning Ordinance (Table 5-A) are apartments and attached dwellings, duplexes, planned residential developments, and single detached dwellings. Special residential use categories are bed and breakfast uses, boarding houses, community houses, convalescent homes, daycare homes and group homes. No explicit provision is made in the Zoning Ordinance for residential uses associated with convents or other religious communities, for residential uses associated with communes, for residential uses associated with shared student housing, or for residential uses associated with private membership clubs (such as ski or sailing clubs or fraternal organizations). Fraternities and sororities are specifically excluded from the definition of 'membership club.' Fraternities and sororities, dormitories, convents and communes⁴ are specifically excluded from the definition of "community house."

No argument is made in the present case that the use made of this property was either an apartment or a boarding house use; none of the other residential or special residential use categories listed in Table 5A is applicable. Rather, Appellees argue that the house was used within the definition of “single detached dwelling;” while Appellant argues that the group of lessees failed to meet the definition of family and therefore that their use of the house violated the requirement that the house be used as a “single detached dwelling.”

A single detached dwelling unit is defined in the “Definitions” section of the Zoning Ordinance (§ 30.1.2) as a:

Free standing residential structure containing a single family unit occupied by a single nonprofit housekeeping unit, but not including group quarters; see definition of “family” and where rooms are not let to individuals.

Appellees' property is a free-standing residential structure. Rooms are not let to individuals. It therefore qualifies as a “single detached dwelling” use if the seven students fall within the definition of a single family unit, *and* if their occupancy does not constitute “group quarters.”

The term “family” is, in turn, defined as:

One or more persons occupying a dwelling unit and living as a single nonprofit housekeeping unit, but not including group quarters such as dormitories, sororities, fraternities, convents, and communes.

The parties have presented their arguments as if the ordinance presents the choice between either “a single nonprofit housekeeping unit” or “group quarters.” It does not do so. Rather, to fall within the zoning use category of ‘single detached dwelling,’ the occupants of the house must satisfy *both* prongs of the definition of family. First, they must be living as a single, nonprofit housekeeping unit. Second, even if they are living as a single, nonprofit housekeeping unit, they must *also* fall outside of the category of “group quarters.” Unfortunately, neither the term “group quarters” nor the term “single nonprofit housekeeping unit” is defined in the Zoning Ordinance. The parties have focused entirely on the interpretation of ‘single nonprofit housekeeping unit,’ but it is the use of the concept of ‘group quarters’ that is more troubling in this ordinance.

The concept of ‘single nonprofit housekeeping unit’ is not as vague or as stringent as either Appellant or Appellees argue. The students were living as a single nonprofit housekeeping unit, in that they shared the use of all of the residence in common, other than each resident's bedroom, and paid their proportional shares of the utilities and the rent. Nothing in the ordinance requires a determination of the permanence or intent of the residents. Even when an ordinance is defined in terms of a functional family unit, “courts have interpreted this phrase in a rather elastic way, generally ruling that any living arrangement which makes use of unified housekeeping facilities satisfies such an ordinance.” 2 Edward H. Ziegler, Jr., *Rathkopf's The Law of Zoning* § 17A.03(a) (Release #69, 3/99).

However, it is more difficult to determine whether the ‘shared housing’ use of this house falls within the category of “group quarters.” First, none of the parties has analyzed how to determine whether the students' shared housing use is similar to or different from the “group quarters” examples of dormitories, sororities, fraternities, convents, or communes. Further, while dormitories, fraternities and sororities are provided for in the Zoning Ordinance as conditional uses in at least two zoning districts, the remaining ‘group quarters’ types of residential uses, including convents and communes, do not appear to be provided for anywhere in the City. However, none of the parties has addressed the issue of whether this distinction is rationally related to a legitimate governmental purpose in the ordinance.

Accordingly, based on the foregoing, it is hereby ORDERED and ADJUDGED that both Motions for Summary Judgment are DENIED, as material facts are in dispute as to whether the shared housing use by the students falls within the category of “group quarters,” that is, whether it is similar to or different from dormitories, sororities, fraternities, convents, and communes.

Department of Planning and Zoning

149 Church Street
Burlington, VT 05401
Telephone:(802) 865-7188
(802) 865-7195 (FAX)
(802) 865-7142 (TTY)

*David White, AICP, Director
Meagan Tuttle, AICP, Comprehensive Planner
Jay Appleton, GIS Manager
Scott Gustin, AICP, Principal Planner
Mary O'Neil, AICP, Principal Planner
Anita Wade, Zoning Clerk
Elsie Tillotson, Department Secretary*



TO: Development Review Board
FROM: Scott Gustin
DATE: November 17, 2015
RE: 16-0477AP; 99 Loomis Street

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Both the City and the appellants involved in the 99 Loomis Street appeal (16-0477AP) have requested continuance of the appeal hearing to a future Development Review Board meeting.

Department of Planning and Zoning

149 Church Street
Burlington, VT 05401
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Mary O'Neil, AICP, Principal Planner
Anita Wade, Zoning Clerk
Elsie Tillotson, Department Secretary*



TO: Development Review Board
FROM: Scott Gustin
DATE: November 17, 2015
RE: 16-0325CU; 34 Spring Street

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The applicant for the 34 Spring Street application (16-0325CU) cannot attend the November 17, 2015 Development Review Board meeting and has, therefore, requested continuance to the December 2015 meeting.

Burlington Development Review Board

149 Church Street, City Hall
Burlington, VT 05401

www.burlingtonvt.gov/pz/DRB

Telephone: (802) 865-7188

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Austin Hart
Brad Rabinowitz
Jonathan Stevens
Alexandra Zipparo
Israel Smith
AJ LaRosa
Geoff Hand

Wayne Senville, (Alternate)
Jim Drummond, (Alternate)



BURLINGTON DEVELOPMENT REVIEW BOARD

Wednesday November 4, 2015, 5:00 PM

Conference Room 12, City Hall, 149 Church Street, Burlington, VT
Minutes

Board Members Present: Alexandra Zipparo, Geoff Hand, Jonathan Stevens, Brad Rabinowitz, Wayne Senville, Jim Drummond

Board Members Absent: Austin Hart, Israel Smith, A.J. LaRosa

Staff Present: Scott Gustin, Mary O'Neil, Anita Wade

I. Agenda

II. Communications

Schedule for 2016 DRB meetings; Letter from Robert and Susan Butani regarding 72 Colchester Ave.

III. Minutes

IV. Consent Agenda

1. 16-0442CU; 747 Pine Street (ELM, Ward 5S) Crest Cooper Nedde, LLC

Change of use to retail (to adjoin existing Burlington Furniture retail space), less than 5000 square feet. Request 50% waiver, five parking spaces.
(Project Manager, Mary O'Neil)

G.Hand recused.

B. Rabinowitz – asked applicant if he has looked over and agreed with staff comments and recommendations.

Representative unsure.

M.O'Neil – explained the staff report and materials was sent to building owner, who was not able to be present tonight.

Representative received copy of recommendations and accepts the conditions.

B.Rabinowitz – Board agrees to accept project as a consent item.

J.Stevens – makes a motion to grant applicants' request and adopt staff recommendations.

W.Senville – seconds this motion.

Board Vote: 5-0-0

2. 16-0405CU; 38 Wright Ave (WRL, Ward 5S) Brovar Development Company

Construct seawall on existing grade for shoreline protection. (Project Manager, Scott Gustin)

B.Rabinowitz - calls applicant though not initially available.

S.Gustin - plans show small patio with a cross section showing that it should be stone.

B.Rabinowitz – asks applicant if they have seen the conditions, staff approval and recommendations.

S.Gustin - emailed staff conditions to the applicant.

B.Rabinowitz – is staff okay with conditions?

S.Gustin - need to change bylaws and amend zoning regulations to meet State requirement.

The programs and services of the City of Burlington are accessible to people with disabilities. Individuals who require special arrangements to participate are encouraged to contact the Department of Planning & Zoning at least 72 hours in advance so that proper accommodations can be arranged. For information call 865-7188 (TTY users: 865-7142).

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Board may treat this as a consent item.

K.Brown – do not understand existing and proposed lot coverage.

B.Rabinowitz – need to update figures on existing and proposed lot coverage.

K.Brown – will provide this

Interested party in attendance would like more information.

B.Rabinowitz - asks for motion on this item.

G.Hand – makes a motion to accept staff comments as a condition to authorize the permit.

J.Stevens - seconds motion the motion.

S.Gustin – said Board may include a statement in the motion to accept recommendations from the Conservation Board.

Board Vote: 6-0-0

3. 16-0209CA; 3174 North Ave (WRL, Ward, 7N) Laurie A. Goldsmith

Construct new house on previous site, no change to footprint. (Project Manager, Scott Gustin)

G.Hand recused.

B.Rabinowitz – asks if applicant has looked over and reviewed staff comments and recommendations.

Board accepts items as a consent agenda.

W.Senville – makes a motion to moves to accept application subject to staff recommendations.

J.Stevens - seconds the motion.

Board Vote 5-0-0

V. Public Hearing

1. 16-0362CA/CU; 60 Beachcrest (RL, Ward 4N) Jean Berggren

Conversion of patio into living space, creation of accessory dwelling unit (ADU).Certificate of Appropriateness (Project Manager, Mary O'Neil)

J.Stevens and G.Hand recused on item

B.Rabinowitz - swears in applicant

K.Berggeen, applicant, presents new parking plans giving the Board copies. Questions pertaining to issues on waste water management.

B.Rabinowitz - asks about parking and whether

J.Bergeen - asks about pavement to the road

B.Rabinowitz - said as of now showing 23 ft of pavement along road, but that exceeds the limit which is 18 ft.

S.Gustin - confirms 18 ft wide limit

K.Berggeen - driveway meets sidewalk, did not show sidewalk or green belt on plan

J.Drummond - asks if this is a corner lot

B.Rabinowitz - is this front yard parking. It may have two front yards.

K.Berggeen - it is sideyard parking; have a shared agreement with neighboring property, which is currently vacant. Does the driveway need to be paved or can it be gravel?

S.Gustin - need to know about setbacks on neighboring property. The existing driveway is short due to angle. Need to find out if front yard setback is sufficient

B.Rabinowitz - need make sure where space starts and that there are not two front yard parking spaces. Need more clarity on parking pertaining to concerns about accessory apartments. Applicant should work with staff to determine front yard setbacks and on how close to Oakcrest Drive. Can place parking space near other side of house.

No other suggestions by Board.

Public Hearing is closed.

2. 16-0363NA; 1300 North Ave (RL, Ward 7N) Raymond E Lones

Appeal of zoning denial relative to continuation of nonconforming residential/commercial use. (Project Manager, Scott Gustin)

B.Rabinowitz swears in applicants

S.Gustin - explains the history of the property dating back to 1959 when the permit was approved based on three conditions. The three conditions stated the permit would be granted only to the original owners. The business could only be for TV sales and service, and the owners had to reside at the address. Currently, the appellants have an interest in buying the property for scooter service and sales which doesn't fall within this zoned district. This might fall under bike sales and service, but not in a RL district. A nonapplicable zoning application was filed by the applicants even though staff mentioned the business had to be TV sales and service.

W.Senville - how long has this been since the present owner

S.Gustin - not sure. Ray and Sharon currently own the property

R.Lones - worked there with original owners since 1967 and eventually purchased and continued business.

M.Davidson - appellant explains by continuing the use under the 3 zoning stipulations, the business of sales and service of TV's is in regard to mechanical items which is similar to scooters, where only there are only material changes. The other two apply to the present owner and the owner's plans to live there. Believes he can meet the three requirements. As a dealer for used motorcycles, he would give up the sales of motorcycles and substitute smaller motors for transportation.

B.Rabinowitz - asks about environmental restrictions

A.Zipparo - can you distinguish the difference in sound between a TV and a scooter?

Where will you dispose of the material and how will you ensure there is no more noise than a TV repair shop? Need more information about direct impact on the environment.

M.Davidson - there may be less noise since everything serviced has a muffler and will encourage the use of mufflers. Architect drawings will provide shop with insulated walls. Testing scooters is similar to testing TV. Pictures of building show how it is insulated by trees and other buildings.

A.Zipparo - another consideration is whether there will be an increase of traffic

M.Davidson - people will ride in on scooters and drop them off

R.Lones - we no longer do home service and currently all TV's are brought to the business

M.Davidson - there is ample parking for wait time and pick up

G.Hand - how close are the closest properties in feet

M.Davidson - approximately 50 feet

G.Hand - will all service be behind closed doors?

J.Stevens - the permit for Mr Lones may not have been able to continue this service if the original permit had been enforced. There are concerns about someone owning a business who then may want to expand. This would erode the single family and low density zone.

R.Lones - an owner occupied business is different

M.Davidson - I would be changing the business and removing the 30% to 50% of motorcycle sales

J.Stevens - the concerns are about the next owner who may want to expand

M.Davidson - can permit conditions be extended?

R.Lones - the neighborhood was canvassed and 30 or 40 signatures were supportive

W.Senville - if same conditions of permit were imposed would you be willing to accept this

M.Davidson - yes

J.Drummond - asked questions about the location of the project

M.Davidson - describes area speaking about the reduction of noise and wanting to accommodate residences and school. Never one complaint about noise.

K.Brown - a condo unit owner near Lones property has a scooter and has no objection for the business to be there

J.Stevens - mentioned there is a noise issue on North Ave

K.Brown - the school is the biggest issue

A.Zipparo - traffic issue already

K.Brown - yes

R.Lones - noise issue relates to fire station and ambulances saying there's never a day without at least five fire trucks

S.Gustin - mentions the permit whether conditions can be changed. To uphold the permit means no change. An appeal adopted in 2008 to allowed a continuance

R.Lones - said he was told it had to be neighborhood type business, such as a hair salon, dog business, or coffee shop
S.Gustin - this information did not come from me
R.Lones - recommendation was for commercial uses
J.Stevens - questions violations on property
S.Gustin - the permit runs forever unless there is a change
B.Rabinowitz - this will be taken up at the deliberative session
Closed public hearing

VI. Sketch Plan

1. 16-0393SP; 72 Colchester Ave (I, Ward 1E) Edward B. Von Turkovich

Construct seventy nine apartment units within three story building, parking below and above ground. (Project Manager, Scott Gustin)

GHand recuses from item.

W.Senville asks staff to give brief overview of the purpose of a sketch plan for a PUD

M.O'Neil – speaks about the sketch plan as a conceptual plan which is a requirement prior to submitting a PUD. The plan outlines the intent and purpose asking for feedback from the Board.

F.vonTurkovich - gives handouts of plans to Board

F.vonTurkovich and G.Rabideau architect introduce themselves to the Board

F.vonTurkovich - mentions they were before the Board prior and made modifications.

Looking for feedback, before going to the DAB and filing an application

A.Zipparo - ordinance given is 2014, is this the most up to date;

S.Gustin - no, August, 2015 was when the state statute was amended and so the distinction is no longer needed

B.Rabinowitz - the plan is a survey map

F.vonTurkovich - will work with staff on readable comments

B.Rabinowitz - questions basic lot issues

G.Rabideau - went over colorized plan saying it was now more readable. The properties at 66 and 96 Colchester belongs to neighbors under a separate title, but subject to easements for better access and connection for circulation.

B.Rabinowitz - asked if paved areas were changing

G.Rabideau - discussion of paved areas of 66 and 96 Colchester. Plan has more clarity for neighbors needing better egress and ingress. Continuing the pattern of use benefits everyone by directing traffic to Colchester providing for better vehicular access.

W.Senville - it is not clear which is your property and whether this is a joint application

Rabideau - spoke about the plans for 3.26 acres and cross easements

F.vonTurkovich - said 66 Colchester is subject to a cross easement allowing for an easement plan to benefit our parcel and have access to traffic light. The 96 Colchester property would also have access to parking and cross easement maintenance plan over both ours and theirs.

J.Drummond - questions existing conditions

F.vonTurkovich - existing conditions have been there a long time; parking configurations are old and plan not to put them out of compliance. Plan is to get everything more efficient and organized. Could have excluded 96 but this address should be included for the benefit of planning and parking in the area.

M.O'Neil - this as an extremely difficult project. Staff met with applicant and representatives going over setbacks believing that all parcels should be included. Question what it means to develop this project as a separate entity. Can we exclude 66 and 96 and not consider them as part of the PUD or should they be a single entity and shared parking.

B.Rabinowitz - if these parcels are not under the same ownership, how can they be part of the PUD?

S.Gustin - PUD parcels do not have to have the same ownership. As an example, a precedent was established with Appletree Lane with the homeowners as coapplicants. This is just a sketch plan.

F.vonTurkovich - want to get this established prior to making application for PUD. The 96 Colchester raises more questions and neither 66 or 96 want more development. They will cooperate for parking development as a limited purpose.

B.Rabinowitz - makes setback process more understandable.

F.vonTurkovich - understands from the PUD regulation language 11.1.6 (b) the requirements that must be met with minimum setbacks for district and also for the periphery. Referenced table B in zoning ordinance about requirements that must be met. Asks staff and the Board if minimum means 5 ft. setback

B.Rabinowitz - it means 5 ft minimum setback and 20 ft. maximum

G.Rabideau - asked about two other points on issue of setbacks; how to deal with proposed setbacks as it relates to existing structures on Colchester Ave. Staff comments that Board has discretionary ability and wants clear understanding from the Board about what is important to the process. Would like to know the setback effects for the smaller buildings and would ask Board to use discretionary approval.

B.Rabinowitz - questions setbacks on existing buildings

M.O'Neil - careful reading of ordinance does not demand that you combine lots and may maintain existing nonconformity.

B.Rabinowitz - questions about rear yard

M.O'Neil - there is no rear yard, two frontages and a lot of sides

F.vonTurkovich - also section of ordinance that said 72 and 80 Colchester are nonconforming now and will continue that way.

G.Rabideau - alignment has to work with UVM and medical center for clear vehicle interactions at the traffic light.

B.Rabinowitz - this does not line up and may need a traffic report

F.vonTurkovich - hopeful for low traffic count. This could be popular housing for those who work on campus. Promoting ride share with local company among residents for less traffic

G.Rabideau - hope to generate low traffic count since the area is popular housing for people living on campus and we think we will be successful

M.O'Neil - want to confirm the land area. This will affect properties and count for total land area

F.vonTurkovich - may only do one bedroom units

M.O'Neil - questions how number is achieved

B.Rabinowitz - questions slope

M.O'Neil - not an issue in this district

W.Senville - biggest concern is the massing of buildings

G.Rabideau - went over plans

J.Drummond - questioned relative size and scale

G.Rabideau - speaks of three distinct masses

M.O'Neil - did have building elevations, but decided to get site addressed first and then work on the building

F.vonTurkovich - looked at this site for many years. Many ideas explored but know there is a limit to three stores. Need to consider elevators. Underground parking was an important aspect. A larger building works better. Behind existing set of buildings land does slope away at 80 and 94 Colchester where a 3 or 4 ft grade change occurs, but will work with grade change.

W.Senville - asked about changes to existing buildings

F.vonTurkovich - mentioned the uses at other addresses. Fletcher place approved to be a duplex, but may revert to single unit.

F.vonTurkovich - will work with Mary to understand the actual size of parcels

B.Rabinowitz - involves adding 66 and 96 Colchester

F.vonTurkovich - these properties may not want the involvement in PUD except for the access to driveway. No problem with lot coverage, since they will not sell their density.

B.Rabinowitz - questioned total size and lot calculation. Is it a zero lot line if not part of PUD? Issues on 66 and 96 evaluations.

M.O'Neil - exceptions to parking is shared driveway, shared parking, shared walkways and shared paving.

F.vonTurkovich - not going to add density; 96 uses our driveway and like to formalize arrangements.

W.Senville - would parking would look the same as now

F.vonTurkovich - agree on repair and maintenance and make a covenant. Want to be sure every aspect of parking is reviewed by Board and going over with staff about what to do with

the properties. Want this reviewed as coordinated plan by City. Would like to do something with 96 Colchester.

J.Drummond - not increasing coverage and reworking is the owner of the building willing to allow you reconfigure and the next owner is bound by this

F.vonTurkovich - with adequate parking would be interested in collaboration. The diagonal space will be 24/7 use for them; at night all residents will be able to park after 8pm; may not need parking waiving;

G.Rabideau - with the parking as now, the 54 spaces includes handicap parking. There are 117 total parking spaces. Issues with expense of elevators.

M.O'Neil - In 1988, 66 Colchester increased parking from 5 to 6 spaces. Issue with development of parking and if involved parcels are in or out of PUD.

M.O'Neil - questions the width of property at the site

G.Rabideau - trade off sharing parking is a planning benefit and helps with relationships

B.Rabinowitz - confirming the main issue at this time is setbacks and lot size

J.Drummond - is there a stream on property

G.Rabideau - there is a wet area; UVM has an unpermitted drainage channel that goes through site and will be addressed. The ravine continues and water flows into Winooski River.

F.vonTurkovich - will be better drainage and will work with neighbors

G.Rabideau - earlier parking used up a lot of flat space that was not present in garden space; can carve out green space. Trying to work with a more urban response.

B.Rabinowitz - have to address single family residence

S.Butani - raises questions to understand ownership and use rights. Asks for further clarification regarding 49 Fletcher Place and if relationships need to be formalized before actual approval of project.

S.Butani - questions about acreage of property

B.Rabinowitz - other properties are included and would have to be coapplicants

F.VonTurkovich - yes

B.Rabinowitz - part of 49 is involved and part is not involved in project

S.Butani - property is challenging for building. Has there been a geotechnical report and is this available?

B.Gore - as resident of 43 Fletcher Place, she and her husband are one of the longest residents on street. It is a predominately residential street. Not against infill housing, but building is too big with too much massing and not enough green space and for maintenance and values of city scape. It was left out of RL but it is not different. Important information regarding the topo lines shows a map with running water all year long and deep tight topo lines. Occupancy largely 1 bedroom attracts lots of students but building has no management plan on site. This will not attract young professional families. Anticipating traffic problems with lots of wait time at traffic signal. Adverse effects will be felt from potential noise and lights. Possible geotechnical problems with building built on fill over the years. Challenging to do and get proper drainage and cover more area with macadam and parking. Land slopes away so that building may end up to be higher than 35 ft. Noise will filter to end of Fletcher Place. Privacy issues from people looking over our homes especially at night. Building backs up to sharp ravine with no ability to provide screening.

This property is not yet owned and suggest developer make use of density they own and apply for building with less than half of the number of units, which could still be a significant addition to housing units in Burlington, and be able to maintain quality of life.

B.Rabinowitz - the scale is not available at this point to know where to go with this

S.Busher, - city councilor from Ward 1, feels positive about more green space, underground parking and more space for properties. Process of combining lots and buying ravine spreading over the area has not played out well in the past. This becomes difficult for people who look for resale due to parking and encumbered properties. The parking behind properties has become a colossal problem and worried about making one property a duplex dated 1812 and thereby changing the character. Concerns about traffic plan. Hope car share will reduce number of vehicle trips. Must address serious issue of water drainage. Worried about massing and size of building.

B.Rabinowitz - asks her feeling about 1 bedroom unit

S.Bushor - there is a fear factor and a reality that students are drawn to buildings any time someone builds near UVM. Many students go to Winooski and live in one bedroom. Champlain College manages housing better than UVM does.

J.Stevens - you were involved in ordinance rewrite and wondered why Fletcher PI was placed in the institutional zone

S.Bushor - I was not involved in 1974. The major rewrite was in 2007. There were some problems with expansion of parking and zoning and when Fletcher Place was looked at it had already changed to smaller homes more RL. It was left incomplete. Talks happened with Fletcher Place and the ordinance committee.

B.Rabinowitz- if they have option to buy, we need to look at it that way.

R.Hillyard – as steering committee member of NPA in the area, no one is against infill housing. Frank has come to NPA several times, but haven't seen this latest proposal.

Careful as steering committee as to what is said. Property values were reduced by 10%; Frank is anxious to make this profitable. Is it good for developer to make money on owner occupied neighborhoods? Do not understand what 1 bedroom units does to help affordable housing. Junction is off medical center junction on Fletcher Dr. is sufficiently off and have to carefully concentrate on traffic there. It should be redesigned for Colchester design project working in conjunction with UVM since most of construction traffic and medical will be steered toward Main St and interstate. Still very problematic.

B.Rabinowitz - comments FVT

F.vonTurkovich - project is subject to affordable housing subject to code inclusionary adding 12 units at affordable rate and starting with smaller units making it viable. some projects don't go anywhere because of the inclusionary housing; There is a preference for 1 bedrooms units where couples and rent increment less; individuals and couples living in one bedroom and that favorable for inclusionary; significant factor in project

How the ravine functions or that it will remain conservation applicant wants to take advantage of this code. Aware of drainage and have had geo tech work completed. The source of water is not concerning the downstream and unlikely to test downstream. A lot of extensive vegetation there now and may not be able to plant material in area;

F.vonTurkovich – through the land from 49 Fletcher Place, I have gotten to know owners and the value of land is very important to them. They need to sell the land to do what she needs to do. There is a valid personal economic reason for selling the land and that is an okay thing. Open about doing other than 1 bedroom units and okay with this. According to UVM and studies find that people out of college want 1 bedroom units. Willing to hear from Board on this. Do not want people to think I am doing student housing.

J.Stevens - the Board does not have jurisdiction over this

A.Zipparo - how is a one bedroom lower rent. Explain logic of higher price point

F.vonTurkovich - two bedroom are great with one bedroom building one bathroom and kitchen. Many people do not want a roommate. UVM and Medical are two employment drivers and who like a one bedroom.

A.Zipparo - logic of one bedroom is that they are not affordable

B.Rabinowitz - asks for more data on this. This is sketch plan and technical information is not shared about this.

F.Turkovich - do you want to close this session or continue. We would like to have more NPA meetings.

J.Stevens - no limit on number of sketch plans

S.Gustin - we can have sketch plans numerous times, but there is a fee for subsequent reviews

B.Rabinowitz - is the purpose is to give you feedback.

Close sketch plan.

VII. Other Business

DRB scheduling for 2016 will be taken up during the Deliberative Meeting on Monday November 9, 2015 at 5pm.

VIII. Adjournment

A.Hart, Chair of Development Review Board

Date

A.Wade, Planning and Zoning Clerk

Date

Plans may be viewed in the Planning and Zoning Office, (City Hall, 149 Church Street, Burlington), 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 Planning and Zoning office is considered public and cannot be kept confidential.

This may not be the final order in which items will be heard. Please view final Agenda, at www.burlingtonvt.gov/pz/dr/Agendas or the office notice board, one week before the hearing for the order in which items will be heard.