

Burlington Development Review Board

149 Church Street, City Hall

Burlington, VT 05401

www.burlingtonvt.gov/PZ/DRB

Phone: (802) 865-7188

Fax: (802) 865-7195

Austin Hart, Chair
Brad Rabinowitz
Jonathan Stevens
Israel Smith
A.J. LaRosa
Alexandra Zipparo
Geoff Hand
Jim Drummond (Alt)
Wayne Senville (Alt)



BURLINGTON DEVELOPMENT REVIEW BOARD Wednesday November 4, 2015 PUBLIC HEARING NOTICE

The Burlington Development Review Board will hold a meeting on **Wednesday November 4, 2015 at 5:00 p.m. in Conference Room 12, City Hall.**

1. **16-0442CU; 747 Pine St (ELM, Ward 5S) Cresta 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.
2. **16-0362CA/CU; 60 Beachcrest (RL, Ward 4N) Jean and Kristen Berggren**
Conversion of patio into living space, creation of accessory dwelling unit (ADU).
3. **16-0363NA; 1300 North Ave (RL, Ward 7N) Raymond and Sharon Lones**
Appeal of administrative denial regarding continuation of nonconforming residential/commercial use.
4. **16-0405CU; 38 Wright Ave (WRL, Ward 5S) Brovar Development Company, Inc**
Construct seawall on existing grade for shoreline protection.

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.

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).

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

Wednesday November 4, 2015, 5:00 PM

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

AGENDA

- I. Agenda**
- II. Communications**
- 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)
 - 2. 16-0405CU; 38 Wright Ave (WRL, Ward 5S) Brovar Development Company**
Construct seawall on existing grade for shoreline protection. (Project Manager, Scott Gustin)
 - 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)
- 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, Scott Gustin)
 - 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)
- 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, Mary O'Neil)
- 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.

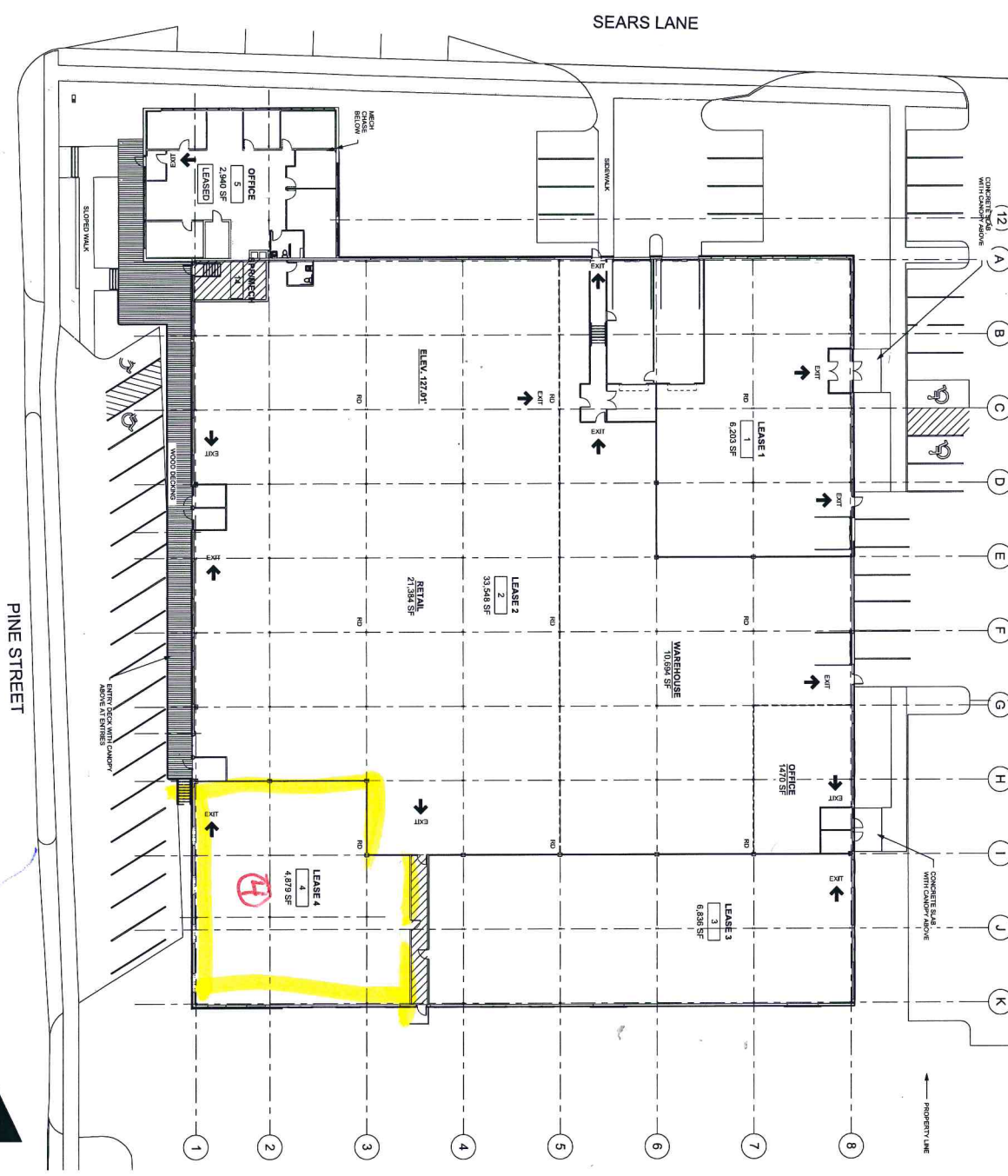
The programs and services of the City of Burlington are accessible to people with disabilities. Individuals who require special arrangements to participate are encouraged to contact the Department of Planning & Zoning at least 72 hours in advance so that proper accommodations can be arranged. For information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

BUILDING FOOTPRINT = 55,126 SF
TOTAL LEASE SPACE = 53,884 SF
TOTAL COMMON SPACE = 651 SF

LEASE 1 PROPORTION = 6,140 / 53,884 = 11.4%
11.4% OF 551 SF = 63 SF
6,140 SF + 63 SF = 6,203 SF TOTAL
LEASE 2 PROPORTION = 33,208 / 53,884 = 61.7%
61.7% OF 551 SF = 340 SF
33,208 SF + 340 SF = 33,548 SF TOTAL
LEASE 3 PROPORTION = 10,684 / 53,884 = 19.8%
19.8% OF 551 SF = 109 SF
10,684 SF + 109 SF = 10,793 SF TOTAL
LEASE 4 PROPORTION = 4,879 / 53,884 = 9.1%
9.1% OF 551 SF = 50 SF
4,879 SF + 50 SF = 4,929 SF TOTAL
LEASE 5 PROPORTION = 2,910 / 53,884 = 5.4%
5.4% OF 551 SF = 30 SF
2,910 SF + 30 SF = 2,940 SF TOTAL

NOTE:
FOOTPRINT AREA MEASURED TO OUTSIDE
FACE OF FOUNDATION WALL
LEASE AREA MEASURED TO INSIDE FACE OF
WALLS BETWEEN LEASE SPACES, AND
ON THE INSIDE OF THE EXTERIOR LEASE
SPACE AND COMMON SPACE.

PARKING:
PARKING SPACES PROPOSED FOR THE
PROJECT = 80
PARKED PARKING IS PER LEASE
AGREEMENT.



FLOOR PLAN

747 PINE STREET
08/04/2015

SCALE: 1" = 16'

LEASE PLAN

SCOTT + PARTNERS
ARCHITECTURE

20 MAIN ST. SESSX JUNCTION, VT 05452
P: 802.872.5153
F: 802.872.2764
SCOTTPARTNERS.COM

Department of Planning and Zoning

149 Church Street
Burlington, VT 05401

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

Telephone: (802) 865-7188
(802) 865-7195 (FAX)

David E. White, AICP, Director
Meagan Tuttle, Comprehensive Planner
Jay Appleton, Senior GIS/IT Programmer/Analyst
Scott Gustin, AICP, CFM, Interim Chief Administrative Officer
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 4, 2015
RE: ZP16-0442CU; 747 Pine Street

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

File: ZP16-0442CU

Location: 747 Pine Street

Zone: E-LM **Ward:** 5

Date application accepted: October 2, 2015

Applicant/ Owner: Burlington Furniture Company (Mark Binkhorst) / Cooper, Cresta Nedde LLC (Doug Nedde.)

Request: Expand the lease area previously approved under ZP16-0165CU from 33,548 sf to 38,427 sf for a change of use from warehouse to warehouse retail (Burlington Furniture Company), an increase of **4,879 sf**. The application requests a parking waiver consistent with previous approval.

Background:

- Zoning Permit 16-0165CU; change of use for 33,548 sf to Retail Warehouse for Burlington Furniture Company. 50% parking waiver of 42 spaces; 42 spaces dedicated to the new use on-site. September 2015.
- Non-applicability of Zoning Permit Requirements; interior work. August 12, 2015.
- Zoning Permit 16-0012CU; Establish health club, approx. 6762 sf. Allocate 14 parking spaces to use. No site changes. Approved August 10, 2015.
- Zoning Permit 15-0738CA; Renovation to existing warehouse building; removal of approx. 8,700 building addition, exterior façade upgrade, improved stormwater management, add parking. Approved February 2015.
- Zoning Permit 08-011CA; change of use from wholesale grovery/warehouse to printing. No site or exterior building changes. July 2007.
- Zoning Permit 02-331; new 36" metal outswing egress door on north wall. February 2002.
- Zoning Permit 99-023; installation of nonilluminated freestanding sign for Burlington Food Service Company. July 1998.

- Zoning Permit 92-350; three new windows in exterior wall and install new rooftop heating and A.C. unit next to existing HVAC unit at existing warehouse building. May 1992.
- Zoning Permit 92-426; installation of door with construction of handicapped access ramp with pipe railing for Burlington Food Service. June 1992.
- Zoning Permit 87-464; replace existing 4,000 gal underground fuel tank with one 8,000 tank or two 4,000 gal tanks. August 1987.
- Zoning Permit 87-091 / COA 87-034; add a 6,677 sq. ft. one story office wing and freezer to existing warehouse. Add 4,065 sq. ft. of parking and loading area. March 1987.
- Zoning Permit 85-151 / COA 85-039; add new 80' x 96' freezer to existing building, reconfigure existing parking, blacktop, and landscape. April 1985.

Overview: The DRB approved exterior structural and site modifications in February of this year; however it was noted that as tenants are identified, the building owner would be coming back for use permits. This is the third application; to increase the area previously approved for Burlington Furniture Company in the largest tenant space. *Warehouse Retail* use is a Conditional Use in the ELM Zoning District. A parking waiver consistent with the original approval is requested; see Article 8 for discussion.

Applicable Regulations: Article 3 (Applications, Permits and Project Reviews); Article 4 (Zoning Maps and Districts); Article 5 (Citywide General Regulations); Article 8 (Parking); Article 13 (Definitions); Appendix A, Use Table.

Recommendation: **Consent approval** of Conditional Use review with parking waiver, per the following findings and conditions:

I. Findings

Appendix A, Use Table. Warehouse Retail is a Conditional Use in the E-LM Zone. See Article 3.

Article 3: Applications, Permits and Project Reviews

Part 3: Impact Fees

Section 3.3.2 Applicability

*Any new development or additions to existing buildings which result in new dwelling units or in new nonresidential building square footage are subject to impact fees as is **any change of use which results in an added impact** according to Section 3.3.4.*

Both the previous use (warehouse) and proposed use (Warehouse Retail) fall within the same category of the Impact Fee regulations and calculator: *Offices and Other*. Therefore no Impact Fees would be assessed for the change in use.

Affirmative finding.

Section 3.5.6 (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;*

This is an existing business on Pine Street within the same zoning district that proposes to relocate to this newly remodeled facility. There are no identified impacts to public utilities, facilities or services; all of which currently serve this use. **Affirmative finding.**

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

The Enterprise-Light Manufacturing district is the primary commercial/industrial center of Burlington, and is intended to accommodate enterprises engaged in the manufacturing, processing, distribution, renovating, or assembling of goods, merchandise, or equipment without potential conflicts from interspersed residential uses. Other accessory commercial uses are allowed to support a side range of services and employment opportunities. This furniture distributor will display, store, distribute, and manage the sales of a wide range of household furnishings. The relocation (and expanded lease area) of Burlington Furniture will also fulfill a goal of the Municipal Development Plan, illustrating the adaptive reuse of old warehouses in the Enterprise District (MDP, Land Use Plan, Page I-22.) **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;*

Contrary to other uses within the district that may be using manufacturing machinery and equipment that emit greater volumes of noise and dust, the proposed use will not induce similar nuisance impacts. Furniture storage and sales is low impact per this standard. **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;*

747 Pine Street fronts a major arterial, and has an expanded parking lot to accommodate the anticipated new tenants. It is also on the CCTA bus route and has a pedestrian sidewalk on both Pine and Sears Lane. Pine Street has a bicycle lane as well. There is a robust transportation system in place to support the proposed use. The success of this enterprise (already on Pine Street) confirms the capability of the transportation network for this use. **Affirmative finding.**
and,

- 5. The utilization of renewable energy resources;*

No part of this request prohibits the use of wind, solar, water, geothermal or other renewable energy resource. **Affirmative finding.**
and,

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

No identified conflicts. Required building and/or life safety codes will be under the review of the building inspector. **Affirmative finding as conditioned.**

Article 4: Zoning Maps and Districts

(c) Permitted and Conditional Uses

No changes are proposed to the exterior of the site.

Warehouse Retail is a Conditional Use in the E-LM Zoning District. See Article 3 and Appendix A.

Article 5: Citywide General Standards

Part 1: Uses and Structures

(d) Conditional Uses

See Article 3, above for newly revised Conditional Use Review Standards.

Part 2: Dimensional Requirements

Not applicable.

Part 3: Non-Conformities

Not applicable.

Part 4: Special Uses

Not applicable

Part 5: Performance Standards

Section 5.5.1 Nuisance Regulations

A 14.5% lease area expansion of an approved furniture retail warehouse is not anticipated to introduce any impacts in conflict with the Burlington Code of Ordinances. The use was previously approved in September 2015; this request for an expanded lease area. **Affirmative finding.**

Section 5.5.2 Outdoor Lighting

Not applicable.

Section 5.5.3 Stormwater and Erosion Control

Development related to Stormwater and Erosion Control was included within a previous review and approval. Not applicable.

Section 5.5.4 Tree Removal

Not applicable.

Article 6: Development Review Standards

Not applicable.

Article 8: Parking

Table 8.1.8-1, Minimum Off-Street Parking Requirements for Warehouse; Retail requires 2.5 parking spaces per 1,000 sf. of space in the Shared Use Parking District.

Based on the expanded lease area of 4879 sf, the new required parking would be **12 spaces**. ($4,879 / 1000 = 4.879 \times 2.5 = 12.$) The applicant requests a 50% waiver.

For the previous total sf. of the lease area, (33,548), the parking requirement was 84 parking spaces. ($33,548 / 1000 \times 2.5 = 83.87.$) The parking requirement in the ordinance anticipates a “Costco” type warehouse shopping experience, and does not foresee a warehouse retailer that would have much smaller business volume but requires the warehouse storage and retail space demanded of the use. The applicant has submitted information that defines approximately 9 full time staff and 3 part time (with the anticipation of hiring 2-3 new employees in the future). Currently they see an average of 20 customers per day. They hope to grow that client base to 25-30 per day. Understandably weekends are busier than week days, but customer visits are dispersed throughout the day. They anticipate a maximum of 10 cars at peak (lunch or weekend) hours. The expanded lease area on its own does not predicate or assure expanded customer visits.

The newly expanded parking lot has 86 parking spaces. Fourteen have been designated to the new Health Club Use. Forty-two have been dedicated to the furniture store. Six are dedicated to office use. Two are now the location of a dumpster enclosure. The applicant requests 6 additional (50% of the 12 required for this expansion) for the expanded lease area for a total of 70 parking spaces committed to tenants. The final lease area of the building will require review and approval of any new use to assure that parking requirements can be met. 16 spaces remain without dedication, with only one lease area remaining in the building.

Section 8.1.15 Waivers from Parking Requirements/Parking Management Plans

Any waiver granted shall not exceed fifty percent (50%) of the required number of parking spaces except for the adaptive reuse of a historic building pursuant to Section 5.4.8 and ground floor retail uses in any Mixed Use district which may be waived by as much as one hundred percent (100%). Waivers shall only be granted by the DRB, or by the administrative officer pursuant to the provisions of Section 3.2.7 (a) 7.

The applicant has submitted information that addresses the specific needs of the proposed use, the proposed number of employees, customers, visitors, and hours of operation. They also have provided anticipated parking demand by day and demand of the use. It is their belief that an additional 12 parking spaces as required by the CDO is excessive given their existing business model on Pine Street, anticipated customer base, number of employees, and fluctuating customer arrivals (weekend over week days.)

This section of the ordinance limits parking waivers to 50% of the parking requirement which would be an additional 6 spaces. The parking requirement then would be reduced to 6 new spaces, or $42 + 6 = 48$ spaces for the total lease area for Burlington Furniture Company use. The application, based on the existing business model, number of employees and anticipated customer volume does not suggest the need for the total parking requirement ($84 + 12$, based on Table 8.1.8-1), and unlikely to ever need the additional 12 parking spaces as required by the ordinance.

Within this business model, there will also be an opportunity for shared use of the parking area, as the furniture warehouse will see its busiest hours and days when associated tenants would be closed (office occupancy leases anticipated.)

A 50% waiver of parking requirements would dedicate 6 additional parking spaces to the new use, with a waiver of 6 spaces. The actual number of spaces dedicated to the warehouse retail use would be $42 + 6 = 48$ parking spaces. This number more reasonably reflects the lower actual parking demand of this specific use, and is available for consideration by the DRB under this provision. **Affirmative finding as conditioned.**

Article 13: Definitions

Warehouse, Retail: A building used for the sale of goods, in bulk or as individual retail items, to the general public or to a membership.

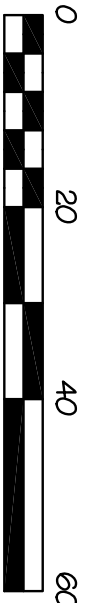
Burlington Furniture's use is a combination of retail, product storage and accessory office, with warehouse the larger of the uses. As the public may move about the warehouse floor and purchase individual or a collection of items, the use category best fits the proposed furniture warehouse sales proposed.

II. Conditions of Approval

1. Upon DRB approval and assuming a waiver of 50%, a parking waiver of 6 spaces for the expanded lease area is provided for the Warehouse Retail use. 6 additional parking spaces will be allocated to the proposed use. (42 previously approved, total of 48 parking spaces to be dedicated to Burlington Furniture Company.)
2. Required building and/or life safety codes will be under the review of the building inspector.
3. 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.

- LEGEND**
- IRON ROD OR PIPE FOUND (SEE DESCRIPTION)
 - CONCRETE
 - STONE/CONCRETE STUMP
 - DECIDUOUS TREE
 - CONIFEROUS TREE
 - CATCH BASIN
 - DRAIN MANHOLE
 - WATER
 - GATE/VALVE
 - WATER SHUTOFF
 - HYDRANT
 - SEWER MANHOLE
 - UTILITY POLE
 - LIGHT POLE (BOLLARD TYPE)



MASTER PLAN

SCALE: 1" = 30'-0"

ZONING INFORMATION:	
PARCEL LOCATION:	72,80,& 94 Colchester Ave., 27 & 49 Fletcher Pl.
ZONING DISTRICT:	INSTITUTIONAL
MAXIMUM DENSITY:	20 UNITS PER ACRE
MAX DENSITY WITH BONUS:	24 UNITS PER ACRE
PARCEL SIZE:	3.62 ACRES / 157,254 SQUARE FEET
ALLOWABLE DENSITY:	87 UNITS
EXISTING DENSITY:	8 UNITS OR UNIT EQUIVALENTS
ALLOWABLE NEW DENSITY:	79 UNITS
MAXIMUM LOT COVERAGE:	40% / 63,075 SQUARE FEET
MAX. COVERAGE WITH BONUS:	48% / 75,690 SQUARE FEET
BUILDINGS:	
NEW BUILDING FOOTPRINT: 23,418 SQ.FT.	
EXISTING BUILDINGS: 4,398 SQ.FT.	
PARKING LOTS: 17,687 SQ.FT.	
MISC. HARDSCAPE: 5,960 SQ.FT.	
PROPOSED COVERAGE:	32.7% / 51,463 SQUARE FEET
SET BACKS REQUIRED:	FRONT YARD = 15 FT. SIDE YARD = 10% TO A MAX OF 20 FEET REAR YARD = 25% TO A MAX OF 75 FEET
MAX BUILDING HEIGHT:	35 FEET.

550 Hinesburg Road
Suite 101
South Burlington, VT 05403
802.863.0222
Rabideau-Architects.com

PROJECT # 1412

SHEET NUMBER

SP-1

DATE: 9/12/2015

MASTER PLAN

72,80,94 COLCHESTER AVENUE- 27 FLETCHER PL.

MILLER - VONTURKOVICH

BURLINGTON, VERMONT

REVISIONS:	DATE:
SITE PLAN APPLICATION	9/8/2015

MEMORANDUM

TO: Mary O'Neil, Senior Planner, Development Review, City of Burlington Department of Planning & Zoning

FROM: Frank von Turkovich, for the Miller – von Turkovich Partnership

RE: Colchester Avenue Development Project

DATE: 10-27-2015

Project Overview

Proposed development will consist of a new, three story building containing 79 residential rental apartment units. The site is located on Colchester Avenue, directly across from the entrance to the UVM Medical Center access drive.

The land assemblage consists of five adjoining properties: 72 Colchester Ave., 80 Colchester Ave., 94 Colchester Ave., 27 Fletcher Place and land pertaining to 49 Fletcher Place. The combined acreage of the five parcels is 3.62 acres. In addition, the properties located at 66 Colchester Ave. (Miller dental office) and 96 Colchester Ave. (medical offices) shall be subjected to cross easements to permit the development of common parking facilities and, also, to allow those properties to have access to the traffic light controlled driveway intersection, located on the 80 and 94 Colchester Ave. parcels.

All of the primary structures located on the assembled parcels will remain in place, with certain physical improvements and upgrades. The proposed new building and associated site improvements would be located behind the existing structures.

The new building will be a three-story structure containing 79 apartment units. Underground parking will be provided underneath the new building via a driveway located along the westernmost property line.

All vehicular traffic will access the property via the existing signalized traffic intersection located on Colchester Avenue. Separate dedicated pedestrian access will be provided, primarily at a walkway between the buildings located at 72 and 80 Colchester Ave.

Status of Involved Properties

72 Colchester Ave. Currently, a single family house, but may be converted to a duplex, containing two separate apartment units.

80 Colchester Ave. Currently occupied by the UVM Hillel organization. Two units of residential density have been allocated to this structure under the current application.

94 Colchester Ave. Currently occupied as medical office space. Two units of residential density have been allocated to this structure under the current application.

27 Fletcher Place. Currently occupied as a single family residence. Application for conversion to a duplex was granted by the Burlington DRB but is presently under appeal to the Environmental Court. Two units of residential density have been allocated to this structure under the current application.

Planned Unit Development

We intend to pursue City of Burlington permit as a Planned Unit Development ("PUD") pursuant to the Comprehensive Development Ordinance Article 11.

The project will meet the PUD code section by: (a) promoting the most appropriate use of land through flexibility of design and development, (b) facilitating the adequate and economical provision of streets and utilities, (c) preserving natural and scenic qualities of open space, (d) providing for a variety of housing types, (e) providing a method of development for existing parcels [e.g., 94 Colchester Ave.] which because of physical, topographical or geological conditions could not otherwise be developed, and (f) achieving a high level of design quality and amenities.

Question for Mary O'Neil: in section 11.1.3 (Major and Minor Planned Unit Development), the code differentiates between a Major and a Minor PUD. Since our proposed development apparently satisfies the conditions set forth in (a), "development consisting of five or more units in a single structure, prompting the requirements of Article 9 Inclusionary and Replacement Housing." does this mean the project should be reviewed as a "Minor" PUD? Does that make any difference?

Dimensional Requirements

Section 11.1.5 of the code (Modification of Regulations) permits the alteration of density, frontage and setback regulations. The applicant is not seeking any modification to the district's density limitations, but will ask for permission to have the project be subject to the provisions

of 11.1.6 (b) which requires that the "The minimum setback requirements for the district shall apply to the periphery of the project[.]" Referring to Appendix B (Dimensional Standards-All Zoning Districts), the code requires a minimum side yard setback of 5 feet in the Institutional District.

Non Conformities

The building located at 72 Colchester Ave. is presently non conforming to current Ordinance dimensional requirements. The building is actually situated over the western boundary line of its lot. No enlargement of the existing building is proposed as part of the development. Article 5 (Part 3: Non-Conformities) controls the continuation of nonconforming uses. Section 5.3.3 (Continuation) states that "any nonconformity which lawfully existed at the time of passage of the applicable provisions of this or any prior ordinance or any amendment thereto may be continued subject to the provisions of this Part." Due to the age of the structure located at 72 Colchester Ave. (constructed circa 1890?), applicant believes that the ordinance would allow the structure to remain in place undisturbed as part of the project despite its nonconformance with current setback requirements, including the minimum setback requirements set forth above.

Department of Planning and Zoning

149 Church Street
Burlington, VT 05401
<http://www.burlingtonvt.gov/PZ/>
Telephone: (802) 865-7188
(802) 865-7195 (FAX)

David E. White, AICP, Director
Meagan Tuttle, Comprehensive Planner
Jay Appleton, Senior GIS/IT Programmer/Analyst
Scott Gustin, AICP, CFM, Interim Administrative Officer
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 *move*
Date: November 4, 2015
RE: Sketch Plan Review for 66, 72,
80, 94 and 96 Colchester Avenue;
27 and 49 Fletcher 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.

File: ZP16-0393SP

Location: 66, 72, 80, and 94 Colchester Avenue; 27 and (a portion of) 49 Fletcher Place

Zone: Institutional **Ward:** 1E

Date application accepted: September 18, 2015

Applicant/ Owner: Randall Miller and Francis J. VonTurkovich (49 Fletcher Place owned by Nancy Reid.)

Request: Construct 79 apartment units in 3 story building with underground and above-ground parking facilities.

Background:

66 Colchester Avenue

- **Zoning Permit 87-853;** construct 250 sf. addition to rear of existing office use, provide one additional parking space. (5 + 1 = 6)



Approved May 1988.

- **Zoning Permit**, install a 2' x 24' drain trough on the west side of the building. June 1974.
- **Zoning Permit**; convert property to a dental office. Five paved parking spaces. January 1961.

72 Colchester Avenue

- **CU-97-050**; Housing replacement exemption. Approved with conditions March 1997.
- **Zoning Permit 89-051 / COA 89-013**; construct 18' x 20' second story addition on rear of existing single family home, no change to site plan. Approved February 27, 1989.

80 Colchester Avenue

- **Sketch Plan Review 15-0896SP**, construct 79 apartment units in 3 story building with underground and above-ground parking facilities, April 2015.
- **Zoning Permit 15-0390SN**; install new freestanding sign for Hillel. Approved October, 2014.
- **Zoning Permit 15-0042CA/CU**, change of use from office to membership club; exterior staircase and install bike rack. Approved August 2014.
- **Zoning Permit CU 2004-016**; application for use by UVM affiliated Center for Children, Youth and Families Administrative offices. Approved with conditions, January 2004.
- **Zoning Permit 01-389**; installation of an externally illuminated freestanding sign for the existing medical (chiropractic) office. Approved April 2001; not pick up and confirmed expired in 2011.
- **Zoning Permit CU 2001-035**; change of use of first floor space from office to medical chiropractic office. Removed from agenda as determined that the proposed conversion from a medical billing office to a chiropractic office on the first floor does not require conditional use review. February 2001.
- **Zoning Permit 00-516**; refurbish existing side porch to allow ramping of deck for handicapped accessibility to the existing medical office. No increase in footprint. December, 2000.
- **Zoning Permit 99-277**; removal of slate roofing material, replacing with asphalt shingles for the existing medical office. Approved December 1998.
- **Zoning Permit 92-123**; construction of ten additional parking spaces for a total of sixteen for the existing medical office and residential unit. Existing curb cut to be eliminated, with joint use of adjacent property's (medical office / 94 Colchester Avenue) curb cut. Approved September 1991.
- **Zoning Permit CU92-011 / COA 92-025**; eliminate curb cut and driveway from #80 and utilize widened drive at traffic light at #94. Remove existing garage, change configuration and size of paved parking area. No change to use of #80 as office and apartment. Approved with conditions September 1991.

- **Request for Conditional Use Permit** to construct a private parking lot. July 1990. Application withdrawn by applicant.
- Notice of appeal to the Zoning Board of Adjustment seeking a special exception to erect a 16' x 16' addition to the northeast corner of existing doctor's office. Approved July 1968.

94 Colchester Avenue

- **Sketch Plan Review 15-0896SP**, construct 79 apartment units in 3 story building with underground and above-ground parking facilities, April 2015.
- **Non-Applicability of Zoning Permit Requirements 07-703NA**; replace asphalt shingle roof with same. May 2007.
- **Zoning Permit 92-025**; site changes for combined access with #80. See above. Approved September 1991.
- **Zoning Permit 91-154**; remove two windows and one door from north elevation and install three windows on same side. No change in use. See 89-012. October 1990.
- **Zoning Permit 89-042 / COA 89-012?** (illegible); replace existing vestibule, new siding and windows, new walkways and landscaping. February 1989.
- **Zoning Permit 780073**; erect an 18' x 30 addition in rear of existing building. June 1977.
- **Zoning Permit**; desire to rent portion of premises for doctor's office. Approved May 1963.

27 Fletcher Place

- **Sketch Plan Review 15-0896SP**, construct 79 apartment units in 3 story building with underground and above-ground parking facilities, April 2015.
- **Non-Applicability of Zoning Permit Requirements 15-0959NA**; Install dryer hookups on 2nd floor. Upgrade wiring to meet code. Upgrade plumbing to meet code. April, 2015.
- **Zoning Permit 15-0955CA**; Change of use from single family residential to duplex, modify two existing windows, and create new parking spaces. Approved June 2015; under appeal with VSCED.
- **Zoning Permit 81-684**; replace 26" x 26" double hung window with Anderson window 24" x 48". September 1981.
- **Notice of Appeal to Zoning Board of Adjustment**; erect a carport within three feet of the property line. Approved December 1968.

49 Fletcher Place is included only to illustrate that the project would include a potential boundary line adjustment; reserving a single family home on a 15,000 sf. lot. The remainder of the parcel would be absorbed into the PUD.

Overview: Contiguous property owners propose a collective development of six (whole or in part) lots, allowing for utilization of large rear/interior area for new housing. The narrative submitted 10/28/2015 suggests that 66 and 96 Colchester Avenue are *not* part of the PUD, but will have easements allowing circulation/parking. The Master Plan submitted with the sketch

plan application appears to *include* those parcels as part of the PUD. They must, in fact, be part of the project for setback compliance along the periphery.
The combined parcel size is 3.62 acres, fronting on both Fletcher Place and Colchester Avenue. [Does this land area include 66 and 96 Colchester Avenue?] A single building with 79 residential units is proposed, with both surface and underground parking. All existing, street-facing structures are proposed to be retained. Access for the interior of the site is intended to be organized at the traffic signal at UVM Medical Center, with another ingress/egress further west at an existing driveway between 66 and 72 Colchester Avenue. Vehicular circulation is proposed to be enhanced, allowing shared use of internal roadways/parking and access for all existing and proposes uses to the traffic signal onto Colchester Avenue.
As there are existing structures on each of these lots, the project will be reviewed as a Planned Unit Development.

Applicable Regulations:

Article 3 (Applications, Permit and Project Reviews), Article 4 (Zoning Maps and Districts), Article 5 (Citywide General Regulations), Article 6 (Development Review Standards), Article 8 (Parking), Article 9 (Inclusionary and Replacement Housing), Article 10 (Subdivision), and Article 11 (Planned Unit Development)

Article 3: Applications and Reviews

Section 3.2.1 (c) Sketch Plan Review

Upon request of the applicant, or as may be required under Article 10 – Subdivision or Article 11 – Planned Development of this ordinance, A Sketch Plan Review may be scheduled before the DRB prior to the submission of an application in order to provide the applicant with constructive suggestions regarding a conceptual development proposal. In order to accomplish these objectives, the applicant shall provide the following:

- 1. A brief narrative and preliminary concept showing the locations and dimensions of principal and accessory structures, parking areas, and other planned features and anticipated changes in the existing topography and natural features.*

A project area site plan has been provided, including parcels and property boundaries. An estimated set-back line is included.

- 2. A sketch or map of the area which clearly shows the location of the site with respect to nearby streets, rights-of-way, properties, easements and other pertinent features within 200 feet.*

See above.

- 3. A topographic or contour map of adequate scale and detail to show site topography and the relationship to adjoining properties.*

Contours are noted across the development site.

- 4. Payment of the applicable Sketch Plan Review fee.*

The Sketch Plan Review fee for one board review was paid.

Part 3: Impact Fees

Article 3.3.2 Applicability

Any new development or additions to existing buildings which result in new dwelling units or in new nonresidential buildings square footage are subject to impact fees as is any change of use which results in an added impact according to Section 3.3.4.

The applicant will be required to provide the gross new area to staff for a calculation of appropriate Impact Fees.

Section 3.3.7 Time and Place of Payment

- (a) *New Buildings: Impact fees must be paid at least seven (7) days prior to occupancy of a new building or any portion thereof.*

As noted.

Part 5, Conditional Use & Major Impact Review:

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 development would be served by municipal water and sewer. This project will need scheduling for the Technical Review Committee to determine any concerns posed by the proposed intensity of use, traffic demand and infrastructure limitation. Wastewater and service capacity is available, but anticipated demand is not yet known. A state wastewater permit will also be needed prior to construction. Impact Fees will be assessed for impacts to public services, which will address newly introduced demand.

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

The project is proposed within the Institutional zone, where greater scale and intensity of use can be considered; however respect for historic residential buildings and sensitive transitions are required. The character of the area is divided by Colchester Avenue: To the north are existing residential scale buildings; many of those converted to medical offices.

66 Colchester Avenue was permitted as a dental office in 1961, yet retains its historic residential character and massing. 72 Colchester Avenue received an exemption from housing replacement in 1997 when it was a single family house. No change-of-use permit is within the zoning record. 80 Colchester Avenue is home to Hillel; both structures reflect the residential character associated with historic Colchester Avenue. 94 Colchester Avenue is a medical office, however residential in scale.

Fletcher Place is entirely residential, with 7 single family homes, and 2 triplex residences (7-11 and 19 Fletcher Place.) 27 Fletcher Place has been approved as a duplex, however that decision is currently under appeal to Vermont Superior Court Environmental Division. The use at 50 Fletcher Place is unknown as it is owned by UVM, however conveys the character is of a single family Colonial style home.

As most of the structures on the north side of Colchester Avenue / west side of Fletcher Place are residential, additional residential development would be in keeping with the character of the area.

Architectural plans and elevations have not been submitted, so the specific visual character of the proposed new building is not known. Three stories is generally greater in size than existing buildings within the project area.

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;

An increase in the number of residential units will have a concomitant increase in noises associated with domestic use. The traffic circulation will be formalized, however several of these parcels already have significant parking areas associated with their medical practices. Odor, dust, heat and vibration are not anticipated as associated impacts, if traffic and rubbish removal are analyzed, planned for and incorporated into the PUD.

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;

The new development proposes to utilize the traffic signal that currently serves UVM Medical Center; organizing the traffic circulation for all uses within the PUD to the traffic light or westerly egress next to 66 Colchester Avenue. If the project advances, a traffic analysis will be required for preliminary plat review. That analysis must include existing and proposed trip generation figures and examine likely impacts on the UVM Medical Center intersection, where the weight of traffic is anticipated.

The proposal, within the Institutional zoning district, is anticipated in its proximity to local medical and institutional facilities positive opportunities for pedestrian and bicycle transportation options. If a parking waiver is sought, a parking management plan should include those strategies that will demonstrate adequacy of meeting the demand of the new residential units.

And

5. The utilization of renewable energy resources;

The applicant has suggested the inclusion of a significant solar array on a flat rooftop. As building plans have not yet evolved to that degree of specificity, the exact commitment to renewable energy is not yet known.

And

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

It is premature to determine if there is full compliance with all applicable bylaws at this time in review. When more information has been provided, an assessment can be better accomplished.

(b) Major Impact Review Standards

1. Not result in undue water, air, or noise pollution;

No stormwater management details have been provided. A comprehensive stormwater management plan will be required with preliminary plat application. Review by the Conservation Board and the Stormwater Administrator will be required.

As the proposed use (aside from the existing Colchester Avenue medical offices) is exclusively residential, no undue air or noise pollution is anticipated.

2. Have sufficient water available for its needs;

Written assurance from the city water engineers of adequate water and sewer capacity will be a requirement during application review.

3. Not unreasonably burden the city's present or future water supply or distribution system;

An assessment of city water engineers will be critical to understanding demand and capacity. See Section 3.5.6 (a) 4.

4. Not cause unreasonable soil erosion or reduction in the capacity of the land to hold water so that a dangerous or unhealthy condition may result;

An erosion prevention and sediment control plan in compliance with Chapter 26, Wastewater, Stormwater, & Pollution Control will be required with preliminary plat application. It will be subject to review and approval by the Stormwater Administrator.

5. Not cause unreasonable congestion or unsafe conditions on highways, streets, waterways, railways, bikeways, pedestrian pathways or other means of transportation, existing or proposed;

See Section 3.5.6 (a) 4.

6. Not cause an unreasonable burden on the city's ability to provide educational services;

The specific unit sizes and anticipated bedroom count have not been provided; however preliminary discussions with the developer suggest one bedroom units intended to serve a professional population associated with area institutions. These limited size units are less likely to have school age children; higher bedroom count increases the possibility. Unit types and bedroom counts must be specified with preliminary plat application. In any event, Impact fees will be required to help offset impacts to the school system.

7. Not place an unreasonable burden on the city's ability to provide municipal services;

The proposed development will generate additional impacts on city services; however, the extent of those impacts cannot be determined at sketch plan review. All affected City Departments (Parks & Recreation, Fire, Police, Electric, CEDO, Planning & Zoning, School, and Public Works) will be notified and involved in the review of this project. Additionally, Technical Review will be required so that all departments will have an early opportunity to view plans and discern potential impacts to their areas.

8. Not have an undue adverse effect on rare, irreplaceable or significant natural areas, historic or archaeological sites, nor on the scenic or natural beauty of the area or any part of the city;
See Section 5.4.8, 6.2.2. and 6.2.3.

9. *Not have an undue adverse effect on the city's present or future growth patterns nor on the city's fiscal ability to accommodate such growth, nor on the city's investment in public services and facilities;*

The project seeks to utilize open space on the interior of multiple lots. There will be increased demands on city infrastructure; however the location is advantageous in its proximity to area institutions, travelways, and the downtown. Further analysis can be made upon application submittal, however early involvement with other city departments will identify and allow for consultation on specific infrastructure demands.

10. *Be in substantial conformance with the city's municipal development plan;*

It may be premature to identify specific areas of conformance with the MDP, but the following may be relevant:

- *Support the development of additional housing opportunities within the city, with concentrations of higher-density housing within neighborhood activity centers, the downtown and institutional core campuses. (MDP, Housing Plan, Page IX-1.)*
Technically, the project site is within the Institutional zone, not core campus, however.
- *Provide a range of housing types that meet the needs and interests of the student population. These should include apartments that give students an opportunity to get away from the typical dormitory living situation. (MDP, Housing Plan, Page IX-11.)*
- *Addressing Parking and Circulation. Every effort should be made to provide parking either underground or within a structure to minimize the amount of land dedicated to surface parking. Additionally, traffic circulation patterns within residential neighborhoods and through the University campus must be evaluated to minimize through traffic off campus, and the need to use cars all together. (MDP, Housing Plan, Page IX-11.)*
- *Support the creation of new rental and owner-occupied housing on every parcel of land in Burlington that is zoned for residential development at the number of units allowed by zoning. Identify buildable sites for eventual housing construction/conversion. (MDP, Housing Plan, Page IX-12.)*

However, some areas of discussion remain:

- *Require that all city buildings, facilities, and infrastructure adhere to a high standard of urban design, public accessibility, and energy efficiency. (MDP, Community Facilities and Services Plan, Page VII-2.)* Without building elevations and architectural plans, it is difficult to discern compliance with the MDP.
- *Undertake an analysis to better understand the physical capacity of specific parts of the city to accommodate additional development. (MDP, Land Use Plan, Page I-30.)*
- *Embark(ing) on a greening program to replace unnecessary pavement with landscaping; encourage a diversity of open spaces accessible to each neighborhood including pocket parks and community gardens; the promotion of rooftop and wildflower gardens, and a network of paths and wildlife travel corridors. (MDP, Land Use Plan, Page I-25.)*
- *The challenge presented by the **Legacy Project Action Plan** will be to define the amount of future growth that is possible and desirable, and develop effective strategies to encourage future growth while retaining the scale and character of the city. (MDP, Land Use Plan, Page I-9.)*

11. Not have an undue adverse impact on the present or projected housing needs of the city in terms of amount, type, affordability and location;

The proposal is infill in undeveloped rear yards of existing adjoining neighborhoods. The proposed residences will moderately contribute to the city's housing stock. The specific size, type and affordability of the units are not known at Sketch Plan. The location is probably the most desirable feature; in close proximity to area institutions: UVM Medical Center, the university, and downtown.

12. Not have an undue adverse impact on the present or projected park and recreation needs of the city.

Modest impacts on the city's park and recreation needs are anticipated. Payment of impact fees will help offset such impacts. The project would be enhanced with on-site gardens or similar amenities for use of the immediate residents.

(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;*

When plans are further developed, the need for screening or landscaping will become more apparent.

2. *Time limits for construction.*

Zoning permits are valid for two years; if development is likely to extend beyond that time frame, a phasing schedule is recommended to allow for occupancy of part of the building as the project continues.

The specific hours of construction are typically limited to M-F 7:00 am to 5:30 pm, with Saturday hours limited to interior work. The DRB has the discretion to alter those hours based on the needs of the project and the context of the development area.

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

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

As a PUD and a Conditional Use, this is a statutory requirement.

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.*

Any such performance standards will be informed by more fully developed project plans, and at the discretion of the DRB.

Article 4: Maps & Districts

(a) *Purpose: The Institutional District allows for an increased development scale and intensity than would typically be found in the adjacent residential districts to support continued growth and flexibility of the city's major educational and health care institutions within their respective institutional missions. New development is intended to be sensitive to the historic development pattern of the existing campuses as well as the surrounding residential neighborhoods.*

The district is intended to support broad range of related uses reflecting the resident institutions role as regional educational, health care, cultural and research centers. Buildings should be designed with a high level of architectural detailing to provide visual interest and create enjoyable, human-scale spaces. Sensitive transitions between adjacent lower scale residential areas and larger scale institutional development should be provided. Sites should be designed to be pedestrian friendly and encourage walking between buildings. Where parking is provided onsite, it is intended to be hidden behind, to the side, within, or underneath structures.

Table 4.4.4-1 Dimensional Standards and Density (based on site plan submitted via email 10/26/2015)

Institutional District	Max. Intensity 20 du/acre 24 du/acre with IZ	Max. Lot Coverage 40% 48% with IZ	Building setbacks			Max. Height 35'
			Front ² Minimum 15'	Side ³ 10% of lot width, Min. 5', Max 20'.	Rear 25% lot depth, min. 20', max 75'	
Proposed development	8 existing / equivalent units + 79 new = 87. 87/3.62 acres = 24.03. This is slightly higher than the allowable density with IZ units, 24.	32.7% proposed. The applicant has confirmed that this includes the area to be annexed from 49 Fletcher Place. The submitted lot size is the same as submitted with the previous Sketch Plan review, one which did not incorporate the 49 Fletcher as part of the PUD narrative.	No change to Colchester Avenue or Fletcher Place.	See comments below.	An argument can be made that there are only 2 frontages (Colchester Avenue and Fletcher Place); all other property boundaries would be side yards.	Height has not been defined, but is limited to 35'.

66 Colchester Avenue is suggested as part of the PUD on the Master Plan site map, however the narrative of 10.28.2015 indicates the association with the development will be limited to "cross easements". 66 and 96 Colchester Avenue will need to be enveloped within the PUD assembly for setbacks to comply.

Several parcels are proposed to remain individual lots within the PUD: 66 Colchester, 94 and 96 Colchester Avenue. 72 and 80 Colchester Avenue will be merged with 27 Fletcher Place and the rear portion of a 49 Fletcher Place, after a boundary line adjustment for the latter. Reciprocal easement arrangements for parking and access will follow. If 66 and 96 Colchester Avenue are NOT part of the PUD, then the plan fails based on sideyard setbacks. The principal access drive/cul-de-sac would also not meet required setbacks. As there is no key to understand the demarkations on the submitted plan, further information and an annotation key for the site plan will be required.

The merger of 72 and 80 Colchester Avenue will have a minimal effect on setbacks; 72 Colchester Avenue has a lot line of 0; that will remain and therefore not increase the non-conformity. The merged lots will require a setback 10% of the lot width (now measured across

72 and 80 together.) This does not appear problematic, as the access road is on the east of 80 Colchester Avenue. The revised site plan illustrates that required setback. As 66, 94 and 96 Colchester Avenue will remain separate lots, their side yard setbacks remain as existing along the periphery of the project, which is the ultimate focal consideration for a PUD. Internal setbacks are not be considered, as only setbacks around the periphery of the PUD are scrutinized.

Review of full size plan will be essential for ease of reading measurements and calculations for required side yard setback.

2. The calculation of the front yard setback shall be a percentage of lot width and depth or as defined and described in Article 5.

Section 4.4.4 (c) Permitted and Conditional Uses

Attached dwellings, multi-family is a conditional use in the Institutional Zone, per Appendix A.

Article 5: Citywide General Regulations

Section 5.2.3 Lot Coverage Requirements

See Table 4.4.4-1, above. A breakdown of the coverage and confirmation will be required.

Section 5.2.4 Buildable Area Calculation

Although the combined parcels exceed the 2 acres threshold, they are within the Institutional Zone which is not subject to this criterion.

Section 5.2.5 Setbacks

See Table 4.4.4-1, above.

Section 5.2.6 Building Height Limits

Height is limited to 35', except under provisions of Section 5.2.6 (b).

Section 5.2.7. Density and Intensity of Development Calculations

See Table 4.4.4-1, above. The unit count cannot be rounded up under provisions for calculating density. For the provide area, 87 units exceeds the density allowance and will need to be modified. ($87 / 3.62 = 24.03$, which exceeds the density allowance including Inclusionary units, 24.)

Part 3: Non-Conformities

Section 5.3.5 Nonconforming Structures

(a) Changes and modifications:

Any change or modification to a nonconforming structure, other than to full conformity under this Ordinance, shall only be allowed subject to the following:

1. Such change or modification may reduce the degree of nonconformity and shall not increase the nonconformity except as provided below.

2. Such change or modification shall not create any new nonconformity,

The merger of lots fronting Colchester Avenue (72, and 80) will create a larger lot width, increasing the required side yard setback. 72 Colchester Avenue currently extends over the property boundary and will remain so. There is no change to that existing non-conformity. The side yard setback on the easterly boundary of 80 Colchester Avenue will become 10% of the

(new) lot width at that location. Existing property boundaries have not been defined there; however it appears possible that the 10% setback could be achieved in that vehicular access area. The applicant needs to confirm. Other, independent lots (66, 94 and 96 Colchester Avenue will have no implications for setbacks, as they are existing and the lots are within the PUD. A small sliver of 27 Fletcher Place connects to Colchester Avenue next to 96, and that will retain its existing setback. It appears that the PUD as illustrated will not create any new non-conformity relative to setbacks and therefore in conformance with this standard.

Section 5.4.8 Historic Buildings and Sites

72, 80, and 94 Colchester Avenue, as well as 27 Fletcher Place are all listed on the Vermont State Register of Historic Resources. As the development is proposed for the interior of these combined parcels, the most significant concern may be that of compatibility, particularly in regard to massing and proportion.

(b) Standards and Guidelines:

1. *A property will be used as it was historically or be given a new use that requires minimal change to its distinctive materials, features, spaces, and spatial relationships.*

Each of these resources was constructed as a residential dwelling. The addition of new housing, in the rear of these combined parcels, will not alter the historic or current use of each structure.

2. *The historic character of a property will be retained and preserved. The removal of distinctive materials or alteration of features, spaces, and spatial relationships that characterize a property will be avoided.*

No alterations to the structures have been shared relative to 72, 80, 94 or 96 Colchester Avenue; 27 or 49 Fletcher Place. The roadway that is proposed to be the principle entrance to the development between 80 and 94 Colchester Avenue is currently an access to a parking area. Similarly, the driveway that separates 66 and 72 Colchester Avenue currently exists, but logically will experience a much greater intensity of use with this plan. The most significant change will be the introduction of a large extended residential structure in the rear of the assembled lots. The structure will occupy most of the open space behind these older structures, and introduce a building likely to be of a larger scale and mass than is in evidence on either the north side of Colchester Avenue or Fletcher Place.

3. *Each property will be recognized as a physical record of its time, place, and use. Changes that create a false sense of historical development, such as adding conjectural features or elements from other historic properties, will not be undertaken.*

There is no proposal for conjectural features on any of the subject properties.

4. *Changes to a property that have acquired historic significance in their own right will be retained and preserved.*

For Sketch Plan, there has been no inclusion of alteration to the existing historic properties.

5. *Distinctive materials, features, finishes, and construction techniques or examples of craftsmanship that characterize a property will be preserved.*

No changes to features or finishes are proposed.

6. *Deteriorated historic features will be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature will match the old in design, color, texture, and, where possible, materials recognizing that new technologies may provide an appropriate alternative in order to adapt to ever changing conditions and provide for an efficient contemporary use. Replacement of missing features will be substantiated by documentary and physical evidence.*

No replacement of historic features is proposed.

7. *Chemical or physical treatments, if appropriate, will be undertaken using the gentlest means possible. Treatments that cause damage to historic materials will not be used.*

No chemical or physical treatments are proposed for the historic buildings.

8. *Archeological resources will be protected and preserved in place. If such resources must be disturbed, mitigation measures will be undertaken.*

As noted.

9. *New additions, exterior alterations, or related new construction will not destroy historic materials, features, and spatial relationships that characterize the property. The new work shall be differentiated from the old and will be compatible with the historic materials, features, size, scale, and proportion, and massing to protect the integrity of the property and its environment.*

Spatial relationships will be altered in that these included properties will no longer have the spacious rear yards they now enjoy. As an example of modern infill, the project provides an opportunity to examine what type of new construction may be attractive, functional, and compatible with the existing residential buildings. Other historic examples of residential development off Colchester Avenue would be Nash Place, Thibault Parkway, and even Fletcher Place itself.

A growing city utilized open area tangent to a major thoroughfare to expand residential opportunities; but each successfully created a nucleus neighborhood that was independent of, but related to neighboring development. This proposal seeks to introduce a residential nucleus within a collection of existing buildings.

Although building elevations have not yet been submitted, by footprint it starkly contrasts in proportion, massing (assumed 3 stories), and scale with its neighbors. Rather than discrete divisions between smaller residential structures that collectively would create a hamlet, this plan attempts to maximize the buildout potential in a single, multi-story building. Materials, design and surface treatment are not known. The central access/cul-de-sac will allow access to a circular drive leading to a drop-off at a building entrance, or an option to turn left toward the parking garage. Although the actual appearance from the public streets may not be discerned until modeling studies are done, the scale, character, and proportion will need analysis to determine compatibility with its abutting neighbors. Only then will it be possible to examine this criterion of sensitive and compatible infill.

10. *New additions and adjacent or related new construction will be undertaken in such a manner that, if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.*

It would be possible to consider the removal of a single large detached structure, so the project might be reversible.

Section 5.5.1 Nuisance Regulations

Nothing in the proposal appears to constitute a nuisance under this criterion. Lighting, however, will need to be examined for appropriateness and consistency with the standards of this ordinance.

Section 5.5.2 Outdoor Lighting

No information has been provided for lighting. Submission materials at the time of application must include a photometric for the entire site, fixture information with lumens and mounting height information. Lighting must meet these standards for approval.

Section 5.5.3 Stormwater and Erosion Control

A stormwater management plan, and Erosion Prevention and Sediment Control Plan will be required for site development and must be approved in writing by the City Stormwater staff. Additionally, conditions will require compliance post construction with each approved plan prior to issuance of any Certificate of Occupancy.

Article 6: Development Review Standards

Part 1, Land Division Design Standards

Section 6.1.2 Review Standards

Three discrete parcels are proposed to be merged together. Three (?) others will remain individual parcels. 49 Fletcher Place will require a boundary line adjustment to annex the easterly land to this plan. A boundary line adjustment will be required simultaneous with the plan.

While a survey is not required at preliminary plat, the preliminary plans must nonetheless show exact boundary lines. A boundary survey by a VT licensed land surveyor must be provided prior to final plat review.

Part 2, Site Plan Design Standards

Section 6.2.2 Review Standards

(a) Protection of important natural features

There is a significant ravine to the north of the site, which the project development avoids. The proposal intends to incorporate grade changes to facilitate underground parking for the new residential building.

(b) Topographical alterations

Any specific methods to alter the terrain to accommodate the plan will need to be disclosed.

(c) Protection of important public views

There are no important public views from or through the property.

(d) Protection of important cultural resources

See Section 5.4.8 (b).

(e) Supporting the use of alternative energy

The applicant has shared the intent to do an expanse of rooftop solar on a flat roofed building. This would be encouraged.

(f) Brownfield sites

The properties are not listed on the Vermont DEC Hazardous Waste Site.

(g) Provide for nature's events

A Stormwater Management plan, approved by the City Stormwater team will be required. Details for the proposed stormwater management system will be required prior to final plat approval.

A comprehensive erosion prevention and sediment control plan will be required at the time of application. As with the stormwater management, final details will be required prior to final plat approval.

No specific areas for snow storage have been identified on the site. This will be a requirement.

(h) Building location and orientation

The visible public streetscape along Colchester Avenue is an important component; however, equally important is the establishment of a well-defined built environment, functional open spaces, and interconnectivity between the new dwellings and the existing streetscape/sidewalks that connect physically and visually to Colchester Avenue and on a lesser note, Fletcher Place. The site plan has been redesigned to create and orient a primary façade to front Colchester Avenue. A pedestrian way and crosswalk to Colchester Avenue are illustrated on the plan. Open space or common land is required as part of Article 11.

The CDO and Municipal Development Plan articulate a vision for vibrant city neighborhoods with a fabric of cohesive streetscapes and call for new neighborhoods to reflect this vision. The proposed development ambitiously attempts to reach density allowances on a unique plan to utilize undeveloped rear yards. Redesign has the potential to effectively introduce a significant number of new residential unit in a manner that is respectful of the existing pattern of development and streetscape.

(i) Vehicular access

Access to this inner site is proposed directly across from the UVM Medical Center, intending to utilize the existing traffic light. That access will allow use of existing interior parking (and current casual interconnections) behind 66, 72, 80, 94 and 96 Colchester Avenue. The secondary avenue next to 66 Colchester Avenue is the direct path to the underground parking proposed for the new building. It was suggested that perhaps one of these access paths should be egress only; however the westerly path (between 66 and 72 Colchester) appears now to be the only entrance to the underground parking. The principal entry at the traffic light would also offer the

opportunity to turn “left” in front of the proposed new building; and then turn right onto the entry access to the underground garage.

(j) Pedestrian access

Sidewalks connect directly to those on Colchester Avenue, and circle a portion of the inner cul-de-sac. The redesigned site plan shows a width pedestrian promenade from Colchester Avenue to the new building; something recommended in the prior Sketch Plan review.

(k) Accessibility for the handicapped

The project will have to meet ADA standards, as directed by the building inspector. An elevator is proposed to serve the entire building. H/C parking will be required, with identification, signage and access area. This should be more fully developed at the time of review.

(l) Parking and circulation

Parking is proposed under the building and on surface parking. The applicant will be obliged to meet the parking requirements of Table 8.1.8-1 of the CDO. The parking requirement for multi-unit attached dwellings in the Shared Use Parking District is 1/unit.

Circulation is proposed via an access drive at the traffic light on Colchester Avenue; proceeding to a cul-de-sac that connects to a surface parking area and a drop off at the building entrance. A second access is suggested west of 72 Colchester Avenue in a shared use arrangement that will allow entrance to an underground parking area. As circulation pathes and parking cross property boundaries, the applicant must demonstrate easement or other instrument to allow use of abutting parcels to provide the suggested access and circulation. This will be critical for the 96 Colchester Avenue parcel, as the parking and circulation lanes rely on that lot.

It is noted that if 96 Colchester Avenue is *not* among the assemblage of parcels within the PUD, the main access drive/parking plan does not work, as setbacks are not being met on the periphery of the project area, specifically around the parcel boundary of 96 Colchester Ave.

(m) Landscaping and fences

There is not enough information available at Sketch Plan to evaluate landscaping. A full landscaping plan will be required at the time of formal application.

(n) Public plazas and open space

While there are no formal public plazas included in the plan, it is appropriate to evaluate the availability of open space available for residents. North of the development site is unreceptive for open space amenities due to the challenging topography. An open area behind 27 Fletcher Place is proposed to be utilized for a community garden. Area for picnic tables, clothes lines, or play areas dedicated to the enjoyment of the residents is further encouraged. Further exploration of similar opportunities is encouraged and will in fact be required, per Article 11.

(o) Outdoor lighting

See Section 5.5.2.

(p) Integrate infrastructure into the design

On-site utilities need to be undergrounded when practicable. Meters, utility connections, HVAC or similar mechanical equipment should be coordinated with the design of the building, and grouped in a service court out of public view. All need to be illustrated on elevations and/or site plans to determine appropriateness of location and necessity of screening.

It would be preferable to integrate trash and recycling operations within the building rather than as a stand-alone. The location of recycling facilities will need to be identified as well.

Any dumpster will be required to be enclosed on all four sides to prevent blowing trash; and must be screened from public view. Such enclosure, (if the trash is not relocated to the interior of the building) must have a defined plan at the time of submittal.

Part 3, Architectural Design Standards

Section 6.3.2 Review Standards

As no building elevations have been submitted, the review does not include these standards.

Article 8: Parking

Section 8.1.8 Minimum Off-Street Parking Requirements

No submission of proposed parking count has been submitted. The applicant needs to clearly define the properties and the existing uses that are being included in the overall plan so an accurate parking requirement can be made.

In the Shared Use Parking District, 1 parking space is required for each dwelling unit. For 79 new residential units, 79 new parking spaces will be required.

A full calculation of available parking will be required (interior and surface) as well as a list of existing uses on all parcels so the parking requirement for existing and proposed uses can be deduced.

Section 8.2.5 Bicycle Parking Requirements

Table 8.2.5-1 defines the bicycle parking requirement as 1 per 4 units for long term storage, and 1 per 10 units for short term. For 79 new residential units, bicycle parking requirements would be 20 long term spaces, and 8 short term. These numbers may fluctuate depending upon the number of units. Bicycle parking meeting these requirements shall be illustrated on submitted site plan/floor plans, as appropriate.

Article 9: Inclusionary and Replacement Housing

Section 9.1.5 Applicability (As amended by the City Council 8/10/2015.)

As the proposed development includes more than 5 new dwelling units, it is subject to the inclusionary housing provisions of this Article. Fifteen percent of the total unit count must be inclusionary (Per Section 9.1.10, 15% of 79 is 12 dwelling units). The project would not meet the exemption from Inclusionary Housing within the Institutional Zone, as the proposed units are not being developed by an educational institution.

Approval from the manager of the city's Housing Trust Fund will be required. Any stipulations would be included as a condition of approval.

Section 9.1.12 Additional Density and Other Development Allowances

As a covered project, it will be entitled to increases in the development allowances of the underlying zoning district. As per Table 4.4.4-1, Maximum intensity increases from 20 dwelling

units/acre to 24; maximum coverage from 40% to 48%. The plans reflect those allowances, however as calculated, the proposed intensity may be greater than the land area allows. See Table 4.4.1, above. 87 total units (79 + 8 equivalent) exceed the 24 units per acre allowable under IZ inclusion. For the method for calculating intensity of use, See Section 5.2.7 (a).

Other possible allowances for the provision of Inclusionary Units may include:

- (b) 1. A waiver of up to 50% waiver of parking spaces as outlined in Article 8, Section 8.1.14,
- 2. A waiver of a portion of the impact fees associated with the Inclusionary Units, pursuant to the Art. 3, Part 3 Impact Fee Administration Regulations.

The applicant is encouraged to confer with the Housing Trust Fund Manager to confirm the number of required IZ units, and any potential diminution of Impacts Fees.

All provisions of Section 9.1.8 through 9.1.11 (rental and sales, percentage of Inclusionary Units, and income eligibility) shall apply, without exception, to any inclusionary units that are constructed.

Section 9.1.13 Off-Site Option

The applicant has not suggested any inclusionary units be located off site. If the applicant decides to seek an off-site option or to make a payment in lieu of constructing inclusionary units, the provisions of this section will apply.

Section 9.1.14 General Requirements for Inclusionary Units

- (a) *In order to assure an adequate distribution of inclusionary units by household size, the bedroom mix of inclusionary units in any project shall be in the same ratio as the bedroom mix of the non-inclusionary units of the project.*

As noted. Additional provisions of Inclusionary standards, including gross floor area, interior amenities, marketing, and affordability will be required to meet the approval of the City's Housing Trust Manager.

Sec. 9.1.17 DRB Review of Proposal for Phasing

If phasing of the project development is desired, the request shall be reviewed as a component of the initial project review and included in conditions of approval. A schedule setting forth the phasing of the required inclusionary units will need to be presented to the DRB for review and approval. If phasing is not included as part of the review process, no phasing of the inclusionary units shall be allowed.

Sec. 9.1.18 Timeline for Availability/Phasing of Inclusionary Units for Issuance of Certificate of Occupancy

Inclusionary units shall be made available for occupancy on approximately the same schedule as a covered project's market units, except that certificates of occupancy for the last 10% of the market units will be withheld until certificates of occupancy have been issued for all inclusionary units. If the project is to be constructed in phases, certificates of occupancy may be issued on a phased basis consistent with the conditions of approval per Section 9.1.17.

Article 10: Subdivision

Section 10.1.5 Lot Line Adjustments

The intent of this section is to provide for an abbreviated review and approval process for the realignment of lot boundary lines between existing adjacent lots, including the merger of lots, where no additional lots are being created.

A lot line adjustment shall not constitute a subdivision.

A boundary line adjustment is proposed simultaneous to this review for 49 Fletcher Place, which will provide additional land to be annexed to the overall merged parcels of 72 and 80 Colchester Avenue and 27 Fletcher Place. Three parcels are proposed to be combined. As a major PUD, a boundary survey done by a Vermont licensed surveyor must be completed with the final plat application.

(c) Lot Line Adjustment – Administrative Decision:

An application may be denied for good cause based upon substantial evidence including but not limited to:

B. Such cases where the proposed adjustment will result in the creation of a non-conforming parcel or non-conforming buildings or structures or yard areas or any non-conforming dimensional standard.

The boundary line adjustment of 49 Fletcher Place will be required to leave a conforming lot fronting the public street. The remainder of the parcels collectively assessed as part of the PUD must meet periphery setbacks for the zoning district. Setbacks have been more easily met when existing parcels have not been merged (66, 94 and 96 Colchester remain discrete; the access strip from Colchester Avenue east of 96 Colchester remains a connection to 27 Fletcher Place.) If that access is already paved, it may be continued as a shared access drive and therefore does not require a setback. No new non-conformities relative to setbacks can be identified.

Sec. 10.1.6 Sketch Plan Review

Whenever a subdivision is proposed that will create five (5) or more lots or dwelling units, the applicant shall submit sketch plans and data pursuant to Article 3, Section 3.2.1(c) Sketch Plan Review showing existing conditions within the site and its vicinity and the proposed layout and development of the subdivision prior to the preparation of any preliminary and/or final plats.

The current Sketch Plan Review meets this standard. Additional plans will be required at the time of preliminary plat review (landscaping, elevations, utility, etc).

Section 10.1.18 Preliminary Plat Review

After sketch plan review if applicable, the applicant may submit an application for Preliminary Plat Review pursuant to requirements specified below and containing any additional information requested by the administrative officer after completion of the sketch plan review.

Refer to Section 10.1.8 (a) for Preliminary Plat Submission Requirements.

Article 11: Planned Unit Development

Section 11.1.3 General Requirements and Applicability (As adopted by City Council 8.10.2015.)

Any development involving multiple lots, tracts or parcels of land to be developed as a single entity, or seeking to place multiple structures an/or uses on a single lot where not otherwise permitted, may be permitted as a PUD subject to the provisions of this Article.

A Planned Unit Development may be permitted subject to minimum project size as follows in the following districts:

Institutional – no minimum project size.

Footnote: Subject to Conditional Use Review pursuant to Article 3, Part 5.

This standard allows development of multiple lots with no minimum lot size for a PUD in the Institutional Zone.

Section 11.1.4 Modification of Regulations

With the approval of the DRB after a public hearing, the following modifications the requirements of the underlying zoning may be altered within a planned unit development:

- *density, frontage, lot coverage and setback requirements may be met as calculated across the entire project rather than on an individual lot-by-lot basis.*
- *Required setbacks may apply only to the periphery of the project rather than on an individual lot-by-lot basis;*
- *More than one principal use and more than one principal structure may be permitted on a single lot, and*
- *Buildings may be of varied types including single detached, attached, duplex or apartment construction.*

Any proposed modifications of regulations shall be listed in a statement accompanying the application submission and such modifications shall be subject to the provisions of Section 11.1.5 and Section 11.1.6.

Section 11.1.5 Approval Requirements

(a) The minimum project size requirements of Section 11.1.3 shall be met;

There is no minimum project size for a PUD within the Institutional Zone.

(b) The minimum setbacks required for the district have been met at the periphery of the project;
See table 4.4.4-1, above. This will depend upon whether 66 and 96 Colchester are included within the PUD project area.

(c) The project shall be subject to design review and site plan review of Article 3, Part 4 and the standards of Article 6.

See Articles 3 and 6, above. As no elevation or architectural plans have been submitted, no review is possible there.

(d) The project shall meet the requirements of Article 10 for subdivision review where applicable;

See Article 10 above.

(e) Density, frontage, and lot coverage requirements of the underlying zoning district have been met as calculated across the entire project;

Without building elevations, it is not possible to determine conformity with height. Density calculations will need to be adjusted to meet the directed method of calculating density per Section 5.2.7 (a). The expressed method using “rounding”, which is not consistent with the standard.

Residential use is a conditional use in the Institutional district.

(f) All other requirements of the underlying zoning district have been met as calculated across the entire project;

See Section 4.4.4, above.

(g) Open space or common land shall be assured and maintained in accordance with the conditions as prescribed by the DRB

A community garden for the residential units is illustrated on the easterly side of the lot; additional common land for the collective use of the intended residents has been suggested and is encouraged.

(h) The development plan shall specify reasonable periods within which development of each phase of the planned unit development may be started and shall be completed. Deviation from the required amount of usable open space per dwelling unit may be allowed provided such deviation shall be provided for in other sections of the planned unit development.

A phasing schedule has not been requested or suggested. Any proposed phasing plan will need to be approved by the DRB as part of conditions.

(i) The intent as defined in Sec. 11.1.1 is met in a way not detrimental to the city's interests; Sec. 11.1.1, Intent

(a) Promote the most appropriate use of land through flexibility of design and development of land;

The concept of developing underutilized area behind existing structures is a traditional method of infill and intensification of use where encouraged though the Municipal Development Plan. How that occurs, and how it might appear to both street frontages and present itself to Colchester Avenue will determine the appropriateness of the design within the context proposed.

(b) Facilitate the adequate and economical provision of streets and utilities;

The proposed new structure can reasonably be assured to be served by extended access road(s) within the site and public utilities.

(c) Preserve the natural and scenic qualities of open space;

The natural area/open space to the north will be retained and visible from many of the proposed residences within the new development. The revised site plan has re-aligned the building mass to provide greater exposure for vistas to that natural area. Surface parking within the site should not hinder the opportunity to meet the requirement for common area for the development, as required by Section 11.1.6 (g).

(d) Provide for a variety of housing types;

The applicant has suggested the likelihood of all new units as one bedroom, to satisfy demand for housing for professionals. Some consideration will be given to other arrangements; studios or two bedrooms. This will need to be specifically articulated if the project advances.

(e) Provide a method of development for existing parcels which because of physical, topographical, or geological conditions could not otherwise be developed; and,

The project area retains an existing amount of infrastructure, buildings and use that front Colchester Avenue and Fletcher Place. The ravine area to the north will be partially annexed as part of the PUD; appending the land area to allow for greater development and density within the buildable area of the collective parcels.

(f) Achieve a high level of design qualities and amenities.

As conceptually proposed, the building design proposes intensifying the density with construction of a single residential building. Design and amenities details have not been included in this site plan review. The context, massing and proportion of any new building should be sensitive to its neighbors and the character of the area. Customary residential appurtenances like porches, patios, breezeways, gardens, pergolas, play areas, or clotheslines are recommended for inclusion, as typical and welcome amenities for attractive residential complexes.

(j) The proposed development shall be consistent with the Municipal Development Plan See Sec. 3.5.6 (b) 10.

(k) Any proposed accessory uses and facilities shall meet the requirements of Section 11.1.6 below.

Section 11.1.6 Accessory Facilities

- (a) A planned unit development may contain a building or buildings intended for non-residential uses, such as but not limited to a community center, recreation facility, child care center and/or business office if the DRB determines that such use or uses are compatible with the intended principle residential use.*

The applicant may explore the option to convert 94 Colchester Avenue to a business office associated with the management of the new residential units. Inclusion of any accessory facilities shall be defined at the time of application for preliminary plat.

- (b) A planned unit development may contain a building or buildings intended for use as a community convenience store if approved by the DRB under the following standards:*
- 1. A determination shall be made by the DRB that the community convenience store will not contribute to parking problems on site or in the surrounding area.*
 - 2. The maximum size of the store is 1000 sq. ft.*
 - 3. Only one sign is permitted limited to the following:*
 - A. The maximum size is 4 sq. ft.*
 - B. The sign shall be a parallel sign.*
 - C. The sign shall not be illuminated.*
 - D. No window signs, temporary or permanent shall be allowed.*
 - E. No freestanding signs on the site or within the street ROW are allowed.*
 - 4. No outside storage or displays or vending machines, except for a telephone and a screened dumpster, is allowed.*
 - 5. There shall be no exterior service windows or exterior ATM's allowed.*
 - 6. There shall be no gas pumps allowed.*

7. *The building(s), sign and site for any such store shall be subject of the development review criteria under Article 6.*
8. *Parking shall be in back or at the side of the community convenience store building with the building oriented for pedestrian access.*

The applicant has not suggested the inclusion of a community store in the PUD Sketch Plan review.

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

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



TO: Development Review Board
FROM: Scott Gustin
DATE: November 4, 2015
RE: 16-0405CA/CU; 38 Wright 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: WRL Ward: 5S

Owner/Representative: Brovar Dev. / Kelli Brown

Request: Construct lakeshore seawall

Applicable Regulations:

Article 3 (Applications, Permits, & Project Reviews), Article 4 (Maps & Districts), Article 5 (Citywide General Regulations), Article 6 (Development Criteria & Guidelines)

Background Information:

The applicant is seeking approval to construct a seawall for shoreline protection. The seawall would be constructed of large boulders and would be keyed in below existing rip-rap along the property's lakeshore. As the seawall is located partially below the 102' elevation, it is subject to review under the flood hazard area regulations in addition to dimensional and design review standards. As required, the project is subject to review and approval by the State National Floodplain Insurance Program Coordinator at VT DEC. A copy of the application was provided to the Coordinator on September 30, but no response has yet been received. The Coordinator has 30 days to respond. Any comments received within the 30 day period will be incorporated into this approval.

Given this project's location along the Lake Champlain shoreline, review by the Conservation Board is required. That review will take place November 2, 2015. Any comments or recommendations from that Board will be forwarded to the Development Review Board for consideration.

Previous zoning actions for this property are noted below.

- 4/15/11, Approval to install replacement windows
- 7/12/76, Approval to construct a deck

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

I. Findings

Article 3: Applications and Reviews

Part 5, Conditional Use & Major Impact Review:

Section 3.5.6 (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 seawall will have no impact on existing or planned public utilities, facilities, or services. **(Affirmative finding)**

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

The subject property is within the waterfront residential low density zone. This zone is typified by single family homes, and, especially in this neighborhood, duplexes. The existing duplex use will remain unchanged. **(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 proposed seawall is not expected to have any nuisance impacts. **(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;*

The proposed seawall will have no impacts on traffic or other transportation matters. **(Affirmative finding)**

and,

5. *The utilization of renewable energy resources;*

No part of this request prohibits the use of wind, solar, water, geothermal or other renewable energy resource. **(Affirmative finding)**

and,

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

As the toe of the proposed seawall is at 98' elevation, a state shorelands permit is likely required. The city has partial delegation of the shorelands program, but only above the 100' elevation. It is the applicant's responsibility to contact the State of Vermont to inquire as to shoreland permitting requirements. **(Affirmative finding as conditioned)**

Article 4: Maps & Districts

Sec. 4.4.5, Residential Districts:

(a) Purpose

(2) Waterfront Residential Low Density (WRL)

The subject property is located in the WRL zone. This zone is intended primarily for low density residential development in the form of single detached dwellings and duplexes with consideration given to design review. The duplex use will remain unchanged. **(Affirmative finding)**

(b) Dimensional Standards & Density

No lot coverage information has been provided. Most of the seawall will be constructed where there is existing rip rap; however, a small portion at the southern end appears to extend beyond the existing rip rap. Therefore, lot coverage will increase slightly. Existing coverage appears to be about 18% based on lidar info. Proposed lot coverage information is required.

The seawall is located within the 75' lakeshore setback; however, walls (i.e. retaining walls and seawalls) are specifically allowed to encroach into setbacks per Sec. 5.2.5, *Setbacks*, (b) *Exceptions to Yard Setback Requirements*.

The seawall is well under the maximum allowable height of 35'. **(Affirmative finding as conditioned)**

(c) Permitted & Conditional Uses

The seawall is accessory to the duplex use. **(Affirmative finding)**

(d) District Specific Regulations

1. Setbacks

Not applicable.

2. Height

Not applicable.

3. Lot Coverage

Not applicable.

4. Accessory Residential Structures and Uses

Not applicable.

5. Residential Density

Not applicable.

6. Uses

Not applicable.

7. Residential Development Bonuses

Not applicable.

Sec. 4.5.4, Natural Resource Protection Overlay District:

(a) District Specific Regulations: Special Flood Hazard Area

(7) Special Review Criteria

A. The danger to life and property...

The seawall will be placed within the lakeshore flood hazard area. Lakeshore flood dynamics are unlike those of river flood dynamics. The water does not flow at perceptible speeds and is not subject to constriction. Placement of the seawall within the lakeshore flood zone will have no impact on flood heights or velocities. **(Affirmative finding)**

B. The danger that material may be swept onto other lands...

The new seawall will be constructed of large boulders and will be anchored into the ground along its base. There is little danger that the structure will be swept away by flood waters. **(Affirmative finding)**

C. The proposed water supply and sanitation systems...

Not applicable.

D. The susceptibility of the proposed facility and its contents to flood damage...

The seawall is a protective measure against flood damage to the property. The potential for flooding damage to the seawall itself is minimal. **(Affirmative finding)**

E. The importance of the services provided...

The seawall is of little importance to the Burlington community; however, it will provide substantial protection to the private property that it will be located on. **(Affirmative finding)**

F. The availability of alternative locations...

The point of the seawall is to protect the property from flood damage. Its placement within the flood zone is key to this function. It's location within the floodplain is acceptable. **(Affirmative finding)**

G. The compatibility of the proposed use with existing development...

Seawalls are commonplace along Burlington's lakeshore. **(Affirmative finding)**

H. The relationship of the proposed use to the Municipal Development Plan...

The Municipal Development Plan does not address seawalls. It does speak to the development pattern of single family homes and duplexes in the RL and WRL zones. The subject property contains a duplex. Insofar as homes along the lakeshore commonly have seawalls, the proposal can be found in compliance with the MDP. **(Affirmative finding)**

I. The safety of access to the property...

The new seawall will have no effect on the safety of access to the property during times of flood. **(Affirmative finding)**

J. The expected heights, velocity, duration, rate of rise...

The maximum regulatory flood elevation along the lakeshore is 102' above sea level. The seawall will have no impact on flood heights, velocity, duration, rate of rise, or sediment transport. **(Affirmative finding)**

K. Conformance with all other applicable requirements...

See Articles 4, 5, and 6 of these findings.

(c) District Specific Regulations: Riparian and Littoral Conservation Zone

The subject property is wholly affected by the Riparian and Littoral Conservation Zone (250' width from the 100' lakeshore elevation). This overlay zone limits the clearing of vegetation and new stormwater outfalls. No trees are to be removed as part of this proposal. Some scrub growth along the existing rip rap may be impacted but can be expected to regenerate. No new stormwater outfalls are proposed. As noted previously, the Conservation Board will review this project on November 2. **(Affirmative finding)**

Article 5: Citywide General Regulations

Sec. 5.2.3, Lot Coverage Requirements

See Sec. 4.4.5 (b) above.

Sec. 5.2.4, Buildable Area Calculation

Not applicable.

Sec. 5.2.5, Setbacks

See Sec. 4.4.5 (b) above.

Sec. 5.2.6, Building Height Limits

See Sec. 4.4.5 (b) above.

Sec. 5.2.7, Density and Intensity of Development Calculations

See Sec. 4.4.5 (b) above.

Sec. 5.5.1, Nuisance Regulations

Nothing in the proposal appears to result in creating a nuisance under this criterion. **(Affirmative finding)**

Sec. 5.5.3, Stormwater and Erosion Control

As more than 400 sf of earth disturbance is proposed, a "small project erosion control" plan is required. Such a plan has been submitted to the Stormwater Administrator and is pending approval. The approved plan and associated conditions will be incorporated into this permit approval. **(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

The subject property is located along the Lake Champlain shoreline. The shoreline is an identified significant natural area. Much of the property is affected by the Natural Resource Protection Overlay District, specifically the riparian and littoral conservation zone, which stretches inland 250' from the 100' lakeshore elevation. As required, an erosion control plan has been provided for review by the Stormwater Administrator. Approval is pending. The Conservation Board will

review this project November 2. Recommendations of that Board will be incorporated into this Development Review Board decision. **(Affirmative finding as conditioned)**

(b) Topographical alterations

A fairly steep bank separates the lake from the house site and lawn areas. The slope will be largely unchanged with the new seawall installed at its base. Only limited backfill and grading is proposed. **(Affirmative finding)**

(c) Protection of important public views

Not applicable.

(d) Protection of important cultural resources

Not applicable.

(e) Supporting the use of alternative energy

Not applicable.

(f) Brownfield sites

Not applicable.

(g) Provide for nature's events

See Sec. 5.5.3.

(h) Building location and orientation

Not applicable.

(i) Vehicular access

Not applicable.

(j) Pedestrian access

Not applicable.

(k) Accessibility for the handicapped

Not applicable.

(l) Parking and circulation

Not applicable.

(m) Landscaping and fences

No new landscaping is included in this proposal. Much of the existing rip rap is vegetated with scrub growth. Following installation of the boulder seawall, this scrub growth can be expected to grow into the voids among the boulders. Deliberate landscaping commonly required for poured concrete seawalls is unnecessary for this stone seawall.

Note that, as part of construction of the boulder seawall, a small stone patio and access stair are also proposed. Both are located out of the lakeshore flood zone.

No new fencing is proposed. **(Affirmative finding)**

(n) Public plazas and open space
Not applicable.

(o) Outdoor lighting
Not applicable.

(p) Integrate infrastructure into the design
Not applicable.

Part 3, Architectural Design Standards
Sec. 6.3.2, Review Standards
Not applicable.

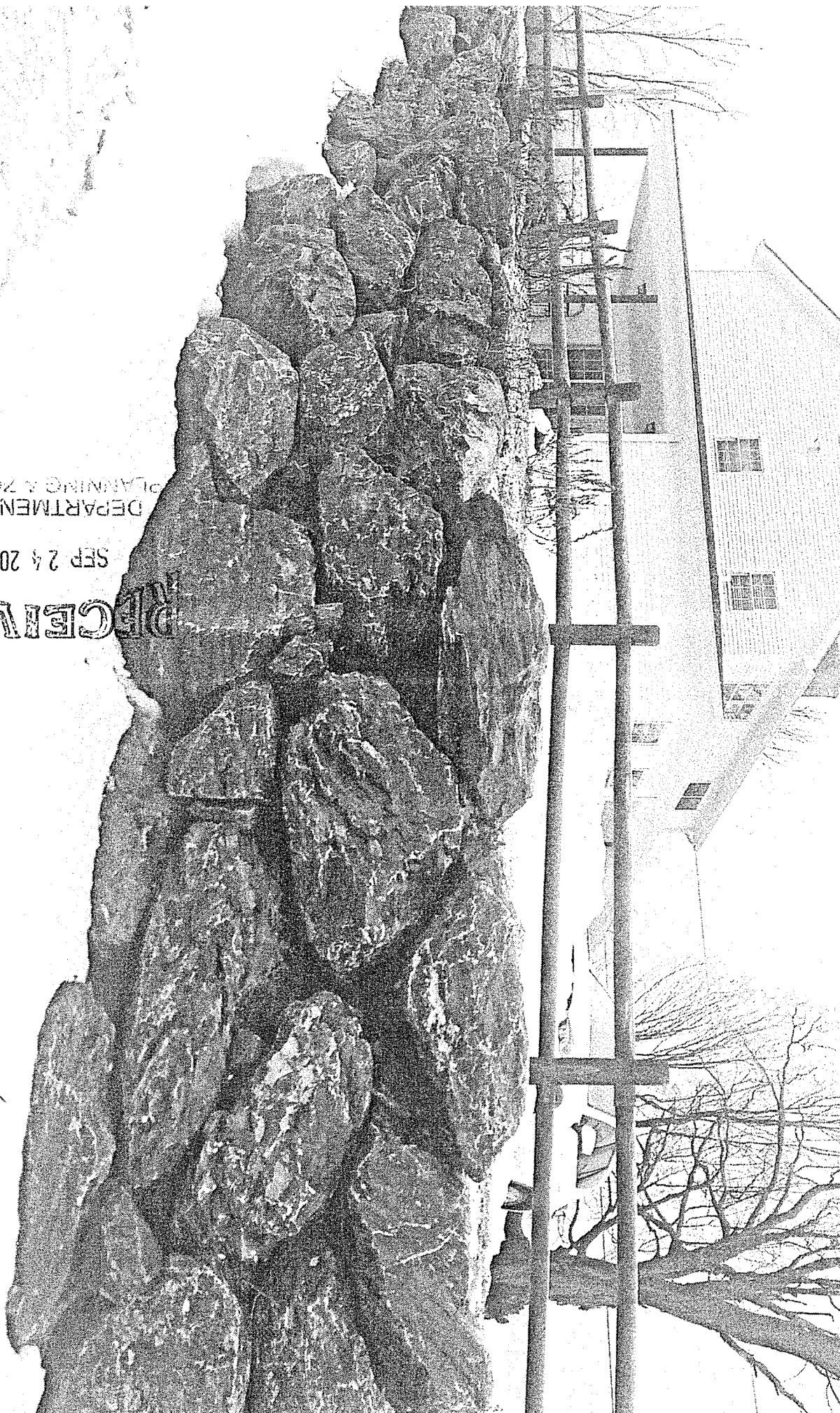
II. Conditions of Approval

1. **Prior to release of the zoning permit**, existing and proposed lot coverage shall be provided, subject to staff review and approval.
2. A state shoreland permit is likely required. It is the applicant's responsibility to contact the State of Vermont to inquire as to permitting requirements.
3. This approval incorporates timely comments and stipulations issued by the State National Floodplain Insurance Program Coordinator at VT DEC as related to this project.
4. The Applicant/Property Owner is responsible for obtaining all necessary Zoning Permits and Building Permits through the Department of Public Works as well as other permit(s) as may be required.
5. Standard permit conditions 1-15.

RECEIVED
SEP 24 2015

DEPARTMENT OF
PLANNING & ZONING

(Likeness)

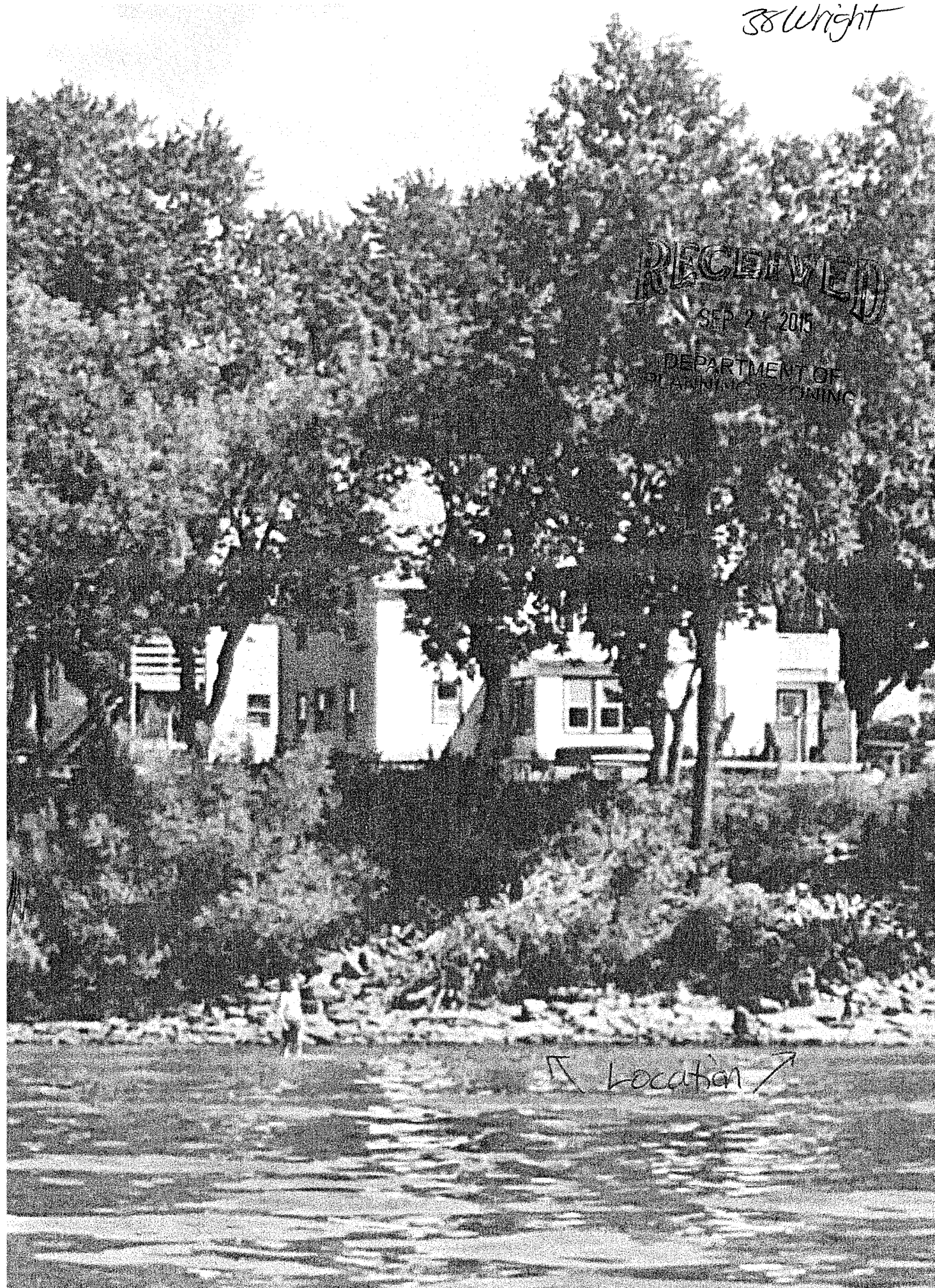


38 Wright

RECEIVED

SEP 24 2015

DEPARTMENT OF
PLANNING & ZONING



Location



RECEIVED

SEP 24 2015

DEPARTMENT OF
PLANNING & ZONING

(Likeness)

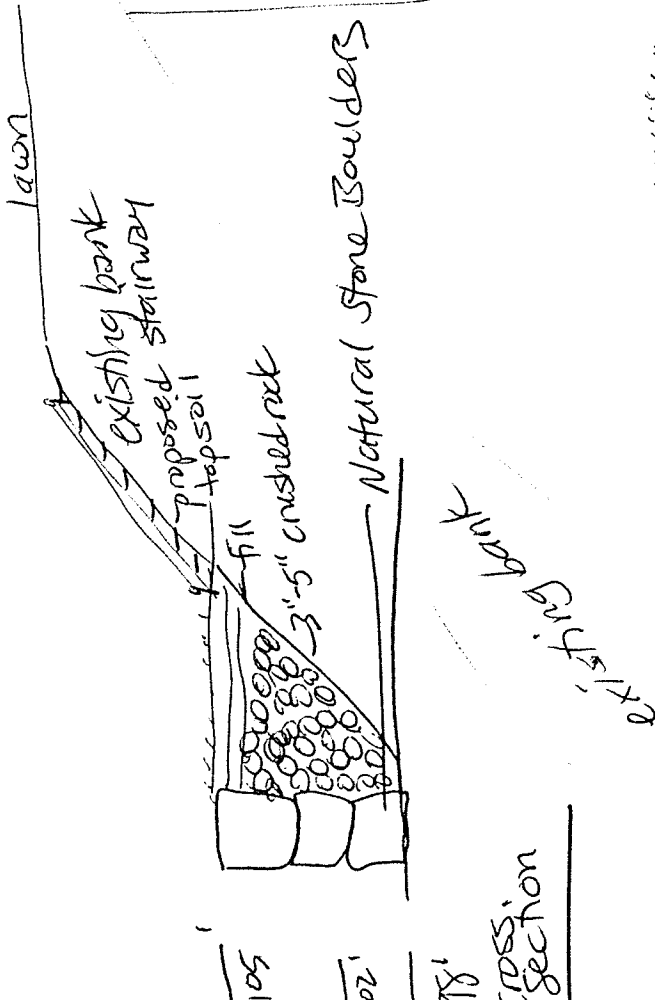
38 Wright Ave.
Berlington, VT

DEPARTMENT OF
PLANNING & ZONING

SEP 24 2015

RECEIVED

home

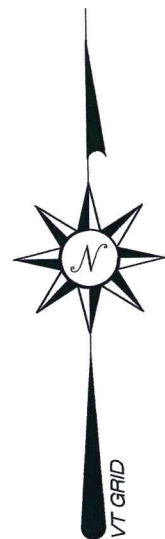


Cross-section



LEGEND

- Subject Tract Boundary
- Existing Grade Contour (NAVD88)
- Spot Grade (NAVD88)
- N/F Now or Formerly



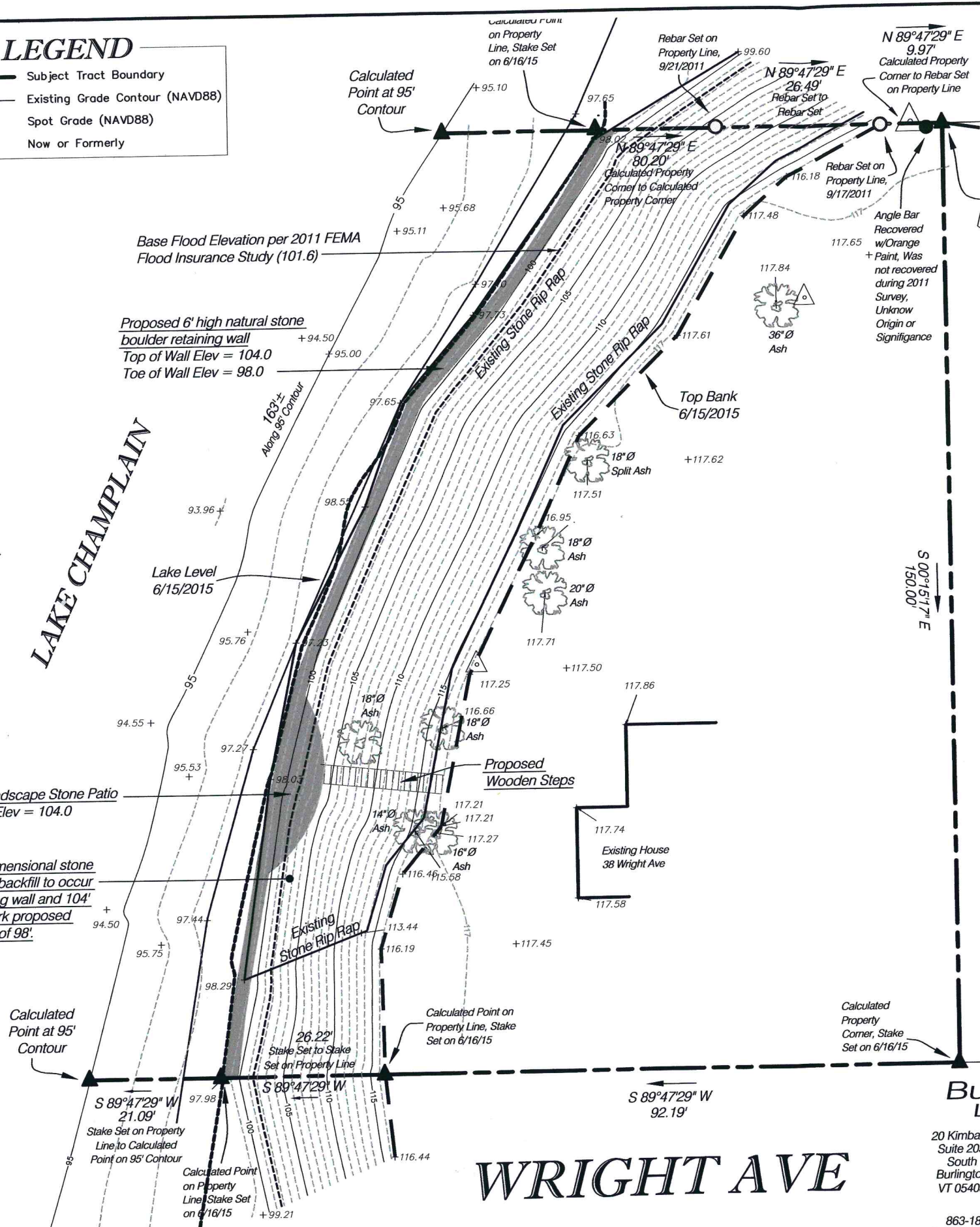
LAKE CHAMPLAIN

Proposed Landscape Stone Patio
Top of Deck Elev = 104.0
108 SF ±

Installation of dimensional stone and associated backfill to occur between retaining wall and 104' contour. No work proposed below elevation of 98'.

Base Flood Elevation per 2011 FEMA Flood Insurance Study (101.6)

Proposed 6' high natural stone boulder retaining wall
Top of Wall Elev = 104.0
Toe of Wall Elev = 98.0



SURVEY NOTES

1. North orientation is based on survey grade RTK (Real Time Kinematic) GPS observations made on 7/18/11. The transmitting base station used was the UVM CORS (Continuously Operating Reference Station) station. The resultant horizontal datum is NAD 83 (CORS).
2. The vertical datum is NAVD88, using the geoid model G03U12.
3. The Flood Insurance Rate Map (FIRM) for this parcel is Panel 50007C0253D, effective July 18, 2011. The Base Flood Elevation for this parcel has been calculated to be 101.6 (NAVD88) as shown in the FEMA Flood Insurance Study, Summary of Stillwater Elevation Table (this elevation is 102.0 in NGVD29, the former FEMA FIRM datum).
4. The property lines, easements, and other real property descriptions provided in this permit application are for the use of the the City of Burlington only. They do not define legal rights or meet legal requirements for a land survey as described in 26 V.S.A. Section 2502(4), and shall not be used in lieu of a survey as the basis of any land transfer or establishment of any property right.
5. This is NOT a survey and should in no way be construed or used as such. Any property lines depicted hereon are based SOLELY on the City of Burlington Tax Map. The applicant is responsible for ensuring that proposed construction remains on the subject parcel. The purpose of this plan is to satisfy the requirements of a City of Burlington Conditional Use Application for the purposes of constructing a stone retaining wall within the Natural Resource Protection Overlay District.
6. This application does in no way waive or attempt to remove flood insurance requirements from the subject structure and/or proposed improvements, if any.

ZONING NOTES

38 Wright Avenue	
Zoning District:	Waterfront Residential Low Density (RL-W) Natural Resource Protection Overlay (NR) (Special Flood Hazard Area)
Minimum Frontage	60'
Minimum Lot Size	6,000 SF
Max. Lot Coverage	35%
Front Setback	Avg. of 2 adjacent lots; ±5'
Side Setback	10% of lot width, no less than 5'
Rear Setback	25% of lot depth, no less than 20'
Waterfront	75' from mean high water
Max. Height	35'

*All measurements based on distance and or area calculated from the City of Burlington Tax Map

Summary of Proposed Project:
Construction of approximately 6' high crushed rock retaining wall on existing grade for purposes of shoreline erosion prevention and flood water protection. No changes to, or construction of, any structures (interior or exterior) are proposed at this time.

**SITE PLAN
SHOWING LANDS OF**

**BROVAR
DEVELOPMENT
CO., INC**

**38 WRIGHT AVENUE
BURLINGTON, VT**

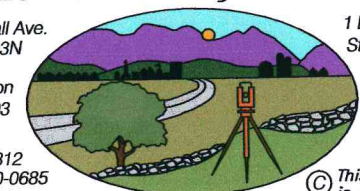
1"=20' 7/9/2015



**Button Professional
Land Surveyors, PC**

20 Kimball Ave.
Suite 203N
South
Burlington
VT 05403

863-1812
1-800-570-0685



1 Lake Street
St. Albans, VT
05478
524-8555

© This Material
Copyrighted

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



TO: Development Review Board
FROM: Scott Gustin
DATE: November 4, 2015
RE: 16-0209CA; 3174 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: WRL Ward: 7N

Owner/Representative: Laurie Goldsmith

Request: Construct new single family home on existing footprint.

Applicable Regulations:

Article 4 (Maps & Districts), Article 5 (Citywide General Regulations), Article 6 (Development Criteria & Guidelines), Article 8 (Parking)

Background Information:

The applicant is seeking approval to build a new single family home on the footprint of a prior single family home that was recently demolished under separate permit. A small "screen house" will also be removed. The existing driveway and garage will remain unchanged. Setbacks will remain unchanged, and lot coverage will decrease slightly with the removal of the "screen house." This property is one of very few at the end of North Avenue that is not within the lakeshore flood zone.

The Design Advisory Board reviewed this application September 22, 2015 and unanimously recommended approval subject to the following conditions:

1. Revise site plan to depict doorway landing and existing/proposed landscaping.
2. Provide cutsheets for exterior lighting.

An acceptable lighting fixture cutsheet has been provided; however no revised site plan has yet been submitted.

Previous zoning actions for this property are as follows:

- 1/16/15, Approval to demolish single family home, retain driveway and garage
- 8/14/08, Approval to construct 2nd story addition

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

I. Findings

Article 4: Maps & Districts

Sec. 4.4.5, Residential Districts:

(a) Purpose

(2) Waterfront Residential Low Density (WRL)

The subject property is located in the WRL zone. This zone is intended primarily for low density residential development in the form of single detached dwellings and duplexes with consideration given to design review. The proposed single family home is consistent with this purpose.

(Affirmative finding)

(b) Dimensional Standards & Density

The 6,625 sf lot meets the minimum lot size requirement of at least 6,000 sf. It has ~ 45' frontage, less than the 60' standard; however, Sec. 5.2.1, *Existing Small Lots*, enables development so long as there is at least 40' frontage. The lot is large enough to support the 1 dwelling unit (7 units/acre on a 0.15 acre lot).

Lot coverage will drop from 48.1% to 47%, above the 35% limit. While lot coverage remains nonconforming, the degree of nonconformity will lessen.

The new home will be constructed on the footprint of the prior home. Setbacks will remain unchanged. The north side yard setback was, and will remain, nonconforming at ~1.5'. Retention of this nonconformity is acceptable per 5.3.5, *Nonconforming Structures*, (b) *Demolition*. The applicant is advised to contact the city's building inspector to consult about fire ratings for new construction this close to the property line.

The proposed single story home is 12' tall to the midpoint of the gable roof, well under the 35' limit. **(Affirmative finding)**

(c) Permitted & Conditional Uses

The proposed single family home is a permitted use in the WRL zone. **(Affirmative finding)**

(d) District Specific Regulations

1. Setbacks

None sought under this criterion. **(Affirmative finding)**

2. Height

No height bonuses are being sought. **(Not applicable)**

3. Lot Coverage

No lot coverage bonuses are being sought. **(Not applicable)**

4. Accessory Residential Structures and Uses

The existing detached garage will be retained and will remain unchanged. **(Affirmative finding)**

5. Residential Density

The new home is subject to the functional family provisions of the Comprehensive Development Ordinance. **(Affirmative finding)**

6. Uses

No neighborhood commercial use is included in this proposal. **(Not applicable)**

7. Residential Development Bonuses

No development bonuses are being sought. **(Not applicable)**

Sec. 4.5.4, Natural Resource Protection Overlay (NR) District

(c) District Specific Regulations: Riparian and Littoral Conservation Zone

The subject property is largely affected by the Riparian and Littoral Conservation Zone (250' width from the 100' lakeshore elevation). The proposed construction; however, will not result in any further encroachment into the buffer zone and takes place entirely on the inland side of the road. **(Affirmative finding)**

(d) District Specific Regulations: Wetland Conservation Zone

The property contains no mapped wetlands. It is; however, within the 100' buffer zone of an adjacent mapped wetland. As noted above, there will be no additional encroachment into the wetland buffer. All construction will take place upon the previous building footprint located on the far side of the driveway. The existing driveway and garage sit between the proposed home and the wetland. **(Affirmative finding)**

Article 5: Citywide General Regulations

Sec. 5.2.3, Lot Coverage Requirements

See Sec. 4.4.5 (b) above.

Sec. 5.2.4, Buildable Area Calculation

Not applicable.

Sec. 5.2.5, Setbacks

See Sec. 4.4.5 (b) above.

Sec. 5.2.6, Building Height Limits

See Sec. 4.4.5 (b) above.

Sec. 5.2.7, Density and Intensity of Development Calculations

See Sec. 4.4.5 (b) above.

Sec. 5.5.1, Nuisance Regulations

Nothing in the proposal appears to result in creating a nuisance under this criterion. **(Affirmative finding)**

Sec. 5.5.2, Outdoor Lighting

New outdoor lighting is proposed and consists of typical residential lantern fixtures set besides the entryways. A fixture cut sheet has been provided as recommended by the Design Advisory Board. The lanterns are not cutoff but utilize low output lamps and are, therefore, acceptable. **(Affirmative finding)**

Sec. 5.5.3, Stormwater and Erosion Control

As more than 400 sf of earth disturbance is proposed, a “small project erosion control” form has been provided. This erosion control plan has been reviewed and approved by the Stormwater Administrator. **(Affirmative finding)**

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

There are no important natural features on the subject property. As noted in Sec. 4.5.4 above, it is affected by two natural resource overlays, but there will be no additional encroachment.

(Affirmative finding)

(b) Topographical alterations

The lot is flat and will remain so. No significant topographical alterations are proposed.

(Affirmative finding)

(c) Protection of important public views

There are no important public views from or through this property. **(Affirmative finding)**

(d) Protection of important cultural resources

There are no known archaeological resources on the property. **(Affirmative finding)**

(e) Supporting the use of alternative energy

There is no indication that the proposed home will utilize alternative energy. The project will not adversely impact the actual or potential use of alternative energies by neighboring properties.

(Affirmative finding)

(f) Brownfield sites

The property is not an identified brownfield. **(Affirmative finding)**

(g) Provide for nature's events

There is ample room onsite for winter snow storage. As noted above, an erosion prevention and sediment control plan has been submitted and approved. **(Affirmative finding)**

(h) Building location and orientation

During review by the Design Advisory Board, the location of the front door was adjusted so that it now faces the street. The front door is readily identifiable from the road and provides a clear entrance point into the building. The home's placement relative to the road is similar to other homes within the neighborhood. **(Affirmative finding)**

(i) Vehicular access

The existing private driveway will be retained and is adequate to serve the single family home.

(Affirmative finding)

(j) Pedestrian access

There is no public sidewalk along this portion of North Avenue, therefore a walkway from the front entrance to the public sidewalk is not required. A front walkway to the road is, nevertheless, recommended. The elevation plans depict landings in front of the doorways; however, the site plan has not been updated to include them. A revised site plan depicting these landings is needed. **(Affirmative finding as conditioned)**

(k) Accessibility for the handicapped

No handicap accessibility is evident or required with this proposal. **(Affirmative finding)**

(l) Parking and circulation

The existing driveway and garage provide adequate room for the required 2 parking spaces. **(Affirmative finding)**

(m) Landscaping and fences

No landscaping is depicted on the site plan. At least a basic landscaping plan is needed. A row of shrubs or similar plantings along the wetland border is advisable. Doing so would provide a barrier of sorts between the wetland and the developed portions of the property. No new fencing is proposed. **(Affirmative finding as conditioned)**

(n) Public plazas and open space

No public plaza or open space is included or required in this proposal.

(o) Outdoor lighting

See Sec. 5.5.2.

(p) Integrate infrastructure into the design

Any new utility lines must be buried. An electric utility meter is depicted on the side elevation in an acceptable location. No ground-mounted mechanical equipment is proposed. **(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

The massing and scale of the proposed home are consistent with other homes in the neighborhood. It is a 1 story gable roofed building with a height of 12' to the midpoint of the gable. **(Affirmative finding)**

2. Roofs and Rooflines

Gable roofs are proposed on the primary structure as well as on the two smaller side sections of the home. Gable roofs are common in the neighborhood and typical for residential construction. **(Affirmative finding)**

3. Building Openings

Fenestration is appropriately scaled and placed in consistent rhythm throughout the building. Most of the windows appear to be double hung units. **(Affirmative finding)**

(b) Protection of important architectural resources

There are no historic structures on or near the subject property. Charlie Auer's Boathouse arguably has historic significance but is set relatively far away from the proposed home.

(Affirmative finding)

(c) Protection of important public views

See 6.2.2 (c) above.

(d) Provide an active and inviting street edge

As noted previously, the proposed design was revised to include a front door oriented towards the street. As proposed, there are no large blank walls or expanses of roof. A small blank wall faces away from the street. **(Affirmative finding)**

(e) Quality of materials

The proposed home will be clad in vinyl siding and trim. Cement board "shakes" will accent the gable ends. Vinyl windows will be installed along with asphalt shingle roofing. Doorway landings will be constructed of PT lumber. These materials are acceptable for new construction of a single family home. **(Affirmative finding)**

(f) Reduce energy utilization

The proposed building must comply with the city's current energy efficiency standards.

(Affirmative finding as conditioned)

(g) Make advertising features complimentary to the site

No advertising is included in this proposal.

(h) Integrate infrastructure into the building design

As noted above, an electrical utility meter is depicted at an acceptable location on the north side of the building. **(Affirmative finding)**

(i) Make spaces safe and secure

The proposed building must comply with the city's current egress requirements. Building entries will be illuminated. **(Affirmative finding)**

Article 8: Parking

Sec. 8.1.8, Minimum Off-Street Parking Requirements

The subject property is located in the neighborhood parking district. As such, the single family home requires 2 parking spaces. The existing driveway and garage provide for these two spaces. **(Affirmative finding)**

II. Conditions of Approval

1. **Prior to release of the zoning permit**, a revised site plan shall be submitted, subject to staff review and approval. The revised site plan shall depict the doorway landings and a landscaping plan. A row of shrubs or similar plantings along the wetland border is advisable
2. All new utility lines must be buried.
3. The Applicant/Property Owner is responsible for obtaining all necessary Zoning Permits and Building Permits through the Department of Public Works as well as other permit(s) as

may be required, and shall meet all energy efficiency codes of the city and state as required.

4. Vermont Residential Building Energy Standards apply to this project. Compliance with the standards is the Owner's responsibility. Prior to requesting a Certificate of Occupancy, a copy of a completed Vermont Residential Building Energy Standards Certificate shall be submitted with a Certificate of Occupancy (final or temporary) request, and filed in the Land Records located at the Clerk/Treasurers office in City Hall (149 Church Street). For more information, see http://publicservice.vermont.gov/topics/energy_efficiency.
5. At least **7 days prior to the issuance of a certificate of occupancy**, the applicant shall pay to the Planning & Zoning Department the impact fee as calculated by staff based on the net new square footage of the proposed home.
6. Standard permit conditions 1-15.

WEST FACING WALL
3174 NORTH AVE.

RECEIVED
SEP 22 2015

DEPARTMENT OF
PLANNING & ZONING

CEMENT BOARD

EXT. ENTRY LIGHT

THERMA TRU
9-LITE E

PRESSURE TREATED

EXT. GFI OUTLET

PEP FACIA

H. WINDOWS

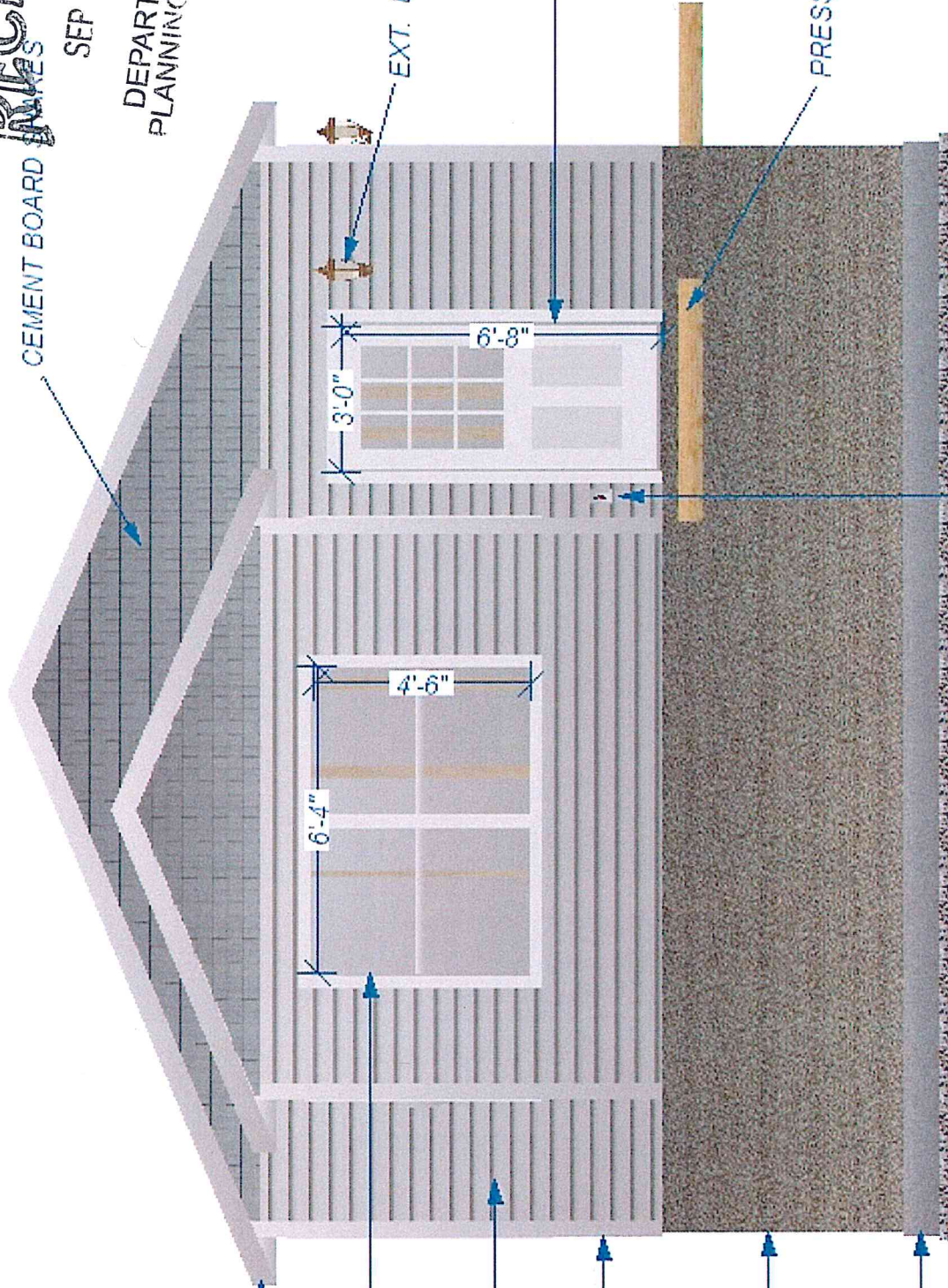
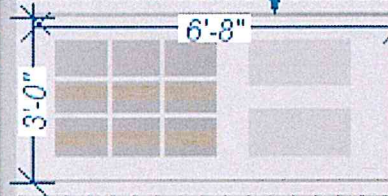
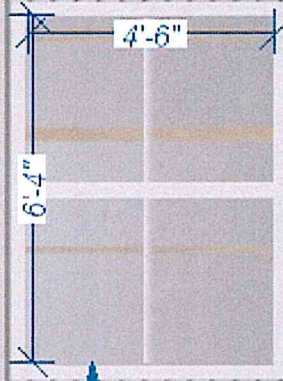
NYL SIDING

NYL CORNER

OSTWALL

E FOOTING

STONE BASE



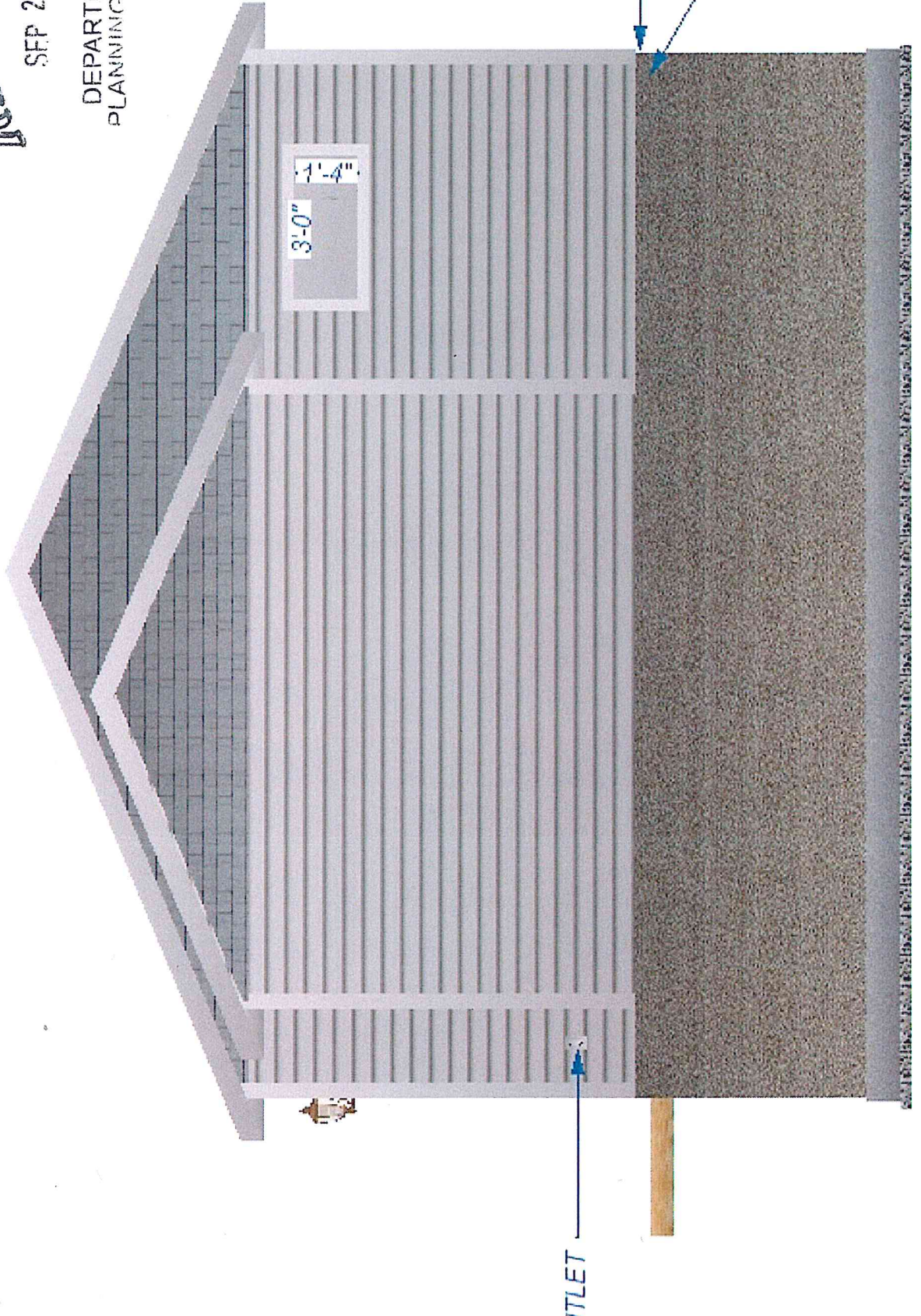
EAST FACING WALL

3174 NORTH AVE.

RECEIVED

SEP 22 2015

DEPARTMENT OF
PLANNING & ZONING



RECEIVED

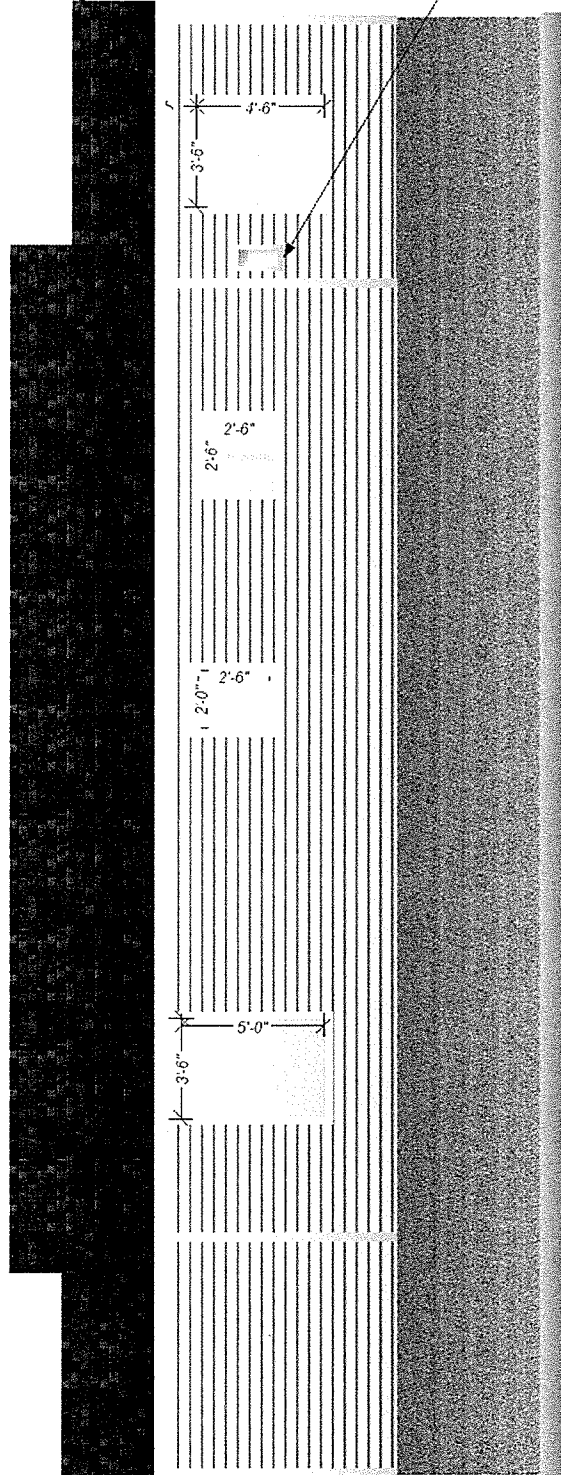
SEP 22 2015

DEPARTMENT OF
PLANNING & ZONING

NORTH FACING WALL
3174 NORTH AVE

OWENS CORNING ARCHITECTURAL
SHINGLES WITH ROOF TOP GUARD
UNDERLAYMENT AND ICE & WATER ON
ALL EAVES

ELECTRIC METER

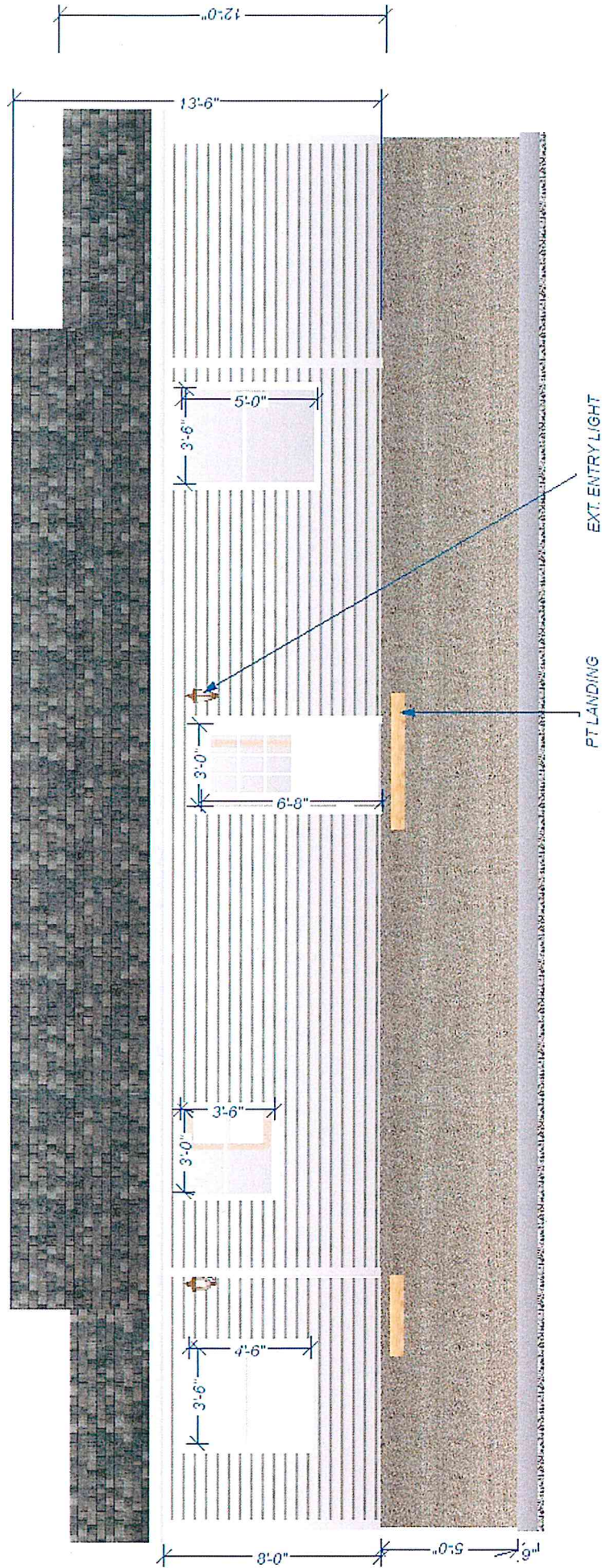


RECEIVED

SEP 22 2015

DEPARTMENT OF
PLANNING & ZONING

SOUTH FACING WALL
3174 NORTH AVE





Incandescent

Weather Resistant
Mansard Roof

Outdoor

Type _____

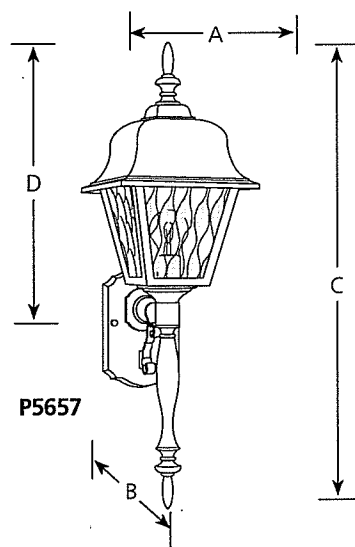
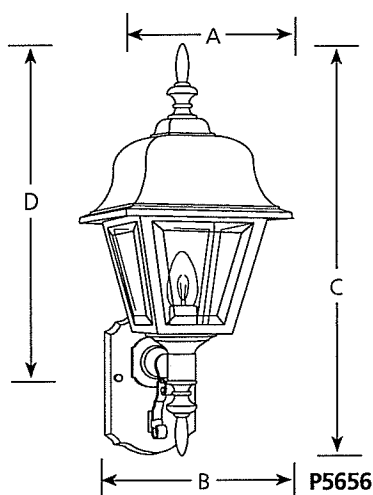
-30 -

P5656 ☐ ☐

Finish

Dimensions (Inches)

Catalog No.	Finish		Lamping	Dimensions (Inches)			
	White	Black		A	B	C	D
P5656	-30	-31	1-100w A19	8	9	20	15
P5657	-30	-31	1-100w A19	8	9	25	15



Specifications:

General

- White (-30) or Black (-31) finishes
- Clear beveled acrylic panels
- Polypropylene construction
- Captive hinged top for relamping
- Matching ceiling mounted units available

Mounting

- Wall mount
- Covers outlet box
- Mounting strap for outlet box and cap nuts furnished included
- Backplate 4-1/2" W., 7" ht.

Electrical

- Medium based sockets
- Porcelain with nickel-plated brass screw shell

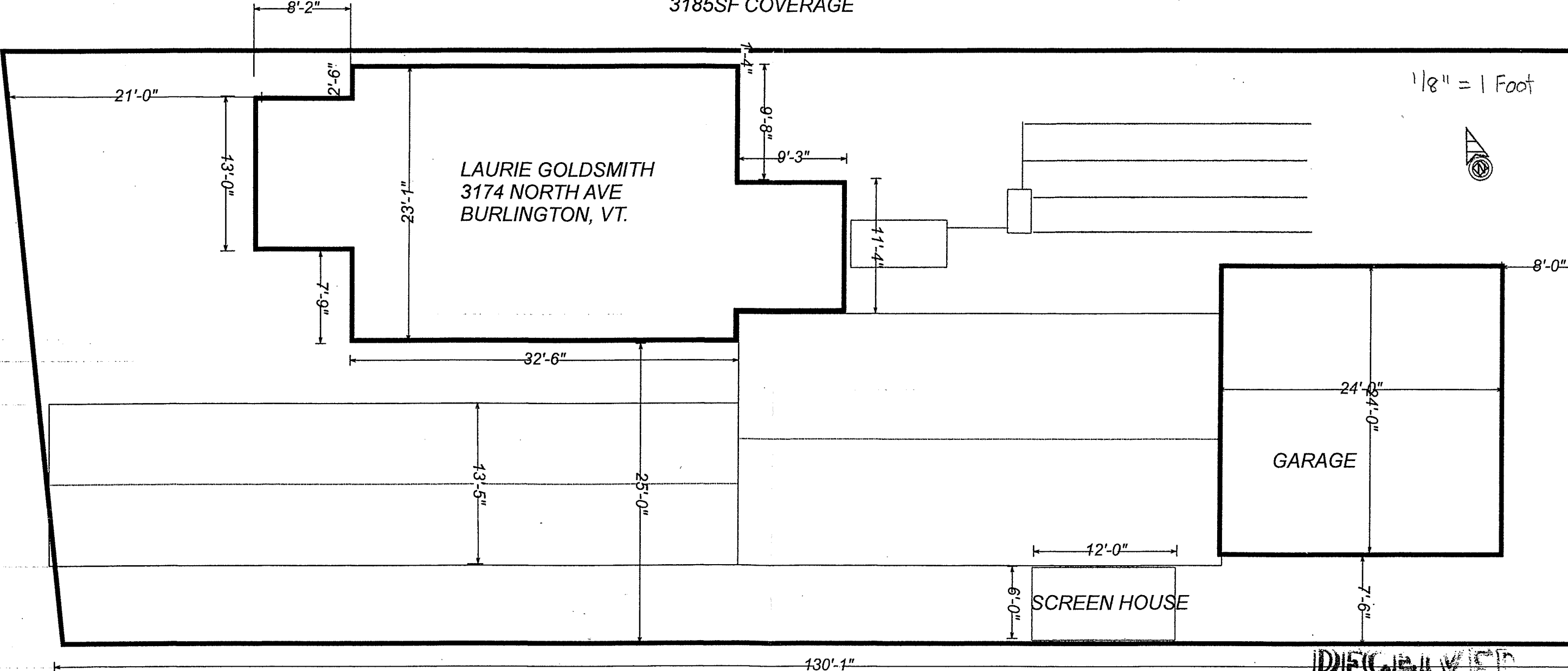
Labeling

- UL-CUL wet location listed

Progress Lighting
701 Millennium Blvd.
Greenville, South Carolina
29607

www.progresslighting.com

6625 SF LOT
3185SF COVERAGE



RECEIVED

JAN - 6 2015

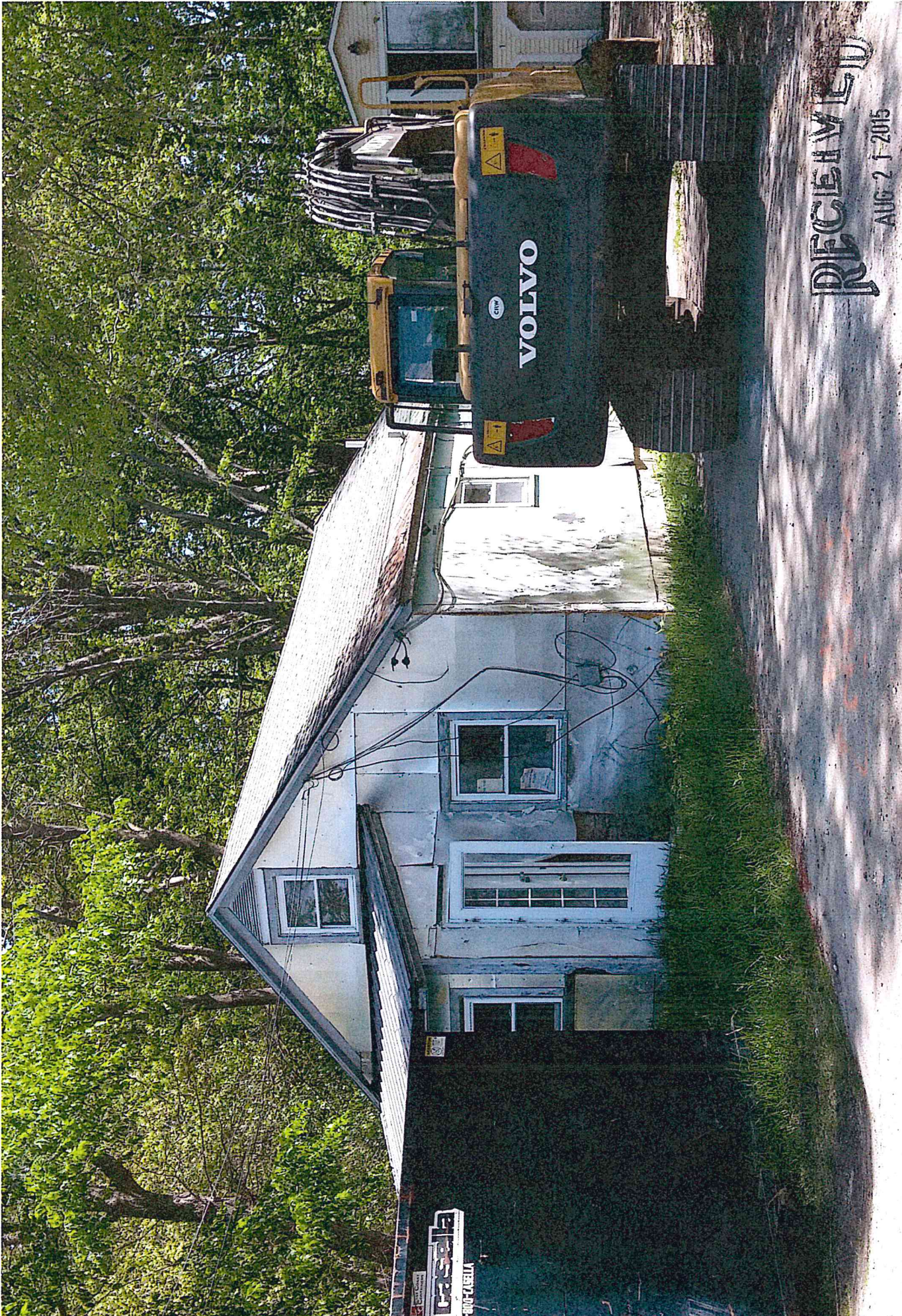
DEPARTMENT OF
PLANNING & ZONING



RECEIVED

AUG 21 2015

DEPARTMENT OF
PLANNING



RECEIVED

AUG 21 2015

DEPARTMENT OF
PLANNING & ZONING

17187-0000
17187-0000

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



TO: Development Review Board
FROM: Scott Gustin
DATE: November 4, 2015
RE: 16-0362CA/CU; 60 Beachcrest Drive

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: 4N

Owner/Representative: Jean & Kirsten Berggren

Request: Conversion of patio into living space, creation of accessory dwelling unit

Applicable Regulations:

Article 3 (Applications, Permits, & Project Reviews), Article 4 (Maps & Districts), Article 5 (Citywide General Regulations), Article 6 (Development Criteria & Guidelines)

Background Information:

The applicant is seeking approval to enclose an existing patio area and create an accessory dwelling unit. The patio space to be enclosed is nearly surrounded by the single family home already. New construction is relatively limited and will be imperceptible from the street and nearly so even from the backyard. An additional parking space will also be created. As new construction is entailed with the creation of the proposed accessory dwelling unit, conditional use review is required.

Previous zoning actions for this property are noted below.

- 7/25/91, Approval to construct 2nd story dormer and connecting hallway to garage

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

I. Findings

Article 3: Applications and Reviews

Part 5, Conditional Use & Major Impact Review:

Section 3.5.6 (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 accessory dwelling unit will entail modest additional demand on municipal water and wastewater. Adequate reserve capacity is available; however, written confirmation from the Department of Public Works is required. A state wastewater permit is also 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;*

The subject property is within the residential low density zone. This zone is typified by single family homes and duplexes. The single family home use will remain, albeit with an accessory dwelling unit. Accessory dwelling units are allowed in association with single family homes wherever they are allowed. **(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 proposed accessory dwelling unit is not expected to generate any nuisance impacts. **(Affirmative finding)**

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

No traffic information has been provided; however, the proposed accessory dwelling unit is limited to 1-bedroom in size and is expected to have minimal transportation impacts. **(Affirmative finding)**

and,

5. *The utilization of renewable energy resources;*

No part of this request prohibits the use of wind, solar, water, geothermal or other renewable energy resource. **(Affirmative finding)**

and,

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

Among other bylaws and ordinances that may apply, the proposed accessory dwelling unit must comply with the city's minimum housing standards and the energy efficiency codes of the city and state. **(Affirmative finding as conditioned)**

Article 4: Maps & Districts

Sec. 4.4.5, Residential Districts:

(a) Purpose

(1) Residential Low Density (RL)

The subject property is located in the RL zone. This zone is intended primarily for low density residential development in the form of single detached dwellings and duplexes. As noted previously, the single family home will remain, albeit with an accessory dwelling unit.
(Affirmative finding)

(b) Dimensional Standards & Density

Lot coverage information has been provided; however, it does not include the additional 1 parking space that is required for the accessory dwelling unit. Presently, lot coverage is 34.94%. Of that percentage, 7.62% is patio, walkway, and open porch. The lot coverage limit is 35%. The introduction of a new parking space alongside the garage will increase coverage past 35%. Doing so appears to be acceptable because of the additional 10% coverage allowable for things such as patios, walkways, and open porches (Sec. 5.2.3 {b}). A revised site plan depicting the new parking space and revised lot coverage is needed.

Building setbacks and height remain unchanged. The would-be additional parking space alongside the garage for the apartment would be set back at least 6' from the near side property line. A 5' minimum setback is required. **(Affirmative finding as conditioned)**

(c) Permitted & Conditional Uses

The accessory apartment, due to the construction associated with it, is a conditional use.
(Affirmative finding)

(d) District Specific Regulations

1. Setbacks

Not applicable.

2. Height

Not applicable.

3. Lot Coverage

Not applicable.

4. Accessory Residential Structures and Uses

Not applicable.

5. Residential Density

Not applicable.

6. Uses

Not applicable.

7. Residential Development Bonuses

Not applicable.

Article 5: Citywide General Regulations

Sec. 5.2.3, Lot Coverage Requirements

See Sec. 4.4.5 (b) above.

Sec. 5.2.4, Buildable Area Calculation

Not applicable.

Sec. 5.2.5, Setbacks

See Sec. 4.4.5 (b) above.

Sec. 5.2.6, Building Height Limits

See Sec. 4.4.5 (b) above.

Sec. 5.2.7, Density and Intensity of Development Calculations

See Sec. 4.4.5 (b) above.

Sec. 5.4.5, Accessory Dwelling Units

(a) Accessory Units, General Standards/Permitted Uses:

Where there is a primary structure on a lot which exists as an owner-occupied single family residence, one accessory dwelling unit, that is located within or appurtenant to such single family dwelling, shall be allowed as a permitted use if the provisions of this subsection are met. An accessory dwelling unit means an efficiency or one bedroom apartment that is clearly subordinate to the primary dwelling, and has facilities and provisions for independent living, including sleeping, food preparation, and sanitation. No accessory unit shall be inhabited by more than 2 adult occupants. An accessory unit shall not be counted as a dwelling unit for the purposes of density calculation.

The existing home is an owner-occupied single family dwelling. The accessory dwelling unit will be contained within the home with some limited additional space included in this proposal. The proposed apartment has 1 bedroom and includes a kitchen, dining area, and bathroom. **(Affirmative finding)**

Additionally, there must be compliance with all the following:

- 1. The property has sufficient wastewater capacity as certified by the department of public works;*

Sufficient wastewater capacity is available; however, as noted before, written confirmation from the Department of Public Works is required. **(Affirmative finding as conditioned)**

- 2. The unit does not consist of more than 30 percent of the total habitable floor area of the building, inclusive of the accessory dwelling unit;*

The apartment contains 432 sf of area, or 18.7% of the total habitable floor area of the building, inclusive of the accessory dwelling. **(Affirmative finding)**

- 3. Applicable setback and coverage requirements are met;*

Setbacks and lot coverage appear to be acceptable, but confirmation via a revised site plan is needed. **(Affirmative finding as conditioned)**

- 4. One additional parking space which may be legally allocated to the accessory unit must be provided for the accessory unit; and,*

The project plans do not yet contain an additional parking space for the proposed accessory dwelling unit. There is insufficient space in the existing garage and driveway.

to accommodate this 1 space in addition to the 2 spaces required for the home. The applicant has indicated that 1 additional space will be constructed adjacent to the garage. Revised plans reflecting this change are needed. **(Affirmative finding as conditioned)**

5. *A deed or instrument for the property shall be entered into the land records by the owner containing a reference to the permit granting the accessory unit prior to the issuance of the certificate of occupancy for the unit. Such reference shall identify the permit number and note that the property is subject to the permit and its terms and conditions including owner occupancy. No certificate of occupancy shall be issued for the unit unless the owner has recorded such a notice.*

This requirement is included as a condition of approval. **(Affirmative finding as conditioned)**

Sec. 5.5.1, Nuisance Regulations

Nothing in the proposal appears to result in creating a nuisance under this criterion. **(Affirmative finding)**

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

The site will remain largely unchanged. The proposed apartment effectively amounts to internal infill. The would-be additional parking space will be constructed next to the garage; placed to the side as encouraged. Access will remain unchanged with the existing private driveway. As noted previously, a revised site plan depicting the additional parking space is needed. **(Affirmative finding as conditioned)**

Part 3, Architectural Design Standards

Sec. 6.3.2, Review Standards

As with the site, the outward appearance of the building remains mostly unchanged. No changes to the front or side building elevations are proposed. Only a small opening in rear of the building will be enclosed with siding and roofing to match existing materials. The project plans provided note where the changes will take place, but they do not accurately depict details of the end result. A detailed rear elevation drawing depicting the proposed exterior work is needed. **(Affirmative finding as conditioned)**

II. Conditions of Approval

1. **Prior to release of the zoning permit**, written confirmation of adequate wastewater capacity from the Department of Public Works is required. A state wastewater permit is also required.
2. **Prior to release of the zoning permit**, revised project plans shall be submitted, subject to staff review and approval. The revised project plans shall contain a site plan depicting the new parking space and revised lot coverage. The revised project plans shall also contain a detailed rear elevation drawing depicting the proposed exterior work with dimensions and materials noted.

3. A deed or instrument for the property shall be entered into the land records by the owner containing a reference to the permit granting the accessory unit **prior to the issuance of the certificate of occupancy** for the unit. Such reference shall identify the permit number and note that the property is subject to the permit and its terms and conditions including owner occupancy. No certificate of occupancy shall be issued for the unit unless the owner has recorded such a notice.
4. The Applicant/Property Owner is responsible for obtaining all necessary Zoning Permits and Building Permits through the Department of Public Works as well as other permit(s) and state and city energy standards as may be required.
5. Standard permit conditions 1-15.

Scale: $\square = 3' \times 3'$

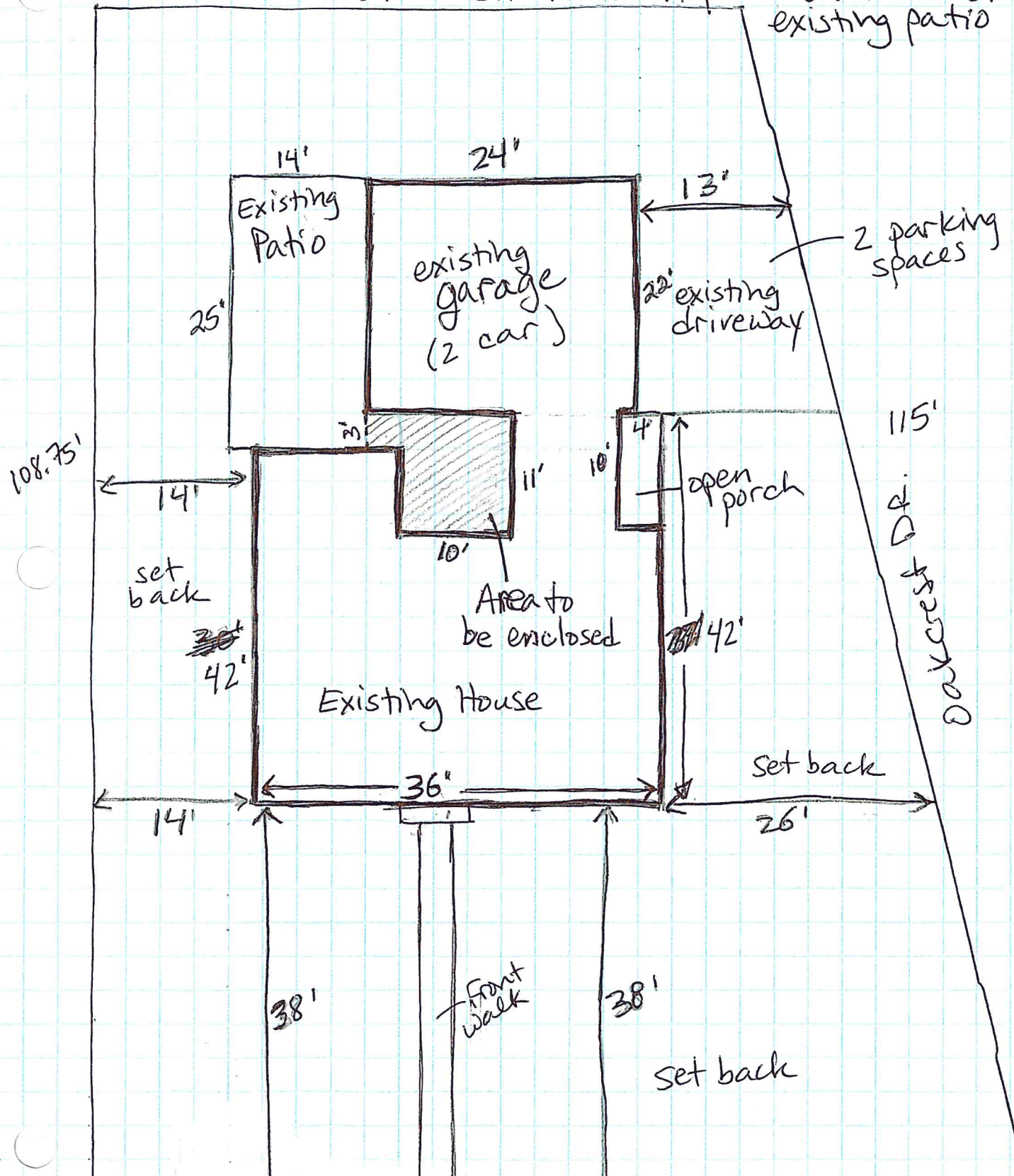
9/10/11

SEP 14 2011

60 Beachcrest Dr Burlington VT 05408 DEPARTMENT OF PLANNING

Owners Jean and Kirsten Berggren

57.51' Site Plan - Proposed enclosure of existing patio



60 Beachcrest DR
Kirsten and Jean Berggren
9/10/15

Coverage Calculation

Existing:

House: ~~1372~~ 1372

Garage: $22 \times 24 = 528$

Patio: $350 + 110 = 460$

Driveway: $20 \times 15 = 300$

Open Porch: 40

Front Walk: $3 \times 38 = 114$

Total: 2814

Lot Size: 8053

Existing Coverage = 34.94%

No change to proposed coverage

110 feet of patio will be converted to house

Proposed: House: 1482

Patio: 350

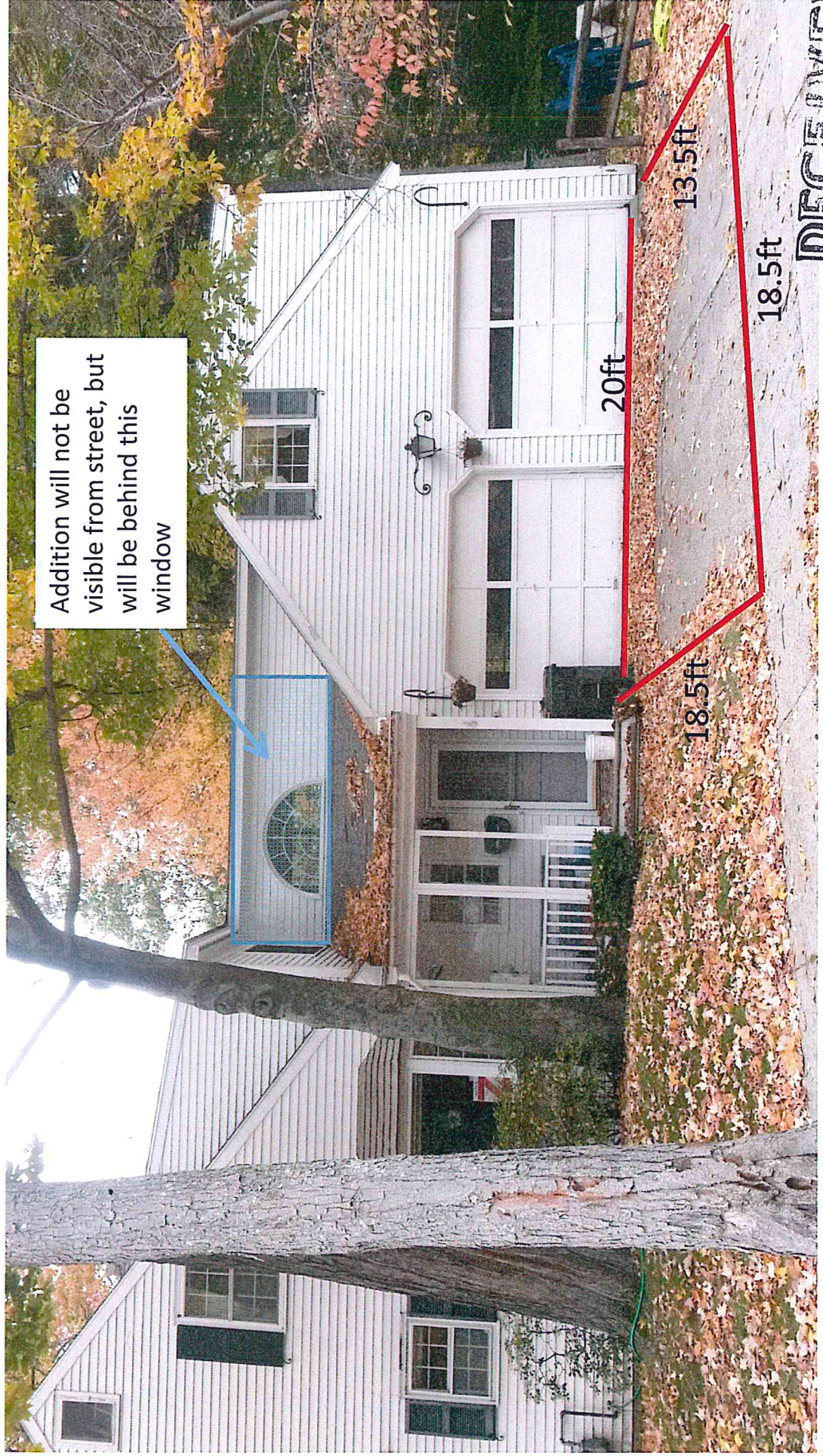
Other areas unchanged

RECEIVED
RECEIVED

SEP 14 2015

DEPARTMENT OF
PLANNING & ZONING

Street view – proposed addition will be on the other side of the round window

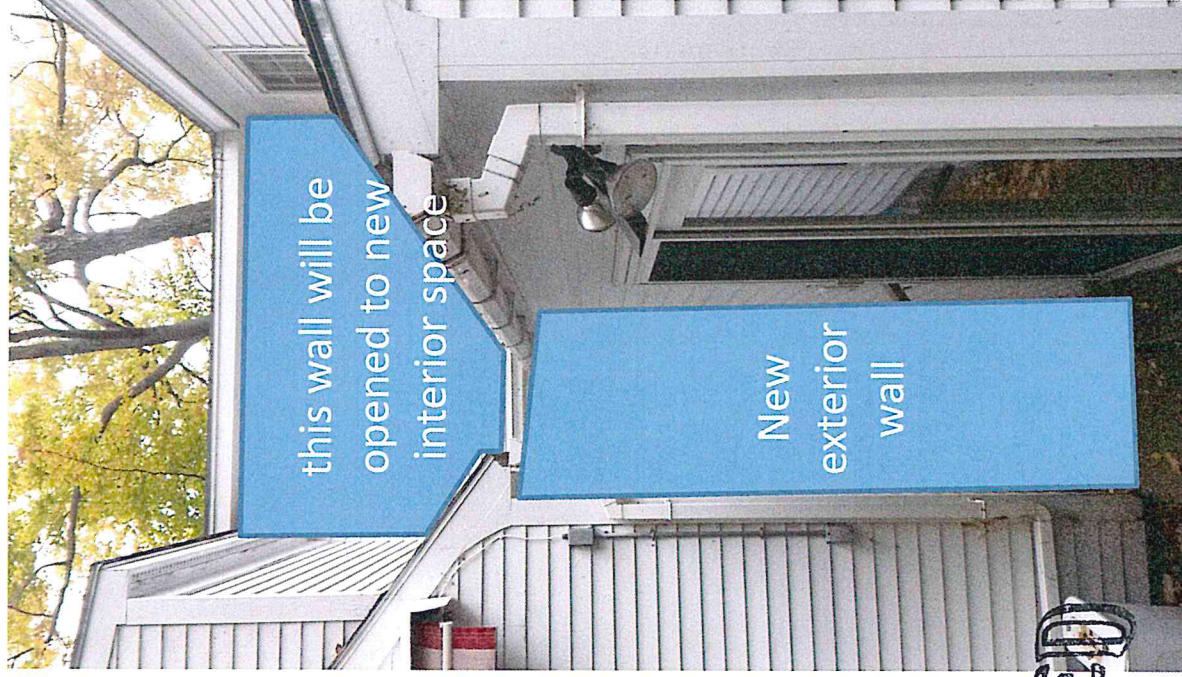


RECEIVED
OCT 28 2013

Back of house – current



Back of house – area to be enclosed



RECEIVED
OCT 26 2015



Existing rooflines will be merged over proposed enclosed area. New posterior wall will be parallel to and extend the posterior wall of the garage to meet the wall of the existing sunroom.

RECEIVED

OCT 26 2013

DEPARTMENT OF

Area to be enclosed – closer view



Floor Plan for Accessory Dwelling Unit (Proposed)

60 Beachcrest Dr

Kirsten + Jean Berggren

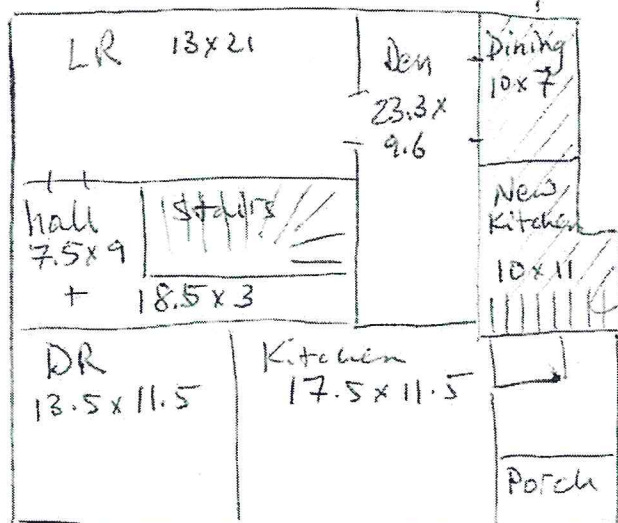
Contact 802-310-1950

Auxiliary
Apt.

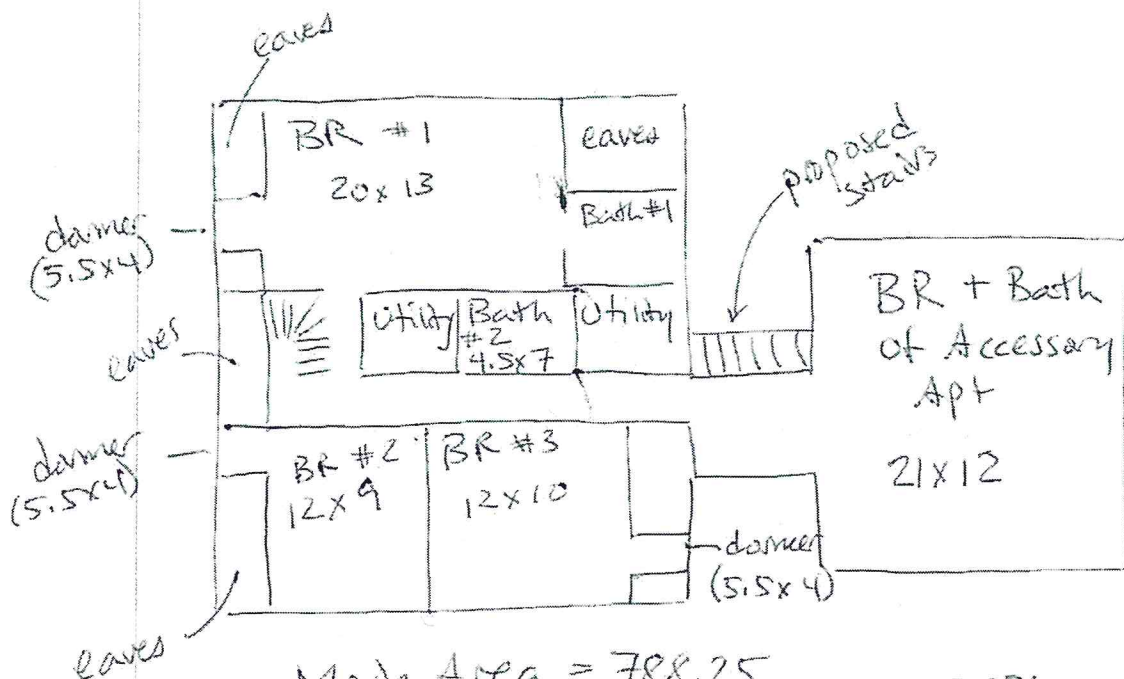
RECEIVED

OCT 05 2015

DEPARTMENT OF
PLANNING & ZONING



Main Area = 1088
Accessory Area = 180 = 16.5%



Main Area = 788.25
Accessory Area = 252 = 32%

Total: Main = 1876.25
Accessory = 432 = 23%

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



TO: Development Review Board
FROM: Scott Gustin
DATE: November 4, 2015
RE: 16-0363NA; 1300 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: RL Ward: 7N

Owner/Appellant: Ray & Sharon Lones / Mark Davidson

Request: Appeal of zoning denial for continuation of nonconforming residential/commercial use.

Overview:

The appellants are seeking approval to establish a scooter sales and repair shop within an existing TV sales and repair space at 1300 North Avenue. The existing TV sales and repair shop is a nonconforming use approved in 1959 by the zoning board of adjustment. The appellants assert that there is essentially no change in use and that the proposed scooter sales and repair shop is merely a continuation of the nonconforming use. Zoning staff found, however, that the proposed use constitutes a change in use, and the request for continuation of an existing commercial and residential use was denied.

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

I. Findings:

On September 14, 2015, the appellants inquired about applying for a zoning permit to continue the nonconforming commercial and residential use at 1300 North Avenue. It was explained to the appellants that such a request does not need a zoning permit (they were asserting no change in use) and were advised to file their request via a "non-applicability of zoning permit requirements." The proposal amounted to establishing a scooter sales and repair shop (the motorcycle sales and service at their present location would not be carried over to the proposed location) in the rear building and living in the house onsite. The apparent change in use was pointed out to the appellants, and appeal procedures were discussed. The appellants had an interest in pursuing their request with the Development Review Board. A denial and subsequent appeal were anticipated.

On September 23, 2015, the appellants submitted a request for continuation of an existing commercial and residential use via a "non-applicability of zoning permit requirements" form. Their request outlined the existing conditions – a TV sales and repair shop behind the owner-occupied single family home fronting North Avenue. It, of course, noted the request to change to scooter sales and repairs, still owner-occupied. The request noted some minor proposed renovations, days and hours of operation (M-F, 9:00 AM – 5:00 PM), employees (1-2), and

anticipated traffic impacts. The appellants noted that an estimated 85% of customers are expected to arrive on scooters or motorcycles as opposed to cars or trucks.

The request for continuation of an existing commercial and residential use was denied September 23, 2015 for the following reasons:

The subject property is located in the low density residential (RL) zone. The existing commercial use (TV sales and repair) is nonconforming. The residential use, however, is conforming. On September 22, 1959, the Zoning Board of Adjustment approved an expansion of the present building and associated commercial use subject to the following conditions:

1. That the only business that could be operated at that address would be TV Sales and Service.
2. That this permit would apply only to the present owners.
3. That the present owners would have to live there in order to operate this TV Sales and Service.

The owners at the time were Mr. and Mrs. Conrad Alaire. The present owners are Raymond and Sharon Lones. In light of the conditions of the 1959 approval, the existing TV sales and service is arguably in violation of the decision. More important, however, is the nature of the approved use. Under the present Comprehensive Development Ordinance (CDO), TV sales and service would be classified as "general merchandise/retail – small < 4,000 sf." The proposed "small scooter and motorcycle sales and repair shop" constitutes a different use. The described use is not defined in the CDO, nor does it exactly match any of the uses in *Appendix A – Use Table – All Zoning Districts*. The closest matches in *Appendix A* are "automobile/vehicle repair" and "automobile sales, new & used" or "bicycle sales/repair." Section 5.1.1, *Uses, (e) Uses Not Permitted*, of the CDO states "a use in any district denoted by the letter 'N,' or any use not listed, shall not be allowed in any zoning district unless the administrative officer determines that the use is substantially equivalent in use, nature, and impact to a listed permitted or conditional use." Arguably, the proposed "small scooter and motorcycle sales and repair shop" could be substantially equivalent to the "bicycle sales/repair" use; however, this use is prohibited in the RL zone, as are the noted automotive uses.

The proposed "small scooter and motorcycle sales and repair shop" use is not allowed in *Appendix A* of the CDO. Trying to assert substantial equivalency with a defined use such as noted above ends with the same result.

"Automobile/vehicle repair" and "automobile sales, new & used" or "bicycle sales/repair" uses are all prohibited in the RL zone. The proposed "small scooter and motorcycle sales and repair shop," therefore, cannot be approved.

The appeal of the zoning denial was filed within 15 days as required.

The appeal reiterates, in condensed form, the assertion that the proposed sales and repair of scooters is effectively the same as the existing use. It asserts that the property would be owner

occupied, and that there would be no change in perception along North Avenue except for a new sign.

The appeal does not address the conditions of approval in the 1959 zoning board of adjustment decision. While decades old, the decision and related conditions remain valid. There have been no subsequent zoning permits for any changes to the use. The denial of the present zoning request for scooter sales and repair should be upheld for the following reasons:

- The property is specifically and exclusively approved for a single dwelling in the front building and a TV sales and service commercial use in back.
- The approved use is specifically and exclusively tied to the owners/operators of the property who received the 1959 zoning board of adjustment approval for TV sales and service.
- The proposed scooter sales and repair use is most closely related to the “bicycle sales/repair” use in Appendix A of the CDO and is prohibited in the RL zone wherein the property is located.

II. Recommended Motion:

Uphold the denial of “non-applicability of zoning permit requirements” 16-0363NA.

The Daily Rider
Plan Proposal for
1300 North Ave

RECEIVED
SEP 14 2015

DEPARTMENT OF
PLANNING & ZONING

This application is for the continuation of a pre-existing non-conforming use zoning permit at 1300 North Ave. Currently, the property has an owner occupied dwelling and a separate building with a repair shop, being used for Alarie's TV Sales and Repairs. My goal is to purchase this property and take over the dwelling as a home for my family of 3. The TV sales and repair shop would be used to accommodate The Daily Rider.

Currently, The Daily Rider is a small scooter and motorcycle sales and repair shop. We are moving away from motorcycle sales and turning our focus toward scooters. We are a dealer for The Genuine Scooter Company and typically keep 4 new scooters in stock. If we moved to 1300 North Ave our plan is to drop the sales of new Royal Enfield motorcycles and used motorcycles. Scooters have been gaining popularity and now represent the majority of our sales. Our customer base is our local community, Burlington.

In order for The Daily Rider to move into 1300 North Ave we would need to run water to the building from the existing plumbing and add a sink and toilet. We would like to add a service door around the back of the building. The interior of the building needs some minor renovation, such as new floors, removal of one wall, and a new sign out front.

Hours of operation will be Monday through Friday 9-5.

The Daily Rider has one year-round employee. During the summer months business picks up and 1-2 additional seasonal employees will be needed.

Traffic generated by The Daily Rider will be minimal. Currently, during the off season we see about 4 customers a week. During the riding season we see about 8 customers per day, averaging approximately 1 per hour. As we discontinue selling motorcycles I expect a 30% drop in foot traffic as well. With the business being seasonal, the impact of a scooter shop on North Ave over the course of the year will be small. An estimated 85% of our customers show up on scooters or motorcycles, which helps our parking situation. It takes 6 scooters to take up the space of a passenger car.

Scooters are an economical, green-type transportation. They get 100 miles per gallon, reduce congestion in cities and are kind to the environment. The more scooters Burlington has as a city the better. The majority of our customers live in the city of Burlington, specifically the North End, and they will find the new location of The Daily Rider at 1300 North Ave to be beneficial.

An estimated schedule for this project would be to purchase the 1300 North Ave property by the end of 2015. We would use the majority of 2016 to prepare the new building and move in during the fall or winter of 2016.

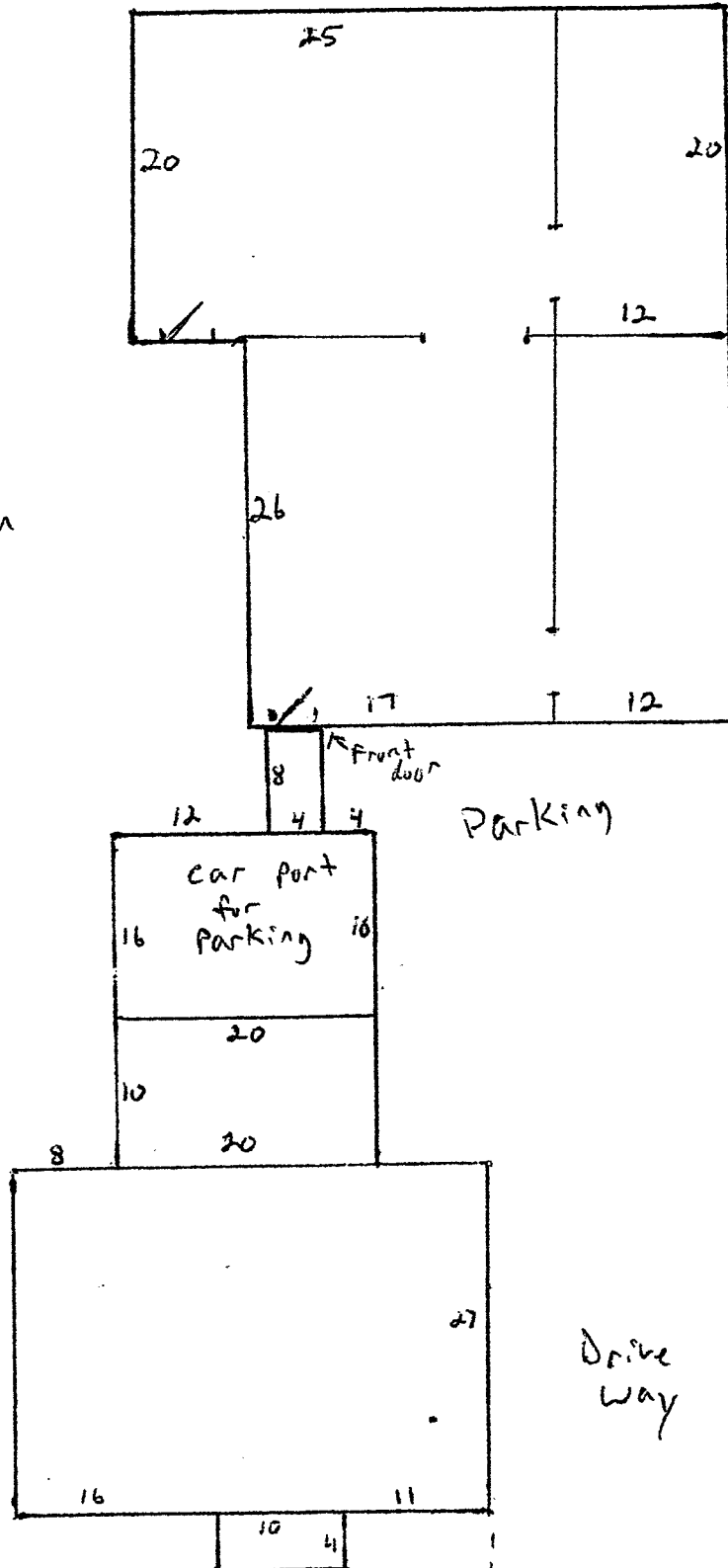
1300 No
as of
8/29/15

RECEIVED
SEP 14 2015

Green Space

lawn / green space

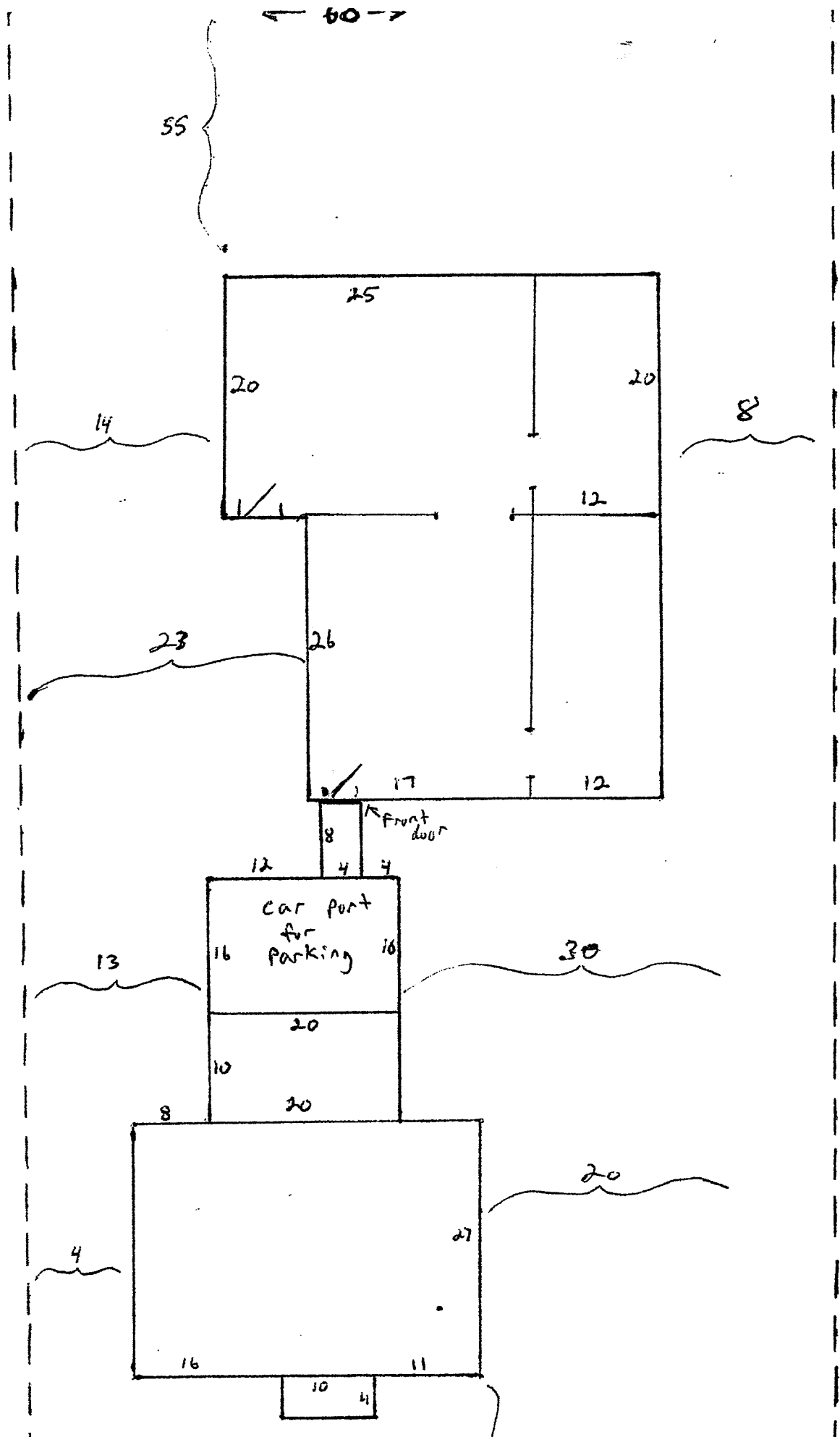
lawn



Drive Way

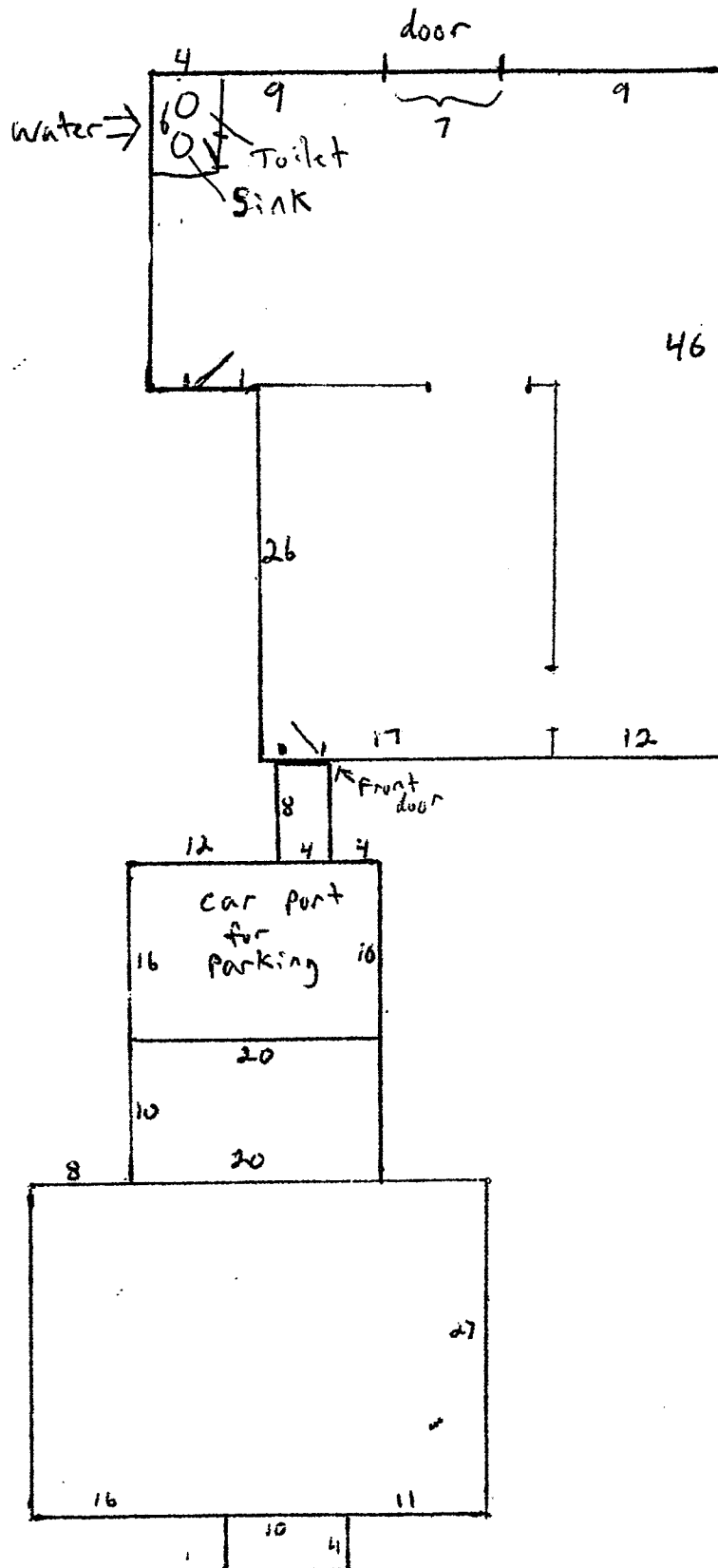
Sign

1300 N.
as of
8/29/15



Sign

Proposed
change



RECEIVED
SEP 14 2015
DEPARTMENT OF
PLANNING & ZONING

The Daily Rider
Plan Proposal for
1300 North Ave

This application is for the continuation of a pre-existing non-conforming use zoning permit at 1300 North Ave. Currently, the property has an owner occupied dwelling and a separate building with a repair shop, being used for Alarie's TV Sales and Repairs. My goal is to purchase this property and take over the dwelling as a home for my family of 3. The TV sales and repair shop would be used to accommodate The Daily Rider.

Currently, The Daily Rider is a small scooter and motorcycle sales and repair shop. We are moving away from motorcycle sales and turning our focus toward scooters. We are a dealer for The Genuine Scooter Company and typically keep 4 new scooters in stock. If we moved to 1300 North Ave our plan is to drop the sales of new Royal Enfield motorcycles and used motorcycles. Scooters have been gaining popularity and now represent the majority of our sales. Our customer base is our local community, Burlington.

In order for The Daily Rider to move into 1300 North Ave we would need to run water to the building from the existing plumbing and add a sink and toilet. We would like to add a service door around the back of the building. The interior of the building needs some minor renovation, such as new floors, removal of one wall, and a new sign out front.

Hours of operation will be Monday through Friday 9-5.

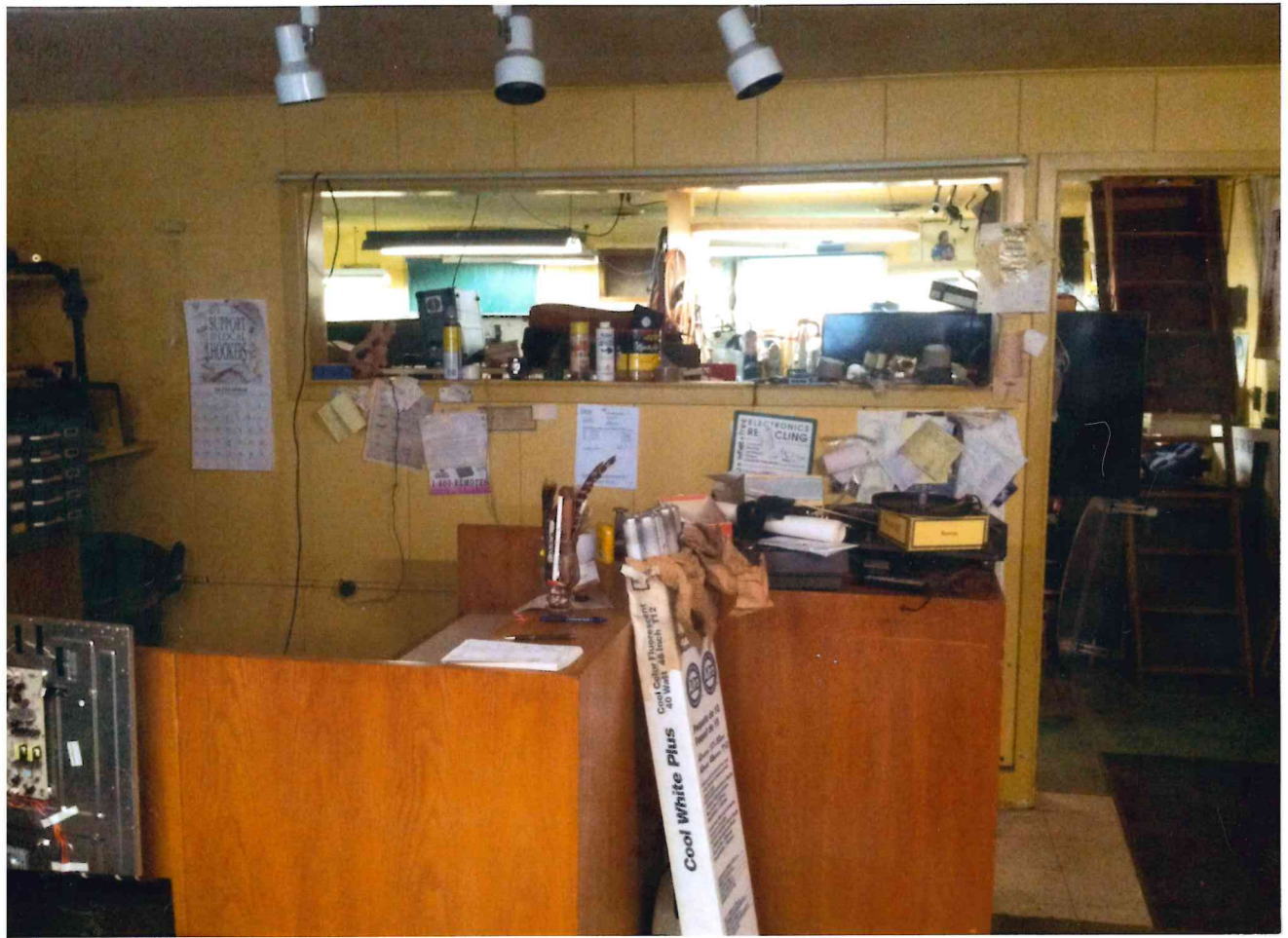
The Daily Rider has one year-round employee. During the summer months business picks up and 1-2 additional seasonal employees will be needed.

Traffic generated by The Daily Rider will be minimal. Currently, during the off season we see about 4 customers a week. During the riding season we see about 8 customers per day, averaging approximately 1 per hour. As we discontinue selling motorcycles I expect a 30% drop in foot traffic as well. With the business being seasonal, the impact of a scooter shop on North Ave over the course of the year will be small. An estimated 85% of our customers show up on scooters or motorcycles, which helps our parking situation. It takes 6 scooters to take up the space of a passenger car.

Scooters are an economical, green-type transportation. They get 100 miles per gallon, reduce congestion in cities and are kind to the environment. The more scooters Burlington has as a city the better. The majority of our customers live in the city of Burlington, specifically the North End, and they will find the new location of The Daily Rider at 1300 North Ave to be beneficial.

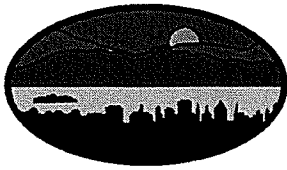
An estimated schedule for this project would be to purchase the 1300 North Ave property by the end of 2015. We would use the majority of 2016 to prepare the new building and move in during the fall or winter of 2016.











City of
Burlington, Vermont
149 Church Street

Unknown FolderType – Reasons for Denial

ZP #: 16-0363NA

Tax ID: 028-3-135-000

Issue Date: September 17, 2015

Decision: Permit Not Required

Property Address: 1300 NORTH AVENUE

Description: Continuation of nonconforming residential/commercial use.

Reasons for Denial:

The subject property is located in the low density residential (RL) zone. The existing commercial use (TV sales and repair) is nonconforming. The residential use, however, is conforming. On September 22, 1959, the Zoning Board of Adjustment approved an expansion of the present building and associated commercial use subject to the following conditions:

1. That the only business that could be operated at that address would be TV Sales and Service.
2. That this permit would apply only to the present owners.
3. That the present owners would have to live there in order to operate this TV Sales and Service.

The owners at the time were Mr. and Mrs. Conrad Alaire. The present owners are Raymond and Sharon Lones. In light of the conditions of the 1959 approval, the existing TV sales and service is arguably in violation of the decision. More important, however, is the nature of the approved use. Under the present Comprehensive Development Ordinance (CDO), TV sales and service would be classified as “general merchandise/retail – small < 4,000 sf.” The proposed “small scooter and motorcycle sales and repair shop” constitutes a different use. The described use is not defined in the CDO, nor does it exactly match any of the uses in *Appendix A – Use Table – All Zoning Districts*. The closest matches in *Appendix A* are “automobile/vehicle repair” and “automobile sales, new & used” or “bicycle sales/repair.” Section 5.1.1, *Uses, (e) Uses Not Permitted*, of the CDO states “a use in any district denoted by the letter ‘N,’ or any use not listed, shall not be allowed in any zoning district unless the administrative officer determines that the use is substantially equivalent in use, nature, and impact to a listed permitted or conditional use.” Arguably, the proposed “small scooter and motorcycle sales and repair shop” could be substantially equivalent to the “bicycle sales/repair” use; however, this use is prohibited in the RL zone, as are the noted automotive uses.

The proposed “small scooter and motorcycle sales and repair shop” use is not allowed in *Appendix A* of the CDO. Trying to assert substantial equivalency with a defined use such as noted above ends with the same result. “Automobile/vehicle repair” and “automobile sales, new & used” or “bicycle sales/repair” uses are all prohibited in the RL zone. The proposed “small scooter and motorcycle sales and repair shop,” therefore, cannot be approved.

September 25, 1959

Mr. and Mrs. Conrad Alarie
1300 North Avenue
Burlington, Vermont

Dear Mr. & Mrs. Alarie,

Following the Public Hearing on your petition to continue operation and also to expand your present building by 50% at 1300 North Avenue which was held September 22, 1959, the Zoning Board of Adjustment voted to grant this petition with the following stipulations:

1. That the only business that could be operated at that address would be TV Sales and Service.
2. That this permit would apply only to the present owners.
3. That the present owners would have to live there in order to operate this TV Sales and Service.

Very truly yours,

John F. Fitzpatrick
Zoning Administrator



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 23 2015

DEPARTMENT OF
PLANNING & ZONING

Non-Applicability of Zoning Permit Requirements

This form is a written verification from the Department of Planning and Zoning that based upon the description and statement given by the owner/applicant, a zoning permit is not applicable or required for the proposed project.

Please submit this form, with photograph(s) of the area(s) where work is proposed, to the Planning and Zoning Office.

NOTE: THIS IS NOT AN APPROVAL TO START WORK.

CONSTRUCTION PERMITS WILL ALSO BE REQUIRED FROM THE DEPARTMENT OF PUBLIC WORKS AT 645 PINE STREET. VISIT THE OFFICE OR CALL 802-863-9094

PROJECT LOCATION ADDRESS: <u>1300 North Ave</u>	
PROPERTY OWNER*: <u>Ray Lones</u> *If condominium unit, written approval from the Association is also required	APPLICANT: <u>Mark Davidson</u>
POSTAL ADDRESS: <u>1300 North Ave</u>	POSTAL ADDRESS: <u>16 Murray St</u>
CITY, ST, ZIP: <u>Burlington, VT 05408</u>	CITY, ST, ZIP: <u>Burlington, VT 05405</u>
DAY PHONE: <u>802-658-1935</u>	DAY PHONE: <u>802-999-1203</u>
EMAIL: <u>lones@comcast.net</u>	EMAIL: <u>marka65@yahoo.com</u>
SIGNATURE: <u>[Signature]</u> I am the owner. In addition, I duly authorize the applicant (if noted) to act on my behalf for all matters pertaining to this application.	SIGNATURE: <u>[Signature]</u>

Description of Proposed Project: Continue existing commercial and residential use.

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

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

OFFICE USE ONLY Zone: RL Eligible for Design Review? Year Constructed? 1954 Property Size? 1126

Based upon the above description, the proposed work does not require a zoning permit for the following reason(s):

- ☐ Project constitutes repair/maintenance or replacement in-kind.
☐ Project is exempt from Zoning Permit requirements per Section 3.1.2(c)1 of the Zoning Ordinance.
☐ Other:

Reviewed and approved by: [Signature]

Date: 9/23/15

☐ Additional Notes: Denied - see attached

Non Applicability Reference #: 16-0343NA



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 17 2015

DEPARTMENT OF
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: 1300 North Ave

Subject Property Owner: Ray & Sharon Lones

Appellant: Mark Davidson

Agent/Representative: Mark Davidson

Mailing Address: 16 Murray St #2

City, St, Zip: Burlington VT 05401

Day Phone: 802 999-1203 Email: marka15t@yahoo.com

Appellant Signature: [Signature] Date: 9/17/15

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. 660 Amount Paid 100 Zoning Permit # 16-0363NA
699 150

Appeal of an Administrative Decision

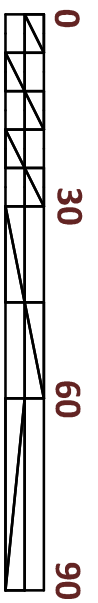
Regarding Property at 1300 North Ave

RECEIVED
SEP 17 2015

DEPARTMENT OF
PLANNING & ZONING

Currently the Property at 1300 North Ave is set up with a single family house on the street front and is occupied by owners Ray and Sharon Lones. Behind the house is a commercial shop that is designed for the use of sales and repairs. Currently the shop is being used and is permitted for the sales and service of TVs, a business that Ray operates. My request is that upon purchasing the property, to live in the house and operate my business The Daily Rider in the shop behind the house. The shop is secluded from public view by bushes and trees and a large wood fence. Instead of TVs we will be selling and servicing scooters and small transport motorcycles. Other than changing the business sign there will be no change in visual difference on North Ave. There will be no change in the impact on North Ave. The only thing changing is the product of service which is similar in size and service space requirements. Other than this change everything else stays the same.

- LEGEND**
- IRON ROD OR PLAIN FOR DESCRIPTION
 - CONCRETE
 - ROUND POUND
 - STOP
 - DECIDUOUS TREE
 - CONIFEROUS
 - CATCH BASIN
 - RAIN MANHOLE
 - WATER
 - CATCH BASIN
 - WATER SHUTOFF
 - HYDRANT
 - SEWER MANHOLE
 - UTILITY POLE
 - LIGHT POLE (SOLID TYPE)



MASTER PLAN

SCALE: 1" = 30'-0"

ZONING INFORMATION:	
PARCEL LOCATION:	72,80 & 94 Colchester Ave, 27 & 49 Fletcher Pl.
ZONING DISTRICT:	INSTITUTIONAL
MAXIMUM DENSITY:	20 UNITS PER ACRE
MAX DENSITY WITH BONUS:	24 UNITS PER ACRE
PARCEL SIZE:	3.62 ACRES / 157,254 SQUARE FEET
ALLOWABLE DENSITY:	87 UNITS
EXISTING DENSITY:	8 UNITS OR UNIT EQUIVALENTS
ALLOWABLE NEW DENSITY:	79 UNITS
MAXIMUM LOT COVERAGE:	40% / 63,075 SQUARE FEET
MAX. COVERAGE WITH BONUS:	48% / 75,690 SQUARE FEET
BUILDINGS:	
NEW BUILDING FOOTPRINT: 23,418 SQ.FT.	
EXISTING BUILDINGS: 4,398 SQ.FT.	
PARKING LOTS: 17,687 SQ.FT.	
MISC. HARDSCAPE: 5,960 SQ.FT.	
PROPOSED COVERAGE:	
32.7% / 51,463 SQUARE FEET	
SET BACKS REQUIRED:	
FRONT YARD = 15 FT.	
SIDE YARD = 10% TO A MAX OF 20 FEET	
REAR YARD = 25% TO A MAX OF 75 FEET	
MAX BUILDING HEIGHT:	35 FEET.



Rabideau Architects

550 Hinesburg Road
Suite 101
South Burlington, VT 05403
802.863.0222
Rabideau-Architects.com

PROJECT # 14112

SHEET NUMBER

SP-1

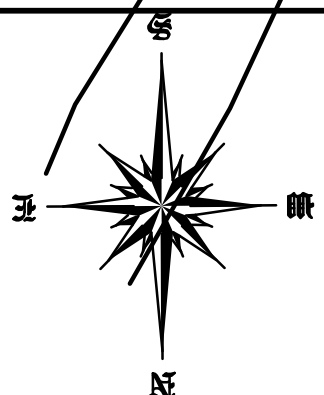
DATE: 8/12/2015

MASTER PLAN

72,80,94 COLCHESTER AVENUE- 27 FLETCHER PL.
MILLER - VONTURKOVICH

BURLINGTON,

VERMONT



REVISIONS:
SITE PLAN APPLICATION

DATE:
9/8/2015

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, October 20, 2015, 5:00 PM

Contois Auditorium, City Hall, 149 Church Street, Burlington, VT

Board Members Present: Austin Hart, Brad Rabinowitz, Israel Smith, Alexandra A.J. LaRosa, Geoff Hand,

Board Members Absent: Jonathan Stevens, Jim Drummond

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

Minutes

I. Agenda

II. Communications

Supplemental letter from Staniford Farms Road residents regarding 70 Appletree Point Lane is accepted by Board.

III. Minutes

IV. Consent

1. 16-0313CA/CU; 98 UNIVERSITY ROAD (ICC-UVM, Ward 1E) UVM

Construct small retail enclosure for Lake Monsters at ball park.
(Project Manager, Scott Gustin)

A.Hart – recused from this item.

B.Rabinowitz - asks if applicant reviewed staff report.

K.Bostwick – responds affirmatively.

B.Rabinowitz – Board treats this as a consent item. Asks for a motion.

W.Senville – motions to consider project a consent item.

G.Hand – seconds the motion.

No discussion.

Board Vote: 5-0-1

V. Public Hearing

1. 12-1138PD; 70 APPLETREE POINT LANE (WRL, Ward 4N) Staniford Farms, LLC

Amendment to Planned Unit Development to enable duplex use.
(Project Manager, Scott Gustin)

A.Hart – swears in applicant and interested speakers. Board has staff comments.

E.Farrell - asked if Board has copy of the site plan?

S.Gustin - Board only has site plan for this project.

E.Farrell – new public street; 19 lots on street vary in size, 70' x 100' or 120' deep; one lot at end of street is an acre. Most are selling for \$400,000. Someone called me asking for lower price point or retirement home to have a 2 unit condominium built on lot 19. Originally, there were several single family and several duplexes approved, but ended up as only single family.

B.Rabinowitz – questioned whether applicant was selling project as a rental.

E.Farrell – anyone can rent a house on their property.

S.Vautereau – spoke about the letter submitted by residents who live in the neighborhood. She has lived in Burlington for a long time. Purchased home that was marketed as a 19 single family home neighborhood. Concerns about adjoining properties becoming duplexes, which may open up other issues. Might not have purchased home spending the price if she knew they would become duplexes.

A.Hart – looking at the development and lots as a whole, which is not pushing constraints of the zoning ordinance. Can you say specifically what the concern is about one duplex?

S.Vautereau– concern about the precedent. If allowed, it could become two rental properties. Maybe in five years will change the area, and feeling is that duplexes are not maintained in the same way as a single family or owner occupied home.

G.Hand- do you belong to a homeowners' association or HOA?

S.Vautereau - have 15 signatures, but cannot satisfy this until all lots are sold.

K.Vautereau – as rental owners, he and his wife pride themselves as good landlords. Usually rental owners and landlords do not take same care of properties the way they should.

Burlington prides itself for many things, and one is the bike path. Developer wants to put duplex on bike path. Eventually duplexes become rental property as circumstances change, people move away and property changes to a rental. If Mr. Farrell wants to put in smaller houses, he could lower the price and downsize by creating smaller single family lots.

M.Bradshaw – lives at Staniford Farm Rd saying he believes until lots are all sold that Mr. Farrell makes the rules of the HOA association. Clarification as whether the proposal on two adjoining structures can be sold individually or as a unit?

A.Hart – Board does not have a proposal at this time on what this will look like. He would have to submit another application to clarify this later.

J.Montross – lives near lot 19 and questions whether a duplex can be placed there and then later decided on how big it can be?

A.Hart – This project is in regard to a conceptual approval on a one acre lot.

J.Montross – asks questions on setback rule.

S.Gustin - setbacks are defined on the subdivision plat for lot 19.

J.Montross –one acre lot is a good size. I'm trying to understand what the rules are and what is happening with this project.

A.Hart – Board doesn't know what the building will look like. If you would like to know what the parameters are and what might be built, speak with staff who may be able to let you.

AJ.LaRosa – if and when another person wants to build a duplex, that would be a separate application and neighbors can then respond and comment. This is not before us now and would have to be a separate process and review.

J.Montross – appreciates this explanation. I bought house in this area because they are single family homes. I spent a lot of money on my house. The set of rules was such at the beginning and should remain.

E.Baker – he and his wife are residents of 67 Staniford Farms Rd, wants to know if Board will make a decision based on what they hear tonight.

A.Hart - the decision is whether or not a duplex can be built on the lot. The decision will be on whether or not a duplex can be built on lot 19. The Board does not have information on a specific design yet.

E.Baker - most of us live on the lakeside of street. The understanding is that we are afraid as a community that the remaining lots could become duplexes. What happens on the remaining lots could be open to other options. Does permission for one duplex open the door for other duplexes. Is there a rule on the size of a lot for duplexes?

A.Hart – there are lot dimensions for duplexes. Lot 19 as an acre is dramatically larger than west side of Staniford Rd and would be dramatically different.

S.Gustin – yes, there is a minimum lot size for duplexes, but tonight's application is about an amendment to the PUD. Mr. Farrell could make request seek proposal to do duplex on all lots if he wanted. Outside of a PUD, minimum lot size is 15,000 sq ft for a duplex and 9,000 sq ft for single family homes since this was approved as a project.

AHart – the only application before the Board is pertaining to lot 19. Other possibilities are not before us right now and not relevant right now.

E.Farrell – for the record there is a declaration and when all lots are sold it becomes an Association. I do not collect dues. I understand that I cannot build a duplex on anything less than 15,000 sq ft. When this was approved, the building envelope was not much larger due to fact that most of the area of the lot is wetlands. No intention to do duplexes on any other lot. It would be fine if this was a condition of approval for the permit.

W.Senville – Did you see a copy of a letter in the packet from the residents?

E.Farrell – yes.

W.Senville – they speak about a quote from public offering statement that only construction is single family home. Is public offering filed as this?

E.Farrell – did not know this. I had to give Chris Snyder a public offering statement to build all the houses except for one and had to give him a public offering, but not individual owners. Don't know if a public offering is binding.

W.Senville - is that part of the PUD application submittals?

E.Farrell – certainly the declaration is a record.

A.Hart – obviously Board cannot change what is in the public statement or in declaration. This is between developer and buyer. All Board does is enforce the zoning ordinance.

E.Farrell – I'm basically here for a request for a use.

Public hearing is closed.

2. 16-0190PD; 76 & 80 NORTH UNION (RM, Ward 2C) Tioli Properties, LLC

PUD to dissolve common lot line between 76 and 80 North Union Street and revamp parking area. (Project Manager, Scott Gustin)

A.Hart - swears in applicant. No interested speakers for this item.

J.Pizzagali – owner and representative of Tilley properties has read staff comments and understands findings. Met with Scott last week going over his comments. If there is a decision tonight, asking to be continued so conversations can continue with staff on questions about adjoining property setbacks. Welcome constructive questions from the Board.

A.Hart – do not have a specific question. Need to have better understanding of project. Not dealing with current violation issue. Board encourages time to sort things out with staff. From staff comments, sounds like one lot is nonconforming and one is conforming. Board encourages the time to work out issues with staff. If you need more time to work things out, Board encourages this.

S.Gustin – the problem is with the merging of two lots with a conforming lot at 80 North St. resulting in a still nonconforming though slightly less with 76 North St. Coverage is over the limit for 76 losing conformity for lot 80 will still result in a still nonconforming lot. There is a greater degree of nonconformity on the setbacks by making the lot wider.

A.Hart – preference is for applicant to work this out with staff. Encourage questions and constructive comments that might be helpful now.

AJ.LaRosa - sounds like he is asking for a continuance.

J.Pizzagali – setback issue is great enough. Feels that by combining lot net coverage setback issue maybe reduced or improved to be within regulations of current non-conforming lot.

A.Hart – there are some positive things on the application, yet have to balance between the new and nonconforming lot issues. Board encourages staff and applicant to work this out.

Two options are available: we can continue to a date certain where there is room on agenda or when you are ready sometime in the future, but not to go indefinitely.

J.Pizzagali – would like to leave it open in case engineers need to change drawings for future discussion.

A.Hart – do not see a serious remedy to resolve at this point in time. Makes a motion to continue the public hearing to a date to be determined.

A.Zipparo – seconds the motion.

Board Vote: 7-0-0.

VI. Certificate of Appropriateness

1. 15-1123CA; 83 HYDE STREET (RM, Ward 2C) Nathan J. Cross

Remove existing side porch, remove rear addition and construct new 1 1/2 story addition to home. (Project Manager, Mary O'Neil)

AHart - Applicant is sworn in. No interested party to speak.

A.Hart – last time looked at additional design work and now have a revised design with new staff report and recommendations. Asks applicant what has changed.

N.Cross –Main question was about project setbacks with the porch on north side. Setbacks were not in conformity and now they are redesigned. Walkway is exempt. Also concerns with lighting and have more accurate depictions of this. Submitted a landscape plan, labeled all current plants, circled plants that are coming out. Mostly perennials and decorative plants are being added. Rear of house is not affected and no trees are affected.

A.Hart - thank you for good, scaled plan. It makes our job easier. Minor point, new rear addition has proposal for new vinyl siding. One Board member recommended solid corner boards.

N.Cross – affirms on siding and corner boards.

B.Rabinowitz – asked about photo of maple tree in front of property and if this was between the properties.

N.Cross - yes, tree is on the property line and it will stay. The only other change is interior design, decided to change false window to make it a rear window and re-orientate the bathroom to accommodate it.

Public hearing was closed.

Meeting adjourned at 5:44pm.

VII. Adjournment

VIII. Other Business

A.Hart, Chair of Development Review Board

Date

A.Wade, Planning & 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/drb/agendas or the office notice board, one week before the hearing for the order in which items will be heard.