

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
Israel Smith
AJ LaRosa
Geoff Hand
Alexandra Zipparo
Samantha Tilton
Jim Drummond, (Alternate)
Robert Purvee, (Alternate)



BURLINGTON DEVELOPMENT REVIEW BOARD Tuesday October 3rd, 2017, 5:00 PM PUBLIC HEARING NOTICE

The Burlington Development Review Board will hold a meeting on
Tuesday October 3rd, 2017 at 5:00pm in Contois Auditorium, City Hall.

- 1. 15-0339VR; 31 NORTH AVENUE (RM-W, Ward 3C) Cynthia Smith**
Time Extension Request: Variance from front yard setback. Property fronts Depot Street.
(Project Manager: Scott Gustin)

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/drbb/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).

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BURLINGTON DEVELOPMENT REVIEW BOARD Tuesday October 3rd, 2017, 5:00 PM Contois Auditorium, City Hall, 149 Church St, Burlington, VT AMENDED AGENDA

I. Agenda II. Communications III. Minutes IV. Consent

- 1. 18-0222CA; 1 King Street Dock (DW-PT, Ward 3C/5S) Lake Champlain Transportation Company**
Removal of 5,000 gallon partially underground fuel tank, piping, and 3 concrete islands for dispensers. Installing 10,000 gallon above ground fuel tank with 14'x28' concrete pad, anchor bolts, new piping and 3 islands for dispensers. Also 12 concrete filled bollards surrounded by an 8'high wooden fence
(Project Manager: Ryan Morrison)
- 2. 15-0339VR; 31 NORTH AVENUE (RM-W, Ward 3C) Cynthia Smith**
Time Extension Request: Variance from front yard setback. Property fronts Depot Street.
(Project Manager: Scott Gustin)

V. Public Hearing

- 1. 17-1267AP; 43 STARR FARM ROAD (RL, Ward 4N) Ventas Realty LP**
Appeal of zoning violation notice #334328.
(Project Manager: Jeanne Francis)
- 2. 18-0072AP; 204 NORTH AVENUE (RM, Ward 3C) Pierre Gingue**
Appeal of NOV #335900 as it relates to usage as a three dwelling unit.
(Project Manager: Jeanne Francis)

VI. Other Business VII. 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/drbb/agendas or the office notice board, one week before the hearing for the order in which items will be heard.

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, CFM, Principal Planner
Mary O'Neil, AICP, Principal Planner
Ryan Morrison, CFM, Associate Planner
Layn Darfler, Planning Technician
Anita Wade, Zoning Clerk



TO: Development Review Board
FROM: Scott Gustin *SD*
DATE: October 3, 2017
RE: 15-0339VR; 31 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: RM-W Ward: 3

Owner/Representative: Cynthia Wheelock Smith

Request: Second time extension request for approved variance from front yard setback on existing vacant lot.

Applicable Regulations:

Article 3 (Applications, Permits, & Project Reviews)

Background Information:

The applicant is seeking a second time extension for a variance granted October 24, 2014. The variance approved granted relief from the applicable front yard setback on an existing vacant lot. The subject property fronts on Depot Street, but all of its neighboring properties front on both North Avenue and Depot Street. The buildings on these neighboring properties are set close to North Avenue and relatively far from Depot Street and, therefore, create a prohibitive front yard setback requirement for the subject property.

No changes are included in this proposal. Only a time extension is sought.

Previous zoning actions for this property are as follows:

- 10/24/14, Approval of variance from front yard setback
- 12/18/97, Application for, and subsequent withdrawal of, permit to construct home

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

I. Findings

Article 3: Applications, Permits and Project Reviews

Section 3.2.9 Zoning Permits

(d) Time Limit on Zoning Permits

Notwithstanding (e) and (f) below, a zoning permit shall become invalid unless the work or action authorized commences within one (1) year after the date of final decision. All work or action

authorized there under shall be completed, and a Final Zoning Certificate of Occupancy received, within two (2) years of the date of decision unless a written extension of time not to exceed one (1) year is grant in advance by the administrative officer. Extensions of time for a zoning permit issued in connection with a conditional use or variance shall require approval by the DRB after a public hearing.

The application for a time extension for a variance approval is subject to review by the Development Review Board. The request for an extension was filed in a timely manner prior to expiration of the initial time extension and eligible for consideration under this standard. The variance approval included no construction work and was valid for a period of 2 years. The variance simply enabled encroachment into the front yard setback for development to be reviewed under separate permit. Since the variance was approved in October 2014, site assessment work has been done, and a number of preliminary proposals have been made, but no permit application has yet been filed. As requested, a 1-year time extension may be granted. **(Affirmative finding)**

II. Conditions of Approval

1. Except as modified in this 1-year time extension, all conditions of approval of the original variance dated October 24, 2014 shall remain in effect.
2. This 1-year time extension makes the variance approval valid until October 24, 2018.

Burlington Development Review Board

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www.burlingtonvt.gov/PZ/Boards/Development-Review-Board

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Austin Hart
Michael Long
Jonathan Stevens
Brad Rabinowitz
Missa Aloisi
Israel Smith
AJ LaRosa
Alexandra Zipparo (Alt.)



Burlington Development Review Board

Minutes/Findings of Fact
October 24, 2014

In RE: 15-0339VR; 31 North Ave. (Ward 3, RM-W) (Tax Lot No. 043-3-188-000)

Owner/Representative: Cynthia Wheelock Smith

Request: Variance from front yard setback on existing vacant lot

Members Present:

Austin Hart
Jonathan Stevens
Michael Long
Brad Rabinowitz
Israel Smith
AJ LaRosa

Evidence Presented:

The Board examined the materials submitted in support of this request.

I. FINDINGS

Background Information:

The applicant is seeking a variance from the applicable front yard setback on an existing vacant lot. The subject property fronts on Depot Street, but all of its neighboring properties front on both North Avenue and Depot Street. The buildings on these neighboring properties are set close to North Avenue and relatively far from Depot Street and, therefore, create a prohibitive front yard setback requirement for the subject property.

No development is included in this application. The variance is sought as a precursor to a potential single family home to be filed under separate permit application if the variance is granted.

Previous zoning actions for this property are as follows:

- 12/18/97, Application for, and subsequent withdrawal of, permit to construct home

Article 12: Variances and Appeals
Sec. 12.1.1 Variances

(a) That there are unique physical circumstances or conditions, including irregularity, narrowness, or shallowness of lot size or shape, or exceptional topographical or other physical conditions peculiar to the particular property, and that unnecessary hardship is due to such conditions, and not the circumstances or conditions generally created by the provisions of the zoning regulation in the neighborhood or district in which the property is located.

The lot is small at just 4,180 sf and 44' of road frontage. The lot is also steeply pitched except for the upper, easternmost end. The requested variance, however, does not relate to these particular characteristics. The subject property is the only one along the eastern side of Depot Street that does not also front on North Avenue. The buildings on these other properties are set close to North Avenue with relatively deep setbacks from Depot Street. The variance is requested because of the way the front yard setback is calculated per Table 4.4.5-3: *Residential District Dimensional Standards*. The front yard setback is based on the average of 2 adjacent lots on both sides of the subject lot, +/- 5'. In this case, the front yard setback is based on the average of three properties at 33, 55, and 1 North Avenue. These properties all have two front yards – on North Avenue and on Depot Street. Their front yard setbacks along Depot Street are 63', 56', and 116', respectively. The average of these setbacks is 78'. A 78' (+/- 5') on a 95' – 114' deep lot, combined with a rear yard setback of 25% results in an unbuildable lot. Compliance with the front yard setback is impossible. **(Affirmative finding)**

(b) That because of such physical circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of the zoning regulation and that the authorization of a variance is, therefore, necessary to enable the reasonable use of property.

As noted above, a 78' (+/- 5') front yard setback combined with a 25% rear yard setback results in virtually no building envelop. Compliance with the front yard setback is impossible. **(Affirmative finding)**

(c) The unnecessary hardship has not been created by the applicant.

The hardship relative to the front yard setback is related to the fact that front yard setback requirements are based on neighboring properties. It is not a hardship created by the applicant. **(Affirmative finding)**

(d) That the variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located, substantially or permanently impair the appropriate use or development of adjacent property, reduce access to renewable energy resources, nor be detrimental to the public welfare.

The variance from the requirements of the front yard setback would not alter the essential character of the neighborhood or district in which the subject property is located. The variance would enable the construction of a single family home on a vacant lot located within the waterfront medium density residential zone. **(Affirmative finding)**

(e) That the variance, if authorized, will represent the minimum variance that will afford relief and will represent the least deviation possible from the zoning regulation and from the plan.

The requested 10' front yard setback allows for a reasonable building envelope and minimizes encroachment into the steep slope on the property. **(Affirmative finding)**

(f) The variance, if granted, will not result in the extension of a non-complying situation or allow the initiation of a nonconforming use of land.

The variance from the front yard setback requirement would not result in the extension of a noncomplying situation or allow a nonconforming use of land. The variance would simply enable the construction of a single family home. **(Affirmative finding)**

II. MINUTES

The meeting minutes will be distributed separately upon review and approval by the Development Review Board.

III. MOTION

Motion: Austin Hart

I move that the Board grant approval of a variance from the front yard setback on the existing vacant lot at 31 North Avenue in the RM-W zone in accordance with Article 12. Approval is subject to the following conditions:

1. This variance approval is for relief from the front yard setback requirement of Table 4.4.5-3, *Residential District Dimensional Standards*.
2. No development is included in this approval. All development is subject to a separate zoning permit and must meet all other dimensional requirements.
3. Per Sec. 12.1.3, *Filing a Request, Public Hearing, and DRB Decision*, this variance approval shall be valid for a period of 2 years.

Seconded: Jonathan Stevens

Vote: 6-0-0, motion carried

Dated at Burlington, Vermont, this 24th day of October 2014

Respectfully Submitted,



Austin D. Hart, Development Review Board Chair

Please note that an interested person may appeal a decision of the Development Review Board to the Vermont Superior Court Environmental Division. (Zoning Ordinance Article 17, Section 17.1.7, Appeals of Development Review Board Decisions: An interested person may appeal a decision of the Development Review Board to the Vermont Superior Court Environmental Division. The appeal shall be taken in such a manner as the supreme court may by rule provide for appeals from state agencies governed by Sections 801 through 816 of Title 3). The Court rules may require that such an appeal be commenced within Thirty (30) days of the Board's decision.



Department of Planning and Zoning

149 Church Street, City Hall

Burlington, VT 05401-8415

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www.burlingtonvt.gov/pz

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AUG 23 2017

DEPARTMENT OF
PLANNING & ZONING

Time Extension Request

Use this form to request a one year time extension on any valid zoning permit.

Permits that were administratively approved can have time extension requests administratively reviewed and there is no

Permits that were reviewed by the Development Review Board, require a public meeting and there is a \$150 fee for the request to cover time and expenses for public notices.

PROJECT LOCATION ADDRESS: 31 NORTH AVENUE, DEPOT STREET LOT #188

PROPERTY OWNER*: CYNTHIA WHEELOCK SMITH

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

OWNER'S REPRESENTATIVE: _____

POSTAL ADDRESS: 10 ASCOT LANE

POSTAL ADDRESS: _____

CITY, ST, ZIP: UXBRIDGE, MA 01569

CITY, ST, ZIP: _____

DAY PHONE: 508 278 9242, 401 529-2845

DAY PHONE: _____

EMAIL: cindy5@isp.com

EMAIL: _____

SIGNATURE: Cynthia W Smith

SIGNATURE: _____

I am the owner and I duly authorize the owner's representative (if applicable) to act on my behalf for all matters pertaining to this zoning permit application.

Zoning Permit Number: 15-0339 VR

Summary of Approved Permit Description: VARIANCE FROM FRONT YARD SETBACK PROPERTY FRONTS DEPOT STREET

Summary of current status of project: SURVEYED, TOPOGRAPHIC MAPPED, PRELIMINARY ENGINEERING PLANS COMPLETED, BUILDERS AND ARCHITECTS CONSULTED

- Please ask for assistance if you have any questions about filling out this form. Call the Planning and Zoning at 802-865-7188, or the office in the lower level of City Hall, 149 Church Street.

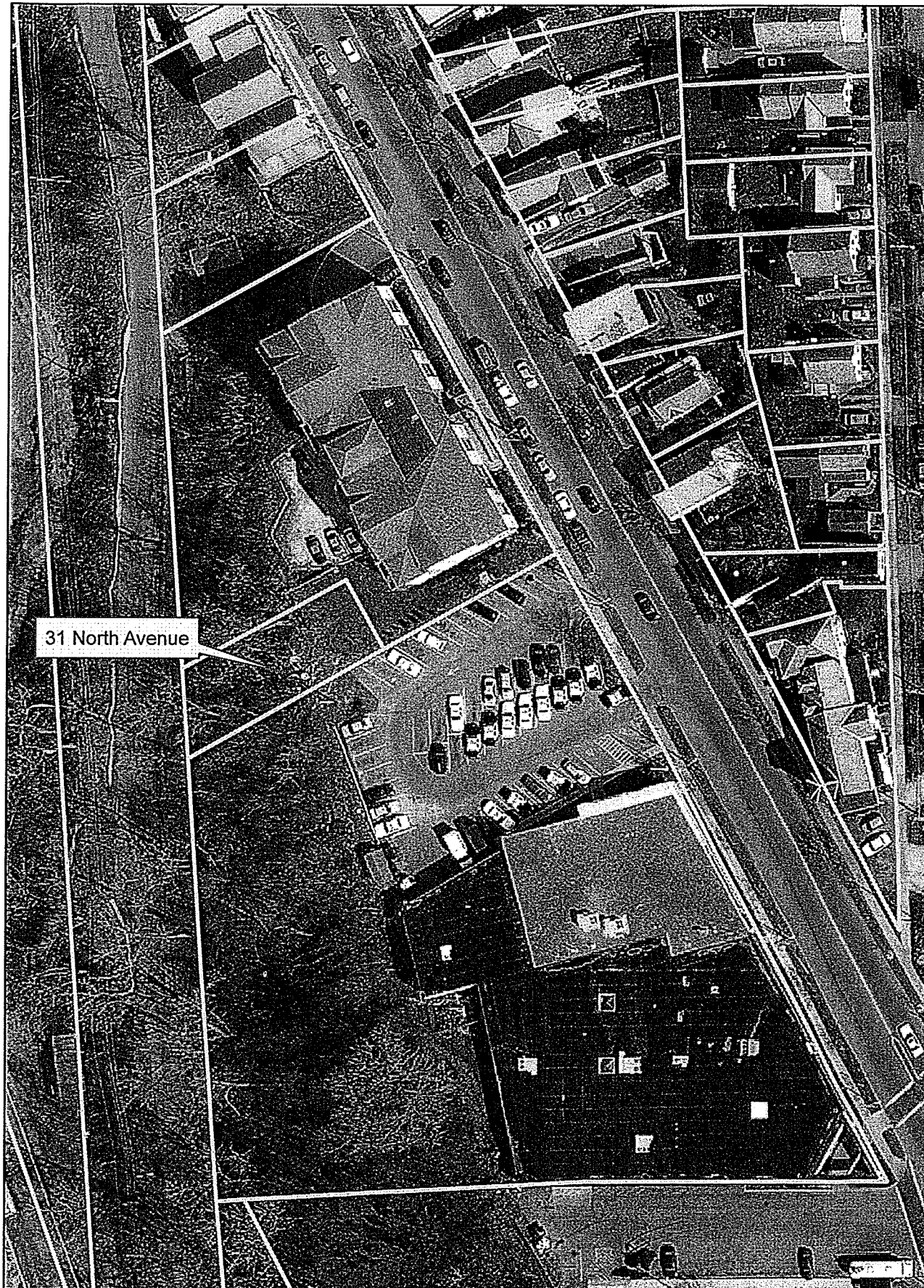
Office Use Only:

Check No. 5122

Amount Paid \$150

Zoning Permit # 15-0339V

31 North Avenue





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JUL 21 2017

DEPARTMENT OF
PLANNING & ZONING

July 21, 2017

Development Review Board
Burlington Department of Planning and Zoning
149 Church Street
Burlington, VT 05401

David White, Zoning Administrative Officer
Jeanne Francis, Asst. Zoning Admin Officer
Zoning Enforcement Officer
Code Enforcement Office
P.O. Box 849
Burlington, VT 05402

Dear Mr. White and Ms. Francis and Members of the Burlington Development Review Board:

Please be advised that I represent Pierre Gingue, and we are providing the following information in support of Mr. Gingue's appeal of Zoning Violation #335900, dated July 7, 2017 and received by Mr. Gingue on or about July 19, 2017. We are submitting this appeal in accordance with the terms of Sections 2.7.11 and 12.2.2 of the Burlington Comprehensive Development Ordinance.

Enclosed are the following:

1. Appeal of an Administrative Decision Request form;
2. Check in the amount of \$250;
3. Memo supplying additional required information.

We thank you for your attention and look forward to your response.

Very truly yours,

BROADFOOT, ATTORNEYS AT LAW

A handwritten signature in blue ink, reading "Cynthia L. Broadfoot".

Cynthia L. Broadfoot, Esq.
cbroadfoot@broadfootlaw.com

CLB/jk

Enclosures

cc: Pierre Gingue



Department of Planning and Zoning

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Burlington, VT 05401-8415

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Fax: (802) 865-7195

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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: 204 North Avenue

Subject Property Owner: Pierre Gingue

Appellant: Pierre Gingue

Agent/Representative: Broadfoot, Attorneys at Law

Mailing Address: 30 Main Street, Suite 322

City, St, Zip: Burlington, VT 05401

Day Phone: 802-863-7020

Email: cbroadfoot@broadfootlaw.com

Appellant Signature: Pierre Gingue

Date: 7/21/17

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. 1113 Amount Paid \$250. Zoning Permit # 18-0072 AP

Addendum to Appeal of an Administrative Decision Request
ZV# 335900

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JUL 21 2017

DEPARTMENT OF
PLANNING & ZONING

Appellant:

Pierre Gingue
PO Box 105
Hinesburg VT 05461

Relevant Property:

Address:	204 North Avenue
City of Burlington parcel ID:	038-4-113-000
Description:	3-unit residence

Regulatory References:

Burlington Comprehensive Development Ordinance
Articles: 2, 3, 5, 12

Relief Requested:

We request that the City of Burlington Code Enforcement Office withdraw its Notice of Violation against Mr. Gingue and the property at 204 North Road as it relates to its usage as a three dwelling unit structure.

In the alternative, the City of Burlington should issue an after-the-fact permit for the conversion from a two unit structure to a three unit structure.

Grounds for Requested Relief:

Pierre Gingue acquired the subject property on or about December 19, 2002. It is undisputed that the structure had 3 dwelling units at that time.

The prior owner had owned the property since 1979. When he bought the property, it was a duplex.

Addendum to Appeal of an Administrative Decision Request
ZV# 335900

In 1992, the prior owner moved out of the property, retaining it as an investment. He states that at that time, he converted the property from 2 units to 3 units. Accordingly, the property has been a 3-unit residence since 1992.

The prior owner obtaining building permits for the work but appears not to have obtained a zoning permit.

The subject property is located in Zone RM. Multi-family dwellings (3 or more) are a permitted use in Zone RM. We maintain that the usage as such began in 1992 and has continued to the present.

Pursuant to the City's assessor's records, this property has been recognized as a 3-unit structure since AT LEAST the 1994 revaluation. Additionally, the Code Enforcement Office has been aware that the subject property is a three unit dwelling since AT LEAST December 17, 2002 when it issued a routine inspection letter to the prior owner, Samuel Conant.

As set forth in the City's letter dated July 7, 2017, the City previously initiated an enforcement action against Mr. Gingue in January 2010.

To the extent that the property is in violation of City of Burlington regulations, the City has failed to timely enforce its own regulations and enforcement should be barred.

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JUL 21 2017

DEPARTMENT OF
PLANNING & ZONING



CODE ENFORCEMENT OFFICE

645A Pine St, PO Box 849
Burlington, VT 05402-0849
VOICE (802) 863-0442
FAX: (802) 652-4221

January 20, 2010

Mailed Certified Mail 7008 1300 0000 7240 1601
And FIRST CLASS MAIL

PIERRE GINGUE
345 GREYSTONE DRIVE
RICHMOND, VT 05477-7752

NOTICE OF VIOLATION AT:
204 NORTH AV, BURLINGTON, VT
TAX LOT #038-4-113-000

ZV # 190162

Dear PIERRE GINGUE,

It has come to the attention of this office that a zoning violation exists at the above address.

Description of Violation (NOV): Alterations to building elevations/appearances including, but not limited to, re-siding or window replacement (or addition) or other changes that alter trim details or otherwise change the exterior appearance (replacement of 16 windows) without an approved zoning permit.

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

Please be advised that persons who violate the CDO may be subject to fines of up to one hundred dollars (\$100.00) for each day that a violation continues. You may submit an application to correct the violation, however, be advised application and filing fees are increased for zoning permits required to correct a zoning violation (see Violation Details Remedy Options #2 and CDO Section 2.7.8).

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

This NOV is a decision of the Zoning Enforcement Officer, designee of the Burlington Zoning Administrator, and may be appealed to the Development Review Board in accordance with the provisions of CDO Sections 2.7.11 and 12.2.2 provided that such appeal is filed within fifteen (15) days of the date of this NOV (as indicated above), and accompanied by the appropriate fee in accordance with Sec. 3.2.4(a) of the CDO. Fee and complete application for the appeal shall be filed with the City's Department of Planning and Zoning (City Hall, 149 Church Street) by **4 pm on February 4, 2010**; an appeal shall not be perfected until the fee is received.

If you have any questions, please call me at 802-863-0442.

Sincerely,

Jeanne Francis
Zoning Specialist

Enclosures: Violation Details

Cc: Land Records for Tax Lot # 038-4-113-000

VIOLATION DETAILS

LOCATION: 204 NORTH AV

DECISION DATE: January 20, 2010

VIOLATION DESCRIPTION: Alterations to building elevations/appearances including, but not limited to, re-siding or window replacement (or addition) or other changes that alter trim details or otherwise change the exterior appearance (replacement of 16 windows) without an approved zoning permit.

FINDINGS:

- Building permit # 2022753 issued on December 17, 2002 for vinyl replacement of 16 windows. Building permit closed out June 10, 2004.
- No zoning permit on file approving replacement of 16 windows.

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

1) –Restoring the windows to their prior state, and informing the Code Enforcement Office that the violation has been removed so our office may verify compliance; or

2) - Obtaining approval of a zoning permit from the City's Department of Planning and Zoning for After The Fact Work – window replacement without an approved zoning permit (permit application fee is doubled if complete application is submitted within seven days from receipt of the NOV, tripled if a complete application is submitted 7-15 days from receipt of the NOV, or triple plus \$75 per hour of Code Enforcement staff time (up to \$500) if a completed application is submitted after 15 days from date of NOV receipt). See CDO Section 2.7.8.

PLEASE NOTE: If the zoning permit request is denied, the violation is NOT cured. Owner shall be required to remove the violation as noted in #1 above or request an agreement as noted in #3 below within five (5) business days from date of the permit denial to remedy the violation; or

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

APPEAL RIGHTS: You have the right to appeal the enforcement officer's decision that a zoning violation exists on your property to the Development Review Board in accordance with the provisions of Articles 2.7.11 and 12.2.2 of the CDO within fifteen (15) days from the date of this notice. **The deadline for filing an appeal is 4 pm on February 4, 2010.** Submit a complete application with ZV# and appropriate fee to the Department of Planning and Zoning, accompanied by a memo stating the ZV#, the owner's name and address, a brief description of the property with respect to which the appeal is taken, a reference to the regulatory provisions applicable to that appeal, the relief you are requesting, and the alleged grounds why such relief is believed proper under the circumstances. *Failure to appeal constitutes admission that the violation exists, and the decision of the enforcement officer shall be binding 24 V.S.A §4472(d).*

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



CODE ENFORCEMENT OFFICE

645A Pine St, PO Box 849
Burlington, VT 05402-0849
VOICE (802) 863-0442
FAX: (802) 652-4221

January 20, 2010

Mailed Certified Mail 7008 1300 0000 7240 1618
And FIRST CLASS MAIL

PIERRE GINGUE
345 GREYSTONE DRIVE
RICHMOND, VT 05477-7752

NOTICE OF VIOLATION AT:
204 NORTH AV, BURLINGTON, VT
TAX LOT #038-4-113-000

ZV # 191179

Dear PIERRE GINGUE,

It has come to the attention of this office that a zoning violation exists at the above address.

Description of Violation (NOV): Change of use from a single family dwelling to a triplex without an approved zoning permit. .

Burlington Comprehensive Development Ordinance (CDO) Article(s): 2, 3, 5, 12, and 24 VSA §4451.

Please be advised that persons who violate the CDO may be subject to fines of up to one hundred dollars (\$100.00) for each day that a violation continues. You may submit an application to correct the violation, however, be advised application and filing fees are increased for zoning permits required to correct a zoning violation (see Violation Details Remedy Options #2 and CDO Section 2.7.8).

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

This NOV is a decision of the Zoning Enforcement Officer, designee of the Burlington Zoning Administrator, and may be appealed to the Development Review Board in accordance with the provisions of CDO Sections 2.7.11 and 12.2.2 provided that such appeal is filed within fifteen (15) days of the date of this NOV (as indicated above), and accompanied by the appropriate fee in accordance with Sec. 3.2.4(a) of the CDO. Fee and complete application for the appeal shall be filed with the City's Department of Planning and Zoning (City Hall, 149 Church Street) by **4 pm on February 4, 2010**; an appeal shall not be perfected until the fee is received.

If you have any questions, please call me at 802-863-0442.

Sincerely,

Jeanne Francis
Zoning Specialist

Enclosures: Violation Details

Cc: Land Records for Tax Lot # 038-4-113-000

VIOLATION DETAILS

LOCATION: 204 NORTH AV

DECISION DATE: January 20, 2010

VIOLATION DESCRIPTION: Change of use from a single family dwelling to a triplex without an approved zoning permit.

FINDINGS:

- August 19, 1992 Building Permit identifies use as a single family house.
- Assessor's Records identify the use as a duplex.
- Note on Assessor's records that the use was 2 and changed to 3 units on 10/21/1993.

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

1) - Restoring use to a single family use (remove 2 dwelling/living units) and informing the Code Enforcement Office that the violation has been removed so our office may verify compliance; or

2) - Obtaining approval of a zoning permit from the City's Department of Planning and Zoning for After the Fact change of use from a single family use to a triplex without an approved zoning permit (permit application fee is doubled if complete application is submitted within seven days from receipt of the NOV, tripled if a complete application is submitted 7-15 days from receipt of the NOV, or triple plus \$75 per hour of Code Enforcement staff time (up to \$500) if a completed application is submitted after 15 days from date of NOV receipt). See CDO Section 2.7.8. **PLEASE NOTE:** If the zoning permit request is denied, the violation is NOT cured. Owner shall be required to remove the violation as noted in #1 above or request an agreement as noted in #3 below within five (5) business days from date of the permit denial to remedy the violation; or

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

APPEAL RIGHTS: You have the right to appeal the enforcement officer's decision that a zoning violation exists on your property to the Development Review Board in accordance with the provisions of Articles 2.7.11 and 12.2.2 of the CDO within fifteen (15) days from the date of this notice. **The deadline for filing an appeal is 4 pm on February 4, 2010.** Submit a complete application with ZV# and appropriate fee to the Department of Planning and Zoning, accompanied by a memo stating the ZV#, the owner's name and address, a brief description of the property with respect to which the appeal is taken, a reference to the regulatory provisions applicable to that appeal, the relief you are requesting, and the alleged grounds why such relief is believed proper under the circumstances. *Failure to appeal constitutes admission that the violation exists, and the decision of the enforcement officer shall be binding 24 V.S.A §4472(d).*

REGULATION CITATION: CDO Article(s): 2, 3, 5, 12 and 24 VSA §4451

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, Principal Planner
Mary O'Neil, AICP, Principal Planner
Ryan Morrison, Associate Planner
Layne Darfler, Planning Technician
Anita Wade, Zoning Clerk



MEMORANDUM

To: Development Review Board
From: Ryan Morrison, Associate Planner
Date: October 3, 2017
RE: ZP18-0222CA; 2-14 King 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: ZP18-0222CA

Location: 2-14 King Street

Zone: DW-PT **Ward:** 3C/5S

Date application accepted: August 25, 2017

Applicant/ Owner: Lake Champlain Transportation Company

Request: Removal of 5,000 gallon partially underground fuel tank, piping, and 3 concrete islands for dispensers. Installing a 10,000 gallon above ground fuel tank with a concrete pad, anchor bolts, new piping, and 3 islands for dispensers. Also, install 12 concrete filled bollards surrounded by a wooden fence.

Applicable Regulations: Article 2 (Administrative Mechanisms), Article 4 (Zoning Maps & Districts), Article 5 (Citywide General Regulations), Article 6 (Development Criteria & Guidelines)

Background:

- Zoning Permit 17-0974CA/CU; Install exterior removable deck panels and retractable awning. Remove three windows in front of building. Approved May 23, 2017.
- Zoning Permit 16-0808CA/CU; Replace ticket booth, flood plain area. Approved March 7, 2016.
- Zoning Permit 13-1051NA; Replace existing painted mural on western wall of Woodbury building with new painted mural. Approved May 2013.
- Zoning Permit 12-0968SN; Installation of one parallel, non-illuminated sign for the Lake Monsters Team Headquarters. Approved April 2012.
- Zoning Permit 11-1054NA; Repair of building due to flood. Approved June 2011.
- Zoning Permit 10-0482CA; Add trussed gable roof over top of existing flat roof section of Ferry Office. Siding to be T111 to match existing. Approved November 2009.
- Zoning Permit 08-532CA; Convert 1,120 sf +/- of retail space to office space. Approved February 2008.

- Zoning Permit 05-412CA; Roof renovations to create 3/12 pitch roof over flat roofs. Approved February 2005.
- Zoning Permit 04-483; Installation of ticket window. Approved April 2004.
- Zoning Permit 03-515; Phase 1 of COA 03-034 / ZP# 03-328. Excavate sandy gravel mix in parking area. Excavate and install five 20 ft tall pole lights with shoe box style 150-watt metal halide fixtures. Install new sur pac crushed stone to replace gravel mix. Approved May 2003.
- Zoning Permit 03-328; Replace existing café and grill building (Breakwaters) with new 6,870 sf building with 3 ft high seawall base and an increase in seating for café and grille use. Approved February 2003.
- Zoning Permit 01-321; Installation of three signs for the existing maritime museum. One sign – a new face in an existing internally illuminated rooftop mounted frame; one non-illuminated parallel sign, measuring 10' x 12'; and one non-illuminated freestanding sign as entry gate to the museum. Approved February 2001.
- Zoning Permit 01-317; Change of use from vacant commercial (boat storage and lumber warehouse) to Lake Champlain Maritime Museum. No exterior changes proposed; boat reconstruction conducted within existing structure. Approved February 2001.
- Zoning Permit 01-103; Installation of a non-illuminated historical interpretive marker (Steamboats and Shortcuts), 2' x 3', at the King Street ferry dock. Approved August 2000.
- Zoning Permit 00-502; Change of use from a portion of the existing retail space into a convenience food/Creemee stand at the existing ferry dock structure. Proposal includes replacing the existing t1-11 with vinyl siding and replacing the chain link fencing with 5' Stockade style fencing. Approved May 2000.
- Zoning Permit 99-555; Amend previously approved ZP #99-348 for 5 finger docks, to include a marine gas float extension. Approved June 1999.
- Zoning Permit 99-348; Installation of five (5) finger docks along the west side of the existing King Street ferry dock facility. Approved February 1999.
- Zoning Permit 96-196; Installation of vertical metal siding to match existing on the open end of the maintenance shed. Proposal includes installation of two overhead garage doors. Approved October 1995.
- Zoning Permit 94-200; Construction of a 20' x 20' single story unheated storage shed, sided with T1-11, for the existing Lake Champlain Transportation Company. Approved.
- Zoning Permit 92-254; Construction of a handicapped accessible bathroom, with ramp, as an addition to the existing ferry terminal and office. Approved April 1992.
- Zoning Permit 91-354; Construction of a 12' x 16' structure to house refrigeration and freezer units directly in front of The Crossing's restaurant. Materials to match existing. Approved May 1991.

Overview: The applicant seeks approval to remove an existing 5,000 gallon fuel tank and its associated piping and concrete dispenser islands, and replace it with a 10,000 gallon, above

ground fuel tank. The project will have an associated concrete pad, anchor bolts, piping, and 3 dispenser islands. 12 concrete bollards and a wooden fence are also proposed to surround the tank.

The site is located within the Special Flood Hazard Area (SFHA), Zone AE – base flood elevation 102’ above sea level. The elevation at the existing fuel tank is approximately 98’ above sea level. This application is subject to review under the SFHA 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 1, 2017. A response has not yet been received. Any comments received within the 30 day review period will be incorporated into this approval.

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

I. Findings:

Article 2: Administrative Mechanisms

Part 7: Enforcement

Sec. 2.7.8, Withhold Permit

Nineteen zoning permits have been approved for the subject property. Less than half have final certificates of occupancy. Per this criterion, all prior zoning permits requiring certificates of occupancy must be closed out with final certificates of occupancy prior to closing out this new zoning permit. **(Affirmative finding as conditioned)**

Article 4: Zoning Maps & Districts

Sec. 4.4.1, Downtown Mixed Use Districts:

(a) Purpose

(4) Downtown Waterfront – Public Trust District (DW-PT)

The subject property is located in the DW-PT zone. This zone is intended to enhance and diversify commercial and residential development in the downtown waterfront area, and to increase access, utilization, and enjoyment of the lakeshore by the community. Strong emphasis is placed on enhanced public access to the lakeshore. The overall use of the property is consistent with the intent of the underlying zone, and fuel tanks serve an integral function for daily operation. **(Affirmative finding)**

(b) Dimensional Standards & Density

Table 4.4.1-1 Dimensional Standards and Intensity

Commercial density/intensity limitations are not applicable as they are based on the floor area ratio of a structure. The fuel tank has no floor area.

Property line setbacks are not applicable here as the fuel tank is located in an area of the property that borders the Lake Champlain shoreline and the ferry queue lines (not a public street). However, a shoreline setback is applicable – see Sec. 4.4.1 (d) 5 below. Additionally, the height

of the replacement fuel tank will be far below the 35 ft height maximum. Finally, the underlying zone allows for 100% lot coverage. **(Affirmative finding)**

(c) Permitted and Conditional Uses

The fuel tank is accessory to the existing, permitted ferry terminal use. See Sec. 4.4.1 (d) (2) (b) below. **(Affirmative finding)**

(d) District Specific Regulations

1. Use Restrictions

No ground floor residential uses are being sought. **(Not applicable)**

2. Public Trust Restrictions

(b) Permitted Uses: Maple to Main Street

Facilities for transporting pedestrians and vehicles upon Lake Champlain by ferry and cruise vessels, including necessary docks, wharfs, maintenance facilities, administrative offices, gift shops, snack bars and related parking facilities are uses permitted in the DW-PT district between Maple Street and Main Street. The associated fuel tank is a permitted use. **(Affirmative finding)**

3. Facades and Setbacks on Side and Rear Property Lines

No reduced setbacks are being sought. **(Not applicable)**

4. Building Height Setbacks

No exceptions to the building height setbacks are proposed. **(Not applicable)**

5. Lake Champlain Waterfront Setback

The existing, partially underground fuel tank is approximately 9 feet from the Lake Champlain shoreline, well within the 50 ft setback from the Lake Champlain mean high water mark. The replacement tank will maintain the same setback as existing. **(Affirmative finding)**

a. Additions to Existing Structures

Where a structure, existing as of the effective date hereof, encroaches into the required waterfront setback, no additions to or replacement of that structure may further encroach into the required setback beyond the footprint of the existing building.

While the project is a complete replacement, not an addition to the existing fuel tank, the replacement fuel tank will maintain the same setback from the high water mark as the existing fuel tank, approximately 9 ft. **(Affirmative finding)**

b. Averaging of Setbacks

If the waterfront setback of principle structures on adjacent lots, existing as of the effective date hereof, within a distance of one hundred fifty (150) feet on either or both sides of a lot encroaches into the waterfront setback, the required setback may be reduced to the average setback of such structures.

Due to the shape and orientation of the subject property, there are no adjacent properties from which to take an average building setback and apply it to the fuel tank setback. However, the existing marina building immediately adjacent to the existing fuel tank encroaches further toward the waterfront. **(Affirmative finding)**

6. Residential District Setback

No residential districts about the subject property. **(Not applicable)**

7. Development Bonuses/Additional Allowances

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

Sec. 4.5.4, Natural Resource Protection Overlay District:

(f) District Specific Regulations: Special Flood Hazard Area

3. Permitted Uses in Special Flood Hazard Areas (including Floodway areas)

A. All those permitted open space uses as listed in Section 4.5.4(f).2 above shall be permitted in the Special Flood Hazard Areas.

B. All other uses permitted in the underlying zoning district are permitted only upon review and approval by the DRB as per subpart 7 below.

As stated in Sec. 4.4.1(d).2 above, facilities for transporting pedestrians and vehicles upon Lake Champlain by ferry and cruise vessels, including necessary docks, wharfs, maintenance facilities, administrative offices, etc. are permitted within the Maple to Main Street section of the DW-PT zoning district. **(Affirmative finding)**

7. Special Review Criteria

A. The danger to life and property...

The replacement fuel tank (27' 3" x 91") will occupy less area than the current partially underground fuel tank. The applicant intends to anchor the new tank to prevent potential flotation during a flooding event, in accordance with NFIP (National Flood Insurance Program) standards. Under NFIP requirements, all new construction and substantial improvements, both elevated and floodproofed, be adequately anchored to prevent flotation, collapse, or lateral movement during flooding events. While the underlying concrete pad will encompass a larger area, it will be on the existing grade and will not create danger to life and property. The associated fuel dispensers, bollards, and fence will need to be anchored to the ground. Electrical supply will be required to be designed and/or located to prevent water from entering or accumulating within the components during flooding events. **(Affirmative finding as conditioned)**

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

See Sec. 4.5.4 (f) (7) (A) above. It is a specific NFIP requirement that new construction and/or substantial improvements to structures be designed and adequately anchored to prevent flotation, collapse, or lateral movement during the occurrence of a flooding event. **(Affirmative finding as conditioned)**

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

No new water supply or sanitation systems are proposed. **(Not applicable)**

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

See Sec. 4.5.4 (f) (7) (A) above. The fuel tank itself is water resistant. **(Affirmative finding)**

E. The importance of the services provided...

The proposed fuel tank replacement will continue to play a vital role in the overall operations of the Lake Champlain ferry terminal. **(Affirmative finding)**

F. The availability of alternative locations...

Almost the entire property is located within the SFHA. The location of the fuel tank and dispensers are specifically needed to be near the waterfront. Building within the SFHA is acceptable as long as the requirements of this section, as well as those of the NFIP, are met. **(Affirmative finding)**

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

The proposal is to replace an integral part of an historic Lake Champlain ferry terminal. This terminal has been a staple of the area since the early-1800s, and will remain so well into the future. **(Affirmative finding)**

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

Insofar as Lake Champlain transportation facilities are a permitted use in the DW-PT zone, and insofar as the replacement fuel tank will be constructed as required by floodplain regulations, the proposed tank can be found in compliance with the Municipal Development Plan. **(Affirmative finding)**

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

The property is generally between the 98' and 102' contour lines. Development already extends across this elevation range throughout the site. The existing, partially underground, fuel tank is approximately 98 ft above sea level. A significant flood could result in inundation of a few feet, so emergency vehicle access to all areas of the property could prove difficult; however, the replacement fuel tank is not creating a situation that does not already exist. Emergency vehicle access to this site during times of flooding is via King Street. King Street rises in elevation steadily as one travels eastward from the subject site. **(Affirmative finding)**

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

The maximum regulatory flood elevation along the lakeshore is 102' above sea level. High-velocity wave action could pose a threat to the integrity of the fuel tank, dispensers and fence, and as such, should be examined as part of an engineer's or architect's evaluation of the structure. The duration of flooding and the rate of its rise depend entirely on spring snowmelt and precipitation events. The lake has risen above 102' just once on record (spring 2011). Sediment transport as a result of lake flooding is minimal. In an effort to avoid the harmful effects of flood waters at the site, the applicant proposes to provide anchoring to prevent transport of the materials in case of a flood event. **(Affirmative finding as conditioned)**

K. Conformance with all other applicable requirements...

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

Article 5: Citywide General Regulations

Sec. 5.2.3, Lot Coverage Requirements

See Sec. 4.4.1 (b) above.

Sec. 5.2.4, Buildable Area Calculation

Not applicable.

Sec. 5.2.5, Setbacks

See Sec. 4.4.1 (d) (5) above.

Sec. 5.2.6, Building Height Limits

See Sec. 4.4.1 (b) above.

Sec. 5.2.7, Density and Intensity of Development Calculations

See Sec. 4.4.1 (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

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

Sec. 5.5.3, Stormwater and Erosion Control

The existing fuel tank is surrounded by asphalt. The new tank will situate itself on a new concrete pad, and continue to be surrounded by asphalt. The project will not result in new impervious surfaces. **(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

Nothing about the site will change considering this is a replacement project. **(Affirmative finding)**

Part 3, Architectural Design Standards

Sec. 6.3.2, Review Standards

(a) Relate development to its environment

1. Massing, Height, and Scale

The replacement fuel tank (27' 3" x 91", 8' 6" tall) will have a near identical appearance to the other existing above ground fuel tank located within a few feet to the south. **(Affirmative finding)**

2. Roofs and Rooflines

Not applicable.

3. Building Openings

Not applicable.

(b) Protection of important architectural resources

There are no historic structures on or near the subject property. **(Affirmative finding)**

(c) Protection of important public views

The replacement tank will be 8' 6" in height. Important public views will not be impacted. **(Affirmative finding)**

(d) Provide an active and inviting street edge

Not applicable.

(e) Quality of materials

The tank will be made of a mild carbon steel. The dispensers have cabinet panels that are galvanized steel and supports that are galvanized steel. The proposed fence will be constructed out of wooden fir slats. **(Affirmative finding)**

(f) Reduce energy utilization

Not applicable.

(g) Make advertising features complimentary to the site

No advertising features are included with the proposal. Not applicable.

(h) Integrate infrastructure into the building design

The new tank will be screened by an 8' tall solid wood fence. **(Affirmative finding)**

(i) Make spaces safe and secure

The new tank will be protected by surrounding concrete bollards and a wooden fence. **(Affirmative finding)**

II. Conditions of Approval

1. Per **Section 2.7.8, Withhold Permit**, all zoning permits issued after July 13, 1989 must be closed out (issued a Certificate of Occupancy) prior to issuance of a Final Certificate of Occupancy for this permit. See attached permit list.
2. This approval incorporates timely comments and stipulations issued by the State National Floodplain Insurance Program Coordinator at VT DEC as related to this project.
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 state or federal permit(s) as may be required, and shall meet all energy efficiency codes as required.
4. Special Flood Hazard Area Conditions as per Sec. 4.5.4 (f) 8:
In all Special Flood Hazard Areas (including Floodway areas) conditions require that:
C. All development:
(i) New construction and/or substantial improvements to structures shall be reasonably safe from flooding and be:

1. Designed and adequately anchored to prevent flotation, collapse, or lateral movement during the occurrence of the base flood;
 2. Constructed of materials resistant to flood damage;
 3. Constructed by methods and practices that minimize flood damage; and
 4. Constructed with electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;
- (ii) All development shall be designed to minimize flood damage to the proposed development and to public facilities and utilities;
- (iii) All development shall be designed to provide adequate surface drainage to reduce exposure to flood hazards;
- (iv) All new construction and substantial improvements that have fully enclosed areas below the lowest floor shall:
1. Be solely used for parking of vehicles, storage, or building access, and such a condition shall clearly be stated on any permits; and,
 2. Be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Such designs must be certified by a registered professional engineer or architect, or meet or exceed the following minimum criteria: A minimum of two openings of two walls having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be no higher than one foot above grade. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters;
- (v) All necessary permits be obtained from those governmental agencies from which approval is required by federal or state law.
- D. Residential Development:
- (i) Not applicable
- E. Non-Residential Development:
- (i) All new construction and substantial improvements for nonresidential purposes shall have the lowest floor, including basement, elevated one foot or more above the base flood elevation. Existing non-residential structures may be flood proofed where designed to be watertight to one foot or more above the base flood elevation, with walls substantially impermeable and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A permit for a proposed building to be flood proofed shall not be issued until a registered architect or engineer has reviewed the structural design, specifications and plans and has certified that the design and methods of construction are in accordance with meeting the provisions of this subsection.
- F. Water Supply Systems:
- Not applicable.

G. On-Site Waste Disposal Systems:

Not applicable.

H. Recreational Vehicles:

Not applicable.

5. Standard permit conditions 1-15



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AUG 25 2017

Department of Planning and Zoning

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

2 King St

DEPARTMENT OF
PLANNING & ZONING

www.burlingtonvt.gov/pz

Zoning Permit Application

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

PROJECT LOCATION ADDRESS: 1 King Street Dock, Burlington, VT 05401

PROPERTY

OWNER*: Lake Champlain Transportation Co.

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

POSTAL ADDRESS: 1 King Street Dock

CITY, ST, ZIP: Burlington, VT, 05401

DAY PHONE: 802-864-9804

EMAIL: Beaub@ferries.com

SIGNATURE:

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

APPLICANT: Lake Champlain Transportation Co.

POSTAL ADDRESS: 1 King Street Dock

CITY, ST, ZIP: Burlington, VT, 05401

DAY PHONE: 802-864-9804

EMAIL: Beaub@ferries.com

SIGNATURE:

Description of Proposed Project: Removal of 5,000 gallon partially underground fuel tank, piping, and 3 concrete islands for dispensers.

Installing 10,000 gallon above ground fuel tank with 14' x 28' concrete pad, anchor bolts, new piping, and 3 islands for dispensers.

Also 12 concrete filled bollards surrounded by an 8' high wooden fence. see attached for complete tank dimensions and location.

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

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

- **Does your project involve new construction, addition, alteration, renovation, or repair to a structure that is heated or cooled?** Yes ☐ No ☒
(If yes, the Vermont Residential Building Energy Standards (VRBES) apply. Visit the Office, Public Service Board or PSB website for details)
- **Will 400 sq ft or more of land be disturbed, exposed and/or developed?** Yes ☒ No ☐
(If yes, you will need to submit the 'Erosion Prevention and Sediment Control Plan' questionnaire, with a site plan)
- **For Single Family & Duplex, will total impervious area be 2500 sq ft or more?** Yes ☐ No ☒
(If yes, you will need to submit the 'Stormwater Management Plan' questionnaire, with a site plan)
- **Are you proposing any work within, below, or above the public right of way?** Yes ☐ No ☒
(If yes, you will need to receive prior approval from the Department of Public Works)
- **Are you proposing any onsite food or beverage production/manufacturing?** Yes ☐ No ☒
(If yes, you will need to consult with Water Resources Division at the Department of Public Works: 863-4501)

Estimated Construction Cost (value)*: \$131,600.00

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

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

Office Use Only: Zone: DW-PT Eligible for Design Review? ☒ Y Age of House _____ Lot Size 212939
Type: SN _____ AW _____ FC _____ BA _____ COA 1 _____ COA 2 ☒ X COA 3 _____ CU _____ MA _____ VR _____ HO _____ SP _____ DT _____ MP _____
Check No. _____ Amount Paid \$373.20 Zoning Permit # 18-0222CA

Ryan Morrison

From: Ryan Morrison
Sent: Friday, September 01, 2017 8:57 AM
To: 'Pfeiffer, Rebecca'
Subject: DEC Notification - City of Burlington - 1 King Street Dock fuel tank installation
Attachments: 1.pdf

Good morning Rebecca.

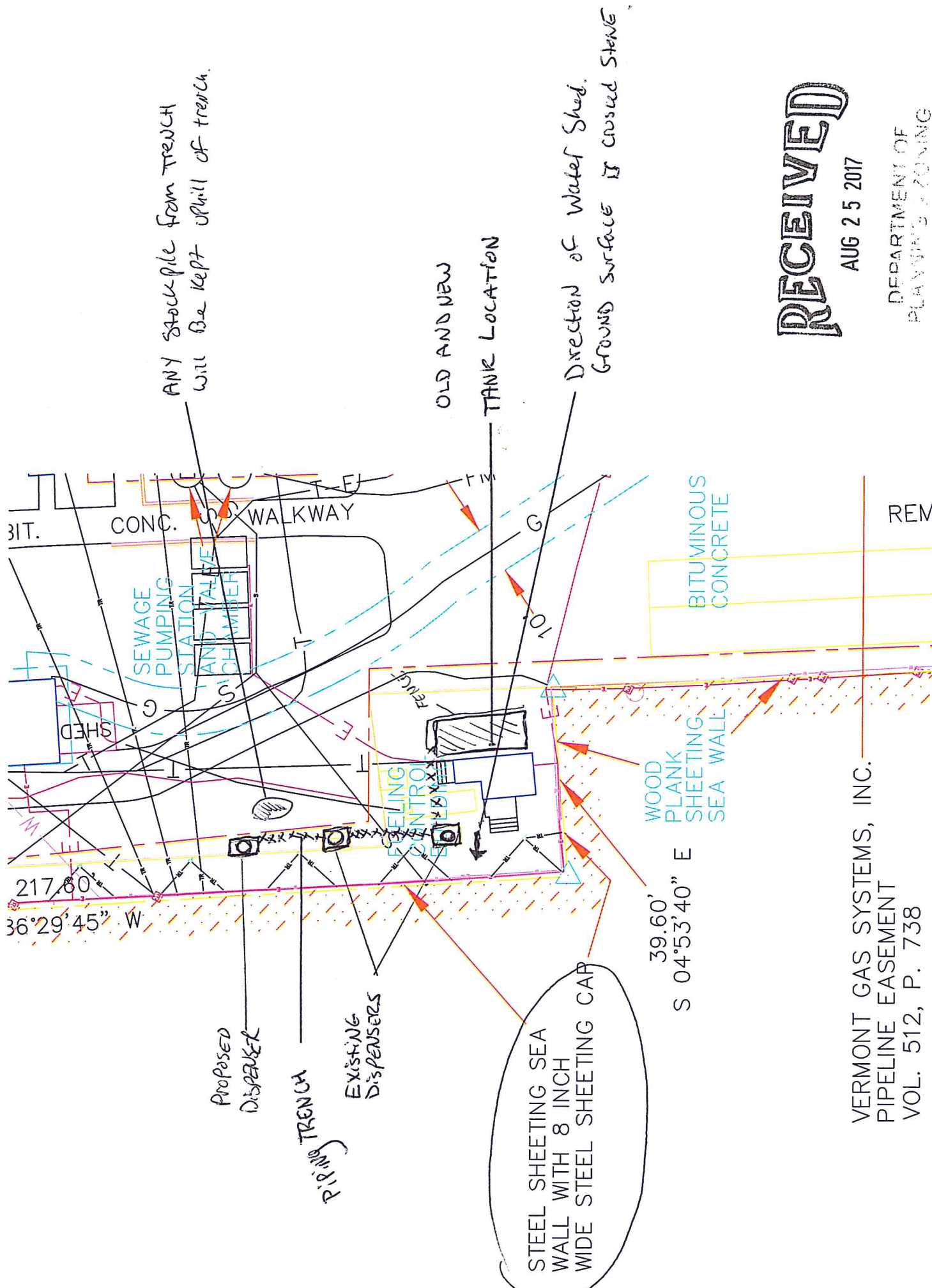
I am attaching a permit application for the removal of an existing partially underground fuel tank and the replacement with an above ground, 10,000 gallon fuel tank and fence at 1 King Street Dock (Champlain Ferries) for your review. The meeting is scheduled for the October 3, 2017 DRB meeting.

This should satisfy our mandatory 30-day DEC notification requirement... Let me know if you need anything else.

Thanks Rebecca!! Take care

Ryan Morrison, CFM
Associate Planner
City of Burlington
802-865-7190

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



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DEPARTMENT OF
PLAYING ZONE

VERMONT GAS SYSTEMS, INC.
PIPELINE EASEMENT
VOL. 512, P. 738

PROJECT SITE

Legend

- Breakwater Café & Grill
- EXISTING TANK
- Feature 1
- Feature 2
- MARINA BUILDING

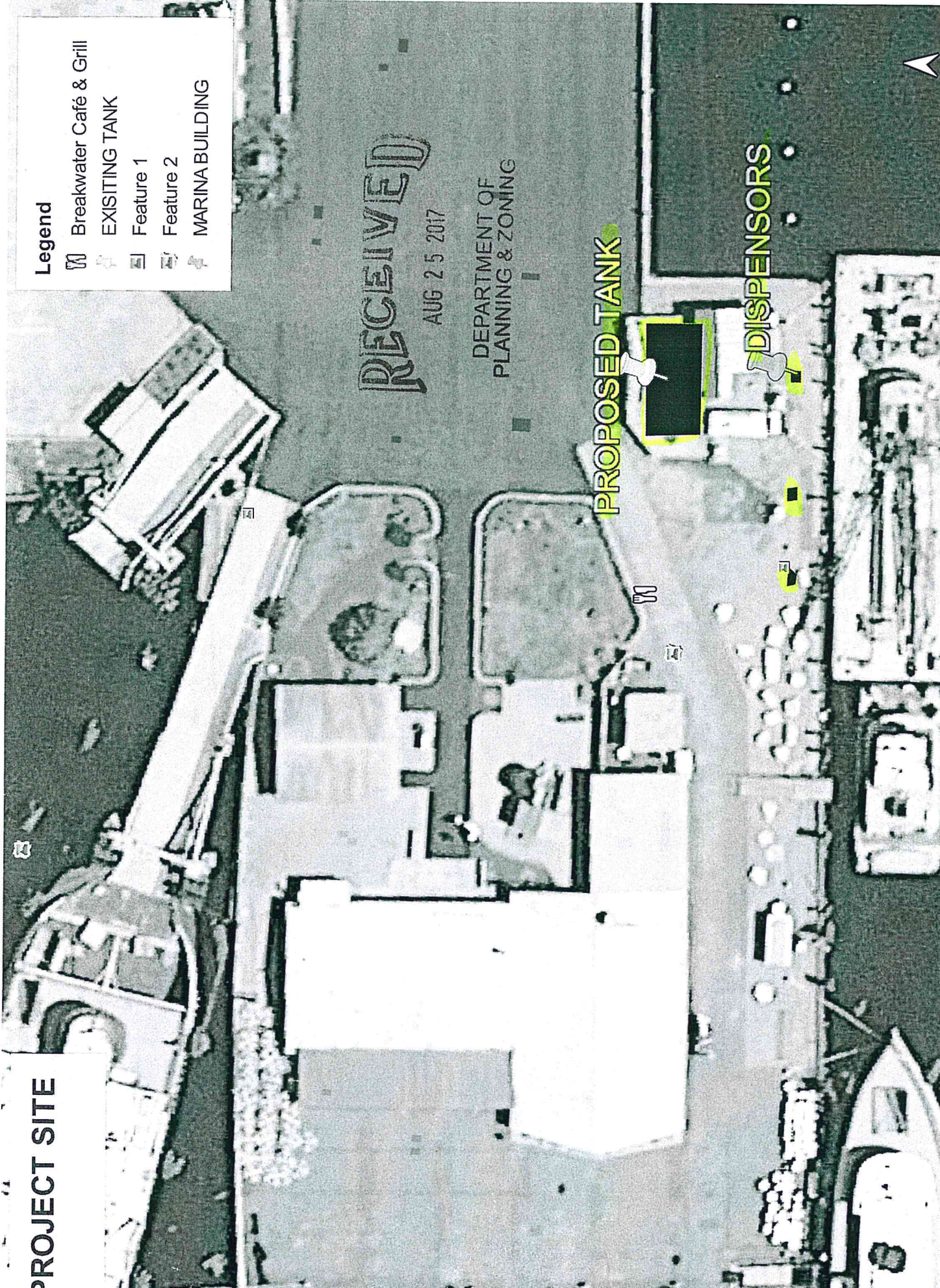
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DEPARTMENT OF
PLANNING & ZONING

PROPOSED TANK

DISPENSORS



PROJECT SITE

Legend

- Breakwater Café & Grill
- EXISTING TANK
- Feature 1
- Feature 2
- MARINA BUILDING

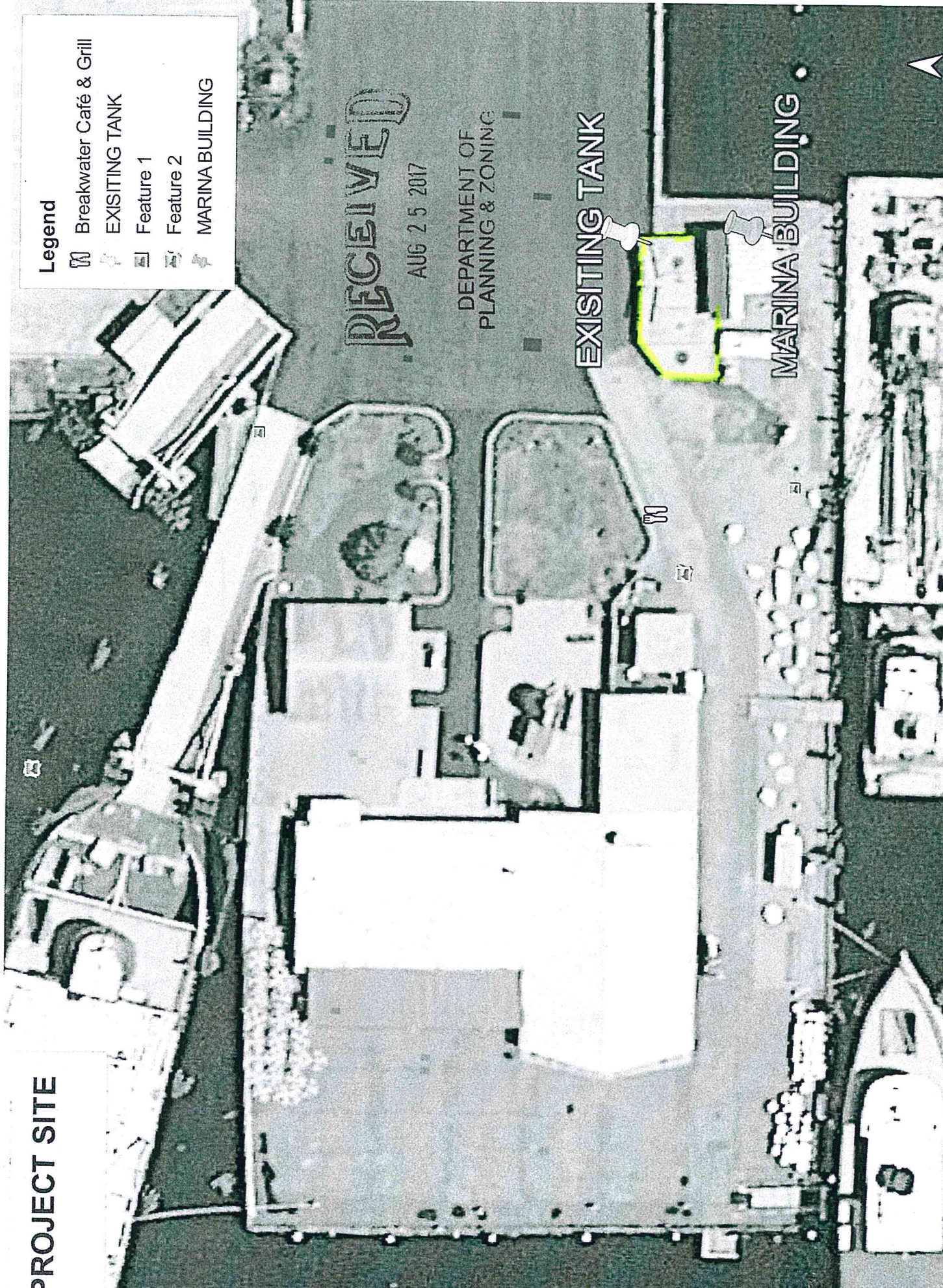
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DEPARTMENT OF
PLANNING & ZONING

EXISTING TANK

MARINA BUILDING



DEPARTMENT OF
PLANNING & ZONING

11.11.17 6 PROPOSED NEW INNK LOCATION

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AUG 25 2017

DEPARTMENT OF
PLANNING & ZONING

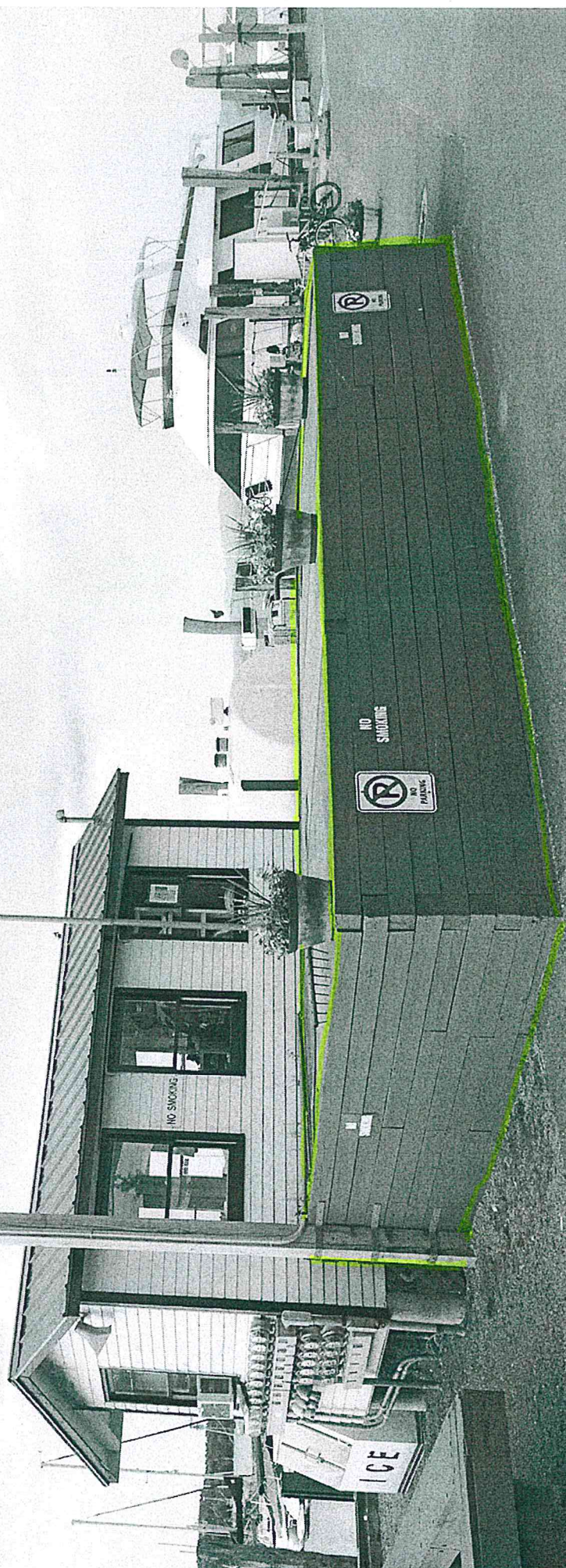


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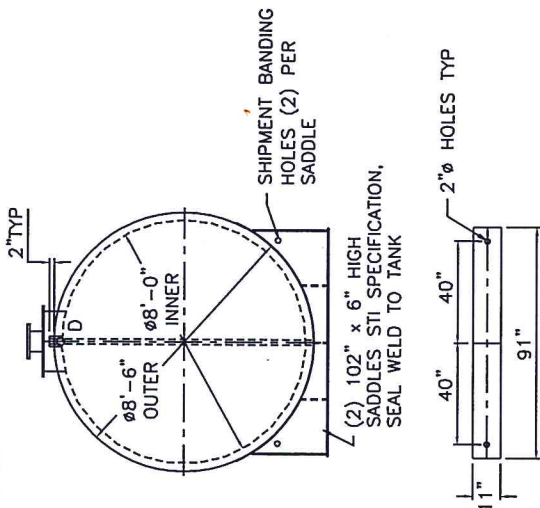
DEPARTMENT OF
PLANNING & ZONING



ALL RIGHTS RESERVED. THIS DRAWING IS THE PROPERTY OF HIGHLAND TANK COMPANY AND MUST NOT BE REPRODUCED IN ANY MANNER WITHOUT THE WRITTEN PERMISSION OF HIGHLAND TANK COMPANY. HIGHLAND TANK COMPANY SHALL BE RESPONSIBLE FOR THE CORRECTNESS OF THIS DRAWING. HIGHLAND TANK COMPANY SHALL BE RESPONSIBLE FOR THE CORRECTNESS OF THE SIZE AND LOCATION OF FITTINGS, ACCESSORIES, AND OTHER DETAILS SHOWN ON THIS DRAWING. HIGHLAND TANK COMPANY SHALL BE RESPONSIBLE FOR THE CORRECTNESS OF THE INSTALLATION OF THIS TANK. HIGHLAND TANK COMPANY SHALL BE RESPONSIBLE FOR THE CORRECTNESS OF THE FINISH PAINT IS SHOWN ON THIS DRAWING. HIGHLAND TANK COMPANY SHALL BE RESPONSIBLE FOR THE CORRECTNESS OF THE FINISH PAINT IS SHOWN ON THIS DRAWING.

SHIP LOOSE
(2) 8" FLANGED EMERGENCY VENTS

SHIPPING LUGS AS NEEDED



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AUG 25 2017
DEPARTMENT OF
PLANNING & ZONING

DESIGN DATA

ACITY : 10,000 GALLON
TYPE : FIREGUARD® CYLINDRICAL
NOTE : FIREGUARD® IS A TRADEMARK OF THE STEEL TANK INSTITUTE
REQ. - - -
OPERATING PRESSURE - ATMOSPHERIC
CGIC GRAVITY = 1.0
CL MATERIAL - MILD CARBON STEEL
KNES - INNER - HEADS: 5/16" SHELL: 1/4"
KNES - OUTER - HEADS: 5/16" SHELL: 1/4"
GAUGE OR THICKNESS (PER U.L. 2085)
STRUTION - INNER - LAP WELD OUTSIDE ONLY
STRUTION - OUTER - LAP WELD OUTSIDE ONLY
TEST - PER U.L. 2085
FINISH - NONE
FINISH - SP-6 BLAST, FINISH PAINT WHITE
UL - UL 2085 AND FIREGUARD® PER st

FITTING LEGEND

A	4" FEMALE FG COUPLING
B	8" FFSO 150# FLANGE - PRIMARY EMERGENCY VENT USE ONLY
C	8" FFSO 150# FLANGE THROUGH OUTER SHELL ONLY, MARK WITH SPECIAL WARNING LABEL INTERSTITIAL EMERGENCY VENT USE ONLY
D	2" FITTING THROUGH OUTER SHELL ONLY WITH CAST IRON PLUG- MFG USE ONLY
E	2" MONITOR PIPE WITH MALE NPT END
F	24" x 1/4" PLATE TIGHT BOLT MANWAY WITH 1/8" THICK NEO-CORK GASKET AND "B" IN COVER ON CL
G	

UNLESS NOTED, TOLERANCES ARE +/- 1"

10,000 GAL 96"Ø CYL. FIREGUARD®

PATENT: 5,695,089 PATENT: 5,609,650

CUSTOMER:

PROJECT:

QUOTE NO:

SCALE: 1/4"=1'-0"

DATE:

CHK'D BY:

DWG. NO:

10000FGCYL96

NOTES:
STRIKER PLATES ARE NOT SUPPLIED ON
FIREGUARD® UNLESS SPECIFIED

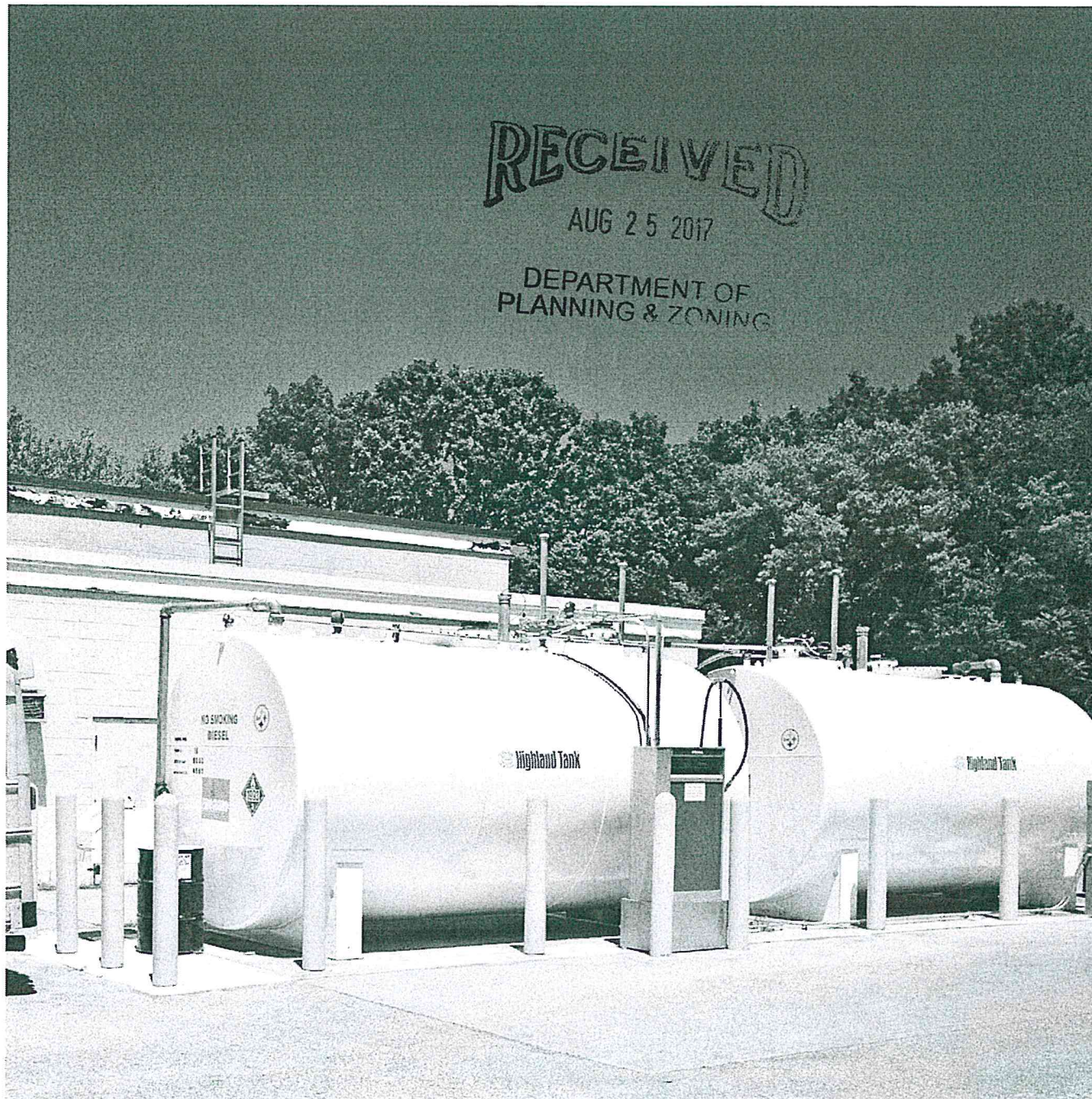
Fireguard® Thermally Protected Steel Storage Tanks

HT-11

Cylindrical & Rectangular Aboveground Double-wall Tanks



Highland Tank



Unmatched Quality & Service



Fireguard® tanks are thermally protected, double-wall steel cylindrical or rectangular aboveground tanks. Fireguard® is an alternative for the safe storage of motor fuels and other flammable and combustible liquids aboveground. They are used where a fire-protected tank is needed because of setback limitations or regulatory requirements. These tanks are UL labeled and meet or exceed the requirements of UL-2085 including:

- Two-Hour Full Scale Pool Fire Test
- Hose Stream Test
- Ballistics/Projectile Test
- Vehicle Impact Test
- Interstitial Communication Test

Blast Effect Analysis proved Fireguard® resists, with limited damage to the primary steel tank, the effects of a 50 lb man-portable explosive device, a 500 lb vehicle-borne improvised explosive device, and a 10 psig vapor cloud explosion.

Fireguard® tanks are approved and labeled for service in New York City with the addition of flanged and dished heads and a 15 to 50 psi hydro-test on the inner tank.

Fireguard® Features

Each tank is constructed with a minimum 3" interstice around the inner tank. The interstice is completely filled with a lightweight, monolithic material. This high efficiency insulation protects the inner tank in the unlikely event of a fire or extreme heat. It is porous to allow fluid migration through the interstice to the monitoring point.

Unlike concrete encased tanks, Fireguard® tanks' steel outer wall protects the insulation, eliminating the problem of cracking and spalling concrete. Because of its unique construction, each tank is pressure-testable in the factory and at the jobsite. With Fireguard®, there is no question of compliance with fire codes; the tank is shipped with factory-installed emergency vents on both the primary and the secondary containment tanks for protection if exposed to fire or excessive pressure.

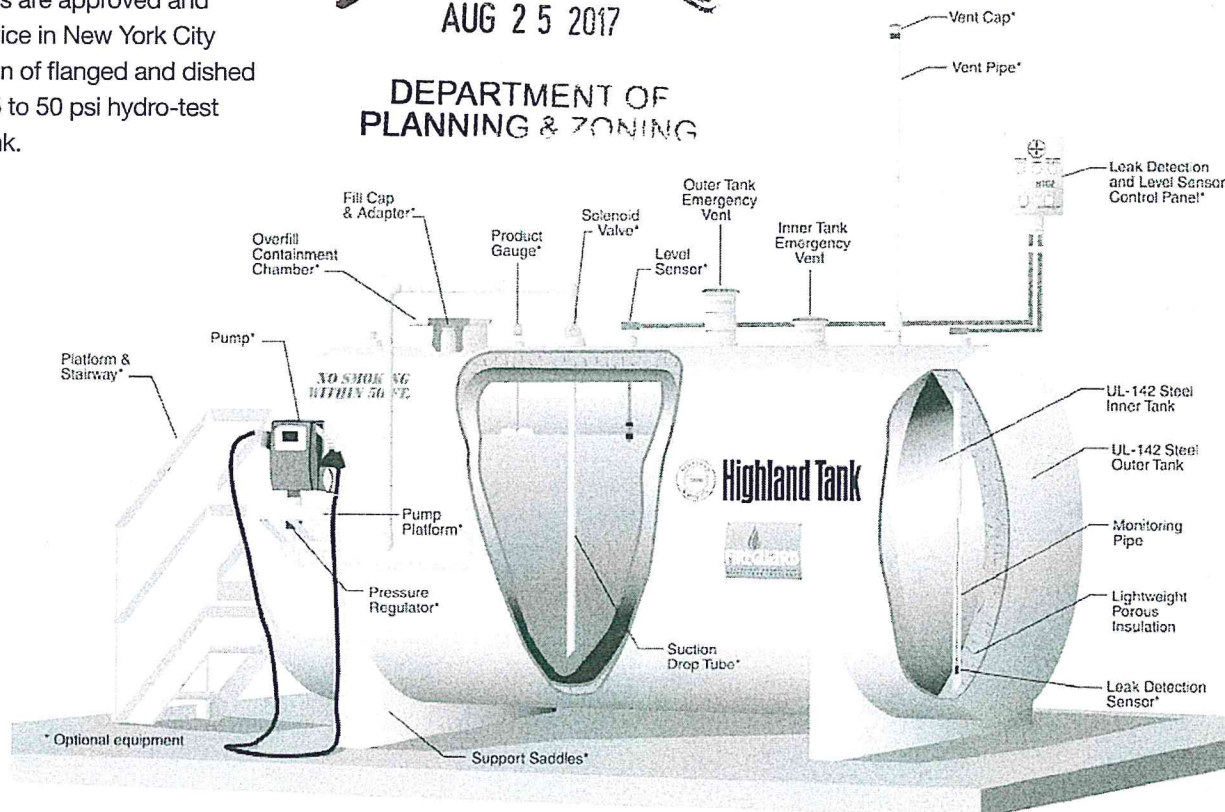
Fireguard® Advantages

- Carries UL-2085 listing as Insulated Secondary Containment for Flammable Liquids
- Lightweight – insulation 75% lighter than concrete – costing less to ship and install
- Reduces tank setback and separation distance requirements by up to 50%
- Fireguard's® secondary containment can be tightness-tested on-site
- Steel outer wall protects insulation
- Available in rectangular or cylindrical design
- Wide range of tank capacities: 300-60,000 gallons
- Subject to strict, three-tier independent third-party quality assurance program
- STI® standard 30-year limited warranty

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Fireguard® Design Options

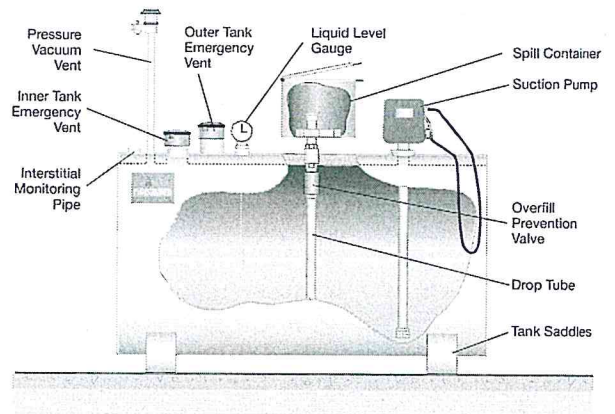
Highland Tank offers a wide range of accessories and options to configure your tank for your specific application including:

Diesel or Biodiesel Blend -

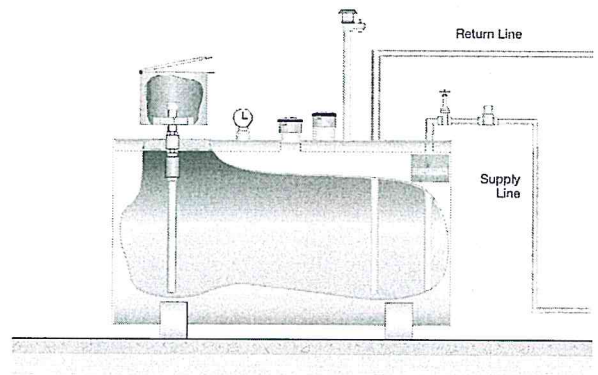
Top-fill and top-mounted pump suction system. This configuration is popular in many small diesel or biodiesel vehicle fueling applications.

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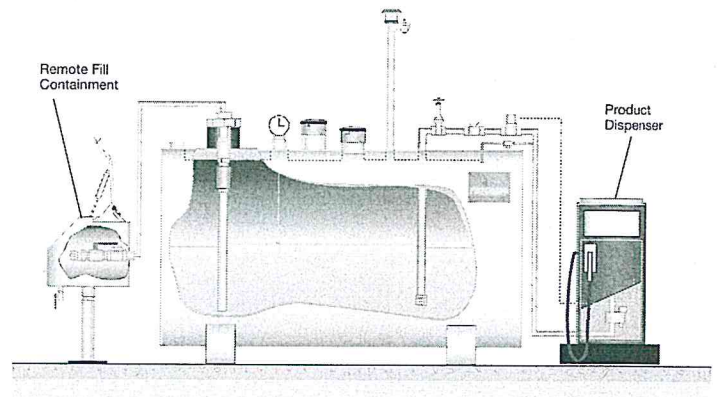


Boiler or Emergency Diesel-Electric Generator - Suction system with top-fill supply and return lines. This is a typical Fireguard® layout for fuel oil applications or supplying stationary combustion engines used for auxiliary power and emergency generators at first responder or mission critical facilities.

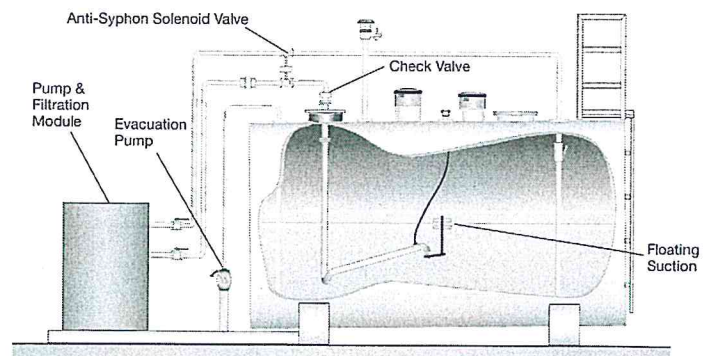


Gasoline or E85 Ethanol -

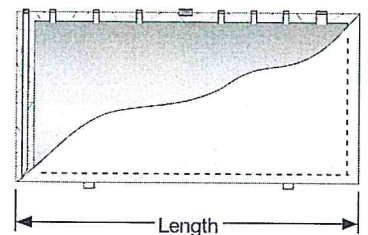
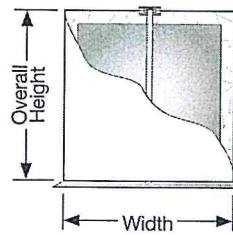
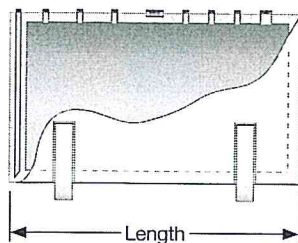
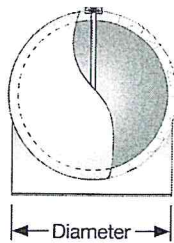
Suction system with remote fill and pump. This arrangement is common at many fleet vehicle maintenance facilities for diesel, biodiesel, gasoline or E85 fuel ethanol dispensing.



Aviation Refueling - Fireguard® Tank as part of a modular system with pump and filtration module. This arrangement would include an additional module(s) for direct-to-plane, truck load or remote dispensing. A specific application at a military or commercial installation would dictate engineered fueling systems.



Fireguard® Sizing Chart



Cylindrical

Volume (Gallons)	Inner Tank		Outer Tank		
	Diameter	Length	Diameter	Overall Height	Length
300	3'-2"	5'-0"	4'-2"	5'-0"	6'-0"
500	4'-0"	5'-5"	4'-6"	5'-4"	6'-0"
1,000	4'-0"	10'-9"	4'-6"	5'-4"	11'-4"
1,000	5'-4"	6'-0"	5'-10"	6'-8"	6'-7"
2,000	5'-4"	12'-0"	5'-10"	6'-8"	12'-7"
3,000	5'-4"	18'-0"	5'-10"	6'-8"	18'-7"
4,000	5'-4"	24'-0"	5'-10"	6'-8"	24'-7"
4,000	8'-0"	10'-8"	8'-6"	9'-4"	11'-3"
5,000	8'-0"	13'-4"	8'-6"	9'-4"	13'-11"
6,000	8'-0"	16'-0"	8'-6"	9'-4"	16'-7"
8,000	8'-0"	21'-4"	8'-6"	9'-4"	21'-11"
10,000	8'-0"	26'-8"	8'-6"	9'-4"	27'-3"
12,000	8'-0"	32'-0"	8'-6"	9'-4"	32'-7"
15,000	10'-0"	25'-6"	10'-6"	11'-4"	27'-1"
20,000	10'-0"	34'-0"	10'-6"	11'-4"	34'-7"
25,000	10'-0"	42'-7"	10'-6"	11'-4"	43'-2"
30,000	10'-0"	51'-2"	10'-6"	11'-4"	51'-9"
40,000	11'-6"	51'-6"	12'-0"	13'-0"	52'-1"
50,000	12'-0"	59'-2"	12'-6"	13'-6"	59'-8"
60,000	13'-0"	60'-6"	13'-6"	14'-6"	61'-0"

Rectangular

Volume (Gallons)	Width	Height	Length	Width	Overall Height	Length
500	3'-0"	3'-0"	7'-6"	4'-0"	4'-6"	8'-6"
1,000	4'-8"	3'-0"	9'-8"	5'-2"	4'-1"	10'-3"
2,000	6'-4"	4'-0"	10'-8"	6'-10"	5'-1"	11'-4"
3,000	5'-5"	5'-5"	13'-8"	5'-11"	6'-5"	14'-3"
4,000	5'-5"	5'-5"	18'-2"	5'-11"	6'-5"	18'-9"
5,000	5'-5"	5'-5"	22'-9"	5'-11"	6'-5"	23'-4"
6,000	10'-10"	5'-5"	13'-8"	11'-4"	6'-5"	14'-3"
6,000	5'-5"	5'-5"	27'-4"	5'-11"	6'-5"	27'-11"
8,000	10'-10"	5'-5"	18'-2"	11'-4"	6'-5"	18'-9"
10,000	10'-10"	5'-5"	22'-10"	11'-4"	6'-5"	23'-5"
12,000	10'-10"	5'-5"	27'-4"	11'-4"	6'-5"	27'-11"



Please visit us at www.highlandtank.com

One Highland Road
Stoystown, PA 15563
P: 814-893-5701
F: 814-893-6126

4535 Elizabethtown Road
Manheim, PA 17545
P: 717-664-0600
F: 717-664-0617

598 19th Street
Watervliet, NY 12189
P: 518-273-0801
F: 518-273-1365

2700 Patterson Street
Greensboro, NC 27407
P: 336-218-0801
F: 336-218-1292

2225 Chestnut Street
Lebanon, PA 17042
P: 717-664-0602
F: 717-664-0631

1510 Stoystown Road
Friedens, PA 15541
P: 814-443-6800
F: 814-444-8662

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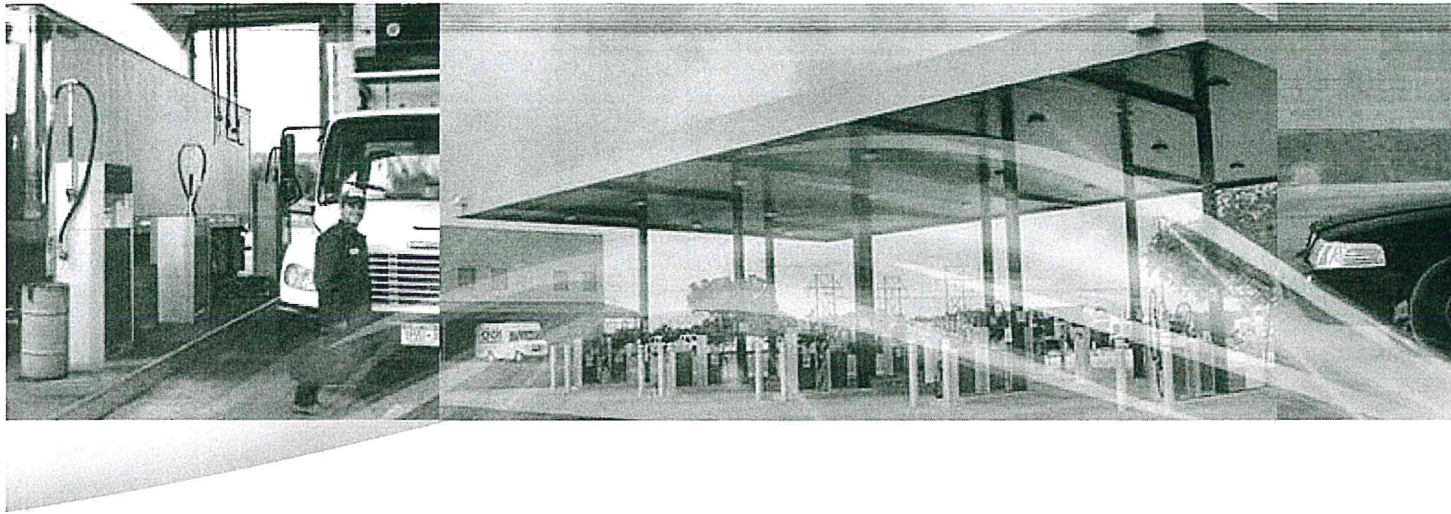
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SELECT™ SERIES
ELECTRONIC FLEET FUEL DISPENSERS



Wayne
FUELING SYSTEMS



Wayne Select Series Electronic Fleet Fuel Dispensers

Advanced technology delivers enhanced fleet fueling efficiency

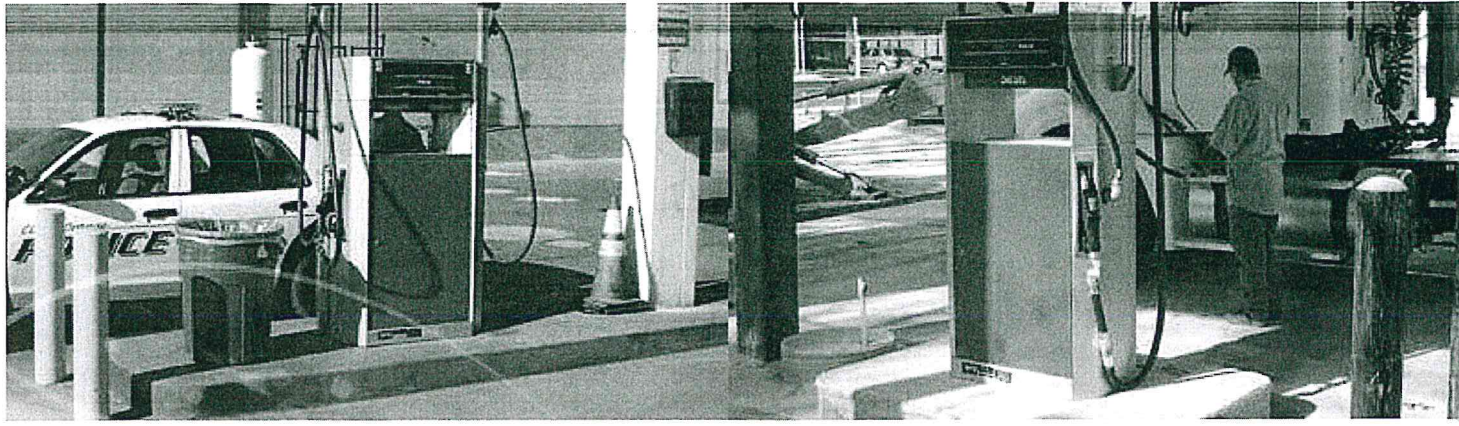
Getting your fleet on the road quickly is crucial to your bottom line which means fueling should be as hassle-free and fast as possible. The Wayne Select Series electronic fleet fuel dispenser keeps your operation moving at a rapid pace. In a class of its own, this dispenser harnesses leading technology and combines it with durable construction to bring you high speed, dependable fueling capabilities.

Powerfully equipped with cutting-edge electronics, the latest metering technology and field-proven components, the Select Series not only decreases fueling time significantly, it provides reliable functionality and easy management. A wide range of configuration options along with multiple feature choices give you superior flexibility.

High tech, high performance

The Select Series' outstanding performance is backed by exceptional, state-of-the-art technology. Incorporating the Wayne iGEM electronics platform, the dispenser promotes smooth operability through features like user operating messages, transaction limit controls, error monitoring, enhanced diagnostics and PC-enabled software uploads and downloads.

Additionally, a handheld remote utilizes infrared technology to allow configuration and diagnostics access without opening the dispenser. And the Select Series features a unique status display that provides at-a-glance information about the dispensers' operating status including satellite-in-use messages for master and satellite configurations. All models include sophisticated electronic calibration for precise, yet simple meter calibration.



Speed, dependability and easy-to-manage performance

- Rugged construction houses the latest technology for fast fueling
- Select family includes three high flow rate series
- Wayne iGEM electronics platform offers smooth operability and simple maintenance

Three Series deliver fast fueling options

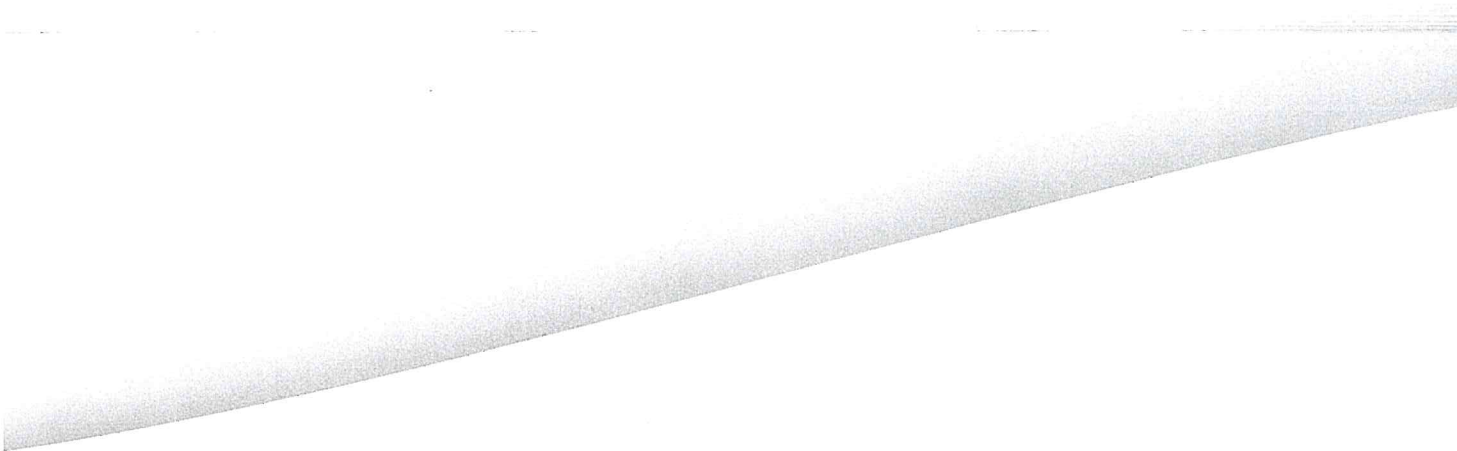
Because reducing fueling time increases efficiency and productivity, the Select Series' superior technology supports three different high flow rate series for a swift fueling experience. This means more time on the road for your vehicles. All series include island-oriented (side) or lane-oriented front nozzle configurations so you can match your specific operational requirements.

Select EC Series - The Select Enhanced Capacity Series provides fueling speeds up to 22 GPM*. Six suction pump and six remote dispenser configurations are available. The EC Series utilizes the Wayne intelligent iMeter®, proven in demanding retail stations around the globe. The suction models feature powerful one horsepower motors for maximum flow performance with gear-type pumping units for years of rugged reliability. And the remote dispenser models include internal filters to ensure product purity. All models have one-inch discharges with 3/4-inch adapters, allowing them to be easily adapted to either hose size for gasoline or higher flow diesel applications. Maximum flow can be conveniently controlled electronically through the dispenser configuration to meet spit-back and vapor recovery requirements.

Select SHC Series - The Select Super High Capacity Series offers flow rates up to 36 GPM*. It includes two iMeters and two pumps (suction models) connected to a single hose for superior performance. Choose from two suction models and eight different remote dispenser configurations including two satellite models that enable truck saddle tank fueling.

Select UHC Series - The Select Ultra High Capacity Series delivers high capacity fueling. Through a combination of advanced technology and streamlined hydraulics for amazing flow performance, it delivers a flow rate of up to 60 GPM* for master and satellite hoses combined. It is available in 12 remote dispenser configurations including three satellite models for convenient truck saddle tank fueling, and all UHC dispensers are ready for satellite connections. The Select UHC Series is designed to match your specific requirements with unique configuration options such as two hoses on the same side for easy product selection or filling double tanks located on one side of a truck. The UHC Series features a Liquid Controls® meter for high flow throughput. Plus, dual internal 40 GPM filters are placed before the meter on each hose. Fuel is efficiently filtered from one location without sacrificing flow performance before it is dispensed through the master or satellite feeds.

*Flow rates are maximum test rates at discharge. Actual rates will depend upon the installation conditions, dispenser accessories, and for remote dispensers, size of the submersible pump. Flow rates for UHC models are for master and satellite hoses combined.



Advanced technology and high capacity packaged in a heavy-duty cabinet

- Brings advanced electronics, electronic calibration and diagnostic capability to fleet fueling environments
- High speed fueling capacity supports your business goals by keeping your fleet on the road
- Highly configurable to match your exact requirements

Tailored to your needs

The Select Series electronic fuel dispensers' robust offering of optional features further enhances adaptability and configurability. Select the pulse output interface so you can connect to popular fuel control systems, or choose the hose retractor and mast to keep hoses out of fueling lanes. A factory-installed Healy VAC vapor recovery system helps meet environmental regulations, and you can select a price display for applications where dispenser price computation is necessary. What's more, all models are compatible with multiple fuel types including gasoline, kerosene, diesel and B20 biodiesel.

Strong durability for demanding fleet settings

The Select Series dispensers' powder-coated finish is incredibly durable even under harsh conditions and rugged use. All cabinet panels are galvanized steel and supports are made of galvanized steel for corrosion resistance. Additionally, heavy gauge side panels and doors stand up to the elements for years.

Investment protection through easy installation and maintenance

Built with easy maintenance in mind, the Select Series dispenser is simple to install and cost-effective to manage. Patented double bump piping on EC and SHC Series models ensures reliable connections while simplifying component replacement during servicing. Hinged doors simplify routine maintenance, and a vertical strainer minimizes spills during cleaning.

- **Island-Oriented:** Nozzle(s) on side of cabinet for use from both lanes.
- **Lane-Oriented:** Nozzle(s) on front bezel for use in lane nozzle faces.
- **Enhanced Capacity:** One iMeter and one pump (suction models) per hose (except Twin I suction hoses share one pump).
- **Super High Capacity (SHC):** Two meters and two pumps (suction models) per hose for superior flow.
- **Ultra High Capacity (UHC):** High flow Liquid Controls meter per hose for maximum flow.
- **Master:** Equipped with satellite connection for use with satellite dispenser. Twin Master has two connections. All UHC models are satellite ready.

Suction Pumps

Type	ENHANCED CAPACITY (EC) (UP TO 22 GPM*)		SUPER HIGH CAPACITY (SHC) (UP TO 36 GPM*)	
	Island-Oriented	Lane-Oriented	Island-Oriented	Lane-Oriented
Single	3/G7201P/2JK/W	3/G7207P/2JKR/W	3/G7221P/8JK	3/G7227P/8JKR
Twin I	3/G7202P/2JK	3/G7207P/2JK		
Twin II	3/G7203P/28JK/W	3/G7208P/28JK/W		

Remote Dispensers

Type	ENHANCED CAPACITY (EC) (UP TO 22 GPM*)		SUPER HIGH CAPACITY (SHC) (UP TO 36 GPM*)		ULTRA HIGH CAPACITY (UHC) (UP TO 60 GPM*)	
	Island-Oriented	Lane-Oriented	Island-Oriented	Lane-Oriented	Island-Oriented	Lane-Oriented
Single	3/G7201D/2GJK	3/G7207D/2GJKR	3/G7221D/GJK	3/G7227D/GJKR	3/G7231D/GJK/W3	3/G7237D/GJKMR/W
Twin I	3/G7242D/2GJK	3/G7247D/2GJK		3/G7227D/GJK	3/G7232D/GJK/W3	3/G7237D/GJKMR/W
Twin II	3/G7203D/28GJK	3/G7208D/28GJK			3/G7233D/GJK/W3	3/G7236D/GJKMR/W
Single Master				3/G7227D/GJKMR		3/G7237D/GJKMR/W
Twin I Master				3/G7227D/GJKM		3/G7237D/GJKMR/W
Twin II Master						3/G7238D/GJKMR/W
Master/Satellite				3/G7228D/GJKLM		3/G7238D/GJKMR/W
Two-Hose, Single-Sided, Twin I Master						3/G7236D/GJKMR/W
Two-Hose, Single-Sided, Twin II Master						3/G7234D/GJKMR/W
Satellites						
Single				3/G7007/JKLR		3/G7037/JKLR/W3
Twin				3/G7008/JKL		3/G7038/JKL/W3
Two-Hose Single-Sided						3/G7039/JKLR/W3

Model Number Format: 3 / Base Model / Suffix 1 Options / Suffix 2 Options (e.g. 3/G7201D/2GJK/H)

The following options are standard: 1" discharge [2 on EC models], internal filter [G] (remote models), AC j-box [J], and hose hanger [K]. Option suffixes are noted in the specifications in []. A "/" (e.g. [/H]) indicates a suffix 2 option.

**Note: Specified flow rates are maximum test rates at the discharge. Actual flow rates will depend upon the installation conditions, product dispensed, dispenser accessories and for remote dispensers, the size of the submersible pump. For Twin I suction and Twin I SHC remote models, the maximum flow rate is for only one hose operating at a time. The maximum flow rate for UHC models is for master and satellite hoses combined.*



Select Series Specifications

Compatibility: For dispensing low viscosity petroleum fuels - diesel; biodiesel blends up to 20%; gasoline, including oxygenated blends; kerosene; AvGas[^], and jet fuel[^]. See E85 option and approvals. Fuel must meet the applicable ASTM standard.

[^]Note: Confirm with fuel supplier on any fluid path metal restrictions.

LCD Displays: Backlit 1" six-digit volume display and ½" four-character status display per hose. Displays each side of cabinet, except models with lane-oriented nozzle boot only display on corresponding nozzle boot side. Configurable 0-4 digits to right of decimal. Programmable gallons or liters. In event of power loss, displays remain visible for approximately 15 minutes.

Totalizers: 7-digit electromechanical non-resettable totalizer per hose (EC twin I is per product). Two electronic 6-digit totalizers per hose - non-resettable and resettable - show on display using infrared remote control.

Fuel Control System Interfaces: Wayne protocol. Optional pulse output.

Meter:

EC & SHC - Reliable, micro-accurate 2-piston positive displacement Wayne iMeter with integral intelligent pulser. Unique, compact design with two meters in one housing. Electronic calibration. (E85 option - positive displacement axial flow meter)

UHC - Liquid Controls[®] high volume, positive displacement, rotary meter. Wayne optical pulser with quadrature output. Electronic calibration.

Pumping Unit++: Positive displacement, self-priming, gear-type pumping unit with integral centrifugal air separator and adjustable bypass valve. Suction strainers at inlet connection.

Motor++: 1-HP continuous duty with thermal overload protection. Adjustable V-link belt connects to pump pulley.

Electrical: 120VAC 60Hz. Motors*: 120/240VAC 50/60 Hz.

Inlet Connection:

EC - 1 ½" (3.8 cm) male NPT. (E85 option - 1 1/2" (3.8cm) female NPT. No riser.)

SHC Remotes: 1 ½" male or 2" (5.1 cm) female NPT.

SHC Suctions: 2" female NPT.

UHC - 2" male NPT.

Internal Filter [G]: Standard on remote dispensers. UHC - dual internal filters per hose with 40 GPM/151 LPM, 30 micron elements (80 GPM/303 LPM total filter capacity per hose). Optional dual internal 100-mesh disposable strainer canisters in place of UHC filter elements. (E85 option - 1-micron ethanol filter)

Discharge:

EC - 1" (2.5 cm) NPT. Includes ¾" (1.9 cm) reducing bushing. SHC - 1" (2.5 cm) NPT. UHC - 1 ¼" (3.2 cm) NPT. Includes 1" (2.5 cm) reducing bushing

Flow Control Valve:

EC & SHC - Proportional 7/8" (2.2 cm) valve. Standard on remote dispensers, Twin I suction, and SHC suction. Optional on other suction models [delete //W suffix to include valve on suction model].

UHC - Two-stage 1 ½" (3.8 cm) valve.

Satellite Connection [M]:

SHC - SHC master models include satellite down-piping and 1 ½" (3.8 cm) NPT connection.

UHC - All UHC models are satellite-ready. The discharge assembly includes internal port for 1 ½" (3.8 cm) satellite piping connection (piping not included).

Cabinet Finish: Powder-coated metallic silver sides, top, and base. Doors painted blue (optional black, brown, green, red, yellow, white, or stainless steel). Black register face with black decal with white lettering.

Cabinet Construction: All exterior panels are fabricated from heavy gauge galvanized steel for superior weather and corrosion resistance. Hinged doors for convenient service access.

Lighted Product ID Panels: Light for displays also illuminates product ID panel. Specify product names with order.

Nozzle Boot: Fits UL interchangeable nozzles and Emco White 4015 and Husky V short spout balance vapor recovery nozzle. Lift nozzle hook for activation. Hook extension kits+ for OPW (p/n 892081-001) and Healy 400 (p/n 892080-001) long spout vapor recovery nozzles.

Hose Hanger [K]: Keeps hose off of island when not in use.

Actual Dimensions: 32.25" W x 19.38" D x 63.3" H (81.9 cm x 49.2 cm D x 160.8 cm H)

Approvals: UL / CSA -includes diesel; biodiesel blends to B5 gasoline including ethanol blends to E10 (to E85 with E85 option - UL only); & kerosene.

U.S. Weights & Measures - includes diesel; biodiesel; gasoline including ethanol blends to E15 (to E85 with E85 option); kerosene; AvGas; and Jet Fuel.

FCC

Options

Pulse Output Interface [H]: Emulates mechanical dispenser interface for connection to fuel management and tank monitoring systems. Includes two outputs.

Price Displays [1]: Total sale and unit price displays for card applications. Includes satellite-in-use display [I] on master model and solenoid valves on suction models [delete //W].

Preset Keypad [S]: Requires price display option. 12-button preset. Can select money or volume. Displays on total sale or volume display as applicable.

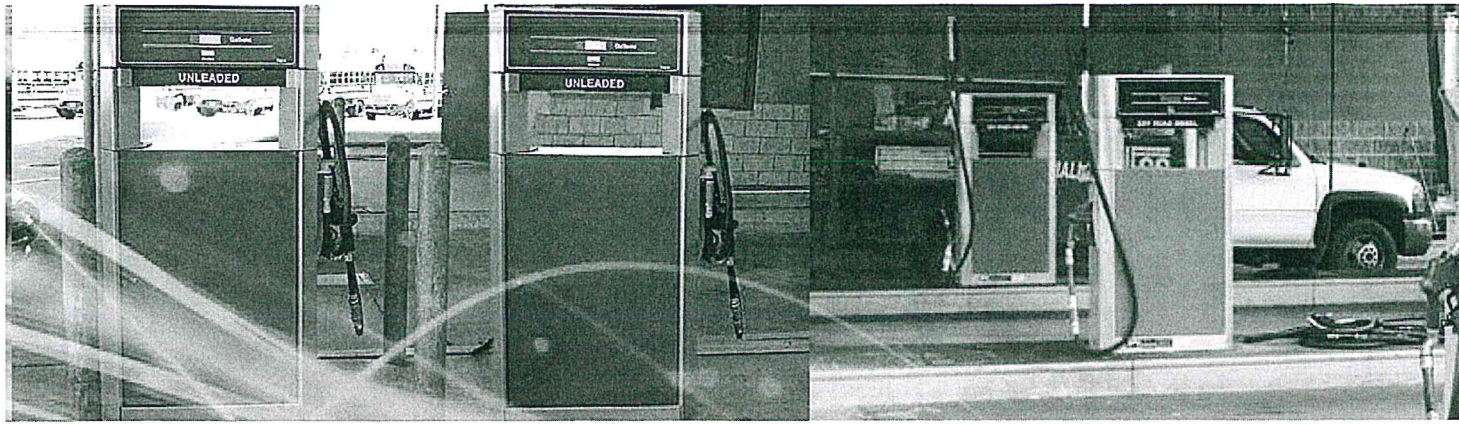
E85 [E/ prefix and X]: EC remote dispensers only. Utilizes special meter, stainless steel, nickel plating, special elastomers, and a special filter for E85 compatibility. UL listed for gasoline blends up to E85 as well as gasoline and diesel. Less inlet riser.

Hose Mast [J]: Raises hose to ease hose handling and help keep stored hose out of the fueling lane. Optional hose mast clamp kit+ (p/n 890898-001) for Goodyear[®] balance vapor recovery hose.

Stainless Steel Panels: Ideal for very corrosive environments. Stainless steel lower cabinet with black galvanized steel top. Stainless [S3] or painted galvanized steel doors [S4], or stainless steel doors only [S2].

HealyVac Vapor Recovery: Remote dispensers only. Factory installed Healy vapor recovery components for ORVR and EVR applications. One hose [D3] or two-hose [D4] options. Does not include hanging hardware

Other Options: Heater for electronics [L], internal hose retractor [H], electromechanical totalizer per hose on EC twin I [K], solenoid valves on suction models [delete //W], 890467-001 external filter kit+ , 890467-002 SHC external filter kit+ , liters display graphic, automatic temperature compensation [C], and 240VAC 50/60 Hz operation of register and light [Z].



Satellite Specifications

Note: SHC satellites require SHC masters, and UHC satellites require UHC masters.

Cabinet Finish: Metallic silver sides and top with blue doors (optional black, brown, green, red, silver, yellow, white, or stainless steel doors).

Cabinet Construction: Heavy gauge galvanized steel.

Inlet Connection: EC - 1 1/2" (3.8 cm) male NPT.

SHC - Remotes: 1 1/2" male or 2" (5.1 cm) female NPT. Suctions: 2" female NPT.

UHC - 2" male NPT.

Flow Control Valve:

SHC - (2) proportional 7/8" (2.2 cm) valves per hose

UHC - (1) two-stage 1 1/2" (3.8 cm) valve per hose.

Electrical: 24VDC from master dispenser.

Discharge:

SHC - 1" (2.5 cm) NPT.

UHC - 1 1/4" (3.2 cm) NPT. Includes 1" (2.5 cm) reducing bushing.

Nozzle Boot: See nozzle boot specification in main section.

Hose Hanger [K]: Keeps hose off the island when not in use.

Actual Dimensions: 32.25" W x 19.38" D x 44.75" H (81.9cm W x 49.2cm D x 113.7cm H)

Approvals: UL / CSA –includes diesel; biodiesel blends to B5; gasoline including ethanol blends to E10 (to E85 with E85 option – UL only); & kerosene.

U.S. Weights & Measures – includes diesel; biodiesel; gasoline including ethanol blends to E15 (to E85 with E85 option); kerosene; AvGas; and Jet Fuel. FCC.

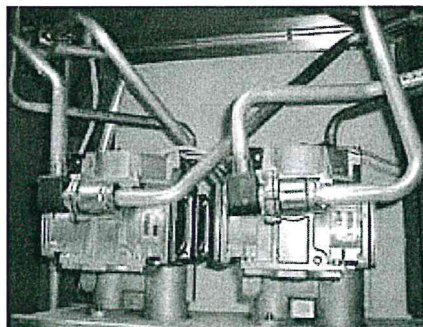
Options: Hose mast [/J]. All stainless steel cabinet with stainless [/S] or painted galvanized steel doors [/S1].

^Note: Applies to suction models only. SHC suction models must be run at 240VAC.

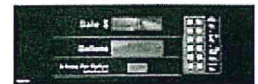
+Note: Kits require field assembly



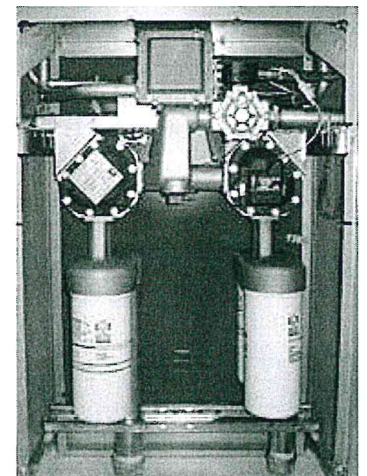
Master and satellite models allow for the convenient and quick fueling of trucks with saddle tanks



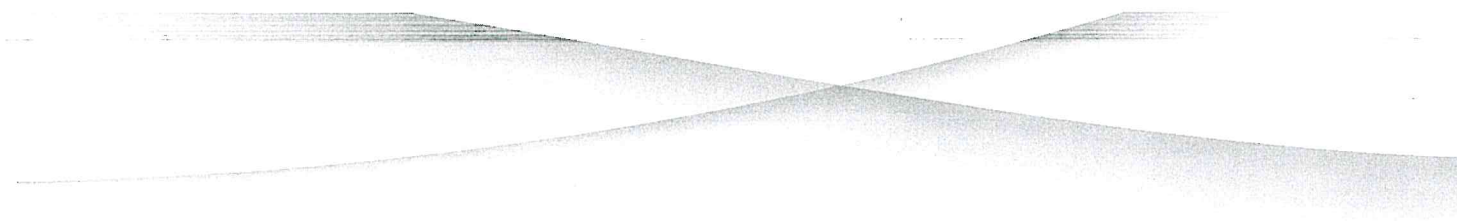
Select SHC Series utilizes two Wayne electronic iMeters manifolded to each hose for superior flow performance



Price display option adds Total Sale and Unit Price displays for cardlock applications



Select UHC Series features high flow Liquid Controls meter dual internal 40 GPM filters per meter, and a streamlined flow path to provide maximum flow performance and clean fuel



Wayne.com

Austin, Texas, USA | Malmö, Sweden | Rio de Janeiro, Brazil | Shanghai, China

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07212014v2

Wayne
FUELING SYSTEMS

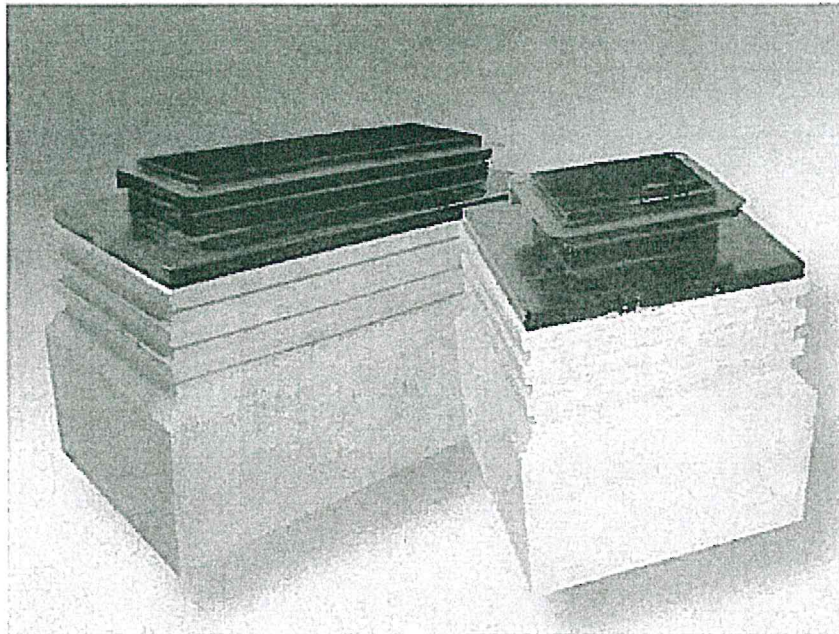
"Large Mouth" LM Series Dispenser Sump



The Large Mouth series dispenser sump modular design provides versatility and ease of installation.

There are six polyethylene bases in three lengths and two depths. These bases have a large 22" wide by 24", 36" or 48" long openings, easing the installation of entry boots and piping connections. The ribbed riser can be cut down in 3" increments in the field to achieve proper pipe slopes with respect to grade.

A variety of Large Mouth Tops (LMTs) are available to match nearly every dispenser model. The lids are corrosion resistant painted steel to which shear valves and dispenser frames are mounted.



Design Highlights & Advantages

- 22" wide by 24", 36" or 48" long opening on base gives plenty of room for boot, fitting and monitor installation.
- Available in medium and deep burial depths to properly maintain slope.
- The base widens to a spacious 26" where entry boots and pipe connections are made.
- Height modifications are accomplished by trimming of the base at the ribs.
- Stabilizer Bar Kits (SBKs) mount into welded strut channels for shear valve mounting. One SBK is required for each shear valve and is purchased separately.
- The Large Mouth Dispenser Sump is UL and ULC listed.

PIPING & CONTAINMENT

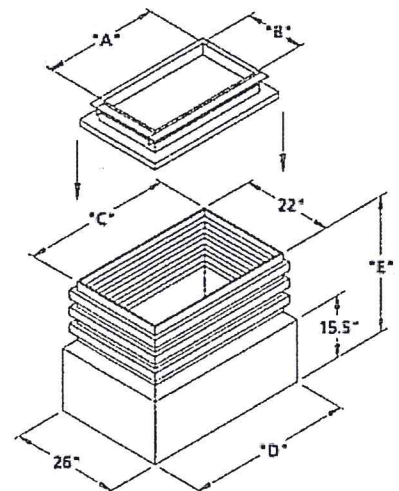
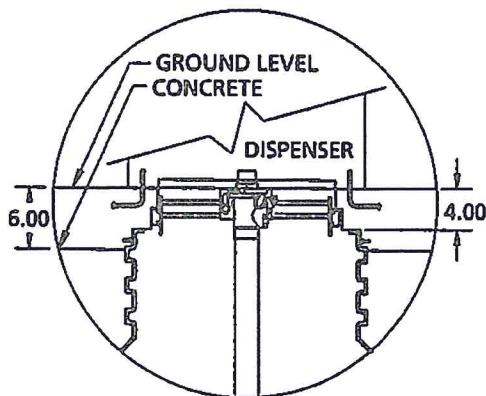
Sumps

Large Mouth Polyethylene Dispenser Sumps



MEDIUM MODEL	"E"	DEEP MODEL	"E"	"A"	"B"	"C"	"D"	SBK #
LMM-1410	28"	LMD-1410	43"	13.50"	9.75"	24"	28"	SBK-2
LMM-1710	28"	LMD-1710	43"	17.00"	10.38"	24"	28"	SBK-2
LMM-1913-T	28"	LMD-1913-T	43"	19.00"	12.00"	24"	28"	SBK-25
LMM-2010	28"	LMD-2010	43"	20.50"	10.00"	24"	28"	SBK-2
LMM-2018	28"	LMD-2018	43"	20.81"	18.31"	24"	28"	SBK-3
LMM-2212	28"	LMD-2212	43"	22.50"	11.25"	36"	40"	SBK-25
LMM-2212-24	28"	LMD-2212-24	43"	22.5"	11.25"	24"	28"	SBK-25
LMM-2313-T	28"	LMD-2313-T	43"	23.00"	12.00"	36"	40"	SBK-25
LMM-2407	28"	LMD-2407	43"	23.75"	7.50"	36"	40"	SBK-1
LMM-2409	28"	LMD-2409	43"	23.75"	9.00"	36"	40"	SBK-2
LMM-2518	28"	LMD-2518	43"	24.75"	17.75"	36"	40"	SBK-3
LMM-2715	28"	LMD-2715	43"	27.00"	15.00"	36"	40"	SBK-3
LMM-2811	28"	LMD-2811	43"	28.50"	11.00"	36"	40"	SBK-25
LMM-2913	28"	LMD-2913	43"	29.75"	13.25"	36"	40"	SBK-25
LMM-2915	28"	LMD-2915	43"	29.75"	15.75"	36"	40"	SBK-3
LMM-3109	28"	LMD-3109	43"	31.00"	9.50"	36"	40"	SBK-2
LMM-3610	28"	LMD-3610	43"	36.00"	10.25"	48"	52"	SBK-2
LMM-3617	28"	LMD-3617	43"	36.00"	17.25"	36"	40"	SBK-3
LMM-3914	28"	LMD-3914	43"	38.75"	14.00"	48"	52"	SBK-25
LMM-4018	28"	LMD-4018	43"	39.75"	17.75"	48"	52"	SBK-3
LMM-4109	28"	LMD-4109	43"	41.50"	9.38"	48"	52"	SBK-2
LMM-4111	28"	LMD-4111	43"	41.50"	11.00"	48"	52"	SBK-25
LMM-4113	28"	LMD-4113	43"	41.50"	13.25"	48"	52"	SBK-25
LMM-4115	28"	LMD-4115	43"	41.50"	15.75"	48"	52"	SBK-3

Medium and Deep Model numbers listed include base and top, stabilizer bar kits, (SBK) sold separately.

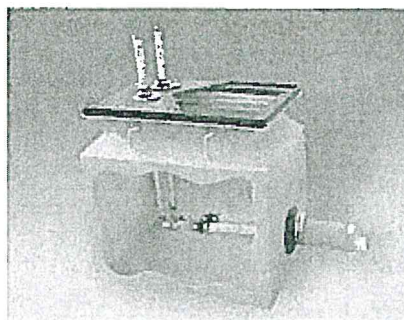
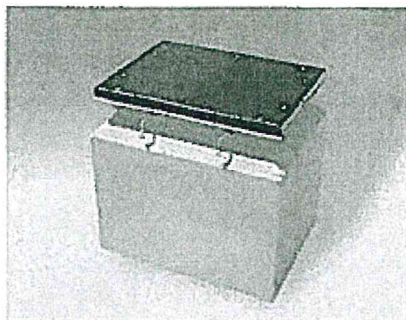


PIPING & CONTAINMENT

Sumps

Grade Level Transition Sump

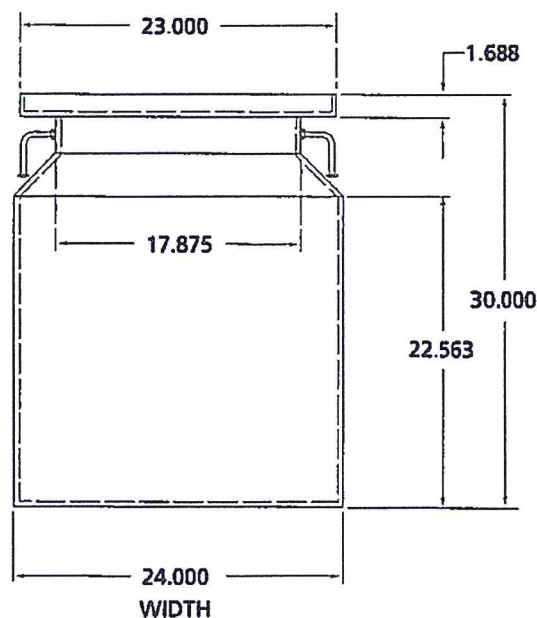
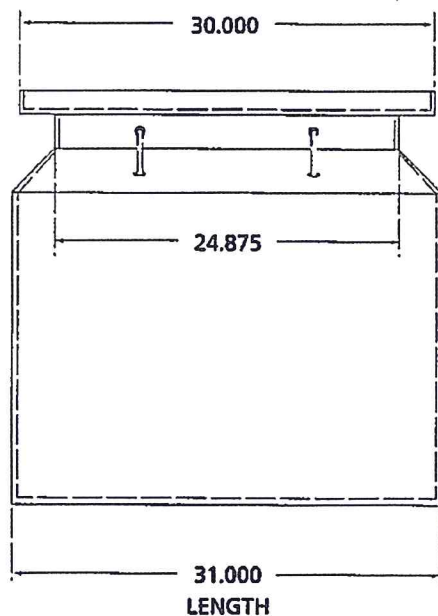
The AST above/below ground transition sump is the practical, environmentally sound solution for remote dispensing from above ground storage tanks. Steel and flexible piping enters the sump through APT's flexible entry boot. Inside the sump, the steel piping easily connects to flexible piping for a fuel tight, continuous run to dispensers or an intermediate sump.



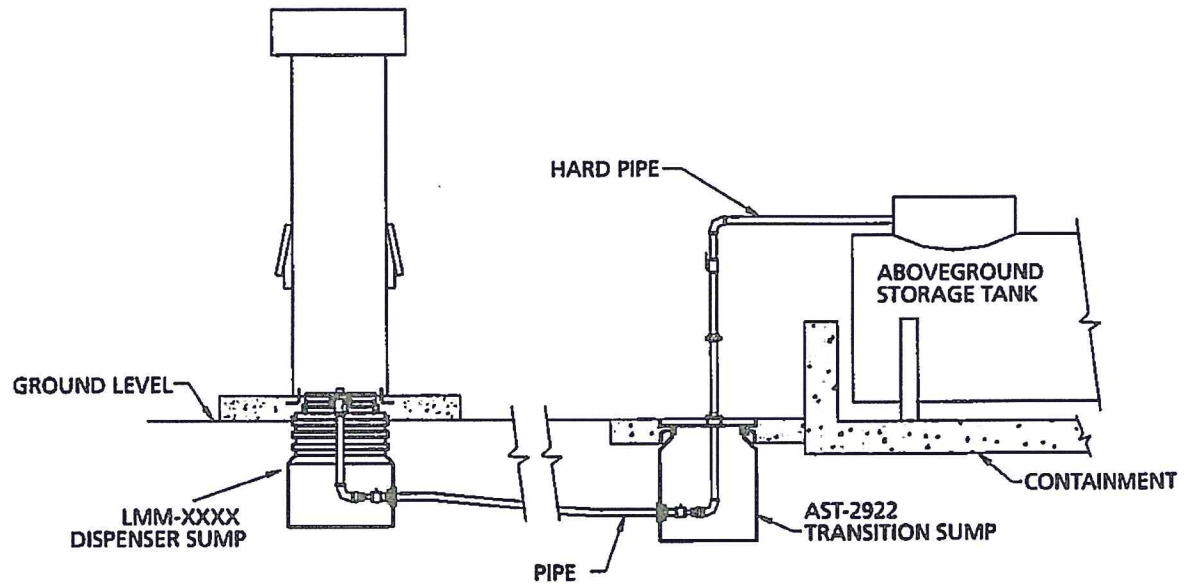
Design Highlights & Advantages

- Transition sumps help meet environmental regulations by isolating metal piping from the soil.
- Transition sumps can be installed either inside or outside containment dikes.
- 30" burial depth allows the transition sump to be used as the system low point for leak detection.
- Load rated composite cover.
- Flexible entry boot provides a fuel tight and watertight seal around the metal piping and flexible piping as it enters the sump lid and sidewall.
- H-20 load rating. Pipe entries installed in lids will negate the load rating.

MODEL	DESCRIPTION
AST-2922	Aboveground storage tank transition sump
999-855-53	Replacement Gasket
252-029-22	Replacement AST-2922 lid (grey)
IP-400-B	Inspection Replacement Port-FEB style with replacement well cap



Above Grade Typical Application Drawing



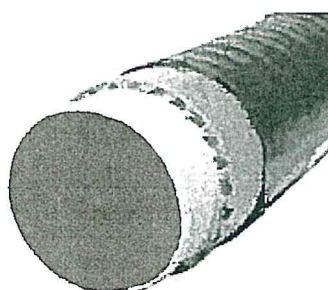
Advantages

- A time proven material, Nylon 12 has been the primary layer of APT pipe for more than 12 years. Preferred by the world's largest auto makers, the fuel line material contains no polyethylene.
- No possibility of piping layer delamination due to the layered piping construction of high-grade material.
- Biofuel approved (E85 and biodiesel).



XP Pressure and Suction Product Piping

The 1" size of APT piping can be used in both pressure and suction applications, and is ideal for providing remote feed and fill for heaters, boilers and emergency generators. The 1½", 1¾" and 2" sizes of APT product piping can be used in both pressure and suction applications, and are ideal for underground service station fuel delivery systems. The D-Series piping is a single wall, direct bury piping, while the SC-Series piping provides additional environmental security as a secondary contained direct bury pipe. Both feature controlled flexibility, even in low temperatures, permitting fast, easy installation.



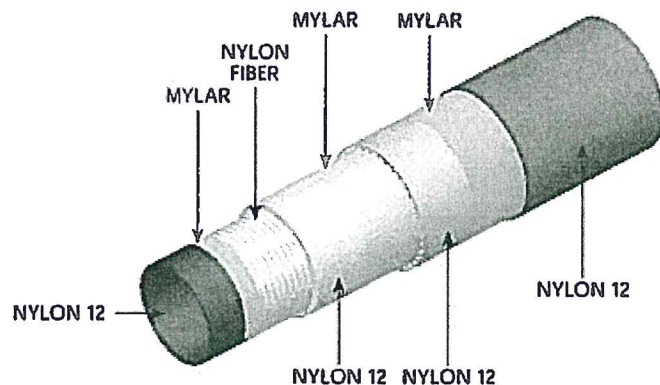
Reel Size	Inches	cm
Small standard	86 × 24 × 64½	213.3 × 60.9 × 163.8
Standard (Std.)	86 × 42½ × 63½	218.4 × 107.9 × 161.2
Large standard (Lg. Std.)	86 × 52 × 63½	218.4 × 132.1 × 161.2
Master	91 × 33 × 74	231.1 × 83.8 × 187.9
Super master (S. Mast.)	91 × 52 × 74	231.1 × 132.1 × 187.9

Notes: 1. Do not store piping in direct sunlight.
2. UL971 listed to the January 2004 standards.

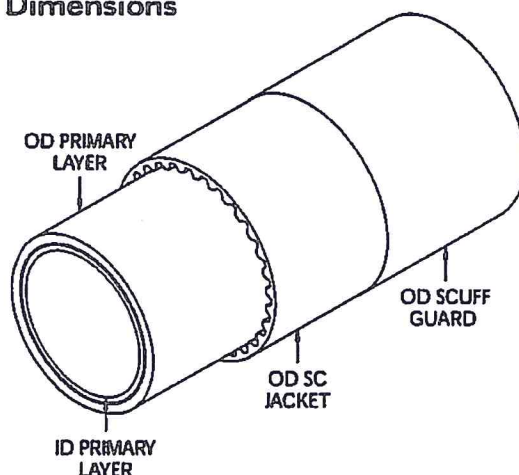
*Reel dia. × width × hub dia.

Model	Description	Ft.	Reel	Weight	
				Lbs.	Kg.
XP-100-SC	1" secondary contained	250	Small	486	219
		500	Small	593	267
		2,500	Std.	1,478	665
XP-100-D	1" single wall	250	Small	443	199
		500	Small	505	227
		100	Small	435	196
XP-150-SC	1½" secondary contained	250	Small	518	233
		500	Small	655	295
		1,000	Std.	965	434
XP-150-D	1½" single wall	1,500	Std.	1,240	558
		2,000	Lg. Std.	1,535	691
		100	Small	410	185
XP-175-SC	1¾" secondary contained	250	Small	455	205
		500	Small	530	239
		1,000	Std.	715	322
XP-175-D	1¾" single wall	1,500	Std.	865	389
		2,000	Lg. Std.	1,035	466
		100	Std.	485	218
XP-200-SC	2" secondary contained	250	Master	655	295
		500	Master	830	374
		1,000	S. Mast.	1,355	610
XP-200-D	2" single wall	100	Std.	455	205
		250	Master	580	261
		500	Master	680	306
		1,000	S. Mast.	1,115	502
		100	Master	585	263
		200	Master	690	311
		350	Master	848	381
		700	S. Mast.	1,250	563
		100	Master	545	245
		200	Master	610	275
		350	Master	708	318
		700	S. Mast.	970	437

XP Piping Construction



XP Piping Dimensions



Model	ID ± 0.010 Primary Layer	OD ± 0.020 Primary Layer	OD ± 0.030 SC Jacket	OD ± 0.030 Scuff Guard	Minimum Bend Radius
XP-100-D	1.00"	1.27"	n/a	n/a	36.00"
XP-100-SC	1.00"	1.27"	1.47"	1.502"	36.00"
XP-150-D	1.40"	1.70"	n/a	n/a	36.00"
XP-150-SC	1.40"	1.70"	1.90"	1.925"	36.00"
XP-175-D	1.65"	1.95"	n/a	n/a	36.00"
XP-175-SC	1.65"	1.95"	2.15"	2.175"	36.00"
XP-200-D	2.04"	2.45"	n/a	n/a	36.00"
XP-200-SC	2.04"	2.45"	2.65"	2.675"	36.00"



Franklin Fueling Systems

www.franklinfueling.com
3760 Marsh Road • Madison, WI 53718, USA
Tel: +1 608 838 8786 • Fax: +1 608 838 6433
Tel: USA & Canada 1 800 225 9787 • Tel: Mexico 001 800 738 7610



FFS-0119 07-09

AN EROSION PREVENTION AND SEDIMENT CONTROL PLAN

FOR THE PROJECT AT:

1 King Street

HAS BEEN FILED WITH THE CITY OF BURLINGTON
STORMWATER MANAGEMENT PROGRAM IN ACCORDANCE
WITH CHAPTER 26 OF THE BURLINGTON CODE OF ORDINANCE

THIS REQUIRES THAT MEASURES BE INSTALLED OR TAKEN TO
PREVENT SEDIMENT FROM LEAVING THE SITE AND ENTERING
WATERWAYS AND IMPACTING CITY INFRASTRUCTURE
(RIGHT OF WAY AND STORMDRAINS)

FOR QUESTIONS OR TO REPORT SEDIMENT LEAVING THE SITE
CALL 802-863-4501

This notice to be posted in full view at all times during earth
disturbance. Additional conditions on attached.

Plan Approved by: Jenna Olson Digitally signed by Jenna Olson
DN: cn=Jenna Olson, c=US,
o=Burlington Water Resources,
ou=Stormwater Program,
email=jolson@burlingtonvt.gov
Date: 2017.09.19 11:53:39 -04'00' Date: 9/19/17
Burlington Stormwater Program



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Burlington Department of Public Works

Stormwater Program

645 Pine Street

Burlington, VT 05401

PH: 802-540-1748 Email: mmoir@ci.burlington.vt.us



DEPARTMENT OF

PLANNING & ZONING

Small Project Erosion Prevention & Sediment Control Plan

This questionnaire, at a minimum, is required to accompany all zoning or building permit applications which involve 400 sq. ft. or more of land disturbance. Please also provide a site plan indicating the locations of all erosion prevention and sediment control measures (silt fence, hay bales etc).

Properties with greater than 2500 sq. ft. of total impervious surfaces, that are adding more impervious, will also be required to comply with additional long term stormwater management requirements.

1. Project Location 1 KING STREET DACK Burlington, VT 05401
2. Brief Project Description (i.e. house foundation, swimming pool)
Removal of 5,000 gallon UNDERGROUND TANK. Install New 10,000 gallon ABOVE GROUND TANK with concrete PAD + 3 concrete DISPENSER PADS
3. Owner Name: LAKE CHAMPLAIN TRANSPORTATION CO.
4. Owner Mailing Address: 1 KING ST. DACK, Burlington, VT 05401
5. Owner Phone: 802-864-9804
6. Owner email: Beech@ferries.com
7. Contractor Name: D & M Petroleum
8. Contractor Phone: 802-453-7199
9. Contractor Email: Markh@DandMpetro.com
10. Estimated Project Start Date NOV-2017
- Estimated End Date NOV-2017
11. Area of Land Disturbance 500 sq. ft.
12. Total proposed (existing + new) amount of impervious: 0 sq. ft.
13. Estimated distance in feet from disturbance to nearest:
 - a. City Sidewalk or Street 400 ft
 - b. Drainage Ditch NA ft
 - c. Catch Basin (storm drain) 106 ft
 - d. Lake/River/Stream 8 ft
14. Site plan/sketch MUST BE ATTACHED showing the following:

☐ Limits of disturbance	☐ Direction of stormwater flow on site
☐ Location of stockpiles (if any)	☐ Location of sediment control BMP's (silt fence etc.)

EPSC QUESTIONNAIRE (See last page for typical solutions to these questions)

A) Nature of all site disturbances (check all that apply):

- ☒ Underground utility trench(es) ☐ curb cut/driveway ☒ foundation ☒ cut/fill/regrading ☐ landscaping
☐ other _____

B) Do you anticipate the need for any dewatering of excavations during the construction? ☐ Yes ☒ No

- If yes, how will the pumped water be managed or filtered to prevent the discharge of dirty water?

C) Will excavated soil be stockpiled on the site? ☒ Yes ☐ No

- If yes, how long will the stockpile be on site? (i.e. 1 day, 1 week) 2 weeks?

How do you propose to control erosion of the stockpile? Very Minimal Amount Piled
ONLY TRENCH material will be kept on upper side of trench water

- If no, where is the ultimate disposal of excess soil? _____

D) How do you propose to prevent sediment from leaving the site and entering nearby city sidewalks/streets and storm drains and/or lakes, rivers and streams? (see page 4 for examples)

There is AN EXISTING Retaining Wall in Place,

E) Do you plan to park construction vehicles on or disturb City owned property like the greenbelt area? ☐ Yes ☒ No

- If yes, tell us how you agree to repair all disturbances or damages to City owned property and provide a written approval from the City allowing construction vehicles to park on City owned property.

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DEPARTMENT OF
PLANNING & ZONING

- If no, then please monitor all construction and visitor vehicles and advise all not to park on City owned property.

F) How do you propose to either prevent or clean sediment generated from construction vehicles and activities that becomes deposited on City streets, sidewalks, or bikepaths and how frequently this will be done.

Construction vehicles will be operating on pavement. little to NO
Sediment on vehicles.

G) Will stockpiles or disturbed soils be present and/or exposed after Nov. 1st of any construction year? ☒ Yes ☐ No

- If yes, tell us how you plan to stabilize any stockpile and/or disturbed soils.

Soils Mostly Covered Rock, Very little Stock Pile. Will
TARP.

Do you agree to abide by the following conditions?

☒ Y ☐ N Applicant will call 540-1748 or email memoir@burlingtonvt.us at least 24 hours prior to initiating earth disturbance and submit the name and contact (cell phone and email) of the erosion control coordinator for the project

☒ Y ☐ N Applicant will post the notice in a visible location

☒ Y ☐ N I acknowledge that it is the responsibility of the owner and his/her representatives to ensure that:

- o sediment does not enter surface water bodies (streams, ditches, ponds, lakes, wetlands etc.)
- o sediment does not enter City conveyance infrastructure (catch basins, sewers etc.) and
- o All sediment must be removed from the city ROW (sidewalks and roadways) by the end of each work day.

☒ Y ☐ N Sediment control measures will be installed prior to the initiation of earth disturbance.

☒ Y ☐ N During the non-winter construction season (April 15 – November 1): After an initial 14 day period of initial disturbance, temporary or permanent stabilization (mulching, erosion control matting or tarps for stockpiles, or other approved method) of exposed areas and stockpiles will occur at the end of each work day unless:

- o Earthwork is to continue in the area within the next 24 hours and there is NO liquid precipitation forecast for the next 24 hours; or
- o If work is occurring in a self contained excavation (no outlet) with a depth of 2 feet or greater (e.g. house foundation excavation or utility trenches.

- ☒ Y ☐ N During the winter construction period from November 1 to April 15, any **new disturbance** must be temporarily or permanently stabilized (mulching, erosion control matting or tarps for stockpiles, or other approved method) will occur at the end of each work day unless:
- o Earthwork is to continue in the area within the next 24 hours and there is NO liquid precipitation forecast for the next 24 hours; or
 - o If work is occurring in a self-contained excavation (no outlet) with a depth of 2 feet or greater (e.g. house foundation excavation or utility trenches)
- ☒ Y ☐ N The perimeter of the site and all BMPs will be inspected at the **end of each workday** to ensure that sediment will not leave the site. If sediment has travelled beyond the site boundary, it shall be swept up or otherwise removed and deposited on-site in an upgradient area at the **end of each work day**.
- ☒ Y ☐ N The owner and his/her representatives shall abide by the best management practices (BMPs) indicated in this plan and conditions and in the Vermont DEC Low Risk Site Handbook for Erosion Prevention and Sediment Control (2006). Contact 802-540-1748 for a hard copy or go to the web:
http://vtwaterquality.org/stormwater/docs/construction/sw_low_risk_site_handbook.pdf
- ☒ Y ☐ N If soils will be exposed after November 1st and winter construction has not been permitted the project will **notify DPW prior to October 15th**. If the project is completed during the winter months, an additional inspection will be required to ensure that the site is buttoned up for the winter.
- ☒ Y ☐ N Within 48 hours of reaching final grading, the exposed soil will be seeded and mulched or covered with erosion control matting (for slopes steeper than 3:1 or high wind prone areas). Erosion control matting is preferred.
- ☒ Y ☐ N The owner will contact DPW to schedule a stabilization inspection when site work is finished and stabilization measures (seeding and mulching or matting) have been installed.

AGREEMENT

By filling out and signing this plan, I agree to abide by the terms and conditions outlined above. Failure to follow this plan can result in a stop work order by the City of Burlington, fines, or both.

By: ☒ Owner ☐ Contractor ☐ Architect/Engineer

Ben Brosseau

Name

[Signature]

Signature

8/24/17

Date

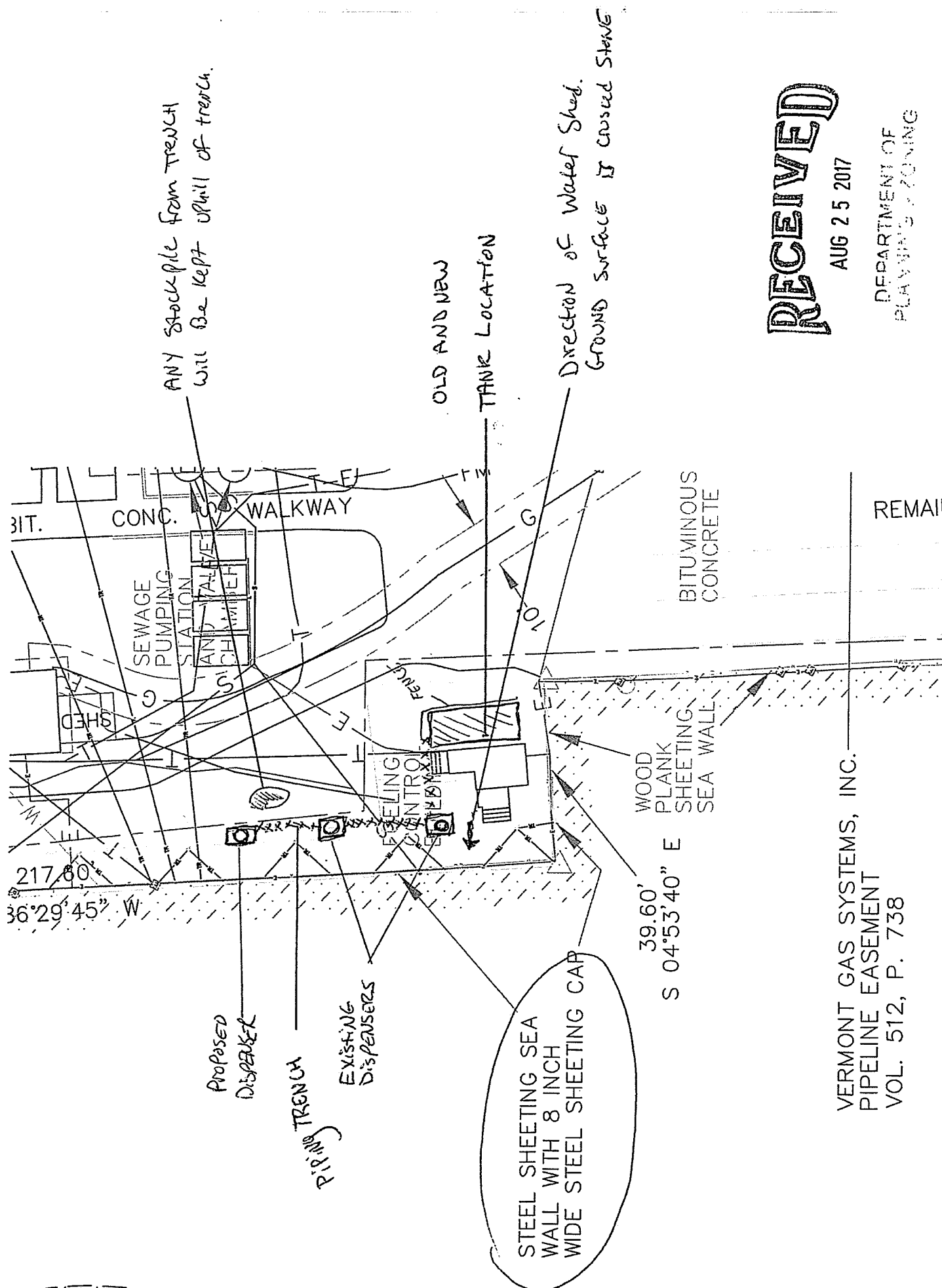
Additional Conditions of Approval:

Required Compliance Items:

- Notification of start/identification of EPSC responsible party
- Winter Stabilization Inspection (if applicable)
- Final Stabilization

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PLANNING & ZONING



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PLANNING & ZONING

VERMONT GAS SYSTEMS, INC.
PIPELINE EASEMENT
VOL. 512, P. 738

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, CFM, Principal Planner
Mary O'Neil, AICP, Principal Planner
Ryan Morrison, CFM, Associate Planner
Anita Wade, Zoning Clerk
Layne Darfler, Planning Technician*



TO: Development Review Board
FROM: Scott Gustin
DATE: October 3, 2017
RE: 17-1267AP; 43 Starr Farm Road

=====

The appellants for 17-1267AP, 43 Starr Farm Road, appeal of zoning violation notice #334328 have requested deferral of the public hearing. Code Enforcement staff supports the request, as the parties are working towards resolution.



City of
Burlington, Vermont
149 Church Street

CODE ENFORCEMENT REPORT

ZP #: 18-0072AP

Tax ID: 038-4-113-000

Application Date: July 21, 2017

Property Address: 204 North Ave

Note: This is the Code Enforcement Office's Report; decisions on appeals are made by the Development Review Board, which may uphold or overturn the Administrator's decision. THE APPLICANT OR REPRESENTATIVE MUST ATTEND THE MEETING.

Appeal of NOV #335900-- Notice of Violation issued for Change of use from a duplex (2 units) to a triplex (3 units) without zoning approval.

Sec. 12.2.2 Appeals of Administrative Officer Decisions

Appeal of ZV #334211; information and argument received from Appellant:

Name and address of appellant:

Pierre Gingue
PO Box 105
Hinesburg, VT 05461

Represented by: John Franco, Esq.

Brief description of the property with respect to which the appeal is taken

204 North Avenue is permitted as a 2-unit residential structure in the RM Zone.

Reference to the regulatory provisions applicable to that appeal

(a) Burlington Comprehensive Development Ordinance Articles 2, 3, 5, and 12.

Relief requested by the appellant

Applicant is requesting the City of Burlington Code Enforcement Office withdraw its Notice of Violation against Mr. Gingue and the property at 204 North Road [Avenue] as it relates to its usage as a three dwelling unit structure.

Appellant also asks that the City of Burlington should issue an after-the-fact permit for conversion from a two-unit structure to a three-unit structure.

Alleged grounds why such requested relief is believed proper under the circumstances

Applicant acquired the subject property on or about December 19, 2002. It is undisputed that the structure had three (3) dwelling units at that time.

When the previous owner bought the property in 1979, it was a duplex.

According to the Appellant's testimony in appeal, in 1992, the prior owner moved out of the property, retaining it as an investment. He states that at that time, he converted the property from 2 units to 3 units. Accordingly, the property has been a 3-unit residence since 1992.

The prior owner obtained building permits for the work but appears not to have obtained a zoning permit.

The subject property is located in Zone RM. Multi-family dwellings (3 or more) are a permitted use in Zone RM. We maintain that the usage as such began in 1992 and has continued to the present.

Pursuant to the City's Assessor's records, this property has been recognized as a 3-unit structure since at least the 1994 re-evaluation. Additionally, the Code Enforcement Office has been aware that the subject property is a three unit dwelling since at least December 17, 2002, when it issued a routine inspection letter to the prior owner, Samuel Conant.

As set forth in the City's letter dated July 7, 2017, the City previously initiated an enforcement against Mr. Gingue in January 2010.

To the extent that the property is in violation of City of Burlington regulations, the City has failed to timely enforce its owner regulations and enforcement should be barred.

Appellant's Submittals

No submittals attached to the appeal from Appellant

City's Rebuttal:

As illustrated in the Appeal, Appellant does not deny that the property has changed its use from a duplex to a triplex. However, the change required zoning approval and Appellant (and/or previous owner) failed to request zoning approval for the additional use (triplex) change. Appellant does not refute this fact, instead, Appellant states that the City failed to timely enforce the violation. Pursuant to caselaw, enforcement of a use violation--the type of violation at issue here--is not barred from enforcement by the statute of limitations on zoning violations as use violations are considered to be "continuing" violations, that is, to recur with each day of violation, therefore the statute of limitations wouldn't apply.

City's Submittals

- Notice of Violation Dated July 6, 2017
- Notice of Violation Dated January 20, 2010
- DRB March 3, 2010 Appeal minutes

INVESTIGATION:

Planning/Zoning Records:

- Property is zoned as RM
- March 20, 2009: ZP 09-626CA approved to convert three season porch to finished living area; certificate of occupancy approved July 26, 2017.
- January 20, 2010: Notice of violation for the change of a single family dwelling unit to a triplex without zoning permit; NOV withdrawn June 5, 2017 due to lack of action in a timely manner.
- January 29, 2010: ZP 10-0602CA approved to install sixteen replacement windows; certificate of occupancy approved July 26, 2017.
- July 7, 2017 Notice of Violation for "Change of use from duplex (2 units) to triplex (3 units) without zoning approval.

Department Public Works Records:

- 1983 General Repairs with plumbing
- 1983 Building Permit – general repairs on exterior.
- 1992 Building Permit – Repair/remodel single family house
- 2002 Building Permit – siding repair, porch column repair and rebuild rear egress to comply with building code requirements.
- 2002 Building Permit – 16 vinyl replacement windows
- 2003 Mechanical Permit – install (2) new Rinnai space heaters in existing living units.
- 2003 Mechanical Permit – replace old hot air furnace with new gas fired hot air furnace and 3 hot water heaters.
- 2005 – Electrical permit – install new wiring for newly installed ac/dc interconnected smoke detectors per city ordinance in 3 units.
- 2008 – Building permit – repair damaged Gyp board walls and ceilings in three apartments.
- 2009 – Electrical permit – install new 100 am panel to Apt. 2, split the existing circuits which currently are both feeding from Apt. 1.
- 2010 – Building Permit – convert porch into a den.

Code Enforcement Minimum Housing Records:

- 1990 Property listed as a 2-unit rental.
- 2000 at the Property but does not identify number of units.
- 2002 note in the file that Property is not listed as a rental.

- December 17, 2012 property registered as a 3 unit rental.

Assessor Records:

- 1985 Assessor's Card identifies Property as a 2-unit structure with 10 rooms (4 of which are bedrooms).
- Notation on 1994 Assessor's Card indicates the use changed from 2 units to 3 units October 21, 1993, verified by inspection.
- Lot size: 3,244 sf

FINDINGS

- Structure was originally built as a duplex circa 1899 and taxed as such until 1994.
- In 1930 204 ½ North Avenue was built as a single family home and is separately owned.
- On January 20, 2010, a notice of violation (ZV 191179) was issued to Owner for a *change of use from single family home to a triplex without zoning approval*; Appeal included a statement from Appellant that *"prior owner purchased the property as a duplex. In 1992 he [previous owner] converted the property from 2 units to 3 units, moved out of the property and retained it as an investment property. Accordingly, the property has been a 3-unit residence since 1992"*. Owner's previous attorney, Cynthia Broadfoot, argued at that meeting, that ZV #191179 was not enforceable.
- At the January 20, 2010 public hearing, there was some confusion between properties located at 204 and 204 ½ North Avenue; in earlier years there did not appear to be any consistency between the two properties (ie. If a permit was granted for 204 or 204 ½ North Avenue, etc.) the City asked the Board for a continuance and later withdrew the notice of violation. The confusion has been resolved and a new notice of violation has been issued for the property, which is the subject of this appeal; records show 204 North Avenue is duplex and not a single family as initially believed – but the third units of the existing triplex was never permitted.

ARGUMENT

It appears undisputed by Appellant and the evidence that a zoning violation exists. The property was converted from a duplex to a triplex without zoning approval, a use of the property that does not meet the standards of the current zoning regulations. The only question raised is whether the City may enforce against this violation. As use violations are exempt from the zoning statute of limitations, the violation is enforceable.

Conclusion:

The property was converted from a duplex to a triplex without zoning approval. Under current regulations, a triplex would not be permitted at this location due to the small size of the lot. The property is located in the RM zone on a 3,244 sf lot; at an allowable density of 20 units per acre, the 0.07 acre property could support only one unit under today's zoning standards.

The Code Enforcement Office asks the Board to uphold notice of violation ZV #334211, and, as allowed for in Section 2.7.10 of the CDO, include the following requirements to remedy the violation:

1. Appellant must remove the illegal third residential unit located at 204 North Avenue, including physically converting the triplex to a duplex, by November 10, 2017. Appellant will be required to obtain all necessary municipal permits for the conversion. Occupancy of each unit must comply with the Family Definition, as defined in Article 13 of the CDO.
2. If Appellant cannot remove the third unit by November 10, 2017, Appellant may request an Agreement that includes a proposed plan, including time-line, in which to remove the illegal unit and how the (third unit) space will be integrated into the existing duplex; Agreement will require a fee and will need to be executed by November 17, 2017.

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

Israel Smith

AJ LaRosa

Geoff Hand

Alexandra Zipparo

Samantha Tilton

Jim Drummond, (Alternate)

Robert Purvee, (Alternate)



BURLINGTON DEVELOPMENT REVIEW BOARD

Tuesday October 3rd, 2017, 5:00 PM

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

MINUTES

Board Members Present: Austin Hart, Brad Rabinowitz, Israel Smith, AJ LaRosa, Geoff Hand, Alexandra Zipparo, Samantha Tilton

Board Members Absent: Jim Drummond (Alt), Robert Purvee (Alt)

Staff Present: Scott Gustin, Ryan Morrison, Layne Darfler

I. Agenda

43 Starr Farm Rd Deferral to later date

II. Communications

None

III. Minutes

Minutes from September 19th, 2017 will be considered at the next deliberative meeting

IV. Consent

1. 18-0222CA; 1 King Street Dock (DW-PT, Ward 3C/5S) Lake Champlain Transportation Company

Removal of 5,000 gallon partially underground fuel tank, piping, and 3 concrete islands for dispensers. Installing 10,000 gallon above ground fuel tank with 14'x28' concrete pad, anchor bolts, new piping and 3 islands for dispensers. Also 12 concrete filled bollards surrounded by an 8' high wooden fence

(Project Manager: Ryan Morrison)

A.Hart: Requestd this item be brought into public hearing

No objections

A.Hart: Does the applicant have any questions or concerns about conditions or staff findings as presented?

None

A.Hart: Are there any members of the public that wish to comment or have questions regarding the project?

None

A.Hart: Installing a 10,000 gallon tank next to the lake is reason to ask more questions; the materials for flood hazard review, have they been received back from the State?

R.Morrison: there has been not materials or comments received back from State review, at this point they have missed their 30 day period to comment.

A.Hart: In the ordinance there are requirements for engineer reports, etc. when are those followed up or reviewed by staff or can they be reviewed by staff?

R.Morrison: They can be reviewed by S.Gustin or myself as we are both Certified Floodplain Managers.

A.Hart: What is the required timeline of that review, how does that work?

R.Morrison: Planning and Zoning are working on updating a list to fulfill these requirements but currently it is still a work in progress. This review is required before the Certificate of Occupancy can be issued.

S.Gustin: something for anchoring would be reviewed before the Certification of Occupancy would be issued.

A.Hart: Critical components or issues would be anchoring and how high the tanks are installed versus the high lake levels. Regarding the flood hazard area and being properly anchored, is there a separate process the applicant has to go through for review of leakage or spills?

B.Brosseau: Engineer will have a spill prevention/containment plan; currently in process with DEC for facility. The tanks are double walled for puncture prevention.

A.Hart: The base of the tanks as installed- what is the elevation there?

R.Fox: 99.95 ft is the elevation of that dock

A.Hart: Water could increase to 102 ft?

Correct

A.Hart: Do any Board member have any further questions?

None

A.Hart: Are there any members of the public that wish to comment or have questions regarding the project?

None

A.Hart: Does the applicant have any questions or concerns?

None

A.Hart: Closes the Public Hearing

2. 15-0339VR; 31 NORTH AVENUE (RM-W, Ward 3C) Cynthia Smith

Time Extension Request: Variance from front yard setback. Property fronts Depot Street.
(Project Manager: Scott Gustin)

A.Hart: Has the applicant received staff comments or does the applicant have any questions or concerns about conditions or staff findings as presented?

Applicant had not received staff comments, S.Gustin briefly reviewed.

A.Hart: Do any Board member have any further questions?

None

A.Hart: Are there any members of the public that wish to comment or have questions regarding the project?

None

A.Hart: What is the limit of the number of extensions that an applicant may receive?

S.Gustin: 3

I.Smith: Motion to approve and adopt staff findings and recommendations

B.Rabinowitz: Seconds the motion

7-0-0

V. Public Hearing

1. 17-1267AP; 43 STARR FARM ROAD (RL, Ward 4N) Ventas Realty LP

Appeal of zoning violation notice #334328.

(Project Manager: Jeanne Francis)

A.Hart: Recused

B.Rabinowitz: Applicant has requested deferral to a later date, is there a date requested?

S.Gustin: Suggesting November 8th or the 21st

B.Rabinowitz: Are there any members of the public who wish to speak about this project?

None

A.LaRosa: Motion to defer to November 8th 2017

A.Zipparo: Seconds the motion
7-0-0

2. 18-0072AP; 204 NORTH AVENUE (RM, Ward 3C) Pierre Gingue
Appeal of NOV #335900 as it relates to usage as a three dwelling unit.
(Project Manager: Jeanne Francis)

A.Hart: As the City has filed the Notice of Violation we will have them speak first

K.Sturtevant: Notice of Violation issued for increasing number of units from a duplex to a triplex. Initial action was taken in 2010 for converting from a single family to a triplex. Action was abandoned due to a mistake with the property address 204 North Avenue and 204 ½ North Avenue. No permits on property listed as 204 North Avenue for change in use from duplex to triplex.

A.Hart: The appeal says this has been used as a triplex since 92 or 95, is there any more dispute about the date the use began?

K.Sturtevant: Their (the appellant's) assertion is that based on taxes, it has been that way since sometime in the 90's.

A.Hart: What happened in 2010, the Notice of Violation was brought on a specific issue but the confusion of property address resulted in it being dropped and then withdrawn in 2017
Correct

K.Sturtevant: There was confusion over the property address of 204 North Avenue and 204 ½ North Avenue, they put the Notice of Violation on hold until they could figure out that issue and it ultimately fell off the radar.

A.LaRosa: The issue fell off the radar but then a similar Notice of Violation was issued in 2010?

J.Francis: The original notice was for the conversion from single family to triplex

A.LaRosa: Now the notice is due to the duplex converting to triplex?

A.Hart: What was the confusion regarding the property?

J.Francis: The house directly behind it is a single family addressed as 204 ½ North Ave. Permitting went under 204 North Ave, not 204 ½ North Ave. So Building Permit listed it as single family. The change then was single family to triplex.

A.LaRosa: How is going from a duplex to a triplex a change in use?

K.Sturtevant: Under the ordinance it is a different use as listed in the Use Table.

A.LaRosa: So the break in the use is going from 2 to 3 units?

Correct

B.Rabinowitz: The statute of limitations does not apply here because it is a use violation

Correct

A.Hart: Bottom line the conversion from the duplex to a triplex sometime in the 90's was never permitted

Correct

A.LaRosa: The remedy to remove the use seems onerous, what would be the problem with the appellant applying for the triplex?

K.Sturtevant: It would not conform to current standards under the ordinance

A.LaRosa: Would it have qualified under the 92 ordinance?

K.Sturtevant: Not aware, but can look into it

A.Hart: Does the board have any other questions for the City before we ask the appellants to come forward?

None

J.Franco: Preface remarks with what the issue is. Board should have copy of the Original Notice of Violation which sets out the chronology of what happened and when the conversion from a duplex to a triplex seems to have occurred. First three bullets are very important, these are representations by City staff. First one being that in 1985 assessor's card identified the property as a two unit. By October 21st, 1993 it states the Assessor's staff completed an inspection found the structure had increased its units to three. Inspector noted and signed on the 1994 Assessor's card. We know that by 1993 it was a triplex. Property was previously owned by Sam Conan, recollection was that he converted the structure in August of 1992 and his narrative was that it was left up to the contractor to get the permits. Issue here is about the statute of limitations, transition happened well beyond the 15 year statute of limitations. The

enforcement division has argued that there is something called a Continuing Use Exception to the statute of limitations and that there's effectively no statute of limitations because it is being used as a triplex. We disagree with that analysis. Provided handout with evidence believed to show why that is not true.

K.Sturtevant: City had not received previously

J.Franco: First document is the actual statute to limitations which is title 24 section 44.54.a; The language of the statute of limitations. Reviewed highlighted sections. Believes it falls under statute of repose not continuing use. The next document is section 44.49 What's the triggering occurrence here. Reviewed highlighted sections. Sometime in 1992 or 1993 the conversion from a duplex to a triplex took place, that we don't dispute required a permit and it was not obtained. It is argued that that is what is the triggering event for 44.54.a and that's where you start running the 15 year statute.

B.Rabinowitz: In the same paragraph it talks about sub chapter 10 chapter 61 what is that?

J.Franco: That is the environmental division, Act 250 enforcement it is not Title 24. Heard the argument that there is a decision from the environmental court in the case of City of St. Albans Vs. Hayford; where the former environmental court judge adopted the violation theory, that's true. But as attached in handout there was a decision from the Vermont Supreme Court in 2008 in footnote; the Supreme Court declined to adopt that rule at least at that point in time. Not aware of any case where the Supreme Court stated the adoption.

A.LaRosa: Are you contending that the continuing use violation is not a statutory one but a trial court order not evasive law like a Supreme Court decision?

J.Franco: Not sure if the currently constituted environmental court has adopted the continuing use rule. There has been no decision by the Vermont Supreme Court adopting the continuing use rule, more importantly saying that 44.54.a is not a statute of repose. If you adopt a continuing use theory that's being advanced by the planning department you can take all of the land titles in the City of Burlington and the certainty of those things and throw them in the waste basket. Think about the allegation here originally the allegation was conversion from a single family to a triplex. Nobody could figure out when the conversion, if there was one, from single family home to duplex ever occurred. When did the City adopt zoning? Is there anyone around to testify about that? Reviewed a discussion about the statute of limitations. You cannot through interpretation re-write the statute.

P.Gingue: Sam Conan said that the project was given to a contractor to get permits and didn't know what permits were obtained. That contractor is no longer alive so therefore there is no way to know what he actually did. The building is being used for affordable housing, refugees and section 8. This situation is going to affect everyone in the building.

A.LaRosa: Are all 3 units being utilized? So if a unit was removed it would leave people out of housing.

Confirmed

J.Franco: In terms of the discussion of what is the statute of repose; stability security finality to disputes and what's going to happen here is something that has been an accepted use is now not accepted. The statute of limitations ran quite a long time ago.

A.Hart: Mr. Gingue, you acquired the building in 2002. What happened in 2010 seems there was 2 parties to the notice of violation, the issue was raised and then disappeared. Why did nothing happen for 7 years?

P.Gingue: No clue, was given the notice of violation and tried to get a permit. Was told the permits had been destroyed by pigeon waste in the City's attic storage location. Disputed the violation and nothing ever happened. Appeal was brought before the DRB.

A.Hart: Continued but never brought back

J.Franco: Would like to note the doctrine called Stale Prosecutions, which states that there is some obligation upon enforcement authorities the thing in a timely manner. Ability to interview the contractor has now lapsed as he has passed away.

G.Hand: Was there any period of time that it was not a triplex under your ownership?

P.Gingue: No

B.Rabinowitz: Assessor's records are often brought up where it is assessed for what is unpermitted for, is there any effort to coordinate records between departments?

S.Gustin: Yes, now there is coordination, back then there wasn't

A.Hart: Does the Board have any other questions?

None

A.Hart: Calls the City back to respond

K.Sturtevant:

Ghand- any period of time that is was not a tri under your ownership

No

Br- assessors records are often brought up where it is assessed for what it is unpermitted for, is there any effort to coordinate records between dept.

Sg- yes, now there is coordination, back then there wasn't

Br- what about property transfers – does this come out at prop transfers

Sg- yes

Ahart- anything else

None

Ahart- city response

K.Sturtevant: Mr. Franco raised the issue of the statute of limitations exceptions and the status at the court level. Agree that the St. Albans case the Supreme Court found that they held their ruling on a different issue so they didn't address that specifically. There have been other decisions in which the environmental division, different judges, has upheld the exemptions. One case in Nov 2008, judge Drukin, states "we first note that some actions are not time bard at all, in particular any zoning violation that involves public health risk or hazard can be enforced at any time regardless of when these violations commenced". Then he also states

G.Hand: We don't have a health safety issue here do we?

K.Sturtevant: No there is not a claim for that. They also state similarly the 15 year statute of limitations does not apply to use violations, which are seen as continuous violations. He cites City of Burlington V. Richardson 2003.

A.Hart: That's an environmental division case?

Confirmed

K.Sturtevant: Distinguishing ongoing use violations and a onetime construction violations. Appeal of Gothier, which is also a Judge Dirkin case, noting that when the underlying enforcement efforts referred to a change in use they are not time bard.

A.Hart: Are you aware of any environmental divison that refused to adopt the continuing violation rule?

K.Sturtevant: Not aware of any

G.Hand: Can you speak to why it's important to the City that we apply the continuing violation approach?

K.Sturtevant: There are a lot of opinions on it, recently there was a proposed zoning amendment that would have refined this but it was turned down because the policy decision was to continue with the use exemption. There are concerns of the intensity of the use of a property and the effects the use can have being greater than the particular property, but on the whole neighborhood. Effects on parking, effects on congestion, and in this case in particular the property under current regulations would only allow a one unit property to be there.

A.Hart: Other questions?

None

K.Sturtevant: There is a general statutory in our regulations and in State statute and in planning in general about doing away with non-conformities; you want your zoning uses to conform to the current zoning.

J.Franco: The other side of the argument is of course the Supreme Court has yet to adopt this continuing use argument. The other thing that we have here is again state of prosecution. Capital Savings Co V Hammond 1921 Vermont 47 states there has to be a timely prosecution.

G.Hand: Did your client do anything to re-raise the issue?

J.Franco: It was the City that was doing the investigation. The City asked for the continuance and we were waiting for the City to conclude its work. Nothing happened.

G.Hand: So you didn't come back with any requests.

J.Franco: It is not our obligation to do that it is the prosecutor's obligation to go forward and prosecute the case. Another example case is Strue V. Board of County Commissioners (Colorado) 2010 California Case talked about a delay in prosecution. If we are truly arguing over a use violation, again there shouldn't be a duplex there. When was the duplex created, how was it created, was it permitted? I don't know how you reconcile this.

A.Hart: Do any members of the Board have any more questions?

None

A.Hart: Are there any members of the public who wish to comment on this project?

None

K.Sturtevant: Without looking at the cases that Mr. Franco referred to, I can't tell you if those were criminal cases or what type of cases they were. But in this case were talking about zoning and we're talking about something that's exempt from statute of limitations because it's a use exemption which means the violation continues and everyday it's a new violation. The other part of that is the property owner continued to rent out the property, did not suffer a harm for less for that delay because they continued to be able to have the extra unit income.

A.LaRosa: It is assessed as a triplex, so it has also been taxed for the extra unit. So there are benefits and burdens on both sides.

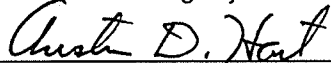
K.Sturtevant: Yes, but the income would have been much greater than the tax.

A.Hart: Closes the public hearing

VI. Other Business

VII. Adjournment

The meeting adjourned at 5:53 PM



Austin D. Hart, Chair of Development Review Board

Oct. 25, 2017

Date



L. Danfer, Planning Technician

Oct. 25, 2017

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.