

Burlington Development Review Board

149 Church Street, City Hall

Burlington, VT 05401

www.burlingtonvt.gov/PZ/DRB

Phone: (802) 865-7188

Fax: (802) 865-7195

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



BURLINGTON DEVELOPMENT REVIEW BOARD Tuesday, September 1, 2015 PUBLIC HEARING NOTICE

The Burlington Development Review Board will hold a meeting on **Tuesday, September 1, 2015 at 5:00 p.m. in Contois Auditorium, City Hall.**

1. **16-0163CU; 702 Lake Street (UR, Ward 4N/3C) City of Burlington**
Biennial review of winter snow storage for the city
2. **15-1386FC; 281 Shelburne Street (RL, Ward 5S) Barry Heath**
Appeal of zoning permit denial for installation of fence around portion of front yard
3. **16-0165CU; 747 Pine Street (ELM, Ward 5S) Cresta Cooper Nedde LLC**
Change use of unit #2 to retail warehouse and office

Plans may be viewed in the Planning and Zoning Office, (City Hall, 149 Church Street, Burlington), between the hours of 8:00 a.m. and 4:30 p.m.

Participation in the DRB proceeding is a prerequisite to the right to take any subsequent appeal. Please note that ANYTHING submitted to the Planning and Zoning office is considered public and cannot be kept confidential.

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

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

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BURLINGTON DEVELOPMENT REVIEW BOARD Tuesday, September 1, 2015, 5:00 p.m. Contois Auditorium, City Hall, 149 Church Street, Burlington, VT AGENDA

- I. Agenda**
- II. Communications**
- III. Minutes**
- IV. Consent Agenda**
 - 1. 16-0165CU; 747 Pine Street (ELM, Ward 5S) Cresta Coor Nedde, LLC**
Change use of unit #2 to retail warehouse and office (Project Manager, Mary O'Neil)
 - 2. 16-0188CA; 111 Colchester Ave (I, Ward 1E) Fletcher Allen Health Care**
New roof deck addition to Shepardson South Building (Project Manager, Mary O'Neil)
 - 3. 16-013CU; 702 Lake Street (UR, Ward 4N/3C) City of Burlington**
Biennial review of winter snow storage for the City (Project Manager, Mary O'Neil)
- V. Public Hearing**
 - 1. 15-1386FC; 281 Shelburne Street; (RL, Ward 5S) Barry Heath**
Appeal of zoning permit denial for installation of fence around portion of front yard. (Project Manager, Scott Gustin)
- VI. Certificate of Appropriateness**
 - 1. 16-0122CA; 316-322 Flynn Ave; (RL, Ward 5) G & C Properties**
Amendment to zoning permit 15-0809CA/MA for requested reduction in parking lot shading (Project Manager, Scott Gustin)
- VII. Other Business**
- VIII. Adjournment**

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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
vacant, Assistant Director
vacant, Comprehensive Planner
Jay Appleton, GIS Manager
Scott Gustin, AICP, Senior Planner
Mary O'Neil, AICP, Senior Planner
Anita Wade, Zoning Clerk
Elsie Tillotson, Department Secretary



TO: Development Review Board
FROM: Scott Gustin
DATE: September 1, 2015
RE: 16-0163CU; 702 Lake Street

=====

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

Zone: UR Ward: 3C

Owner/Applicant: City of Burlington / Dept. of Public Works

Request: Biennial review of winter snow storage for the city

Applicable Regulations:

Article 3 (Applications, Permits, and Project Reviews), Article 4 (Maps & Districts), Article 5 (Citywide General Regulations)

Background Information:

The applicant is seeking renewed approval to use a portion of the urban reserve to store snow removed from city streets during winter months. No construction is included in this proposal. This activity was previously permitted January 19, 2010. It was again permitted June 27, 2012. As with all zoning permits for uses within the Urban Reserve, these approvals were valid for only 2 years. This new permit application is for another 2 year approval of the same activity with no changes.

The Conservation Board reviewed and approved the original permit application December 7, 2009. No changes are proposed. As a result, no additional Conservation Board review has taken place.

There are no previous zoning permit actions for this site except for the previous snow storage permits noted above.

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

I. Findings

Article 3: Applications and Reviews

Part 5, Conditional Use & Major Impact Review:

(1) *The capacity of existing or planned community facilities;*

The seasonal storage of snow from city streets on this site will have no impact on existing or planned community facilities. It will assist Public Works crews in keeping city streets clear during large snow storms. **(Affirmative finding)**

(2) The character of the area affected;

The site is bordered to the east by railroad tracks and to the west by the bike path. The surrounding land is vacant former industrial land. No site alterations or structures are proposed for this seasonal use. The snow storage use is consistent with the character of the area. **(Affirmative finding)**

(3) Traffic on roads and highways in the vicinity;

Traffic associated with the seasonal snow storage use depends on the amount of snowfall. Small snow events do not require use of the storage facility, whereas large snow storms do. Information provided states that the facility is used about 4 times during the early morning hours in an average winter. The traffic activity that has the greatest impact on adjacent neighborhoods generally occurs between 3:00 AM and 7:00 AM. In general, traffic impacts, with the exception of truck noise (discussed below), are modest. **(Affirmative finding)**

(4) Bylaws then in effect;

As conditioned, the snow storage use complies with all applicable zoning bylaws. **(Affirmative finding)**

(5) Utilization of renewable energy resources;

No information has been provided with respect to the use of alternative energies. As no site changes or structures are proposed, the proposed use will not unreasonably deter the actual or potential use of renewable energies by the subject or neighboring properties. **(Affirmative finding)**

(6) Cumulative impacts of the proposed use;

The proposed snow storage facility receives limited seasonal use and will generate no substantial cumulative impacts. **(Affirmative finding)**

(7) Functional family;

(Not applicable)

(8) Vehicular access points;

The site is accessed by a driveway from Lake Street. This driveway is sufficient for the use. **(Affirmative finding)**

(9) Signs;

No signage is included in this proposal. **(Not applicable)**

(10) Mitigation measures;

The snow storage use will generate no glare other than that from truck headlights. Noise from the dump trucks unloading snow can be substantial; however, the limited duration of the facility's use restricts overall noise impacts. Information with the previous application asserts that truck drivers are instructed to pull away slowly so as to not let the tailgates of their trucks slam against the truck

body. This method of dumping snow limits potential noise impacts associated with the activity. **(Affirmative finding)**

(11) Time limits for construction;

No construction is included. **(Not applicable)**

(12) Hours of operation and construction;

As noted previously, the facility is used seasonally. Early morning snow dumping activities are generally limited to the period between 3:00 AM and 7:00 AM. Information provided states that operations at the snow storage facility take place approximately 4 times per winter. As noted above, noise impacts are reduced by dumping snow slowly and not slamming the tailgates.

(Affirmative finding)

(13) Future enlargement or alterations;

Any future enlargement or alterations of the snow storage facility will require additional permit review in accordance with the regulations in effect at that time. **(Affirmative finding)**

(14) Performance standards;

As no site or exterior building changes are proposed, the project does not warrant the consideration of performance standards such as nuisances, lighting, and erosion control. **(Affirmative finding)**

(15) Conditions and safeguards;

As conditioned, the proposed snow storage facility complies with the applicable requirements of the Comprehensive Development Ordinance. **(Affirmative finding)**

Article 4: Maps & Districts

Sec. 4.4.7, Urban Reserve District:

(a) Purpose

The snow storage use is seasonal in nature and involves no site alterations or structures. It is identified as one of several uses that may be allowed in the urban reserve. **(Affirmative finding)**

(b) Dimensional Standards & Density

The snow storage use involves no structures, lot coverage, or residential units. **(Affirmative finding)**

(c) Permitted & Conditional Uses

Seasonal snow storage by the city is a conditional use in the urban reserve and is reviewed under the applicable criteria of these findings. **(Affirmative finding)**

(d) District Specific Regulations

1. Any and all improvements in this district shall be consistent with any and all development and use restrictions and easements as may otherwise be applicable to the property.

The City Attorney's Office submitted a memo relative to the prior snow storage permit indicating that the snow storage activity is consistent with applicable regulations. As noted above, no changes to the snow storage operation are proposed in this new application. **(Affirmative finding)**

2. Any authorization granted by the DRB shall include a prescribed duration for the activity after which such authority and all related permits shall expire. The DRB may consider an

extension of this time period if such a request has been made prior to expiration. No permit should remain in effect for more than 2 years without reapplication and review pursuant to this section.

The original zoning permit approval was valid for 2 years. This new zoning permit is also valid for just 2 years. **(Affirmative finding as conditioned)**

3. As a condition of any approval by the DRB for projects involving temporary construction staging or seasonal snow storage, the site shall be restored to its prior condition once the temporary activity has been completed for which the DRB may require a bond or other necessary surety in a form satisfactory to the city attorney.

In the spring, after the snow has melted, the site must be cleaned of any trash or debris that was contained in the snow. No financial surety is required. **(Affirmative finding as conditioned)**

Article 5: Citywide General Regulations

Sec. 5.2.3, Lot Coverage Requirements

(Not applicable)

Sec. 5.2.4, Buildable Area Calculation

(Not applicable)

Sec. 5.2.5, Setbacks

(Not applicable)

Sec. 5.2.6, Building Height Limits

(Not applicable)

Sec. 5.2.7, Density and Intensity of Development Calculations

(Not applicable)

Sec. 5.5.1, Nuisance Regulations

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

Sec. 5.5.2, Outdoor Lighting

(Not applicable)

Sec. 5.5.3, Stormwater and Erosion Control

The Conservation Board reviewed the original application and specifically addressed potential water quality impacts from the melting snow and its proximity to Lake Champlain. The site is contained within an existing berm. Melt water infiltrates into the ground or evaporates. Little runoff leaves the site. As noted before, trash, debris, and sand in the snow is contained and is removed from the area in the spring after the snow melts. No earth disturbance is proposed. Therefore, no erosion control plan is required. **(Affirmative finding)**

II. Conditions of Approval

1. Every spring, after snow in the storage facility has melted, all debris, sand, trash and the like shall be removed from the site, and the site shall be returned to its original condition.

2. **This permit approval is valid for 2 years only.** Continued use of the site for snow storage beyond 2 years will require a new zoning permit per Sec. 4.4.7 (d), *District Specific Regulations*, of the Comprehensive Development Ordinance.
3. Standard conditions 1-15.



**CITY OF BURLINGTON
DEPARTMENT OF PUBLIC WORKS**

645 Pine St. Suite A
Burlington, VT 05401
802.865.7200 VOX
802.863.0466 FAX
802.863.0450 TTY

Chapin Spencer
DIRECTOR OF PUBLIC WORKS

Rob Green
*ASSISTANT DIRECTOR
RIGHT OF WAY*

Memo

To: Scott Gustin

From: Rob Green

Date: August 4, 2015

Re: 702 Lake St (Urban Reserve Snow Storage)

RECEIVED
AUG - 4 2015

**DEPARTMENT OF
PLANNING & ZONING**

There are no changes to the previous snow storage plan at the 702 Lake St Urban Reserve site.

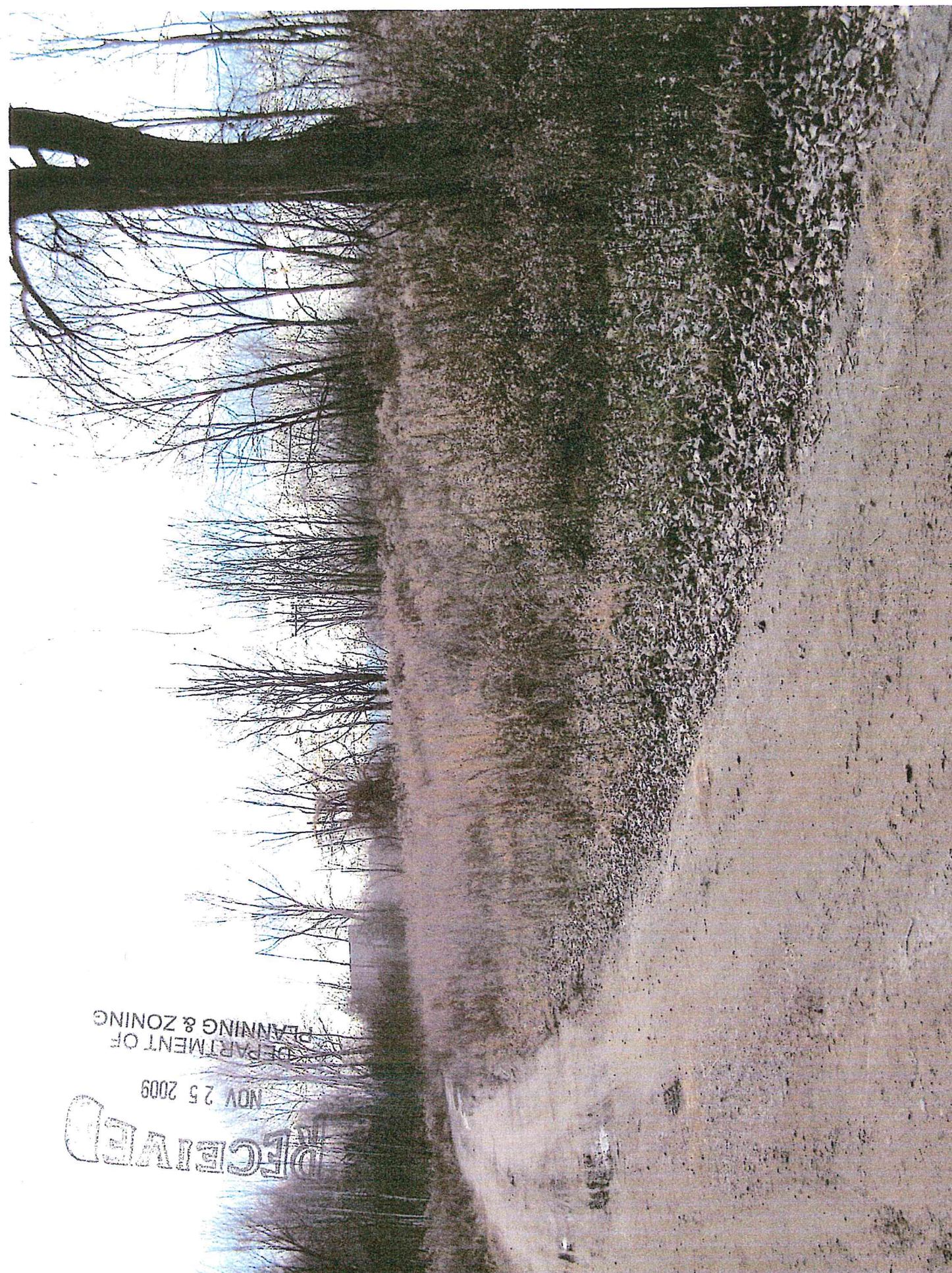
Nighttime operations of snow removal from the downtown happen approximately 4 times per winter.

Noise in the area will be reduced with special instructions to the employees not to slam tailgates of dump trucks and driving slowly.

The area is clean every spring after the snow melts of any trash and debris.

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NOV 4 2009



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NOV 12 2008

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DEPARTMENT OF
PLANNING
NOV 14 2008

OFFICE

Parcel owned by City of Burlington

Snow Storage Area

ANY NOTIFICATIONS OR DEVIATIONS FROM THE ZONING MAP OR ZONING ORDINANCES SHALL BE THE RESPONSIBILITY OF THE APPLICANT.
SIGNED: [Signature]
PLANNING & ZONING DEPARTMENT
BURLINGTON, VERMONT



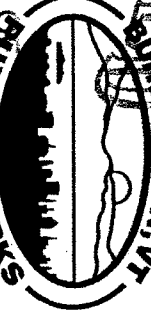
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CITY OF BURLINGTON

SNOW STORAGE AREA

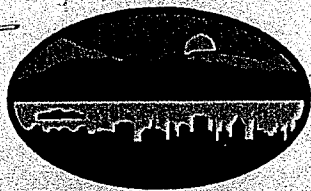
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BURLINGTON, VT

NOV 25 2009



DEPARTMENT OF PUBLIC WORKS
PLANNING & ZONING

Created on: 11/23/09
By: M.Moir



ZONING PERMIT
CONDITIONAL USE
City of Burlington, Vermont
Department of Planning and Zoning

Application Date: 5/16/2012

Appeal Expiration Date: 7/27/2012

Project Location: 702 LAKE STREET

District: UR/DW-PT/RM-W

Owner: City Of Burlington

Address: 149 CHURCH ST

BURLINGTON VT 05401

Ward: 3

Tax ID: 043-4-007-000

Project Type: Institutional - Site Imp/Landscaping/Parking/Fence

Project Description: Biennial review of winter snow storage for the City

Construction Cost:	\$0	Lot Size (Sq Ft):	538,202
Net New Habitable Sq Ft:	0.00	Net New # of Housing Units:	0
Existing % Lot Coverage:	0.00	Existing # of Parking Spaces:	0
Proposed % Lot Coverage:	0.00	Proposed # of Parking Spaces:	0
Net New % Lot Coverage:	0.00	Required # of Parking Spaces:	0

Zoning Permit #: 12-1134CU

Decision By: Development Review Board

Level of Review: 1

Decision: Approved

See Conditions of Approval

Decision Date: June 27, 2012

Project File #: 12-1134CU

Zoning Administrative Officer

An interested person may appeal a decision of the Development Review Board to the Vermont Superior Court Environmental Division until 4 pm on July 27, 2012.

Fee Type	Amount	Paid in Full	Balance Due:	\$0.00
Application Fee:	\$135.00	Yes	Date Paid:	_____
Development Review Fee:	\$0.00	NA	Check #	_____
Impact Fee:	Not Applicable			

Building Permit Required: **Yes**

Permit Received by: _____

Date: _____



**CITY OF BURLINGTON
DEPARTMENT OF PUBLIC WORKS**

645 Pine Street, Suite A
Post Office Box 849
Burlington, VT 05402-0849
802.863.9094 VOX
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802.863.0450 TTY
www.dpw.ci.burlington.vt.us

ASSISTANT DIRECTOR OF PUBLIC WORKS
RIGHT OF **William Paquette**
WAY SERVICES

RECEIVE
MAY 15 2012

DEPARTMENT OF
PLANNING & ZONING

May 15, 2012

Scott Gustin
Senior Planner
Planning & Zoning
Burlington Vt. 05401

Dear Scott,

There are no changes to the previous D.P.W. snow storage plan for this site.

Overnight/early morning operations at the snow storage facility are conducted approximately 4 times a winter season using 3 trucks for approximately 8 hrs. each time.

To reduce the noise impact we instruct and make it mandatory for our people to drive slowly, and after dumping to pull away slowly, so as to not let their tailgates slam against the truck body.

Thank you

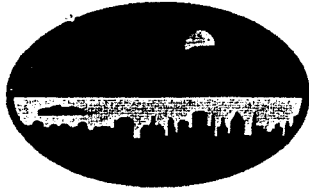
Sincerely,

William Paquette

Assistant Public Works Director
Right of Way Services

An Equal Opportunity Employer

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**ZONING PERMIT
CERTIFICATE OF APPROPRIATENESS**

City of Burlington, Vermont
Department of Planning and Zoning

Application Date: 12/1/2009

Appeal Expiration Date: 2/18/2010

Project Location: 0 LAKE STREET

District: UR/RM-W

Owner: CITY TREASURER
Address: 149 CHURCH ST
BURLINGTON, VT 05401

Ward: 3

Telephone:

Tax ID: 043-4-007-000

Project Description:
Winter snow storage for the city.

Other (No Use) / Other Project Type

Existing Use: GOVERNMENT - OTHER

Proposed Use: GOVERNMENT - PUBLIC WORKS

Construction Cost:	\$0	Lot Size (Sq Ft):	1,128,204
Net New Square Feet:	0.00	Net New # of Housing Units:	0
Existing % Lot Coverage:	0.00	Existing # of Parking Spaces:	0
Proposed % Lot Coverage:	0.00	Proposed # of Parking Spaces:	0
Net New % Lot Coverage:	0.00	Required # of Parking Spaces:	0

Zoning Permit #: 10-0504CA

Decision Type: Development Review Board

Level of Review: 1

Decision: Approved w/ Pre-Release Conditions
See Requirements for Permit Release

Zoning Administrator

Decision Date: January 19, 2010

Project File #: 10-0504CU

Associated Conditional Use

An interested person may appeal a decision of the Development Review Board to the Vermont Environmental Court until 4 pm on February 18, 2010.

Fee Type	Amount	Paid in Full	Balance Due:	\$0.00
Application Fee:	\$70.00	Yes	Date Paid:	_____
Development Review Fee:	\$0.00	Yes	Check #	_____
Impact Fee:	Not Applicable			

Permit Received by: _____

Date: _____



**CITY OF BURLINGTON
DEPARTMENT OF PUBLIC WORKS**

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Post Office Box 849
Burlington, VT 05402-0849
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www.dpw.ci.burlington.vt.us

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DEC - 1 2009

DEPARTMENT
PLANNING & ZONING

**ASSISTANT DIRECTOR OF PUBLIC WORKS
RIGHT OF William Paquette
WAY SERVICES**

November 25, 2009

Scott Gustin, AICP
Senior Planner
Department of Planning & Zoning
Burlington Vt. 05401

Dear Scott,

D.P.W. is applying for seasonal snow storage at the site in the Urban Reserve we have used in past years.

D.P.W. needs to clean and haul snow from the downtown core area and has typically done this approximately 4 times a winter season depending on snowfall amounts. If it is an unusually high snowfall season the times we clean and haul would increase. For the downtown cleaning we use 5 trucks for approximately 4 hrs. each time we clean and haul and this operation occurs from the hrs. of 3am to 7am.

In addition D.P.W. cleans and hauls snow from narrow and dead end streets approximately 4 times a winter season using 3 trucks for approximately 8 hrs. each time we clean and haul. When we do this cleaning and hauling operation it occurs from the hrs. of 7am to 3pm, and again if there is an unusually high snowfall season the clean and haul would increase beyond 4 times in a winter season.

There is no collection system in place nor is there any treatment of the melt water runoff. The melt water run off does not discharge directly into the lake but is contained for the most part within the berm of the snow storage area. What very little melt water that runs out of the snow storage area does so by running down the access road but stays off to the side at the beginning of the road. This amount of water is minimal and does not impact the bike path.

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In past years the Downtown Market Place has also used this area with the understanding that if we had an unusually high snowfall season and the area began to reach capacity they would have their contractor who cleans the Marketplace bring their snow somewhere other than this site. This insures that D.P.W. still has the ability to clean and haul snow in the downtown core, narrow streets, and dead ends for the duration of the winter season.

I spoke with Ron Redmond regarding the application and permit process of the snow storage and if possible he would still like to keep the same arrangement we have had in the past by being able to share the same permit with D.P.W..

Sincerely



Bill Paquette
Assistant Public Works Director
Right of Way Services

cc: Steve Goodkind
Ron Redmond

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DEC - 1 2009

DEPARTMENT OF
PLANNING & ZONING



KENNETH A. SCHATZ, Esq.
City Attorney
EUGENE M. BERGMAN, Esq.
Sr. Assistant City Attorney
NIKKI A. FULLER, Esq.
Assistant City Attorney
RICHARD W. HAESLER, JR., Esq.
Assistant City Attorney
GREGG M. MEYER, Esq.
Assistant City Attorney

CITY OF BURLINGTON, VERMONT

OFFICE OF
THE CITY ATTORNEY
AND
CORPORATION COUNSEL

May 11, 2012

149 CHURCH STREET
BURLINGTON, VT 05401
(802) 865-7121
(TTY) 865-7142
FAX 865-7123

Scott Gustin, Senior Planner
Burlington Department of Planning and Zoning
City Hall
149 Church Street
Burlington, VT 05401

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MAY 11 2012

DEPARTMENT OF
PLANNING & ZONING

Re: ^{to Scott} ZP# 10-~~054~~CA
Winter Snow Storage for City of Burlington

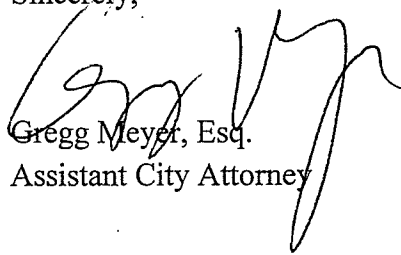
Dear Scott:

This letter is written in response to Project Permit Condition No. 1 of the above referenced permit. Said condition states: "Prior to release of the zoning permit, the applicant shall provide written verification from the City Attorney that there are no legal restrictions that would preclude the snow storage facility, subject to staff review and approval.

Our office has reviewed the Burlington Comprehensive Development Ordinance, the Development Review Board findings pertaining to this matter, staff comments, and the permit description. In our opinion, based upon those documents and the DRB's un-appealed Zoning Permit Certificate of Appropriateness that snow storage on the site is permitted, there are no zoning restrictions precluding the proposed use. As far as any non-zoning legal restrictions, our office will provide an opinion to the Applicant on that issue so that it may address any issues in a timely manner.

Please do not hesitate to contact me with any questions or concerns.

Sincerely,


Gregg Meyer, Esq.
Assistant City Attorney

Cc: William Paquette, DPW

JRMA design studio
architecture - development - planning

RECEIVED
JUL 23 2015

DEPARTMENT OF
PLANNING & ZONING

From: Michael Alvanos
Pine & Flynn Development
316-320 Flynn Ave
Burlington Vermont, 05401

To: Development Review Board
Burlington, Vermont 05401

Date: July, 2015

Re: Narrative | Shading Waiver | Pine & Flynn Development

Greetings,

On May 18th, 2015, The Development Review Board approved the upcoming project located at 316 Flynn Ave. This Mixed-Use project, located in a Neighborhood Activity Center, provides updated commercial and residential development to the South-End of Burlington, and supports infill urban development within Neighborhood Activity Centers which is described as an objective in the Municipal Development Plan.

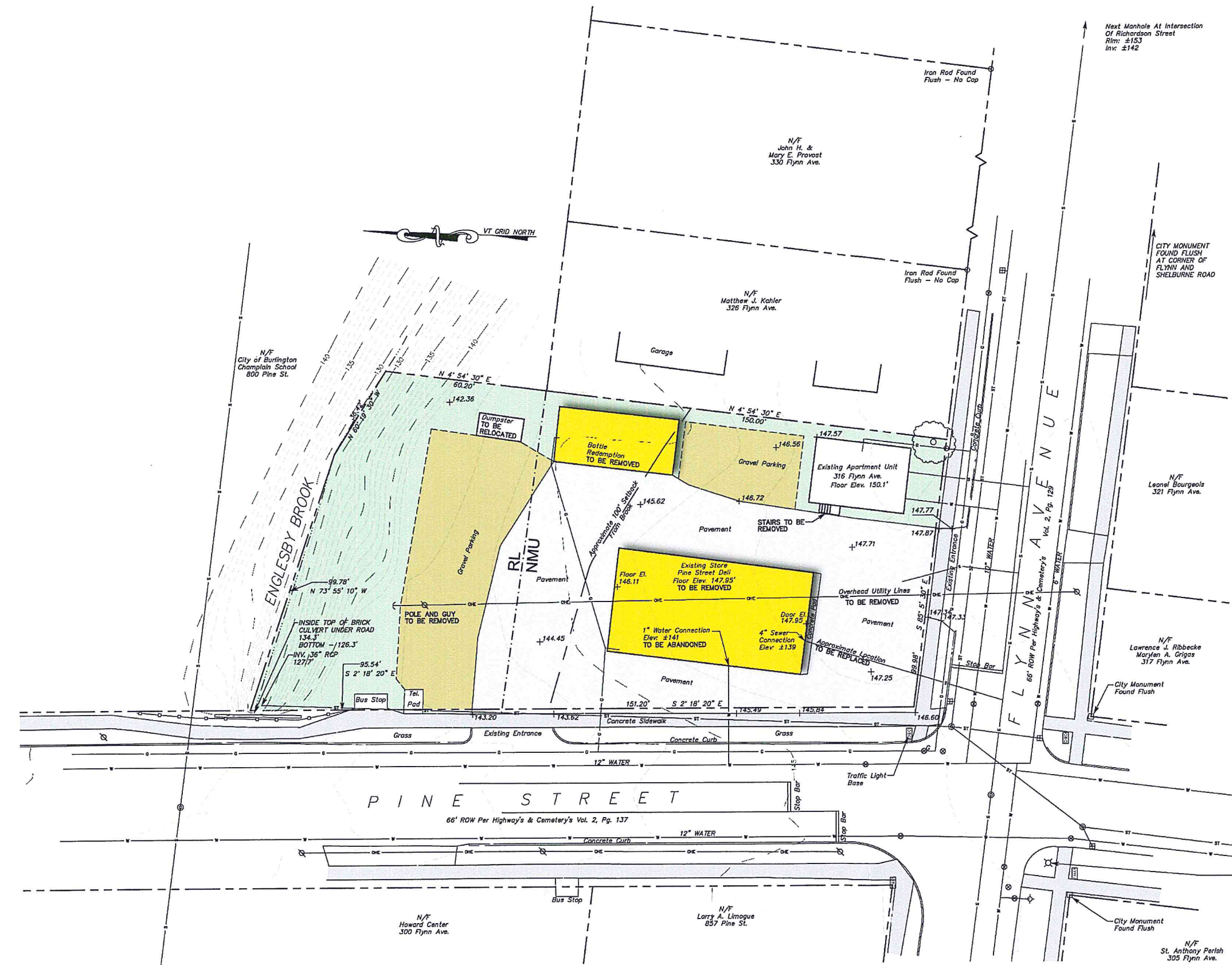
As part of the Conditions of Approval, a Shading Plan must be submitted which provides 30% shading of the Parking Lot during the yearly Equinoxes. As currently designed, only 19.02% of the Parking Lot achieved shading during the prescribed time, a 10.98% deficit. (See Submitted Plan)

The proposed building site location, on the south-west corner casts a shadow towards the parking lot, which is located on the northern portion of the site. A row of coniferous trees are located on the eastern property line. Englesby Brook is on the northern end of the property, which is heavily wooded and shaded. At the northern portion of the site, directly after the parking area, we are proposing an infiltration bio-swale, which will help minimize storm-water runoff.

Due to the limited size of the site, limited parking, and the maximization of the density of both residential and commercial development, it will be difficult to remove hardscape or asphalt and attempt to add additional landscaping or trees to provide shading. These urban-infill developments typically fall into areas where every square foot is measured and accounted for its resource. Parking is a valuable resource, and removing this for additional shading may not support the overall goals which the city is attempting to achieve with these developments.

Please consider providing this 10% Shading Waiver. It would greatly help this project move forward as scheduled and on budget.

Regards,
Michael Alvanos
Owner & Partner JRMA Design Studio



Areas			
Total Lot	26,427.9 s.f.	0.61 acre	100%
Paved Area	10,143.7 s.f.	0.23 acre	36.4%
Gravel Parking	4,533.0 s.f.	0.10 acre	17.2%
Building Area	4,741.5 s.f.	0.11 acre	17.9%
Total Impervious	19,420.2 s.f.	0.45 acre	73.5%
Pervious Area	6,987.6 s.f.	0.16 acre	26.4%

LEGEND

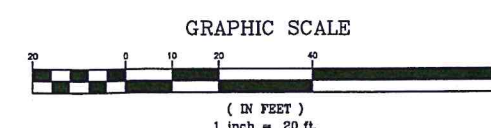
---	Property/R.O.W. Line
---	Proposed Property Line
---	Overhead Utility Line
---	Gas Line
---	Water Line
---	Sanitary Line
---	Storm Line
Ø	Utility Pole
□	Concrete Monument
○	Rebar Found
⊕	Storm Catch Basin
⊗	Gate Valve
⊙	Manhole
⊕	Gas Valve
⊗	Traffic Light Base
+	Spot Elevation

Reference Plans

- "Englesby Farm" plan of the former Flynn Estate property by A.R. Dow, CE dated May, 1899 and recorded in Vol. 120, Pg. 55 of the Burlington City Land Records
- "Plot of Survey - BOCOH Realty, LLC" by Civil Engineering Assoc., Inc. last dated 2/25/07 and recorded in Map Slide 4199 of the Burlington City Land Records
- "Property Survey Plot - G&C Properties, LLC" by Summit Engineering, Inc. dated 11/4/10, last revised 7/14/11

Note: Previous deeds describe the easterly line of this property as being parallel to Pine Street. The referenced 1899 plan shows the easterly line to be parallel with Shelburne Road which coincides with apparent usage.

Horizontal and Vertical information shown hereon are related to NAD 83(2007) and NAVD 88 datums based upon this Station "ANTHONY" and upon Station "PUMP STA PINE" located on the easterly side of Pine St. opposite Lakeside Ave.
 "ANTHONY" Elevation = 111.29' NAVD 88



Notes:
 It is noted that no site assessment of hazardous or other waste materials has been made and S.E. takes no responsibility for any materials or conditions that may exist on this site.
 The Contractor is to notify Dig-Safe (Tel. 1-800-DIG-SAFE) 48 hours prior to any excavation.
 Underground locations shown are drawn from structure to structure or located per City Public Works plans.
 All utility services enter this lot through a public right-of-way or recorded easement.

Existing Conditions

ARCHITECT

JRMA design
 architecture - master planning - interior design
 www.jrmadesignstudio.com

JRMA DESIGN STUDIO
 175 SUMMIT CIRCLE
 SHELBOURNE VERMONT

RECEIVED

JUL 23 2015

DEPARTMENT OF
 PLANNING & ZONING

CLIENT

PINE & FLYNN
 DEVELOPMENT

LOCATION

316 FLYNN AVE (CORNER OF PINE & FLYNN)
 BURLINGTON, VERMONT

OWNER

G & C PROPERTIES
 BURLINGTON, VERMONT
 TEL: 802.343.6789

CONTRACTOR

CIVIL ENGINEER

SUMMIT ENGINEERING
 1233 Shelburne Road
 South Burlington, VT 05403

STAMP



Issue Date Issue

Project

Drawing Title EXISTING CONDITIONS

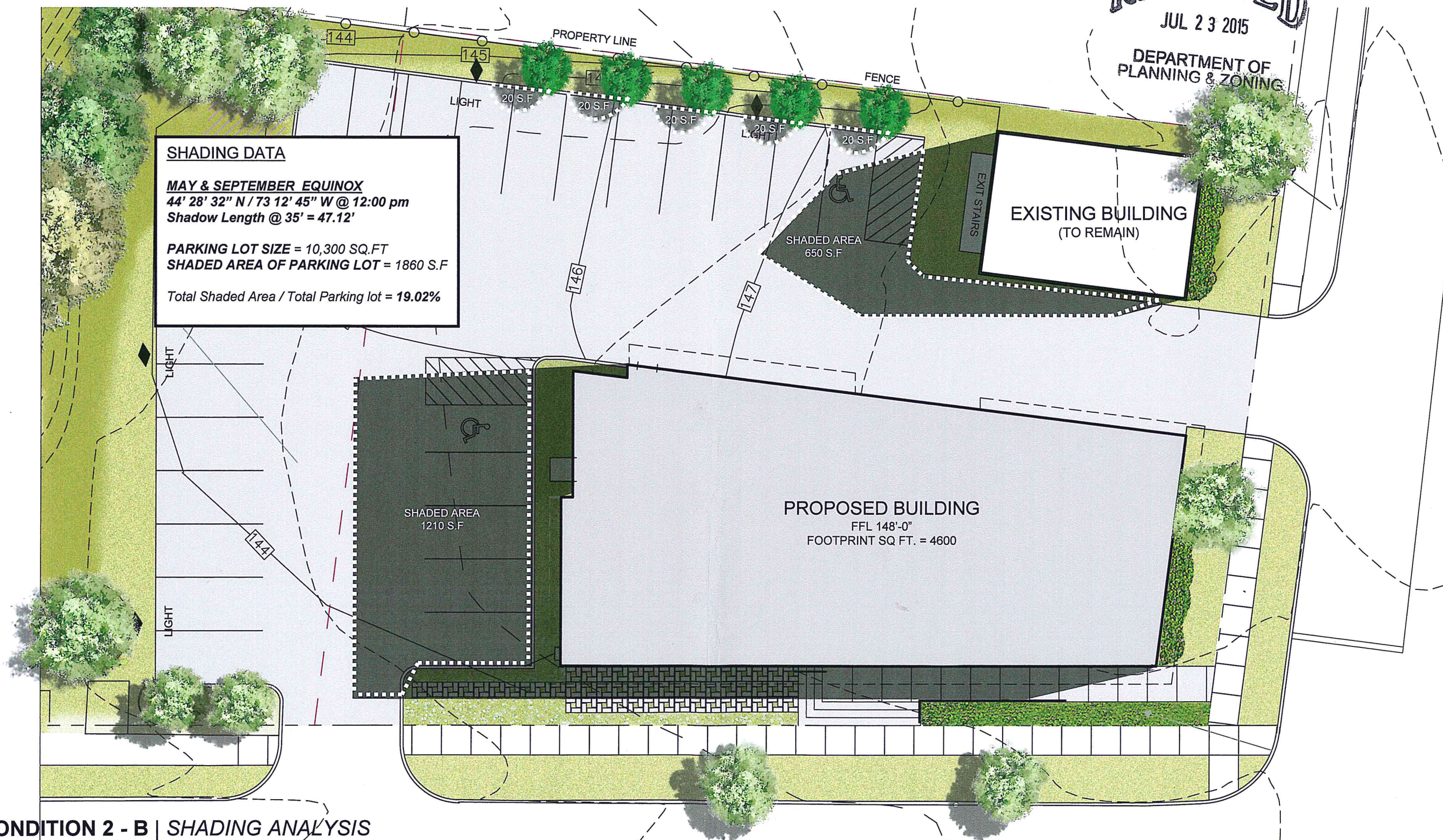
Project No. 8163 Drawn by BEG Date 2/10/15

Owner of Record

G&C Properties, LLC
 316 Flynn Ave.
 Burlington, Vermont
 Tax Map Parcel No. 057-4-066-000
 Bk. 1151, Pg. 457
 16,420 Sq. Ft. (0.377 Acres)
 10,006 SF License From City
 Total 26,426 SF (0.474 Acres)

RECEIVED
JUL 23 2015

DEPARTMENT OF
PLANNING & ZONING



CONDITION 2 - B | SHADING ANALYSIS
Shading Plan – May Equinox

3&C Properties LLC
315-322 Flynn Avenue, Burlington, VT
Water and Sanitary Sewer Basis of Design
December 4, 2014

Existing Water/Sewer Design Flow

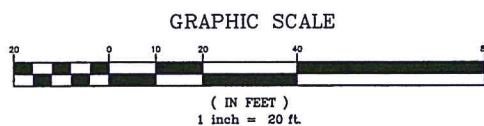
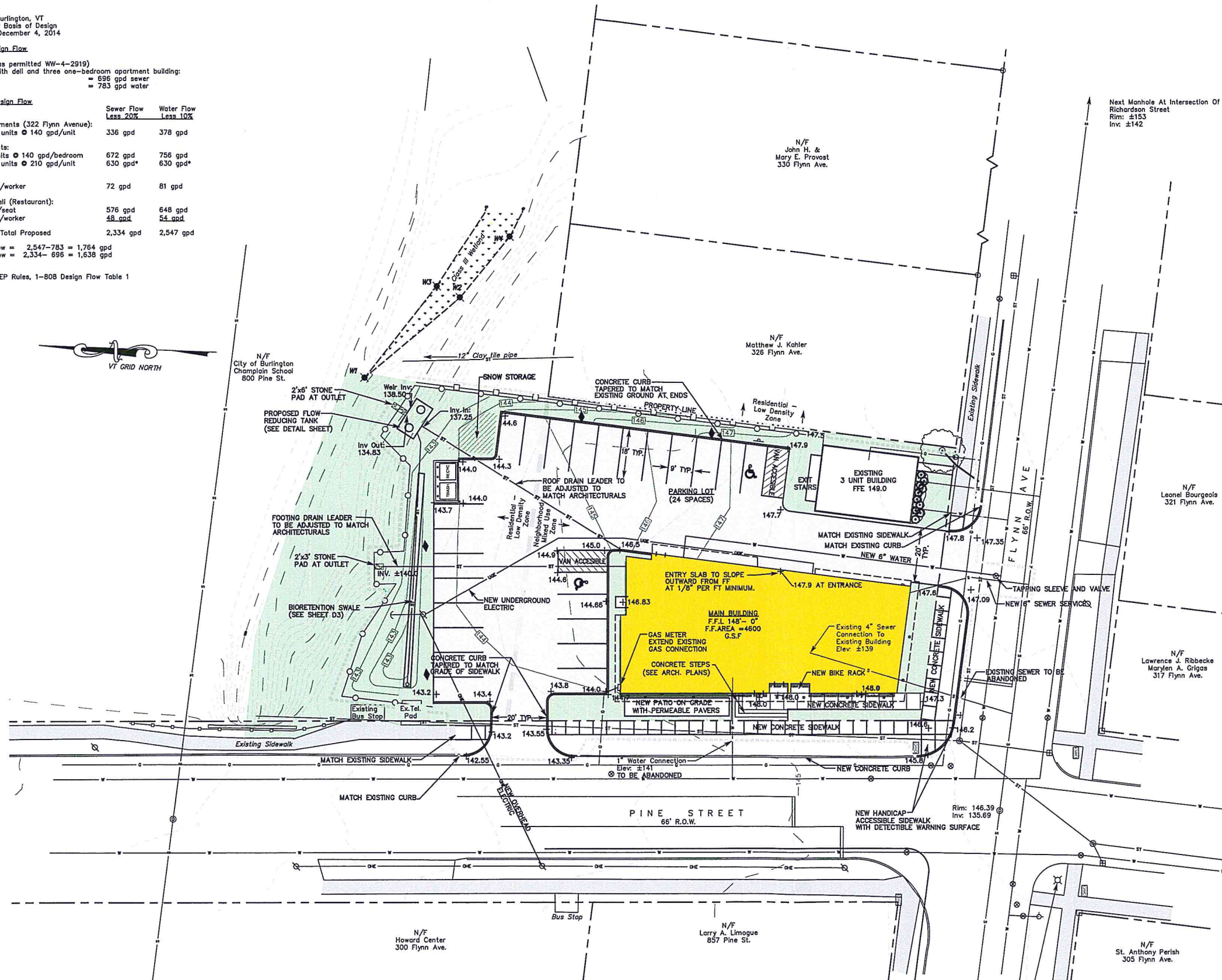
Water and Wastewater: (as permitted WW-4-2919)
Convenience store with deli and three one-bedroom apartment building:
= 696 gpd sewer
= 783 gpd water

Proposed Water/Sewer Design Flow

	Sewer Flow Less 20%	Water Flow Less 10%
Existing Residential Apartments (322 Flynn Avenue): Three one-bedroom units @ 140 gpd/unit	336 gpd	378 gpd
New Residential Apartments: Six one-bedroom units @ 140 gpd/bedroom Three two-bedroom units @ 210 gpd/unit	672 gpd 630 gpd*	756 gpd 630 gpd*
Office Space: 6 Workers @ 15 gpd/worker	72 gpd	81 gpd
Convenience Store and Deli (Restaurant): 24 seats @ 30 gpd/seat 4 workers @ 15 gpd/worker	576 gpd 48 gpd	648 gpd 54 gpd
Total Proposed	2,334 gpd	2,547 gpd

Increase in water flow = 2,547-783 = 1,764 gpd
Increase in sewer flow = 2,334-696 = 1,638 gpd

*No reduction taken per EP Rules, 1-808 Design Flow Table 1



Notes:

It is noted that no site assessment of hazardous or other waste materials has been made and S.E. takes no responsibility for any materials or conditions that may exist on this site.

The Contractor is to notify Dig-Safe (Tel. 1-800-DIG-SAFE) 48 hours prior to any excavation.

Underground locations shown are drawn from structure to structure or located per City Public Works plans.

All utility services enter this lot through a public right-of-way or recorded easement.

Class Three wetland delineated by Jeffrey Severson, Principal Ecologist from Oakledge

Horizontal and Vertical information shown hereon are related to NAD 83(2007) and NAVD 88 datums based upon this Station "ANTHONY" and upon Station "PUMP STA PINE" located on the easterly side of Pine St. opposite Lakeside Ave.

"ANTHONY" Elevation = 111.29' NAVD 88

Reference Plans

- "Engleby Farm" plan of the former Flynn Estate property by A.R. Dow, CE dated May, 1899 and recorded in Vol. 120, Pg. 55 of the Burlington City Land Records
 - "Plot of Survey - BCCDH Realty, LLC" by Civil Engineering Assoc., Inc. last dated 2/26/07 and recorded in Map Slide 419B of the Burlington City Land Records
 - "Property Survey Plat - G&C Properties, LLC" by Summit Engineering, Inc. dated 11/4/10, last revised 7/14/11
- Note: Previous deeds describe the easterly line of this property as

Owner of Record

G&C Properties, LLC
316 Flynn Ave.
Burlington, Vermont
Tax Map Parcel No. 057-4-066-000
Bk. 1151, Pg. 457
16,420 Sq. Ft. (0.377 Acres)
10,006 SF License From City
Total 26,426 SF (0.474 Acres)



LEGEND

- Property/R.O.W. Line
- Proposed Property Line
- Overhead Utility Line
- New Underground Utility Line
- Gas Line
- Existing Water Line
- New Water Line
- Sanitary Line
- Storm Line
- New Fence
- Proposed Silt Fence
- Construction Limits
- Class III Wetland
- Existing Contours
- Proposed Contours
- Utility Pole
- Concrete Monument
- Rebar Found
- Catch Basin
- Gate Valve
- Manhole
- Gas Valve
- Traffic Light
- Existing Spot Elevation
- Proposed Spot Elevation
- Proposed Light Pole
- Proposed Catch Basin

Total Existing Lot Coverage			
Total Lot	26,424 s.f.	0.61 acre	100%
Paved Area	14,697 s.f.	0.34 acre	55.6%
Building Area	4,742 s.f.	0.11 acre	18.0%
Total Coverage	19,439 s.f.	0.45 acre	73.6%
Total Pervious	6,985 s.f.	0.16 acre	26.4%

Total Proposed Lot Coverage			
Total Lot	26,424 s.f.	0.61 acre	100%
Paved Area	11,101 s.f.	0.25 acre	42.0%
Building Area	6,119 s.f.	0.14 acre	23.2%
Total Coverage	17,220 s.f.	0.40 acre	65.2%
Total Pervious	9,204 s.f.	0.21 acre	34.8%

Lot Coverage Low Density Residential (RL) Zone			
	Existing	Proposed	
Total Area	10,003 s.f.	10,003 s.f.	100%
Paved Area	4,381 s.f.	3,039 s.f.	30.4%
Building Area	0 s.f.	0 s.f.	0.0%
Total Coverage	4,381 s.f.	3,039 s.f.	30.4 %

Lot Coverage Neighborhood Mixed Use (NLU) Zone			
	Existing	Proposed	
Total Area	16,421 s.f.	16,421 s.f.	100%
Paved Area	10,338 s.f.	8,062 s.f.	49.1%
Building Area	4,601 s.f.	6,119 s.f.	37.3%
Total Coverage	14,939 s.f.	14,181 s.f.	86.4%

Proposed Gross Floor Area 19,180 s.f. FAR = 1.17 (IN NLU ZONE)

SITE INFORMATION

Zone: RL Residential Low Density/NLU Neighborhood Mixed Use
Existing Dwelling Units: 3
Proposed Dwelling Units: 12

PARKING
Parking District: Shared Use
21 Spaces Required

Proposed Parking Spaces 24 (2 Van-Accessible Handicap Included)

ARCHITECT

JRMA design
architecture - master planning -
www.jrma-design.com

JRMA DESIGN STUDIO
175 SUMMIT CIRCLE
SHELBURNE VERMONT

RECEIVED
JUL 23 2014

DEPARTMENT OF
PLANNING & ZONING

CLIENT

PINE & FLYNN
DEVELOPMENT

LOCATION

316 FLYNN AVE (CORNER OF PINE & FLYNN)
BURLINGTON, VERMONT

OWNER

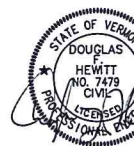
G & C PROPERTIES
BURLINGTON, VERMONT
TEL: 802.343.6789

CONTRACTOR

CIVIL ENGINEER

SUMMIT ENGINEERING
1233 Shelburne Road
South Burlington, VT 05403

STAMP



Issue Date Issue

Project

Drawing Title SITE PLAN

Project No 8163 Drawn By BEG Date 3/2/14

Floor(s)

Drawing No

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
vacant, Assistant Director
vacant, Comprehensive Planner
Jay Appleton, GIS Manager
Scott Gustin, AICP, Senior Planner
Mary O'Neil, AICP, Senior Planner
Anita Wade, Zoning Clerk
Elsie Tillotson, Department Secretary



TO: Development Review Board
FROM: Scott Gustin
DATE: September 1, 2015
RE: 16-0122CA; 316-322 Flynn 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: NMU Ward: 5

Owner/Applicant: G&C Properties / Michael F. Alvanos

Request: Amendment to zoning permit 15-0809CA/MA for requested reduction in parking lot shading.

Applicable Regulations:

Article 6 (Development Criteria & Guidelines)

Background Information:

The applicant received approval for a new mixed use building (deli, office, & 9 residential units) and associated site improvements on May 19, 2015. At the time of approval, the project plans did not reflect the typically required parking lot shading. Therefore, condition 2 b) of the approval required that revised plans be submitted that depicted at least 30% shading. The applicant has not been able to produce a plan that achieves 30% shading. Per Sec. 6.2.2 (I) of the CDO, the applicant is pursuing a waiver for reduced parking lot shading.

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

I. Findings

Article 6: Development Review Standards:

Part 1, Land Division Design Standards

Not applicable.

Part 2, Site Plan Design Standards

Sec. 6.2.2, Review Standards

(a) Protection of important natural features

Not applicable.

(b) Topographical alterations

Not applicable.

(c) Protection of important public views

Not applicable.

(d) Protection of important cultural resources

Not applicable.

(e) Supporting the use of alternative energy

Not applicable.

(f) Brownfield sites

Not applicable.

(g) Provide for nature's events

Not applicable.

(h) Building location and orientation

Not applicable.

(i) Vehicular access

Not applicable.

(j) Pedestrian access

Not applicable.

(k) Accessibility for the handicapped

Not applicable.

(l) Parking and circulation

As proposed, 19% shading of the parking lot will be achieved. Due to the site layout and parking orientation, most of that shading comes from the two buildings onsite. This criterion requires 1 shade tree per 5 parking spaces with a target of 30% shading. Existing trees of at least 3" caliper within 25' of the parking area can be included in this minimum requirement.

A waiver of up to 30% of the tree planting requirement may be granted. The site plan includes 8 new and retained trees along the parking area and, assuming compliance with the 3" caliper minimum, meets the minimum standard of 1 shade tree per 5 parking spaces (24 spaces). Caliper sizes of the existing trees to be retained are not noted and must be.

Assuming adequate caliper size of the existing trees to be retained, the minimum requirement of 1 tree per 5 parking spaces has been met; however, shading remains well below the target of 30%. The project includes 24 parking spaces, whereas only 21 are required. Removal of at least 1 parking space in the middle of the eastern row of parking and replacement with a new landscaping island with a shade tree is warranted. Removal of 2 separate spaces and replacement with shade trees would, of course, increase shading.

In sum, the minimum tree-to-parking space ratio of 1:5 has been met. There is, however, room for improved shading with the introduction of additional landscape island(s) with shade tree(s).

(Affirmative finding as conditioned)

(m) Landscaping and fences

Not applicable.

(n) Public plazas and open space

Not applicable.

(o) Outdoor lighting

Not applicable.

(p) Integrate infrastructure into the design

Not applicable.

Part 3, Architectural Design Standards

Sec. 6.3.2, Review Standards

Not applicable.

II. Conditions of Approval

1. Except as specifically altered in this approval, all conditions of zoning permit 15-0809CA/MA shall remain in effect.
2. Condition 2 b) of zoning permit 15-0809CA/MA is superseded and placed with the following requirement:
Prior to release of the zoning permit, revised project plans depicting the removal of 1 or 2 parking spaces from the eastern row of parking and replacement with 1 or 2 landscaping island(s) with shade tree(s) of at least 2.5" – 3" caliper shall be submitted, subject to staff review and approval. Caliper size of the existing trees retained along the eastern row of parking shall also be provided. Caliper size of less than 3" may require the introduction of additional new shade trees per the requirements of Sec. 6.2.2 (l).
3. Standard Permit Conditions 1-15.

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
Vacant, Comprehensive Planner
Jay Appleton, Senior GIS/IT Programmer/Analyst
Scott Gustin, AICP, CFM, Interim Chief Administrative Officer
Mary O'Neil, AICP, Senior Planner
Elsie Tillotson, Department Secretary
Anita Wade, Zoning Clerk



MEMORANDUM

To: Development Review Board
From: Mary O'Neil, AICP, Senior Planner
Date: September 1, 2015
RE: 111 Colcheser Avenue; ZP16-0188CA

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

File: ZP16-0188CA

Location: 111 Colchester Avenue

Zone: ICC-FAHC **Ward:** 1E

Date application accepted: August 9, 2015

Applicant/ Owner: Dave Keelty / University of Vermont Medical Center

Request: Construction of approximately 950 sq. ft. roof deck addition to Shepardson South building; relocation of existing rooftop airconditioning equipment.

Background:

There are dozens of permits (both trades and zoning) on file for the medical center. Among the most recent:

- Zoning Permit 16-0249CA; Installation of new exhaust duct riser and rooftop fan and exhaust stack. Currently in review.
- Zoning Permit 15-0411; Install maintenance ladder roughly 8' in height to provide access from a lower roof to the roof above. July 2015.
- Zoning Permit 15-1151; Installation of three rooftop vents. June 2015.
- Zoning Permit 15-0962SN; Install 3 parallel signs at garage entrance for UVM Medical Center. No illumination included. April 2015.
- Zoning Permit 15-0829SN; Replace existing parallel sign with new parallel sign for UVM Health Network. No illumination included. March 2015.

Overview: The University of Vermont Medical Center proposes to construct a secure, screened, enclosed three season recreational roof deck addition near the center of its core building complex. It will be constructed immediately adjacent to the Psychiatric Inpatient unit located on the sixth floor of the Shepardson South building. The new addition will require the relocation of an existing rooftop air conditioning unit, which will be placed immediately east of the new enclosure.

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

This project development is subject to limited municipal review per the following state statute:

Vermont State Statute, §4413, Limitations on municipal bylaws

(a) *The following uses may be regulated only with respect to location, size, height, building bulk, yards, courts, setbacks, density of buildings, off-street parking, loading facilities, traffic, noise, lighting, landscaping, and screening requirements, and only to the extent that regulations do not have the effect of interfering with the intended function use:*

(1) *State or community owned and operated institutions and facilities.*

(2) *Public and private schools and other educational institutions certified by the state department of education.*

(4) *Public and private hospitals.*

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

I. Findings

Article 3: Applications, Permits and Project Review

Part 3: Impact Fees

Section 3.3.2 Applicability

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

The proposed addition of a recreational rooftop patio room does not meet the exemptions of Section 3.3.3; therefore Impact Fees will be assessed for the new nonresidential square footage. As estimated to be 950 sq. ft., the anticipated Impact Fees would be:

Draft Impact Fees
111 Colchester Avenue
ZP16-0188CA

SF of Project 950

Department	<u>Offices & Other</u>	
	Rate	Fee
Traffic	0.652	619.40
Fire	0.191	181.45
Police	0.338	321.10
Parks	0.404	383.80
Library	0.000	0.00
Schools	0.000	0.00
Total	\$	

	1.585	1,505.75
--	-------	----------

Section 3.2.7 Time and Place of Payment

(b) Existing Buildings: Impact Fees must be paid prior to issuance of a zoning permit, or if a building permit is required, within thirty (30) days of issuance of the building permit.

Affirmative finding as conditioned.

Part 5: Conditional Use and Major Impact Review (as amended by City Council 8/10/2015.)

The project does not reach the threshold for Conditional Use or Major Impact Review.
Not applicable.

Article 4: Zoning Maps and Districts

Section 4.5.2 Institutional Core Campus Overlay Districts

Section 4.5.2 (c) Fletcher Allen Health Care Medical Center Campus (ICC-FAHC)

1. Transitional Buffer

The construction of a rooftop enclosure shall have no impact on the existing transitional buffer.

2. Lot Coverage

No change to lot coverage is proposed.

3. Setbacks

No change to setbacks is proposed.

4. Surface Parking

No change to existing parking; surface or structured is proposed. The addition of a new rooftop enclosure will not require an increase in the number of parking spaces, the calculation of which is based on patient beds.

5. Building Height

The proposed semi-enclosed outdoor recreational area will align with the sixth floor balcony of the existing Shepardson South building. The one story addition, on top of the engineering building, will be less than the ACC building, and similar to the existing Shepardson South building. Outside the height overlay, it still continues to comply with height limitations: *No portion of any building outside of the ICC-FAHC Height Overlay may exceed the elevation of a plane running parallel to sea level from the highest point of the tallest structure at the highest elevation within the ICC-FAHC District as depicted as of January 1, 2009.*

6. Density

The addition is proposed to serve existing patients in the psychiatric unit. No change in density or intensity is proposed.

Affirmative finding.

Article 5: Citywide General Regulations

Section 5.2.3 Lot Coverage

See Section 4.5.2 (c), above.

Section 5.2.4 Buildable Area Calculation

Not within any RCO, WRM, RM, WRL or RL zoning district. Not applicable.

Section 5.2.5 Setbacks

See Section 4.5.2 (c), above.

Section 5.2.6 Building Height Limits

See Section 4.5.2 (c), above.

Section 5.2.7 Density and Intensity of Development Calculations

See Section 4.5.2 (c), above.

Section 5.4.8 Historic Buildings and Sites

Exempt from review per Vermont State Statute, §4413, Limitations on municipal bylaws.

Section 5.4.9 Brownfields

None identified. Not applicable.

Part 5: Performance Standards**Section 5.5.1 Nuisance Regulations**

No adverse impacts from noise or lighting are anticipated. (Two review criteria allowable under §4413.) **Affirmative finding.**

Section 5.5.2 Outdoor Lighting

No exterior lighting fixtures have been identified with this application. Submission materials indicate that “there will be limited energy efficient lighting within the Project. It is anticipated that natural daylighting will be sufficient for most uses during the temperate season the Project serves.”

If exterior lighting is proposed, it will be required to meet the standards and limitations of this section. **Affirmative finding as conditioned.**

Section 5.5.3 Stormwater and Erosion Control

Not applicable.

Section 5.5.4 Tree Removal

Not applicable.

Article 6: Development Review Standards**Part 1: Land Division Design Standards**

Not applicable.

Part 2: Site Plan Design Standards

Not applicable.

Sec. 6.2.2 Review Standards

(a) Protection of Important Natural Features:

Not applicable.

(b) Topographical Alterations:

Not applicable.

(c) Protection of Important Public Views:

Exempt from review per Vermont State Statute, §4413, Limitations on municipal bylaws.

(d) Protection of Important Cultural Resources:

Exempt from review per Vermont State Statute, §4413, Limitations on municipal bylaws.

(e) Supporting the Use of Renewable Energy Resources:

Exempt from review per Vermont State Statute, §4413, Limitations on municipal bylaws.

(f) Brownfield Sites:

None identified. Not applicable.

(g) Provide for nature's events:

Exempt from review per Vermont State Statute, §4413, Limitations on municipal bylaws.

(h) Building Location and Orientation:

Exempt from review per Vermont State Statute, §4413, Limitations on municipal bylaws.

(i) Vehicular Access:

No change from existing. **Affirmative finding.**

(j) Pedestrian Access:

No change from existing. **Affirmative finding.**

(k) Accessibility for the Handicapped:

No change from existing. **Affirmative finding.**

(l) Parking and Circulation:

No change from existing. **Affirmative finding.**

(m) Landscaping and Fences:

No change from existing. **Affirmative finding.**

(n) Public Plazas and Open Space:

Exempt from review per Vermont State Statute, §4413, Limitations on municipal bylaws.

(o) Outdoor Lighting:

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

Affirmative finding as conditioned.

(p) Integrate infrastructure into the design:

Exempt from review per Vermont State Statute, §4413, Limitations on municipal bylaws.

Part 3: Architectural Design Standards

Sec. 6.3.2 Review Standards

(a) Relate development to its environment:

1. Massing, Height and Scale:

See Section 4.5.2 (c). **Affirmative finding.**

2. Roofs and Rooflines.

Exempt from review per Vermont State Statute, §4413, Limitations on municipal bylaws.

3. Building Openings

Exempt from review per Vermont State Statute, §4413, Limitations on municipal bylaws.

(b) Protection of Important Architectural Resources:

Exempt from review per Vermont State Statute, §4413, Limitations on municipal bylaws.

(c) Protection of Important Public Views:

Exempt from review per Vermont State Statute, §4413, Limitations on municipal bylaws.

(d) Provide an active and inviting street edge:

Exempt from review per Vermont State Statute, §4413, Limitations on municipal bylaws.

(e) Quality of materials:

Exempt from review per Vermont State Statute, §4413, Limitations on municipal bylaws.

(f) Reduce energy utilization:

Exempt from review per Vermont State Statute, §4413, Limitations on municipal bylaws.

(g) Make advertising features complementary to the site:

No signage is included with this application. Not applicable.

(h) Integrate infrastructure into the building design

Exempt from review per Vermont State Statute, §4413, Limitations on municipal bylaws.

(i) Make spaces secure and safe:

Development will be required to meet all building and life safety code as defined by the building inspector and fire marshal. **Affirmative finding as conditioned.**

Article 8: Parking

Parking is based on the number of patient beds (Table 8.1.8-1, CDO.) The addition of a patient rooftop enclosure is intended to serve *existing* inpatients, and will not increase the number of patient beds or staff. Therefore, there is no change to the number of required parking spaces on-site with this development proposal. **Affirmative finding.**

II. Conditions of Approval

1. Impact fees shall be assessed based on the square foot measurement of the new addition as provided by the applicant. As submitted, the estimated Impact Fees are:

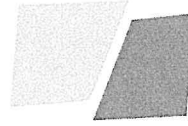
Draft Impact Fees
111 Colchester Avenue
ZP16-0188CA

SF of Project 950

Department	<u>Offices & Other</u>	
	Rate	Fee
Traffic	0.652	619.40
Fire	0.191	181.45
Police	0.338	321.10
Parks	0.404	383.80
Library	0.000	0.00
Schools	0.000	0.00
Total	1.585	\$ 1,505.75

2. Impact Fees must be paid to the city's chief administrative officer/city treasurer prior to issuance of a zoning permit, or if a building permit is required, within thirty (30) days of issuance of the building permit.
3. If exterior lighting is proposed, it will be required to meet the standards and limitations of Section 5.5.2 of the Comprehensive Development Ordinance. Fixture information and illumination levels shall be provided to staff for review and approval **prior to release of the zoning permit.**
4. Standard Permit Conditions 1-14.

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



white + burke

REAL ESTATE INVESTMENT ADVISORS

Founded in 1990

MEMORANDUM

To: Mary O'Neil, Senior Planner
City of Burlington Department of Planning and Zoning

From: Gail Henderson-King

Date: August 7, 2015

Re: University of Vermont Medical Center Psychiatric Roof Deck
Site Plan Application

On behalf of the University of Vermont Medical Center (UVM Medical Center) enclosed please find the following Site Plan application and supporting materials for the proposed Psychiatric Roof Deck addition at 111 Colchester Avenue in Burlington:

1. 10 copies of the UVM Medical Center Psychiatric Roof Deck Site Plan Application, Project Narrative, Plans, Elevations, and Perspectives dated August 2015.
2. Check #1702879 for \$2,045 dated August 3, 2015 for the application fee.

The heart and science of medicine.

UVMHealth.org/MedCenter

UVM Medical Center

Psychiatric Roof Deck Project

City of Burlington

Site Plan Application

August 2015



THE
University of Vermont
MEDICAL CENTER



Department of Planning and Zoning

149 Church Street, City Hall

Burlington, VT 05401-8415

Phone: (802) 865-7188

Fax: (802) 865-7195

www.burlingtonvt.gov/pz

Zoning Permit Application

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

PROJECT LOCATION ADDRESS: 111 Colchester Avenue

PROPERTY OWNER*: University of Vermont Medical Center
c/o Dave Keelty

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

POSTAL ADDRESS: 199 Main Street, Suite 150

CITY, ST, ZIP: Burlington, Vermont 05401

DAY PHONE: 802.847.8443

EMAIL: Dave.Keelty@uvmhealth.org

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: Same as Property Owner

POSTAL ADDRESS:

CITY, ST, ZIP:

DAY PHONE:

EMAIL:

SIGNATURE:

Description of Proposed Project: New approximately 950 sq. ft. Psychiatric Roof Deck Addition to Shepardson South Building on the University of Vermont Medical Center campus.

Existing Use of Property: ☐ Single Family ☐ Multi Family: #___ Units ☒ Other: Medical Center

Proposed Use of Property: ☐ Single Family ☐ Multi Family: #___ Units ☒ Other: Medical Center

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

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

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

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

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

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

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

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

Estimated Construction Cost (value)*: \$ 962,500.

(*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 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: I Eligible for Design Review? Y Age of House - Lot Size 128576

Type: SN___ AW___ FC___ BA___ COA 1___ COA 2 ☒ COA 3___ CU___ MA___ VR___ HO___ SP___ DT___ MP___

Check No. 1702879 Amount Paid 2095- Zoning Permit # 16-0188 CA

University of Vermont Medical Center
Psychiatric Roof Deck Addition Project

Site Plan Narrative

July 29, 2015

I. Overview / Introduction to the Project

The University of Vermont Medical Center (UVM Medical Center) is proposing an approximately 950 square foot (sq. ft.) Psychiatric Recreational Roof Deck addition located near the center of its core building complex on the Medical Center campus. The Psychiatric Recreational Roof Deck addition (The Project): a three season room project is a proposed secure, screened, enclosed and covered open area connected to Shepardson South and sits on top of the Engineering Building. It is located near the Ambulatory Care Center loading dock and the East Wing of the Ambulatory Care Center. The Project will be constructed immediately adjacent to the Psychiatric Inpatient unit located on sixth floor of the Shepardson South building.

The Project will have a solid roof and perforated sides to allow air and light into it. The walls and roof will be a neutral grey color to blend with the surrounding buildings. The location of the Project will afford patients with scenic mountain views to the north and east, and will provide them with an outdoor experience without leaving the Psychiatric Inpatient unit. The Project will also be used as multi-use communal space that will be furnished with Adirondack chairs, picnic tables and seating.

Access will be exclusively from the Shepardson South sixth floor only. There will be no public or outdoor access to the Project. There will be no increase in patients or staff. Therefore, there will be no additional parking required for this project.

There will be no increase in lot coverage calculations for the UVM Medical Center campus as a result of the Project as it will be constructed on top of the existing Engineering Building. There will be no utilities: water or wastewater in the addition, and stormwater runoff will not be affected as a result of the Project.

Schedule for Design and Construction

The UVM Medical Center has retained a design team to assist with the planning and design of this Project. The estimated timetable for the Project is to potentially commence construction as early as the Fall of 2015. In any event, the anticipated completion of construction will be in the Fall of 2016.

II. City Site Plan / Development Review Criteria

The following information on the Project addresses the City's Development Review Criteria in conformance with The Comprehensive Development Ordinance.

Exemption Request

The City's Comprehensive Development Ordinance has a provision for an exemption from Conditional Use and Major Impact Review - *Article 3, Part 5: Conditional Use and Major Impact Review*, Section 3.5.3 Exemptions. We believe the Psychiatric Roof Deck addition qualifies for an exemption from Major Impact Review under the exemption listed in Section 3.5.3 (d) of the Comprehensive Development Ordinance. Please consider this a request for an official ruling with regard to whether the project so qualifies.

Section 3.5.3 (d) says "...*Major Impact Review shall not apply to applications involving one or more of the following... (d) Projects that do not result in a change of use or increased parking demand as determined by the administrative officer....*"

The Project qualifies for this exemption because a) it does not involve a change of use and, b) it will not increase overall parking demand on campus. The first of these is clear: the Project is planned for the Psychiatric Inpatient unit that currently exists on the Medical Center campus today as part of the hospital/medical center use.

As stated above, the Project will not involve any increase to the number of parkers over the course of a typical day because it will not result in an increase in beds or staff on the campus. No increase in parking spaces is proposed as part of this project.

Accordingly, this project does not involve a change of use and will not cause increased parking demand. Therefore, we believe this project qualifies for the exemption to Major Impact Review set forth in Section 3.5.3 (d) and we are requesting this exemption.

Building Design – Overall Description

The Project is designed to provide a secure semi-enclosed outdoor recreational area to serve the Psychiatric Inpatient unit patients during temperate weather when an unconditioned outdoor environment is desired. The Project will be steel framed and supported on stub columns above the existing Engineering Building roof and will align with the sixth floor balcony of the existing Shepardson South building. The Project walls are transparent and open to the east and south. To assure privacy in the nearby Shepardson South patient rooms, the north wall is mostly solid / opaque with a little transparent glazing on the northeast corner. The building materials are

designed to be compatible and complimentary to the existing Shepardson South sixth floor building and balcony.

Massing, Height and Scale

The overall scale of the Project is similar to the existing balcony on Shepardson South sixth floor. The mass and scale of the Project is in context with the existing Psychiatric Inpatient unit balcony. The proposed windows are the same height and spacing as the sixth floor balcony. The Project will be one story, and will result in massing that will have a symbiotic relationship with the sixth floor balcony of Shepardson South.

Roofs and Rooflines

The Project will have a flat pitched roof that is similar to and in context with the surrounding buildings: Shepardson South, Shepardson North, the Engineering Building and the Ambulatory Care Center East Wing. The Project will be the same height as the Shepardson South balcony and will not extend above the roof of the Shepardson South building.

Building Openings

As stated above, there is no public entrance to the Project. It will only have access from the sixth floor Psychiatric Inpatient unit of Shepardson South.

Quality of Materials

The Project steel framing and screen quality is identical to the existing Shepardson South balcony and the glazing quality is similar to its existing windows. The perforated panels will have the similar perforation size and color to match the exiting balcony. The painted aluminum panel will be similar in coloration and finish to the existing Shepardson South cornice, which is also metal. These materials are moderate in cost, durable, and have low maintenance finishes.

Reduce Energy Utilization

The Project has no heating or air-conditioning. Natural ventilation is provided through the perforated panel screens on three side walls and slots in the deck flooring. Tinted Lexan glazing and roof insulation reduces direct solar heat gain inside the Project. There will be limited energy efficient lighting within the Project. It is anticipated that natural daylighting will be sufficient for most uses during the temperate season that the Project serves.

Protection of Important Public Views

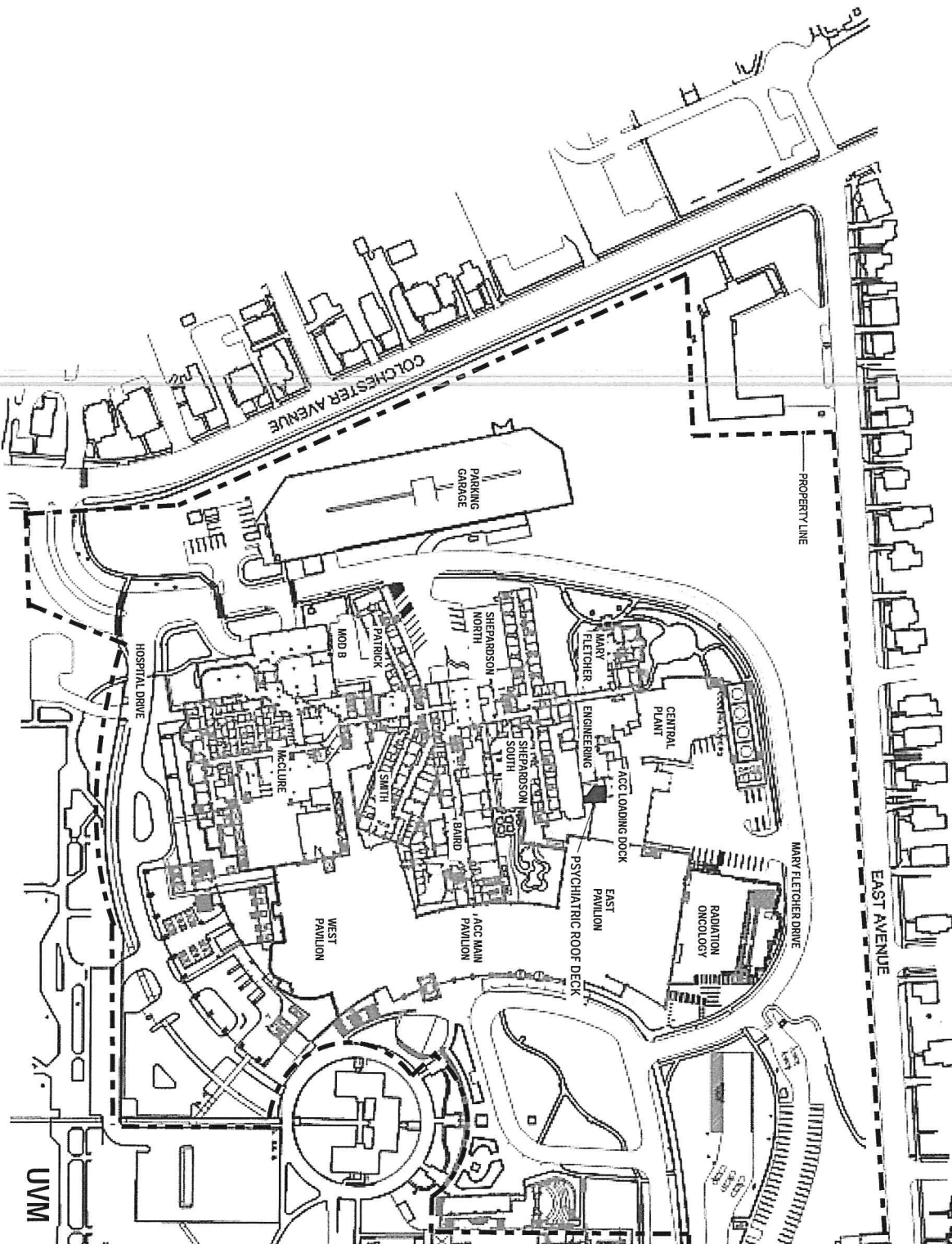
There will be limited views of the Project from several locations on Colchester Avenue and East Avenue. However, the Project is only visible in the background of these views. The proposed Project building color: grey, helps the Project blend in with the existing Ambulatory Care Center and Shepardson buildings in the background view.

On Colchester Avenue, there are views of the Project near the East Avenue intersection. There are numerous utility poles and lines within the foreground of this view, which distracts focus to the buildings in the background. The view from East Avenue near the State Office building where the Project is slightly visible in the background also have utility poles, vehicles and buildings in the foreground. Again, the Project blends with the existing buildings in the background. Similarly, there is a very distant background view of the Project from Colchester Avenue just east of Fletcher Avenue. The prominent views of the Medical Center parking garage and large deciduous and evergreen trees in the foreground distract one's view of the Project in the background.

Protection of Important Cultural Resources

The immediate vicinity of the Project includes several buildings that are 50 or more years old including the Mary Fletcher building and Shepardson South and North. The Mary Fletcher building is considered to be a significant cultural resource. The design process for the Project involved carefully considered the potential impacts on these buildings. The design elements and material selections were intentionally selected to allow the Project to blend in and become a natural extension of Shepardson South. Also, it sits in the background of Mary Fletcher building where it is much smaller than the numerous other existing background elements. It will not stand out in the view. As a result, the Project will not have an adverse impact on the Mary Fletcher building.





UNIVERSITY OF VERMONT MEDICAL CENTER

PSYCHIATRIC ROOF DECK

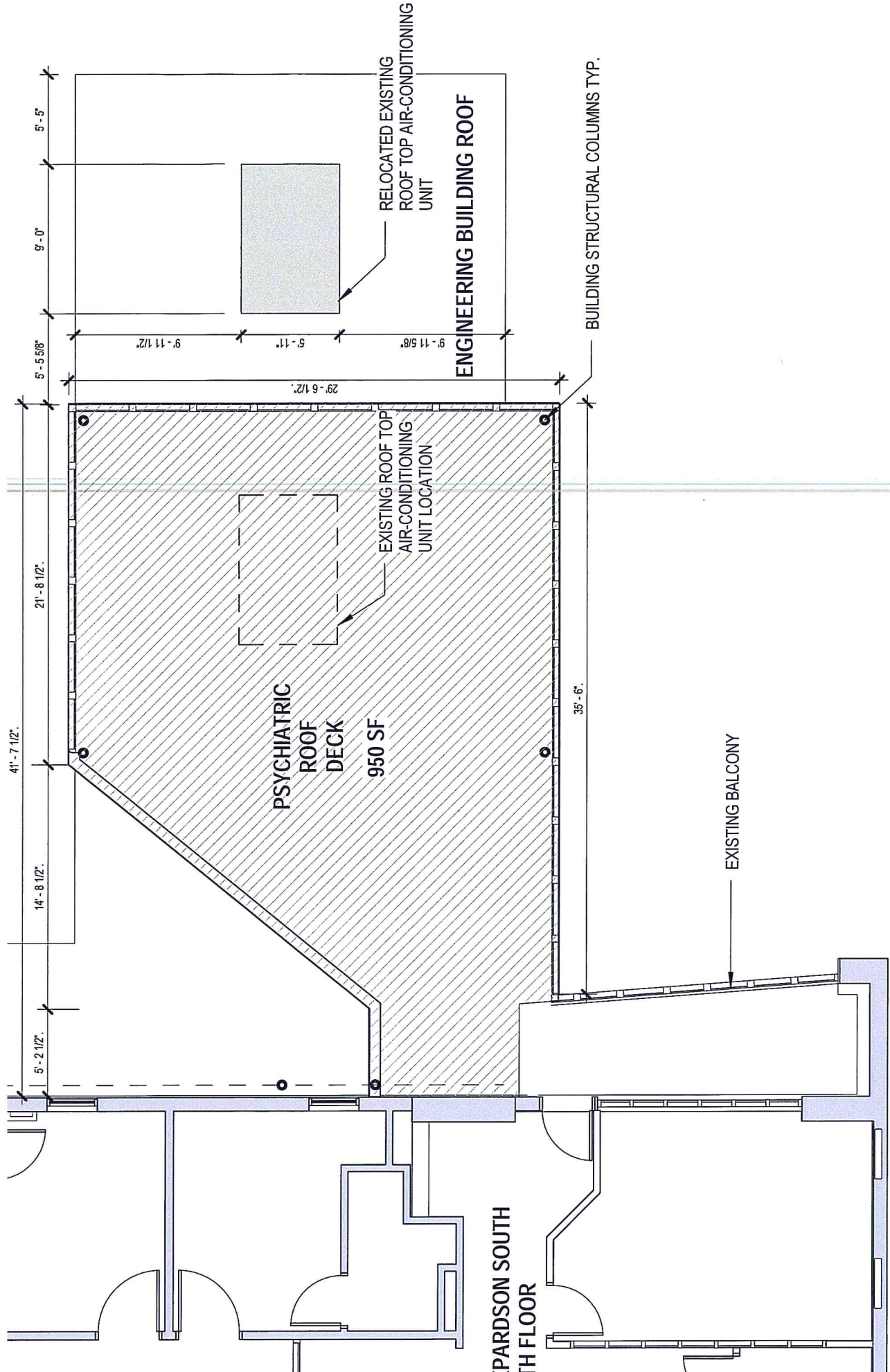
SITE PLAN

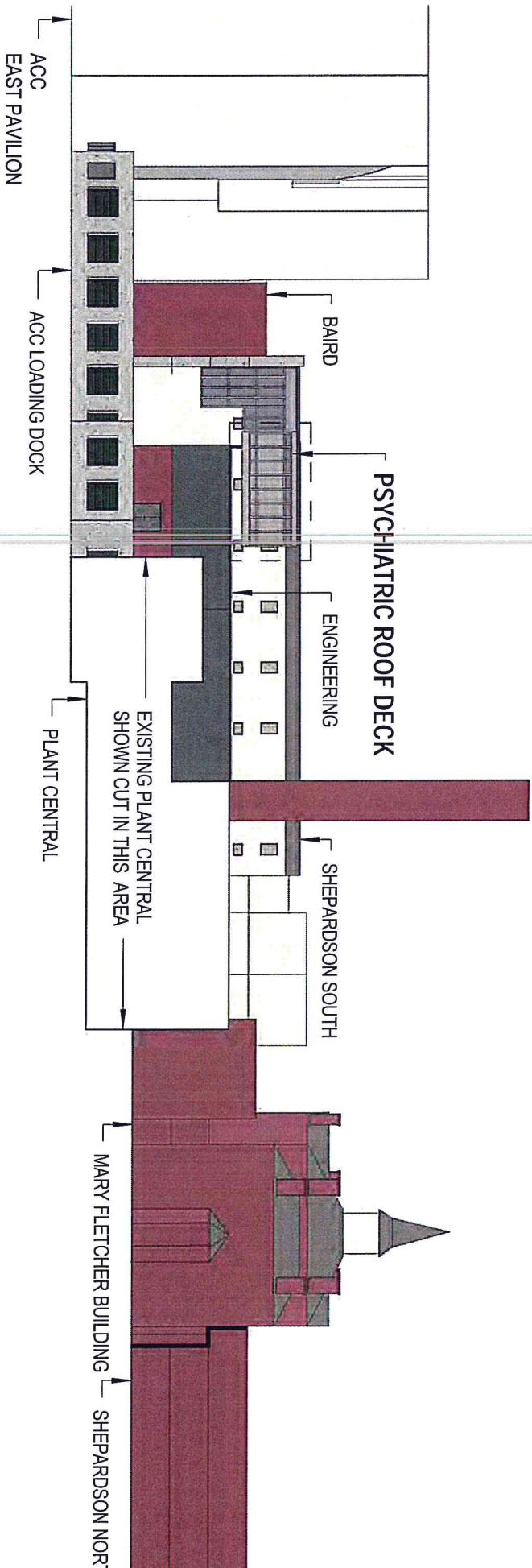
SCALE: 1" = 600' - 0"



LAVALLEE BRENSINGER ARCHITECTS

07/16/15





UNIVERSITY OF VERMONT MEDICAL CENTER

PSYCHIATRIC ROOF DECK

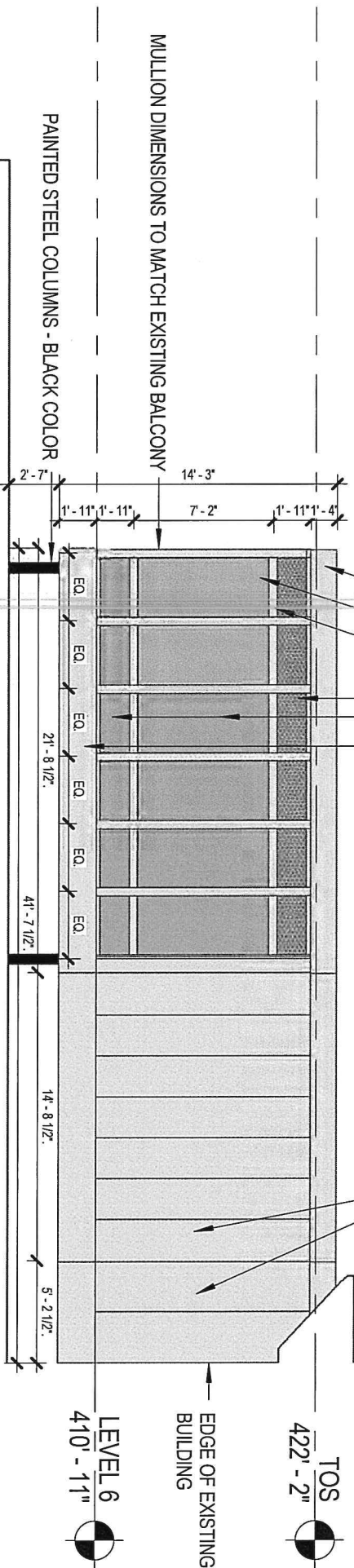
RENDERED EAST ELEVATION IN CAMPUS
CONTEXT

SCALE: 1" = 40'-0"

07/16/15

LAVALLEE|BRENSINGER ARCHITECTS

- PAINTED STEEL FRAMES - COLOR TO MATCH EXISTING BALCONY FRAMING, TYPICAL
- PERFORATED PANEL - PERFORATION SIZE AND COLOR TO MATCH EXISTING BALCONY - TOP ROW
- GREY TINTED LEXAN GLAZING WITH OPAQUE MATCHING GREY FILM - MIDDLE ROW 4 PANELS AND LOWER
- PAINTED ALUMINUM PANELS - GREY COLOR



ENGINEERING BUILDING

ENGINEERING BUILDING

UNIVERSITY OF VERMONT MEDICAL CENTER

PSYCHIATRIC ROOF DECK

RENDERED NORTH ELEVATION

LAVALLEE BRENSINGER ARCHITECTS

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

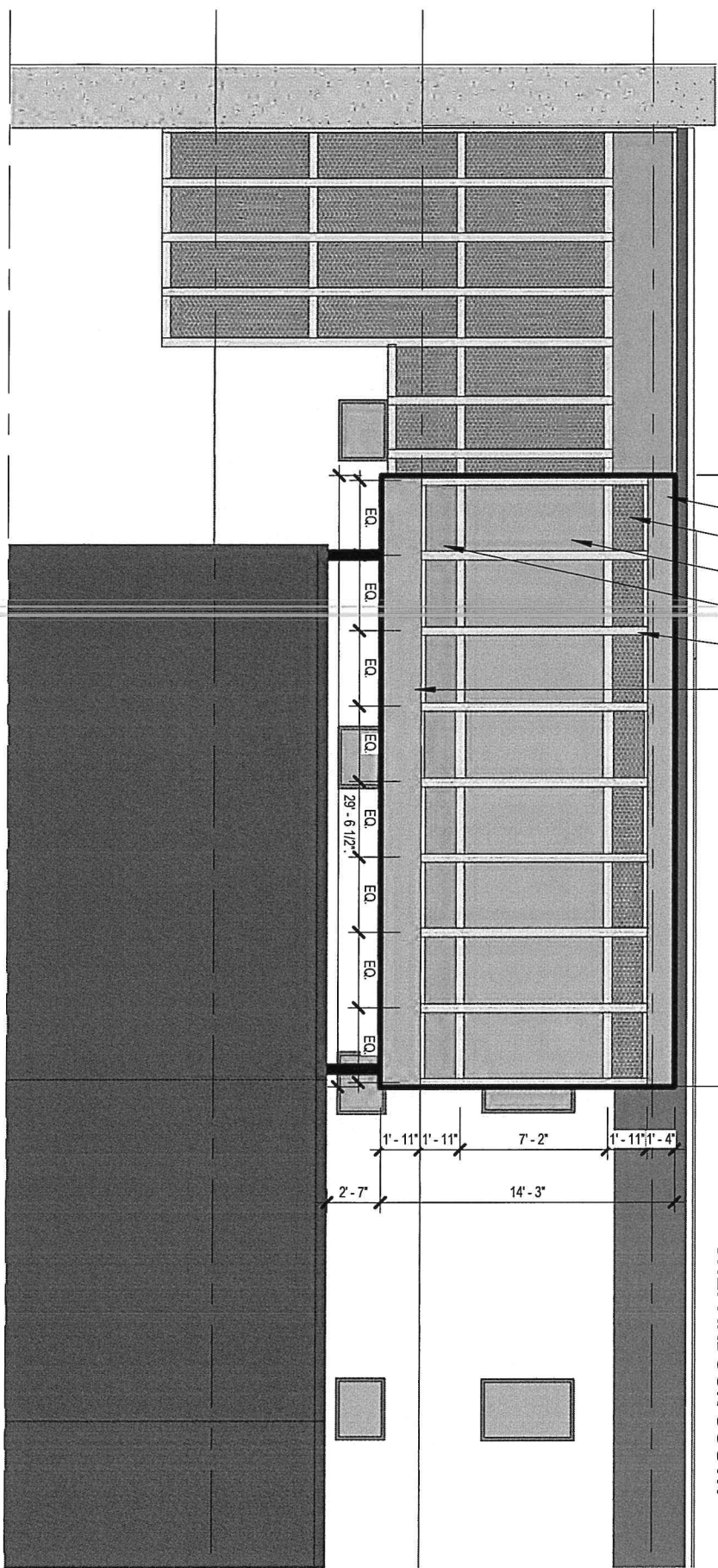
07/16/15

- PERFORATED PANEL - PERFORATION SIZE AND COLOR TO MATCH EXISTING BALCONY - TOP ROW
- GREY TINTED LEXAN GLAZING - MIDDLE ROW
- GREY TINTED LEXAN GLAZING WITH OPAQUE MATCHING GREY FILM - BOTTOM ROW
- PAINTED STEEL FRAMES - COLOR TO MATCH EXISTING BALCONY FRAMING
- PAINTED ALUMINUM PANEL - GREY COLOR

EXISTING BALCONY

PSYCHIATRIC ROOF DECK

SHEPARDSON SOUTH



ENGINEERING BUILDING

UNIVERSITY OF VERMONT MEDICAL CENTER

PSYCHIATRIC ROOF DECK

RENDERED EAST ELEVATION

LAVALLEE BRENSINGER ARCHITECTS

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

07/16/15

- TOS 422'-2"
- LEVEL 6 410'-11"
- LEVEL 5 400'-11"
- LEVEL 4 390'-11"

EXISTING STEEL SHEPARDSON SOUTH BALCONY TO REMAIN

PAINTED ALUMINUM ROOF EDGE - GREY COLOR

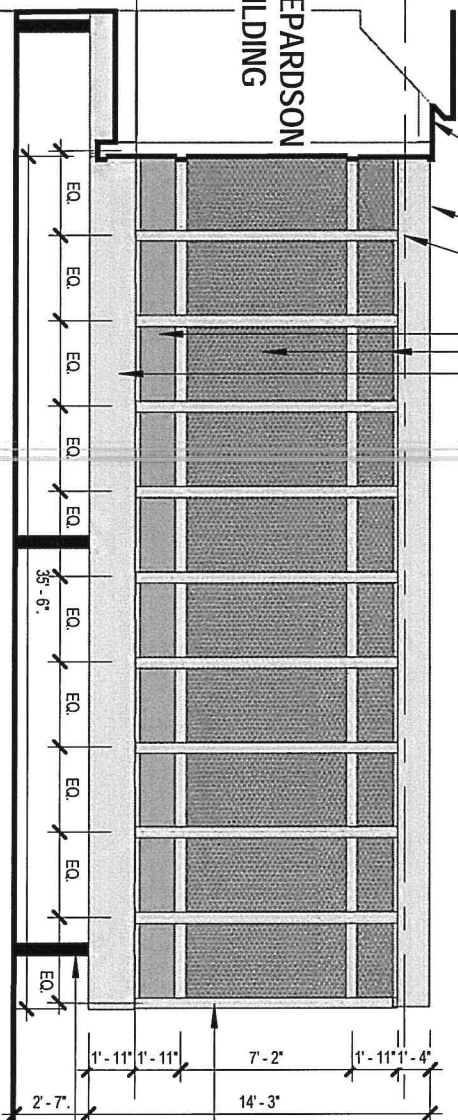
PAINTED STEEL FRAMES - COLOR TO MATCH EXISTING BALCONY FRAMING, TYPICAL

GREY TINTED LEXAN GLAZING WITH OPAQUE MATCHING GREY FILM - LOWER GLAZING ROW

PERFORATED PANEL - PERFORATION SIZE AND COLOR TO MATCH EXISTING BALCONY - UPPER GLAZING ROWS

PAINTED ALUMINUM PANEL - GREY COLOR

SHEPARDSON
BUILDING



TOS
422' - 2"

LEVEL 6
410' - 11"

LEVEL 5
400' - 11"

LEVEL 4
390' - 11"

ENGINEERING BUILDING

UNIVERSITY OF VERMONT MEDICAL CENTER

PSYCHIATRIC ROOF DECK

RENDERED SOUTH ELEVATION

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

07/16/15

LAVALLEE|BRENSINGER ARCHITECTS



UNIVERSITY OF VERMONT MEDICAL CENTER

PSYCHIATRIC ROOF DECK

PERSPECTIVE VIEW FROM COLCHESTER
AVENUE LOOKING SOUTHWEST

LAVALLEE|BRENSINGER ARCHITECTS

07/16/15



UNIVERSITY OF VERMONT MEDICAL CENTER

PSYCHIATRIC ROOF DECK

PERSPECTIVE VIEW FROM COLCHESTER &
EAST INTERSECTION LOOKING SOUTHWEST

LAVALLEE|BRENSINGER ARCHITECTS

07/16/15



UNIVERSITY OF VERMONT MEDICAL CENTER

PSYCHIATRIC ROOF DECK

PERSPECTIVE VIEW FROM EAST AVENUE
LOOKING SOUTHWEST

LAVALLEE|BRENSINGER ARCHITECTS

07/16/15



UNIVERSITY OF VERMONT MEDICAL CENTER

PSYCHIATRIC ROOF DECK

PERSPECTIVE VIEW FROM COLCHESTER
AVENUE LOOKING SOUTH

LAVALLEE|BRENSINGER ARCHITECTS

07/16/15

Department of Planning and Zoning

149 Church Street
Burlington, VT 05401

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

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(802) 865-7195 (FAX)

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Jay Appleton, Senior GIS/IT Programmer/Analyst
Scott Gustin, AICP, CFM, Interim Chief Administrative Officer
Mary O'Neil, AICP, Senior Planner
Elsie Tillotson, Department Secretary
Anita Wade, Zoning Clerk



MEMORANDUM

To: Development Review Board
From: Mary O'Neil, AICP, Senior Planner
Date: September 1, 2015
RE: ZP16-0165CU; 747 Pine Street

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

File: ZP16-0165CU

Location: 747 Pine Street

Zone: ELM **Ward:** 5

Date application accepted: August 4, 2015

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

Request: Change of use for 33,548 sf. to Retail Warehouse for Burlington Furniture Company. Breakdown: Retail 21,384; warehouse 10,694, office 1,470. Request for parking waiver.

Background:

- Non-applicability of Zoning Permit Requirements; interior work. August 12, 2015.
- Zoning Permit 16-0012CU; Establish health club, approx. 6762 sf. Allocate 14 parking spaces to use. No site changes. Approved August 10, 2015.
- Zoning Permit 15-0738CA; Renovation to existing warehouse building; removal of approx. 8,700 building addition, exterior façade upgrade, improved stormwater management, add parking. Approved February 2015.
- Zoning Permit 08-011CA; change of use from wholesale grovery/warehouse to printing. No site or exterior building changes. July 2007.
- Zoning Permit 02-331; new 36" metal outswing egress door on north wall. February 2002.
- Zoning Permit 99-023; installation of nonilluminated freestanding sign for Burlington Food Service Company. July 1998.
- Zoning Permit 92-350; three new windows in exterior wall and install new rooftop heating and A.C. unit next to existing HVAC unit at existing warehouse building. May 1992.
- Zoning Permit 92-426; installation of door with construction of handicapped access ramp with pipe railing for Burlington Food Service. June 1992.

- Zoning Permit 87-464; replace existing 4,000 gal underground fuel tank with one 8,000 tank or two 4,000 gal tanks. August 1987.
- Zoning Permit 87-091 / COA 87-034; add a 6,677 sq. ft. one story office wing and freezer to existing warehouse. Add 4,065 sq. ft. of parking and loading area. March 1987.
- Zoning Permit 85-151 / COA 85-039; add new 80' x 96' freezer to existing building, reconfigure existing parking, blacktop, and landscape. April 1985.

Overview: The DRB approved exterior structural and site modifications in February of this year; however it was noted that as tenants are identified, the building owner would be coming back for use permits. This is the second application; to relocate Burlington Furniture Company in the largest tenant space. Appendix A has no specific “furniture retail” use which includes warehouse and retail space. Warehouse Retail use is a Conditional Use in the ELM Zoning District. A parking waiver is requested; see Article 8 for discussion.

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

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

I. Findings

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

Article 3: Applications, Permits and Project Reviews

Part 3: Impact Fees

Section 3.3.2 Applicability

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

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

Affirmative finding.

Section 3.5.6 (a) Conditional Use Review Standards (as adopted by City Council 8.10.2015.)

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

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

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

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

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

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

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

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

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

- 5. The utilization of renewable energy resources;*

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

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

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

Article 4: Zoning Maps and Districts

(c) Permitted and Conditional Uses

No changes are proposed to the exterior of the site.

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

Article 5: Citywide General Standards

Part 1: Uses and Structures

(d) Conditional Uses

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

Part 2: Dimensional Requirements

Not applicable.

Part 3: Non-Conformities

Not applicable.

Part 4: Special Uses

Not applicable

Part 5: Performance Standards

Section 5.5.1 Nuisance Regulations

A furniture retail warehouse is not anticipated to introduce any impacts in conflict with the Burlington Code of Ordinances. **Affirmative finding.**

Section 5.5.2 Outdoor Lighting

Not applicable.

Section 5.5.3 Stormwater and Erosion Control

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

Section 5.5.4 Tree Removal

Not applicable.

Article 6: Development Review Standards

Not applicable.

Article 8: Parking

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

Based on the total sf. of the lease area, (33,548), the parking requirement would be **84 parking spaces**. ($33,548 / 1000 \times 2.5 = 83.87$.) The parking requirement in the ordinance anticipates a “Costco” type warehouse shopping experience, and does not foresee a warehouse retailer that

would have much smaller business volume but requires the warehouse storage and retail space demanded of the use. The applicant has submitted information that defines approximately 9 full time staff and 3 part time (with the anticipation of hiring 2-3 new employees in the future). Currently they see an average of 20 customers per day. They hope to grow that client base to 25-30 per day. Understandably weekends are busier than week days, but customer visits are dispersed throughout the day.

They anticipate a maximum of 10 cars at peak (lunch or weekend) hours.

The newly expanded parking lot has 86 parking spaces. Fourteen have been designated to the new Health Club Use. With 72 remaining spaces, the building owner would like to avoid unnecessary dedication of the remaining 72 spaces to the Warehouse Retail use without warrant. As more tenants are identified, those new uses will present a parking demand as well.

Section 8.1.15 Waivers from Parking Requirements/Parking Management Plans

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

The applicant has submitted information that addresses the specific needs of the proposed use, the proposed number of employees, customers, visitors, and hours of operation. They also have provided anticipated parking demand by day and demand of the use. It is their belief that an 84 parking space requirement is excessive given their existing business model on Pine Street, anticipated customer base, number of employees, and fluctuating customer arrivals (weekend over week days.)

This section of the ordinance limits parking waivers to 50% of the parking requirement which would be 42 spaces. The parking requirement then would be reduced to 42 spaces. The application, based on the existing business model, number of employees and anticipated customer volume does not suggest the need for the total parking requirement (84, based on Table 8.1.8-1), and unlikely to ever need the 42 parking spaces that would result from a maximum 50% parking waiver.

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

A 50% waiver of parking requirements would dedicate 42 parking spaces to the new use, with a waiver of 42 spaces. This number more reasonably reflects the lower actual parking demand of this specific use, and is available for consideration by the DRB under this provision.

Affirmative finding as conditioned.

Article 13: Definitions

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

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

II. Conditions of Approval

1. Upon DRB approval and assuming a waiver of 50%, a parking waiver of 42 spaces is provided for the Warehouse Retail use. 42 parking spaces will be allocated to the proposed use.
2. Required building and/or life safety codes will be under the review of the building inspector.
3. Standard Permit Conditions 1-14.

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

RECEIVED

AUG - 4 2015

DEPARTMENT OF
PLANNING & ZONING

BURLINGTON FURNITURE- ZONING PERMIT - ADDITIONAL INFORMATION

The Burlington Furniture Company has been on Pine St at its present location 388 Pine St. since 1986.

We are proposing to move our operations to 747 Pine St

Our use of the new space will be the same as our present space. Our operation consists of retailing and warehousing of furniture and home furnishings.

Our present retail hours are Monday – Saturday 10 -6 pm, Sundays 12 – 5

Office staff arrive at 9 Monday – Friday.

We currently employ 9 full time employees and 3 part time employees.

As we are open 7 days a week our staff is spread out to cover all hours with Saturday being the busiest.

We anticipate that we will add 2 – 3 new employees as our business is growing.

We anticipate a max of 10 employees at any given time.

Furniture Retail is a very low use on the scale for Retail. We tend to be quiet on the weekdays and busier on weekends.

Our traffic is minimal as we are a destination. We see an average of 20 people per day.

Our proposed space hopefully will bring more customers and we anticipate it growing to 25 -30 people per day.

Parking: We encourage walking, bicycling and carpooling. Our daily parking for employees will be about 10 cars. Our building will have designated employee parking on the side and back of the building.

Customers often come in in couples or families. We anticipate 15 – 25 cars during the day with a max of 10 cars during peak lunch or weekend hours.

Phasing: We hope to begin fit-up directly after approval and plan on being open to the public by mid – November.

BUILDING FOOTPRINT = 55,126 SF
TOTAL LEASE SPACE = 53,854 SF
TOTAL COMMON SPACE = 551 SF

LEASE 1 PROPORTION = 6,140 / 53,854 = 11.4%
11.4% OF 551 SF = 63 SF
6,140 SF + 63 SF = 6,203 SF TOTAL

LEASE 2 PROPORTION = 33,208 / 53,854 = 61.7%
61.7% OF 551 SF = 340 SF
33,208 SF + 340 SF = 33,548 SF TOTAL
RETAIL = 21,384 SF
WAREHOUSE = 10,694 SF
OFFICE = 1,470 SF

LEASE 3 PROPORTION = 6,767 / 53,854 = 12.6%
12.6% OF 551 SF = 69 SF
6,767 SF + 69 SF = 6,836 SF TOTAL

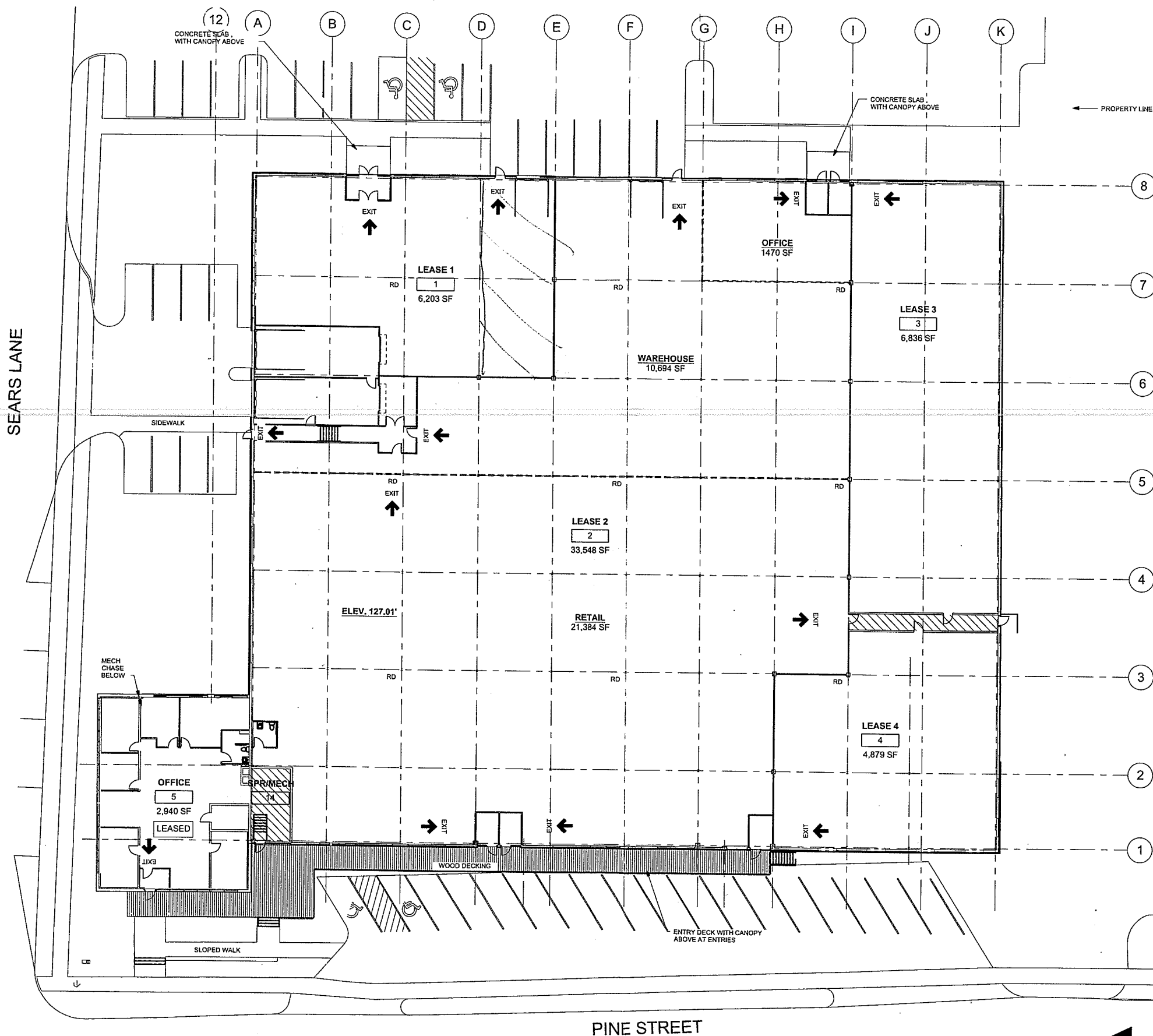
LEASE 4 PROPORTION = 4,829 / 53,854 = 8.9%
8.9% OF 551 SF = 50 SF
4,829 SF + 50 SF = 4,879 SF TOTAL

LEASE 5 PROPORTION = 2,910 / 53,854 = 5.4%
5.4% OF 551 SF = 30 SF
2,910 SF + 30 SF = 2,940 SF TOTAL

NOTE:
FOOTPRINT AREA MEASURED TO OUTSIDE
FACE OF FOUNDATION WALL

LEASE AREA MEASURED TO INSIDE FACE OF
CMU AT EXTERIOR WALLS, CENTERLINE OF
WALLS BETWEEN LEASE SPACES, AND
OUTSIDE FACE OF WALL BETWEEN LEASE
SPACE AND COMMON SPACE.

PARKING:
PARKING SPACES PROPOSED FOR THE
PROJECT = 90
ASSIGNED PARKING IS PER LEASE
AGREEMENT.



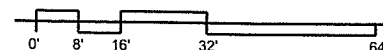
FLOOR PLAN

747 PINE STREET

08/04/2015

LEASE PLAN

SCALE: 1" = 16'



SCOTT + PARTNERS
ARCHITECTURE

20 MAIN ST. ESSEX JUNCTION, VT 05452
P: 802.879.5153
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SCOTTPARTNERS.COM

Department of Planning and Zoning

149 Church Street
Burlington, VT 05401
Telephone: (802) 865-7188
(802) 865-7195 (FAX)
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*David White, AICP, Director
vacant, Assistant Director
vacant, Comprehensive Planner
Jay Appleton, GIS Manager
Scott Gustin, AICP, Senior Planner
Mary O'Neil, AICP, Senior Planner
Anita Wade, Zoning Clerk
Elsie Tillotson, Department Secretary*



TO: Development Review Board
FROM: Scott Gustin *JD*
DATE: September 1, 2015
RE: 15-1386FC; 281 Shelburne Street

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

Zone: RL **Ward:** 5S

Owner/Appellant: Barry W. Heath, M.D. & Jennifer S. Laurent

Request: Appeal of zoning permit denial for installation of fence around portion of front yard.

Overview:

The property owners sought zoning permit approval for a fence that was installed without a zoning permit. An informal warning letter of zoning violation issued by the Code Enforcement Office prompted the zoning permit application. Much of the fence was installed within the Shelburne Street/U.S. Rte. 7 right-of-way, and portions of fencing installed by the driveways on the subject and neighboring properties exceeded the 3' clear sight triangle height limit. Therefore, the zoning permit application was denied. The property owners have appealed that denial.

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

I. Findings:

Sometime in spring 2015 a new metal fence was installed at 281 Shelburne Street. The metal fence runs parallel to Shelburne Street and down alongside the driveway. A new section of wooden fence was also installed. This section of wooden fence essentially extends an existing wooden fence running alongside the service driveway to Champlain School.

The Code Enforcement Office issued an informal warning letter to the property owners on June 9, 2015 noting the alleged fence installation without a zoning permit. No formal notice of zoning violation has yet been issued.

On June 23, 2015, the property owners applied for a zoning permit for the recently installed fencing.

Following application, staff contacted the property owners via voicemail and then again via email on July 13, 2015 noting the problems with the fence as installed – specifically that the fence was installed within the Shelburne Street/U.S. Rte. 7 right-of-way (ROW) and that it exceeded the 3' height limit within the driveways' clear sight triangles.

On July 16, 2015, staff met onsite with the property owner to view the fence and discuss possible modifications and appeal rights. Following that site visit, the property owners decided to pursue leaving the fence in place.

On July 20, 2015, the zoning permit application was denied per the following reasons:

1. Both the metal fence and the single section of new wooden fence exceed 3 feet in height and both encroach into clear sight triangles per Sec. 6.2.2, *Review Standards, (m) Landscaping and Fences*, of the Comprehensive Development Ordinance. The metal fence encroaches into the clear sight triangle for the property's driveway and Shelburne Street/U.S. Route 7, and the wooden fence encroaches into the clear sight triangle for the Champlain School's service driveway and Shelburne Street/U.S. Route 7. For driveways, clear sight triangles extend 15 feet along the driveway into the property and 25 feet away from the driveway along the front property line. Within the clear sight triangle, fences shall be limited in height to just 3 feet above the curb.
2. The entire length of metal fence that parallels Shelburne Street/U.S. Route 7 is located within the public street right-of-way. This public street right-of-way extends approximately 7 feet from the sidewalk towards the home. As a result, approximately 6 feet of the fence that parallels the property's driveway and the new section of wooden fence are also located within this public street right-of-way. The permit application form contains no signature from the Vermont Agency of Transportation or the U.S. Department of Transportation as co-applicant. Per Sec. 3.2.2, *Application Types and Submission Requirements (b) Awning and Fence Applications, item 1 A*, of the Comprehensive Development Ordinance, such co-application is required as the right-of-way extends beyond the subject private property and is under the jurisdiction of said transportation agencies.

On August 3, 2015, the property owners appealed the zoning permit denial to the Development Review Board. The appeal was filed within the 15-day appeal period.

The appeal asserts that the fence was installed consistent with advice from the Planning & Zoning office. It does not articulate what that "advice" was, but written correspondence from the owner submitted with the permit application states that they were advised to place the fence 1' inside the property line. There is, however, no written record of such comment being provided by Planning & Zoning and, in any event, no zoning permit application was filed prior to installing the fence.

Sec. 6.2.2, *Review Standards, (m) Landscaping and Fences*, of the Comprehensive Development Ordinance limits the height of fences installed within clear sight triangles to just 3' tall above the curb. There are two types of clear sight triangles: 1) street/street corners and 2) street/driveway corners. In this case, there are two street/driveway corners, one for the subject property's driveway and Shelburne Street and the other for Champlain School's service driveway and Shelburne Street. For street/driveway corners, clear sight triangles extend 15 feet along the driveway into the property and 25 feet away from the driveway along the front property line. Newly installed fencing exceeds the 3' height limit within both clear sight triangles. The appeal alludes to modifying the fence to achieve compliance but is not specific and also asserts that doing so would not make sense for the subject property.

A zoning permit is for a specific property. It does not extend beyond the boundaries of a particular property. If more than one property is involved in a permit application, more than one zoning permit is needed. The zoning permit application must be signed by the property owner of each property involved. For fence applications, see Sec. 3.2.2, *Application Types and Submission Requirements (b) Awning and Fence Applications*, item A. In this case, the fencing as installed spans the property at 281 Shelburne Street and also the Shelburne Street/U.S. Rte. 7 corridor. Typically, zoning does not extend into public street ROW's – that is generally the jurisdiction of the Department of Public Works. Planning & Zoning correspondence with Public Works notes no flexibility in approving an obstruction agreement within U.S. Rte. 7 given its status as a class 1 federal highway (see June 30, 2015 email between Scott Gustin & Laura Wheelock). Written correspondence from VT Agency of Transportation (Richard Hosking, PE) relative to an encroachment request at 495 Colchester Ave (also part of U.S. Rte. 7) recommends that the city not allow encroachment and cites 23 CFR Sec. 1.23 (b) that requires all real property within the right-of-way of a highway improved with federal aid must be used exclusively for highway purposes. Additional correspondence from VT Agency of Transportation (John Dunleavy) notes that the ROW is under the city's jurisdiction but notes that restrictions relative to federal aid remain (i.e. such as prohibition of new encroachments). Public Works has not signed a separate zoning permit application, nor is it willing to issue an obstruction approval under its jurisdiction.

The appeal notes that the application need only be signed by a property owner, not a holder of the right-of-way, and it asserts that there is only anecdotal evidence that the fence is installed within the street ROW. Indeed, a zoning permit must be signed by the property owner. The property at 281 Shelburne Street is 100' wide along Shelburne Street and 125' deep according to deed research. According to the city's street inventory, the Shelburne Street ROW is 99' wide. The parcel boundaries in the city's GIS reflect the correct property dimensions of 100' X 125'. The 99' ROW measures only 96'. From the centerline of Shelburne Street to the front property line at 281 Shelburne Street measures 43' in the GIS. It measures 7' from the edge of the sidewalk to the front property line. A measurement by Code Enforcement (see July 6, 2015 email from Theodore Miles to Scott Gustin) based on an existing survey marker found the front property line to be 9' from the edge of the sidewalk. The front property line depicted in the GIS may simply be a bit too close to the sidewalk. This would explain most of the 96' wide versus 99' wide ROW discrepancy. In any event, the fence as installed is 2.5' from the edge of the sidewalk and clearly stands outside the boundaries of 281 Shelburne Street. The zoning permit application for 281 Shelburne Street does not extend into the street ROW. The fence within the ROW remains without valid permit application or approval, whether by the Dept. of Planning & Zoning or the Dept. of Public Works.

In sum, the fence as installed is too tall within the two clear sight triangles affecting the property, and it extends beyond the property boundaries of 281 Shelburne Street and into the Shelburne Street/U.S. Rte. 7 ROW. The zoning permit application for the fence as installed, therefore, cannot be approved.

II. Recommended Motion:

Uphold the denial of zoning permit application 15-1386FC.

Scott Gustin

From: Laura Wheelock
Sent: Wednesday, August 26, 2015 10:53 AM
To: Scott Gustin
Subject: FW: Burlington - US7 Right of Way - 281 Shelburne St
Attachments: Shelburne findings.conclusions.pdf

Scott,

Please see the attached regarding the historic US7 ROW width that indicates ownership within the 99 feet as being the Municipalities. As well as the responses below from the two assistant attorney generals at VTrans and the District 5 VTrans manager who oversees Chittenden County.

Honestly all I think is left is proving where the ROW line is as the land inside the ROW is the City's; unless some other easement exists with the property owner and the city for ownership. I have Lisa looking into the land records for that property.

Thanks,

Laura K. Wheelock P.E.
Public Works Engineer

Burlington Department of Public Works
645 Pine Street
Burlington, VT 05401
PH: 802-540-0397
M: 802-338-2125
LWheelock@burlingtonvt.gov

From: Hosking, Dick [mailto:Dick.Hosking@vermont.gov]
Sent: Wednesday, August 26, 2015 7:54 AM
To: Dunleavy, John <John.Dunleavy@vermont.gov>; Laura Wheelock <lwheelock@burlingtonvt.gov>
Cc: Rice, Bill <Bill.Rice@vermont.gov>
Subject: RE: Burlington - US7 Right of Way

District 5 does not allow any NEW fences in our ROW except for barb wire/electric fences for agriculture purposes. We have had some cases where an older fence was found to be in the ROW and we allow it to remain until it has to be replaced and then it must be moved outside the ROW line.

Richard Hosking, P.E.

District Project Manager
PO Box 168
Essex Junction, VT 05453
802-654-1722
802-655-6642 (fax)

Email: dick.hosking@vermont.gov

bill.rice@vermont.gov

From: Laura Wheelock [<mailto:lwheelock@burlingtonvt.gov>]

Sent: Monday, August 24, 2015 5:40 PM

To: Hosking, Dick; Dunleavy, John; Rice, Bill

Subject: Burlington - US7 Right of Way

Dick/John/Bill,

I hate to have to ask such a similar question but here it goes again.

We have a property owner at 281 Shelburne St. Who installed a fence without getting proper permits first. They were clearly cited by several City departments regarding the fence and told to seek a planning and zoning permit to start. Upon review, their application was denied citing a few issues, one being the fence location appears to be within the right-of-way for US7 and it is a non-transportation use of the ROW. They have sought legal representation as they appeal the planning and zoning permit.

What I need assistance with is who owns the ROW for US7 within the City of Burlington, what rights/easements VTrans/FHWA or other parties might have in that ROW, and how a fence might impact our federally funded assistance. The attached indicates the property owner's attorney has been in contact with William Rice with regards to the ownership of the right of way.

I know John has previously supplied this reference: 23 C.F.R. § 1.23(b) requires that all real property within the right-of-way of a highway improved with federal aid must be used exclusively for highway purposes. Which is what we used as just one of the reasons we denied the permit, they have other aspects of the fence that do not comply with our regulations.

Any insight/clarity you can provide would be greatly appreciated.

Thank you,

Laura K. Wheelock P.E.
Public Works Engineer

Burlington Department of Public Works
645 Pine Street
Burlington, VT 05401
PH: 802-540-0397
M: 802-338-2125
LWheelock@burlingtonvt.gov

with the raised median design. The most current studies conclude that raised medians provide better traffic safety than TWLTLs, and will reduce total numbers of accidents by 40-66%. The types of accidents that will be reduced the most in the project corridor with the implementation of the raised median design are rear end, broadside, head on and angle collisions by vehicles turning in opposite directions.

34. Some owners of abutting properties not directly served by median openings are worried that potential customers will drive past their or their tenant's businesses. These concerns are overstated. There are an adequate number of median openings to provide access to nearby properties. Drivers will learn where they must turn to reach the businesses. The nearby Dorset Street project -- completed in 1993 -- provides an instructive example of how businesses exist in the presence of a raised median.

Width of the preexisting right-of-way

35. Another point of dispute is the width and location of the existing highway right-of-way for this segment of U.S. 7. The original survey for this portion of the highway was made in 1797, and ran from Vergennes north into Burlington. (South Burlington was part of the old Town of Burlington until 1865.) The survey set out the westerly limit of a six-rod (99 feet) right-of-way. It is undisputed that the original survey was to establish a six-rod wide right-of-way. AOT claims that dimension as the pre-existing right-of-way width.

36. The parties disagree about the location of the right-of-

way in Shelburne. The location and width of the six-rod right-of-way in South Burlington are well-monumented, and are not in dispute.

37. The 1797 survey is technically flawed in the vicinity of the LaPlatte River in Shelburne, most likely because some bearings and distances were erroneously transcribed or were omitted from the written description of the survey. It is not at all unusual to find surveys that are incomplete or otherwise flawed. In that event, the task of a surveyor who is attempting to recreate the original survey is to work with the remaining portions of the written description to determine the intent of the original survey.

38. Vincent Lamark, an employee of AOT's design consultant Erdman Anthony and Associates, performed the work to recreate, or retrace, the 1797 survey and AOT's Chief of Survey, Paul Hodge, independently reviewed that work. As part of their work, they consulted the description of the 1797 survey; relevant portions of plans for highway projects on this portion of U.S. 7 in 1919, 1924, 1949 and the relocation of the LaPlatte River bridge in 1955 westerly to the location of the current, newly-rebuilt bridge; private survey plats and deed descriptions of abutting parcels, which consistently recognized a six-rod wide right-of-way; records of surveys of other highway rights-of-way in Shelburne; and other monumentation such as buildings, culverts and natural features such as ledge formations and water bodies. The highway itself is a monument and there was no evidence that it ever has existed other than in its current corridor. Particularly, the ledge outcropping

on the west side of the right-of-way at the top of a rise near the LaPlatte River provides a clear line of sight almost straight to the South Burlington line and the outcropping was most likely the west side of the six rod historic right-of-way.

39. The 1797 survey of the project corridor consists primarily of two long, straight lines, or tangents. One of these tangents runs north more than two miles, beginning in the vicinity of the above described ledge outcropping near the intersection of Webster Road and U.S. 7 (approximately Station 271 of the project plans). Near the town/city line between Shelburne and South Burlington (approximately Station 375 of the project plans), it intersects with the other tangent, which extends north into Burlington.

40. 1949 and 1955 highway plans of the highway indicate that the centerlines of the traveled ways (that is, the paved portions of the highway, which carry traffic) of those projects were in the center of the right-of-way where they merged in Shelburne, and that the centerline of the 1949 highway project in South Burlington also was in the center of the right-of-way. In between those locations, the centerline of the traveled way bows to the west. The 1797 survey describes the angle of deflection formed by the intersection of the two long tangents as 8 degrees and 45 minutes (in those days, angles were measured only to the nearest 15 minutes). The angle of deflection for the intersection of the tangents for the 1949 traveled way centerlines was 8 degrees, 43 minutes and 9 seconds, well within the standard of performance for 1797. Mr.

Hodge utilized a different methodology than Mr. Lamark, but also computed the angle of deflection at the intersection of the two tangents. He measured an angle of 8 minutes, 43 degrees and 35 seconds, remarkably close to Mr. Lamark's calculation and also well within the standard of performance of the 1797 survey.

41. Having determined the centerline of the right-of-way depicted in the 1797 survey, Mr. Lamark measured three rods to the west to establish the parallel line that is the westerly edge of the right-of-way and three rod to the east to establish the parallel line that is the easterly edge of the right-of-way. Those are the best fit with the 1997 and the present location of highway and neighboring lands. Those are the right-of-way limits that are depicted on the project plans. They are consistent with the 1797 survey.

42. Regardless of the width of the preexisting right-of-way, the land that AOT proposes to acquire is required for the project.

CONCLUSIONS OF LAW

1. "The necessity specified by the statute for the condemnation of land for highways does not mean an imperative or indispensable or absolute necessity but only that the taking provided for be reasonably necessary for the accomplishment of the end in view under the particular circumstances." *Latchis v. State Highway Board*, 120 Vt. 120,123(1957). Accord. *Agency of Transportation v. Wall Management*, 144 Vt. 640,643(1984); *Cerosimo v. Town of Townshend*, 139 Vt. 594,597(1981).

2. 19 V.S.A. Section 501(1) contains the statutory elements

survey. See, e.g., *Welch v. Barrows*, 125 Vt. 500, 504 (1966) ("The intention of the parties, not the language used, is the dominating factor, and the circumstances existing at the time of the execution of the deed, the situation of the parties and the subject matter are to be considered."). Stewart Morrow, a land surveyor, was the expert witness for a number of the objecting property owners. Mr. Morrow claims, among other things, that a serious discrepancy in the survey is that the distance to the Shelburne/now-South Burlington (the survey refers to Burlington, because in 1797 Burlington and South Burlington had not been chartered as separate communities) town line cannot be determined through the distance measurement expressed in the survey ("...thence north eleven degrees and fifteen minutes east one chain and seventy-four links to a stake and stones in Burlington line..."). The reference to the town line, however, establishes it as a monument, which takes precedence over a metes-and-bounds description. "Accordingly, distances must be lengthened or shortened and courses varied so as to conform to the monument description." See *Monet v Merritt*, 136 Vt. 261, 265-266 (1978). There was no indication at trial that the location of the town line is in dispute.

15. The court concludes that AOT has determined the intent of the 1797 survey, has accurately located its termination and boundaries (including the existing right-of-way limits), and has properly described the land and rights in land it proposes to acquire. These items all are properly depicted on the project plans.

AOT was not obligated to follow the process set forth in 19 V.S.A. Section 32, because it was able to ascertain the terminations and boundaries of the original survey. Therefore, it did not need to conduct a resurvey. As the Supreme Court stated when it construed a similar statute in *Culver v. Town of Fair Haven*, 67 Vt. 163, 166 (1895): "To say that the word "resurvey," as used in the statute, means nothing more than to locate the lines of the boundaries in their original location, is to give the word too narrow a construction. If the terminations and boundaries can be ascertained according to the original survey, there is no need of a resurvey."

16. This court fails to understand why the AOT fails to comply with Vermont Rules of the Board of Land Surveyors for the required precision of surveys. The AOT merely rounds limits of the right-of-way to the nearest foot. However, that does not mean the lack of measurement precision misleads the property owner as to what is to be taken, nor does it cause the court to determine that necessity must be denied for that reason. The property interests to be acquired are sufficiently described to meet the requirements of law.

17. A description of a proposed taking must not mislead a property owner, *Vermont Electric Power Co., Inc. v. Anderson*, 121 Vt. 72, 78 (1958), and the respondents do not claim they have been misled. The project plan specifically identifies the affected parcels and describes the land and rights that AOT wishes to condemn:

In addition to the narrative description of the perimeter of the taking, the plan includes what are called layouts and detail sheets. The layout sheets show, in relation to the affected properties, the names of the property owners, the existing and proposed right-of-way limits, the temporary and permanent rights, the approximate private property lines and a variety of miscellaneous details. The detail sheets also include the names of the property owners, the beginning and ending stations ("stations" are reference points for the designers and are measured in 100' intervals: for example, Station 264 is 100' north of Station 263; Station 264+17 is 17' north of Station 264) for the fee takings and the amounts of those takings; and, the stations and amounts of all additional rights to be acquired. This plan accurately and adequately identifies the land and interests that AOT wants to acquire, and complies with the plain text of Section 506(a).

18. There are other pertinent statutes, outside of Title 19, which support AOT's position. See Shepard, 155 Vt. at 357 ("The statutory scheme on highways is complex, constituting all of Title 19 as well as portions of other titles, with many interrelated provisions."). As a further indication that the mandates generally applicable to land surveyors do not pertain to the preparation of highway plans, the legislature has exempted the latter from the requirement that they be signed and sealed by a surveyor. 27 V.S.A. Section 1403(b)(6) requires that private survey plats shall contain "the land surveyor's certification as outlined in Section 2596 of Title 26 and a certification that the plat conforms with the

requirements of this section. These certifications shall be accompanied by the responsible land surveyor's seal, name and number, and signature." 27 V.S.A. Section 1404(a) states, however, that "Survey plats prepared and filed by municipal and state government agencies shall be exempt from Section 1403(b)(6) of this title." In addition, AOT's plans need not meet the remaining requirements of 27 V.S.A. ch. 17 until after the agency has completed the condemnation process of which the necessity hearing is merely the first step: "This chapter does not apply to layout plats of highways or other transportation facilities prepared by or for the agency of transportation, other than plats of individual parcels, before that agency issues a right-of-way clearance certificate for a transportation project." See 27 V.S.A. Section 1405. After AOT issues the right-of-way clearance certificate, "it also shall file with the appropriate municipal clerk one set of plans that conforms to the requirements of this chapter, with instructions to the clerk to dispose of all previously filed plats for that particular project." Id. AOT will properly monument the right-of-way as per Section 1405. Monumentation is not required of highway projects before they are completed, so it is not germane to a necessity hearing.

JUDGMENT

1. The necessity of the State requires the taking of title in fee or easements or other lesser rights where title in fee is not

Scott Gustin

From: Laura Wheelock
Sent: Monday, August 24, 2015 5:23 PM
To: Scott Gustin
Subject: RE: 281 Shelburne St

Hi Scott,

For proof if the fence is within the ROW I would be open to a 'loser buys agreement' where whoever is wrong pays for the boundary survey. So if the fence is indeed outside the ROW the City would pay for the survey. If it is not then the property owner has to buy. However I still fail to see where it is not the burden of proof of the property owner to identify their property boundary when installing such infrastructure that defines the boundary. If I was to install a new sidewalk I would be required to prove it was in the ROW and if questioned provide a boundary survey to support it; I not see how this would be different.

As for the ROW ownership I will certainly seek an opinion directly from VTrans as to this property. I do believe the appeal is correct that the land is owned by the City, and we do control the ROW. However I thought the state had rights as it was explained to me that the City could buy out the state's rights and allow what we want. Not to mention the funding it jeopardizes.

Here is the exact wording got with regards to a request for an encroachment request at 495 Colchester Ave:

"I have recommend to the City that they do not allow the encroachment of the porch as it may affect Federal Funds for Colchester Avenue.

Thanks

Richard Hosking, P.E.

District 5 Project Manager
PO Box 168
Essex Junction, VT 05453
802-654-1722
802-655-6642 (fax)"

"23 C.F.R. § 1.23(b) requires that all real property within the right-of-way of a highway improved with federal aid must be used exclusively for highway purposes. While there are many pre-existing encroachments around the State, neither VTrans (as to state highways) nor municipalities (as to town highways) should allow *new* encroachments.

John K. Dunleavy, Assistant Attorney General
Vermont Agency of Transportation
National Life Building (Mailing Address)
One National Life Drive
Montpelier, VT 05633-5001
(802) 828-3430 / (802) 828-2817 (fax)
john.dunleavy@state.vt.us"

LWheelock@burlingtonvt.gov

From: Scott Gustin
Sent: Tuesday, June 30, 2015 3:58 PM
To: Laura Wheelock
Subject: RE: 281 Shelburne St

Thanks! So the twist here is that if it's in the ROW, they'd need an encroachment permit/agreement. I'll send them your way if they'd like to pursue that.
Scott

Scott Gustin, AICP, CFM
Senior Planner
Dept. of Planning & Zoning
149 Church Street
Burlington, VT 05401
(802) 865-7189

From: Laura Wheelock
Sent: Tuesday, June 30, 2015 3:56 PM
To: Scott Gustin
Subject: RE: 281 Shelburne St

Hi Scott,

I had our excavation inspector review the fence location and it is ~2.5' off the back of the sidewalk. The ROW from GIS shows/measures 7' from the back of the sidewalk. When I look at the GIS vs the unmodified existing fence it looked good see the photo below. The new fence should start back at that old end of fence location (at minimum). This would put it exactly on the ROW.

Thanks for checking in on this. If they need to speak with us/DPW please send them my way.



Laura K. Wheelock P.E.
Public Works Engineer

Burlington Department of Public Works

Scott Gustin

From: Theodore Miles
Sent: Monday, July 06, 2015 12:17 PM
To: Scott Gustin
Cc: Mary O'Neil
Subject: 281 Shelburne st

Scott,

I put these notes in AMANDA for the fence permit that has been applied for at this address. A photo is attached to show the new wood section of fence that is referenced.

"Ted: Did some measuring of the right of way on Shelburne st. The ROW is 99 feet. There is a survey marker across the street that identifies where the property line exists. In measuring from this point to the 99 feet, the right of way goes 99 feet from the sidewalk on the west side of the road. This would coincide with the location of the wooden fence that was installed a number of years ago that lines the access drive to the school department. The fence would have to be moved back to the line of the old fence. The new wood section of fence and the new metal fence is in the right of way."

Ted Miles
Code Enforcement
City of Burlington, Vermont
(802)863-0442
(802)865-7563

ACCEPTED & UNACCEPTED STREETS

	ACCEPTED STREET	ROW	WIDTH	
A	ADAMS CT & EXT	40.00	26	
A	ADAMS ST	57.75	30	
A	ADSIT CT	32.00	20	
A	ALDER LANE	50.00	30	
A	ALEXIS DRIVE	0.00	0	
A	ALFRED STREET	40.00	26	
UNAC	ALFRED TERR	0.00	0	
A	ALGIRD ST	50.00	30	
A	ALLEN ST	50.00	28	
PRVT	AMBROSE PL	0.00	0	
UNAC	APPLETREE PT LN	0.00	0	
UNAC	APPLETREE PT RD	0.00	0	
A	ARCHIBALD ST	49.50	30	
A	ARLINGTON CT	50.00	30	
A	ARTHUR CT	0.00	0	
A	AUSTIN DR	60.00	30	
UNAC	AVE A			0.00 0
UNAC	AVE B	0.00	0	
UNAC	AVE C	0.00	0	
UNAC	AVE C NO	0.00	0	
UNAC	AVE C SO	0.00	0	
UNAC	BAIRD ST	0.00	0	
A	BALSAM ST	50.00	30	
A	BANK ST	66.00	35	
A	BARLEY RD	60.00	30	
A	BARRETT ST	49.50	30	
A	BATCHEDLER ST	60.00	30	
A	BATTERY PK DR	0.00	0	
A	BATTERY ST	99.00	37.5	
A	BAYVIEW ST	46.00	26	
A	BEACHCREST DR	60.00	30	
UNAC	BEACHCREST LN	50.00	30	
PVT	BEAUMOUNT DR			
A	BEECH ST	33.00	18	
A	BENNINGTON CT	50.00	30	
A	BERRY ST	43.00	26	
A	BILLINGS CT	60.00	30	
A	BILODEAU CT	50.00	26	
A	BILODEAU PKWY	40.00	26	
A	BIRCH CT	41.00	40	

PRVT	RAYMOND PL	0.00	0		
UNAC	REDSTONE TERR	0.00	0		
A	REVERE CT	60.00	30		
A	RICHARDSON ST	60.00	30		
A	RIDGEWOOD DR	50.00	30		
PRVT	RIVER VIEW DR	0.00	0		
UNAC	RIVEREDGE DR	0.00	0		
A	RIVERMOUNT TERR			60.00	30
A	RIVERSIDE AVE	66.00	40		
A	ROBINSON PKWY	46.00	26		
UNAC	ROCK PT	0.00	0		
A	ROCKLAND ST	60.00	30		
A	ROSE ST	49.50	26		
A	ROSEADE PKWY	60.00	30		
UNAC	RUMSEY LN	0.00	0		
A	RUSSELL ST	49.40	26		
A	SANDRA CIRCLE	60.00	30		
A	SANDY LN	0.00	30		
A	SARATOGA AVE	50.00	30		
A	SCARFF AVE	70.00	30		
A	SCHOOL ST	50.00	28		
A	SEARS LN	50.00	30		
A	SHELBURNE ST	99.00	35		
A	SHERMAN ST	66.00	35		
A	SHORE RD			0.00	30
UNAC	SIMMS ST			50.00	30
A	SKY DR			60.00	30
A	S CHAMPLAIN ST				66.00 30
A	S COVE RD			60.00	30
A	S CREST DR			50.00	30
UNAC	S MEADOW DR			0.00	0
A	S PROSPECT ST			63.00	32
A	S UNION ST			57.75	30
A	S WILLARD ST			66.00	34
A	S WILLIAMS ST	49.50	30		
A	S WINOOSKI AVE			57.75	30
A	SOUTH ST			50.00	30
UNAC	SOUTHWIND DR			60.00	30
A	SPRING ST			0.00	26
A	SPRUCE CT	35.00	24		
A	SPRUCE ST	57.75	30		
A	ST LOUIS ST	50.00	28		
A	ST MARY'S ST	50.00	26		
A	ST PAUL ST	85.00	40		
A	STANBURY RD	50.00	30		

658 252

WARRANTY DEED

KNOW ALL PERSONS BY THESE PRESENTS that I, **SUSAN DOUGLAS**, of, Burlington, in the County of Chittenden, and State of Vermont, Grantor, in the consideration of TEN OR MORE Dollars, paid to my full satisfaction by **BARRY W. HEATH** and **JENNIFER S. LAURENT**, of Burlington, County of Chittenden and State of Vermont, Grantees, by these presents, do freely GIVE, GRANT, SELL, CONVEY and CONFIRM unto the said, **BARRY W. HEATH** and **JENNIFER S. LAURENT**, as joint tenants with right of survivorship, and their heirs and assigns forever, a certain piece of land in the City of Burlington, in the County of

Chittenden and State of Vermont, described as follows:

Being all and the same lands and premises conveyed to Susan Douglas by Quit Claim Deed of Kenneth E. Douglas and Susan Douglas dated January 16, 1994 and recorded on January 21, 1994 in Volume 501 at Pages 58 of the City of Burlington Land Records and being more fully described as follows:

Being all and the same lands and premises conveyed to Kenneth E. Douglas and Susan Douglas by Warranty Deed of Bertha H. Beardsley dated July 13, 1978 and recorded in Volume 254 at Page 404 of the City of Burlington Land Records.

A parcel of land with residence thereon, situated on the westerly side of Shelburne Street, the dwelling house thereon being known and designated as number 281 Shelburne Street.

The property is conveyed subject to all rights of way, easements, covenants, conditions, permits and restrictions of record.

Reference is hereby made to the aforementioned instruments and Land Records and to the references contained therein and records thereof in further aid of this description.

TO HAVE AND TO HOLD said granted premises, with all the privileges and appurtenances thereof, to the said, **BARRY W. HEATH** and **JENNIFER S. LAURENT**, as joint tenants with right of survivorship, and their heirs and assigns, to their own use and behoof forever; and I the said, **SUSAN DOUGLAS**, for myself and my heirs, executors and administrators, do

②
 RECEIVED
 9-1-2008 2:15 P.M.
 of Burlington, VT 05401
 Vermont Property Transfer Records
 -ACKNOWLEDGED
 Return, Certificate & Payment Received
 A. Chap. 231

Attest
 Jo LaMarche, Asst. City Clerk

Henry Bacon and
Belle R. Bacon
TO
Roland O. Layfield and
Winona M. Layfield

R

WARRANTY DEED

Know All Men by These Presents That

We, Henry Bacon and Belle R. Bacon,
husband and wife,

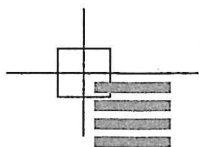
of Burlington in the County of Chittenden and State of Vermont
in the consideration of Ten and more Dollars paid to our full satis
Roland O. Layfield and Winona M. Layfield, husband and wife,
of Burlington in the County of Chittenden and State of Vermont Grantees, by thes
do freely Give, Grant, Sell, Convey and Confirm unto the said GranteeS, Roland O. Layfield and Winona M. Layfield, as hu
and wife, and their heirs and assigns forever, a certain piece of land in
Burlington, in the County of Chittenden and State of Vermont, described as follows, viz.:

A lot of land with buildings thereon situated on the
westerly side of Shelburne Street, the dwelling house being
known and designated as No. 281 Shelburne Street having a
frontage thereon of one hundred (100) feet and a depth of one
hundred twenty-five (125) feet and being all and the same
land and premises conveyed to us, said Henry and Belle R.
Bacon, by Warranty Deed of John J. Flynn dated May 24, A.D.
1923 and recorded in Vol. 83, Page 322, of the Land Records
of said Burlington.

Reference is made to said deed and its record and to
the deeds therein mentioned in aid of this description.

Possession of said premises is to be given October 1,
1943.

To Have and to Hold said granted premises, with all the privileges and appurtenances thereof, to the said GranteeS, Roland O.
Layfield and Winona M. Layfield, as husband and wife, their heirs and a
their own use and behoof forever. And we, the said GrantorS, Henry Bacon and Belle R. Bacon,
for ourselves and our heirs, executors, and administrators do covenant with the said Grantee S, Roland O. Layfield
and Winona M. Layfield, their heirs and assigns, that until the ensembling of these
we are the sole owners of the premises; and have good right and title to convey the same in manner aforesaid, that they are F
every encumbrance, except taxes on said premises from and after October 1, 1943 which taxes the said
grantees assume and agree to pay and we
hereby engage to Warrant and Defend the same against all lawful claims whatever except as above stated.



PAUL FRANK + COLLINS P.C.

Mark Hall
mhall@pfclaw.com

August 3, 2015

RECEIVED
AUG - 3 2015

HAND-DELIVERED

DEPARTMENT OF
PLANNING & ZONING

Scott Gustin, AICP, CFM
Senior Planner
Dept. of Planning & Zoning
149 Church Street
Burlington, VT 05401

**Re: Dr. Barry W. Heath; Fence Application for 281 Shelburne Street,
Burlington, VT 05401**

Dear Scott:

I attach a Notice of Appeal regarding Dr. Heath's application for a fence for their front yard. The fence was installed consistent with advice to Dr. Heath's contractor from the City's zoning and planning office (according to the contractor). Dr. Heath filed this application to ensure compliance, but as you know the application was denied because: (1) the fence is purportedly in the State of Vermont Right of Way for Shelburne Street/U.S. Route 7; or (2) the installation allegedly does not provide for adequate sight triangles under the ordinance or, alternatively, is too high in the sight triangle area. Dr. Heath will attempt to resolve your concerns, but he believes this appeal is necessary to protect his interests.

With respect to issue 1, I have spoken with Assistant Attorney William Rice for the Vermont Agency of Transportation (VTRans). He confirmed that VTRans does not own or control any portion of Shelburne Street within the City of Burlington; nor does there seem to be any proof offered other than anecdotal evidence that the fence is in fact in a right of way. Irrespective, the application need only be signed by the property owner, not a holder of a right of way. Dr. Heath is a property owner in this case.

With respect to item 2, Dr. Heath will attempt to work with the City to meet the standard in the ordinance if possible or seek the appropriate relief; however, it does not appear to be the practice of the City to adhere to the standard stated in the denial, which would not make sense for this property.

Scott Gustin, AICP, CFM
August 3, 2015
Page 2

Thank you for consideration of this appeal.

Cordially yours,

PAUL FRANK + COLLINS P.C.



Mark G. Hall

MGH:jtg

Enclosures

cc with enclosure:

Barry W. Heath, M.D.

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DEPARTMENT OF
PLANNING & ZONING



ZONING REQUEST DENIAL

FENCE

City of Burlington, Vermont
Department of Planning and Zoning

Application Date: 06/23/2015

Appeal Expiration Date: 08/04/2015

Project Location: 281 SHELBURNE STREET

District: RL

Owner: Barry W Heath

Ward: 5S

Address: 281 SHELBURNE STREET
BURLINGTON, VT 05401

Tax ID: 057-3-004-000

Project Type: Residential - Site Imp/Landscaping/Parking/Fence

Project Description: Installation of fence around portion of front yard.

Construction Cost:	\$7,500	Lot Size (Sq Ft):	12,500
Net New Habitable Sq Ft:	0.00	Net New # of Housing Units:	0
Existing % Lot Coverage:	0.00	Existing # of Parking Spaces:	0
Proposed % Lot Coverage:	0.00	Proposed # of Parking Spaces:	0
Net New % Lot Coverage:	0.00	Required # of Parking Spaces:	0

Zoning Permit #: 15-1386FC

Decision By: Administrative

Level of Review: 1

Decision: Denied

See Reasons for Denial

Decision Date: July 20, 2015

Project File: NA

Zoning Administrative Officer

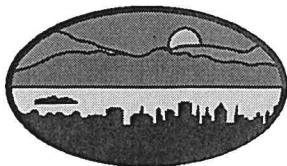
An interested person may appeal a decision of the Zoning Administrator to the Development Review Board until 4 pm on August 4, 2015.

Fee Type	Amount	Paid in Full	Balance Due: \$0.00
Application Fee:	\$50.00	Yes	Date Paid: _____
Development Review Fee:	\$0.00	NA	Check # _____
Impact Fee:	Not Applicable		

Building Permit Required: **Not Applicable**

Received by: _____

Date: _____



City of
Burlington, Vermont
149 Church Street

Zoning Permit - Fences – Reasons for Denial

ZP #: 15-1386FC

Tax ID: 057-3-004-000

Issue Date: July 20, 2015

Decision: Denied

Property Address: 281 SHELBURNE STREET

Description: Installation of fence around portion of front yard.

Reasons for Denial:

1. Both the metal fence and the single section of new wooden fence exceed 3 feet in height and both encroach into clear sight triangles per Sec. 6.2.2, *Review Standards, (m) Landscaping and Fences*, of the Comprehensive Development Ordinance. The metal fence encroaches into the clear sight triangle for the property's driveway and Shelburne Street/U.S. Route 7, and the wooden fence encroaches into the clear sight triangle for the Champlain School's service driveway and Shelburne Street/U.S. Route 7. For driveways, clear sight triangles extend 15 feet along the driveway into the property and 25 feet away from the driveway along the front property line. Within the clear sight triangle, fences shall be limited in height to just 3 feet above the curb.
2. The entire length of metal fence that parallels Shelburne Street/U.S. Route 7 is located within the public street right-of-way. This public street right-of-way extends approximately 7 feet from the sidewalk towards the home. As a result, approximately 6 feet of the fence that parallels the property's driveway and the new section of wooden fence are also located within this public street right-of-way. The permit application form contains no signature from the Vermont Agency of Transportation or the U.S. Department of Transportation as co-applicant. Per Sec. 3.2.2, *Application Types and Submission Requirements (b) Awning and Fence Applications, item 1 A*, of the Comprehensive Development Ordinance, such co-application is required as the right-of-way extends beyond the subject private property and is under the jurisdiction of said transportation agencies.



Department of Planning and Zoning

149 Church Street, City Hall
Burlington, VT 05401-8415

Phone: (802) 865-7188

Fax: (802) 865-7195

www.burlingtonvt.gov/pz

RECEIVED

JUN 23 2015

DEPARTMENT OF
PLANNING & ZONING

Zoning Permit Application

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

PROJECT LOCATION ADDRESS: 281 Shelburne St

PROPERTY

OWNER*: BARRY HEATH + JENNIFER LAURENT

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

APPLICANT: SAME

POSTAL ADDRESS: 281 SHELBURNE ST

POSTAL ADDRESS: _____

CITY, ST, ZIP: BURLINGTON, VT 05401

CITY, ST, ZIP: _____

DAY PHONE: 802-864-1569

DAY PHONE: _____

EMAIL: jlaurent@uvm.edu

EMAIL: _____

SIGNATURE: [Signature]

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

SIGNATURE: _____

Description of Proposed Project: DECORATIVE FENCING

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

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

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

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

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

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

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

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

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

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

Estimated Construction Cost (value)*: \$ 7500

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

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

Office Use Only: Zone: RL Eligible for Design Review? 4 Age of House 1424 Lot Size 12500

Type: SN _____ AW _____ FC ☒ BA _____ COA 1 _____ COA 2 _____ COA 3 _____ CU _____ MA _____ VR _____ HO _____ SP _____ DT _____ MP _____

Check No. 2471 Amount Paid 50 Zoning Permit # 15-13867C



Department of Planning and Zoning

149 Church Street, City Hall
Burlington, VT 05401-8415

Phone: (802) 865-7188

Fax: (802) 865-7195

www.burlingtonvt.gov/pz

RECEIVED
JUN 23 2015

DEPARTMENT OF
PLANNING & ZONING

Fence Application Checklist

Use this checklist for all applications for replacement fences and new fences - See Sec. 3.2.2 of the Zoning Ordinance.

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

- ☒ A completed application form signed by the property owner;
- ☐ The application fee of \$50, in cash or check (no cards). Checks to be made out to the 'City of Burlington'. (There will also be a \$35 fee to request the Final Certificate of Occupancy when the project is complete, if requested within the two year time limit);
- ☒ Photographs of the subject property showing the location of the project (and neighboring properties if applicable);
- ☐ A site plan of the subject property, that is accurate and to scale, including the following, as applicable:
 - Identifying information including the record owner of land, north arrow, date (including any revision dates) and scale (recommended at not smaller than 1 inch equals 40 feet);
 - Lot dimensions and location of property lines, abutting streets, the location and dimensions of the existing house and driveways;
 - Location of the proposed fence per Sec 6.2.2(m) Landscaping and Fences, (i.e. clear sight triangle and setback as indicated on page 2).
 - Location and ownership of rights-of-way or easements affecting the property;
 - Required setbacks from property lines and/or public rights-of-way;
 - Grading changes with minimum 5 ft. contours;
- ☐ Visual representation of the style, materials, and dimensions of the proposed fence (specification sheet or photograph of an example).

Note: If unsure of your front property boundary, you may assume the property line is one foot behind existing sidewalks. If a sidewalk is absent, assume the property line is ten feet from the curb of the roadway. If unsure, contact your neighbors, the Department of Public Works to obtain the street width, or hire a surveyor to delineate the boundaries for you (a survey is not a requirement, but is the most official way to clarify boundaries if there is a dispute).

See page 2 for the rules on fences from the Comprehensive Development Ordinance

Scott Gustin

From: Theodore Miles
Sent: Monday, July 06, 2015 12:17 PM
To: Scott Gustin
Cc: Mary O'Neil
Subject: 281 Shelburne st

Scott,

I put these notes in AMANDA for the fence permit that has been applied for at this address. A photo is attached to show the new wood section of fence that is referenced.

"Ted: Did some measuring of the right of way on Shelburne st. The ROW is 99 feet. There is a survey marker across the street that identifies where the property line exists. In measuring from this point to the 99 feet, the right of way goes 99 feet from the sidewalk on the west side of the road. This would coincide with the location of the wooden fence that was installed a number of years ago that lines the access drive to the school department. The fence would have to be moved back to the line of the old fence. The new wood section of fence and the new metal fence is in the right of way."

Ted Miles
Code Enforcement
City of Burlington, Vermont
(802)863-0442
(802)865-7563

*Met w. onsite 7/16/15 App. w. let me know
now wishes to proceed by 7/21 or 22.*



07/06/2015 09:48



Scott Gustin

From: Scott Gustin
Sent: Monday, July 13, 2015 9:45 AM
To: 'jlaurent@uvm.edu'
Subject: 281 Shelburne Street fence

Good morning Jennifer,

I'm following up on a voicemail I left at the beginning of this month. The fence permit application you've submitted cannot be approved. The fence is located within the Route 7 right-of-way. It is also too tall within the 15 ft. clear sight triangle where your driveway connects with Route 7 (3 ft is the height limit in the clear sight triangle). You could modify your application to pull the fence back onto your property and to reduce its height by the driveway, or you could withdraw the application and remove the fence. Otherwise, I will have to deny your application. Please let me know how you'd like to proceed by this coming Friday July 17. Feel free to call me with any questions you may have.
Scott

Scott Gustin, AICP, CFM
Senior Planner
Dept. of Planning & Zoning
149 Church Street
Burlington, VT 05401
(802) 865-7189

RECEIVED
JUN 23 2015

June 18, 2015

DEPARTMENT OF
PLANNING & ZONING

Jennifer Laurent
Barry Heath
281 Shelburne Street
Burlington, VT 05401
Phone 802.864.1569
jlaurent@uvm.edu

ATTN: Elsie Tillotson
Department Secretary
City of Burlington
Planning and Zoning

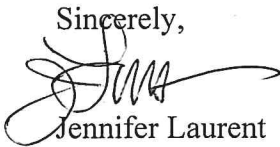
RE: Decorative Fence Installation

Dear Ms. Tillotson,

Per your discussion with my husband, Barry Heath, we are enclosing a zoning application, fee, and pictures of the property as requested regarding our fence that was recently installed by Middlebury Fence.

To recap our situation, Middlebury Fence contacted the city of Burlington to inquire about installing a decorative fence around the front lawn for a residential home. We were informed that there needed to be 1-foot distance between fence and sidewalk. They did not obtain the proper zoning permit and were not aware of any other zoning ordinances. Subsequently, the fence has been installed. It was not our intention to violate city ordinances and we relied on the fencing company to conform to these standards. Please let us know what our next steps are or should there be further questions.

Sincerely,


Jennifer Laurent

201 Shelburne Rd



CODE ENFORCEMENT OFFICE

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

VOICE (802) 863-0442

FAX: (802) 652-4221

2015-06-09

BARRY W HEATH
JENNIFER S LAURENT
281 SHELBURNE STREET
BURLINGTON, VT 05401

RECEIVED
JUN 23 2015

**DEPARTMENT OF
PLANNING & ZONING**

RE: 281 Shelburne Street Burlington, Vermont

Dear Owners,

According to our records, you are the owner of record of the above-referenced property. This letter is to inform you that the Code Enforcement Office has received the following complaint(s) regarding this property:

- **Fence installed without Zoning Approval**

Our office has initiated an investigation regarding the complaint(s), however, as of this date; a final determination has not been made. Should you have any information that you believe will be useful to us during our investigation, please submit it to the Code Enforcement Office, **in written form, within the next ten (10) business days**.

This is your opportunity to provide information to refute the allegation(s) prior to our issuance of a formal determination and possibly a Notice of Violation. Information that may be helpful includes, but is not limited to, the following:

- Permits which document that the condition that is alleged to be in violation has been approved by the City.
- Photographs of the property and/or other documents (both current and historical with verifiable dates) that demonstrate the alleged violation does not exist, has been remedied, or has existed for more than 15 years.
- Affidavits from yourself and other persons who are aware of facts relevant to the allegation(s) that testify to the fact that the alleged violation does not exist, has been remedied, or has existed for more than 15 years.

Please note, while any information from you as the property owner is useful, the investigation will occur with or without the information. This letter is intended to give you notice of the alleged complaint(s) against your property and provide you an opportunity to refute the allegation prior to a formal determination being issued.

Should you have questions, please don't hesitate to call me at 863-0442.

Sincerely,

Jeanne Francis, Zoning Specialist



JUN 23 2015

15/12/2019

MIDDLEBURY FENCE





281 Shelburne Street GIS Map



30 15 0 30 Feet



G&C Properties LLC
316-322 Flynn Avenue, Burlington, VT
Water and Sanitary Sewer Basis of Design
April 30, 2015

Existing Water/Sewer Design Flow

Water and Wastewater: (as permitted WW-4-2919)
Convenience store with deli and 12 seats of restaurant:
= 696 gpd sewer
= 783 gpd water

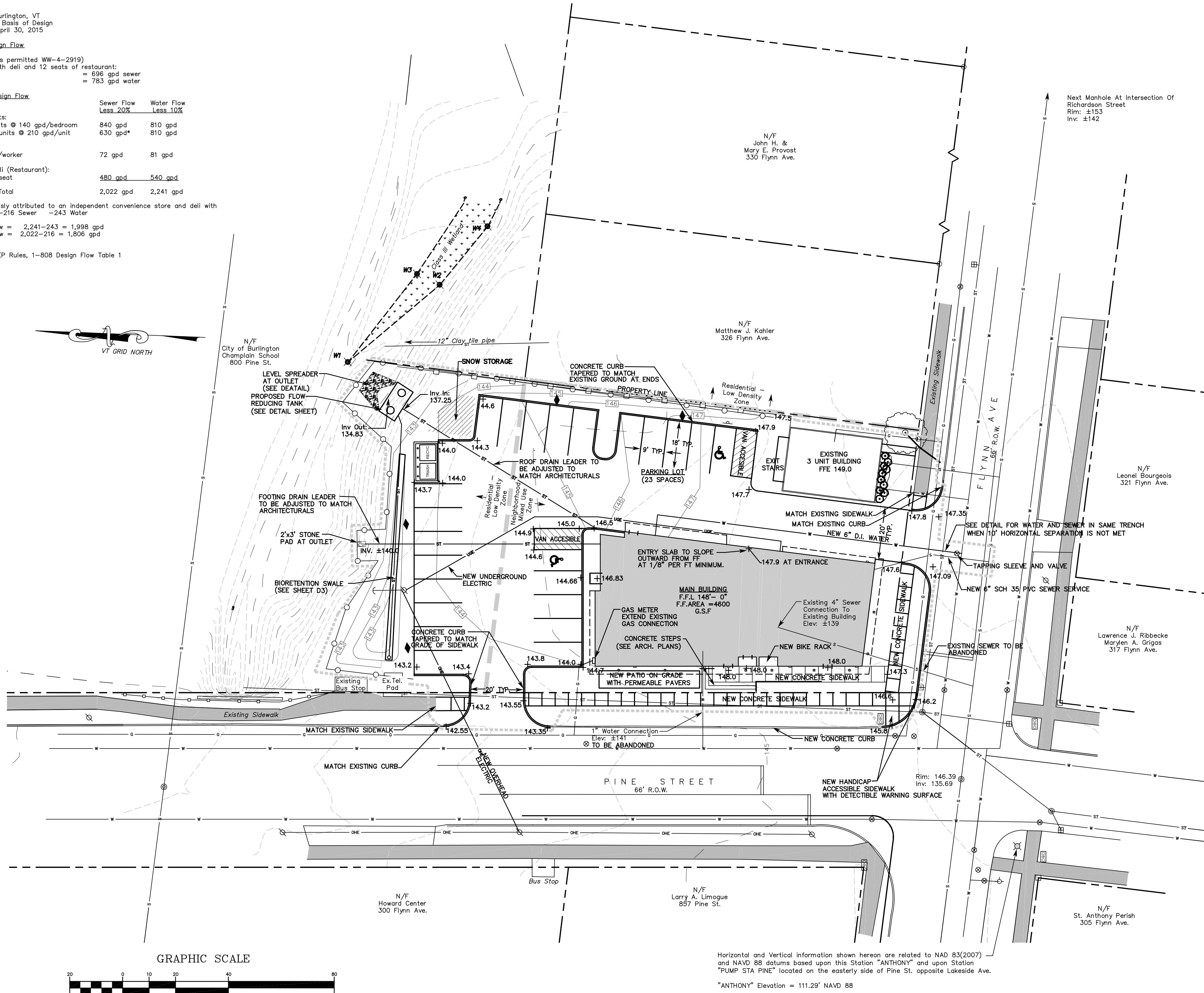
Proposed Water/Sewer Design Flow

	Sewer Flow Less 20%	Water Flow Less 10%
New Residential Apartments: Six one-bedroom units @ 140 gpd/bedroom Three two-bedroom units @ 210 gpd/unit	840 gpd 630 gpd*	810 gpd 810 gpd
Office Space: 6 Workers @ 15 gpd/worker	72 gpd	81 gpd
Convenience Store and Deli (Restaurant): 12 seats @ 50 gpd/seat	480 gpd	540 gpd
Total	2,022 gpd	2,241 gpd

Deduction of flows previously attributed to an independent convenience store and deli with sit-down restaurant:
-216 Sewer -243 Water

Increase in water flow = 2,241-243 = 1,998 gpd
Increase in sewer flow = 2,022-216 = 1,806 gpd

*No reduction taken per EP Rules, 1-808 Design Flow Table 1



GRAPHIC SCALE



(IN FEET)
1 inch = 20 ft.

Notes:

It is noted that no site assessment of hazardous or other waste materials has been made and S.E. takes no responsibility for any materials or conditions that may exist on this site.

The Contractor is to notify Dig-Safe (Tel. 1-800-DIG-SAFE) 48 hours prior to any excavation.

Underground locations shown are drawn from structure to structure or located per City Public Works plans.

All utility services enter this lot through a public right-of-way or recorded easement.

Class Three wetland delineated by Jeffrey Severson, Principal Ecologist from Oakledge Environmental Services, Inc. on 7/8/11. Wetland delineation and Class Three wetland designation reviewed and approved by Julie Foley, ANR District Wetlands Ecologist on 7/12/11. Field located from flag W1 found 3/6/15 by Summit Engineering, and flags W2-W4, which identify approximate wetland boundary locations re-established by Jeffrey Severson on 3/6/15.

Reference Plans

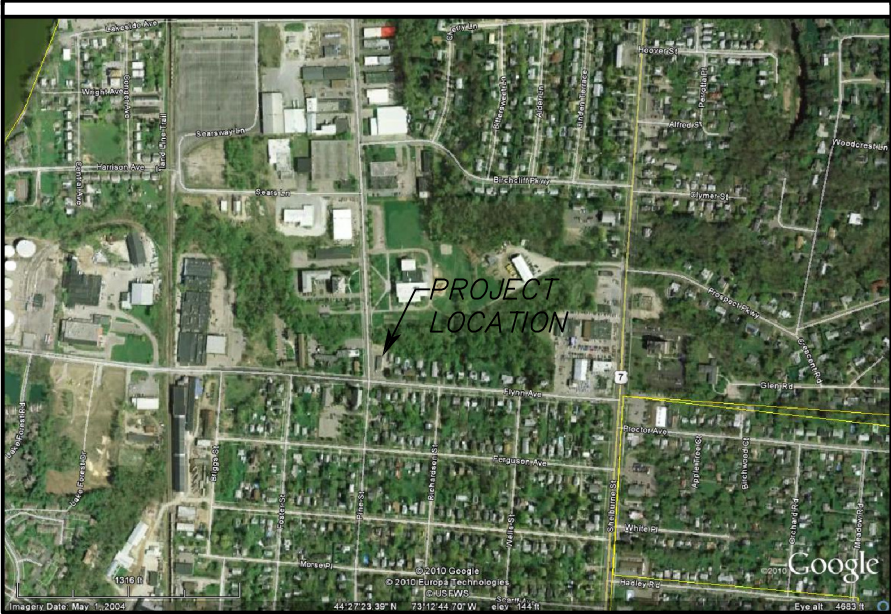
- "Englesby Farm" plan of the former Flynn Estate property by A.R. Dow, CE dated May, 1899 and recorded in Vol. 120, Pg. 55 of the Burlington City Land Records
- "Plat of Survey - BCCDH Realty, LLC" by Civil Engineering Assoc., Inc. last dated 2/26/07 and recorded in Map Slide 419B of the Burlington City Land Records
- "Property Survey Plat - G&C Properties, LLC" by Summit Engineering, Inc. dated 11/4/10, last revised 7/14/11

Note: Previous deeds describe the easterly line of this property as being parallel to Pine Street. The referenced 1899 plan shows the easterly line to be parallel with Shelburne Road which coincides with apparent usage.

Owner of Record

G&C Properties, LLC
316 Flynn Ave.
Burlington, Vermont
Tax Map Parcel No. 057-4-066-000
Bk. 1151, Pg. 457
16,420 Sq. Ft. (0.377 Acres)
10,006 SF License From City
Total 26,426 SF (0.474 Acres)

Location Map



LEGEND

---	Property/R.O.W. Line
- - -	Proposed Property Line
---	Overhead Utility Line
---	New Underground Utility Line
---	Gas Line
---	Existing Water Line
---	New Water Line
---	Sanitary Line
---	Storm Line
---	New Fence
---	Proposed Silt Fence
---	Construction Limits
---	Class III Wetland
---	Existing Contours
---	Proposed Contours
---	Utility Pole
---	Concrete Monument
---	Rebar Found
---	Catch Basin
---	Gate Valve
---	Manhole
---	Gas Valve
---	Traffic Light
---	Existing Spot Elevation
---	Proposed Spot Elevation
---	Proposed Light Pole
---	Proposed Catch Basin

Total Existing Lot Coverage			
Total Lot	26,424 s.f.	0.61 acre	100%
Paved Area	14,697 s.f.	0.34 acre	55.6%
Building Area	4,742 s.f.	0.11 acre	18.0%
Total Coverage	19,439 s.f.	0.45 acre	73.6%
Total Pervious	6,985 s.f.	0.16 acre	26.4%

Total Proposed Lot Coverage			
Total Lot	26,424 s.f.	0.61 acre	100%
Paved Area	11,101 s.f.	0.25 acre	42.0%
Building Area	6,119 s.f.	0.14 acre	23.2%
Total Coverage	17,220 s.f.	0.40 acre	65.2%
Total Pervious	9,204 s.f.	0.21 acre	34.8%

Lot Coverage Low Density Residential (RL) Zone				
	Existing		Proposed	
Total Area	10,003 s.f.	100%	10,003 s.f.	100%
Paved Area	4,381 s.f.	43.8%	3,039 s.f.	30.4%
Building Area	0 s.f.	0.0%	0 s.f.	0.0%
Total Coverage	4,381 s.f.	43.8%	3,039 s.f.	30.4 %

Lot Coverage Neighborhood Mixed Use (NMU) Zone				
	Existing		Proposed	
Total Area	16,421 s.f.	100%	16,421 s.f.	100%
Paved Area	10,338 s.f.	63.0%	8,062 s.f.	49.1%
Building Area	4,601 s.f.	28.0%	6,119 s.f.	37.3%
Total Coverage	14,939 s.f.	91.0%	14,181 s.f.	86.4%

Proposed Gross Floor Area 19,180 s.f. FAR = 1.17 (IN NMU ZONE)

SITE INFORMATION

Zone: RL Residential Low Density/NMU Neighborhood Mixed Use
Existing Dwelling Units: 3
Proposed Dwelling Units: 12

PARKING

Parking District: Shared Use
21 Spaces Required

Proposed Parking Spaces 23 (2 Van-Accessible Handicap Included)

ARCHITECT

JRMA design studio

architecture - master planning - interiors
www.jrmadesignstudio.com

JRMA DESIGN STUDIO LLP
175 SUMMIT CIRCLE
SHELBURNE VERMONT

CLIENT

PINE & FLYNN

DEVELOPMENT

LOCATION

316 FLYNN AVE (CORNER OF PINE & FLYNN
BURLINGTON, VERMONT

OWNER

G & C PROPERTIES
BURLINGTON, VERMONT
TEL: 802 343 6789

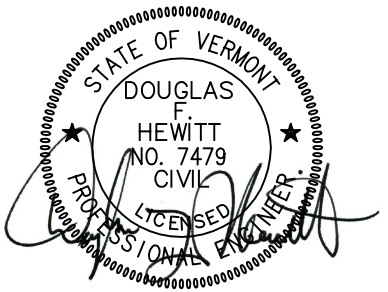
CONTRACTOR

CIVIL ENGINEER



SUMMIT ENGINEERING, INC.
Engineer • Architect • Planner • Landscape Architect
1233 Shelburne Road C2
South Burlington, VT 05403
(802) 686-0686

STAMP



Issue Date Issue Date
Added island and revised parking numbers 6/26/15

Project

Drawing Title

SITE PLAN

Project No. 8163 Drawn by BEG Date 4/8/15 Scale 1"=20'

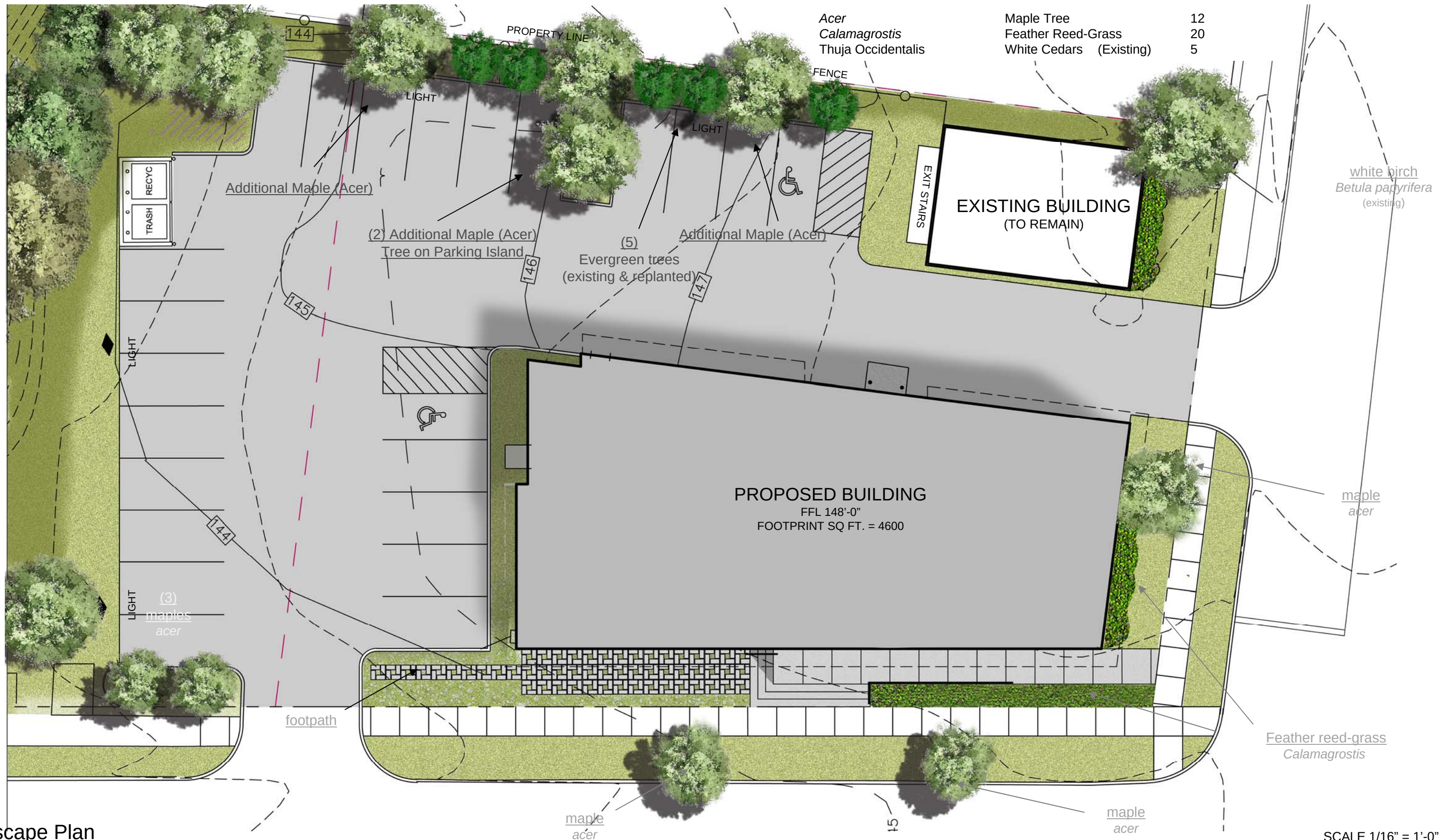
Floor(s)

Drawing No.

S1

PLANT LIST

LATIN NAME	COMMON NAME	QTY
<i>Acer</i>	Maple Tree	12
<i>Calamagrostis</i>	Feather Reed-Grass	20
<i>Thuja Occidentalis</i>	White Cedars (Existing)	5



Landscape Plan

JRMA | DESIGN STUDIO architects + development + interiors

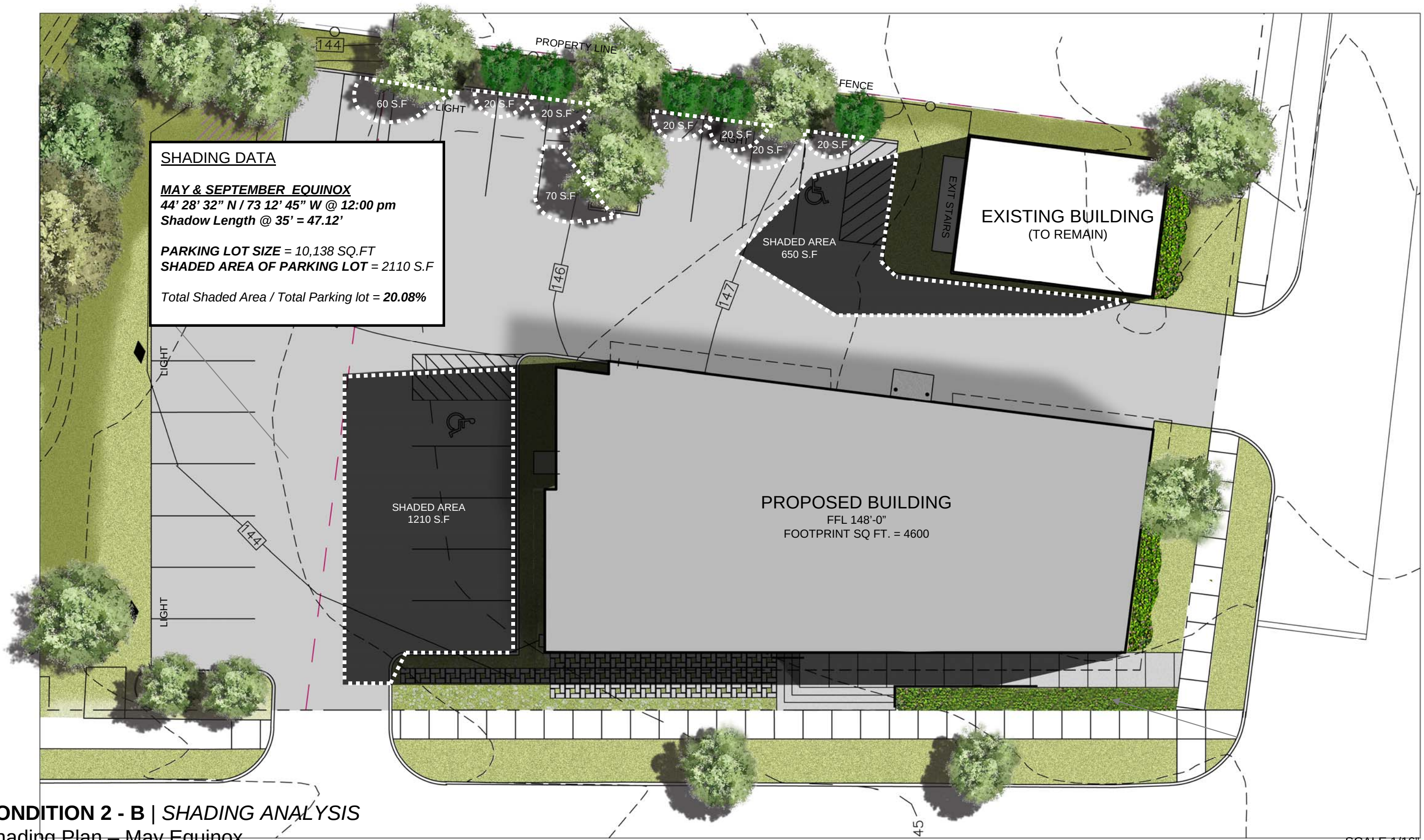
Pine Street & Flynn Ave: Mixed Use Building

COA LEVEL II

2015

SCALE 1/16" = 1'-0"

LP-1



CONDITION 2 - B | SHADING ANALYSIS
Shading Plan – May Equinox

Burlington Development Review Board

149 Church Street, City Hall

Burlington, VT 05401

www.burlingtonvt.gov/PZ/DRB

Phone: (802) 865-7188

Fax: (802) 865-7195

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



BURLINGTON DEVELOPMENT REVIEW BOARD

Tuesday, August 18, 2015, 5:00 p.m.

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

Minutes

Board Members Present: Brad Rabinowitz, A.J.LaRosa, Alexandra Zipparo, Geoff Hand

Board Members Absent: A.Hart, Jonathan Stevens, and Jim Drummond (alt)

Staff Present: Mary O'Neil and Anita Wade

Meeting commenced at 5:01 p.m.

Brad Rabinowitz chairs the meeting.

I. Agenda

II. Communications

III. Minutes

IV. Public Hearing

- 1. 16-0007CA/MA & 16-0015CA; 351 North Ave & 329 North Ave (RM, Ward 4N) Eric Farrell**
Convert former orphanage & college building to 63 residential units and relocate college w/in building. Associated site improvements.

E.Farrell, applicant, was present and sworn in.

A presentation on six of the 33 acres was given before the Board. Existing conditions were shown on plans.

Proposal is for 63 units with ground level parking lots. Existing driveway goes to existing parking to lot in back of property. Applicant is asking for parking waiver of 45% on basis of small apartments. Wants to build when there is enough market demand. Not anticipating student housing needing parking. Burlington College will have the ability to rent as many as they need. Removing entrance with vehicular access and creating a pedestrian walkway preserving green space and plantings in front. Pedestrian walkway around building allows for emergency vehicles. Gravel parking lot on right side. There is enough parking to meet code. Pedestrian access and vehicular access available in the rear parking lot.

Lighting plan, shading plan and grading plan reviewed by Conservation Board. DPW asked for removal of roof drains. Restoring original front with circular stairs, which will remove 'A' frame portico. Adding roof windows/skylights by Velux with low profile. Photo exhibits of roofs with skylights for other institutions, were shown such as Middlebury College's Starr Hall, and City of Boston's Fanueil Hall. Replacing slate with slate roof same as is. The rear roof has more skylights than front side. A small upper dormer off the chapel wing is being taken off and replace with a flat roof for the best view of lake. Mentioned details on landscaping and removing a front street curb cut. Converting boiler room into an entrance lobby at grade level on northwest side of building to provide handicap access.

Southwest porches will be removed allowing for outdoor events and direct access to outside of building. Sixty-three interior bike racks will be provided for 63 units with a bike repair and washing room section. Interior will include a pet wash, a new elevator on northwest wing, an assembly space and new one story connections, common space, veranda.

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).

Further discussion between applicant and Board members were over type of materials being used, parking and parking waivers, whether market rate units or inclusionary zoning, and bike route connections.

Resident concerns were expressed.

R.Lamphere feels this project will dramatically alter the property and open space; questioned about low income housing and traffic studies.

A.J.Rossman, expressed concerns for reducing open space to roads and parking and less views of the Lake; questioned whether there was a landscaping plan.

MONeil, offered to provide traffic studies for residents from the Planning and Zoning Department.

W.Mears, expressed concerns that Burlington College may expand over time making congestion on streets more difficult than it is presently.

S.Bushor, City councilperson for Ward 1, expressed concerns regarding parking, biking, and non-connectivity between the additions. She questioned whether the project would consider including a play area, garden space, and more proposals for inclusionary zoning.

Further discussions between Board and applicant pertained to thresholds for parking and car shared options, types of lighting to be used, and traffic volumes.

Public Hearing closed at 6:28 p.m.

- 2. 10-1005CA/MA & 11-0570CU; 475 Lake St & 601 Lake St (DW-PT & UR, Ward 3) City of Burlington**
Time extension request for redevelopment of the Moran Plant into public-private uses and associated site works and car parking. Upgrades to bike path, increased green space and park amenities, children's splash area/seasonal refrigerated skating rink and a rebuilt skate park. Includes Community Sailing Center. Also includes related temporary construction staging area and temporary interim skating facility.

The Board accepted this project as a consent item.

Applicant responds to Board that she has read the terms and conditions.

AJLaRosa makes a motion that the Board accept staff findings and recommendations.

AZipparo seconded the motion.

Board voted.

Motion carries: 4-0-0

- 3. 16-0106CU; 177-179 South Winooski Ave (DT, Ward 3C) Champlain Housing Trust / COTS**
Establish temporary community home to operate a warming shelter during the winter season.

Rita Markley, Executive Director of Cots; Ken Schatz, Commissioner for the Department of Children and Families, presented the concept of a community house for winter.

Applicant is applying for change of use at 170 South Winooski. Rita mentioned how it is common knowledge that housing is extremely tight and impacts every person in the City.

The most visible of housing crisis is the increasing presence of full shelters. Asking to create a community house for a winter only warming center with 8000 sq ft and 40 beds for a period of time from November through March, 6am to 7pm. Requesting approval for opportunity to use building as a nighttime shelter as well as daytime. Indicators linking people to services; 49% of people stayed for under a week, of those who stayed more than one week 30% were able to be placed with employment and 34% found transitional housing shows how helping people creates significant outcomes. A professional security guard will be on duty, working with downtown businesses to mitigate their fears, administrative and support staff available to address issues. Evidence based model is funded by State of VT

and private donations with enough staffing to have trained mental health and on demand substitutes to run resource well.

Ken Schatz mentioned how there is a significant homeless problem and Cots is a major player for years in working with the community to solve the problem. They now welcome a partnership with the State to assist with emergency housing. The State is offering 1.3 million to agencies for people without funds and roof over heads, meeting the needs of vulnerable people, disabled, families with child under 6yrs, elderly in exceptionally cold weather. The homeless deserve emergency link to the community to move to stable a housing situation and creative ways to resolve their housing issues.

Public hearing closed at 6:49pm

V. Adjournment

VI. Other Business

Discuss on 18-20 Weston St at Deliberative Session on Monday, August 24, 2015 at 5:00pm.
Meeting Adjourned at 6:52 p.m.

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.

A.Hart, Chair, Development Review Board

Date

A.Wade, Planning and Zoning Clerk

Date