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
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Jim Drummond (Alt)
Wayne Senville (Alt)

BURLINGTON DEVELOPMENT REVIEW BOARD
Tuesday July 19, 2016
PUBLIC HEARING NOTICE

The Burlington Development Review Board will hold a meeting on **Tuesday July 19, 2016 at 5:00 p.m. in Contois Auditorium, City Hall.**

1. **13-0650CA/MA; 110 Riverside Ave (NAC/R, Ward 1) Sisters & Brothers Investment Group, LLC**
   Request for a 2nd one-year extension for proposed 57-unit residential building with associated underground parking, approved July 2, 2013.

2. **16-1318CU; 120-132 North Willard Street (RL, Ward 1E) Tioli Properties, LLC**
   Request to allow 5 unrelated adults within a dwelling unit.

3. **16-1378CA/CU; 75 Orchard Terrace (RH, Ward 8E) Laura and Liam Murphy**
   Amend Zoning Permit 83-539 (Convert building into one apartment and a boarding house for no more than four persons) to apartment with boarding house for not more than 2 persons; relief of condition identifying 18 Bradley Street at site of two off-site parking spaces; request for 1 space parking waiver.

4. **16-1175CU; 66 Vest Haven Drive (RL, Ward 7N) Bruce Bergman**
   Expansion of existing accessory dwelling unit by creating new habitable area.

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.

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Jim Drummond, (Alternate)

BURLINGTON DEVELOPMENT REVIEW BOARD
Tuesday July 19, 2016, 5:00 PM
Contois Auditorium, City Hall, 149 Church Street, Burlington, VT
AGENDA

I. Agenda
II. Communications
III. Minutes

IV. Public Hearing

1. **16-1175CU; 66 Vest Haven Drive (RL, Ward 7N) Bruce Bergman**
   Expansion of existing accessory dwelling unit by creating new habitable area.
   (Project Manager, Mary O'Neil)

2. **16-1318CU; 120-132 North Willard Street (RL, Ward 1E) Tioli Properties, LLC**
   Request to allow 5 unrelated adults within a dwelling unit.
   (Project Manager, Scott Gustin)

3. **16-0859CU; 616 South Willard Street (RL, Ward 6S) RJL South Willard, LLC / Majestic Car Rental Group**
   Request to amend conditions of zoning permit 07-524CA/CU to allow for shared offsite parking with church. (Project Manager, Scott Gustin)

4. **13-0650CA/MA; 110 Riverside Ave (NAC/R, Ward 1) Sisters & Brothers Investment Group, LLC**
   Request for a 2nd one-year extension for proposed 57 unit residential building with associated underground parking, approved July 2, 2013.
   (Project Manager, Mary O'Neil)

5. **16-1378CA/CU; 75 Orchard Terrace (RH, Ward 8E) Laura and Liam Murphy**
   Amend Zoning Permit 83-539 (Convert building into one apartment and a boarding house for no more than four persons) to apartment with boarding house for not more than 2 persons; relief of condition identifying 18 Bradley Street at site of two off-site parking spaces; request for 1 space parking waiver.
   (Project Manager, Mary O'Neil)

V. Other Business
Annual Reorganization

VI. Adjournment

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David E. White, AICP, Director
Meagan Tuttle, Comprehensive Planner
Jay Appleton, Senior GIS/IT Programmer/Analyst
Scott Gustin, AICP, CFM, Principal Planner
Mary O'Neil, AICP, Principal Planner
Ryan Morrison, CFM, Associate Planner
Elsie Tillotson, Department Secretary
Anita Wade, Zoning Clerk

MEMORANDUM

To: Development Review Board
From: Mary O'Neil, AICP, Principal Planner
Date: July 19, 2016
RE: ZP16-1175CU, 66 Vest Haven Drive

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

File: ZP16-1175CA/CU
Location: 66 Vest Haven Drive
Zone: RL **Ward**: 7N

Date application accepted: April 28, 2016 Applicant requested deferral 5/18/2016.
Applicant/ Owner: Bruce Bergman
Request: Expand living space of accessory dwelling unit by enclosing rear deck to include 261 additional sq. ft.

Background:

- Non-Applicability of Zoning Permit Requirements 15-0174NA; replace existing egress bedroom window in 2nd floor accessory unit apartment with appropriate size to meet fire code. July 2014.
- Zoning Permit 15-0134CU; expand living space of accessory dwelling unit to include 261' additional sq. ft. of existing deck. Permit application withdrawn.
- Zoning Permit 14-1316CA; extend roof to cover deck and stairs. Conditioned not to include any new habitable area. July 2014.
- Zoning Permit 14-1130BA; Establish accessory apartment within existing home. Remove existing exterior staircase on side and install new staircase with different alignment. Approved June 12, 2014.
- Zoning Permit 07-030HO; Home occupation for home based seasonal tax business in existing single family home. Conditioned to operate between February 1 and April 15th. Approved September 2006.

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- Zoning Permit 03-172; access ramp and landing on north side of existing single family residence with a 10' long pathway. Project allowed as access for disabled, as encroaches into side yard setback and exceeds allowable lot coverage. October 2002.
- Zoning Permit 03-204; install retaining wall in east corner of lot. Extend fence on southeast property line. Install walkway along northwest property line. Property identified as a single family residence. November 2002. (As-built approval to eliminate walkway, April 2014.)
- Zoning Permit application to install stone retaining wall for raised flower and vegetable garden 2' x 50'. Ground level stone patio 18' x 7'. Application defines use as Boarding House. Zoning Administrator questions identified use. Application remains incomplete. June 2002.
- AP-2002-025; Determination by the Burlington Development Review Board that zoning violations exist to the property regarding a ramp and landing (deck) installed in 1986. Owner/appellant gave testimony that property is a single family home. (Minutes of DRB meeting, December 4, 2001.) Decision to **deny** appeal of violation relative to deck connecting to the ramp and moving of stairs; other violations were found not supported by the evidence and on those violations upheld the appeal and reverse the decision of the Zoning Administrator, January 24, 2002; Appealed to VEC. Final judgment entered in favor of the City and against appellant, September 2002. VEC denied motion to stay October 22, 2002. Dismissed by Vermont Supreme Court January 7, 2003.
- Zoning Permit VR/CU-2002-027; Conditional Use to convert single family house into a community house and a request for a variance of side yard setback for a fire escape. **Denied** January 2002.
- Zoning Permit 02-048; fence along rear portion of the side property line of existing single family home. July 2001.
- Zoning permit 89-419; enclose existing 7.5' x 4' deck. No change in use. Property identified on application as Community Care Home. August 1989.
- Zoning Permit 83-443; construct an 8' x 26' addition to the front of the house to provide additional living space. Use identified as single family home. October 1983.
- Zoning Permit 83-105; construct a 4' x 12' addition to the existing garage. Use identified as single family home. April 1983.
- Permit 81-397; remove back wall of dining room (addition of 4 feet to rear of house.) Use identified as single family home. April 1981.
- Zoning Permit 80-861; stockade fence along back yard. Use identified as single family home. May 1980.
- Zoning Permit 80-845; inground pool. Use identified as single family home. April 1980.
- Letter from State of Vermont Agency of Environmental Conservation, acknowledging receipt of the application for 1 shower, 1 lavatory and 1 closet com. located at Community Care Home. Signed by Ernest Christiansen, District Administrator. November 1982.

- Zoning Permit n.n.; Portion of the house to be used as a boarding house for no more than four persons. March 1976.
- Zoning Permit; raise a 16' x 20' portion of the roof. July 1974.
- Permit 71-1090 to enlarge kitchen area and erect cedar closets using the back porch. Erect 8 x 12 addition to rear of garage. June 1971.

Overview: The property owner with an extensive zoning history requests a 261 sq. ft. expansion of the current accessory dwelling unit to be appended to an accessory dwelling unit within the single family home. There is also a home occupation for seasonal tax preparation. No change to coverage is proposed.

Recommendation: **Consent** a**pproval**, per the following findings and conditions:

I. Findings

Article 3: Applications, Permits and Project Reviews
Section 3.5.6 (a) Conditional Use Review 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 a minor expansion of an existing Accessory Dwelling Unit. There will be no greater impact on planned public utilities, facilities or services. **Affirmative finding.**

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

   The single family home is located within a low density residential zoning district. Accessory dwelling units are permitted by statute and this zoning ordinance. From the Municipal Development Plan:

   - *Support the creation of new rental and owner-occupied housing on every parcel of land in Burlington that is zoned for residential development at the number of units allowed by zoning.* (Housing Plan, Page IX-12. **Affirmative finding.**

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

   The proposal is a minor addition to an existing dwelling unit. No impacts other than those associated with residential use are anticipated. **Affirmative finding.**

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

   The enclosure of a porch area to augment the existing dwelling unit will have no impact on the transportation system or street designations/capacity. **Affirmative finding.**

5. The utilization of renewable energy resources;

Nothing within the application will foreseeably prevent the utilization of renewable energy resources. **Affirmative finding.**

and,

6. Any standards or factors set forth in existing City bylaws and city and state ordinances; The applicant will be required to secure any applicable trades permits to complete the project request. **Affirmative finding as conditioned.**

<u>Article 5: Citywide General Regulations</u>

Section 5.4.5 Accessory Dwelling Units

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

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

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

3. Applicable setback and coverage requirements are met;

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

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

The accessory dwelling units was permitted in June 2014, meeting the above requirements. The applicant proposes to enclose a deck to increase the habitable area of the house and apartment by 261 sq. ft.

The apartment was approved at 454 sq. ft (of 2363 overall habitable area.) = 19% < 30% limitation. Proposed: 454 + 261 new habitable area = 715 sq. ft. / 2624 (2363 + 261) = 27.24% < 30% limitation. No change to coverage is proposed. All other conditions will remain in effect.

Affirmative finding as conditioned.

(b) Conditional Use Approval for Accessory Units:

If any of the following are also proposed, conditional use approval, as well as development review provisions of Article 6 shall be required:

1. A new accessory structure;

2. ***An increase in the height or habitable floor area of the existing dwelling;***

3. An increase in the dimensions of any parking area;

As the application includes new habitable area, Conditional Use Review is required. See Section 3.5.6, above.

<u>Article 6: Development Review Standards</u>

Part 1: Land Division Design Standards

Not applicable.

Part 2: Site Plan Design Standards

Not applicable.

Part 3: Architectural Design Standards

Sec. 6.3.2 Review Standards

(a) Relate development to its environment:

1. Massing, Height and Scale:

There have been substantial modifications to this Cape style home, including multiple additions to the rear and front. The proposed enclosure of the rear (elevated) deck will marginally increase that mass, and is not likely to be visible from the street. **Affirmative finding.**

2. Roofs and Rooflines.

The development will alter the existing shed roof to create a shallow pitched gable, which also will only be visible from the rear. **Affirmative finding.**

3. Building Openings

A new sliding door and rear window will be included. **Affirmative finding.**

(b) Protection of Important Architectural Resources:

Not applicable.

(c) Protection of Important Public Views:

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

(d) Provide an active and inviting street edge:

The small enclosure is on the back of the dwelling and not likely to be visible from the street. **Affirmative finding.**

(e) Quality of materials:

The applicant proposes to match the existing aluminum siding. Annotation on the plan states: "Noted south elevation of second floor addition similar." Metal roofing is proposed over the new enclosure. **Affirmative finding.**

(f) Reduce energy utilization:

All new construction shall meet the Guidelines for Energy Efficient Construction pursuant to the requirements of Article VI. Energy Conservation, Section 8 of the City of Burlington Code of Ordinances. **Affirmative finding as conditioned.**

(g)Make advertising features complementary to the site:

Not applicable.

(h) Integrate infrastructure into the building design:

Not applicable.

(i)Make spaces secure and safe:

All construction shall meet applicable building and life safety codes as defined by the building inspector and fire marshal. **Affirmative finding as conditioned.**

II. <u>Conditions of Approval</u>

1. All permit conditions of ZP14-1130BA not specifically altered herein remain in effect.
2. The Accessory Dwelling Unit is subject to the provisions of Section 5.4.5, Accessory Dwelling Units, of the Comprehensive Development Ordinance. The apartment or the primary residence shall be owner occupied.
3. Occupancy limits for both the single family residence and the Accessory Dwelling unit remain in effect. Not more than four unrelated adults may inhabit the single family dwelling unit; not more than 2 adults the Accessory Dwelling Unit.
4. All new construction shall meet the Guidelines for Energy Efficient Construction pursuant to the requirements of Article VI. Energy Conservation, Section 8 of the City of Burlington Code of Ordinances.
5. Standard Permit Conditions 1-15.

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

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APR 28 2016
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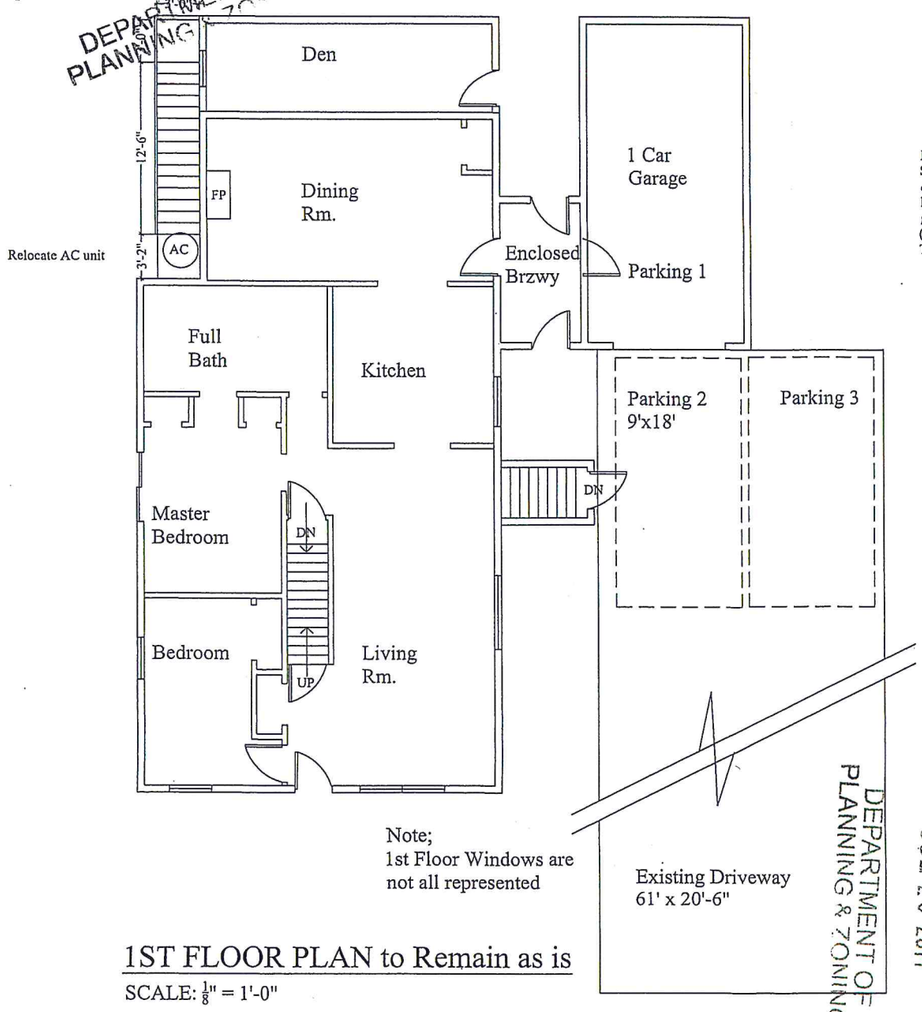
PLANNING



Note;
1st Floor Windows are not all represented

1ST FLOOR PLAN to Remain as is

SCALE: $\frac{1}{8}$" = 1'-0"

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PLANNING & ZONING

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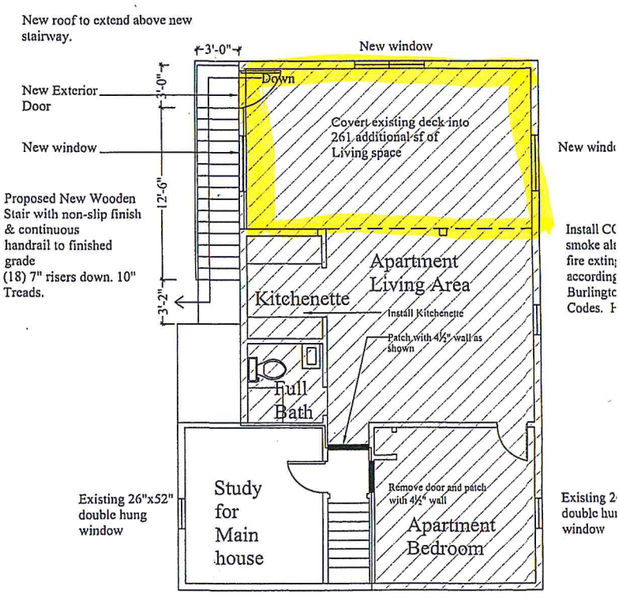
JUL 23 2014



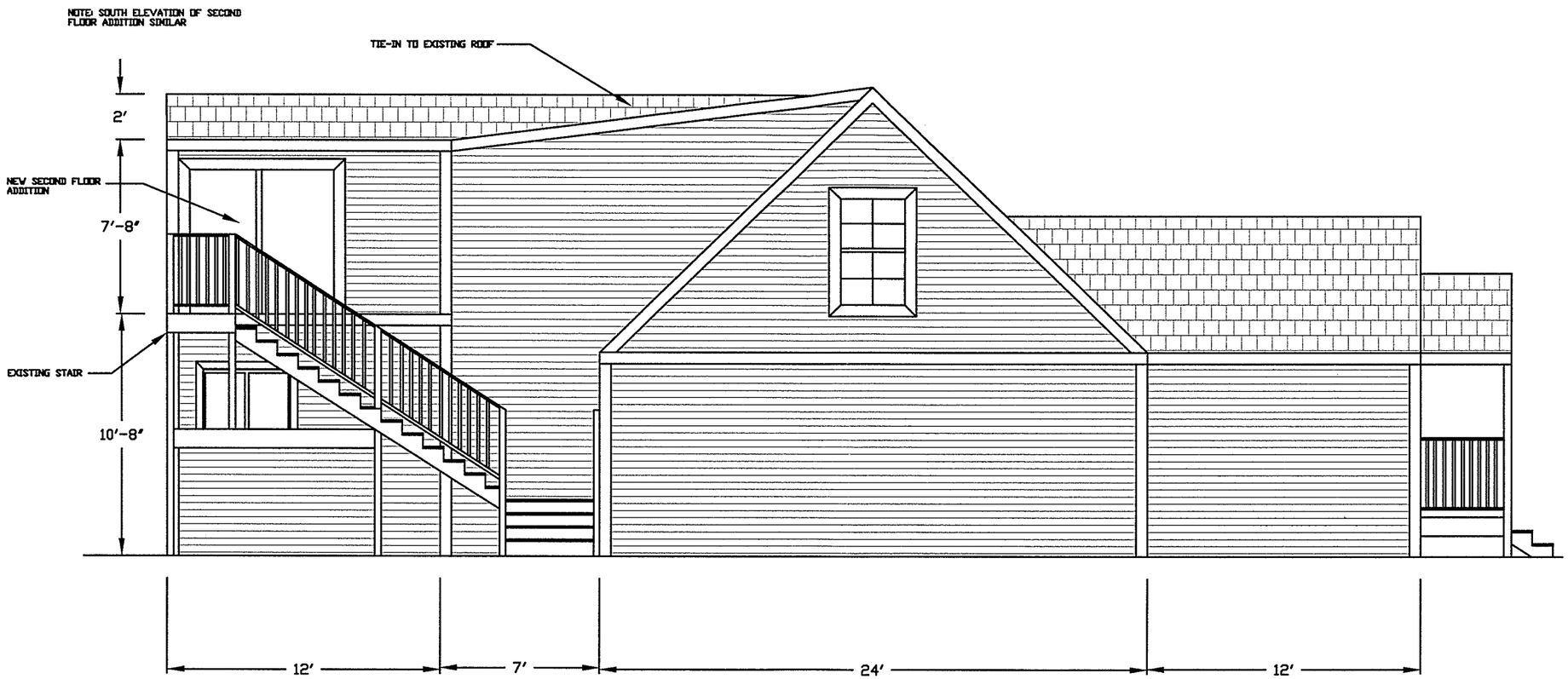
Proposed 1-Bedroom 2nd Floor Apa

SCALE: $\frac{1}{8}$" = 1'-0"

Proposed 715 SF Apartment Area (hatched)

2363 + 261 (addition) = 2624 total SF

715/ 2624 = 27%
Percentage of Proposed Apartment Area is 27% of entire enclosed living area



NORTH ELEVATION

SCALE:
NTS

NOTES;
NOT FOR CONSTRUCTION
ALL DIMENSIONS TO BE FIELD VERIFIED
INFORMATION FOR PERMIT APPLICATION ONLY

DRAWN BY:
MC

DATE:
04/09/16

REV:
PERMIT

OWNER:
BRUCE BERGERON

PROJECT:
66 VEST HAVEN DR.

SHEET TITLE:
N. ELEVATION

SHEET NO.
A201

CORCORAN

802.598.0256

PROPRIETARY DATA
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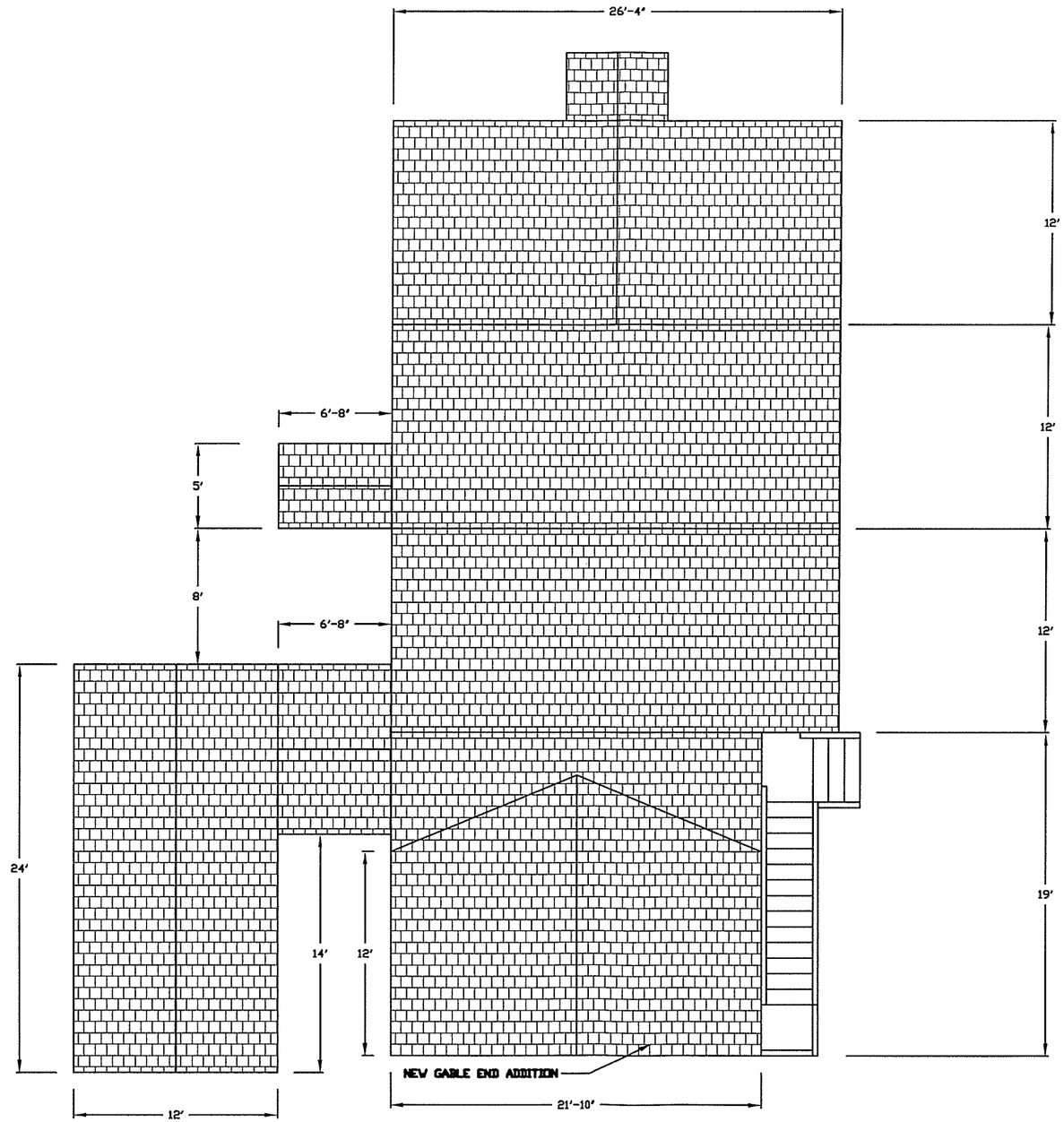
DEPARTMENT OF
PLANNING & ZONING



ROOF PLAN

NORTH

SCALE:
NTS

NOTES;
NOT FOR CONSTRUCTION
ALL DIMENSIONS TO BE FIELD VERIFIED
INFORMATION FOR PERMIT APPLICATION ONLY

DRAWN BY:
MC

DATE:
04/09/16

REV:
PERMIT

OWNER:
BRUCE BERGERON

PROJECT:
68 VEST HAVEN DR.

SHEET TITLE:
ROOF PLAN

SHEET NO.
A102

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CORCORAN

802.598.0256

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EAST ELEVATION

SCALE: NTS

NOTES; NOT FOR CONSTRUCTION
ALL DIMENSIONS TO BE FIELD VERIFIED
INFORMATION FOR PERMIT APPLICATION ONLY

DRAWN BY: MC

DATE: 04/09/16

REV: PERMIT

OWNER: BRUCE BERGERON

PROJECT: 66 VEST HAVEN DR.

SHEET TITLE: E. ELEVATION

SHEET NO. A203

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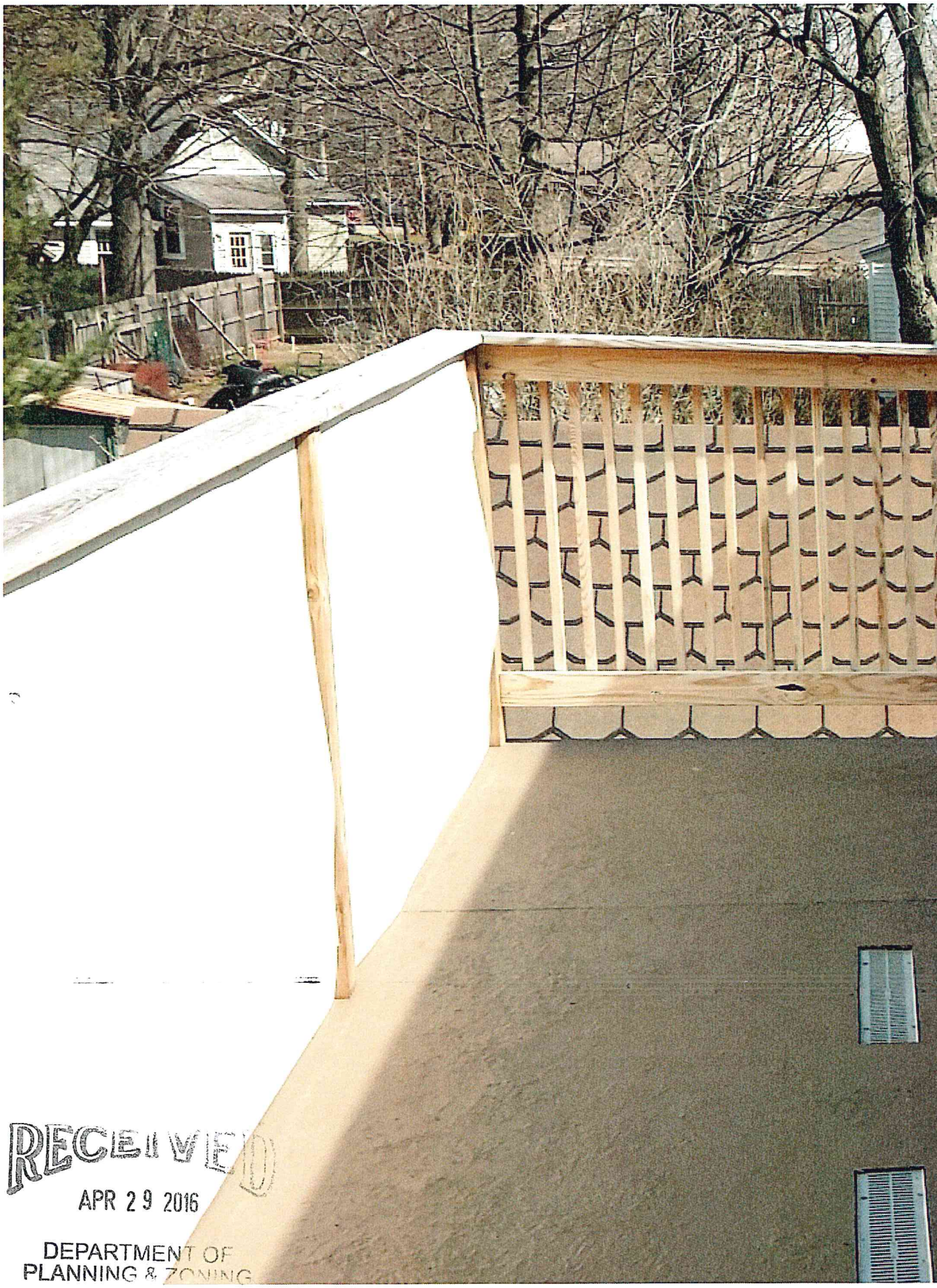
66 West Haven



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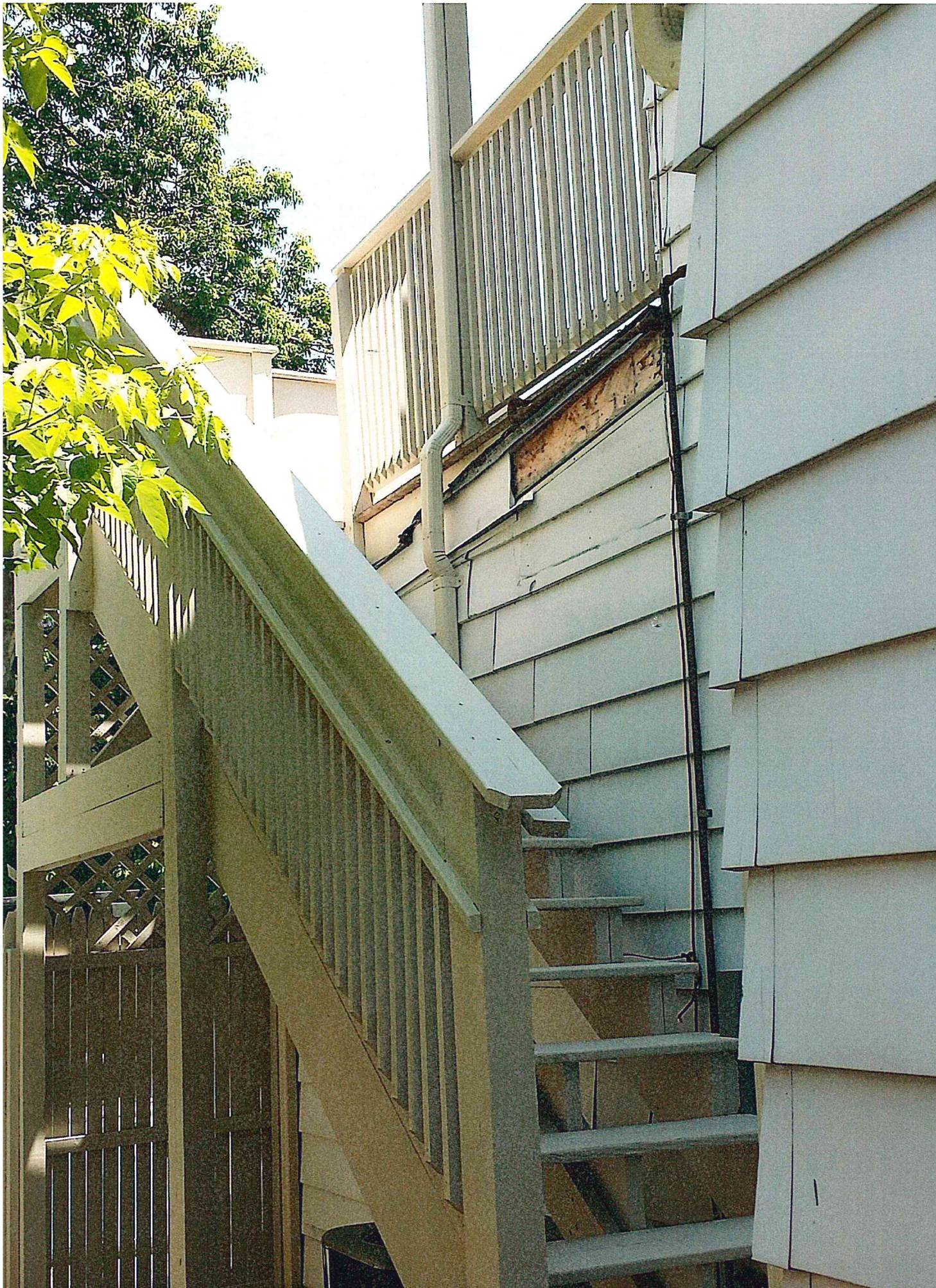

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Ryan Morrison, CFM, Associate Planner
Elsie Tillotson, Department Secretary
Anita Wade, Zoning Clerk

MEMORANDUM

To: Development Review Board
From: Mary O'Neil, AICP, Principal Planner
Date: July 19, 2016
RE: ZP16-1378CA; 75 Orchard Terrace

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File: ZP16-1378CA
Location: 75 Orchard Terrace
Zone: RH **Ward**: 8E
Date application accepted: June 1, 2016; revised application received June 23 and 24, 2016. A Parking Management Plan was received via email July 1, 2016.
Applicant/ Owner: Liam and Laura Murphy
Parking District: Neighborhood
Request: Change of use from one apartment with a boarding house for not more than four people to a dwelling unit with boarding house for not more than 2 people. Relief from condition imposed by ZP83-539 / COA 83-120A requiring two off-site parking spaces. Request for a one space parking waiver.

Background:

- Zoning Permit 16-1377CA; Replace window with egress casement; replace existing north fencing to match rear yard fencing, add picket fence in front yard; replace missing spindlework on porch. June 2016.
- Non-Applicability of Zoning Permit Requirements 16-0685NA; repair slate and flashing, repoint chimney. December 2015.
- Zoning Permit 94-528 / COA 094-113; installation of vinyl siding with aluminum trim elements on the existing multi-unit structure, listed on the state list of historic buildings. Denied, July 1994.
- Driveway/Curb cut permit No. 152, 83-120. Install/repair driveway, not to exceed 12 ft. January 1984.
- Zoning Permit 83-539 / COA 83-120A; convert building into one apartment and a boarding house for not more than four persons. No exterior changes. Original decision: **Denied** for inadequate parking space (12/8/1983.) Burlington Planning Commission moved to approve with utilization of the two parking spaces available from Palmer's Funeral Home. **Approved** with conditions, January 12, 1984.

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Overview: Until a change-of-use permit approved in Janauary 1984, 75 Orchard Terrace had been a single family residence. Its approval for a single residential unit and a boarding house spurred an increased parking demand, requiring lease of additional parking offsite to meet the requirement. There is no evidence that the parking lease for 2 off-site spaces was renewed after its expiration in 1988. At present, the site is deficient in parking for its permitted use.
There are 2 parking spaces on-site.
Although the new owners would prefer to utilize the subject property as a single family residence, that use is not a permitted use in the RH zoning district under the present zoning ordinance. This application seeks to minimize the parking requirement by altering the permitted use from one dwelling unit and a boarding house with 4 persons to one with 2 persons. This will minimize the overall parking requirement from 4 to 3. There are 2 on-site spaces; a one space parking waiver is requested.
This is an extremely small lot (2481 sq. ft.) that is unlikely to accommodate any more off street parking.

Recommendation: Currently the property is non-compliant for parking with only 2 on-site spaces, as permit conditions of ZP83-120 required an additional 2 off site spaces. It is a difficult situation, where single family homes are not a permitted use in the zoning district, and parking is insufficient for the current use or alternate residential uses (duplex, smaller boarding house.) A Parking Management Plan was submitted 7/1/2016 to identify specific measures to address the parking demand; the primary response is selection of boarders without vehicles and a lease confirming no parking space for the boarding house use. Additionally, bikes will be offered to boarders. Although these are good steps, the potential for up to six residents (4 unrelated in the single unit, 2 in the boarding house) suggest the measures inadequate to meet potential parking demand. A one space parking waiver for the boarding house use is not supported; therefore **denial** as proposed is recommended.
If a one space off-site parking lease, renewable annually is provided, approval can be recommended.

I. <u>Findings</u>

Appendix A – Use Table.
Single family home and Accessory Dwelling Units are NOT permitted uses in the CDO in the High Density Residential (RH) zoning district.
Boarding House, 4 persons or less is a permitted use. Footnote 6 of the CDO requires owner occupancy. As this use was permitted in 1984, it may remain under the terms and conditions imposed under that ordinance as amended. That permit did not include a condition of owner occupancy.

<u>Article 5: Citywide General Regulations</u>
Part 3: Non-conformities
Section 5.3.3 Continuation
Except as otherwise specified in this Article, anynonconformity which lawfully existed at the time of passage of the applicable provisions of this or any prior ordinance or any amendment thereto may be continued subject to the provisions of this Part.

The change of use in 1984 from a single family home to an apartment and a boarding house was a conditional use. Its approval required two off-site parking spaces. Owner occupancy was not a condition for the boarding house use in the 1984 permit, issued under the 1973 zoning ordinance. Although proposed to be diminished in size from a boarding house with not more than four persons to a boarding house with 2 people, the use may be considered pre-existing and may continue as conditioned; owner occupancy was not a requirement. Off-site parking was, however required. **Affirmative finding if conditioned.**

<u>Article 8: Parking</u>

Table 8.1.8-1 Minimum off-Street Parking Requirements

Neighborhood Parking District

Residential Uses: Multi unit attached dwelling units, single family detached and Duplex: 2 spaces.

Boarding House (per two beds) 1 parking space.

Parking Requirement for proposed use: 2 + 1 = 3 parking spaces. There are only 2 on-site parking spaces. A one space waiver is requested.

Section 8.1.15 Waivers from Parking Requirements / Parking Management Plans

The total number of parking spaces required pursuant to this Article may be reduced to the extent that the applicant can demonstrate that the proposed development can be adequately served by a more efficient approach that more effectively satisfies the intent of this Article and the goals of the municipal development plan to reduce dependence on the single-passenger automobile.

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 Sec. 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 Sec. 3.2.7 (a) 7.

In order to be considered for a waiver, the applicant shall submit a Parking Management Plan that specifies why the parking requirements of Sec. 8.1.8 are not applicable or appropriate for the proposed development, and proposes an alternative that more effectively meets the intent of this Article. A Parking Management Plan shall include, but not be limited to:

(a) *A calculation of the parking spaces required pursuant to Table 8.1.8-1.*

The applicant has correctly concluded that the proposed use will diminish the exising parking requirements from 4 parking spaces to 3. **Affirmative finding.**

(b) *A narrative that outlines how the proposed parking management plan addresses the specific needs of the proposed development, and more effectively satisfies the intent of this Article and the goals of the Municipal Development Plan.*

The submitted Parking Management Plan identifies the close proximity to downtown, public amenities, a Carshare location and public transit. Additionally, it offers the assurance that any lease to boarders will define no parking for the boarding house use, and will provide bicycles for boarders. The Municipal Development Plan emphasizes the importance of intermodal and multi-modal transportation alternatives; something the

Parking Management Plan identifies for the transportation needs of boarding house residents. The plan additionally suggests approaching the Department of Public Works to request resident-only parking in front of the house. (More correctly, it is the Police Department that accepts these requests.) Resident Parking Permits (RPPs) are only issued after an examinative process; their issuance not guaranteed. Collectively, these efforts *may* meet the demand; however there remains the potential to have four unrelated adults in the single unit, and 2 boarders in the boarding house for a total of 6 unrelated persons. That possibility suggests the Parking Management Plan inadequate to demonstrate *a more efficient approach that more effectively satisfies the intent of this Article and the goals of the municipal development plan.* A decisive action, like securing a lease for an off-site parking space for the boarding house use would more closely meet this standard. This has not been offered. **Adverse finding.**

(c) *An analysis of the anticipated parking demand for the proposed development. Such an analysis shall include, but is not limited to:*

1. *Information specifying the proposed number of employees, customers, visitors, clients, shifts, and deliveries;*
2. *Anticipated parking demand by time of day and/or demand by use;*
3. *Anticipated parking utilizing shared spaces or dual use based on a shared parking analysis utilizing current industry publications;*
4. *Availability and frequency of public transit service within a distance of 800-feet.*
5. *A reduction in vehicle ownership in connection with housing occupancy, ownership, or type; and,*
6. *Any other information established by the administrative officer as may be necessary to understand the current and project parking demand.*

The applicant has offered to install a bike rack and suggests that not all residents or tenants will own a car. The applicant has identified opportunities for using other modes of transit; Car Share, public transit and the College Street shuttle, but does not meaningfully commit to providing those alternatives (via membership or subsidy) to tenants. Providing bus passes, entering into an agreement with Car Share, confirming a shared use parking arrangement or leasing an off-site space would be strong evidence that the parking management plan would adequately serve the needs of the permitted use. None of these have been proposed. **Adverse finding.**

(d) *Such a plan shall identify strategies that the applicant will use to reduce or manage the demand for parking into the future which may include but are not limited to:*

1. *A telecommuting program;*
2. *Participation in a Transportation Management Association including methods to increase the use of mass transit, car pool, van pool, or non-auto modes of travel;*
3. *Implementation of a car-share program;*
4. *Development or use of a system using offsite parking and/or shuttles; and,*
5. *Implementation of public transit subscriptions for employees.*

As noted, the applicant has not substantively engaged in providing an effectual alternative, other than noting nearby opportunities. **Adverse finding.**

Prior to any approval by the DRB pursuant to this section, the means by which the parking management plan will be guaranteed and enforceable over the long term, such as a contract, easement, or other means, and whether the city should be a party to the management contract or easement, shall be made acceptable to the city attorney.

The record demonstrates the difficulty in confirming compliance with conditions of approval; the change-of-use permit issued in January 1984 has not been compliant with conditions of approval since 1988. Current practice is to secure parking leases (a draft has been authored by the attorneys' office that has been utilized with other projects) that are annually renewed. This option remains available, however has not been proffered. **Adverse finding.**

II. <u>If considered for approval of a one space parking waiver:</u>

1. As previously permitted, the boarding house use does not require owner occupancy.
2. If the Parking Management Plan is found acceptable by the DRB, a one space parking waiver is extended for the diminished Boarding House use.
3. No exterior changes are included with this approval.
4. Standard Permit Conditions 1-15.

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

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PLANNING & ZONING

LIAM AND LAURA MURPHY
140 WEXFORD LANE
CHARLOTTE
VERMONT
05445

Revised submission materials 6/24/16

June 22, 2016

HAND DELIVERY

Mary O'Neil
City of Burlington, Department of Planning and Zoning
149 Church Street
Burlington, VT 05401

Re: Arthur Holbrook House, 75 Orchard Terrace
REVISED Request parking waiver of one parking space

Dear Mary,

This letter is to substitute and replace our prior request for approval of a second dwelling unit and a waiver of the parking requirements.

This revised request is for a waiver of the parking requirement of the one (1) space required for the boarding house use based upon a proposed reduction of the permitted number of persons approved in the boarding house use from a maximum of four (4) to a maximum of two (2) persons.

As you know, my wife and I purchased 75 Orchard Terrace, Burlington, Vermont (the "Property") in August 2015. The Property is listed on the National Register of Historic Places as the "Arthur Holbrook House" in the Buell Street/Bradley Street Historic District. (See Exhibit 1). Our plan when purchasing was to restore the house and occupy it as our personal residence after we sell our current home in Charlotte. At the time of the purchase (and for almost the last two decades) the Property has been used as a single family house and our plan was to continue the rental as a single family house to 4 or fewer unrelated persons for a year or two.

In my first meeting with you, I became aware that when the City of Burlington adopted a complete revision of the Comprehensive Development Ordinance ("CDO") in January, 2008, single family residential uses were eliminated as permitted or conditional uses in the Residential High Density ("RH") zoning district in which the Property is located. The Property had been approved in the mid-1980s as a two unit with an apartment and as a boarding house for up to four persons and when such use was abandoned in the 1990s, no permit was issued for the change of use back to the single family use. Therefore, the City considered the approved use of the Property as a two unit dwelling with an apartment and boarding house and that a change of use to a single family home would be problematic.

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Following our first meeting, I researched the history of the Property, carefully reviewed the CDO and had numerous communications with you about how we might restore this historic to its original use as a single family house.

My research revealed that the Property was first subdivided as a building lot in 1901 and the listing in the Historic Register indicates that the house was constructed shortly thereafter in 1903. It was used and occupied as a single family home until 1984. In 1983 it was listed and sold in 1984 as a 4 bedroom single family house—see listing agreement from Assessor's file—Exhibit 2.

The Property was purchased in 1984 by Monty who requested and obtained approval for a conversion of the Property to "one apartment and a boarding house for not more than four persons". In that permit the existing use is listed as a single family home. Initially the application was denied on the basis of "Inadequate Parking." See Zoning Permit #83-539—Exhibit 3. Thereafter, the permit was issued and conditioned on a requirement that off-site parking be provided. See Zoning Permit #83-539—Exhibit 3 (there are two different copies of the same permit for some reason with slight non-material differences—both are attached).

The permit was conditioned on a requirement that two off-site parking spaces be provided. Initially a five year agreement was provided for parking at 58-60 Buell Street. However, the Zoning Permit refers to parking at 18 Bradley Street and there is a letter in the zoning file from the owner of that Property. There is no evidence that any off-site parking was provided after 1988.

The Property was sold to Musser in October, 1994. According to Mr. Musser, in 1997 he discontinued the use of the separate apartment and boarding house and reverted the use to a single family house and he rented the Property as a 4 bedroom home.

Musser registered the Property as a 4 bedroom single family home every year from the time such requirement came into effect. Attached as Exhibit 4 is a copy of all the rental registration records available from the Department of Public Works.

When the parking lease terminated at the time that Musser purchased the Property in 1994, the conditions of the Zoning Permit #83-539 were violated.

Therefore, I suggested to you that in 1997, the Property reverted to its prior approved use as single family residence. At the time of the reversion and until 2008, a single family home was a permitted use in in the Residential High Density district and the Property would be in full compliance with such permitted use in terms of parking. In addition the Property has been used as a single family house for over 15 years (1997 to the present). Further, allowing the Property to revert to its pre-existing use as a single family residence would be beneficial as it changes the use from an apartment and boarding house with up to 4 rooms to a less intensive use as to parking.

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I also suggested that as a pre-existing non-conforming residential use, the Property could qualify for change of a non-conforming residential use under Section 5.3.4.2.

You disagreed and stated in an email on May 25, 2016

You would not return to a SFR because the permit conditions have not been met; you would simply be in violation of your permit conditions, and subject to enforcement. You need to find 2 more parking spaces, and arrange a long term lease, renewably annually. The City Attorney's office has a format that has been successful with other properties.

You aren't really a non-conforming residential use, as you hold a permit for the current use (which is permitted in the RH zoning district anyway.) You are simply not compliant with permit conditions.

Finally, you could apply for a 50% parking waiver to the DRB. Whether you choose to retain the Boarding House or change the use to a duplex, the parking requirement is the same."

Given your position, despite our hope to keep this historic house as a single family home, we have no option but to maintain the house as one dwelling and a boarding house and seek approval seek a parking waiver in order to be in compliance with the CDO.

We are seeking a 33% waiver of the parking requirements under Section 8.1.15 of the CDO. Table 8.1.8-1 of the CDO requires 2 spaces for the dwelling unit and one space of each two beds in a boarding house. The current approval of a boarding house with up to four persons required 2 additional off-site spaces so the reduction to a maximum of 2 persons in the boarding house would reduce the off-site parking requirement to 1 additional parking space for a total of 3 spaces. There are two parking spaces on site and we request a waiver of the one (1) additional space required for the boarding house use. We do not believe that any boarders will require parking in light the location of the house. We do not expect that any boarder will have a car. The house is in the central downtown area, next to City Market, near the College Street shuttle, public bus station and close to the CarShare Vermont location at the Fletcher Free Library. We will install a bike rack if the City wishes.

Further, a waiver is justified given the parking requirements in the surrounding neighborhood. I would note that the 2008 change in the CDO prohibiting single family residences in the Residential High Density district did not take into account the parking requirements for parcels in the Residential High Density District which are not in the Downtown Parking District. If this Property in the Residential High Density district was included as part of the adjacent Downtown Parking District, only one and one-half parking spaces (which means two parking spaces) would be required. However, this Property and the one property adjoining were specifically excluded from the Downtown Parking District:

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At present each and every of the existing permitted uses in the Residential High Density zoning district require more than two parking spaces and thus every use of the Property requires either an off-site parking lease or a waiver. An off-site lease is impossible to obtain given the limited locations and the desire to not encumber such properties. Further an off-site lease is not a viable long term solution in light of the possible termination of the lease in the future. I would also note that the City does not offer any permits for overnight parking or parking for seven days a week in the nearby Cherry Street garage.

Accordingly, we respectfully request approval of a waiver of the parking requirements by one (1) space based upon a proposed reduction of the permitted number of persons approved in the boarding house use from a maximum of four (4) to a maximum of two (2) persons.

Please do not hesitate to contact me if you have any questions or comments. Thank you.

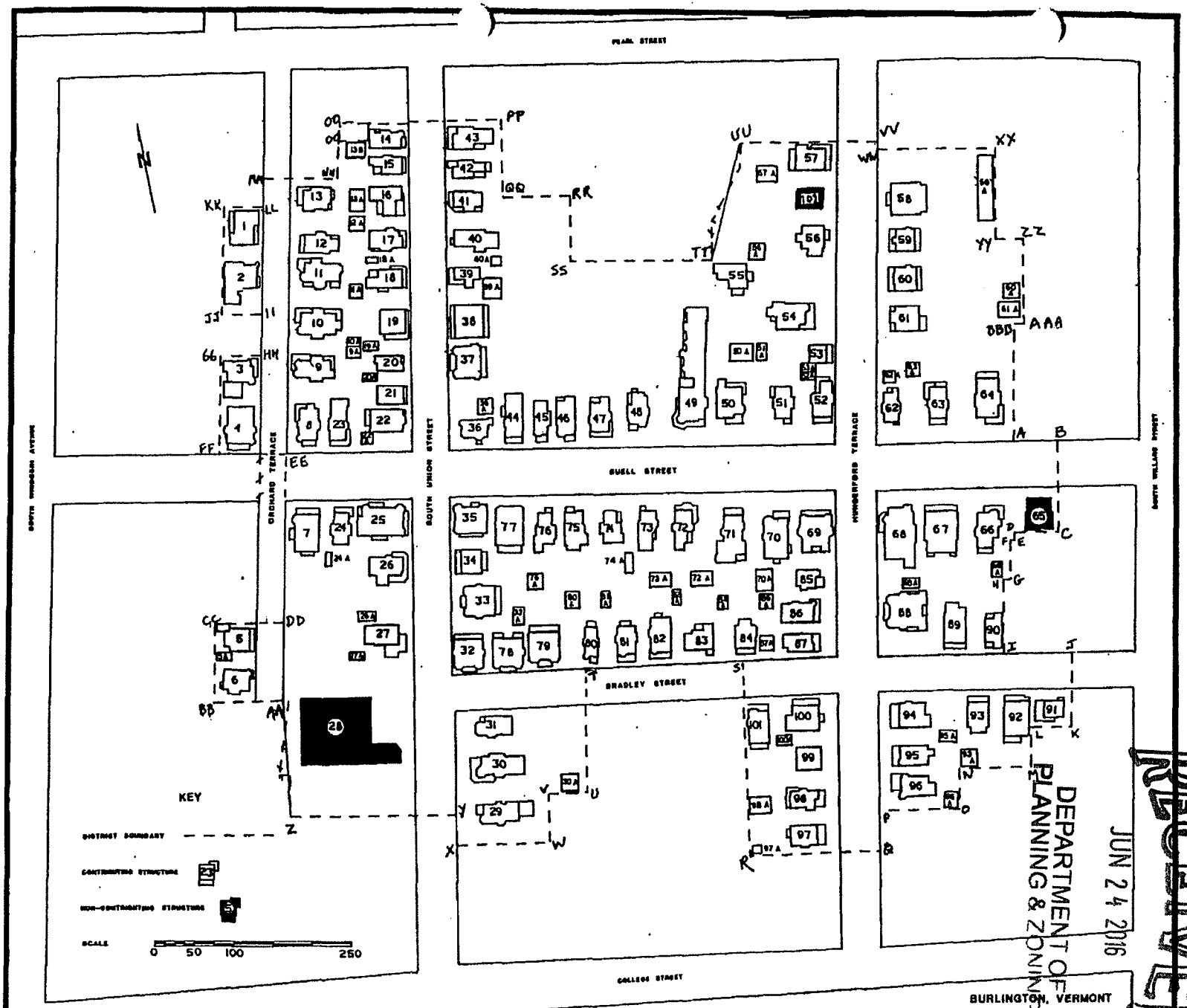
Very truly yours,

Liam L. Murphy

EXHIBIT 1

BUELL STREET/BRADLEY STREET HISTORIC DISTRICT

Burlington



BURLINGTON, VERMONT

BUELL STREET - BRADLEY STREET HISTORIC DISTRICT

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The Buell Street/Bradley Street rises to the east on a hillside between the central business district of Burlington and the University of Vermont campus at the top of the hill. Bounded on all four sides by busy through streets (Pearl, South Willard, College, and South Winooski), this quiet residential area includes three north-south streets (Orchard Terrace, Hungerford Terrace, and South Union Street) and two east-west streets (Buell and Bradley streets) running down it. The district's irregular, self-contained grid is spanned by Buell Street from west to east and by Hungerford Terrace from north to south, with only South Union Street extending through the boundaries formed by the older perimeter streets. Most of the homes in this exclusively residential district were built over a relatively short span of time, from 1890 to 1910, resulting in a remarkable homogeneity of style, material, lot size, and set back. Of the 143 buildings in the district, only six (modern garages) are non-contributing. The district retains its integrity of location, design, setting, workmanship, materials, feeling, and association.

Only the deep depression in the interior of the block bordered by Hungerford Terrace, Buell and South Union streets remains from the ravine that was filled in prior to the neighborhood's development. The district is more densely settled near the bottom of the hill where development occurred first. The houses lining Orchard Terrace, South Union Street, and the lower ends of Buell and Bradley Streets are set close both to the street and to each other, and include a number of duplexes. Their neighbors up the hill on Buell and Bradley streets and Hungerford Terrace were built almost exclusively as single-family dwellings, situated on larger lots and set back further from the street. The widest and most visually dominant of the streets is Buell, whose relatively large lots and progressively greater setbacks toward the top of the hill give it a more open character and whose orientation toward the lake makes it the heart of the district.

Aside from the subdivision of many houses into apartments and the use of vinyl siding, the district remains relatively unchanged from its original state around the turn of the century. The houses lining the streets of this residential neighborhood are smaller in scale and less varied and ambitious stylistically than those along the larger, more heavily travelled streets bordering the district. For the most part, the houses on Buell, Bradley, and South Union streets and Orchard Terrace were built in a late Queen Anne style. They rise two to two-and-one-half stories from redstone foundations and are capped by gable roofs with overhanging eaves and slate shingles, often containing a central, imbricated band. Nearly all the houses along these streets have single-story front porches with lattice work skirts, turned posts supporting shed roofs, and small pediments marking the entrances. Two-story bay windows occur on most houses and polygonal corner towers are not uncommon. Most roofs

have gabled dormers, many of which are faced with wood shingles. Below an eaves line that is often accentuated with a pent eave with wood shingles above, the clapboard and shingle-sided facades are irregularly fenestrated with 2/2 windows and an occasional multi-light stained glass window.

Exceptions to the Queen Anne style are found primarily on Hungerford Terrace, near the top of the district, which has Bungalow, English cottage, Dutch Colonial, and Colonial Revival style houses. Uniform setbacks and small lots characterize the district. Distances from the curb range from five to thirty-five feet but are unusually consistent by block, with Buell Street between South Willard and South Winooski streets showing the largest setbacks.

The Buell Street-Bradley Street Historic District is defined not only by common features within the neighborhood but also by dissimilarities from the bordering areas. The boundary streets of South Willard (east), Pearl (north), College (south), and South Winooski (west) are all busy through roads with a greater variety of lot sizes and setbacks. Architectural styles along these roads span from Federal to Colonial Revival styles, and from single-family houses to apartments to large churches. All of these border streets--especially South Winooski--have commercial activity, and conversion from residential to office space is common.

The district experienced its first era of change when the automobile became the preferred mode of transportation, and numerous small garages were added to backyards. A few were built in the earliest years, 1905 to 1915, but construction peaked between 1915 and 1930. It declined during the Depression and has remained at a low level since. Although many of these one bay structures with hinged double doors have been razed or heavily altered, some remain in their original form and are excellent examples of their type. Today nearly half the homes in the district have related garages. More recently, the district has undergone much apartment conversion as families moved to the suburbs and students from the nearby University of Vermont and Champlain College moved in. Signs of these changes are fire escapes, attic conversions, and rear additions; many side and back lawns are now used for tenant parking. Although several houses have been covered in vinyl siding and some have had vulnerable porch parts replaced, most of the homes in the district are in good condition.

From topography to setbacks, from foundations to rooftops, from construction dates to decorative elements, the Buell Street/Bradley Street Historic District is a homogeneous residential neighborhood that has retained its historic character.

a physician and surgeon with offices in the Y.M.C.A. building on College Street.

5. Ezra Horton House (69 Orchard Terrace), c.1901

This blockish 3 x 2 bay, 2 1/2 story Colonial Revival house sits on a redstone foundation and is capped by a pyramidal slate roof. A 1 story shed-roofed porch with columns and squared balusters over a lattice skirt extends across the front except for 2 feet at each edge. The central bay of the second story projects slightly and is topped by a hip-roofed dormer with paired windows. A smaller hip-roofed dormer with a single window is located centrally on both the north and south elevations. Windows are symmetrically placed in each bay and are 1/1. All windows have simple board surrounds. Clapboards cover the first story while the second story and dormers are shingled. The eaves of the second story and dormers feature plain, evenly placed brackets. The central front door is flanked by 3/4 length sidelights over molded panels all of which is surrounded by a simple board frame; the door itself has a large light.

A hip-roofed extension projects approximately five feet from the rear of the main block; this extension is set in from the edge of the main block six feet on each side. The notches thus formed contain porches; the narrow 1 story porch on the NW corner stretches ten feet beyond the rear of the house and is entered from a door in the extension and is completely surrounded by a balustrade with squared balusters and columns. The screen door for this porch has sunbursts in its corners. The rear entrance porch on the SW fills the notch and too, has columns and squared balusters. The chimney is interior, central, just to the rear of the ridge.

Ezra M. Horton, an attorney whose office was in the old Y.M.C.A., was the first resident.

5A. Garage (69 Orchard Terrace), c.1938-1942

This garage is a one bay, hip-roofed, clapboarded, asphalt-shingled structure. The double swinging doors each have two upper rows of four lights over four vertical panels. Small brackets underscore the eaves. Sanborn maps indicate that it was built between 1938-1942. It is a good example of its building type.

6. Arthur Holbrook House (75 Orchard Terrace), 1902-1903

The single-family, Queen Anne style structure sits with its narrow two bay side facing east on Orchard Terrace. The rectangular house is three bays deep and 2 1/2 stories high. It is sided with clapboard, except for the oriel window and the gables, which are covered with

clipped shingles. The house rests on a foundation of redstone and is capped with small grey and brownish-gray slate shingles on the hip roof.

The windows are 1/1 throughout except for a single light fixed sash next to the front door on the porch and a fixed sash with an integral border of stained glass on the right (north) side. An oriel window on the right corner of the building sits at a 45 degree angle and the pointed roof of its square tower stabs through main roof. One corner of the window is supported by a bracket in a sunburst pattern. The front door has three horizontal panels topped by a nearly square light of glass.

The right front half of the street facade is covered by a two story porch, the second floor being much smaller than the first. The first floor has turned posts and a valance. The second floor porch, nearly the same width but less than half the depth of the one below, is enclosed by a replacement 2 x 4 railing and topped by the same small valance as on the first floor. Another small entry porch attaches to the rear of the building and shares some of the same details.

Two chimneys project above the roof. A single-flue brick chimney rises near the right rear hip and a much newer stainless steel stack pierces the first floor left (south) sidewall and follows the sidewall up and around the eaves.

Two gables extend from the roof, one on the front (east) side and one on the left (south) side. Each contains a single double-hung window. The right (north) side has a small gabled dormer with a fixed sash single pane window.

This house was the home of Arthur Holbrook, manager at 39 College Street.

7. Mary Strong House (33 Buell Street), c. 1900

This is a 2 1/2 story, 3 x 4 bay blockish Queen Anne building capped by a truncated hip, slate roof. A 2 1/2 story bay window with a jutting, pedimented gable extends from the NW corner. Pedimented, gable-roofed dormers are found on all four sides; that in the front is larger and has a triple window while the others have single windows. A 1 story shed-roofed porch with a central pediment over the stairs, abacus-like turned posts, valance and squared balusters spans the front; the east (left) bay of this porch is clapboarded and contains stairs to a small second story porch with Doric columns on a shingled apron. A two bay side porch and a porch that extends across most of the rear have the same decorative details as the first story front porch, except that there are no pediments.

The eaves of the second story and the dormers have exposed rafter tails. The dormers, bay pediment, and bands from the top of the first floor to the second floor window sill line on the east side and the NW bay window have a curved clip shingle pattern. A band from the top of the first floor to the window sill line of the second floor front is straight shingled. The remainder of the building is clapboarded. Corner boards mark all edges.

EXHIBIT 2

RECEIVED
JUN 24 2016
DEPARTMENT OF PLANNING

11/10/83

NORTHWESTERN VERMONT BOARD OF REALTORS — RESIDENTIAL

62,900 9/30

Add: 75 Orchard Terrace, Burl Area 01 Price $ ~~64,900~~ Sign yes MLS # 138-

Directions So. Winooski Ave, east on Buell, right onto Orchard Terrace

House Size irregular Style 2 story

Lot Sz. F 47.87F x 52.55 Deed V.243 P.676 Approx. Sq. Ft. 1400 Color red

Rms	Appx. Sz.	B	1	2	Rms	Appx. Sz.	B	1	2
LR	12.6 x 23.3		X		Ba	1½		½	1
DR	10.6x14.2		X		BdR	10 x 11.2			X
Kit	8.6xx5.2+5x11.5				BdR	11.8 x 9.4			X
Kit w/	Ran, DW				BdR	10 x 10			X
FR					BdR	10 x 8			X

Garage: no Att/Det/Under Total Rms 7 Total Bdrms 4

Fin. Bsmt.	full unf	Floors	WW/HW
Est. Age	80+	Walls	plaster/p
Constr.	WF	Porch/Deck	Frt &
Found. Walls	stone	St. Win.	AC
Siding	clapboard	Fireplace	W/S
Roof	slate	Type Heat	GHA
Water	city	Hot Water	eleco/
Sewer	city	Gas/Oil Co.	VT Gas
Driveway	blacktop	Electric Co.	BELD
Zoning	res R-75	Information Herein Believed to be Accu but is not Warranted	
Occupancy	negotiable		
Type Mortgage		Bank	
Taxes	629.72 Yr	July 1	
Owner Assist W/Financing?			

Remarks: MINIMUM DEPOSIT $3000. Walking distance to downtown. Mudroom off Kitchen Good loc. for professional office.

Occ. owners bus Ph. 862-7714

How Show call for appt.morn & after 5 pref.

Owner Thomas & Karen McLaughlin&Hartigan Ph. 863-3387

L/O Desautels Real Estate, Inc Ph. 864-0900

L/A Mike Simoneau Ph. 862-5609

S-A O. 3%SA Code 130 Exp. 10/10/83 at midnight

LISTED DATE 7/10/83 EXPIRATION DATE ~~10/10/83~~ 12/17/83

BROKER NO. 130

ZONING PERMIT

Burlington, Vermont

Permit # 83-539

RECEIVED JUN 24 2016 DEPARTMENT OF PLANNING & ZONING

PROJECT LOCALE 75 Orchard Terrace ZONE R-1F

Applicant/owner Joseph Monty

Address R.D. 1, Shelburne Telephone No. 985-3049

Existing use of property S.F. Home Estimated Cost $2,500

DESCRIPTION Convert building into one apartment and a boarding house for not more thatn four persons. No exterior changes.

TECHNICAL lot size 2515.6 sq. ft bldg. size 858 sq. ft 35 % lot cove

parking and drive 400 sq. ft addition sq. ft N/A

PARKING exist 2 proposed 4(2 off site) required 4 N/A

YARDS front OK side OK rear OK N/A

SIGNS type height area N/A X

linear frontage illuminated

DECISION approved denied X referred to ZBA

denial reason

APPEALS An interested person may appeal the decision of the Zoning Administrator within 15 days of fin

APPLICATION DATE ~~XXXXXXXXXXXX~~ 12/8/83 APPEAL EXP. DATE 12/23/83

SIGNATURES APPLICANT Joseph C Monty

ZONING ADMINISTRATOR

CERTIFICATE OF APPROPRIATENESS

COA # 83-12

LEVEL OF REVIEW I X II III

TYPE OF REVIEW siteplan design X subdivision

COMPLETE APPLICATION ~~XXXXXXX~~ 12/8/83 fee XNA

DISTRICT historic innercity X regional core waterfront

DECISION DATE 12/8/83 DENIED X APPROVED

~~XAPPROVEDXWITHXCONDITIONX~~ Inadequate parking spaces.

APPEALS An interested person may appeal a decision of The Planning Commission to the Court of the County in which is located the property at issue in the decision.

SIGNATURE Planning Director

Burroughs

ZONING PERMIT

Burlington, Vermont

Permit # 83-539

PROJECT LOCALE 75 Orchard Terrace ZONE R-75

Applicant/owner Joseph Monty

Address R.D. 1, Shelburne Telephone No. 985-3049

Existing use of property S.F. Home Estimated Cost $2,500

DESCRIPTION Convert building into one apartment and a boarding house for not more thatn four persons. No exterior changes.

TECHNICAL lot size 2515.6 sq. ft bldg. size 858 sq. ft 35 % lot cover

parking and drive 400 sq. ft addition ● sq. ft N/A

PARKING exist 2 proposed 4(2 off site) required 4 N/A

YARDS front OK side OK rear OK N/A

SIGNS type height area N/A X

linear frontage illuminated

DECISION approved X 1/12/84 denied X referred to ZBA

denial reason

APPEALS An interested person may appeal the decision of the Zoning Administrator within 15 days of fina

APPLICATION DATE ~~XXXXXXXXXXXX~~ 12/8/83 1/12/84 APPEAL EXP. DATE ~~12/23/83~~ 1/27/84

SIGNATURES APPLICANT Joseph E. Monty

ZONING ADMINISTRATOR

CERTIFICATE OF APPROPRIATENESS

COA # 83-12

LEVEL OF REVIEW I X II III

TYPE OF REVIEW siteplan design X subdivision

COMPLETE APPLICATION ~~XXXXXXXX~~ 12/8/83 fee XNA

DISTRICT historic innercity X regional core waterfront

DECISION DATE 12/8/83 DENIED /X/ APPROVED X

X ~~XXXXXXXXXXXXXXXXXXXXXXXXXXXX~~ /Inadequate parking spaces/ Approve as submitted on 1/12/84: Utilize parking available at Palmer's Funeral Home (18 Bradley Street) to fulfill parking requirement.

APPEALS An interested person may appeal a decision of The Planning Commission to the Court of the County in which is located the property at issue in the decision.

Burroughs

ZONING PERMIT

Burlington, Vermont

Permit # 83-53

PROJECT LOCALE 75 Orchard Terrace ZONE R-75

Applicant/owner Joseph Monty

Address RD 1, Shelburne Telephone No. 985-3049

Existing use of property S.F. Home Estimated Cost $2,500.00

DESCRIPTION Convert building into one apartment and a boarding house for not more than four persons. No exterior changes.

TECHNICAL lot size 2515.6 sq. ft bldg. size 858 sq. ft 35 % lot cover
parking and drive 400 sq. ft addition sq. ft N/A

PARKING exist 2 proposed 4 (2 off site) required 4 N/A

YARDS front OK side OK rear OK N/A

SIGNS type height area N/A X
linear frontage illuminated

DECISION approved X denied referred to ZBA
denial reason

APPEALS An interested person may appeal the decision of the Zoning Administrator within 15 days of fin

APPLICATION DATE 1/12/84 APPEAL EXP. DATE 1/27/84

SIGNATURES APPLICANT

ZONING ADMINISTRATOR

CERTIFICATE OF APPROPRIATENESS

COA # 83-12

LEVEL OF REVIEW I X II III

TYPE OF REVIEW siteplan design X subdivision

COMPLETE APPLICATION 12/8/83 fee NA

DISTRICT historic innercity X regional core waterfront

DECISION DATE 1/12/84 DENIED APPROVED X

APPROVED WITH CONDITION Approved as submitted on 1/12/84 to utilize the parking space at Palmer's (18 Bradley Street) to satisfy parking requirement.

APPEALS An interested person may appeal a decision of The Planning Commission to the

AGREEMENT BETWEEN

GENE RICHARDS

AND

JOSEPH AND SUZANNE MONTY

GENE RICHARDS, OWNER OF PROPERTY LOCATED AT 58-60 BUELL STREET, BURLINGTON, VERMONT, (LESSOR) AGREES TO LEASE TO JOSEPH AND SUZANNE MONTY OF SHELBURNE, VERMONT, (LESSEE) TWO (2) PARKING SPACES LOCATED AT 58-60 BUELL STREET, BURLINGTON, VERMONT.

THIS LEASE IS VALID ONLY AT THE TIME WHEN THE LESSEE ACQUIRES LEGAL OWNERSHIP OF PROPERTY LOCATED AT 75 ORCHARD TERRACE, BURLINGTON, VERMONT. THE LESSOR AGREES TO LEASE THE TWO PARKING SPACES FOR FIVE (5) YEARS. THE MONTHLY RENT FOR THE ENTIRE FIVE YEARS WILL $25.00 PER SPACE DUE BY THE 15TH OF THE MONTH.

AT THE END OF THE FIVE YEAR LEASE, THE LESSOR AGREES TO GIVE LESSEE FIRST RENEWAL OPTION FOR A ONE-YEAR TERM, RENEWABLE ON AN ANNUAL BASIS WITH A MAXIMUM INCREASE OF 5% ANNUALLY.

THE ATTACHED DRAFT (#A) OUTLINES THE TWO PARKING SPACES RESERVED AND LEASED TO THE LESSEE.

I AGREE TO THE FOLLOWING TERMS AND CONDITIONS,

Suzanne R. Monty — LESSEE — DATE 12/2/83

WITNESS

Joseph B. Monty — LESSEE — DATE 12/2/83

WITNESS

LESSOR — DATE 12/2/83

Jim Richards III Have two extra spaces
not on the land in which they are on
I have 14 spaces in which go with my lot

12/18/8

Buell St

58-60

Jim Richards

4 APT House

7 & 8

to be rented

2 APT

Rick Sharp

Private Way

1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18

To Whom It May Concern:

This is to confirm the availability of a parking space for purposes of off street winter parking at my 2family home located at 18 Bradley St. in Burlington. If Joe + Suzanne Monty so choose, its their for the asking.

Hank Eltzer

RECEIVED
JUN 2 2003
DEPARTMENT OF PLANNING & ZONING

2003

PROPERTY INFORMATION SHEET- PLEASE USE SEPARATE SHEET FOR EACH PROPERTY.
The following information is required by law. Please list your residential rental property with unit information below. If you own multiple properties, make separate copy of information sheet for each rental property.

ENTER PROPERTY ADDRESS HERE: 75 GIRCHARD TERRACE

FILL IN INFORMATION FOR EACH UNIT AS FOLLOWS:

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

PROPERTY INFORMATION SHEET - PLEASE USE SEPARATE SHEET FOR EACH PROPERTY

2005

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

ENTER PROPERTY ADDRESS HERE 75 ORCHARD TR

FILL IN INFORMATION FOR EACH UNIT AS FOLLOWS:

LIST EACH UNIT # (OR LETTER) ON LINES BELOW	Rental Unit? Indicate if not rental unit. If not insert "N"	# Bedrooms Enter maximum number of sleeping rooms	# Residents Enter maximum number of residents	# Families Enter number of families (Insert number if more than 1)	# Unrelated Enter maximum number of unrelated adults if more than 4	Functional Family? If number of unrelated adults is more than 4, do you claim they are living as a functional family?	# Parking Spaces Enter maximum number of on-site parking spaces	#Vehicles Enter maximum number of vehicles used by residents
		4	4	1			3	3

PROPERTY INFORMATION SHEET - PLEASE USE SEPARATE SHEET FOR EACH PROPERTY

2006

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

ENTER PROPERTY ADDRESS HERE 75 ORCHARD TERRACE

Owner Reference File 144963

LIST EACH UNIT # (OR LETTER) ON LINES BELOW	FILL IN INFORMATION FOR EACH UNIT AS FOLLOWS:							
	Rental Unit? Indicate if not rental unit. If not insert "N"	# Bedrooms Enter maximum number of sleeping rooms	# Residents Enter maximum number of residents	# Families Enter number of families (Insert number if more than 1)	# Unrelated Enter maximum number of unrelated adults if more than 4	Functional Family? If number of unrelated adults is more than 4, do you claim they are living as a functional family?	# Parking Spaces Enter maximum number of on-site parking spaces	#Vehicles Enter maximum number of vehicles used by residents
		4	4		4		4	3

2008

PROPERTY INFORMATION SHEET - PLEASE USE SEPARATE SHEET FOR EACH PROPERTY

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

75 ORCHARD TERRACE

LIST EACH UNIT # (OR LETTER) ON LINES BELOW	FILL IN INFORMATION FOR EACH UNIT AS FOLLOWS:							
	Rental Unit? Indicate if not rental unit If not insert "N"	# Bedrooms Enter maximum number of sleeping rooms	# Residents Enter maximum number of residents	# Families Enter number of families (Insert number if more than 1)	# Unrelated Enter maximum number of unrelated adults if more than 4	Functional Family? If number of unrelated adults is more than 4, do you claim they are living as a functional family?	# Parking Spaces Enter maximum number of on-site parking spaces	#Vehicles Enter maximum number of vehicles used by residents
	75 TERR. ORCHARD	4	4	4			3	2

Note: The completion of this form does not preclude the enforcement of permit requirements by Zoning as well as City Ordinances

Owner Reference File 144963

PROPERTY INFORMATION SHEET - PLEASE USE SEPARATE SHEET FOR EACH PROPERTY

The following information is required by law. Please list your residential rental property with unit information below. If you own multiple properties, make a separate copy of information sheet for each rental property. 2009

ENTER PROPERTY ADDRESS HERE

15 ORCHARD TERRACE, BURLINGTON

FILL IN INFORMATION FOR EACH UNIT AS FOLLOWS:

LIST EACH UNIT # (OR LETTER) ON LINES BELOW	Rental Unit? Indicate if not rental unit. If not insert "N"	# Bedrooms Enter maximum number of sleeping rooms	# Residents Enter maximum number of residents	# Families Enter number of families (Insert number if more than 1)	# Unrelated Enter maximum number of unrelated adults if more than 4	Functional Family? If number of unrelated adults is more than 4, do you claim they are living as a functional family?	# Parking Spaces Enter maximum number of on-site parking spaces	#Vehicles Enter maximum number of vehicles used by residents
15		4	4	4			3	3

Note: The completion of this form does not preclude

Owner Reference File 144963

Page

2010

PROPERTY INFORMATION SHEET – PLEASE USE A SEPARATE SHEET FOR EACH PROPERTY

The following information is required by law. Please list your residential rental property with unit information below. If you own multip
Make a separate copy of information sheet for each rental property.

ENTER PROPERTY ADDRESS HERE _____

FILL IN INFORMATION FOR EACH UNIT AS FOLLOWS:

	Rental Unit?	# Bedrooms	# Residents	# Families	# Unrelated	Functional Family?	# Parking Spaces	# Vehicles
LIST EACH UNIT # (OR LETTER) ON LINES BELOW	Indicate if not rental unit. If not insert "N".	Enter maximum number of sleeping rooms.	Enter maximum number of residents	Enter number of families (Insert number if more than 1)	Enter maximum number of unrelated adults if more than 4	If number of unrelated adults is more than 4, do you claim they are living as a functional family.	Enter maximum number of on-site parking spaces	Enter maximum number of vehicles used by residents

Note: The completion of this form does not preclude the enforcement of permit requirements by Zoning or other City Departments

mation RSN:144963
Name:MUSSER, ROBERT W.

PROPERTY INFORMATION SHEET – PLEASE USE A SEPARATE SHEET FOR EACH PROPERTY 2011

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

ENTER PROPERTY ADDRESS HERE 75 ORCHARD TERRACE

FILL IN INFORMATION FOR EACH UNIT AS FOLLOWS:

LIST EACH UNIT # (OR LETTER) ON LINES BELOW	Rental Unit? Indicate if not rental unit. If not insert "N".	# Bedrooms Enter maximum number of sleeping rooms.	# Residents Enter maximum number of residents	# Families Enter number of families. (Insert number if more than 1)	# Unrelated Enter maximum number of unrelated adults if more than 4	Functional Family? If number of unrelated adults is more than 4, do you claim they are living as a functional family.	# Parking Spaces Enter maximum number of on-site parking spaces	# Vehicles Enter maximum number of vehicles used by residents
75		4	4	4			3	2

PROPERTY INFORMATION SHEET – PLEASE USE A SEPARATE SHEET FOR EACH PROPERTY 2012

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

ENTER PROPERTY ADDRESS HERE 18 Perrotta Place

FILL IN INFORMATION FOR EACH UNIT AS FOLLOWS:

LIST EACH UNIT # (OR LETTER) ON LINES BELOW	Rental Unit? Indicate if not rental unit. If not insert "N".	# Bedrooms Enter maximum number of sleeping rooms.	# Residents Enter maximum number of residents.	# Families Enter number of families (insert number if more than 1).	# Unrelated Enter maximum number of unrelated adults if more than 4.	Functional Family? If number of unrelated adults is more than 4, do you claim they are living as a functional family.	# Parking Spaces Enter maximum number of on-site parking spaces.	# Vehicles Enter maximum number of vehicles used by residents.
1	Y	4	4	4	4		3	2

...tion of this form does not preclude the enforcement of permit requirements by Zoning or other City Departments.

Owner Reference Information RSN:144963

Name:MUSSER, ROBERT W.

02/17

PROPERTY INFORMATION SHEET

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

2013

ENTER PROPERTY ADDRESS HERE 75 Orchard Terrace

FILL IN INFORMATION FOR EACH UNIT AS FOLLOWS:

	Rental Unit?	# Bedrooms	# Residents	# Families	# Unrelated	Functional Family?	# Parking Spaces	# Vehicles
LIST EACH UNIT # (OR LETTER) ON LINES BELOW	indicate if not rental unit. If not insert "N"	Enter maximum number of sleeping rooms.	Enter maximum number of residents	Enter number of families (Insert number if more than 1)	Enter maximum number of unrelated adults if more than 4	If number of unrelated adults is more than 4, do you claim they are living as a functional family.	Enter maximum number of on-site parking spaces.	Enter maximum number of vehicles used by residents
		4	4				3	2

Owner Reference Information Form: 11/03

does not preclude the enforcement of permit requirements by Zoning or other City Departments..

PROPERTY INFORMATION SHEET – PLEASE USE A SEPARATE SHEET FOR EACH PROPERTY

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

2014

ENTER PROPERTY ADDRESS HERE 75 ORCHARD TERRACE

FILL IN INFORMATION FOR EACH UNIT AS FOLLOWS:

	Rental Unit?	# Bedrooms	# Residents	# Families	# Unrelated	Functional Family?	# Parking Spaces	# Vehicles
LIST EACH UNIT # (OR LETTER) ON LINES BELOW	Indicate if not rental unit. If not insert "N".	Enter maximum number of sleeping rooms.	Enter maximum number of residents	Enter number of families (Insert number if more than 1)	Enter maximum number of unrelated adults if more than 4	If number of unrelated adults is more than 4, do you claim they are living as a functional family.	Enter maximum number of on-site parking spaces	Enter maximum number of vehicles used by residents
75		4	4	4			3	2

r Reference Information RSN:144963
Name:MUSSER, ROBERT W.

2015

PROPERTY INFORMATION SHEET

PLEASE USE SEPARATE SHEET FOR EACH PROPERTY

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

I. ENTER PROPERTY ADDRESS: 75 Orchard Terrace

Transfer of Existing Rental

II. LIST EACH UNIT NUMBER OR LETTER ON THE LINES BELOW. ↓	III. Fill in information for each unit as follows:								
	Rental Unit? Indicate if it's a rental unit. If not, insert "N"	Fee Exempt ? Indicate if fee exemption claimed (per information page) If yes insert "Y"	Maximum number of Bedrooms	Maximum number of Residents	Maximum number of unrelated adults if more than four	Functional Family? If number of unrelated adults is more than 4, is functional family claimed? If YES, insert "Y"	Maximum number of on site parking spaces	Number of Vehicles used by residents	Accessibility Is the unit accessible to persons with disabilities? (Optional to assist disabled citizens). If YES insert "Y"
1	Y	N	4	4	4	N	2	2	N

Information available in alternative media forms for people with disabilities.
For disability access information call (802) 863-0450 TTY.
An Equal Opportunity Employer

PROPERTY INFORMATION SHEET – PLEASE USE A SEPARATE SHEET FOR EACH PROPERTY

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2013

ENTER PROPERTY ADDRESS HERE 75 ORCHARD TERRACE

FILL IN INFORMATION FOR EACH UNIT AS FOLLOWS:

LIST EACH UNIT # (OR LETTER) ON LINES BELOW	Rental Unit?	# Bedrooms	# Residents	# Families	# Unrelated	Functional Family?	# Parking Spaces	# Vehicles
	Indicate if not rental unit. If not insert "N".	Enter maximum number of sleeping rooms.	Enter maximum number of residents	Enter number of families (Insert number if more than 1)	Enter maximum number of unrelated adults if more than 4	If number of unrelated adults is more than 4, do you claim they are living as a functional family.	Enter maximum number of on-site parking spaces	Enter maximum number of vehicles used by residents
75		4	4	4			3	2

Note: The completion of this form does not [illegible]

Reference Information RON:144903 Name:MUSSER, ROBERT W.

FENCING PLAN 75 ORCHARD TERR.

New fence and gate same as on rear of property 16'

Replace existing fence with fence same as on the rear of property

RECEIVED
JUN - 1 2016
DEPARTMENT OF
PLANNING & ZONING

47.87

40'

16'

23' 2"

HOUSE

EXISTING PAVED/GRAVEL DRIVEWAY

GRASS AREA

35'

52.55'

neighbor's driveway

16' 2"

24'

10' 6"

Porch

34' 6" L x 36" H

10' 6"

New Picket fence and gate similar to original fence

replace existing picket fence

S

47.87'

sidewalk

N

scale 1 block = 1 ft

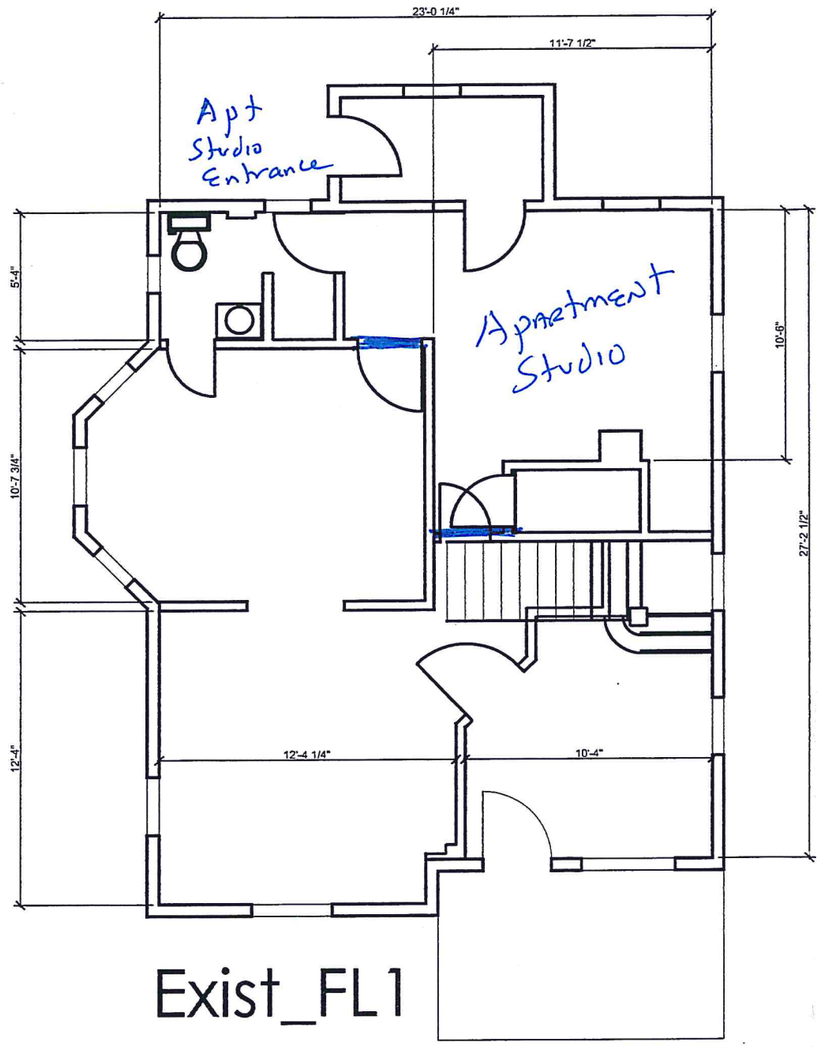
75 ORCHARD TERRACE

ANY MODIFICATIONS OR DEVIATIONS FROM THESE PLANS REQUIRE ZONING APPROVAL PRIOR TO CONSTRUCTION
ALL DEBOSS RESTRICTIONS ARE THE SOLE RESPONSIBILITY OF THE PROPERTY OWNER

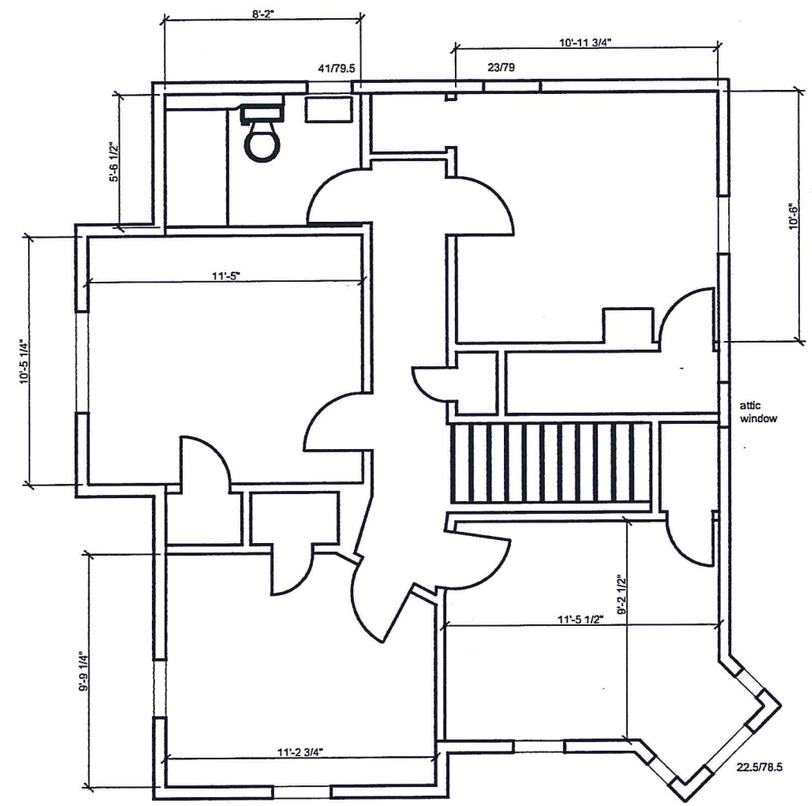
FINAL
SIGNED 6/8/16 DATE
PLANNING & ZONING DEPARTMENT
BURLINGTON, VERMONT ZAP16-1377

location of neighbor's driveway

RECEIVED
JUN - 1 2016
DEPARTMENT OF
PLANNING & ZONING

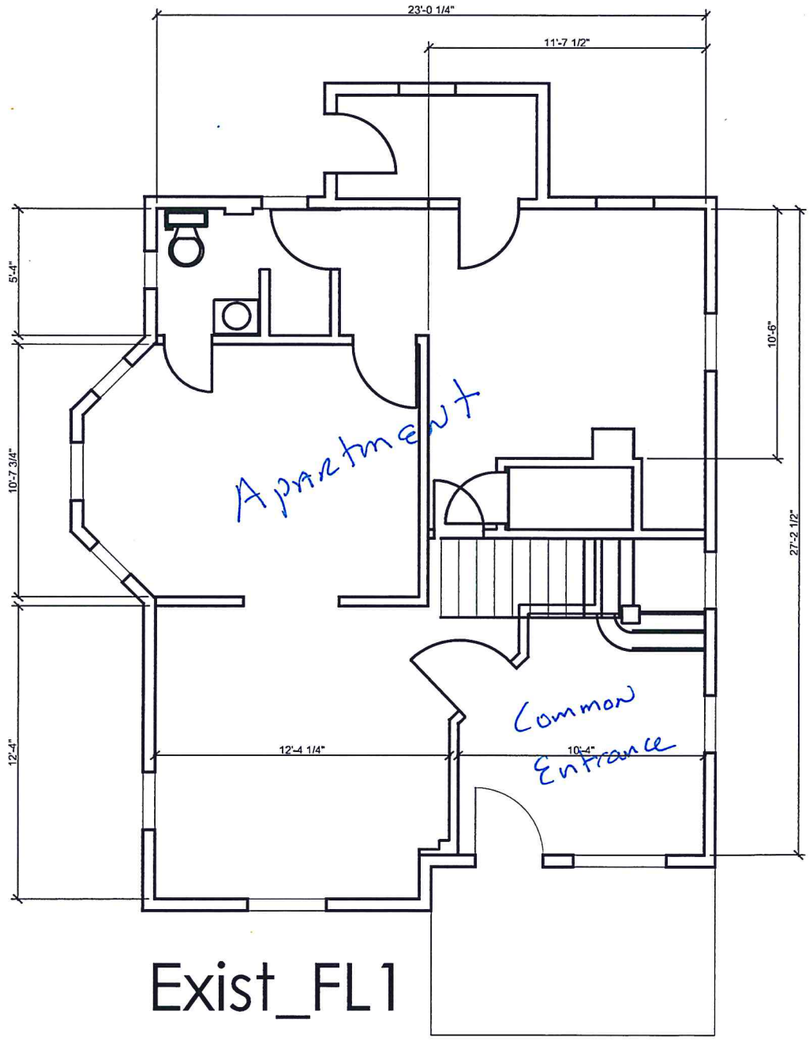


Exist_FL1

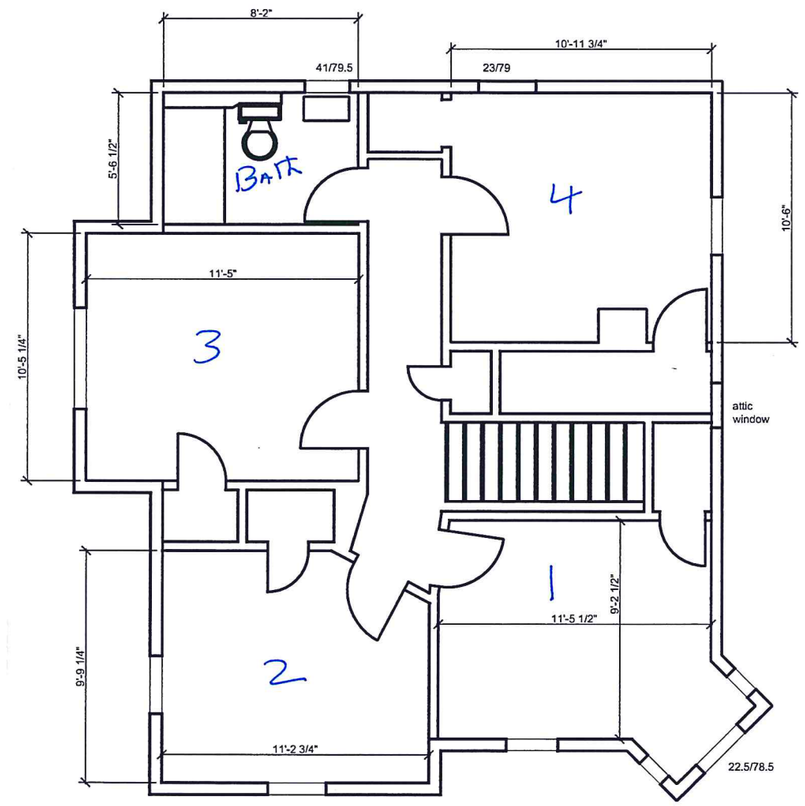


Exist_FL2

RECEIVED
JUN - 1 2016
DEPARTMENT OF
PLANNING & ZONING



Exist_FL1



Exist_FL2

Submitted via email 7/1

PARKING MANAGEMENT PLAN
TO SUPPORT WAIVER OF ONE PARKING SPACE FOR
OWNER OCCUPIED HOME
WITH BOARDING HOUSE USE FOR UP TO TWO BOARDERS
AT 75 ORCHARD TERRACE

75 Orchard Terrace is currently approved as an owner occupied home with a boarding house use with up to four boarders. The house has two (2) on-site parking spaces which meet the requirements for the owner occupant home. However, as a condition of the existing permit, two off-site parking spaces were required to satisfy the parking requirements for the boarding house use with a maximum of up to four (4) persons (the requirement is 0.5 spaces per boarder).

The application seeks:

(a) a reduction of the maximum number of boarders from a four (4) boarders to two (2) boarders, thus reducing the off-site parking requirement to one (1) off-site space and

(b) a waiver of one (1) off-site space (from three (3) required to two (2) spaces—a 33% waiver).

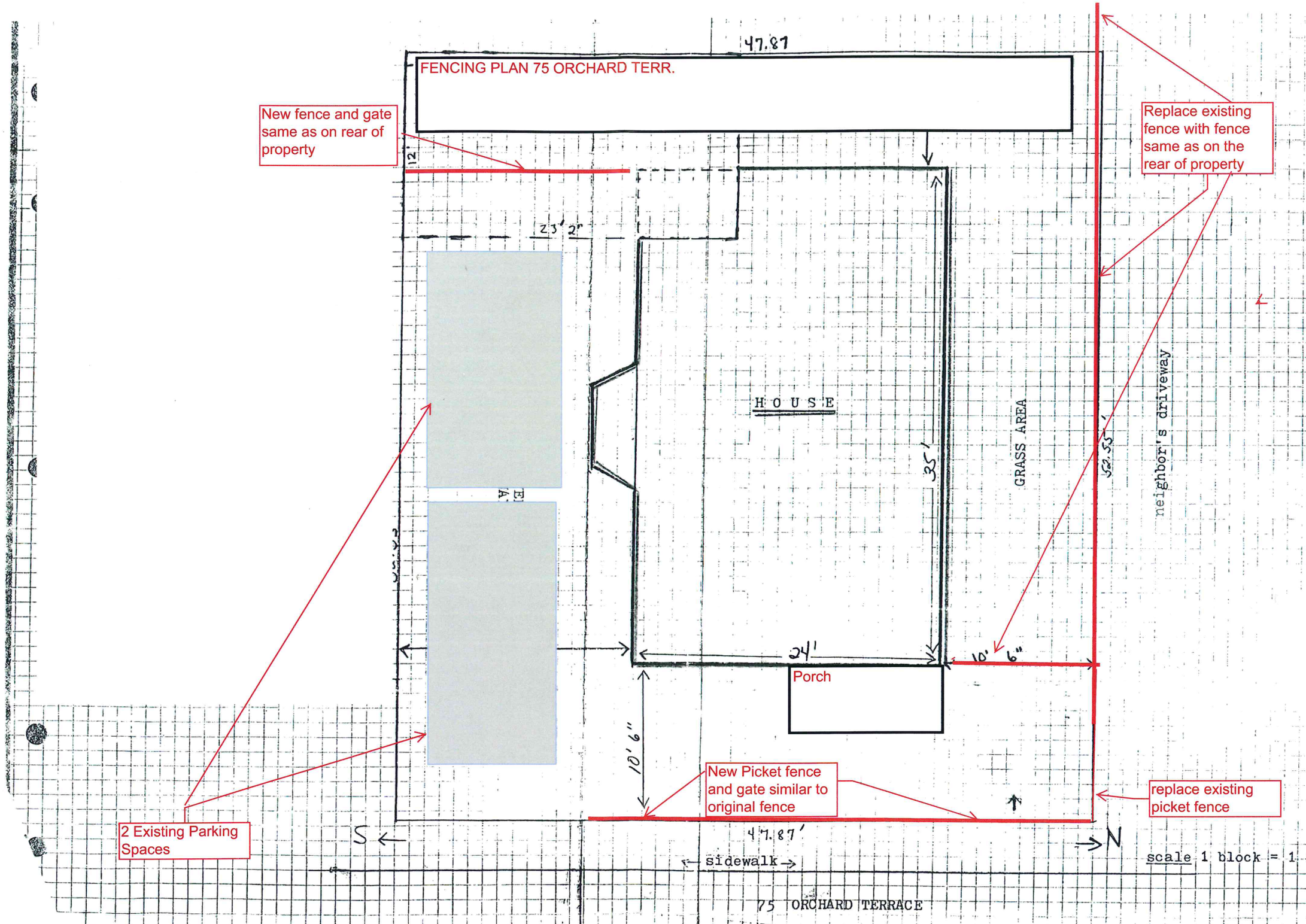
We do not expect that boarders will require a car (and thus parking) in light the location of the house in the central downtown area, next to City Market, near the free College Street shuttle which provides access to the University and UVM Medical Center, near the public bus station and close to the CarShare Vermont location at the Fletcher Free Library;

Taking into account the proposed waiver of one space, the proposed use as owner occupied home with a boarding house use for no more than two persons and the location of the property, the proposed Parking Management Plan is:

1. The Owner will seek boarders who do not own a car and will include in leases that the boarders acknowledge that there are no parking spaces for them to use and that they understand the winter parking ban requirements.

2. The Owner will provide a bike rack and will supply two bikes for use by the boarders.

3. In order to free up the street parking spaces in front of 69-75 Orchard Terrace which are now mostly used by employees of City Market for parking while they are at work, the Owner may petition the City Department of Public Works to designate the street spaces in front of those two houses as "resident only" parking,


FENCING PLAN 75 ORCHARD TERR.
New fence and gate same as on rear of property
Replace existing fence with fence same as on the rear of property
47.87
12'
23' 2"
HOUSE
35'
GRASS AREA
52.55'
neighbor's driveway
24'
10' 6"
Porch
10' 6"
New Picket fence and gate similar to original fence
replace existing picket fence
2 Existing Parking Spaces
S
N
47.87'
sidewalk
scale 1 block = 1
75 ORCHARD TERRACE

Department of Planning and Zoning
149 Church Street
Burlington, VT 05401
http://www.burlingtonvt.gov/PZ/
Telephone: (802) 865-7188
(802) 865-7195 (FAX)

David E. White, AICP, Director
Meagan Tuttle, Comprehensive Planner
Jay Appleton, Senior GIS/IT Programmer/Analyst
Scott Gustin, AICP, CFM, Principal Planner
Mary O'Neil, AICP, Principal Planner
Ryan Morrison, CFM, Associate Planner
Elsie Tillotson, Department Secretary
Anita Wade, Zoning Clerk

MEMORANDUM

To: Development Review Board
From: Mary O'Neil, AICP, Principal Planner
Date: July 19, 2016
RE: ZP13-0650CA/MA 110 Riverside Avenue

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

File: ZP13-0650CA/MA
Location: 110 Riverside Avenue
Zone: Neighborhood Activity Center, Riverside Corridor (NAC-R) **Ward**: 1
Date application accepted: May 26, 2016
Applicant/ Owner: Sisters and Brothers Investment Group / Joe Handy
Request: 2nd request for a one-year time extension for ZP13-0650CA/MA: Demolish existing c. 1935 former auto repair structure; construct new 4 story 57 unit apartment building with underground parking on 1.22 acre site. Height bonus exercised by providing Senior Housing. Approved with amended conditions, July 2, 2013.

Background:

- Application filed for Act 250 June 30, 2015. Per **Section 3.2.9 (f), Exception to Permit Time Limits**: *Except for projects* ***subject to additional state or federal permitting*** *jurisdiction, or which have been appealed to Vermont Environmental Court pursuant to the requirements of Article 12, there shall be no exceptions to the time limits specified in Section 3.2.9 (d) and (e) unless longer or shorter time limits are specifically imposed as permit conditions of approval by the DRB at the time of approval.*

  For projects subject to additional state or federal permitting jurisdiction, the date of decision shall be deemed to be the latest date of decision of the state or federal permitting authority.

  The application for Act 250 review tolled the approval date.
- **ZP13-0650CA.MA**; One Year Time Extension approved by DRB June 3, 2014.
- **ZP13-0650CA.MA;** Demolish existing c. 1935 former auto repair structure; construct new 4 story 57 unit apartment building with underground parking on 1.22 acre site. Height

The programs and services of the City of Burlington are accessible to people with disabilities. For accessibility information call 865-7188 (for TTY users 865-7142).

bonus exercised by providing Senior Housing. Approved with amended conditions, July 2, 2013.

- **.ZP 13-0129; Sketch Plan** review of project. Reviewed by DRB September 18, 2012.
- **Zoning Permit 05-065SN;** 4' x 6' parallel sign for M & H Auto. Approved August 2004.
- **Zoning Permit 04-314;** Increase number of display cars from 25 to 45 and decrease 10 spaces for repair business to 6 spaces. Approved January 2004.
- **Zoning Permit 01**-318 / COA 097-029; Installation of a new nonilluminatd parallel sign over the entry of the existing used car sales establishment within the existing commercial complex. No change in use. Approved February 2001.
- **Zoning Permit 99-362**; Change of use from vacant commercial to auto and light truck repairs. No exterior changes proposed to the structure. Site currently contains a used auto dealer. Approved March 1999.
- **Zoning Permit 99-419** / **COA 097-029B**; Installation of a nonilluminated freestanding sign for the existing auto and light truck repair facility. Approved April 1999.
- **Zoning Permit 99-570 / COA 097-029C**; Installation of two signs for the existing auto repair facility. Approved June 1999.
- **Zoning Permit 98-311 / COA 097-029**; replacement of existing sign faces at existing auto sales building. Approved January 1998.
- **Zoning Permit 98-310 / COA 097-029B**; Change of use from retail (see COA 97-029) to used car sales. Maximum outdoor storage of 25 cars. Approved January 1998.
- **Zoning Permit 97-460 / COA 097-029A**; Partial demolition of the existing structure and parking area to facilitate improvements included in COA 97-029. Approved May 1997.
- **Zoning Permit 97-274 / 097-029**; Renovation to the existing commercial complex, addition to create multiple retail storefronts. 1987 net new square feet. Approved January 1997.
- **Zoning Permit 88-031**; one internally illuminated aluminum sign. Approved August 1988.
- **Zoning Permit COA 87-199**; Convert building to auto body shop; minor exterior work. Approved January 1988.
- **Zoning Permit** 87-746 / COA 87-199A; install one sign. Approved April 1988.
- **Zoning Permit 85-491**; construct a chain fence 4' to run along the west boundary of the property. Approved October 1985.
- **Zoning Permit 84-446 / COA 84-118**; Remove front wall of plate glass and replace with 2 x 6 frame, insulate and finish exterior with vinyl widing. Inistall thermopane picture window. Approved September 1984.
- **Zoning Permit 84-328 / COA 84-088**; construct 30 x 30' one story building to be used as a repair shop to replace a building of the same size and use that was destroyed by fire 4 months previous. Approved July 1984.

- **Zoning Permit 82-546**; parallel sign for "First Quality Carpets." Approved December 1982.
- **Zoning Permit 82-525**; To establish a floor covering and home decoration store. Prior use was a furniture store. Approved December 1982.
- **Zoning Permit 82-344** / COA 82-75; Change pitch of roof. July 1982.
- **Zoning Permit 82-337 / COA 82-73;** establish use as a building supply and material retail outlet – dealing in hot tubs and plumbing fixtures for residential installation. 1000 sq ft devoted to retail use. Approved July 1982.
- **Zoning Permit 81-292**; Change of use from automobile retail business into a furniture retail business. No structural alterations. Approved December 1980.
- **Zoning Permit 78-162**; Used car sales, service and repair. Build partitions and 3 phase electric power in order to create car painting stalls in existing large garage. No additional coverage. Paint shop presently exists in the small garage at 110 Riverside. Issued October 1978.
- **Zoning Permit 75-891**? ; Erect a pylon sign flat against the building. May 1975.
- **Zoning Permit,** erect a 30' x 60' addition on the north side of the existing garage and remodel the front of the showroom. Issued August 1971.

Overview: The applicant has received approval in 2013 from the DRB to raze all buildings on this corner site and develop a multi-story residential building (original request at Sketch Plan Review was for 64-66 units; now set at 57) with 61 parking spaces, 49 of those provided under the building and 12 more on a small surface lot. 25% of the units (14) are intended to be low to moderate income Senior Housing to qualify for the additional height bonus. The applicant asserted in 2014 that time requirements waiting for State permits (Waste Water, Act 250), the project was not likely to meet the commencement/completion dates provided for within the approval. They applied for and received a one-year time extension from the DRB in 2014. In 2015, the applicant demonstrated that they were still under state jurisdictional review (Act 250) and therefore their approval date could be tolled to the date of that decision. Documentation provided however demonstrated that they did not apply for their project until late June 2015, nearly two years after receiving initial project approval from the DRB.
This application again requests another one-year time extension to begin the project.

Recommendation: The applicant has been afforded one time extension by the DRB, and one by demonstrating that the project is still under Act 250 review. Although there is precedent for extending up to three time extensions for DRB approved projects, there is concern that the applicant has not been timely in securing other necessary permits and may, in fact, be profiting by delays afforded through Section **3.2.9 (f)**. It is a full three years since the project was initially reviewed and approved by the DRB. If the DRB feels confident that this time extension will reasonably assure the commencement and completion of the project, then approval is recommended subject to the following findings and conditions:

I. <u>Findings</u>

Section 3.2.9 Zoning Permits

(f) Exceptions to Permit Time Limits:

Except for projects subject to additional state or federal permitting jurisdiction*, or which have been appealed to Vermont Environmental Court pursuant to the requirements of Article 12, there shall be no exceptions to the time limits specified in Section 3.2.9 (D) and € unless longer or shorter time limits are specifically imposed as permit conditions of approval by the DRB at the time of approval.*
For projects subject to additional state or federal permitting jurisdiction, the date of decision shall be deemed to be the latest date of decision of the state or federal permitting authority*.*

The applicant has submitted communication that the Act 250 Draft permit was issued on 7/9/2015 and is pending issuance of the water supply construction permit. The Water Supply Construction Permit was submitted on 6/30/2015 to the Agency of Natural Resources Drinking Water and Groundwater Protection Division. Additional design work was required. He reports that the application is still under technical review by the ANR. This information would meet exceptions provided in the above standard. **Affirmative finding.**

II. Recommended Conditions of Approval

1. The applicant shall demonstrate persistence and timeliness in identifying and securing all required state and federal permits for construction of this project. The project must commence upon securement of said permits, and to the approved plans of July 2, 2013.
2. All conditions of ZP13-0650CA/MA not herein altered shall remain in effect.
3. No other time extensions shall be considered by the DRB.
4. Standard Permit Conditions 1-15.

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

RECEIVED
DEC 20 2012
DEPARTMENT OF
PLANNING & ZONING

PROPOSED WEST ELEVATION

NOTE

ANY MODIFICATIONS OR DEVIATIONS FROM THESE PLANS REQUIRE ZONING APPROVAL PRIOR TO CONSTRUCTION. ALL ERRORS IN DIMENSIONS, PLANS OR DETAILING ARE FULLY THE RESPONSIBILITY OF THE APPLICANT/OWNER.

FINAL APPROVAL

SIGNED _____ DATE 4/23/13

PLANNING & ZONING DEPARTMENT
BURLINGTON, VERMONT

ZP 13-0650CA/MA

see condition #29
-no vinyl-
* approved w/revised conditions 7/2/13

SCHEMATIC DESIGN 12-11-12
1/16" = 1'-0"

STEVE GUILD DESIGN, LLC
ONE STEELE STREET, BURLINGTON, VT 05401
PHONE: 802-363-1482 EMAIL: steve@steveguilddesign.com

110 RIVERSIDE AVE.
NEW APARTMENT BUILDING
BURLINGTON VERMONT

SHEET TITLE: EXTERIOR ELEVATION

DRAWING NO. A9

PROPOSED NORTH ELEVATION

NOTE

ANY MODIFICATIONS OR DEVIATIONS FROM THESE PLANS REQUIRE ZONING APPROVAL PRIOR TO CONSTRUCTION. ALL ERRORS IN DIMENSIONS, PLANS OR DETAILING ARE FULLY THE RESPONSIBILITY OF THE APPLICANT/OWNER.

FINAL APPROVAL

SIGNED _____ DATE 4/23/13

PLANNING & ZONING DEPARTMENT
BURLINGTON, VERMONT

ZP 13-0650CA

See condition #29
~~- No vinyl -~~

approved with revised conditions
7/3/13

PERMITS ONLY
NOT FOR
CONSTRUCTION
12/19/12

SCHEMATIC DESIGN 12-11-12
1/32" = 1'-0"

STEVE GUILD DESIGN, LLC
ONE STEELE STREET, BURLINGTON, VT 05401
PHONE: 802-363-1482 EMAIL: steve@steveguilddesign.com

110 RIVERSIDE AVE.
NEW APARTMENT BUILDING
BURLINGTON VERMONT

SHEET TITLE: EXTERIOR ELEVATION

DRAWING NO. A6

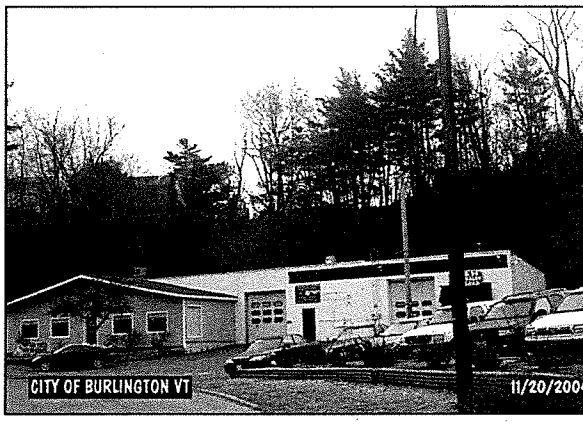
Burlington Development Review Board
149 Church Street
Burlington, VT 05401
www.burlingtonvt.gov/PZ
Telephone: (802) 865-7188
(802) 865-7195 (FAX)

Austin Hart, Chair
Jim Drummond
Michael Long
Brad Rabinowitz
Kevin Stapleton
Jonathan Stevens
Bob Schwartz
Oscar Hernandez, (alternate)
Vacant, (alternate)

Burlington Development Review Boar
Findings of Fac
Deliberative Hearing Monday, April 15, 2013
Reconsideration of Conditions #8 and 29, Deliberative hearing Monday June 24, 2013

Board Members Present: Austin Hart, Michael Long, Brad Rabinowitz, Bob Schwartz, Ali Zipparo, Jim Drummond.

Staff members present: Ken Lerner, Mary O'Neil.



File: ZP 13-0650CA/MA
Location: 110 Riverside Avenue
Zone: Neighborhood Activity Center, Riverside Corridor (NAC-R) **Ward**: 1
Date application accepted: December 20, 2012
First Review by DRB: February 20, 2013
Phase I Environmental Site Assessment submitted: March 11, 2013
Reconsideration of Conditions #8 and #29: Public hearing June 18, 2013.
Applicant/ Owner: Steve Guild Design / Brothers and Sisters (Joe Handy)
Request: Demolish existing c. 1935 former auto repair structure; construct new 4 story 57 (one and two bedroom) unit apartment building with underground parking on 1.22 acre site. Height bonus exercised by providing Senior Housing.

Background:

- **ZP 13-0129; Sketch Plan** review of project. Reviewed by DRB September 18, 2012.
- **Zoning Permit 05-065SN;** 4' x 6' parallel sign for M & H Auto. Approved August 2004.
- **Zoning Permit 04-314;** Increase number of display cars from 25 to 45 and decrease 10 spaces for repair business to 6 spaces. Approved January 2004.
- **Zoning Permit 01**-318 / COA 097-029; Installation of a new non illuminated parallel sign over the entry of the existing used car sales establishment within the existing commercial complex. No change in use. Approved February 2001.
- **Zoning Permit 99-362**; Change of use from vacant commercial to auto and light truck repairs. No exterior changes proposed to the structure. Site currently contains a used auto dealer. Approved March 1999.

- **Zoning Permit 99-419 / COA 097-029B**; Installation of a non illuminated freestanding sign for the existing auto and light truck repair facility. Approved April 1999.
- **Zoning Permit 99-570 / COA 097-029C**; Installation of two signs for the existing auto repair facility. Approved June 1999.
- **Zoning Permit 98-311 / COA 097-029**; replacement of existing sign faces at existing auto sales building. Approved January 1998.
- **Zoning Permit 98-310 / COA 097-029B**; Change of use from retail (see COA 97-029) to used ca sales. Maximum outdoor storage of 25 cars. Approved January 1998.
- **Zoning Permit 97-460 / COA 097-029A**; Partial demolition of the existing structure and parking area to facilitate improvements included in COA 97-029. Approved May 1997.
- **Zoning Permit 97-274 / 097-029**; Renovation to the existing commercial complex, addition to create multiple retail storefronts. 1987 net new square feet. Approved January 1997.
- **Zoning Permit 88-031**; one internally illuminated aluminum sign. Approved August 1988.
- **Zoning Permit COA 87-199**; Convert building to auto body shop; minor exterior work. Approved January 1988.
- **Zoning Permit** 87-746 / COA 87-199A; install one sign. Approved April 1988.
- **Zoning Permit 85-491**; construct a chain fence 4' to run along the west boundary of the property. Approved October 1985.
- **Zoning Permit 84-446 / COA 84-118**; Remove front wall of plate glass and replace with 2 x 6 frame, insulate and finish exterior with vinyl siding. Install thermopane picture window. Approved September 1984.
- **Zoning Permit 84-328 / COA 84-088**; construct 30 x 30' one story building to be used as a repai shop to replace a building of the same size and use that was destroyed by fire 4 months previous. Approved July 1984.
- **Zoning Permit 82-546**; parallel sign for "First Quality Carpets." Approved December 1982.
- **Zoning Permit 82-525**; To establish a floor covering and home decoration store. Prior use was a furniture store. Approved December 1982.
- **Zoning Permit 82-344** / COA 82-75; Change pitch of roof. July 1982.
- **Zoning Permit 82-337 / COA 82-73;** establish use as a building supply and material retail outlet – dealing in hot tubs and plumbing fixtures for residential installation. 1000 sq ft devoted to retail use. Approved July 1982.
- **Zoning Permit 81-292**; Change of use from automobile retail business into a furniture retail business. No structural alterations. Approved December 1980.
- **Zoning Permit 78-162**; Used car sales, service and repair. Build partitions and 3 phase electric power in order to create car painting stalls in existing large garage. No additional coverage. Paint shop presently exists in the small garage at 110 Riverside. Issued October 1978.
- **Zoning Permit 75-891**? ; Erect a pylon sign flat against the building. May 1975.

- **Zoning Permit,** erect a 30' x 60' addition on the north side of the existing garage and remodel the front of the showroom. Issued August 1971.

Overview: The applicant wishes to raze all buildings on this corner site and develop a multi-story residential building (original request at Sketch Plan Review was for 64-66 units; now set at 57) with 61 parking spaces, 49 of those provided under the building and 12 more on a small surface lot. 25% of the units (14) are intended to be low to moderate income Senior Housing to qualify for the additional height bonus.

The **Conservation Board** reviewed the application at their January 7, 2013 meeting, and voted to recommend approval, conditioned upon completion of a Phase II Environmental Site Assessment (ESA.)

The **Design Advisory Board** reviewed the application at their January 8, 2013 meeting. The DAB voted to recommend approval, with the following recommendations:

1. The Design Advisory Board supports clad, aluminum or fiberglass windows rather than vinyl windows.
2. The DAB recommends vertical or horizontal metal or hardiplank siding rather than vinyl. The DAB would allow a split for materials, with vinyl acceptable on the rear; although this board encourages continuity around all elevations in material.
3. Wrap outside corners (brick returns) to front of balcony.
4. Metal porch railings rather than composite/vinyl.
5. Encourage conduit for future solar option.
6. Keep brick details on outside corners as presented on renderings.
7. Provide a security gate for front garage opening.
8. Environmental Site Assessment to be provided as per condition of Conservation Board.
9. Bike parking supported as proposed. Encouragement to keep bike lockers, as they deter theft.
10. Lighting plan has been submitted electronically. To be reviewed by staff.
11. Landscaping plan has been submitted electronically. To be reviewed by staff.
12. Submission of any other plan as required for review prior to DRB.

Evidence Presented:

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

I. Minutes

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

II. Motion by Austin Hart:

I move that the Board **approve** the application and adopt the following findings and conditions.

III. Findings

Article 3: Applications, Permits, and Project Reviews

Section 3.2.4 (a) Fees

Application fees are based on the estimated fair market value of the construction costs for the type and scope of site improvements and construction being proposed. This is not the actual cost to the applicant. Applicants may be required by the administrative officer to document any fees calculated based on the estimated cost of construction in accordance with the most recent publication of the RS Means Construction Cost Estimation catalogue or equivalent.

The applicant has provided an estimated construction cost as $3,500,000. Project plan review by the Assessor's office places the rough estimated cost at $5,500,000 for the four story wood frame building, which significantly differs from the submitted figure. The applicant shall submit documentation to satisfy concern about this discrepancy in cost estimation, or to provide a more accurate figure upon which to bas application and development review fees, as well as a reporting figure for new construction investment within the city. **Affirmative finding if conditioned.**

Part 3: Section 3.3.2 Impact Fees: 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 i an added impact according to Sec. 3.3.4.

Impact fees will be assessed for the gross new floor area, with a credit for the existing square footage currently associated with the automobile service use.

As submitted, the estimated Impact Fee calculation:

Information provided 1/10/2013, email from Steve Guild to Mary O'Neil:

SF of Project 88,772

	Residential	
Department	**Rate**	**Fee**
Traffic	0.182	16,156.50
Fire	0.208	18,464.58
Police	0.042	3,728.42
Parks	0.696	61,785.31
Library	0.431	38,260.73
Schools	0.900	79,894.80
Total	2.459	**$ 218,290.34**

Credit for existing service use:

13666 sq. ft. gross area

	Offices & Other	
Department	**Rate**	**Fee**
Traffic	0.634	8,664.24
Fire	0.186	2,541.88

Police	0.329	4,496.11
Parks	0.392	5,357.07
Library	0.000	0.00
Schools	0.000	0.00
Total	1.541	**21,059.30**

Estimated Impact Fee Due: **197,231.04**

Total Fee: **$197,231.04**

Allocator for department

	Residential	
Department	**Rate**	**Fee**
Traffic	0.182	$ 14,597.82
Fire	0.208	$ 16,683.23
Police	0.042	$ 3,368.73
Parks	0.696	$ 55,824.65
Library	0.431	$ 34,569.57
Schools	0.900	$ 72,187.04
Total	2.459	**$ 197,231.04**

Article 3.3.3 Exemptions and Waivers

(a) Exemptions

No exemptions appear to apply. Any waiver may be linked to:

Sec. 3.3.3 (c) Affordable Housing Waivers

Any residential project containing newly constructed units or substantially rehabilitated housing units that are affordable for households as described in subsections (1), (2) or (3) below are eligible for a waiver of impact fees for that portion of the project. The terms, rules and regulations used herein shall b the same as those defined and specified in this Ordinance pertaining to Inclusionary Zoning (Article 9). The applicability of any waiver of Impact Fees shall be determined by the Housing Officer in the Community and Economic Development Office. Any such waiver, if determined, will be provided to staff (with the associated square foot measurement) so as to correct the calculated impact fee assessment. **Affirmative finding if conditioned.**

Sec. 3.3.7 Time and Place of Payment

Impact Fees must be paid to the city's chief administrative officer/city treasurer according to the following schedule:

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

Part 4: Site Plan and Design Review

(a) Site Plan Review, and

(b) **Design Review** will both be applicable for this project.

Section 3.4.3 Submission Requirements

In addition to the applicable application and submission requirements pursuant to Sec. 3.2.2, all applications for a zoning permit subject to Site Plan and/or Design Review under this Part shall provide any additional information necessary for the adequate review of the proposal under the applicable development principles and standards found in Article 6.

Given the historic use of the property for many decades as an automotive service center, it is appropriate to investigate the health of this particular parcel further prior to development. A Phase I Environmental Assessment (ESA) and a Phase II are warranted to both discern if there remains any residual contamination that requires corrective action and to determine the disposition of known underground storage tanks (USTs). The applicant has submitted a Phase I study, which has not yet been reviewed by the Vermont Department of Environmental Conservation. **Affirmative finding as conditioned.**

Part 5: Conditional Use and Major Impact Review

Sec. 3.5.2 Applicability

(b) Major Impact Review

1. The construction or substantial rehabilitation of five (5) or more dwelling units or the creation through adaptive reuse/conversion of ten (10) or more dwelling units.

The development proposes 57 new residential units. Therefore, Major Impact Review is required.

Sec. 3.5.6 Review Criteria

(c) Major Impact Review Standards:

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

110 Riverside Avenue was originally mis-identified as Site #94-1733 by the Vermont Department of Environmental Conservation. In an email of January 16, 2013, DEC acknowledges the error, but notes the following:

> *There are other significant potential environmental issues with 110 Riverside property too. It was a filling station at one time and had at least 3 gasoline underground storage tanks and a few garage bays for auto repairs (likely with floor drains and/or mechanics pits and associated dry wells or other subsurface drainage appurtenances.) From photographs taken from a UVM archive site, it is apparen that the dispenser pumps are not all located just above the tanks – expanding the areas for potential onsite releases.*

While the construction of new residential dwelling units does not immediately trigger alarm, the previous use as commercial / car repair coupled with the expressed concern of the Department of Environmental Conservation warrants attention. At present, there exists the potential for significant soil contamination, which would have an impact on appropriate soil disturbance as well as storm and groundwater. A Phase I Environmental Site Assessment was submitted to staff March 11, 2013, and the Executive Summary indicates "recognized and historic environmental conditions." A Phase II is warranted to fully understand

the site conditions and to actively pursue a clean-up as recommended by the Conservation Board (and if deemed appropriate by the Department of Environmental Conservation.) **Affirmative finding as conditioned.**

2. *Have sufficient water available for its needs;*

A letter dated November 12, 2012 from Burlington's Department of Public Works informs that Burlington's water and wastewater treatment facilities have sufficient capacity to handle demand associated with the proposed apartment building. **Affirmative finding.**

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

See comment above.

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

This is a challenging site, which rises approximately 60' from front to rear. The applicant has supplied engineered plans to demonstrate avoidance of bank disturbance and the ability to develop the site without adversely impacting the rear embankment. An erosion prevention and sediment control plan has been submitted and has been subject to review by the Conservation Board and the Stormwater Administrator. The Conservation Board has accepted the development plan subject to Phase II site evaluation; however this condition was imposed with the understanding that this was a state-listed contaminated site. The Department of Environmental Conservation has since made a correction about the mis-identification of this site but remains concerned due to the long history of automotive repairs. A Phase I study raises concern about likely site contamination due to previous and historic use.

Any zoning permit will be conditioned upon approval by the City Stormwater Administrator (for stormwater management and the EPSC) and the Department of Environmental Conservation.

Affirmative finding as conditioned.

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

Representatives from the Department of Public Works indicated at Technical Review that a **traffic study** will be required for development of this site. Revised plans provide this estimate:

ITE Trip Generation, 8th edition provides the following estimates for apartments (applied to this proposal):

Weekday: 379 trips
AM Peak (7:30-8:30 am) - 32 trips (6 entering, 26 exiting)
PM Peak (4:30 – 5:30 pm) - 49 trips (32 entering, 17 exiting)

There had been little analysis of how pedestrians can move from this site. While there are bicycle lanes on both sides of Riverside Avenue, there is no crosswalk, and sidewalk linkage is on the other side of the road (as is a public park.) The nearest crosswalk is at Hillside Terrace, approximately 1988 feet to the west. It is not clear how a resident pedestrian will accomplish a trip toward Winooski.

A sidewalk is proposed on the ROW in front of this development; however it will terminate at the boundary line.

The plans were forwarded to the City traffic engineer for an assessment; he has submitted these comments:

- We would like to see a sight distance analysis included in the traffic analysis
- As per parking ordinance, the developer is required to provide bicycle parking (I don't know if they are proposing it, but didn't see it in the site plan).

- Is it necessary to have bi-directional traffic in both driveways? It could be beneficial to have one driveway for entering traffic and one for exiting (to minimize conflicts along riverside)
- Is there any sense of the volume of traffic into the existing site, to better assess what the incremental traffic impact is?
- Please include the queues at the Colchester Avenue intersection as part of the analysis
- Make sure there is adequate lighting next to the driveways (for pedestrian safety)
- The site is somewhat isolated and not properly connected to the sidewalk network. While there is sidewalk directly in front of the site, pedestrians heading towards Colchester Avenue don't have a reasonable option to cross Riverside Avenue and use the existing sidewalk or the shared use path. One option would be to provide some type of mid-block crossing (with rapid flashing beacons or a hawk signal). This requires a detailed analysis to assess the safest location and features of the crosswalk.

A City of Burlington Traffic Engineer presented information, concerns and potential solutions at the March 19, 2013 DRB hearing.

The applicant returned with a more robust traffic report, with a traffic engineer for the April 2, 2013 DRB hearing.
In response to questions raised at the first public hearing, the applicant's modified circulation plan included a right-turn only into the garage at the western curb cut. The applicant also proposed a modified pedestrian crossing across Riverside Avenue with warning lights to slow traffic. The warning lights are not sufficient to provide a safe pedestrian route across Riverside Avenue to the sidewalk on the far side. The applicant, with DPW's approval, must install either a pedestrian-activated stoplight/crosswalk or the continuation of the sidewalk from this site along the southerly side of Riverside Avenue to the intersection of Colchester Avenue. Additionally, the board accepts the recommendation that the garage security gate be left open during the day to prevent traffic queues; but permitted to remain closed and activated by residents during the evening hours. **Affirmative finding as conditioned.**

6. Not cause an unreasonable burden on the city's ability to provide educational services;
Staff made initial inquiries and repeated notifications to the school district when the plan came for sketch plan review, and has forwarded information as the project progresses through review. The school department continues to be interested in the number of bedrooms and overall units, although impact should be somewhat ameliorated given the 14 units dedicated to Senior Housing. In any event, required Impact Fees should off-set any new demand on city educational services. **Affirmative finding as conditioned.**

7. Not place an unreasonable burden on the city's ability to provide municipal services;
Letters of sufficient water supply and wastewater capacity have been submitted from the Department of Public Works. A State Wastewater Permit will be required as well. Required impact fees will address other service demands. **Affirmative finding as conditioned.**

8. Not have an undue adverse effect on rare, irreplaceable or significant natural areas, historic or archaeological sites, nor on the scenic or natural beauty of the area of any part of the city;
This site is not identified as having irreplaceable historic or archaeological merit; however the steep embankment at the rear is a concern with the large development proposed. The application includes

information addressing specific site disturbance with engineered studies to accompany the request. **Affirmative finding.**

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

This is a developed lot. A letter of supply has been provided from the Department of Public Works to address water capacity; it is understood that water pressure issues will be resolved during site development by the applicant. The applicant is encouraged to work with engineering staff from the Department of Public Works to address and remedy any deficiencies relative to public water pressure/supply infrastructure. **Affirmative finding.**

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

The Municipal Development Plan includes the following policies that are in sync with this development proposal:

- *Target new and higher density development into the Downtown, Downtown Waterfront, Enterprise District, Institutional Core Campuses, and the Neighborhood Activity Centers.* (Page 1-2.)
- *Encourage the adaptive reuse and historically sensitive redevelopment of underutilized sites and buildings (Page 1-2.)*
- *Re*: Neighborhood Activity Centers: "The City will draw infill development into these areas through revised zoning that promotes neighborhood-scale mixed uses, increased density, smaller setbacks, additional parking waivers, and height bonuses for shared and below-ground parking. Convenient access to transit, and bicycle and pedestrian routes must also be provided."
- *Enhance the City's Gateways and Streetscapes.* "The City should take active steps to enhance the primary gateways into the city." Pages III-1 and III-5.

Affirmative finding for increased density and use of height bonuses. **Affirmative finding** for access to bicycle and pedestrian routes with condition of approval that requires installation of a pedestrian-activated crosswalk light or continuation of the public sidewalk from this site to the intersection of Colchester Avenue.

- *Re*: Brownfields: "The Burlington Brownfields Pilot Initiative is a US Environmental Protection Agency program that facilitates redevelopment of properties with real or perceived contamination issues through the assessment of environmental risk, remediation planning, and relief from liability. The City has made the cleanup and redevelopment of Brownfields a high priority to improve the environment, increase the tax base, create and retain jobs, and curb sprawl."

Affirmative finding as conditioned. A Phase I and II ESA (if warranted) will be provided, with coordination with the Department of Environmental Conservation to determine a plan for clean-up prior to release of the zoning permit.

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

The proposal will provide 57 new housing units, 14 of which will be set aside for low to moderate senior residents of the City. It is anticipated that the one and two bedroom units will be most welcome due to their size, location, and easy access to public transportation. **Affirmative finding.**

and/or

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

Any impact should be substantially offset with the payment of Impact Fees. **Affirmative finding.**

Article 4: Zoning Maps and Districts

Sec. 4.4.2 Neighborhood Mixed Use Districts

(a) Purpose: *The NAC-Riverside is intended to allow commercial development in areas already predominantly built along this corridor while encouraging emerging mixed-use development. The zone's development standards promote attractive development, an open and pleasant street appearance, and compatibility with adjacent residential areas. Development is intended to be aesthetically pleasing for motorists, transit users, pedestrians, and the businesses themselves. Parking is intended to be placed behind or to the side of principle buildings.*

The proposal, to construct a large multi-unit residential building, conforms to the intent to allow new development in areas already developed along a major traffic corridor. Although no service or commercial use is proposed, residential uses are permitted within the NAC-R. These new residential units will profit from close proximity to the travel corridor and public transit. Parking is proposed both beneath, and next to the primary structure. **Affirmative finding.**

(b) Dimensional Standards and Density

Table 4.4.2-1, Dimensional Standards and Density

NAC-R	Max Intensity(floor area ration)	Max lot coverage	Minimum Building Setbacks			Height
NAC-R(iverside)	2.0 FAR See bonus provision, below.	80%	0 Front*	0 Side**	0 Rear**	Min 20' two stories Max 35'
110 Riverside Avenue proposal	1.49 per plan dated 8.8.12	51.7%	Approx. 40' from Riverside Avenue	50' east 10' west	150'	45' at elevator shaft
Table 4.4.2-2 Sec. 4.4.2 (d) C., Maximum Bonus)	3.0 FAR					Max height 45'

*All structures shall be setback 12 feet from the curb on a public street.

** Structures shall be set back a minimum of 15 feet along any property line that abuts a residential zoning district. [In practice, this has only applied to primary structures and not parking areas.]

Affirmative finding, using bonus provision.

(c) Permitted and Conditional Uses

The subject proposal is a conditional use due to its status as a Major Impact development.

(d) District Specific Regulations

3. Development Bonuses/Additional Allowances

B. Senior Housing

A maximum of an additional 10 feet of building height, and corresponding FAR, may be permitted at the discretion of the DRB in the NAC and NAC-Riverside districts where no less than twenty-five per cent (25%) of the total number of onsite units are reserved for low-moderate income senior households as defined by state or federal guidelines, including no less than ten percent (10%) reserved for low-income households. The total gross floor area dedicated to the senior housing shall be equivalent to the gross floor area resulting from the additional allowance.

The applicant has agreed to dedicate 25% of the proposed (57) residential units to low-moderate seniors, with 10% of those reserved for low-income senior households, to achieve an additional 10' in height and corresponding FAR. The proposal exercises the height bonus within this application. Plan C1 details the gross floor area of the fourth floor (bonus allowance) as 13,066 sq. ft. The required Senior Housing is 25% of the units, or 14 dedicated residential units to exercise the height bonus. This provision states *The total gross floor area dedicated to the senior housing shall be equivalent to the gross floor area resulting from the additional allowance.* Therefore, the gross floor area of the fourth floor shall be less than or equal to the 14 dedicated senior residential units (25% of 57.) The senior housing does not need to be located on the fourth floor; but the gross floor area provided by the height bonus shall be equal to or less than the gross floor area of the dedicated senior units.

The applicant shall provide an annotated floor plan to identify the senior housing units to assure the equivalent gross floor area with the gross floor area achieved through the height bonus. **Affirmative finding as conditioned.**

<u>Article 5: Citywide General Regulations</u>

Sec. 5.1.1 Uses

(c) Permitted Uses

Per Appendix A, Attached Multi-Family, 3 or more units, is a permitted use in the NAC –R zoning district. **Affirmative finding.**

Part 2: Dimensional Requirements

See Section 4.4.2 (b), above. **Affirmative finding.**

Sec. 5.1.2 (d) Accessory Residential Structures

The plan includes an area for trash, but no plans have been submitted for a trash enclosure. This will be a requirement, and subject to Article 6 and review and approval by staff. **Affirmative finding as conditioned.**

Sec. 5.2.3, Lot Coverage Requirements

See Section 4.4.2 (b), above. **Affirmative finding.**

Sec. 5.2.4, Buildable Area Calculation

For any properties two or more acres in size within any RCO, WRM, RM, WRL, or RL zoning district…

110 Riverside Avenue is not over two acres in size nor part of RCO, WRM, RM, WRL, or RL zoning district; but within the NAC-R zoning district. This standard does not apply.

Sec. 5.2.5, Setbacks

See Sec. 4.4.2 (b) above. Note that while the easterly property boundary abuts a Residential district, the required 15' setback has only been exercised for primary structures. Parking has been permitted within that setback. **Affirmative finding.**

Sec. 5.2.6, Building Height Limits
See Sec. 4.4.2 (b) and Sec. 4.4.2 (d). 4. (C), above. **Affirmative finding.**

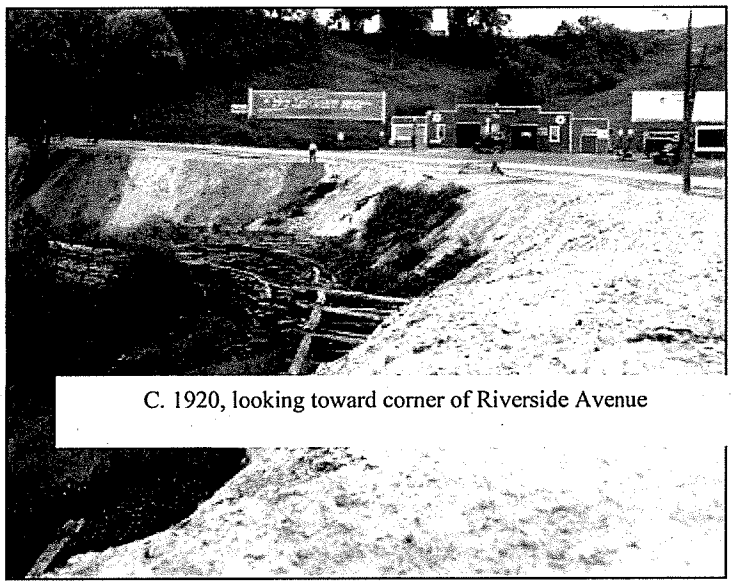
Sec. 5.2.7, Density and Intensity of Development Calculations

(a) District-specific provisions of Article 4 are based on FAR, not units-per-acre.

***(b)* Floor Area Ratio**

In accordance with the district-specific provisions of Article 4 where the intensity of development is measured on a floor area ration basis, the calculation of development intensity shall be measured by dividing the gross floor area of all structures on a site, or portion of the site where split by a zoning district boundary, by the gross site area.

For a site of 53,143 square feet (provided on the Engineer's Plan, C2-01), the maximum FAR allowance would be 159,429 sq. ft. (Bonus max 3.0 FAR.) The application proposes 88,772 (69,499 total gross floor area of the building, 19,273 surface parking = 88,772); or 1.67 FAR. **Affirmative finding.**



C. 1920, looking toward corner of Riverside Avenue

Sec. 5.4.8 Historic Buildings and Sites
(a) Applicability
Although the core building is estimated to have been constructed in 1935, significant modifications and alteration (especially loss by fire) have rendered the extant building without historic merit. The building is not listed on any historic register, nor identified as eligible for historic designation. **Affirmative finding.**

Sec. 5.4.9 Brownfield Remediation
The City of Burlington encourages the remediation and redevelopment of brownfield sites through the waiver or modification of the requirements of this ordinance in situations where development otherwise authorized by the underlying zoning is constrained due to the presence of surface and subsurface contamination. Specifically, these regulations seek to achieve the following goals:

- *To promote the public health and safety by remediating contaminated sites that pose a threat to human and environmental health; and*
- *To encourage an efficient pattern of development in Burlington by supporting the redevelopment of previously developed sites.*

(c) Application Submission Requirements:
In addition to the submission requirements pursuant to Article 3, the following information as applicable specifying any and all use and development limitations of the site shall also be provided at the time of application:

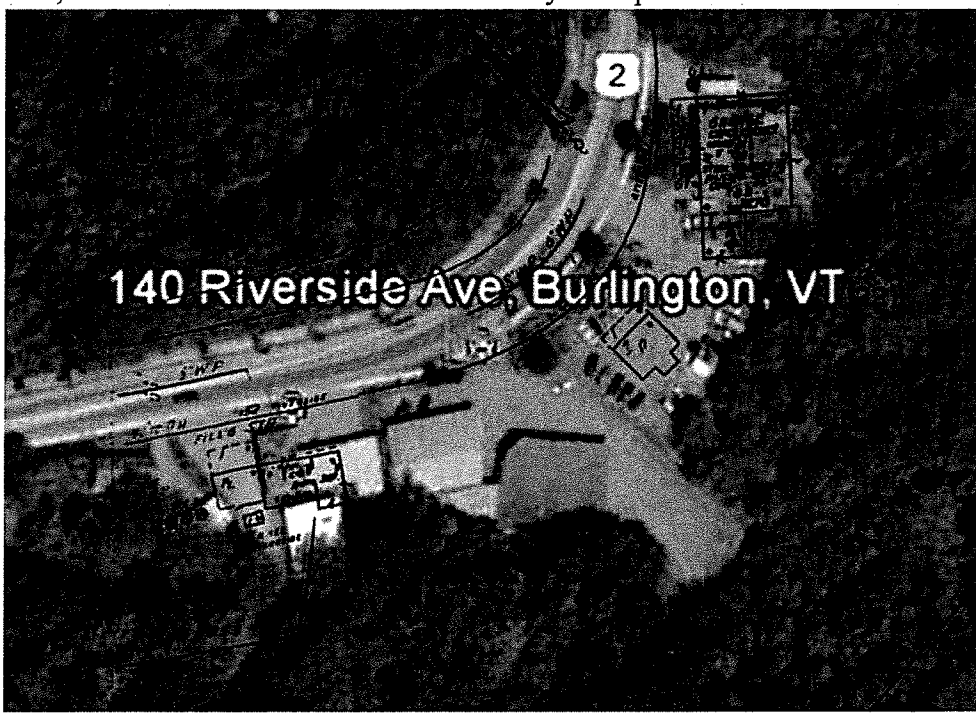
1. A VT DEC Approved Corrective Action Plan (CAP) pursuant to 10 VSA 6615a (h);

2. *A Record of Decision (ROD) issued by the US EPS:*
3. *A VT DEC Approved Corrective Action Plan (CAP) pursuant to VHWMR 7-105(b); and*
4. *Any warranty deed specifying any and all use and development limitations of the site.*

None of the above specified required submission materials have been submitted.

This parcel is identified with a "star" on the Vermont Department of Environmental Conservation Hazardous Sites map. After lengthy communication with DEC, it was ultimately determined that the site had been misidentified as an existing hazardous site. An official of DEC did remark, however, that given the known use of the parcel as an automobile repair shop since the 1930s, there is a probability of site involvement for contaminants. An overlay of a Sanborn Fire Insurance Map with Google Maps indicates the historic presence of at least 3 underground storage tanks (USTs) on the site. There is no documentation for their present condition, or removal. A Phase I ESA was submitted to staff March 11, 2013, who requested a copy be forwarded to the Department of Environmental Conservation.

Given the historic use of the site, and the proposed redevelopment, review and either approval or directio from Vermont's DEC for site corrective action needs to be received prior to issuance of a zoning permit. The applicant is obliged to seek appropriate professional guidance in addressing any surface or subsurfac contamination.
If the site is deemed a brownfield, the State of Vermont has the authority to require this work be completed under Title 10 VSA 6615b.
If a Corrective Action Plan (CAP) or Site Management Activity Completed (SMAC) is required, these must be developed and implemented prior to redevelopment of the site. All documentation relative to site evaluation and treatment plan, if warranted, needs to be under the direction and with the approval of the Vermont Division for Environmental Conservation and the City Stormwater Engineer.
Affirmative finding as conditioned.



Sec. 5.5.1, Nuisance Regulations
Nothing in the proposal appears to result in creating a nuisance as defined under this criterion.
Affirmative finding.

Sec. 5.5.2 Outdoor Lighting
Sec. 5.5.2 (e) General Outdoor Lighting Standards

5. *All outdoor lighting fixtures, other than those using only low output lamps and alternative specifically allowed under these regulation, shall be "Full Cut-Off" or "Cut-Off" as defined by the Illuminating Engineering Society of North America to ensure that glare is minimized, that lighting is directed only to the area to be illumination, that illumination is directed below a horizontal plane, and that illumination does not cast direct light beyond the boundaries of the property on which they are located. Light levels on adjacent properties shall not exceed one tenth (0.1) footcandle as a direct result of the on-site lighting measured 20 feet beyond the property line of the development site.*

The submitted photometric plan includes several lighting measurements on the easterly side exceeding the .1 threshold 20' outside the property boundary. Some readings on the west are greater than .1, as are on the northeast (.4) This shall be a condition of approval, and subject to submission of a revised photometric meeting these guidelines. **Affirmative finding as conditioned.**

5.5.2 (f) Specific Outdoor Lighting Standards
1. Parking Lot Lighting

A. The Maximum mounting height for any fixture shall be 25 ft.

A detail on the lighting plan (L2-01) indicates "Mounting height varies…up to 30 ft." A maximum mounting height shall meet this standard. **Affirmative finding as conditioned.**

A. The maximum illumination level shall not exceed 4 footcandles at any point.

The lighting plan does not indicate any illumination levels that exceed 4 fc in the parking lot area. The detail on the plan, however, reveals that a maximum illumination on the entire plan is 7.5 fc. Where on the site is not clearly identified. The applicant will need to define that location, and confirm that parking lot lighting meets this standard. **Affirmative finding as conditioned.**

B. The maximum illumination level shall only be computed for the functional area of the parking lot.

A separate illumination level was not submitted for the parking lot area; however the reported levels appear to be within the acceptable limitations of this standard. **Affirmative finding as conditioned.**

C. *The maximum to minimum uniformity ration shall not exceed 20:1.* The reported ratio is 15:1 per the detail on plan L2-01. **Affirmative finding.**

D. *Illumination levels are encouraged to be reduced by at least 50% within one hour after the end of public business hours.*

This is a residential development; although there are no public business hours, encouragement shall be offered in the spirit of this standard. **Affirmative finding.**

2. Walkway Lighting:

A. The average illumination level on a walkway or pathway surface shall not exceed 0.5 footcandles. Maximum lighting levels shall not exceed 2 footcandles.

Several of the photometric readings along the northerly walkway are in excess of the 2 footcandle limitation (2.2, 4.0, 2.5), with the average illumination in excess of the standard. Adjustments need to be made to the lighting at this walkway. **Affirmative finding as conditioned.**

It is noted by staff that a pole mounted light fixture is proposed within the ROW. It is not clear whether this exists or is proposed. Any lighting installation within the public ROW shall be in cooperation, approval and partnership with Burlington Electric Department.

Additionally, catalog identification of lighting fixtures is inconsistent with the Lighting plan specification Consistency between specs and plan is a requirement; definition is demanded of the applicant.
Affirmative finding as conditioned.

5. **Parking Garage Lighting**

A. *Light Levels shall not exceed minimums recommended in IESNA document RP-20-98 or current edition.*

B. *Any fixture visible from the exterior of the garage facility shall be a full cutoff or cut-off fixtur or shall be constructed in a manner that prevents glare to be visible from the exterior of the parking garage.*

No specific parking garage lighting fixture or illumination level information has been submitted. Meetin this standard will be a condition of any approval.
Affirmative finding as conditioned.

Sec. 5.5.3 Stormwater and Erosion Control
Work associated with development of this site will require review and approval of a small project erosion control form by the Stormwater Administrator. The scope of development is anticipated to be above the ½ acre threshold for requiring a post-construction stormwater management plan. The applicant provided an erosion prevention and sediment control plan (EPSC), as well as a stormwater management plan at application. Approval of these by the City Stormwater Engineer will be a condition of any approval.
Affirmative finding as conditioned.

Sec. 5.5.4 Tree Removal
The applicant has not defined if any tree removal is proposed or included as part of this development plan This is particularly important, given the steep slope and potential for erosion at the rear of the site. A tree removal or protection plan may be appropriate. **Affirmative finding as conditioned.**

<u>Article 6: Development Review Standards</u>

Part 1: Land Division Design Standards
Not applicable.

Part 2: Site Plan Design Standards

Sec. 6.2.2 Review Standards

(a) Protection of Important Natural Features:
There is an existing and significant embankment that rises at the rear of the site. Any application should include information relative to the protection, stabilization, engineered development, or avoidance of the steep grade. A Grading Plan has been provided as part of this application (C2-02.) As site drainage is expected to be altered, confirmation and approval of the City Stormwater Administrator will be essential. As previously noted, a tree removal plan may be appropriate. **Affirmative finding as conditioned**.

(b) Topographical Alterations:
Plans illustrate proposed hillside alteration, although minimization of alteration is intended. Significant retaining walls, some 8' in height are proposed. Proposed design and construction details for any cut and

fill, or retaining walls over 3-feet in height, shall be subject to review and approval by the city engineer before receiving approval of the site plan. **Affirmative finding as conditioned.**

(c) Protection of Important Public Views:

Not applicable.

(d) Protection of Important Cultural Resources:

Although the existing building is greater than 50 years old, it is not acknowledged to be historically sensitive or to retain any characteristics that would merit attentive examination. **Not applicable.**

(e) Supporting the Use of Renewable Energy Resources:

The proposed building will back into a site cratered on the south by a large elevation change which will likely hinder opportunity to maximize solar gain. Proposed broad expanses of window glass are likely th limited exercise in capturing solar gain. The Design Advisory Board has recommended the installation of conduit to permit the future use of rooftop solar. **Affirmative finding.**

(f) Brownfield Sites:

Where a proposed development involves a known ***or suspected brownfield****, the site plan shall indicate areas of known or* ***suspected*** *contamination, and the applicant shall identify completed or planned remediation necessary to support the intended use(s).*

110 Riverside Avenue was originally misidentified as Hazardous Site #941733 by the Vermont Department of Environmental Conservation. Since that time, DEC has acknowledged the error, but expressed concern that given the historic use of the site as an automotive service center, there is the potential for site contamination. Sanborn Maps confirm the historic presence of underground storage tanks (USTs; see Sanborn Map overlay above.) An assessment is recommended to explore evidence of any contamination from the longstanding use. A Phase I study was submitted to staff on March 11, 2013, however no research has been identified that would shed light on the disposition of the USTs.

The applicant has submitted an email from Russell W. Barton, indicating the intent to monitor soil excavation activities and collect soil samples. Given the lengthy use as an automotive garage, the common use of pit drains for that use, and the likelihood of extant USTs, further site examination is appropriate. If warranted, a Phase II and Corrective Action Plan / Site Management Action Complete (SMAC) should be in place prior to soil disturbance and site excavation. The applicant shall work either directly or through consultants with the State of Vermont Department of Environmental Conservation to appropriately and adequately address site conditions and document appropriate remediation, if necessary. Conversely, a site evaluation may identify the site as clean and of no concern to further development, which would free the applicant from further investigation and reassure banking interests for financing. The DRB requires that approval or certification from DEC on the suitability of the site as remediated for residential use. Absent that, the applicant shall return to the DRB for further review. **Affirmative finding as conditioned.**

(g) Provide for nature's events:

The application includes Stormwater Management and erosion prevention measures. This information has been forwarded to the City Stormwater Engineer to assess and comment upon.

Design features which address the effects of rain, snow, and ice at building entrances, and to provisions for snow and ice removal or storage from circulation areas are required. Balconies would provide some measure of weather protection, as will drive-in parking. The pedestrian entrances on the north elevation and the access door to the south (playground) would benefit from some form of canopy as well. **Affirmative finding as conditioned.**

(h) Building Location and Orientation:

The proposed residential building is "L" shaped, with the backbone facing Riverside Avenue and the base projecting into the southerly hillside. There is a significant Right-of Way expanse of land between the project site and the street, so meeting the required 12' setback from the public curb does not pose a problem. The developer will be required to work with the Department of Public Works for any work proposed within the ROW. **Affirmative finding as conditioned.**

(i) Vehicular Access:

Two curb cuts are proposed: One for direct access to the underground parking area; the other to the small surface parking lot on the east. A modified version of the traffic pattern is accepted: right turn only into the garage at the western curb cut as described in the hearing on March 19, 2013.

See Section 3.5.6 c) 5, above. **Affirmative finding as conditioned.**

(j) Pedestrian Access:

Sidewalks are provided to two entrances on the north, and from the building to the playground area on the south. The public sidewalk terminates at the property line on the east; it is not clear how pedestrians can maneuver off-side (no crosswalk within 1900', no traffic light, the absence of a continuous sidewalk toward Winooski.) The DRB approved either of two options: An extension of the sidewalk on the south side of Riverside Avenue to Colchester Avenue, or alternately, a pedestrian activated crosswalk that would spur a red light for oncoming traffic. **Affirmative finding as conditioned.**

(k) Accessibility for the Handicapped:

An internal elevator is proposed to allow access to all levels of the development. Handicapped parking spaces have been identified (although inconsistent on different plans. A1-1 shows parking spaces 10 and 11 to be H/C; plan C1 shows parking space 10 and a surface parking space H/C.) None of the identified handicap parking spaces include a loading areas required by ADA. At least one handicapped parking space is recommended to be located adjacent to the elevator access within the first floor parking area, rather than solely on the surface parking lot.

More than one h/c space is recommended, if not required by the governance of ADA. **Affirmative finding as conditioned.**

(l) Parking and Circulation:

For the 57 unit residential building, one space per unit is required. The application proposes 49 spaces within the underground lot, and a 12 space surface parking area on the east of the lot. As this does not meet the 15 space threshold, the standard to provide parking lot shading does not apply. The applicant is certainly encouraged to provide shade in an attempt to reduce the effect of the parking area on the local microclimate, air quality, and stormwater runoff.

The plan proposes 11 compact parking spaces within the underground lot (per plan C1. Plan A1-1 shows 6), which exceed the **15% limitation** under Article 8. **Only 7 compact spaces may be provided.**

Plan A1-1 illustrates optional 5' x 2' storage bins within the parking spaces 5-28. This would render all of those spaces as compact, and therefore unacceptable.

A proposed pedestrian walkway is proposed that provides a physical separation between moving and parked vehicles and pedestrians in a manner that minimizes conflicts and gives pedestrians a safe and unobstructed route to the building entrance and the public sidewalk.

Bicycle parking is provided within the parking garage. The narrative indicates four automotive-sized parking spaces will be dedicated to bike parking, providing 9 bike slots each. Only 3 locations have been identified on Plan A1-1. None are full size spaces or provide secure storage (lockers or similar, as recommended by the Design Advisory Board.) From a use standpoint, the isolated location of bike storag facilities is not commensurate with the anticipated need and likely use of the facilities.

No short-term bike storage/parking is identified on the exterior of the building, which is highly recommended.

All bicycle parking areas is required to link directly to a pedestrian route to a building entrance. All bicycle parking shall be in conformance with applicable design & construction details as provided by the dept. of public works.

For 57 units, **14 long term bicycle parking spaces are required** (one for every 4 units); **6 short term parking spaces** (one for every 10 units.) While a sufficient number of long term spaces appears to be provided within the parking garage area, these are recommended to be locker-style or capable of being locked storage to prevent theft. A rack for short-term bicycle parking is recommended for the exterior, near the sidewalk. **Affirmative finding as conditioned.**

(m) Landscaping and Fences:

A list of proposed plantings and a landscaping plan has been submitted. The C2-01 site plan notes removal of a tree fronting Riverside Avenue and removal of wood planters and stone wall. A rain garden is proposed for the northeastern part of the ROW. The Conservation Board noted that the identification, maintenance and retention of the rain garden should be included within the Homeowners Association (HOA) recording (or similar ownership documentation) to prevent the filling-in and removal of the rain garden in the future. The proposed rain garden will drain to the city overflow, into the city system.

Details provided within the submission note concrete block retaining walls, of a maximum height of 8' proposed. Where, the extent of which, and how high at each location will be important for the board to understand. The appearance of such high walls, especially of such dull and uninspiring appearance as stacked solid concrete block, within the context of the existing landscape, may warrant further review. Perhaps a more attractive opportunity exists to soften the harshness of the proposed material, or to better address grade changes more gradually than what is proposed.

Per Sec. 5.2.5 (b) 2, retaining walls are permitted within setbacks; however any wall greater than 3' in height requires approval of the City Engineer.

New or replacement street trees shall be provided consistent with the city's Street Tree Master Plan. All proposed street trees shall be selected and planted in accordance with specifications provided by the city arborist.

No fences appear to be proposed.

Affirmative finding as conditioned.

(n) Public Plazas and Open Space:

While this is proposed to be a private residential development, the plan includes a play and recreational ir the rear (south) for the residents. This is a private area, which will be secure from the street area in visibility and access.

Shadow impacts are not anticipated due to the development being seated into a significant (south) slope; therefore a shadow analysis relative to solar impacts based on sun angle during the Vernal and Autumnal equinox is not likely to be needed. **Affirmative finding.**

(o) Outdoor Lighting:

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

See Section 5.5.2.

(p) Integrate infrastructure into the design:

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

Utility meters/connections shall be illustrated on site plans and building elevations. Plan C2-01 notes removal of existing gas meter; the new location is on the north/east corner of the building. No plan for screening the meter has been provided, and needs to be identified.

The gas meter and any other utility connections should be illustrated on building elevations as well.

Utilities must be undergrounded for all new development.

Utility and service enclosures and screening shall be coordinated with the design of the principal building and should be grouped in a service court away from public view. A dumpster location is identified on the site plan; no plan for screening has been provided. Additionally, at this location, it will likely pose a problem for a trash hauler to back into that spot to empty the dumpster. An area for recycling needs to be identified as well.

A plan for the dumpster enclosure, enclosed on all four (4) sides to prevent blowing trash, and screened from public view is needed. The applicant should consider something of greater aesthetic than chain link fencing. **Affirmative finding as conditioned.**

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

If the applicant proposes any HVAC or rooftop equipment, the submission should be augmented with that information and anticipated noise level (dB) of each unit. **Affirmative finding as conditioned.**

Part 3: Architectural Design Standards

Sec. 6.3.2 Review Standards

(a) Relate development to its environment:

Proposed buildings and additions shall be appropriately scaled and proportioned for their function and with respect to their context. They shall integrate harmoniously into the topography, and to the use, scale and architectural details of existing buildings in the vicinity.

The following shall be considered:

1. Massing, Height and Scale:

While architectural styles or materials may vary within a streetscape, proposed development shall maintain an overall scale similar to that of surrounding buildings, or provide a sensitive transition, where appropriate, to development of a dissimilar scale.

There are no four story buildings on Riverside Avenue; however the looming embankment that rises to the south and connects to Colchester Avenue/Nash Place alters the perspective of the proposed building.

Where the zoning encourages greater intensity and larger scale buildings in high density residential and non-residential zoning districts, buildings that are over 3-stories should provide a transition by employing design elements that reduce the apparent building mass from the street level. Taller buildings and elements are most appropriate where they provide a focal point of a terminal view, anchor a street corner, frame view corridors, or relate to larger scaled structures

The proposed residential building is presented as "layers"; with horizontal elements (materials, colors) that break up the vertical mass. The window alignment accentuates the horizontality of the plan as well. Additionally, the basement/parking level is situated partly below grade, so the full four stories are not readily apparent.

Buildings should maintain consistent massing and perceived building height at the street level, regardless of the overall bulk or height of the building. Buildings should maintain a relationship to the human scale through the use of architectural elements, variations of proportions and materials, and surface articulations. Large expanses of undifferentiated building wall along the public street or sidewalk shall be avoided. The apparent mass and scale of buildings shall be broken into smaller parts by articulating separate volumes reflecting existing patterns in the streetscape, and should be proportioned to appear more vertical than horizontal in order to avoid monotonous repetition. (See also (d) Provide an active and inviting street edge below.)

The proposed building has an undulated wall surface that alternates between projecting/receding, articulated with balconies and varying window groupings. The heavy cornice line "caps" the building, providing a strong terminus to the building's height.

The proposed development site is at a major turn on Riverside Avenue; therefore a visual terminus of a different sort. The building will be clearly visible to travelers from either the north west or north east. In that manner, the building will be monumental as a visual and structural anchor on the Riverside Avenue corridor. **Affirmative finding.**

2. Roofs and Rooflines.

As noted above, the building has a strong cornice line along the proposed flat roof that minimizes the actual structural height. Existing conditions on Riverside Avenue are a mixture of development styles and patterns. A flat-roofed building would not be out-of-place at this location.

Roof-top mechanicals shall be screened from view from the public street, and should be incorporated into and hidden within the roof structure whenever possible.

None have been identified; however if any are proposed, it is unlikely that they will be visible from the pedestrian way due to the building's siting and height.

Solar panels, light colored ballast or roof membranes, split roof clerestories, planted or "green" roof technologies (with a clearly articulated maintenance plan) and "gray water" collection are encouraged. Active rooftop uses are also encouraged to add to the visual complexity and activity of the city's skyline, and afford public access to otherwise unseen views of the city and surrounding landscape.

A working rooftop is encouraged; specifically for stormwater retention/mitigation or for solar collection. The Design Advisory Board has recommended installation of conduit to allow the future inclusion of solar technology. The applicant is encouraged to explore all options. **Affirmative finding.**

3. Building Openings

Principal entrances shall be clearly defined and readily identifiable from a public street whether by a door, a canopy, porch, or other prominent architectural or landscape features. People with physical challenges should be able to use the same entrance as everyone-else and shall be provided an "accessible route" to the building. Attention shall also be accorded to design features which provide protection from the effects of rain, snow, and ice at building entrances, and to provisions for snow and ice removal or storage.

There are several pedestrian access points: Two on the north (street) elevation, one on the west, one through the east (parking entrance), and one on the rear for access to the play space. There is a feel of polite entry on the north elevation, if the proposed landscaping is installed and the access walkway is permitted to be constructed within the public ROW (This needs to be confirmed with officials from the Department of Public Works.) Plan A6 suggests that handicap access may be made through the main (front) door; however the color illustration accompanying the plans show access steps at this entrance. Confirmation is needed.

Window openings shall maintain consistent patterns and proportions appropriate to the use. The window pattern should add variety and interest to the architecture, and be proportioned to appear more vertical than horizontal. Where awnings over windows or doors are used, the lowest edge of the awning shall be at least eight (8) feet above any pedestrian way, and shall not encroach into the public right-of-way without an encroachment permit issued by the dept. of public works.

The proposed window arrangement displays a rhythm and cadence that break up the building mass yet provide needed daylight to the residences. No awnings are illustrated on the plan, or any building mass that encroaches into the public right-of-way. Much of the site development to the north, however, is within the ROW. Agreement needs to be reached with the department of public works about the feasibility of completing this work (pedestrian walkways, plantings, curbing, utility locations).

Buildings placed on a side or rear property line where no setback is required shall contain neither doors nor windows along such façade so as not to restrict future development or re-development options of the

adjacent property due to fire safety code restrictions. Otherwise they should be setback a minimum of 5-feet.

While no setbacks may be required within the NAC-R district, a 15' setback is required for any development that abuts a residential zoning district. This is the case on all but one property line of 110 Riverside Avenue.

The building along the westerly portion of the site, appears to be set back at least 5' from the property line. This elevation is proposed to have both windows and a door, which is acceptable per this standard. **Affirmative finding as conditioned.**

(b) Protection of Important Architectural Resources:

The existing buildings on the site have no documented architectural significance or merit; therefore this standard does not apply. Not applicable.

(c) Protection of Important Public Views:

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

(d) Provide an active and inviting street edge:

Building facades shall be varied along the street edge by the integration of architectural features, building materials, or physical step-backs of the façade along its length. Large expanses of undifferentiated building wall shall be avoided. This may be accomplished by incorporating fenestration patterns, bays, horizontal and vertical façade articulations, the rhythm of openings and prominent architectural features such as porches, patios, bays, articulated bases, stepping back an elevation relativ to surrounding structures, and other street level details. The use of traditional facade components such a parapet caps, cornices, storefronts, awnings, canopies, transoms, kick plates, and recessed entries are highly encouraged. In areas where high volumes of pedestrian traffic are desired, the use of architectura recesses and articulations at the street-level are particularly important in order to facilitate the flow of pedestrian traffic.

As previously noted, the proposed building exercises a variety of methods to provide interest: varying materials, planes, recesses, balconies, material colors, window arrangements, and a heavy cornice line.

Buildings in downtown districts that provide open space by way of building setbacks at the ground level shall utilize landscaping, street furniture, public art, sitting walls, fountains, etc. to maintain a sense of the existing street wall, define a sense of entry for the building and create a space that enhances the pedestrian's experience.

Although this is within the NAC-R corridor rather than the downtown, the broad setback due to an extraordinarily large public ROW offers the possibility of providing similar amenities: benches, plantings, public art, or sitting walls. The applicant is encouraged to work with the Department of Public Works to maximize the potential for a comfortable residential structure at this very visible corner.

Urban "open" space shall maximize accessibility for all individuals including the disabled, and encourage social interaction.

Plans detail handicap curb ramps within the public ROW. Confirmation that all pedestrian access walks and at least one building entrance is h/c accessible is required. **Affirmative finding as conditioned.**

(e) Quality of materials:

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

The principle building elevation (north) is proposed to be brick veneer, standing seam, vertical metal siding, and vinyl siding. Vinyl has been proposed for much of the rest of the building, particularly those areas not readily visible from the street. Contemplating this proposal, one has only to look around Burlington at buildings that were constructed, even for investment purposes, intended to last for many generations. Quite simply, a material like vinyl, which tends to look tired after 10 years and quite disagreeable after 20 years, is not appropriate on a building that should be intended for many decades, if not generations. Vinyl does not enjoy the durability or beauty of other materials, and is not considered to be of a quality that should be entertained on such a visible street corner. Brick and metal are appropriate and acceptable. The applicant should consider another material of greater durability and beauty, perhaps cement composite or alternate that has a life expectancy to match that of the intended structure.

The DAB included an allowance for differing material on the rear elevation, recommending a more substantial clapboard material on visible elevations and within the balconies; but encouraged consistency throughout.

The DAB also favored metal railings rather than the proposed vinyl, which they indicated, combined with vinyl siding and vinyl windows were contributing toward an overall and unfavorable "public housing" appearance.

The Development Review Board does not accept vinyl siding for the proposed development. The applicant shall be required to return to the DRB for review of another more acceptable material.

Window specs define proposed double hung vinyl windows. No door specs were submitted. **Affirmative finding as conditioned.**

(f) Reduce energy utilization:

New structures should incorporate the best available technologies and materials in order to maximize energy efficient design. All new construction shall meet the Guidelines for Energy Efficient Construction pursuant to the requirements of Article VI. Energy Conservation, Section 8 of the City of Burlington Code of Ordinances.

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

New construction will be required to meet the above noted Guidelines for Energy Efficient Construction. As previously noted, solar access is encouraged. The DAB has recommended installation of conduit to allow for its future exercise. **Affirmative finding as conditioned.**

(g) Make advertising features complementary to the site:

No signage is included within this application. Any signs will require a separate sign permit. **Affirmative finding as conditioned.**

(h) Integrate infrastructure into the building design:

See Section 6.2.2. (p) above.

(i) Make spaces secure and safe:

Spaces shall be designed to facilitate building evacuation, accessibility by fire, police or other emergency personnel and equipment, and, to the extent feasible, provide for adequate and secure visibility for persons using and observing such spaces. Building entrances/entry points shall be visible and adequately lit, and intercom systems for multi-family housing should be incorporated where possible, to maximize personal safety.

All requirements for building ingress and egress shall meet the approval of the building inspector and fire marshal.
An intercom system for resident safety is encouraged per this standard.
Affirmative finding if conditioned.

Article 7: Signs

No signage is proposed. Any signage will require a separate sign permit. **Affirmative finding if conditioned.**

Article 8: Parking

This is a Shared-Use Parking District. Per Table 8.1.8-1, 1 parking space is required per residential unit. With 57 units proposed, 57 parking spaces will be required. The application proposes 61 parking spaces. Overall the application appears to be adequate in the number of parking spaces, but there remain a few problems. The minimum back-up length (24', as noted in **Table 8.1.11-1, Minimum Parking Dimensions**) does not appear to be available in the easterly under-ground parking area. Scaled from the submitted site plan, the back-up area appears to be 20-21 feet at this location. Additionally, some of the parking spaces are undersized based on the above noted minimum parking dimensions (those located at building jogs) or lack any back-up space at all (last parking space on the south/west corner.) As there is adequate parking provided when exterior spaces are considered, some of these "odd" undersized interior spaces may be delegated to lockable bicycle storage. (See Sec. 8.2.5, below.) **Affirmative finding as conditioned.**

Sec. 8.1.9 Maximum Parking Spaces

The total number of parking spaces provided ***in all parking districts*** *shall not be more than 125% of the minimum number of spaces required for the Neighborhood Parking District for any given use as required in Table 8.1.8-1.*

This is not the Neighborhood Parking District, but the Shared Use Parking District.

(a) Exemptions

1. ***Structured parking****: Spaces provided within the footprint of a structure containing one or more other uses, including rooftop, at-grade, or below grade spaces shall not be counted towards the maximum, provided the floor area dedicated to parking is less than 50% of the total gross floor area of the structure.*

The provided parking is less than 50% of the total gross floor area of the structure; therefore the project is exempt from the maximum parking spaces accounting. **Not applicable.**

Sec. 8.2.5 Bicycle Parking Requirements
Table 8.2.5-1
Long Term Bicycle Parking requirement = 1 for every 4 units
Short Term Bicycle Parking requirement = 1/10 units.
For **57 units**, requirement will be **14 long term** bicycle parking spaces, **6 short term** bicycle spaces. The location of these bicycle parking / storage areas has been identified on the parking lot (floor) plan, with 3 dedicated areas for secure bicycle parking. At the DAB it was presented that an average (car) parking space would fit 9 bicycles for storage. The application appears to exceed the required number of long term bicycle parking spaces. The DAB noted that the bicycle parking plan, as presented, was acceptable and that they encourage lockable, enclosed/secure bicycle parking to deter theft.
A short term bicycle parking location to meet the required 6 short term parking spaces is encouraged for the exterior; adjacent to the pedestrian path. **Affirmative finding as conditioned.**

Article 9: Inclusionary and Replacement Housing
(See Section 9.1.6, below)
The applicant proposes exercising the opportunity for a height and FAR bonus for providing senior housing. To exercise the height and FAR bonus, 25%, or **14 units will have to be dedicated to senior housing**. The applicant is encouraged to have early discussion with the housing representative from the Community and Economic Development Office, to determine the level of affordability, and whether any bonus provisions or waivers from Impact Fees will apply. In any case, the project must provide 14 senior units (25% of 57 units) to achieve the height bonus (up to 45'), with 10% of the total reserved for low-income households. As previously noted under Sec. 4.4.2 (d) 3.B., the total gross floor area dedicated to the additional senior housing shall be equivalent to the gross floor area resulting from the additional allowance.
Affirmative finding as conditioned.

Sec. 9.1.6 Exemptions
Exempt from the requirements of this article are:
c) Projects created using the Senior Housing Development Bonus pursuant to the provisions of Article 4.
The redevelopment of 110 Riverside Avenue, proposed to exercise the Senior Housing (height) bonus, is therefore exempt from the requirements of Article 9. Income requirements for affected units, however, shall remain per Sec. 4.4.2 (d) 3. B., Senior Housing. **Affirmative finding as conditioned.**

IV. Conditions of approval:

1. Impact Fees must be paid to the city's chief administrative officer/city treasurer according to the following schedule:
   (a) New Buildings: Impact fees must be paid at least seven (7) days prior to occupancy of a new building or any portion thereof.

   Fees shall be as noted in Sec. 3.3.2 and 3.3.3, unless revised to reflect a change in the total gross square footage of the development or to reflect the appropriateness of Impact Fee waivers or reductions. Any request for waivers or reductions of Impact Fees shall be accompanied by a Certificate of Inclusionary Housing Compliance issued by the manager of the city's Housing Trust Fund, confirming applicability for any such waiver or reduction, and providing the Square foot calculation benefiting from the waiver
2. The applicant shall provide either documentation to substantiate the submitted estimated construction cost, or a more accurate figure based upon the RS Means Construction Cost catalogue or similar. Any

additional application or development review fees incurred as a result of cost estimation adjustment shall be paid **prior to release of any zoning permit**.

3. Any signage will require a separate sign permit.
4. **Prior to release of the zoning permit**, the development plan, including site stabilization, retaining walls, stormwater, and erosion prevention and sediment control (EPSC) and Stormwater Managemen plans, shall be approved in writing by the City Stormwater Engineer or building inspector, as appropriate.
5. A State Wastewater Permit will be required for water and sewer service. It is the obligation of the owner/applicant to seek this and any other required additional permits.
6. The project must provide **14 low to moderate income senior housing units, (25% of 57), with not less than 10% of those (6) reserved for low-income households** to secure the building height bonus identified in ***Sec. 4.4.2 (d) 3. B; Senior Housing*** (up to 45'.)
   Although the development is exempt per Article 9 for Inclusionary Housing (See Article 9, Sec. 9.1.6), income eligibility for reserved senior units shall remain. Per the Housing Trust Fund officer:
   > Under the Senior Housing bonus, 10% of the units are affordable to and occupied by low-income households (80% Area Median Income), and another 15% are affordable to and occupied by moderate-income households (100% of AMI). Article 9 Inclusionary Housing requires at least 15% of the units be affordable to and occupied by households at 65% of AMI.

   Compliance will be monitored by the Housing officer.
7. **Prior to release of the zoning permit**, the applicant will submit or cause to submit a floor plan with area calculation to confirm that the gross floor area recognized by the height bonus (fourth floor) is less than or equal to the gross floor area reserved for senior housing.
8. The DRB accepts and approves the proposed pedestrian crossing with the pedestrian activated flashing light signal as described by the applicant. The applicant shall use the modified traffic and circulation plan submitted at the second public hearing, including the limited access westerly entrance into the garage with stops signs and gate to control improper use.
9. Any demolition, site disturbance, development or other work on the site shall be in concert with the Vermont Department of Environmental Conservation. The DRB requires approval or certification from the Vermont Department of Environmental Conservation (DEC) on the suitability of the site as remediated for residential use. Absent that, the applicant shall return to the DRB for further review. Any site remediation, which may include Site Management Activity Completion (SMAC) shall be defined by and coordinated by the Vermont Department of Environmental Conservation.
10. The Maximum mounting height for any lighting fixture shall be 25 ft.
11. The maximum illumination level within the parking lot shall not exceed 4 footcandles at any point.
12. Illumination levels of the parking lot are encouraged to be reduced by at least 50% within one hour after the end of public business hours.
13. The average illumination level on a walkway or pathway surface shall not exceed 0.5 footcandles. Maximum lighting levels shall not exceed 2 footcandles. A revised lighting plan/photometric shall be provided to staff to confirm adjustments to meet this standard **prior to release of the zoning permit.**
14. Light levels on adjacent properties shall not exceed one tenth (0.1) footcandle as a direct result of the on-site lighting measured 20 feet beyond the property line of the development site. This shall be confirmed with photometric readings that include those adjacent areas within the specified 20' of all property boundaries **prior to release of the zoning permit.**
15. Specifications for lighting fixtures shall be consistent with fixtures noted on the lighting plan.

16. Light Levels within the parking garage shall not exceed minimums recommended in IESNA document RP-20-98 or current edition. This shall be demonstrated **prior to release of the zoning permit.**
17. Any fixture visible from the exterior of the garage facility shall be a full cutoff or cut-off fixture or shall be constructed in a manner that prevents glare to be visible from the exterior of the parking garage. This shall be demonstrated **prior to release of the zoning permit.**
18. The applicant shall define any tree removal, especially as it relates to trees that may provide stabilization on the rear slope vulnerable to erosion. If appropriate, a tree removal or protection plan shall be submitted per Sec. 5.5.4.
19. Proposed design and construction details for any cut and fill, or retaining walls over 3-feet in height, shall be subject to review and written approval by the city engineer **prior to release of the zoning permit.**
20. There will be consistency in plan for identification of handicap parking spaces. All handicap parking spaces will meet ADA guidelines for size and required loading area.
21. Internal bicycle storage shall be provided to accommodate at least **14 long term bicycle parking spaces**. It is highly recommended that these are locker-style or secure/lockable storage units to prevent theft. Per the ordinance, **6 short term bicycle parking spaces** are required as well (1/10 units.) A bicycle rack for short term bicycle parking shall be located on the exterior of the building, and identified on the site plan. A short term bicycle parking location to meet the required 6 short term parking spaces is encouraged for the exterior; adjacent to and a direct connection to the pedestrian path.
22. New or replacement street trees shall be provided consistent with the city's Street Tree Master Plan. All proposed street trees shall be selected and planted in accordance with specifications provided by the city arborist.
23. If HVAC or rooftop equipment is proposed, the submission should be augmented with that information (including any additional height, which would apply toward overall building height limitation) with anticipated noise level (dB) of each unit. **This information shall be provided prior to decision and subject to review and approval of the DRB.**
24. Utility meters/connections shall be illustrated on site plans and building elevations.
25. The manner of trash enclosure shall be submitted for review and approval by staff **prior to release of the zoning permit**. Thoughtful consideration of performance as well as aesthetic will be expected.
26. An area for recycling must be identified **prior to release of the zoning permit.**
27. The applicant/owner will work in junction and agreement with the Department of Public Works in the development of any part of this project within the public right-of-way, including but not limited to lighting, sidewalk installation, utilities, landscaping, etc.
28. Balcony and other railings will be metal.
29. The DRB accepts the proposed siding on the north, south, east and west that are defined as brick, metal, wood clapboard or composite clapboard, including within the balcony areas. The DRB also approves vinyl siding on the rear elevation with Azek molding and trim, as proposed, **but require a revised elevation with colors**, taking into account Azek or similar may not hold a dark color well, and advised not to be painted dark. Color selection should serve the purpose of breaking up the wall and be a color differentiated from the vinyl siding. The revised elevation shall be submitted prior to **release of the zoning permit**.
    [Azek material identified on plans, but material not specific to brand name.]
30. Door specs will be submitted **prior to release of the zoning permit**.

31. Conflict exists between the color illustration accompanying the submission, and the plan on A6, which shows stairs in front of the primary entrance. Confirmation that all pedestrian access walks and at least one building entrance is h/c accessible is required.
32. Illustrations shall be corrected to reflect stairways that descend to ground on the westerly elevation.
33. Standard Permit Conditions 1-15.

Second: Brad Rabinowitz
Vote: 6-0
Vote: motion carried

[See attached transcript of deliberative hearing to reconsider Conditions #8 and #29.]

Dated at Burlington, Vermont, this 2nd day of July, 2013.

Respectfully Submitted,

Austin D. Hart

Austin Hart, Development Review Board Chair

Please note that an interested person may appeal a decision of the Development Review Board t the Vermont Superior Court, Environmental Division. (Comprehensive Development Ordinanc Article 12, Section 12.2.3 Appeals of Development Review Board Decisions: An interested perso may appeal a decision of the Development Review Board to the Vermont Environmental Cour within 30 days of the date of the written decision as follows:
(a) Notice of Appeal: The appeal shall be taken in such a manner as the Supreme Court or th environmental court may by rule provide for appeals from state agencies governed by Sections 80 through 816 of Title 3, Vermont Statues Annotated. Notice of the appeal shall be sent by mail t every interested person appearing and having been heard at the hearing before the DRB, and, i any one or more of those persons are not then parties to the appeal, upon motion they shall b granted leave by the court to intervene.)

ZP 13-0650CA/MA
110 Riverside Avenue
Reconsideration of conditions #8 and #29

DRB Deliberative June 24, 2013:

Board members present: Austin Hart, Michael Long, Jim Drummond, Brad Rabinowitz, Kevin Stapleton, Ali Zipparo, and Jonathan Stevens.

Staff present: Ken Lerner, Mary O'Neil, Kim Sturtevant.

Motion by Austin Hart (relative to pedestrian crossing signal, Condition #8):

I move that we approve the proposed pedestrian crossing with the pedestrian activated flashing light signal as described by the applicant.

2nd: Jim Drummond

Vote 4-3 (Ali Zipparo, Jonathan Stevens, Michael Long dissenting.)

Motion by Austin Hart (relative to siding; condition #29):

I move we approve the revised elevation showing the vinyl siding on the rear elevation with Azek molding and trim, as proposed, but require a revised elevation with colors, taking into account Azek or similar may not hold a dark color well, and advised not to be painted dark. Color selection should serve the purpose of breaking up the wall and be a color differentiated from the vinyl siding.

[Azek material identified on plans, but material not specific to brand name.]

2nd – Brad Rabinowitz

Vote 4-3 (Ali Zipparo, Jonathan Stevens, Michael Long dissenting.)

June 9, 2016

149 Church St
City Hall
Burlington, VT 05401

Re: Permit extension

Project: Riverside Ave Apartments

Project Location: 110 Riverside Ave

Dear Mary:

I want to inform you that Sisters & Brothers Investment Group want to file for an extension. They submitted all the required information last year and are waiting water supply approval and ACT 250 permit approval.

The Act 250 Draft permit was issued on 7/9/2015 and is pending issuance of the Water Supply Construction Permit. The Water Supply Construction Permit was submitted on 6/30/2015 to the ANR Drinking Water and Groundwater Protection Division. Initial review comments were issued on 11/25/2015, which required additional design work relating to the fire suppression system. This design work was completed and submitted back to the Water Supply Division for technical review on 5/11/2016. As of 6/8/2016, the application is still under technical review by the ANR.

Sincerely,

Joe Handy

RECEIVED
MAY 26 2016
DEPARTMENT OF
PLANNING & ZONING

May 24, 2016

149 Church St
City Hall
Burlington, VT 05401

Re: Permit extension

Project: Riverside Ave Apartments

Project Location: 110 Riverside Ave

Dear Mary:

I want to inform you that Sisters & Brothers Investment Group want to file for an extension. They submitted complete applications for state permits (Wastewater System and Water Supply, Water Supply Construction, and Act 250) last year. A Draft Act 250 Permit has been issued and further action by agencies on both Wastewater and Act 250 permits is pending approval of the Water Supply permit, which is under technical review.

Sincerely,

Joe Handy (owner)

Department of Planning and Zoning
149 Church Street
Burlington, VT 05401
Telephone:(802) 865-7188
(802) 865-7195 (FAX)
(802) 865-7142 (TTY)

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

TO: Development Review Board
FROM: Scott Gustin SG
DATE: July 19, 2016
RE: 16-1318CU; 120-132 North Willard 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: 1E

Owner/Applicant: Tioli Properties, LLC

Request: Allow 5 unrelated adults within a dwelling unit

Applicable Regulations:
Article 3 (Applications and Reviews), Article 4 (Maps & Districts)

Background Information:
The applicant is seeking approval to allow occupancy of a detached single dwelling unit with 5 unrelated adults. Such request is subject to conditional use review. No construction is included in this proposal. Site and building conditions are to remain unchanged. Note that the subject property contains a 4-plex in addition to the detached single dwelling unit for a total of 5 units onsite. This application comes as a result of a Code Enforcement investigation relative to occupancy of the subject dwelling by more than 4 unrelated adults.

Previous zoning actions for this property are noted below.

- 3/26/03, Approval of building renovations, site modifications, and demo of outbuildings
- 8/1/01, Approval for installation of 2nd driveway (from Henry Street)

Recommendation: **Conditional use denial** as per, and subject to, the following findings:

I. Findings
Article 3: Applications and Reviews
Part 5, Conditional Use & Major Impact Review:
Section 3.5.6 (a) Conditional Use Review Standards
Approval shall be granted only if the DRB, after public notice and public hearing, determines that the proposed conditional use and associated development shall not result in an undue adverse effect on each of the following general standards:

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

Occupancy of the subject dwelling unit by a 5th unrelated adult will entail little additional demands on municipal services or utilities. **(Affirmative finding)**

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

The subject property is located within the RL zone, across the street from the higher density RM zone. The property is anomalous in that it contains two primary structures: a single detached dwelling and a 4-plex. Other nearby properties reflect a variety of 1, 2, and 3-dwelling unit structures. The RL zone is intended primarily for low density residential development in the form of detached single family homes and duplexes. No change in use is included in this proposal. To the extent that the single detached dwelling would remain as such, it can be found in character with the area. **(Affirmative finding)**

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

The requested occupancy of 5 unrelated adults will not have nuisance impacts from odor, dust, heat, and vibrations greater than that generated by other residential neighborhoods in the area. Noise is one effect that may reasonably be expected. The one example of approved occupancy by more than 4 unrelated adults (26 Summit St) included a written property management plan that outlined standards for, and responses to, adverse effects such as noise. Nothing in the subject application outlines how adverse impacts would be addressed. **(No finding possible)**

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

No traffic information has been provided nor is required for a proposal of this small scale. Traffic impacts associated with one additional adult are expected to be minimal. **(Affirmative finding)**

and,

5. *The utilization of renewable energy resources;*

Nothing in the application addresses utilization of renewable energy resources. The requested occupancy will have no effect on the future utilization of renewable energy resources on the subject property. **(Affirmative finding)**

and,

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

The property is, and will continue to be, subject to the city's building and minimum housing codes. **(Affirmative finding if conditioned)**

(b) Major Impact Review Standards

Not applicable.

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

1. Mitigation measures, including but not limited to screening, landscaping, where necessary to reduce noise and glare and to maintain the property in a character in keeping with the surrounding area.
The applicant should be prepared to develop a property management plan that articulates standards for, and responses to, adverse effects such as noise on the surrounding neighborhood. As noted above, no such information has been provided. **(No finding possible)**

2. Time limits for construction.
Not applicable.

3. Hours of operation and/or construction to reduce the impacts on surrounding properties.
See criterion 2 above.

4. That any future enlargement or alteration of the use return for review to the DRB to permit the specifying of new conditions; and,
Any future enlargement or alteration will be reviewed under the zoning regulations in effect at that time.

5. Such additional reasonable performance standards, conditions and safeguards, as it may deem necessary to implement the purposes of this chapter and the zoning regulations.
Conditions of approval will apply if the application is approved.

Article 4: Maps & Districts
Sec. 4.4.5, Residential Districts:
(a) Purpose
(1) Residential Low Density (RL)
The subject property is located in the RL zone. This zone is primarily intended for low density residential development in the form of single family homes and duplexes. This district is typically characterized by a compact and cohesive residential development pattern reflective of the respective neighborhood's development history. Insofar as the subject single detached dwelling unit will remain as such, it is consistent with the intent of the RL zone. **(Affirmative finding)**

(b) Dimensional Standards & Density
Not applicable.

(c) Permitted & Conditional Uses
The single detached dwelling unit is a permitted use in the RL zone. Proposed occupancy in excess of 4 unrelated adults; however, requires conditional use review. **(Affirmative finding)**

(d) District Specific Regulations
1. Setbacks

No setback encroachments are sought. **(Not applicable)**

2. Height
Not applicable in RL. **(Not applicable)**

3. Lot Coverage
No lot coverage exceptions are sought. **(Not applicable)**

4. Accessory Residential Structures and Uses
No accessory structures or uses are included in this proposal. **(Not applicable)**

5. Residential Density
A dwelling unit may be occupied by more than 4 unrelated adults if it contains at least 2,500 sf (excluding the basement and attic) and, if in the RL zone, the dwelling unit also contains at least an additional 250 sf and 1 additional parking space per adult occupant in excess of 4.

The subject dwelling unit contains 2,608 sf living space. This figure includes 578 sf on the 3rd floor. The applicant asserts that this 3rd floor space is not an attic, as the ceiling is flat under the pitched roof. Photos have been provided. The Comprehensive Development Ordinance does not define the term "attic." A Visual Dictionary of Architecture (Francis D.K. Ching, 1995) defines "attic" as "a room or space directly under the roof of a building, esp. a house." In this case, the 3rd floor space within the turret has a flat ceiling at 7' 10"; however, other 3rd floor space has a partial flat ceiling at 6' 5" with heavily slanted sides. Note that the 2003 zoning permit for building renovations included finishing this 3rd floor space – it notes the renovations under "Attic Plan."

As noted previously, the subject property contains a detached dwelling unit and a 4-plex. Total parking onsite is 6 spaces. The minimum parking requirement per Table 8.1.8-1, *Minimum Off-Street Parking Requirements*, is 2 spaces per unit (10 total) in this Neighborhood Parking District. Parking is nonconforming. There is inadequate parking for the present uses onsite, never mind additional occupancy.

All facilities within the dwelling unit, including bathroom and kitchen facilities, must be accessible to the occupants without passing through any bedroom. Each room to be occupied as a bedroom must contain at least 120 sf. The application asserts compliance with this provision, but no floor plans have been provided to depict current interior conditions. The 2003 floor plans depict an acceptable arrangement, but include only 4 bedrooms. **(Adverse finding)**

6. Uses
(Not applicable)

7. Residential Development Bonuses
No development bonuses are being sought. **(Not applicable)**

II. Reasons for Denial
Per the adverse findings and above.

Anita Wade

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MAY 24 2016
DEPARTMENT OF
PLANNING & ZONING

From: Jon Pizzagalli <jonpizzagalli@gmail.com>
Sent: Tuesday, May 24, 2016 4:20 PM
To: Scott Gustin; Anita Wade
Subject: 132 North Willard St. Occupancy

Scott—

As discussed in your office yesterday, Tioli Properties is requesting conditional use approval from the DRB for 5 unrelated adults to be allowed to occupy the single-family structure located at 132 North Willard Street. Tioli Proper maintains the following:

1. The living area on the first and second floor total 2,358sf. The living area on the third floor noted on the approved zoning permit on file is 578sf. The RL zoning regulations require 2,500sf of living space, plus 250sf each additional occupant over 4.
2. The same approved zoning permit on file notes 6 parking spaces on the property. The RL zoning regulations require 1 additional parking space for additional occupants over 4.
3. The third floor should not be defined as 'attic' (excluded in the zoning regulations from the above square footage criteria), as it is not the space or room immediately below the roof. The third floor has flat, finished ceilings below pitched roof framing. No bedrooms are located on the third floor.
4. No facilities are required to be accessed through a bedroom, and all bedrooms have a minimum of 120sf.

Our belief is that the building accommodates a 5th occupant in both the spirit and letter of the regulations.

Thanks,

Jon Pizzagalli
Member, Tioli Properties

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From 2003 zoning permit (4 sheets)

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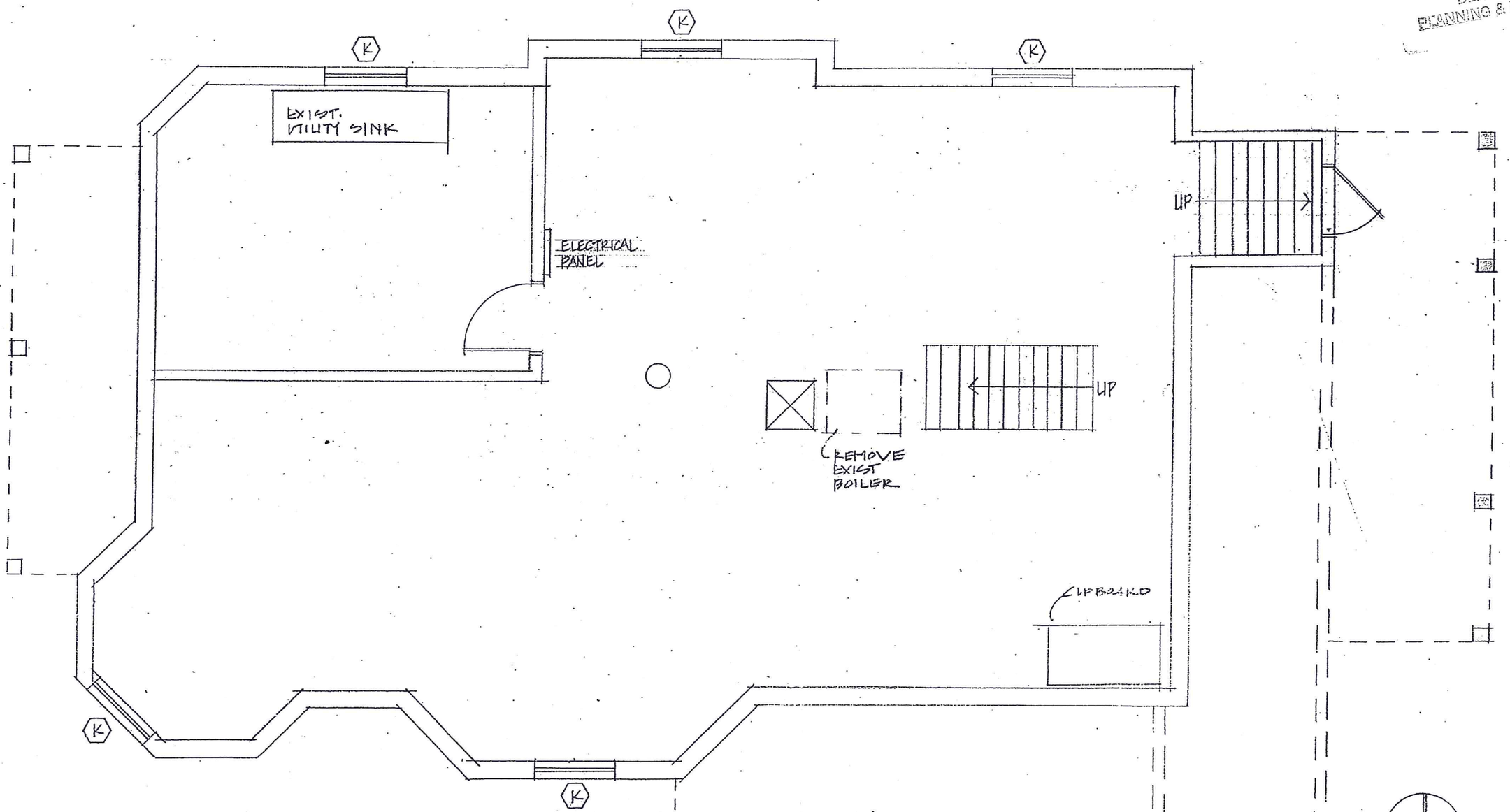

BASEMENT PLAN A'
1/4"=1'-0"

-- NOTE --

ANY MODIFICATIONS OR DEVIATIONS FROM THESE PLANS REQUIRE ZONING APPROVAL PRIOR TO CONSTRUCTION. ALL ERRORS IN DIMENSIONS, PLANS OR DETAILING ARE FULLY THE RESPONSIBILITY OF THE APPLICANT/OWNER.

FINAL APPROVAL

SIGNED _____ DATE 3-26-03

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BURLINGTON, VERMONT

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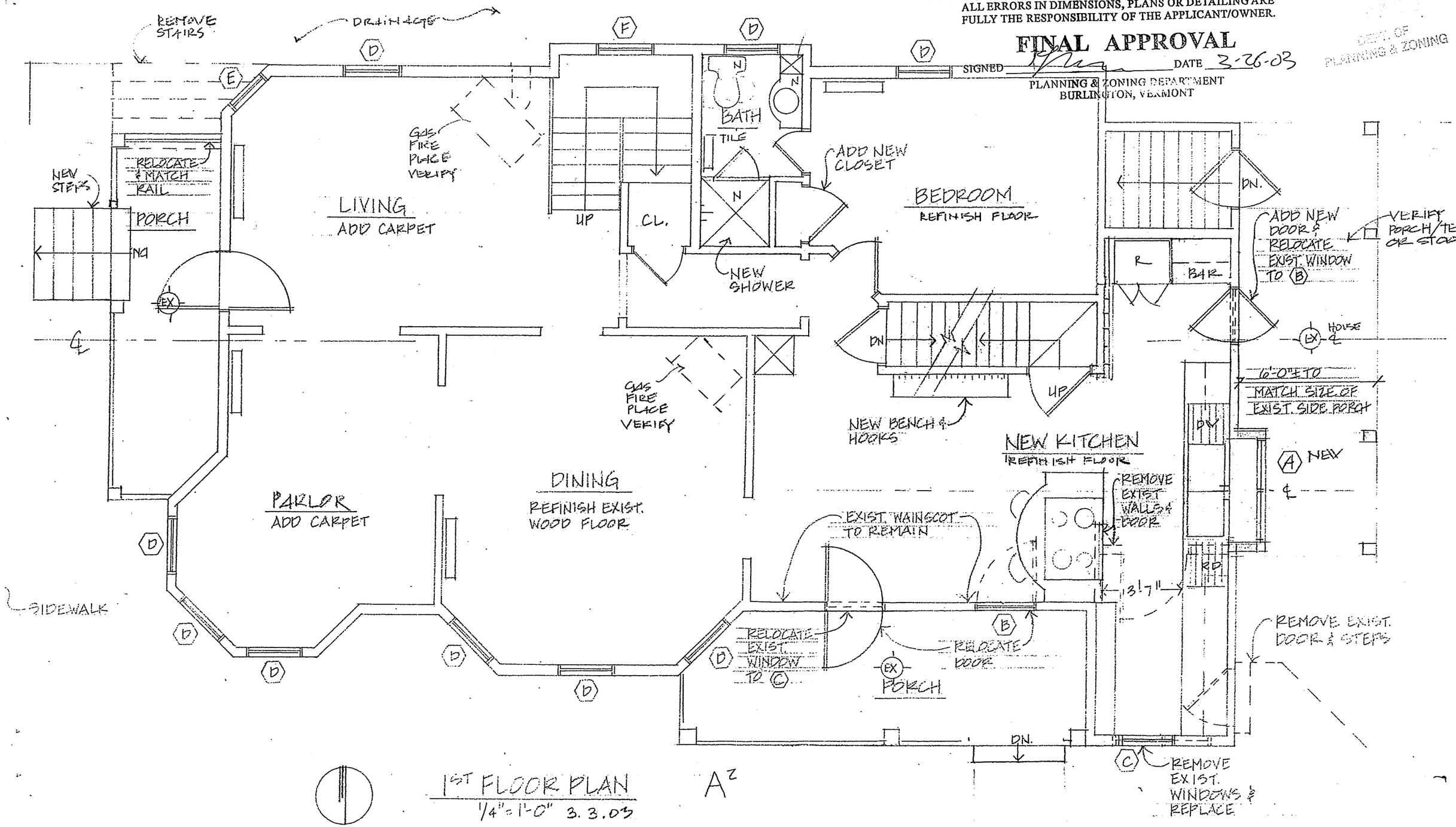

1ST FLOOR PLAN
1/4"=1'-0" 3.3.03

A2

-- NOTE --

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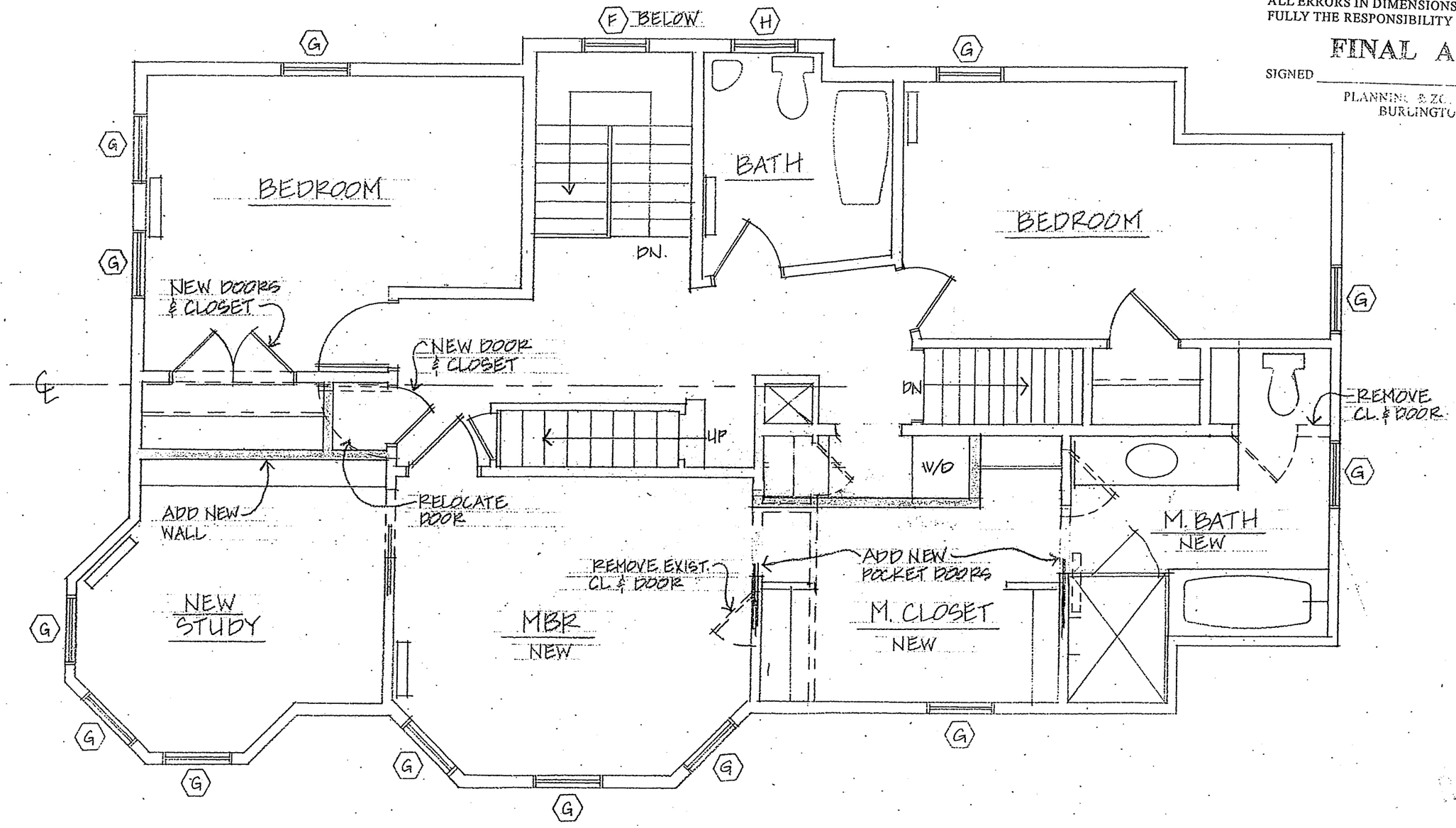
FINAL APPROVAL

SIGNED _____ DATE _____

PLANNING & ZONING DEPARTMENT
BURLINGTON, VERMONT



2ND FLOOR PLAN A3

1/4" = 1'-0" 3.3.03

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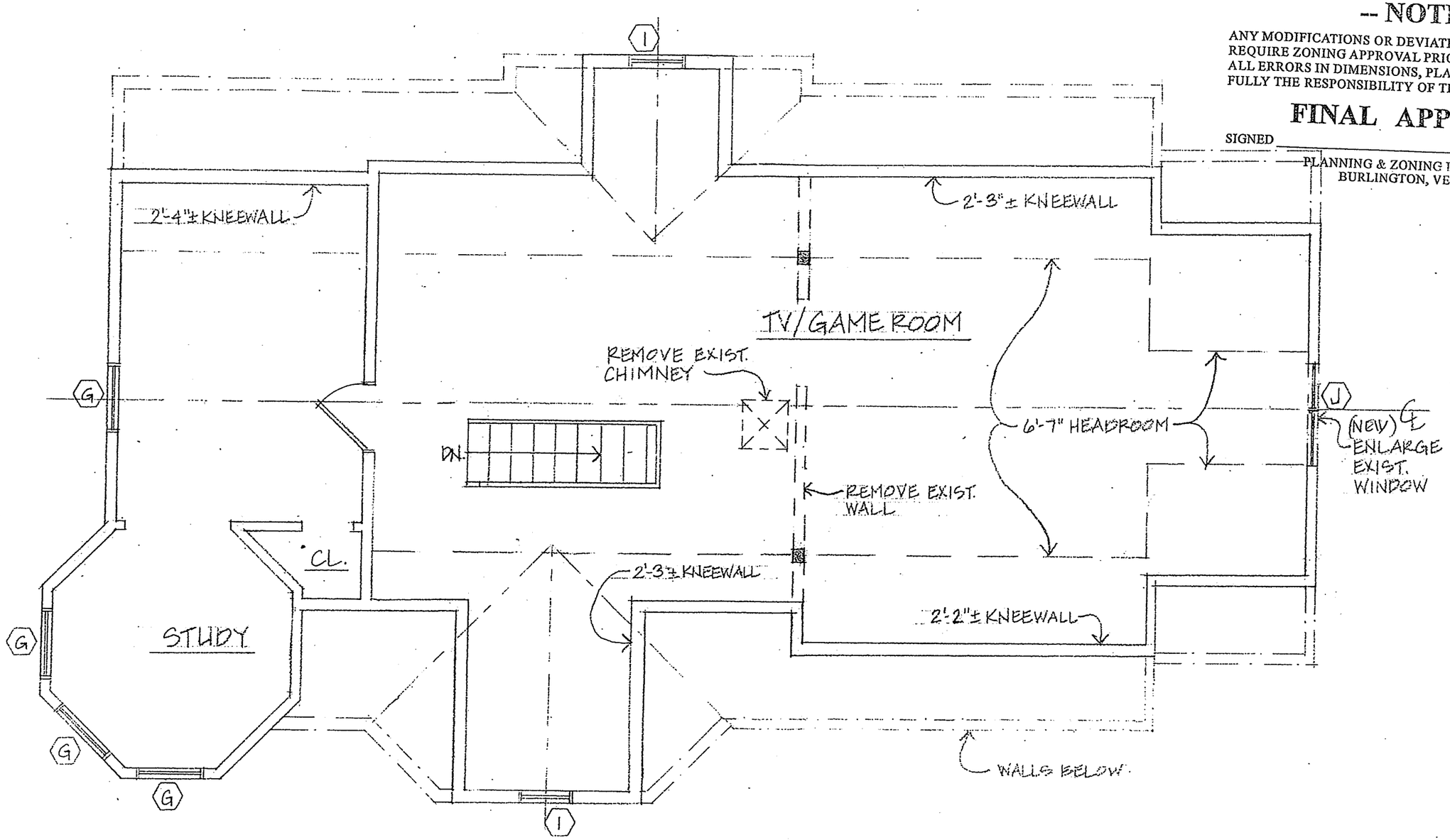
FINAL APPROVAL

SIGNED _____ DATE _____

PLANNING & ZONING DEPARTMENT
BURLINGTON, VERMONT



ATTIC PLAN A4

1/4"= 1'-0" 3.3.03

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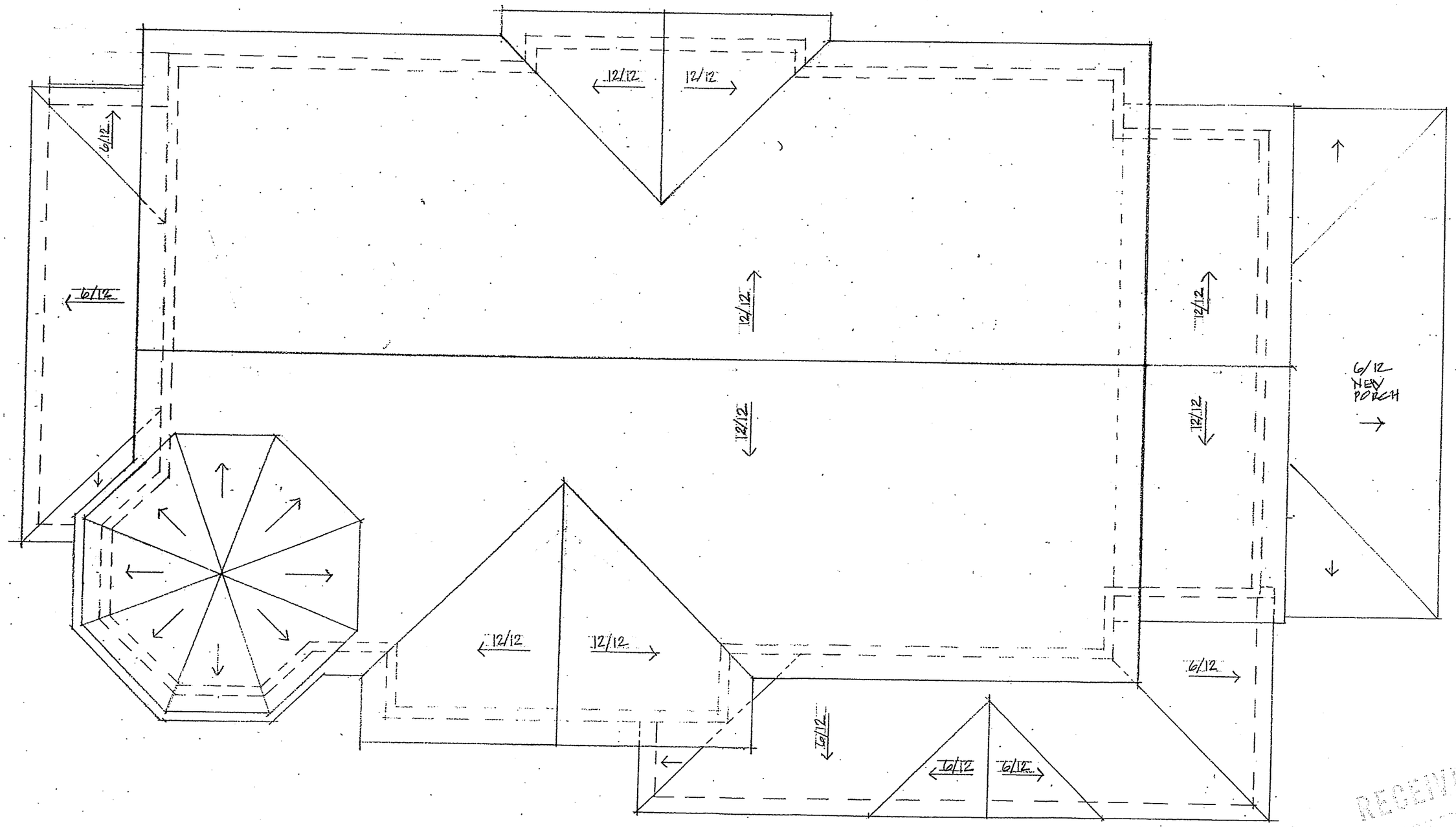

1 ROOF PLAN A5

1/4" = 1'-0"

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MAY 25 2016
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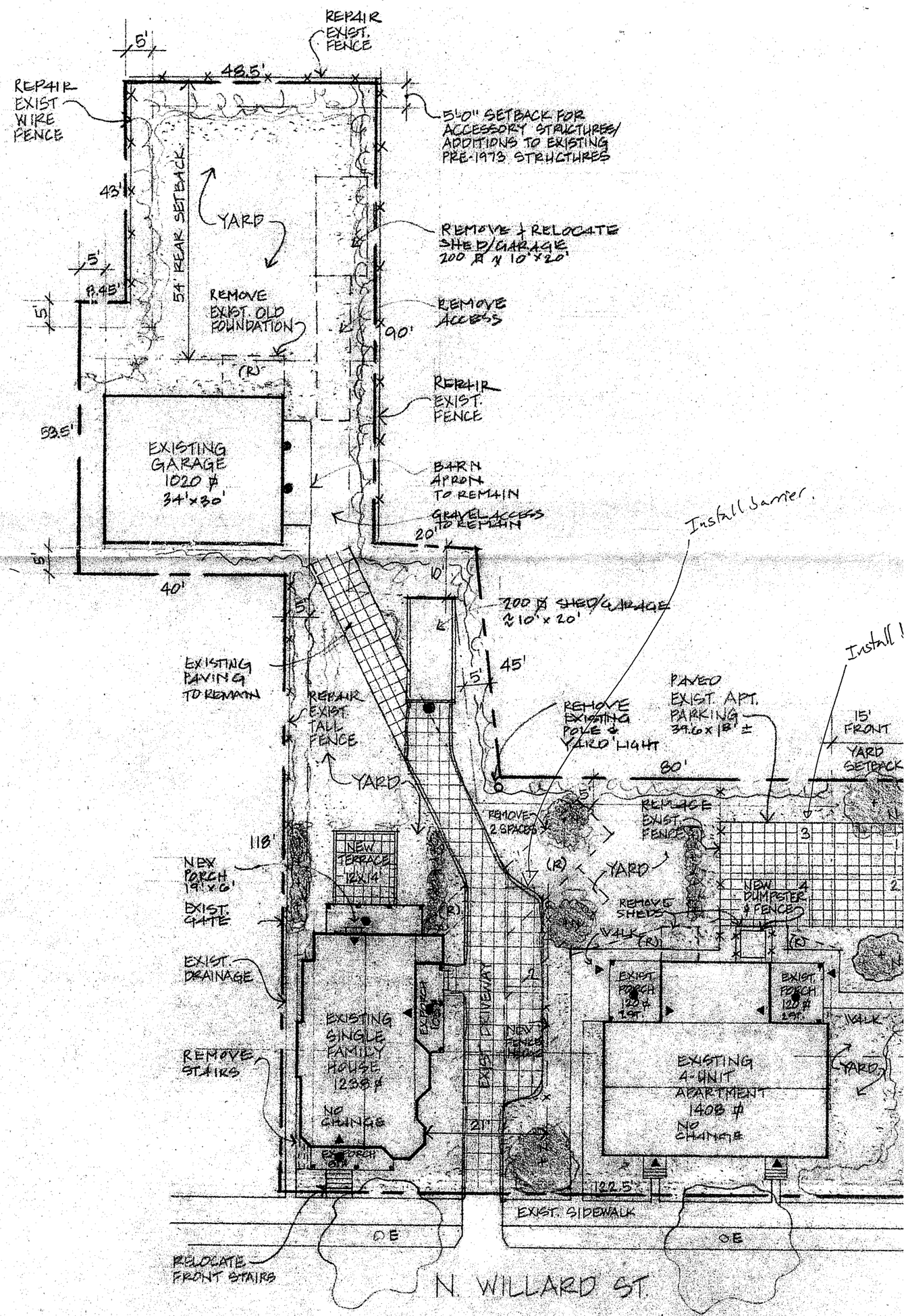
PLANNING & ZONING



RECEIVED
MAY 25 2016
DEPARTMENT OF
PLANNING & ZONING

-- NOTE --

ANY MODIFICATIONS OR DEVIATIONS FROM THESE PLANS REQUIRE ZONING APPROVAL PRIOR TO CONSTRUCTION. ALL ERRORS IN DIMENSIONS, PLANS OR DETAILING ARE FULLY THE RESPONSIBILITY OF THE APPLICANT/OWNER.

FINAL APPROVAL

SIGNED _____ DATE 3-26-03

PLANNING & ZONING DEPARTMENT
BURLINGTON, VERMONT

LOT COVERAGE

HOUSE = 1238 SQ.FT.

APARTMENT = 1408 SQ.FT.
DUMPSTER PAD = 49 SQ.FT.

BARN/GARAGE = 1020 SQ.FT.
GARAGE/SHED = 200 SQ.FT.
APT. PAVED PARKING = 713 SQ.FT.
HOUSE PAVED DRIVEWAY = 1348 SQ.FT.
HOUSE GRAVEL ACCESS = 214 SQ.FT.

WALKWAYS, ETC. = 438 SQ.FT.
BARN/GARAGE APRON = 100 SQ.FT.

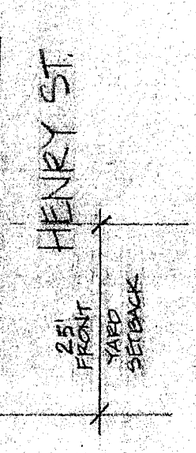
TOTAL = 6728/16,711.5 = 40%

LOT SIZE = 16,711.5 SQ.FT.

LOT COVERAGE FOR AMENITIES - PATIOS, DECKS, TERRACES, PORCHES

HOUSE PORCHES = 186 SQ.FT.
APT. PORCHES = 240 SQ.FT.
NEW HOUSE PORCH = 114 SQ.FT.
NEW HOUSE TERRACE = 168 SQ.FT.

TOTAL = 708/16711.5 = 4%



PROPOSED SITE PLAN

RECEIVED

Department of Planning and Zoning
149 Church Street
Burlington, VT 05401
Telephone:(802) 865-7188
(802) 865-7195 (FAX)
(802) 865-7142 (TTY)

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

TO: Development Review Board
FROM: Scott Gustin
DATE: July 19, 2016
RE: 16-0859CU; 616 South Willard 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: 6S

Owner/Applicant: RJL South Willard LLC / Majestic Car Rental Group

Request: Amend conditions of zoning permit 07-524CA/CU to allow for shared offsite parking with church.

Applicable Regulations:
Article 3 (Applications and Reviews), Article 4 (Zoning Maps and Districts), Article 5 (Citywide General Regulations), and Article 8 (Parking)

Background Information:
The applicant is seeking approval to amend the conditions of zoning permit 07-524CA/CU issued in May, 2007 to establish the current vehicle rental business. Specifically, the applicant is looking to lessen the restrictions relative to vehicle numbers and associated parking. The applicant wishes to have additional vehicles and to park them offsite. The business has grown since its approval and can no longer contain all of its vehicles onsite. Additional vehicles are routinely parked at the nearby Greek Orthodox Church at 600 South Willard Street.

Zoning permit 07-524CA/CU was issued under the 1994 zoning ordinance (as amended). That ordinance contained provision that allowed one nonconforming use to change to another nonconforming use subject to conditional use review. The vehicle rental facility was approved under this provision and is a nonconforming use. The present comprehensive development ordinance contains no such provision.

This application has been spurred by a neighbor's complaint to the Code Enforcement Office relative to using the church's parking lot for rental vehicles.

The Development Review Board initially considered this application March 15, 2016. The board denied the application because it found that the proposal amounted to an expansion of a nonconforming use. During deliberations, the board also noted the lack of information relative to parking requirements versus availability at the 600 South Willard Street church property and how the shared parking arrangement might work.

Within the 30-day appeal period, the applicant requested that the DRB re-open the public hearing so that information relative to the shared parking arrangement could be provided for the board's consideration. On April 5, 2016, the DRB voted to re-open the public hearing to further consider the application. The re-opened public hearing was scheduled for May 15, 2016. At that meeting; however, the applicant requested a 30-day deferral. The board allowed the deferral; however, the next available meeting was July 19, 2016.

At this point, the applicant has provided a parking management plan that outlines how the shared parking arrangement works.

Previous zoning actions for this property are noted below.

- 9/18/07, Approval to replace windows
- 5/29/07, Approval to convert gas/service station to vehicle rental facility
- 3/30/07, Approval for new signs
- 5/3/86, Approval to install new and replacement exterior lighting fixtures
- 12/4/85, Approval and subsequent denial of variance to construct canopy over pumps
- 8/25/84, Approval to replace existing Octane sign with Mobil sign (freestanding)
- 10/5/65, Approval to demolish nonconforming service station and replace with a new one with variance for side and front setback requirements

Recommendation: **Denial** as per, and subject to, the following findings:

I. Findings
Article 3: Applications and Reviews
Part 5, Conditional Use & Major Impact Review:
Section 3.5.6 (a) Conditional Use Review Standards
Approval shall be granted only if the DRB, after public notice and public hearing, determines that the proposed conditional use and associated development shall not result in an undue adverse effect on each of the following general standards:

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

This application has no bearing on existing or planned public utilities. **(Affirmative finding)**

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

The subject property is contained within the Residential Low (RL) Density zone. The RL zone is intended primarily for low density residential development in the form of detached single family homes and duplexes. The existing vehicle rental business is inconsistent with the intent of this district. Insofar as it was approved, it may continue indefinitely so long as it does not expand. **(Affirmative finding)**

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

The existing vehicle rental business does not generate exceptional noise, odor, dust, heat, or vibrations. Additional vehicles parked at 600 South Willard Street are unlikely to generate such impacts. **(Affirmative finding)**

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

No traffic information has been provided. It bears noting that the original permit application included traffic information based on 10 rental cars per day, plus 6 employees. Those impacts were found to be acceptable. Presently, the amendment seeks approval of approximately 50 vehicles. This increase is substantial and has not been subject to any traffic impact analysis. Newly submitted information related to the re-opened public hearing does not address traffic counts. **(No finding possible)**

and,

5. *The utilization of renewable energy resources;*

The proposed amendment will have no impact on the utilization of renewable resources onsite. **(Affirmative finding)**

and,

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

Compliance with applicable standards or factors set forth in city or state bylaws and ordinances is unknown. It is the applicant's responsibility to ensure compliance with all applicable city and state bylaws and ordinances. **(Affirmative finding if conditioned)**

(b) Major Impact Review Standards
(Not applicable)

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

1. Mitigation measures, including but not limited to screening, landscaping, where necessary to reduce noise and glare and to maintain the property in a character in keeping with the surrounding area.
No physical changes are included in this amendment application. Mitigation measures relative to screening and landscaping are not warranted. **(Affirmative finding)**

2. Time limits for construction.
(Not applicable)

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

The business's present hours of operation are within those specified in the original approval (7:00 AM – 7:00 PM, 7 days/week). The amendment notes present hours of 7:00 AM – 6:00 PM M-F; 7:00 AM – 3:00 PM Saturday, and 8:00 AM – noon on Sunday. **(Affirmative finding)**

4. That any future enlargement or alteration of the use return for review to the DRB to permit the specifying of new conditions; and,
No enlargement of this nonconforming use can be permitted. Other alterations would be reviewed under the zoning regulations in effect at that time.

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

Article 4: Maps & Districts
Sec. 4.4.5, Residential Districts:
(a) Purpose
(1) Residential Low Density (RL)
See Sec. 3.5.6 (a) 2.

(b) Dimensional Standards & Density
(Not applicable)

(c) Permitted & Conditional Uses
As noted elsewhere in these findings, the vehicle rental business is nonconforming within the residential low density zone. Insofar as it has a zoning permit, it may continue indefinitely in its approved configuration.

Parking rental vehicles at 600 South Willard Street introduces a new use to the church property – that of a private parking lot. Such arrangement amounts to a parking lot use (see Appeal of Wesco, Inc., 211-219 Main St). In this low density residential zone, parking lots are prohibited. **(Adverse finding)**

(d) District Specific Regulations
1. Setbacks
No setback encroachments are sought. **(Not applicable)**

2. Height
Not applicable in RL. **(Not applicable)**

3. Lot Coverage
No lot coverage exceptions are sought. **(Not applicable)**

4. Accessory Residential Structures and Uses
No accessory structures or uses are included in this proposal. **(Not applicable)**

5. Residential Density
(Not applicable)

6. Uses
(Not applicable)

7. Residential Development Bonuses
No development bonuses are being sought. **(Not applicable)**

Article 5: Citywide General Regulations
Part 3: Non-Conformities
Sec. 5.3.4, Nonconforming Uses
(a) Changes and Modifications:
(1) Nonconforming Non-Residential Use:
This criterion states: "A nonconforming non-residential use shall not be expanded or altered in any way, other than to full conformity under this Ordinance..." The existing vehicle rental business is a nonconforming non-residential use. It is expressly limited to 11 rental vehicles as conditioned in zoning permit 07-524CA/CU. There is an argument that the additional rental vehicles parked at the nearby church amount to an expansion of this nonconformity. This argument misses the fact that a zoning permit is tied to a particular property. The zoning permit issued for the vehicle rental business limits this use on this particular property. The application correctly asserts that the zoning permit does not control the number of vehicles actually owned by the business. Parking rental vehicles offsite at the 600 South Willard Street church property introduces a new use on a separate property (see Article 8 below). **(Affirmative finding)**

A. Exception for residential conversion.
   The application is not for a residential conversion of the existing commercial use. **(Not applicable)**

B. Existing neighborhood commercial uses.
   The vehicle rental business is not a neighborhood commercial use as defined in Article 13 of the CDO. **(Not applicable)**

Article 8: Parking
Sec. 8.1.8, Minimum Off-Street Parking Requirements
Per the DRB's 2007 approval of the vehicle rental facility, its onsite parking requirement is 11 spaces. Those spaces are present onsite.

The most recent site plan approval for the church at 600 South Willard Street dates to 1985 and reflects 30 parking spaces. Under present standards, the church requires 20 parking spaces (1 space per 4 seats with an 80 seat capacity). There is a 10-space excess. **(Affirmative finding)**

Sec. 8.1.12, Limitations, Location, Use of Facilities
(a) Off-Site parking facilities
This section enables the off-site location of required parking. Required parking is that required per Sec. 8.1.8, *Minimum Off-Street Parking Requirements* and the associated Table 8.1.8-1, *Minimum Off-Street Parking Requirements*. In this case, required parking for the vehicle rental facility is 11 spaces. Those spaces are provided onsite. The additional vehicles parked at the church property are above and beyond the required parking.

There is a pending zoning amendment that affords greater flexibility for shared parking arrangements. The amendment is pending with the Planning Commission and is not yet effective. **(Adverse finding)**

Sec. 8.1.15, Waivers from Parking Requirements / Parking Management Plans
The applicant has submitted a parking management plan for shared parking with the church. To be clear, use of more than 10 parking spaces at the church property by the vehicle rental business requires a parking waiver for the church (per Sec. 8.1.8, the church requires at least 20 parking spaces and has 30; there is a 10-space surplus). No number of shared spaces is given. The parking management plan states that the number fluctuates daily but that the number of vehicles never exceeds the "allotted" parking at the church. The "allotted" number is unclear. While the parking management plan outlines a fairly simple shared parking arrangement, it does not actually state how many spaces are shared. This basic information is key and determines whether a parking waiver is actually needed.

If a parking waiver is indeed needed, an accompanying zoning permit for the church property is required. The applicant is aware of this requirement; however, at the time of this writing, no such application has been filed. **(No finding possible)**

II. Reasons for Denial

Per the adverse findings above.

Parking Management Plan

Majestic Car Rental Group located at 616 S. Willard Street
Dormition of the Mother of God Greek Orthodox Church located at 600 S. Willard Street

RECEIVED
JUL 12 2016
DEPARTMENT OF
PLANNING & ZONING

PARKING SPACES REQUIRED

Table 8.1.8-1. Specifies that there is a parking spot for every 4 seats.

600 South Willard Street: According to the zoning records dated 1985, the Greek Orthodox Church has **32 spa** in their parking lot. Utilizing Table 8.1.8-1 Minimum Off-Street Parking Requirements: Worship, Place of four (4) seats), the church has an 80 seat capacity and therefore is required to have 20 parking spots.

616 South Willard Street: According to the Zoning Permit dated May 29, 2007
Article 10: Parking
Table 10-A, Minimum Off-Street Parking Requirements, does not specify a parking requirement for veh rental businesses. In this event, the sufficiency of parking is determined by the Board. In this case, the num of spots required should relate to the number of employees and rental cars. Three spaces are needed for the th employees and the remaining eleven spaces would be allocated to the rental vehicles. The application does state the total number of rental vehicles proposed, but it must be limited to the number of parking spa available, as proposed it would be eleven.

NARRATIVE

Since 2007, Majestic Car Rental Group (MCRG) and the Dormition of the Mother of God Greek Orthodox Chu have been practicing a shared parking management plan that has been working. Majestic Car Rental Group limited parking spots at 616 South Willard Street, however, the number of parking spots were never mean limit the number of vehicles that MCRG owned or where we parked them. Nor does the permit preclude from parking cars in other locations.

As a car rental company, we anticipate the number of car returns daily and will make room for those retu conscious that we are only permitted to have eleven rental cars on our lot. The Greek Orthodox Church allowed MCRG to utilize their parking lot for the short-term peak times when rental cars are returning; MC moves rental vehicles to the church parking lot freeing spots for the returning customers. For nine years practice has worked and been an efficient way in which MCRG can address the needs of its customers – wh good majority are neighborhood and community members that utilize our company as a means to supplem a one car family.

The Greek Orthodox Church utilizes their parking lot at 600 South Willard Street during services on Sund and periodically during the week. Their parking lot never exceeds the permitted amount of 32 spaces. W there are church functions, the church communicates this and MCRG does not park any vehicles in their lot.

ANALYSIS OF THE ANTICIPATED PARKING DEMANDS

We have a working relationship with the church and can provide the following information:

MCRG employees park rental vehicles at the church when there is a high volume of returns. This num fluctuates daily, however, there is never more vehicles than the allotted parking at the church.

Monday – Friday, MCRG may park vehicles in the church parking lot. MCRG ensures that there are no vehicles on Friday night or throughout the weekend in the church parking lot. MCRG will move rental c needed, on Sunday after 6:00 PM to make room for weekend returns at 616 South Willard Street.

MCRG works with the church and does not park when they have functions or events during the week.

MCRG provides a service for the neighborhood and Burlington at large, serving the community with vehicles allows families and individuals the ability to reduce the dependency on two vehicles.

PLANS TO IDENTIFY STRATEGIES THAT IDENTIFY STRATEGIES FOR THE FUTURE

MCRG and the Greek Orthodox Church have had a shared parking arrangement for nine (9) years and successfully worked.

Anita Wade

From: Holly Farrington <hollyfarrington@rentmajestic.com>
Sent: Friday, February 12, 2016 10:25 AM
To: Anita Wade
Cc: mcajrl@aol.com
Subject: RE: 616 So Willard St zoning permit

Follow Up Flag: Follow up
Flag Status: Flagged

RECEIVE
FEB 12 2016
DEPARTMENT OF
PLANNING & ZONIN

Good Morning Anita,

Here is our narrative:

During the Planning and Zoning meetings in early 2007, to grant conditional use to the property located at 616 South Willard Street, it was decided that Majestic Car Rental Group would be allowed a total of 14 parking spaces. To maxi parking options at that time, we approached The Dormition of The Mother of God Greek Orthodox Church located o Ledge Road with the idea of shared parking during times when our parking lot could not offer sufficient space for the amount of vehicles that had returned to our location. Nectar Rorris, Vice President of the Parish Council, agreed to t arrangement with the understanding that we would need to find alternative parking during church events. We have been practicing this for the past 8 years with no complaints from the Church or our neighbors. We are respectful of t Church and our neighbors as we appreciate the support that they've given us since we opened in July of 2007.

During the past 8 years, our rental business has caught on with local businesses and one car families from the Five Si Neighborhoods as well as surrounding. To accommodate the demand for vehicles, our fleet has grown. Although on average, the size of our fleet is approximately 50 vehicles now, there is never a time when all 50 vehicles are on lot. F utilization is approximately 75-95% daily depending upon the time of the year. Our business hours of operation have decreased some during the past four years as we close earlier now than we did initially; Monday through Friday, 7am 6pm, Saturday 7am to 3pm and Sunday 8am to Noon. And for the most part, there is rarely times when we have mor than 3 employees on during a shift.

Return vehicle volume increases on Sunday afternoons and evenings for which one person moves the vehicles from c parking lot to the Church lot to ensure ease of access into and out of our lot. Because Mondays are usually high volur rental days, most of the vehicles that returned on Sunday afternoons and evenings are then put out on rent again du the beginning of the week. Fridays afternoons and early evenings are another high volume return time. The location the Church parking lot makes moving these vehicles easy for one person to do on foot especially during busy times o the day.

Seasonal changes also affect the quantity of vehicles that we may or may not have available for rent or on lot. Late Spring, Summer, Fall and early Winter are times when we have less vehicles on lot due to the high demand of our customers. January, February and early March are usually months when we have more idle vehicles that we need mo parking for. Again, what happens day to day is not as predictable as we like so having access to parking at the Church helpful to our business model in meeting the demands of our customers.

We are requesting that the shared use of The Dormition of The Mother of God Greek Orthodox Church parking lot be made official to put us in compliance with the Planning and Zoning conditions that were set in June of 2007. The Chu parking lot contains approximately 27 spaces for which we would use no more than 20 spaces during our heaviest ret time. Again, this is not every day nor is it every Friday or Sunday. But by allowing us to utilize up to 20 parking spots i the Greek Churck parking lot, would allow us the flexibility to service our customers at a moments notice with the

variety of vehicles that we have. Walk up customers are those that don't formally have reservations but show up at a location anytime during our business hours to rent a vehicle; somewhat like Car Share but with more selection at a designated location. About 50% of our daily business is comprised of walk up customers.

Thank you,
Holly Farrington
Majestic Car Rental Group, Inc.
hollyfarrington@rentmajestic.com
(802)860-7300

From: Anita Wade [mailto:awade@burlingtonvt.gov]
Sent: Friday, February 12, 2016 9:20 AM
To: hollyfarrington@rentmajestic.com
Subject: FW: 616 So Willard St zoning permit

From: Anita Wade
Sent: Friday, February 12, 2016 9:19 AM
To: 'hollyfarrington@renmajestic.ocm' <hollyfarrington@renmajestic.ocm>; 'mcajrl@aol.com' <mcajrl@aol.com>
Subject: 616 So Willard St zoning permit

This is a reminder that we need a narrative on your project to be able to process your application.
Please contact the Planning and Zoning Department if you have further questions.
Thank you.

Anita Wade
Planning and Zoning Clerk
City of Burlington
149 Church St
Burlington, VT 05401
(802)-865-7188

No virus found in this message.
Checked by AVG - www.avg.com
Version: 2015.0.6189 / Virus Database: 4522/11609 - Release Date: 02/12/16

616 South Willard St Neighborhood Map

ROSA RUGOSA (3)

SHAMROCK INKBERRY (4)

MIXED DAYLILIES (6)

GRASS

-- NOTE --

ANY MODIFICATIONS OR DEVIATIONS FROM THESE PLANS REQUIRE ZONING APPROVAL PRIOR TO CONSTRUCTION. ALL ERRORS IN DIMENSIONS, PLANS OR DETAILING ARE FULLY THE RESPONSIBILITY OF THE APPLICANT/OWNER.

FINAL APPROVAL

SIGNED _____ DATE 7/18/07

PLANNING & ZONING DEPARTMENT
BURLINGTON, VERMONT

SOUTH WILLARD STREET

(CURB CUT)

SIDE WALK

COBBLE EDGING

Bollard (Granite, 36")

Bollard (Granite, 36" tall)

GRASS

EXISTING PLANTING BED

Bollard (Granite, 36" tall)

ORNAMENTAL GRASS (8)

MIXED PERENNIALS (17)

GLOBE ARBORVITAE (10)
(24" tall)

LEDGE ROAD

LANDSHAPE
landscape design & installa
Marie Limoge
Landscape Designer/Architect
88 Rogers Lane • Richmond, VT 05477

Burlington Development Review Board
149 Church Street, City Hall
Burlington, VT 05401
www.burlingtonvt.gov/PZ/Boards/Development-Review-Board
Phone: (802) 865-7188
Fax (802) 865-7195

Austin Hart
Brad Rabinowitz
Jonathan Stevens
Israel Smith
AJ LaRosa
Alexandra Zipparo
Geoffrey Hand
Jim Drummond (Alt.)
Wayne Senville (Alt.)

Burlington Development Review Board

Minutes/Findings of Fact
March 16, 2016

In RE: 16-0859CU; 616 South Willard St (Ward 6S, RL) (Tax Lot No. 054-2-017-000)

Owner/Representative: RJL South Willard LLC / Majestic Car Rental Group

Request: Amend conditions of zoning permit 07-524CA/CU to allow for shared offsite parking with church.

Members Present:

Brad Rabinowitz
Jonathan Stevens
Israel Smith
AJ LaRosa
Alexandra Zipparo
Jim Drummond
Wayne Senville

Evidence Presented:

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

I. FINDINGS

Background Information:

The applicant is seeking approval to amend the conditions of zoning permit 07-524CA/CU issued in May, 2007 to establish the current vehicle rental business. Specifically, the applicant is looking to lessen the restrictions relative to vehicle numbers and associated parking. The applicant wishes to have additional vehicles and to park them offsite. The business has grown since its approval and can no longer contain all of its vehicles onsite. Additional vehicles are routinely parked at the nearby Greek Orthodox Church at 600 South Willard Street.

Zoning permit 07-524CA/CU was issued under the 1994 zoning ordinance (as amended). That ordinance contained provision that allowed one nonconforming use to change to another nonconforming use subject to conditional use review. The vehicle rental facility was approved under this provision and is a nonconforming use. The present comprehensive development ordinance contains no such provision.

This application has been spurred by a neighbor's complaint to the Code Enforcement Office relative to using the church's parking lot for rental vehicles.

Previous zoning actions for this property are noted below.

- 9/18/07, Approval to replace windows
- 5/29/07, Approval to convert gas/service station to vehicle rental facility
- 3/30/07, Approval for new signs
- 5/3/86, Approval to install new and replacement exterior lighting fixtures
- 12/4/85, Approval and subsequent denial of variance to construct canopy over pumps
- 8/25/84, Approval to replace existing Octane sign with Mobil sign (freestanding)
- 10/5/65, Approval to demolish nonconforming service station and replace with a new one with variance for side and front setback requirements

Article 3: Applications and Reviews
Part 5, Conditional Use & Major Impact Review:
Section 3.5.6 (a) Conditional Use Review Standards (as adopted by City Council 8.10.2015.)
Approval shall be granted only if the DRB, after public notice and public hearing, determines that the proposed conditional use and associated development shall not result in an undue adverse effect on each of the following general standards:

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

This application has no bearing on existing or planned public utilities. **(Affirmative finding)**

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

The subject property is contained within the Residential Low (RL) Density zone. The RL zone is intended primarily for low density residential development in the form of detached single family homes and duplexes. The existing vehicle rental business is inconsistent with the intent of this district. Insofar as it was approved, it may continue indefinitely – as it was approved. Any expansion thereof is incompatible with the intent of the RL zone. **(Adverse finding)**

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

The existing vehicle rental business does not generate exceptional noise, odor, dust, heat, or vibrations. Additional vehicles parked at 600 South Willard Street are unlikely to generate such impacts. **(Affirmative finding)**

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

No traffic information has been provided. It bears noting that the original permit application included traffic information based on 10 rental cars per day, plus 6 employees. Those impacts were found to be acceptable. Presently, the amendment seeks approval of approximately 50 vehicles. This increase is substantial and has not been subject to any traffic impact analysis. **(Adverse finding)**

and,
5. The utilization of renewable energy resources;

The proposed amendment will have no impact on the utilization of renewable resources onsite. **(Affirmative finding)**

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

Compliance with any standards or factors set forth in city or state bylaws and ordinances is unknown. No relevant information is included in the application. **(No finding possible)**

(b) Major Impact Review Standards
(Not applicable)

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

1. Mitigation measures, including but not limited to screening, landscaping, where necessary to reduce noise and glare and to maintain the property in a character in keeping with the surrounding area.
No physical changes are included in this amendment application. Mitigation measures relative to screening and landscaping are not warranted. **(Affirmative finding)**

2. Time limits for construction.
(Not applicable)

3. Hours of operation and/or construction to reduce the impacts on surrounding properties.
The business's present hours of operation are within those specified in the original approval (7:00 AM – 7:00 PM, 7 days/week). The amendment notes present hours of 7:00 AM – 6:00 PM M-F; 7:00 AM – 3:00 PM Saturday, and 8:00 AM – noon on Sunday. **(Affirmative finding)**

4. That any future enlargement or alteration of the use return for review to the DRB to permit the specifying of new conditions; and,
No enlargement of this nonconforming use can be permitted. Other alterations would be reviewed under the zoning regulations in effect at that time.

5. Such additional reasonable performance standards, conditions and safeguards, as it may deem necessary to implement the purposes of this chapter and the zoning regulations.
(Not applicable)

Article 5: Citywide General Regulations
Part 3: Non-Conformities
Sec. 5.3.4, Nonconforming Uses
(a) Changes and Modifications:
(1) Nonconforming Non-Residential Use:
This criterion states: "A nonconforming non-residential use shall not be expanded or altered in any way, other than to full conformity under this Ordinance, except as follows." The existing vehicle rental business is a nonconforming non-residential use. It is expressly limited to 11 rental vehicles as conditioned in zoning permit 07-524CA/CU. The requested use of offsite parking to help it manage its present fleet of some 50 rental vehicles cannot be approved under this criterion. **(Adverse finding)**

A. Exception for residential conversion.
The application is not for a residential conversion of the existing commercial use. **(Not applicable)**

B. Existing neighborhood commercial uses.
The vehicle rental business is not a neighborhood commercial use as defined in Article 13 of the CDO. **(Not applicable)**

II. MINUTES

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

III. MOTION

Motion: Alexandra Zipparo
I move that the board deny conditional use approval for the property at 616 South Willard Street to amend conditions of zoning permit 07-524CA/CU to allow for shared offsite parking with the church. Denial is based on the Adverse Findings in Section I above.

Seconded: Jim Drummond

Vote: 5-2-0, motion carried

Dated at Burlington, Vermont, this 16 day of March 2016

Respectfully Submitted,

Brad Rabinowitz, Development Review Board Chair

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

Department of Planning and Zoning
149 Church Street
Burlington, VT 05401
Telephone:(802) 865-7188
(802) 865-7195 (FAX)
(802) 865-7142 (TTY)

Vacant, Director
Ken Lerner, Assistant Director
David White, AICP, Comprehensive Planner
Jay Appleton, GIS Manager
Scott Gustin, Senior Planner
Mary O'Neil, Associate Planner
Kathy Parrott, Zoning Clerk
Elsie Tillotson, Department Secretary

Burlington Development Review Board

Minutes/Findings of Fact
June 5, 2007

In RE: 07-524CA/CU; 616 South Willard St. (Ward 6, RL) (Tax Lot No. 054-2-017-000)

Owner/Applicant: Jolley Associates / Majestic Car Rental Group

Request: Conditional use and certificate of appropriateness review of conversion of a gasoline / service station to a vehicle rental facility with office space.

Members Present:
Austin Hart
Glenn Jarrett
Eleanor Briggs Kenworthy
Eric Miller
Kevin Worden
Michael Long

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

I. FINDINGS

Background Information:
The applicant is requesting approval to convert a gasoline / service station into a vehicle rental business. Site changes are limited to removing the gasoline pumps and associated underground tanks. No exterior building changes are proposed. The property is located in the RL zone and is a pre-existing nonconforming use. The improvements on the site are nonconforming as well in terms of setbacks and lot coverage. Any change in one nonconforming use to another nonconforming use requires conditional use review and approval.

The Conservation Board reviewed this project on April 3, 2007 and recommended approval with the following conditions:

1) Develop an erosion prevention and sediment control (EPSC) plan with a focus on the excavation of the underground tanks and associated remediation.
2) Determine, in consultation with Public Works, where the car wash wastewater goes.

The Conservation Board reviewed the project again on May 7 and focused on the two above conditions. The Board found the applicant's EPSC plan to be satisfactory, and, in conjunction with Public Works, it was determined that the floor drain links to the city's sanitary sewer system. This connection is acceptable.

The Development Review Board reviewed this application on April 10, 2007 and deliberated on April 16. The Board decided to re-open the public hearing in order to allow the applicant to address three outstanding items: 1) circulation, particularly access onto South Willard Street; 2) screening of the parking lot; and 3) resolution of where the car wash floor drain goes. The applicant has submitted revised materials to address each of the foregoing items as noted in these findings.

Previous zoning actions for this property are listed below.

- 5/3/86, Approval to install new and replacement exterior lighting fixtures
- 12/4/85, Approval and subsequent denial of variance to construct canopy over pumps
- 8/25/84, Approval to replace existing Octane sign with Mobil sign (freestanding)
- 10/5/65, Approval to demolish nonconforming service station and replace with a new one with variance for side and front setback requirements

Article 5: Use, Density and Dimensional Requirements
Section 5.1.8 Change to a Preexisting Use:
The subject property is located in the RL zone. The previous gasoline / service station was nonconforming. Note that while the property has been vacant for more than 1 year (the limit for continuing a vacant nonconforming use per Sec. 20.1.6, *Nonconforming Use: Alteration or Enlargement {d} Re-establishment*), the property owner has made a consistent good faith effort to sell or lease the property to another commercial use since becoming vacant. As a result, the continuation of the nonconforming status can be considered legitimate.

A nonconforming use may change to another nonconforming use only if the new use is found to be less harmful to the neighborhood than the existing use as per Sec. 5.1.8, Change to a Preexisting Use, *any modifications to a preexisting and/or nonconforming use or extent of use, including increased hours of operation, a change of use, expansions or alterations of structures or dimensions to a preexisting use, which do not otherwise conform to all provisions of this ordinance shall require a zoning permit and/or conditional use approval by the development review board. Any change to another use shall require, along with conditional use approval, a finding by the development review board that the new use is less harmful or detrimental to the neighborhood than the existing use.*

The previous use was open for business Monday – Saturday from 6:00 AM – 7:00 PM and had 3 employees. Traffic generation was approximately 40 trip ends per day, about equally split between trips for gasoline and trips for vehicle service. The application states that this trip generation does not take into account periodic trips generated by vendors making deliveries.

The proposed vehicle rental business would be open for business 7 days per week from 7:00 AM – 7:00 PM. It will have a total of 6 employees with only 3 on shift at a time. Traffic estimates for the proposed use are 32 trip ends per day (10 rental cars per day = 20 trip ends, plus 6 employees = 12 trip ends). These anticipated traffic figures do not account for customer trips to and from the business. While some pedestrian and bicycle clients may be likely, some drop offs are also likely (i.e. get a ride in a car to the rental business). In sum, anticipated traffic impacts may be slightly less than previous traffic impacts.

The proposed rental business will consist of an office area, car wash (for the rental vehicles), and parking area. There will be no onsite vehicle service, except for the car wash. Public Works has

confirmed that the floor drain connects to the city's sanitary sewer. The proposed site will serve as the base for a larger rental plan that is similar to the Zip Car of Flex Car models used in other cities. Rental cars will be available for hourly, daily, or weekly increments. Eventually, cars will be available at various satellite locations throughout the city. This project approval is only for the 616 South Willard Street facility.

In sum, the days of operation will expand from the previous use, trip generation may slightly decline, and the noise associated with vehicle repairs will disappear. Overall impacts on the neighborhood should decline. **(Affirmative finding)**

Section 5.3 Dimensional Regulations:
Setbacks, height, and lot coverage remain unchanged. The building exterior will not be changed, and the pump islands will be replaced with blacktop. **(Not applicable)**

Article 6: Design Review
The subject property, although located in the non-design control RL zone, is subject to design review as the use is other than a single family home. However, as no exterior building changes are proposed, and site changes are limited to removal of the gasoline pump islands and rearranging of the parking layout, the only Design Review criterion discussed is (d) *Provide efficient and effective circulation*. Aesthetic/circulation concerns are also addressed under Article 7: Site Plan below.

Sec. 6.1.10 (d) *Provide efficient and effective circulation. With respect to vehicular and pedestrian circulation, special attention shall be given to the location and number of access points to public streets and sidewalks, to the separation of vehicles and pedestrians, to the arrangement of parking areas and to service and loading areas, and to the location of accessible routes and ramps for the disabled;*
Access onto South Willard Street was a concern of both the Development Review Board and Public Works, particularly the left turn movement. The Board recommended that onsite circulation be made one-way with access from Ledge Road and exit onto South Willard Street with right turns only. A revised site plan has been submitted that depicts entrance and exit arrows, and an accompanying narrative states that signage will be posted to indicate the one-way entrance and exit as well as the prohibition of left turns onto South Willard Street. The revised circulation pattern adequate addresses the Board's initial concerns.

The proximity of the parking area to the sidewalk remains a concern, as it immediately abuts the public sidewalk. The applicant has revised plans to include curbing as a barrier between the edge of the parking and the sidewalk. Doing so is a very marginal improvement; however, a more substantial barrier that also serves the purpose of screening must be installed as noted in further detail under Article 7 below. **(Affirmative finding as conditioned)**

Article 7: Site Plan
(a) Adequacy of Traffic Access. Curb cuts should be so arranged and limited in number as to reduce congestion and improve traffic safety. Proper sight triangles and sufficient turnarounds for vehicles should be provided to reduce the potential for accidents at points of egress;
The two existing curb cuts, one on South Willard Street and another on Ledge Road, will remain. Sight triangles are wide open and will remain unchanged. Onsite circulation will be one way as noted above. **(Affirmative finding)**

(b) *Adequacy of Traffic Circulation and Parking. There should be sufficient parking as required in Article 10 laid out in a manner to provide ease in maneuvering of vehicles and so as not to be detrimental to the surrounding properties or to create an undesirable visual effect from the street. Sufficient area for loading and unloading may be required if the need for such loading zone is found to be necessary;*

Fourteen surface parking spots are proposed. The parking area is (and will remain) paved and will be striped. Twelve of the parking spaces are angled on either side of a central circulation isle. The isle is sufficiently wide enough to provide one-way movement. However, screening must be provided as noted below. **(Affirmative finding as conditioned)**

(c) *Adequacy of Landscaping and Screening. There shall be a sufficient amount of landscaping and screening, as may be reasonably determined by the development review board, to insure protection of and to enhance the quality of the project in question and the adjacent properties;*

Currently, onsite landscaping consists of some green space immediately around the building and a planter and fence along the parking lot's eastern boundary. The fence is in need of repair and/or replacement. During their initial review of the project, the Board found that screening of the parking area is needed along South Willard Street, as is a separation of the pedestrian sidewalk and the abutting parking area. Given the constraints of the site, the possibility of plantings in the public greenbelt was mentioned. The applicant has met with Public Works and has submitted a revised site plan that depicts two crabapple trees within the greenbelt. Public Works will not allow additional landscaping such as shrubbery or fencing in the greenbelt. While the proposed trees are an improvement, they do little in the way of screening the parking lot and do nothing to separate pedestrians along the sidewalk from the parking lot.

This parking lot is prominent, located along a major roadway into the city. Screening and pedestrian/vehicle separation are needed. A permanent and durable barrier must be installed between the parking lot and the South Willard Street sidewalk. The barrier must serve primarily to separate the sidewalk from the parking area, but shall also provide some screening of vehicles in the parking lot. The use of bollards such as those recently installed along Riverside Avenue as part of that reconstruction project would be appropriate. Plantings interspersed among the bollards are encouraged. **(Affirmative finding as conditioned)**

(d) *Adequacy of Protecting the Use of Renewable Energy Resources: Where appropriate and feasible, the site plan shall be so designed as to not unreasonably deter the actual or potential use by the subject property or adjacent properties of energy available for collection or conversion from direct sunlight, wind, running water, or organically derived fuels.*

No information has been provided with respect to the use of alternative energies. However, as proposed, this particular business model is aimed at making vehicles available for those who need them only on occasion. As a result, the business may help to decrease the need for vehicle ownership by city residents, thereby potentially reducing consumption of gasoline and associated production of greenhouse gases and other pollutants. **(Affirmative finding)**

Article 10: Parking

The previous use required 3 parking spaces (1 per 400 sf of the approximately 1,270 sf building). Table 10-A, *Minimum Off-Street Parking Requirements*, does not specify a parking requirement

for vehicle rental businesses. In this event, the sufficiency of parking is determined by the Board. In this case, the number of spots required should relate to the number of employees and rental cars. Three spaces are needed for the three employees and the remaining eleven spaces would be allocated to the rental vehicles. The application does not state the total number of rental vehicles proposed, but it must be limited to the number of parking spaces available, as proposed it would be eleven. **(Affirmative finding)**

Article 17: Appeals, Conditional Uses, Variances

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

The proposed vehicle rental business may result in a modest increase in municipal water and sewer demand, due to the expanded days of operation and additional employees. Confirmation of uncommitted reserve capacity from Public Works is needed prior to establishment of the business. **(Affirmative finding as conditioned)**

(2) The character of the area affected;

The neighborhood, while zoned RL (low Density Residential), is split into two distinct components: the commercial properties along South Willard Street (U.S. Route 7) and Shelburne Street and the residential properties away from these two major roads. The subject property has been used as a gasoline / service station for decades. The proposed change in use will result in very little change to the site and will result in the elimination of noisy activities and equipment associated with vehicle repair. Overall, the proposed use should have a less detrimental impact on the neighborhood than the previous use. **(Affirmative finding)**

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

A brief traffic synopsis has been provided. As noted earlier, the proposed vehicle rental business would be open for business 7 days per week from 7:00 AM – 7:00 PM. Traffic estimates for the proposed use are 32 trip ends per day (10 rental cars per day = 20 trip ends, plus 6 employees = 12 trip ends). These anticipated traffic figures do not account for customer trips to and from the business. While some pedestrian and bicycle clients may be likely, some drop offs are also likely (i.e. get a ride in a car to the rental business). In sum, anticipated traffic impacts may be slightly less than previous traffic impacts. **(Affirmative finding)**

(4) Bylaws then in effect;

Based on the findings and conditions herein, this proposed can be found to comply with bylaws in effect pertaining to use. Specifically, the change in use will result in less detrimental impacts on the neighborhood than the previous use. Additional screening is required per Article 7 as noted above. It is the applicant's responsibility to comply with other applicable bylaws such as building and fire codes. **(Affirmative finding as conditioned)**

(5) Utilization of renewable energy resources.

As noted before, no information has been provided with respect to the use of alternative energies. However, as proposed, this particular business model is aimed at making vehicles available for those who need them only on occasion. As a result, the business may help to decrease the need for vehicle ownership by city residents, thereby potentially reducing consumption of gasoline and associated production of greenhouse gases and other pollutants. **(Affirmative finding)**

Article 20: Nonconformity

See Section 5.1.8 above.

II. MINUTES

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

III. MOTION

Motion: Kevin Worden
I move that the Board grant conditional use and certificate of appropriateness approval for conversion of a gasoline / service station to a vehicle rental facility with office space, located at 616 South Willard Street in the RL zone in accordance with Articles 5, 6, 7, 10, 17, and 20. Approval is subject to the following conditions:

1. **Prior to release of the zoning permit,** revised plans, (detailed, scaled, dimensioned and of professional quality) shall be submitted subject to staff review and approval. The revised plans shall depict a permanent and durable barrier installed between the parking lot and the South Willard Street sidewalk. The barrier must serve primarily to separate the sidewalk from the parking area, but shall also provide some screening of vehicles in the parking lot. The use of bollards such as those recently installed along Riverside Avenue as part of that reconstruction project would be appropriate. Plantings interspersed among the bollards are encouraged. This screening/buffering area shall be installed prior to issuance of a final certificate of occupancy, and shall be maintained by the applicant.
2. **Prior to release of the zoning permit**, written confirmation of available uncommitted reserve sewer and water capacity from Public Works is needed.
3. The Applicant/Property Owner shall work with the neighbor to the east to repair or replace the existing fence and shall clean up the site in general. Specifically, the northern end of the site and building shall be cleaned up, and graffiti shall be removed.
4. No more than 11 rental vehicles are included in this approval.
5. The erosion control plan reviewed and approved by the Conservation Board on May 8, 2007 is incorporated into this approval. The plan shall be implemented from the beginning of construction through final site stabilization.
6. The Applicant/Property Owner is responsible for obtaining all necessary Zoning Permits and Building Permits through the Department of Public Works as well as other permit(s) as may be required, and shall meet all energy efficiency codes as required.
7. Standard permit conditions 1 – 15.

Seconded: Michael Long

Vote: 6-0-0, motion carried

Dated at Burlington, VT, this 29th day of May, 2007.

Respectfully Submitted,

Austin Hart

Austin Hart, Development Review Board Chair

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

ZONING PERMIT

Burlington, Vermont

Permit # 85-396

PROJECT LOCALE 600 S. Willard ZONE R-6

Applicant/owner Greek Orthodox Church/~~Michael Dugan~~
Address same Telephone No. 863-4944 (Casey Cons
Existing use of property church Estimated Cost $$80,000.00

DESCRIPTION To construct a 50' X 32' parish hall addition with a 22' X 12' connector to original building. Materials to be wood. Request for a waiver of 4 parking spaces:34 required - proposing 30.

TECHNICAL lot size 1.64 ac. sq. ft bldg. size 3000 sq. ft 28 % lot coverage
parking and drive 14000 sq. ft addition 2916 sq. ft N/A

PARKING exist 27 proposed 30 required 34 N/A

YARDS front side 50' rear N/A

SIGNS type height area N/A X
linear frontage illuminated

DECISION approved X denied referred to ZBA
denial reason

APPEALS An interested person may appeal the decision of the Zoning Administrator within 15 days of final action.

APPLICATION DATE APPEAL EXP. DATE

SIGNATURES APPLICANT Casey Const. Co.
ZONING ADMINISTRATOR

CERTIFICATE OF APPROPRIATENESS

COA # 85-125

LEVEL OF REVIEW I X II X III

TYPE OF REVIEW siteplan X design subdivision

COMPLETE APPLICATION fee $80.00 pd.

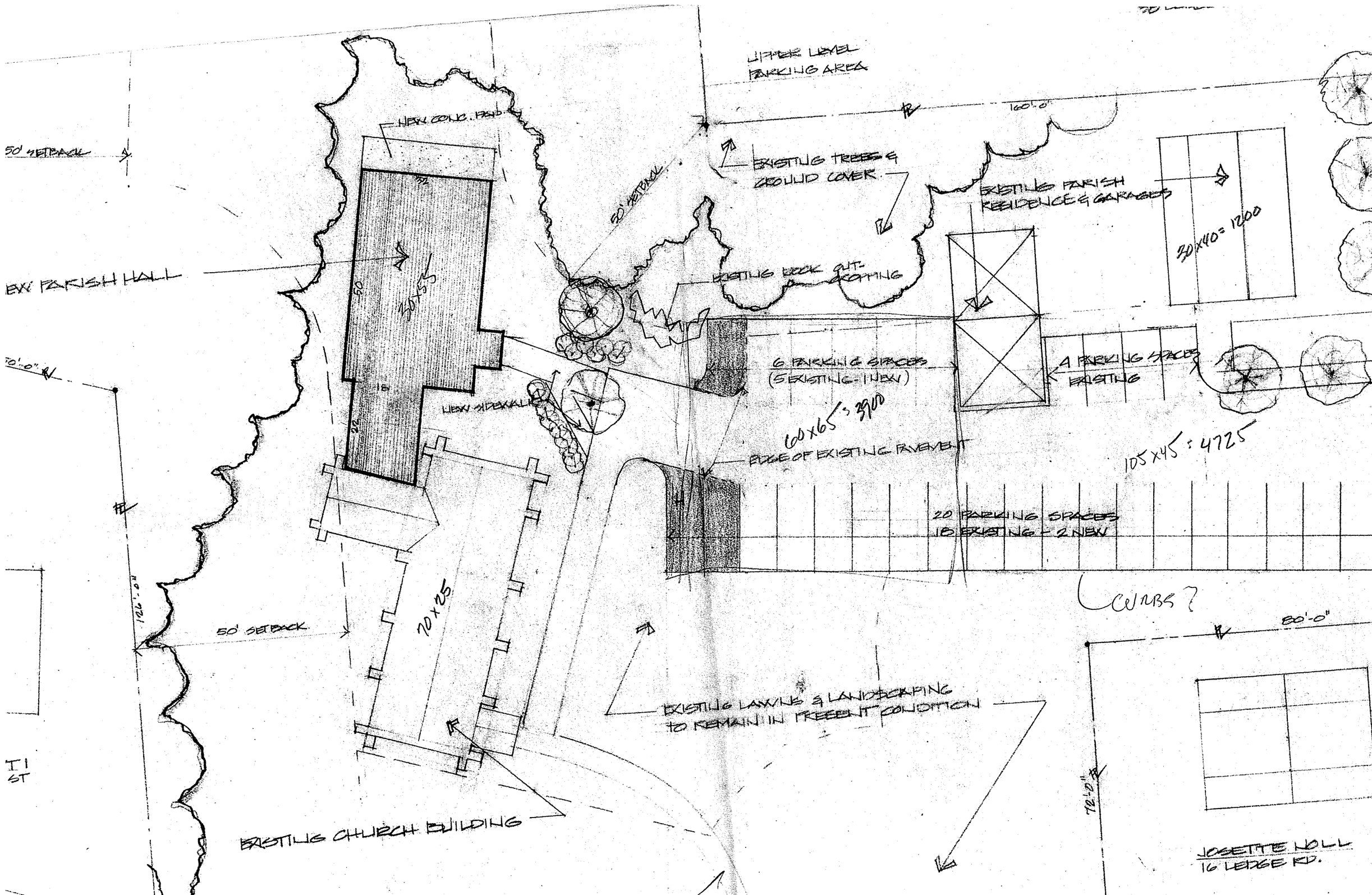
DISTRICT historic innercity regional core waterfront

DECISION DATE 8-22-85 DENIED APPROVED X

APPROVED WITH CONDITION

APPEALS An interested person may appeal a decision of The Planning Commission to the Superior Court of the County in which is located the property at issue in the decision.

SIGNATURE Planning Director


UPPER LEVEL
PARKING AREA
160'-0"
NEW CONC. PAD
50' SETBACK
EXISTING TREES &
GROUND COVER
EXISTING PARISH
RESIDENCE & GARAGES
30x40 = 1200
EXISTING BRICK OUT-
COPPING
EX. PARISH HALL
32
50
30x55
16
22
NEW SIDEWALK
6 PARKING SPACES
(5 EXISTING - 1 NEW)
4 PARKING SPACES
EXISTING
60x65 = 3900
EDGE OF EXISTING PAVEMENT
105x45 = 4725
20 PARKING SPACES
18 EXISTING - 2 NEW
CURBS ?
70'-0"
126'-0"
50' SETBACK
70x25
EXISTING LAWNS & LANDSCAPING
TO REMAIN IN PRESENT CONDITION
80'-0"
72'-0"
T1
ST
EXISTING CHURCH BUILDING
JOSETTE NOLL
16 LEDGE RD.

ZONING PERMIT
CERTIFICATE OF APPROPRIATENESS
City of Burlington, Vermont
Department of Planning and Zoning

Application Date: 6/15/2007 | Appeal Expiration Date: 4/10/2009

Project Location: 211-219 MAIN STREET | District: RH

Owner: WESCO INC
Address: 32 SAN REMO DRIVE
SOUTH BURLINGTON, VT 05403 | Ward: 3
Telephone: | Tax ID: 049-3-109-000

Project Description: | Commercial / Other Project Type
Private parking lot use.

Existing Use: RETAIL - PETROLEUM, GAS SERVICE STATION, MINI-MART W/ GAS P
Proposed Use: RETAIL - PETROLEUM, GAS SERVICE STATION, MINI-MART W/ GAS P

Construction Cost:	$0	Lot Size (Sq Ft):	12,510
Net New Square Feet:	0.00	Net New # of Housing Units:	0
Existing % Lot Coverage:	87.80	Existing # of Parking Spaces:	12
Proposed % Lot Coverage:	87.80	Proposed # of Parking Spaces:	12
Net New % Lot Coverage:	0.00	Required # of Parking Spaces:	12

Zoning Permit #: 07-788CA | Decision Type: Development Review Board
Level of Review: 1 | Decision: Approved
See Conditions of Approval
Decision Date: March 11, 2009
Project File #: 07-788CA

Zoning Administrator

An interested person may appeal a decision of the Development Review Board to the Vermont Environmental Court until 4 pm on April 10, 2009.

Fee Type	Amount	Paid in Full
Application Fee:	$150.00	Yes
Development Review Fee:	$0.00	Yes
Impact Fee:	Not Applicable	

Balance Due: $0.00
Date Paid: _____
Check # _____

Permit Received by: MAILED TO OWNER Date: 9/2/11

RSN: 156741

Zoning Permit - COA Level I – Conditions of Approval

City of
Burlington, Vermont
149 Church Street

ZP #: 07-788CA

Tax ID: 049-3-109-000

Issue Date: March 11, 2009

Decision: Approved

Property Address: 211-219 MAIN STREET

Description: Private parking lot use.

Project Permit Conditions:

1. Permit conditions are as noted in State of Vermont Environmental Court Stipulation and Order dated March 11, 2009 (attached).

Standard Permit Conditions:

1. **30-Day Posting Period.** Zoning permit is not effective until expiration of 30-day appeal period as required by state statute.
2. **Time Limits.** Zoning permit shall become invalid unless work or action authorized by permit is commenced by March 11, 2010. The Permittee shall complete the approved construction by March 11, 2011.
3. **Required Revisions.** Any revisions or additions to plans required as a result of approval must be submitted in triplicate and stamped "approved" prior to issuance of zoning permit.
4. **Changes.** The project shall be completed as shown on the plans, which have been stamped "approved" and dated by the Department of Planning and Zoning. The project shall not deviate from the approved plans without prior written approval from the Department of Planning and Zoning.
5. **Property Inspection.** By acceptance of this permit, Permittee authorizes City Officials and/or thei authorized representatives, access to the subject property for purpose of observing work in progres inspecting and/or measuring the property or improvements as long as the use authorized by this permit remains in effect.
6. **Certificate of Occupancy.** A certificate of occupancy must be issued by the Department of Public Works PRIOR to use and/or occupancy of the subject premises. Prior to issuance, the Department Planning and Zoning must certify that work has been completed in accordance with approved plan and that applicable conditions have been met. The Permittee may be required to provide a Letter o Credit to obtain a Certificate of Occupancy prior to completion of all required improvements.
7. **Completion and Maintenance of Improvements and Landscaping.** Permittee or successor in interest is responsible for completing all improvements shown on approved plans. By acceptance c this permit, Permittee agrees to maintain all improvements in a satisfactory condition. Any landscaping installed according to the approved plan which becomes diseased or dies shall be replaced by similar species and size no later than the first available planting season.

FILED

MAR 11 2009

VERMONT
ENVIRONMENTAL COURT

STATE OF VERMONT
ENVIRONMENTAL COURT

IN RE: APPEAL OF WESCO, INC.	)		
NOTICE OF VIOLATION	)		
(211-219 MAIN STREET,	)	Docket No.	106-5-07 Vtec
BURLINGTON)	)		
CITY OF BURLINGTON	)		
v.	)	Docket No.	177-8-07 Vtec
WESCO, INC.	)		
IN RE:	)		
WESCO, INC. PARKING PERMIT	)	Docket No.	197-9-07 Vtec
211-219 Main Street	)		

STIPULATION AND ORDER

NOW COME the parties, by and through their attorneys, David W. Rugh, Esq. and William E. Simendinger, Esq. for Wesco, Inc. (hereinafter "Wesco") and Kimberlee J. Sturtevant, Esq., attorney for the City of Burlington (hereinafter "City") and hereby enter into this Stipulation and request the Honorable Court to so order.

STIPULATION

For resolution of the above-referenced matters, the parties agree that Wesco shall be allowed to lease five (5) of the parking spaces on the site plan dated January 23, 2009, attached hereto as Appendix, during the day and rent the same five spaces out at night on an hourly basis on the following conditions:

1. An engineer's statement/report demonstrates that there is sufficient circulation and parking on Wesco's site (without use of the City's right of way) for all proposed uses at the site, convenience store/gas station/deli/private parking lot, attached hereto.

2. Wesco shall stripe the parking spaces on the property consistent with the site plan dated January 23, 2009, Appendix. Wesco shall maintain the striping.

3. Wesco shall install and maintain the following improvements to the City's right of way consistent with the site plan dated January 23, 2009, Appendix:

   a. Increase the width of the previously agreed to northeasterly landscape island to extend from the southerly side of the sidewalk to the southerly edge of the right of way/northern property line as shown on the site plan dated January 23, 2009, Appendix.

   b. Increase the width of the northwesterly landscape area easterly to be flush with the current westerly curb cut on Main Street at the northeasterly corner of the northwesterly landscape island, and begin angling the easterly curb of the northwesterly landscape island 5 feet 6 inches southerly of the sidewalk as shown on the site plan dated January 23, 2009, Appendix.

   c. Increase the previously agreed to center island to a three-foot-wide planting bed. The White striping marked with "NO PARKING" shall be extended from the southern edge of the curb on the center planting island to the edge of the right of way/northern property line as indicated on the site plan dated January 23, 2009, Appendix.

   d. All planting beds shall have at least 24 inches deep topsoil that is 10% organic matter.

4. Wesco shall maintain the installed landscaping, including but not limited to greenbelts and curbing. All yews to be planted shall be two-gallon size at the time of planting. Wesco shall replace any dead or diseased landscaping with the same species of equivalent size within fourteen (14) days of the City informing Wesco that such landscaping must be replaced, or within fourteen (14) days of the start of the next planting season.

5. Wesco shall pay for all the improvements established herein.

6. Wesco may install paths in the northwestern and northeastern planting beds from the corners to the parking lot if indicated that they are necessary by the traffic engineer commissioned as noted in Condition 1 above and if approved by the City's engineer in writing.

7. Wesco shall pay the City of Burlington ten thousand dollars ($10,000.00) for settlement of any fines and/or attorney fees that have accrued regarding this matter within ten (10) days of the Stipulation and Order being executed by the Vermont Environmental Court.

8. The City shall not issue a press release regarding the details of this Stipulation and Order. All parties acknowledge, however, that this Stipulation and Order once entered by the Environmental Court is a public record.

This Stipulation shall not limit the City in any manner whatsoever with regard to conducting work or requesting and/or making improvements in its right-of-way in the future, and does not limit in any way the City's ability to undertake future enforcement proceedings premised on events subsequent to the effective date hereof or the City's pursuit of expedited relief in the Environmental Court premised on any non-compliance with the terms hereof.

All conditions of the September 13, 2007 Stipulation and Order in *In Re: Wesco, Inc. Canopy (211-219 Main Street, Burlington)*, Docket No. 186-8-06 Vtec, that are not directly revised herein, shall remain in effect.

This resolution pertains solely to the issues in the above-reference matters.

The Stipulation and incorporated site plan shall not become effective until such time as it is ratified by the Burlington Development Review Board and/or Burlington City Council.

Dated at Burlington, Vermont this 19th day of February 2009.

David W. Rugh, Esq.

Dated at Burlington, Vermont this 19th day of February 2009.

William Simendinger by David Rugh attorney for Wesco

William E. Simendinger, Esq.

Attorneys for Wesco, Inc.

Dated at Burlington, Vermont this 10th day of ~~February~~ March 2009.

Joseph G. Farnham, E

Kimberlee J. Sturtevant, Esq.

Attorney for the City of Burlington

RATIFIED by the Burlington Deveopment Review Board on February 17, 2009.

Dated at Burlington, Vermont this 4th day of March, 2009

Austin O. Hart

, Chair/~~President~~

Burlington Development Review Board

Appeals of Wesco Inc. 106-5-07, 197-9-07 Vtec
City of Burlington v. Wesco, Inc. 177-8-07 Vtec

SO ORDERED, based on the foregoing Stipulation. The above-captioned matters are hereby concluded, with each party bearing its own attorney's fees and costs.

Dated at Berlin, Vermont this 11th day of March 2009.

Merideth Wright

Hon. Merideth Wright, Environmental Judge

Vermont Environmental Court

231172-00006

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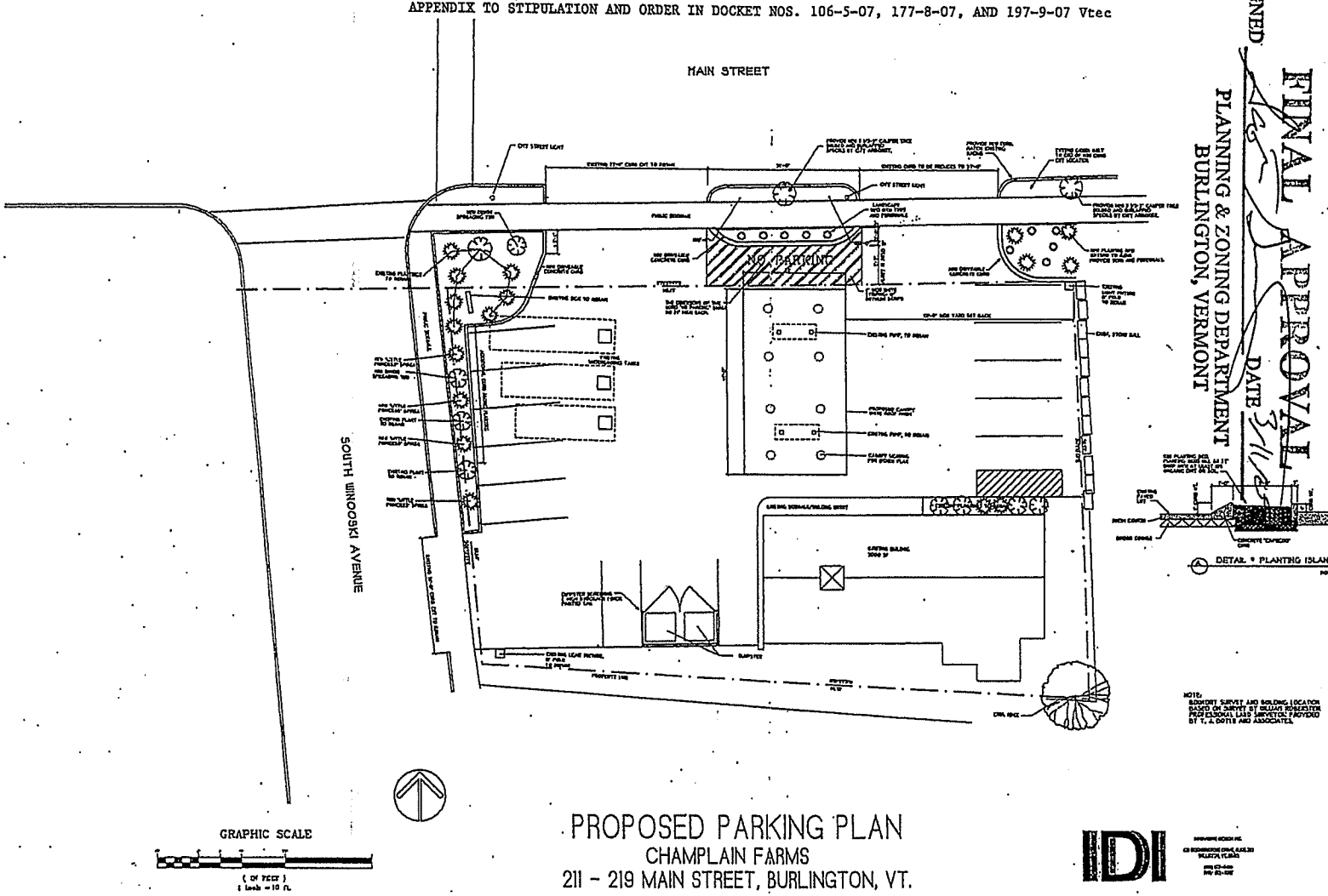
APPENDIX TO STIPULATION AND ORDER IN DOCKET NOS. 106-5-07, 177-8-07, AND 197-9-07 Vtec



PROPOSED PARKING PLAN
CHAMPLAIN FARMS
211 - 219 MAIN STREET, BURLINGTON, VT.

July 9, 2008
REVISED SEPT. 15, 2008
REVISED OCT. 06, 2008
REVISED NOV. 01, 2008
REVISED DEC. 02, 2008
REVISED JAN. 23, 2009

NOTE

ANY MODIFICATIONS OR DEVIATIONS FROM THESE PLANS REQUIRE ZONING APPROVAL PRIOR TO CONSTRUCTION. ALL ERRORS IN DIMENSIONS, PLANS OR DETAILING ARE FULLY THE RESPONSIBILITY OF THE APPLICANT/OWNER.

FINAL APPROVAL

SIGNED

DATE 3/11/09

PLANNING & ZONING DEPARTMENT
BURLINGTON, VERMONT

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
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Vacant, Comprehensive Planner
Jay Appleton, GIS Manager
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Burlingto
Planning and Zoni

Burlington Development Review Board

Minutes/Findings of Fact
September 12, 2007

In RE: 07-788CA; 211-219 Main Street (Ward 3, RH) (Tax Lot No. 049-3-109-000)

Owner/Applicant: Wesco, Inc.

Request: Review of a private parking lot use at the existing convenience store / gasoline station.

Members Present:

Glenn Jarrett
Eric Miller
Michael Long
Eleanor Briggs Kenworthy
Kevin Worden
Brad Rabinowitz

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

I. FINDINGS

Background Information:
The applicant is seeking approval for a private parking lot use (consisting of up to 15 spaces) in addition to the existing convenience store / gasoline station. The private parking lot use has already been established without the necessary permit and has been cited in a zoning violation that was appealed to the Board and upheld in May, 2007. This current application seeks the necessary permit for the private parking lot use. No construction is proposed.

Previous zoning actions for this property are listed below.

- 5/21/07, Uphold issuance of zoning violation notice for un-permitted private parking lot
- 7/24/06, Approval of canopy
- 12/6/05, Withdrawal of canopy application
- 2/21/03, DRB denial of proposed canopy and reconfiguration of parking
- 1/3/03, Administrative denial of proposed canopy and reconfiguration of parking
- 7/2/02, Approval of adding 16 seats and 4 tables inside existing store
- 11/17/00, Approval of replacement freestanding sign
- 8/2/00, Approval of replacement signage
- 4/18/00, Denial of sign variance

- 10/28/99, Denial of nonconforming sign changes
- 5/10/99, Denial of sign variance
- 1/20/99, Approval of replacement signage
- 2/8/95, Denial of nonconforming sign changes
- 5/12/88, Denial of proposed canopy
- 7/19/83, Approval to convert service station to mini-mart
- 2/13/75, Approval for replacement of conduit line and new paving
- 8/30/68, Approval to demolish existing gasoline/service station and replace with new

Article 5: Use, Density and Dimensional Requirements
Section 5.1.4 Permitted Uses: The private parking lot is a permitted use in the RH zone, wherei the subject property is located. **(Affirmative finding)**

Section 5.3 Dimensional Regulations:
Setbacks, height, and lot coverage remain unchanged. **(Not applicable)**

Article 10: Parking
Based on current standards in Article 10, the parking requirement for the existing uses (convenience store / gasoline station and deli) is 23 spaces. This figure breaks down as 19 space for the convenience store and gasoline pumps (1 space per 100 sf of the 1,527 sf convenience sto and 2 spaces per gasoline pump island for 2 islands) and 4 spaces for the deli (1 per 4 seats for th 16 seats). There are only 15 parking spaces onsite, including 4 for the gasoline pump islands. Tl 1983 approval to establish the current convenience store / gasoline station use included an approval for 15 parking spaces, although no waiver was specified. The 2002 approval for the del included a 2 space parking waiver, resulting in an even exchange of 2 spaces for the convenience store swapped out for 2 spaces for the deli. The end result is that the 15 onsite spaces are adequa for the existing uses per the previous permit approvals. However, the current proposal to establis a 15-space private parking lot would utilize every space onsite. Doing so would require a 100% wavier of the parking requirements of the existing uses. Section 10.1.20, *Waiver Limits*, caps parking waivers at 50% of the requirement except for affordable housing, condo conversion with TDM plans, housing and adaptive reuse projects in the CBD and CBD-T zones, and for off-street loading requirements. The subject property qualifies for none of these exceptions. There is insufficient parking onsite to support the requested 15-space private parking lot. **(Adverse finding)**

II. MINUTES

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

III. MOTION

Motion: Eric Miller
I move that the Board **deny** the requested private parking lot use at the existing convenience store/gasoline station, located at 211-219 Main Street in the RH zone in accordance with Articles 5 and 10. This denial is based on the following reasons. Although reasons two and three, below, are not necessary to the Board's ruling, they nonetheless buttress the Board's conclusion that parking on the site is insufficient for the proposed use.

1. Per Article 10, *Parking*, of the Zoning Ordinance, there is insufficient parking available onsite to support the requested 15-space parking lot. There are 15 onsite parking spaces which are sufficient to meet current demands based on previous permit approvals. The proposed 15-space private parking lot would increase demand by 15 spaces. Sec. 10.1.20, *Waiver Limits*, prohibits granting the 100% parking waiver necessary to support the proposed 15-space private parking lot use.
2. In 1983, the applicant represented, and the Board concluded, that 15 parking spaces were needed for the then-current uses on the property.
3. In applications subsequent to 1983 requiring consideration of onsite parking, the applicant represented uses but did not include a private parking lot as one of the uses onsite.

Seconded: Eleanor Briggs Kenworthy

Vote: 6-0-0, motion carried

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

Burlington Development Review Board
149 Church Street, City Hall
Burlington, VT 05401
www.burlingtonvt.gov/pz/DRB
Telephone: (802) 865-7188
Fax (802) 865-7195

Austin Hart
Brad Rabinowitz
Israel Smith
AJ LaRosa
Geoff Hand
Alexandra Zipparo
Wayne Senville
Jim Drummond, (Alternate)

BURLINGTON DEVELOPMENT REVIEW BOARD
Tuesday July 19, 2016, 5:00 PM
Contois Auditorium, City Hall, 149 Church Street, Burlington, VT
Minutes

Board Members Present: Austin Hart, Brad Rabinowitz, Geoff Hand, A.J.LaRosa, Wayne Senville, Alexandra Zipparo, Israel Smith
Board Members Absent: Jim Drummond (Alt)
Staff Members Present: Scott Gustin, Mary O'Neil, Anita Wade

I. Agenda
Mary O'Neil recommends 66 Vest Haven for consent agenda.

II. Communications
Board Accepts communications submitted in the supplemental packet.

III. Minutes
Board will review minutes at the next deliberative meeting.

IV. Public Hearing

1. 16-1175CU; 66 Vest Haven Drive (RL, Ward 7N) Bruce Bergman
Expansion of existing accessory dwelling unit by creating new habitable area.
(Project Manager, Mary O'Neil)

Changed to consent item.
A.Hart: asks applicant if they have reviewed staff comments.
B.Bergman: applicant affirms this.
B.Rabinowitz: makes a motion to approve item.
W.Senville: seconds this motion.
Board vote: 7-0-0

2. 16-1318CU; 120-132 North Willard Street (RL, Ward 1E) Tioli Properties, LLC
Request to allow 5 unrelated adults within a dwelling unit.
(Project Manager, Scott Gustin)

A.Hart: applicant and interested parties sworn in.
J.Pizzagalli: purchased property in 2012. Has operated the property in the same manner as the previous owner from 2001. Filed application for conditional use. Staff expressed affirmation for the project except for parking.
A.Hart: questions attic space.
S.Gustin: need to know total square footage third floor, attic, and parking.
J.Pizzagalli: property went through renovation on 3rd floor. Does comply with 2500sq ft. Presented Board with 1st and 2nd floor plans.
S.Gustin: received plans from applicant for the Board.

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A.Hart: questions attic as living space.
J.Pizzagalli: describes living space minus the slope portion, which meets 2500 sq. ft.
A.Hart: are there 3 rooms in the attic?
J.Pizzagalli: there are four.
A.Hart: one looks bare, was this previously occupied?
J.Pizzagalli: to my knowledge.
A.Hart: CE for space?
J.Pizzagalli: when property was purchased.
W.Senville: where is the fifth bedroom?
J.Pizzagalli: 4th bedroom is on second floor.
B.Rabinowitz: is the entry through a bedroom to get to the other bedroom?
J.Pizzagalli: no
A.Hart: parking spaces?
J.Pizzagalli: 6 spaces
A.Hart: concerns about 4 unrelated persons presents more noise and behavior issues. What can you tell us as to whether it could become a nuisance?
J.Pizzagalli: I sdinherited tenants. I do not do short term rentals. They are well vetted. This house is an example of historic place and tenants expressed an interest to share this.
G.Hand: mentioned to applicant that inadvertently residents sent a letter to him. They may not have known I am on the DRB.
S.Gustin: this property contains two primary structures one with one unit and another with 4 units. This is adding one parking, which helps but need a minimum requirement. Ten spaces are minimum. They need 5 more.
J.Pizzagalli: can get 11 spaces.
A.Zipparo: appreciate what the landlord is doing, but this is discriminating against students, which is not fair. Maybe this should be addressed.
J.Pizzagalli: acknowledged.
C.Page: resides at 26 Henry St with a clear view from backyard and shared fence line. Several people asked to add names to letter originally given to Board. The issue is the parking. Parking on Henry St is inadequate. Many times it's an unsafe situation when cars parked on both sides of street. The neighborhood feels allowing 5 people with additional cars should not be allowed. In the residential low density district, there should be no more than 4 unrelated people. Noise has been an occasional pattern. At one time tents were out in the backyard during the summer. The former barn had a workshop and vehicles were parked on the grass. The driveway extends well into the backyard with additional impervious surface added, but do not see a way for more than 4 cars. Asks the Board not to make exception and to keep balance between owner occupied and rental properties in the city.
S.Wensel: spent 2 years trying to pass the 4 unrelated persons amendment. Staff makes comment under #2 about being compatible with the area, but for us this lot is not in character.
J.Mentes: involved with area and lived here since mid-1990's. Do not know why City doesn't encourage owner occupancy. Not seeing enough options for this. Use of dining rooms for a bedroom or two. Mentioned article in Free Press on ways to encourage Wondered the percentage of owner occupancy was here in Burlington and found out it amounts to 15 or 20% of the homes are owner occupied. People who work and live in the community may not want to.
M.Long: live on Henry St. All around are mixed demographics for many years. Investors renting to undergraduate students. This application does not meet the minimum threshold of square footage. Parking is inadequate and cannot approve application if it is in violation of the ordinance.
K.Long: zoning is a promise to the community. Staff approved keep this single family house with a bedroom downstairs that was a dining room.
S.Gustin: mentioned square footage needing to be 2750 sq. ft.
K.Long: please save our neighborhood and the single family unit.

S.Bushor: looking at the application, I would like to understand why the parking does not meet the threshold. Support staff's recommendation based on parking, concerns with attic space, but this doesn't mean it is okay as livable space. I do not support 5 unrelated people to live in a space/unit.
K.Maciejowski: understand the house she has lived in for several years in is under review and asks to read a statement to the Board. Feeling part of a community knowing neighbors by name, and socialize as professionals living respectfully. The five residents care for and maintain the house. There is never an issue of parking with everyone working 9-5 jobs. Has statements from neighbors saying residents of this house are model citizens who care about the community. They shop and support local businesses.
Neighbor: If property isn't zoned to include all the residents, the rents will go up and we will all have to leave.
A.Hart: there are 6 off street parking spaces for 2 buildings. Do you have cars?
K.Maciejowski: we never pull up on the lawn and we all have cars. When was this lot put in?
S.Gustin: in November, 2000.
J.Pizzagalli: heard excellent representation of board discussions and opinions in town. Regulations need to work out parking for the third floor livable space feeling the application meets the requirements. The parking can be solved by not cramming or parking on the grass.
A.Hart: can make a decision but parking is still a problem. Do you want to amend the application?
JPizzagalli: can make 2 additional spots.
WSenville: the total number being at least 10. So are you saying there is no way to provide this?
J.Pizzagalli: I will look at it.
W.Senville: under ordinance the attic can be converted.
S.Gustin: directly under roof is attic space and still attic if converted.
J.Pizzagalli: described the area being used and measurements taken.
A.Hart: closed public hearing at 5:57pm

3. **16-0859CU; 616 South Willard Street (RL, Ward 6S) RJL South Willard, LLC / Majestic Car Rental Group**
Request to amend conditions of zoning permit 07-524CA/CU to allow for shared offsite parking with church. (Project Manager, Scott Gustin)

A.Hart: applicant and interested parties are sworn in.
B.Rabinowitz: describes use of parking at church and asks applicant whether it is an option.
M.Fitzgerald: yes it is and asks to comment.
A.J.LaRosa: should limit discussion to parking management plan only.
M.Fitzgerald: based on staff's comments need amendment for 50 parking vehicles.
B.Rabinowitz: correct, this in the presentation.
M.Fitzgerald: explains the parking management plan with the church for 30 spots. They only need 20 and have 10 extra spots. The Church needs need to sign off on this. Staff mentioned concerns that the allotted number of spaces is unclear. Majestic would be able to use the 10 extra spaces only which are needed only on weekends. Then there is no need for a parking waiver. This has been going on for years with never a complaint from the neighbors.
B.Rabinowitz: is parking limited to 10 spaces on your property on Saturdays?
M.Fitzgerald: we move cars occasionally off site
GHand: are cars moved to other locations?
M.Fitzgerald: yes, they go to South Burlington and Williston where we shuffle cars to open up the lot and be respectful of the church property. Nothing is happening in the residential area.
AZipparo: asks about the returns.
A.J.LaRosa: are cars left overnight?
M.Fitzgerald: maybe.
BRabinowitz: is it unusual for 2 or 3 cars to be parked on the side each year?
M.Fitzgerald: never had 30 cars. This may fluctuate.
B.Rabinowitz: maximum number of cars?
M.Fitzgerald: have been shuffling cars for 9 years.
K.Godule: attorney for J.Noll, said being sandwiched between Church and Majestic doesn't work for neighbors.

J.Noll: I feel I have commercial property around my house having problems with noise, traffic, pollution and debris. When vehicles come back Sunday night they make noises with each door closure. One vehicles' alarm went off and woke up my grandchildren. Made quite clear to Holly Farrington that when I bought this house in 1985 I did not have this problem.
A.Hart: talking about the use for church parking lot as opposed to Majestic's use.
K.Godule: comment on distance where park cars and big panel trucks, which is less than 20 ft. from my client. Cannot run a fleet of 40 to 50 vehicles and ask the neighborhood to endure this. Majestic parking plan does not meet what the area is zoned for. Thousands of vehicles are parked there all the time.
J.Noll: not right for City to allow this
K.Godule: they were denied parking, but they continue to do this every day. There's been no code enforcement by the City. The City has to say no, now.
A.Zipparo: do they have acceptable site plan?
S.Gustin: on site conditions are approved.
A.Zipparo: are the vans close to the property?
S.Gustin: they got a permit in 1983.
A.Zipparo: conforming now?
G.Hand: this is not before us.
S.Gustin: agrees with this.
B.Rabinowitz: must stay with the plan.
J.Noll: the plan is a stalling technique.
W.Senville: how do you distinguish when car share takes spaces in the other location?
S.Gustin: this is Neighborhood and Mixed use zone and car share has always been part of parking management plan.
K.Godule: We have protested to Majestic for years. They've had lots of complaints.
S.Compaste; disappointed that new information was asked for, but is not specified as to the number of cars and overflow parking on the street. As someone who walks the streets, I often see Majestic vehicles park on and across the street. This is not random use. Sometimes they fill their own lot. One van is extended over the lot despite a high volume of traffic in the circle. It seems like the church is operating as a business. The neighborhood is against this.
M.Fitzgerald: worked with Scott on the issues. We were only allotted 11 spots. There never was an issue in 9 years. Church has allowed us to work this out. Understand businesses work together.
G.Hand: why can't parking be at other two spaces?
M.Fitzgerald: problem is when they return, there are a limited number of people to assist with the returns. People often return using the church space.
G.Hand: you could move them.
M.Fitzgerald: not always feasible.
A.Zipparo: this may not be the right space for this business.
A.Hart: what percent of bus use is from local use?
M.Fitzgerald: a lot of neighborhood are walking in?
A.Hart: vans?
M.Fitzgerald: summer camps are using our vans.
A.Zipparo: questions inventory.
A.Hart: closed public hearing.

4. 13-0650CA/MA; 110 Riverside Ave (NAC/R, Ward 1) Sisters & Brothers Investment Group, LLC
Request for a 2nd one-year extension for proposed 57 unit residential building with associated underground parking, approved July 2, 2013.
(Project Manager, Mary O'Neil)

A.Hart: swears in applicant and interested party.
J.Matosky: things are taking longer with State permitting process and therefore, asking for an extension.
A.Hart: we need to guard against approval of extensions and then people shelving projects. Why did this go on so long?
J.Matosky: permit was approved in June, 2013. We did not apply to Act 250 until 2 years later, which is what all other permits are based on.

A.Hart: what is the status of all permits now?
J.Matosky: water and waste water held up with the Act 250 this month. Received all state permits Project hasn't changed.
A.Hart: we need to preserve integrity of the process and will be tough on this. When will you start?
J.Handy: starting construction April, 2017. Things like asbestos and preconstruction will be done beforehand.
W.Senville: why the delay with Act 250?
J.Handy: other projects delayed it, such as a spill in the building that needed cleanup.
A.Hart: we're uncomfortable about granting an extension on a project we approved 4years ago.
J.Matosky: the process of preparation and getting permits is complex.
J.Handy: remember the State was unsure if we needed Act 250 and it took 6 months to do this.
S.Bushor, city councilor of Ward 1. Supports this project, but concerned about the hiatus. Two issues here: One, there is a fair amount of change and alterations with erosion and stability issues on the bank. Is it possible to stay away from the bank and what would this look like?
Two: at the time we were trying to get pedestrian crossing activated and it was turned down. This looks differently now. Want to see the project move forward according to the City's position.
A.Hart: I know we discussed this and may decide if we don't want to renew the extension. The applicant and people above may want to know the stability of the bank.
J.Matosky: if we get approval through Act 250, the zoning permit process and building are next. Not aware any changes with stability. Thought we agreed to sidewalk crossing and activated crossing on Riverside Ave.
A.Hart: closed public hearing.

5. **16-1378CA/CU; 75 Orchard Terrace (RH, Ward 8E) Laura and Liam Murphy**
Amend Zoning Permit 83-539 (Convert building into one apartment and a boarding house for no more than four persons) to apartment with boarding house for not more than 2 persons; relief of condition identifying 18 Bradley Street at site of two off-site parking spaces; request for 1 space parking waiver.
(Project Manager, Mary O'Neil)

A.J.LaRosa: recused from this item.

A.Hart: swears in applicant
L.Murphy: practicing lawyer in Burlington. Lived in Charlotte for nine years. He and his wife would like to move back into the City. Came across this house next to City Market. It has been student rental for 20 years. Upon change of ordinance, it could not use as single family house in residential high density district. There is a history of approval in 1983 with parking. In 1993, this property changed to single family rental. The house is on the national register. Met with staff and found out for the first time about the approval in 1983 and change in zoning not being able to use as single family dwelling. This property was always registered as dwelling with 4 rental units. The argument is when the boarding house ceased and the parking condition of the permit was not met, it reverted back to single family, although staff disagreed. In May, a final email from staff was about compliance with extra two parking spaces.
The comprehensive development ordinance of 2008 did not allow for a single family.
It seems either a duplex or boarding house is a possible designated use. Offsite parking is difficult because things change.
Looking for a boarding house designation with one offsite parking and asking Board to waive the space. Staff recommendations were against the waiver. We are renting to people who will not have cars, but we think the waiver is reasonable. Staff asked for a parking management plan. For people who do not have cars, we would give two bikes, pay for car share, or give a bus pass. This is an imposition more than other properties.
The YMCA has a parking waiver of 300 spaces. If we had a choice, we would not have a boarding house. Other houses on Orchard Terrace were excluded from the downtown transition and downtown parking district. The number of bedrooms will be four, which is what there is now. Our goal was to find a nice downtown house and bring it back.

A.Hart: questions staff if boarding house needs to be owner occupied.
M.O'Neil: under 2008 ordinance, boarding house does have a condition to be owner occupied.
L.Murphy: if you approve it now we would have to sell, but this would change if it can be owner occupied.
A.Hart: can the Board give a waiver up to 50%?
S.Gustin: in relation to the YMCA, it is existing for adaptive reuse.
M.O'Neil: got reduced parking requirement and came in under the warning.
L.Murphy: the way the lines were drawn is arbitrary. It puts properties in difficult situation.
B.Rabinowitz: asked staff about modification of existing permit.
A.Hart: more comfortable to have requirement to have boarding house and owner occupied.
L.Murphy: would like to maintain the use and ask not to impose it immediately. We are trying to find a path to compliance to keep this house. We would rent for a year then sell our house.
G.Hand: have you tried to find offsite parking?
L.Murphy: funeral home next to our property is not interested. The space has to be within 600 ft. of the site and doesn't reach across the street. Offsite spaces are difficult to monitor.
Laura Murphy: said was it was impressive all the hard work involved with this project. She was struck by the homeowner who spoke regarding a prior project who said owner occupancy was only 15% in Burlington. The City tries to be a livable community and we are working really hard to be part of Burlington. The way people are living is changing. Who previously had heard of car share and bike lanes? We're trying to come up with solutions. We think these rules don't always mesh and urge you to support people who want to make Burlington a great place to live.
L.Murphy: we know people in Charlotte who want to move into town. It is a shame this house cannot be made into a single family house. It reflects well on other houses in the City.
A.Hart: closed public hearing.

V. Other Business

Administrative review of replacement homes at North Avenue Coop

M. O'Neil introduced a proposed DRB bylaw change to enable administrative zoning permit review of replacement mobile homes at North Avenue Coop. The item was deferred to the next deliberative meeting.

Annual Reorganization

DRB Clerk – Anita Wade
Chair – Austin Hart
Vice Chair – Brad Rabinowitz
Ordinance Committee representative – Wayne Senville
Long Range Planning Committee representative – AJ LaRosa

All votes were unanimous.

VI. Adjournment

The meeting adjourned at 7:30 PM.

Austin D. Hart — Sept. 6, 2016
Austin D. Hart, Chair of Development Review Board — Date

A. Wade — 9/6/16
A.Wade, Planning & Zoning Clerk — Date