

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
Vacant
Jim Drummond, (Alternate)
Robert Purvee, (Alternate)



BURLINGTON DEVELOPMENT REVIEW BOARD Tuesday July 18, 2017, 5:00 PM PUBLIC HEARING NOTICE

The Burlington Development Review Board will hold a meeting on
Tuesday July 18, 2017 at 5:00pm in Contois Auditorium, City Hall.

- 1. 17-1267AP; 43 Starr Farm Road (RL, Ward 4N) DINSE / Ventas Realty**
Appeal of zoning violation notice #334328.
(Project Manager: Jeanne Francis)
- 2. 17-1024FC/CU; 128 Lakeside Avenue (ELM, Ward 5S) Fortieth Burlington LLC**
Add fence on eastern parking lot side of property- location within a wetland buffer.
(Project Manager: Ryan Morrison)

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.

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

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BURLINGTON DEVELOPMENT REVIEW BOARD Tuesday July 18, 2017, 5:00 PM Contois Auditorium, City Hall, 149 Church St, Burlington, VT AGENDA

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

- 1. 17-1076CA; 57 North Winooski Ave (RH, Ward 2C) Elango Del**
Convert 3 unit to 4 unit with one or two parking space waiver.
(Project Manager: Ryan Morrison)
- 2. 17-1290CA; 212 Elmwood Avenue (RM, Ward 2C) Champlain Housing Trust**
Amend condition # 4 of ZP17-0914CA requiring utilities serving the replacement home to be placed underground. Applicant requests allowance to utilize the existing above-ground electric wires that have served the property to continue to be used for the replacement home.
(Project Manager: Ryan Morrison.)
- 3. 17-1024FC/CU; 128 Lakeside Avenue (ELM, Ward 5S) Fortieth Burlington LLC**
Add fence on eastern parking lot side of property- location within a wetland buffer.
(Project Manager: Ryan Morrison)

V. Public Hearing

- 1. 17-1267AP; 43 Starr Farm Road (RL, Ward 4N) DINSE / Ventas Realty**
Appeal of zoning violation notice #334328.
(Project Manager: Jeanne Francis)

VI. Other Business

Annual Organizational Meeting

VII. Adjournment

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Department of Planning and Zoning

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David White, AICP, Director
Meagan Tuttle, AICP, Comprehensive Planner
Jay Appleton, GIS Manager
Scott Gustin, AICP, CFM, Principal Planner
Mary O'Neil, AICP, Principal Planner
Ryan Morrison, CFM, Associate Planner
Anita Wade, Zoning Clerk
Layne Darfler, Planning Technician



TO: Development Review Board
FROM: Scott Gustin 
DATE: July 18, 2017
RE: 17-1267AP; 43 Starr Farm Road

The appellants in this matter have requested deferral of the public hearing while working to resolve the problem by way of zoning permit application.

Scott Gustin

From: Andy MacIlwaine <amacilwaine@DINSE.COM>
Sent: Friday, July 07, 2017 9:39 AM
To: Scott Gustin
Cc: Jeanne Francis
Subject: FW: 43 Starr Farm Road Appeal

Follow Up Flag: Follow up
Flag Status: Completed

Dear Scott,

I write per Jeanne Francis' recommendation below. My client would like to postpone the July 18 appeal hearing while we work to resolve the identified zoning issues. We are also interested in the option of withdrawing the appeal in favor of a stipulation for compliance. Before I can advise my client about the stipulation, I would need to have a better understanding of the fees for this option and the City's expectations regarding deadlines so that I can get input from our engineer, CEA. Would you be able to provide me with that information?

Thank you.

Andy



Wm. Andrew MacIlwaine, Esq.
Director

Dinse, Knapp & McAndrew, P.C.
209 Battery Street
P.O. Box 988
Burlington, VT 05402
W: 802-864-5751 | F: 802-859-8786
amacilwaine@dinse.com | [Bio](#)



From: Jeanne Francis [mailto:JFrancis@burlingtonvt.gov]
Sent: Thursday, July 06, 2017 3:24 PM
To: Andy MacIlwaine
Cc: Scott Gustin; William Ward; Kimberlee Sturtevant
Subject: 43 Starr Farm Road Appeal

Mr. MacIlwaine:

It is my understanding you (your clients) have retained a CEA to assist with preparing a new site plan for the Property that would address the alleged violations (ZV 334328) on the Property. Public Hearing for appeal of zoning NOV 334 is scheduled for July 18, 2017. Given the short timeframe we are working with here, our office would support a postponement contingent on the understanding the property owner is working to resolve the alleged violations. So, you would like to request a postponement of the July 20th Public Hearing until August 1, please submit, in writing (email is ok) your request to Scott Gustin (email above).

It appears your appeal is around due process and that you are not contending the violations on the Property. If that is the case, another option would be to withdraw your appeal and enter into a Stipulation Agreement with the City outlining deadlines in which to bring the property into compliance (an Agreement fee would be required, of course).

Let me know what you would like to do:

1. Proceed with the appeal at the July 18th public hearing; or
2. Request, in writing, to post pone the Public Hearing to August 1 (the next DRB meeting); or
3. Withdraw the appeal and enter into an Agreement with the City on a proposal to bring the Property into Compliance.

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

Disclaimer

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Department of Planning and Zoning

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



MEMORANDUM

TO: Development Review Board
FROM: Ryan Morrison
DATE: July 18, 2017
RE: 17-1290CA; 212 Elmwood Avenue

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

Zone: RM Ward: 2C

Applicant/Owner: Green Mountain Habitat for Humanity / Champlain Housing Trust

Request: Amend condition # 4 of ZP17-0914CA requiring utilities serving the replacement home to be placed underground. Applicant requests allowance to utilize the existing above-ground electric wires that have served the property to continue to be used for the replacement home

Applicable Regulations:

Article 6 (Development Review Standards)

Background Information:

The Development Review Board approved Zoning Permit 17-0914CA on May 17, 2017 for the demolition and reconstruction of a 3-bedroom single family residence. Condition #4 of the permit requires utilities to be placed underground. The applicant is requesting to amend this condition so that the new residence can utilize the existing above ground utilities, the same utilities that served the previous home.

Previous Zoning Permit:

- **Zoning Permit 17-0914CA;** Demolish existing 3 bedroom single family residence and replace with a new 3 bedroom single family residence. Approved May 17, 2017.

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

I. Findings

Article 6: Development Review Standards

Part 1, Land Division Design Standards

(Not applicable)

Part 2, Site Plan Design Standards

Sec. 6.2.2, Review Standards

(p) Integrate infrastructure into the design

This section states "*On-site utilities shall be placed underground whenever practicable.*" The applicant is requesting permission to disconnect the electric wires from the existing home and, using the same wire, reconnect to the new house. Placing the electric wire underground will require trenching across Elmwood Avenue, which also includes crossing a gas main, a sewer main, and water and sewer lines coming from the home. With a few exceptions, all homes on the street have their electric lines overhead. The applicant also notes that they will save \$8000 by reusing the existing overhead wires – money that will be passed down to the new owner and make the home more affordable.

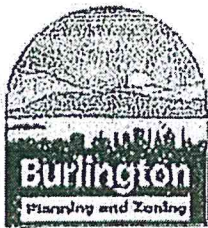
Utilizing the existing overhead utilities to serve the new home is a practicable use of an existing service. **(Affirmative finding)**

Part 3, Architectural Design Standards

(Not applicable)

II. Conditions of Approval

1. The existing above ground utilities serving the property may be utilized to serve the replacement home.
2. All conditions of ZP17-0914CA, with the exception of Condition #4, shall continue to apply to the project.
3. Standard conditions 1-15.



Department of Planning and Zoning

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DEPARTMENT OF
PLANNING & ZONING

DIB July 18

Zoning Permit Application

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

PROJECT LOCATION ADDRESS: 212 Elmwood Ave

PROPERTY OWNER*: Champlain Housing Trust

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

APPLICANT: Green Mountain Habitat for Humanity

POSTAL ADDRESS: 88 King St

POSTAL ADDRESS: 300 Corner Stone Dr Suite

CITY, ST, ZIP: Burlington VT 05401

CITY, ST, ZIP: Williston VT 05495

DAY PHONE: 861-7336

DAY PHONE: 238-6390

EMAIL: leuch@getahome.org

EMAIL: dmullin@vermont-habitat.org

SIGNATURE: [Signature]

SIGNATURE: [Signature]

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

Description of Proposed Project: Amendment to permit # 17-0914CA
See Attached for Description

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

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

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

Estimated Construction Cost (value)*: \$ 200⁰⁰

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

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

Office Use Only: Zone: RM Eligible for Design Review? / Age of House 110 Lot Size 2443

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

Check No. 9298 Amount Paid 20 Zoning Permit # 17-1290CA

Amendment to permit # 17-0914CA

Request permission to disconnect the electric wires from the existing home and using the same wires reconnect it to the new house built in the same place. Putting this electric wire underground will require us to trench across all of Elmwood Avenue. That involves crossing two greenbelts and the entire paved road. In the process we will have to cross the Vermont Gas Main, the Burlington sewer main and the water and sewer lines coming from the house. With few exceptions all the homes on this street have the electric lines overhead. In this particular case where Habitat is building the home the \$8,000 thousand dollars saved by reusing the existing overhead wires is passed directly down to the new homeowner making this home more affordable.

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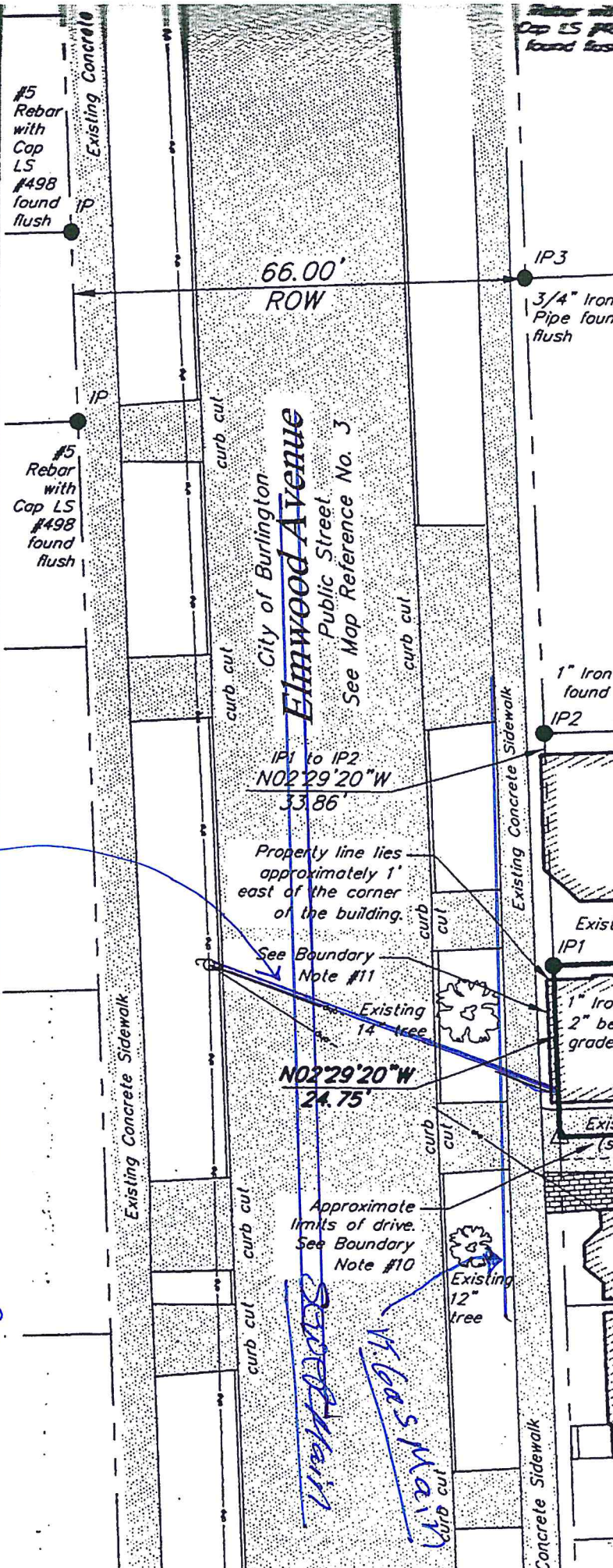
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PLANNING & ZONING

Existing Power line
A Trench



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Rob Purvee (Alt.)



Burlington Development Review Board

Findings of Fact

Deliberative Hearing - Tuesday, May 16, 2017

In RE: 17-0914CA; 212 Elmwood Avenue (Ward 2C, RM) (Tax Lot No. 044-3-030-000)

Owner/Representative: Champlain Housing Trust / Green Mountain Habitat for Humanity

Request: Demolish existing 3 bedroom single family residence and replace with a new 3 bedroom single family residence.

Members Present:

Brad Rabinowitz
Israel Smith
Rob Purvee
Jim Drummond
AJ LaRosa
Alexandra Zipparo

Evidence Presented:

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

Background Information:

The applicant is seeking approval to demolish an existing 3 bedroom single family residence and replace with a new 3 bedroom single family residence. The existing structure was built in 1920, on a 2,443 sf lot in the RM zoning district. The structure is not included on the State or National Historic Register.

The Design Advisory Board reviewed this project April 25, 2017. The Board voted 4-0-0 to recommend approval of the project with the following conditions:

1. A side wall architectural cross section rendering should be provided.
2. An acceptable location for trash and recycling shall be provided; screened on all four sides to prevent blowing trash.

At the time of preparing this report, the side wall architectural cross section has not yet been submitted. With regard to the trash and recycling, the applicant has indicated that trash/recycling totes will be provided, with lids, and kept behind the home.

There are no previous zoning actions associated with this property.

I. Findings

Article 4: Zoning Maps & Districts

Sec. 4.4.5, Residential Districts:

(a) Purpose

(3) Residential Medium Density (RM)

The subject property is located in the RM zone. This zone is intended primarily for medium density residential development in the form of single family detached dwellings and attached multi-family apartments. This proposal entails replacing an existing single family residence with a single family residence. The use will remain consistent with the intent of this zone.

(Affirmative finding)

(b) Dimensional Standards & Density

Residential density will remain at 1 dwelling unit. This density is acceptable on the 2,443 sf lot (20 units/acre). The existing lot coverage is nonconforming at 42.4%. The proposed development will lower the coverage to 36.8%. The end result brings the lot coverage under the maximum allowance of 40%. The narrow lot (24.75' wide) requires 2.475 ft side yard setbacks. The replacement home will be setback from the north and south side yard property lines 4' and 3', respectively. The new structure will be setback from the rear property line a distance of 37.6', which exceeds the rear setback requirement of 25% of the lot's depth (98.5').

Approximately 17.5 sf of the existing home lies across the front yard property line, into the Elmwood Ave. right of way. The replacement structure will be located completely on the subject property, with a front yard setback of 2'. Neighboring buildings each have similar setbacks. The height of the proposed building is 22' to the peak of the gable roof and 20' to the midpoint of the rise, well below the 35' maximum allowable. **(Affirmative finding)**

(c) Permitted & Conditional Uses

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

(d) District Specific Regulations

1. Setbacks

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

2. Height

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

3. Lot Coverage

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

4. Accessory Residential Structures and Uses

No accessory structures are being sought. **(Not applicable)**

5. Residential Density

A. Additional Unit to multi-family

(Not applicable)

B. Additions to Existing Residential Structures

No additions are proposed. **(Not applicable)**

C. Residential Occupancy Limits

In all residential districts, the occupancy of any dwelling unit is limited to members of a family as defined in Article 13.

The residential occupancy provisions of the ordinance will apply to the replacement home.
(Affirmative finding as conditioned)

6. Uses

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

7. Residential Development Bonuses

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

Article 5: Citywide General Regulations

Sec. 5.2.3, Lot Coverage Requirements

See Sec. 4.4.5 (b) above.

Sec. 5.2.4, Buildable Area Calculation

(Not applicable)

Sec. 5.2.5, Setbacks

See Sec. 4.4.5 (b) above.

Sec. 5.2.6, Building Height Limits

See Sec. 4.4.5 (b) above.

Sec. 5.2.7, Density and Intensity of Development Calculations

See Sec. 4.4.5 (b) above.

Sec. 5.3.5, Nonconforming Structures

The existing structure is nonconforming with regard to setbacks and lot coverage. The proposal will bring lot coverage under the maximum 40% allowance, and more into conformance with building setbacks. **(Affirmative finding)**

Sec. 5.5.1, Nuisance Regulations

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

Sec. 5.5.2, Outdoor Lighting

Proposed outdoor lighting is limited to just two fixtures; one for the front door and one for the back door. Fixture cutsheets have been submitted and comply with the exemption allowance for single-family dwellings. **(Affirmative finding)**

Sec. 5.5.3, Stormwater and Erosion Control

As more than 400 sf of earth disturbance is proposed, a “small project erosion control” has been submitted to the Stormwater Program Manager for review. Approval by the Stormwater Program Manager is required prior to construction. **(Affirmative finding as conditioned)**

Sec. 5.5.4 Tree Removal

The applicant has indicated that there are no plans to remove trees as part of the project. **(Not applicable)**

Article 6: Development Review Standards

Part 1, Land Division Design Standards

(Not applicable)

Part 2, Site Plan Design Standards

Sec. 6.2.2, Review Standards

(a) Protection of important natural features

There are no important natural features on the subject property. Existing green space amounts to a lawn area. **(Affirmative finding)**

(b) Topographical alterations

The property is essentially flat and will remain so. No significant topographical alterations are proposed. **(Affirmative finding)**

(c) Protection of important public views

The subject property is not affected by any identified public view corridor. **(Affirmative finding)**

(d) Protection of important cultural resources

Neither the property, nor the structure, is historically significant. **(Affirmative finding)**

(e) Supporting the use of alternative energy

No part of this application would prevent the use of wind, solar, water, or other alternative energy device. **(Affirmative finding)**

(f) Brownfield sites

The subject property is not an identified brownfield. **(Not applicable)**

(g) Provide for nature's events

Both the front and rear doorways will be sheltered by porch roofs. There appears to be room for snow storage at the end of the shared driveway. See Sec. 5.5.3 for stormwater and erosion control. **(Affirmative finding)**

(h) Building location and orientation

Buildings within the neighborhood exhibit a consistent rhythm and pattern along both sides of the street. The placement of the proposed home is consistent with the existing built environment. Its front entry is prominent and readily identifiable from the street. **(Affirmative finding)**

(i) Vehicular access

The existing curb cut will remain unchanged. The driveway is shared with the adjacent property to the south, 210 Elmwood Ave. The 22 ft deep driveway (approx.) is substandard to adequately provide 4 total parking spaces (2 per dwelling). However, this is an existing condition, and the proposed replacement of a single family residence with a new single family residence will not exacerbate this. **(Affirmative finding)**

(j) Pedestrian access

This criterion requires that a pedestrian walkway directly link the primary building to the public sidewalk, which the site plan indicates. Due to the close proximity of the front porch to the front property line, the porch steps connect to the sidewalk via a concrete landing. **(Affirmative finding)**

(k) Accessibility for the handicapped

None is required for single family homes; however encouraged. **(Affirmative finding)**

(l) Parking and circulation

The property shares a driveway with 210 Elwood Avenue, which is also a single family residence. Together, both properties require 4 parking spaces. The shared driveway is approximately 9' x 22', enough room to accommodate just one parking space. Parking is inadequate. However, in redevelopment, it would be possible to reconstruct the single family residence without the required amount of parking, as this would continue an existing condition without exacerbating it (not increase the level of non-conformity). **(Affirmative finding)**

(m) Landscaping and fences

Given the 2' wide swath of yard between the front porch and the sidewalk, there is little room to provide landscaping. However, the applicant has identified two 18" arborvitaes in this area. In other areas, the site plan indicates grass covering in the side and rear yards. **(Affirmative finding)**

(n) Public plazas and open space

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

(o) Outdoor lighting

New outdoor lighting fixtures will illuminate the front and rear building entries. Locations are noted, and a cutsheet has been provided. These are acceptable residential fixtures generating low levels of illumination. **(Affirmative finding)**

(p) Integrate infrastructure into the design

New utility lines must be buried. Utility meters will locate on the rear wall of the structure, and out of view from the public street. There are no mechanical units noted on the site plan, nor on the elevation drawings. If such units are proposed, they will have to be identified on a revised site plan and/or on revised elevation drawings. **(Affirmative finding as conditioned)**

Part 3, Architectural Design Standards

Sec. 6.3.2, Review Standards

(a) Relate development to its environment

1. Massing, Height, and Scale

The massing, height, and scale of the proposed building are similar to the existing structure and are consistent with the pattern of development within the neighborhood. **(Affirmative finding)**

2. Roofs and Rooflines

A gable roof is proposed. Although the pitch is fairly shallow, it is similar to that of the existing structure. Gable roofs are common in the neighborhood. **(Affirmative finding)**

3. Building Openings

The front entrance is clearly articulated and is sheltered by a small front porch. Fenestration is appropriately scaled. Double hung vinyl windows are proposed and are acceptable in this new structure. **(Affirmative finding)**

(b) Protection of important architectural resources

The existing single family residence is more than 50 years old but is not historically significant. The Assessor's property listing notes that the building has vinyl siding. Removal of the building will not adversely impact any important architectural resource. **(Affirmative finding)**

(c) Protection of important public views

See 6.2.2 (c) above.

(d) Provide an active and inviting street edge

The front entry to the replacement home is clearly articulated with an open porch. Front porches are common in the neighborhood. The structure is fairly narrow, with the gable end facing the street. What little building mass there is facing the street is broken up with the porch and windows. There are no large blank walls or expanses of roof. **(Affirmative finding)**

(e) Quality of materials

The proposed home will be clad in vinyl lap siding. Asphalt shingles will be installed on the roof. The double hung windows will be vinyl. These materials are acceptable on new construction. Materials for both porches (steps, decking and railing) will be stained wood, with the support posts clad in PVC. Pressure treated wood is discouraged. **(Affirmative finding)**

(f) Reduce energy utilization

The proposed building must comply with the city's current energy efficiency standards. **(Affirmative finding as conditioned)**

(g) Make advertising features complimentary to the site

No advertising is included in this proposal.

(h) Integrate infrastructure into the building design

Utility meters will be located on the rear of the structure, and not visible from public view. **(Affirmative finding)**

(i) Make spaces safe and secure

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

Article 8: Parking

Sec. 8.1.8, Minimum Off-Street Parking Requirements

The parking requirement for a single family residential use in the Neighborhood Parking District is 2 spaces. As noted in Sec. 6.2.2 (l) above, the property shares a driveway with 210 Elmwood Avenue, also a single family home. The driveway is approximately 9' x 22', enough room to accommodate just one parking space. Parking is inadequate for both homes that share the driveway. However, in redevelopment, it would be possible to reconstruct the single family residence without the required amount of parking, as this would continue an existing condition without exacerbating it. **(Affirmative finding)**

Article 9: Inclusionary and Replacement Housing

Part 2: Housing Preservation and Replacement/Demolition and Conversion

The applicant proposes replacing the single family residence with a single family residence. There is no net loss of housing. **(Affirmative finding)**

II. MINUTES

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

III. MOTION

Motion: Israel Smith

I move that the Board grant approval of Zoning Permit 17-0914CA to demolish the existing 3 bedroom single family residence and replace with a new 3 bedroom single family residence at 212 Elmwood Avenue, in the RM zone, in accordance with Articles 4, 5, 6, 8, and 9, and adopt the findings in Section I above, subject to the following conditions:

1. **Prior to release of the zoning permit**, the applicant shall submit a side wall architectural cross section rendering to Planning and Zoning for review and approval.
2. **Prior to release of the zoning permit**, the "small project erosion control" plan shall be approved by the Stormwater Program Manager.
3. The occupancy of the single family residence is limited to members of a family as defined in Article 13. No more than four unrelated adults may occupy the dwelling.
4. Utilities are required to be placed underground.
5. Construction hours shall be limited to Monday – Friday from 7:00 AM – 5:00 PM. Saturday construction may be allowed upon request to the Development Review Board. No work on Sunday.
6. A state wastewater permit may be required, and will be the responsibility of the applicant to secure if needed.

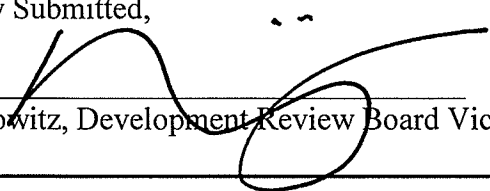
7. Any encroachments into the public street right-of-way (permanent or temporary and including underground structure such as footings) will require an encumbrance permit via the Department of Public Works.
8. The applicant shall secure any associated trades permits for the interior work.
9. The Applicant/Property 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.
10. All new construction is required to meet the Guidelines for Energy Efficient Construction pursuant to the requirements of Article VI. Energy Conservation, Section 8 of the City of Burlington Code of Ordinances.
11. Vermont Residential Building Energy Standards apply to this project. Compliance with the standards is the Owner's responsibility. Prior to requesting a Certificate of Occupancy, a copy of a completed Vermont Residential Building Energy Standards Certificate shall be submitted with a Certificate of Occupancy (final or temporary) request, and filed in the Land Records located at the Clerk/Treasurers office in City Hall (149 Church Street). For more information, see http://publicservice.vermont.gov/topics/energy_efficiency.
12. Standard Permit Conditions 1-15 shall apply.

Seconded: Rob Purvee

Vote: 6-0-0, motion carried

Dated at Burlington, Vermont, this 17 day of May, 2017

Respectfully Submitted,



Brad Rabinowitz, Development Review Board Vice 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
<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
Layne Darfler, Planning Technician
Anita Wade, Zoning Clerk



MEMORANDUM

To: Development Review Board
From: Ryan Morrison, Associate Planner
Date: July 18, 2017
RE: ZP17-1024FC/CU; 128 Lakeside 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: ZP17-1024FC/CU

Location: 128 Lakeside Avenue

Zone: ELM **Ward:** 5S

Date application accepted: April 27, 2017

Applicant/ Owner: Fortieth Burlington, LLC

Request: Install a new fence on the east side of an existing parking lot, partially located within the Wetland Conservation Zone.

Applicable Regulations: Article 3 (Applications, Permits, & Project Reviews), Article 4 (Zoning Maps & Districts), Article 6 (Development Review Standards)

Background:

- Zoning Permit 90-162; Renovations to existing building to allow crane equipment to operate within. Renovations to façade, with new treatment and height increases on south side specifically for the cranes. Approved April 1990.
- Zoning Permit 91-034; Install 13.2KV service entrance to main plant. 17ft x 73ft concrete vault for new equipment. Pad to be brick faced on east side. Overall height to be 14ft. Approved July 1990.
- Zoning Permit 92-127; Reside existing 12' x 14' shed adjacent to boiler room and chimney with wood clapboard siding. Approved October 1991.
- Zoning Permit 92-156; Installation of 31' high filter structure on a concrete pad in the interior corner of the north side of building 22. Existing 32' high demister exhaustor to be removed. Approved October 1991.
- Zoning Permit 92-198; Replacement of glass doors with turnstyles faced with clear lexan in the existing personnel entrance at general electric. Mass remains the same, with all work being performed on the existing asphalt and concrete surface covering. Approved December 1991.
- Zoning Permit 94-079; Landscape and handicap access improvements to the existing visitor entry at Martin Marietta Plant. Approved August 1993.

- Zoning Permit 94-196; Installation of a non-illuminated freestanding sign for the existing Martin Marietta Plant. Sign to be an element of the handicapped accessible courtyard fencing. All other signs to be removed from the plant, with this being the only sign for the site. Approved October 1993.
- Zoning Permit 01-455; Rehabilitation to the existing office and light manufacturing plant, which include the demolition of the rear sawtooth structure and miscellaneous site improvements. Approved June 2001.
- Zoning Permit 01-455A; Phase 1 of COA 01-032; demolition of the rear sawtooth building and site improvements to facilitate the rehabilitation of the existing manufacturing plant. Approved June 2001.
- Zoning Permit 03-151; Installation of approximately 358 linear feet of 8' high dark brown chain link fence with vinyl slats. Approved September 2002.
- Zoning Permit 04-147; Expansion of building 21, at the Innovation Center of Vermont, and associated site modifications. The proposed addition will have a total square footage of 14,880, including the first floor (10,444 sf) footprint with a mezzanine (4,316 sf and an additional 120 sf anticipated on the mezzanine level). Approved August 2003.
- Zoning Permit 06-078CA; Installation of new windows on east façade, third and fourth floors – continuation of work from COA 01-032 and ZP #01-455. Approved August 2005.
- Zoning Permit 07-215CA; Add 12' x 24' storage shed. Approved September 2006.
- Zoning Permit 08-133CA; Installation of 12 panel antennas above the elevator machine room on the roof of this building. Addition of a 12' x 30' equipment shelter. Approved August 2007.
- Zoning Permit 08-327CA; New generator and associated exterior pad, 11' x 5' footprint. Approved October 2007.
- Zoning Permit 09-449SN; Freestanding sign for General Dynamics, reusing existing sign structure in same location. 92" x 72" high (46 sq ft). Approved December 2008.
- Zoning Permit 09-666CA; Permanent placement of two storage containers within existing fenced compound. Approved April 2009.
- Zoning Permit 11-0578CA; New windows, vestibule and ramp associated with change of use (approx. 5,300 sq ft) from office to medical offices. Approved January 2011.
- Zoning Permit 11-0636CA; Install eight skylights in roof of building 15. Approved March 2011.
- Zoning Permit 11-0661CA; Install two rooftop units on building 15 for medical offices. Exterior gas meter to be installed on north side of building. Approved March 2011.
- Zoning Permit 11-0783CA; Removal of small brick addition; return to grass. Sidewalk, slab, condensing unit to be removed. Windows to be re-installed, sills repaired. Approved April 2011.
- Zoning Permit 11-0976CA; New RTV unit on roof, new intake, new skylights, remove two existing wood structures. Approved May 2011.

- Zoning Permit 12-0612CA; Construct new accessory shelter structure on west side of property. Approved December 2011.
- Zoning Permit 12-1177CA; Install condenser on ground on west side of building and new hood exhaust vent on roof. Approved June 2012.
- Zoning Permit 13-0744CA; Install new window in existing infilled second floor window opening to match existing windows. Approved February 2013.
- Zoning Permit 13-0769SN; Replace existing freestanding directory sign with new larger directory sign for the Innovation Center of Vermont. Approved March 2013.
- Zoning Permit 13-0984CA; Installation of radio antenna on building rooftop with associated cable. Approved May 2013.
- Zoning Permit 13-1304CA; Renovation of building 21 to become all office space, removal of overhead doors, new windows and replacement windows and new mechanical equipment. Approved July 2013.
- Zoning Permit 14-0235CA; Install metal egress stair on north side of building. Approved September 2013.
- Zoning Permit 14-0649SN; Install new parallel sign for Dealer.com. No illumination included. Approved December 2013.
- Zoning Permit 14-0907CA; Install two ground mounted electric vehicle charging stations at rear of 128 Lakeside Avenue building. Approved April 2014.
- Zoning Permit 15-0060CA; Remove plywood and install windows in existing openings on toilet tower. Approved July 2014.
- Zoning Permit 15-0261CA; Temporary placement of zero energy mobile home replacement unit/Efficiency Vermont. Approved August 2014.
- Zoning Permit 15-0626CA; Installation of new windows and skylights for existing commercial space. Approved November 2014.
- Non-Applicability of Zoning Permit 15-0940NA; Replacement sign, no change in size or materials, for UVM Medical Center Community Health Improvement. Issued April 2015.
- Zoning Permit 17-0619CA; Parking control gate at east and west drives for Fortieth Burlington LLC. Approved December 2016.

Overview: The applicant seeks approval to construct an 8 ft tall, +/- 130 ft long fence along the east side of an existing parking lot. To the east of the parking lot is a swath of land approximately 30' wide, and a salt storage building on the adjacent DPW property (645 Pine Street). Within this area is a man-made ditch. The purpose of the fence is to replace a dense, tall Arborvitae hedge that provided visual screening. A portion of the proposed fence is situated within the Wetland Conservation Zone associated with a wetland on the adjacent DPW property.

The property currently contains a mix of office and institutional uses, with an accessory parking lot of significant size (approx. 720 spaces). Eastern portions of the existing parking lot encroach into the subject Wetland Conservation Zone. The wetland itself, has been designated as a Class

Two wetland, which has a 50-foot buffer, per State regulations. Sec. 4.5.4 (b) (2) CDO designates uplands within 100 feet of a wetland as a Wetland Conservation Zone, and subject to the regulations of Sec. 4.5.4 (d) – District Specific Regulations: Wetland Conservation Zone. The wetland report prepared by Oakledge Environmental Services, Inc. states that the northern tip of the fence will be located approximately 100 feet from the wetland boundary at its closest point. Conditinal use review of this proposal is triggered solely due to the wetland.

The Conservation Board reviewed this application on July 10, 2017 and voted 6-0 to recommend approval of the project as proposed. The applicant's wetland consultant noted that an on-the-ground assessment indicated that the fence may actually be just beyond the 100' wetland buffer boundary.

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

I. Findings:

Article 3: Applications, Permits, and Project Reviews

Part 5, Conditional Use & Major Impact Review

Sec. 3.5.6, Review Criteria

(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;

The proposed fence will not increase existing demands on community utilities, facilities or services. **(Affirmative finding)**

2. The character of the area affected;

The Enterprise Light Manufacturing (ELM) zone dominates the surrounding area. Existing development in the area is consistent with the purpose of the zoning district, which is intended to be the primary commercial/industrial center of Burlington. The proposed fence will not change the existing use of the property, nor will it alter the character of the neighborhood. **(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;

Nuisance impacts will remain unchanged. **(Affirmative finding)**

4. Transportation system capable of supporting the proposed use;

Transportion system impacts will remain unchanged. **(Affirmative finding)**

5. Utilization of renewable energy resources;

Not applicable.

6. Bylaws then in effect;

As conditioned, the project complies with all applicable bylaws. **(Affirmative finding)**

(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 proposed development is not expected to generate offsite noise or glare. **(Affirmative finding)**

2. Time limits for construction.

The fence will be constructed in a single phase within the standard 2-year time frame. Therefore, no phasing schedule or special time limits on construction are needed. **(Affirmative finding)**

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

No hours of construction are noted in the application. Days and hours of construction are limited to Monday – Friday 7:00 AM – 5:00 PM. Saturday construction within those hours may be allowed upon request to the DRB. No construction activity on Sunday.

(Affirmative finding as conditioned)

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

Any future enlargement or alteration of the fence will be reviewed under the zoning regulations in effect at that time. **(Affirmative finding as conditioned)**

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.

To be addressed in conditions of approval

Article 4: Zoning Maps & Districts

Sec. 4.4.3, Enterprise Districts:

(a) Purpose

(1) Light Manufacturing (ELM)

The subject property is located in the ELM zone. This zone is the primary commercial/industrial center of Burlington, and is intended primarily to accommodate enterprises engaged in the manufacturing, processing, distribution, creating, repairing, renovating, painting, cleaning, or assembly of goods, merchandise, or equipment without conflict from interspersed residential uses. This district is intended to ensure that sufficient land area is appropriately designated within the city to provide an adequate and diversified economic base that will facilitate high-density job creation and retention. The existing mixed use of the subject property fits within the purpose of the underlying zone. The proposed fence will not change the use of the property.

(Affirmative finding)

Sec. 4.5.4, Natural Resource Protection Overlay District:

(b) Areas Affected

2. *A Wetland Conservation Zone which consists of wetlands and a corresponding upland buffer area for the following areas:*

A. Uplands within 100 feet of all wetlands depicted in Map 4.5.4-1, Natural Resource Protection Overlay District except in cases where the State of Vermont has established greater buffer zone width.

According to Map 4.5.4-1 and the City's GIS mapping, the proposed fence location is within the mapped Wetland Conservation Zone. As a result, construction of the fence is subject to the review criteria of Sec. 4.5.4 (d) – District Specific Regulations: Wetland Conservation Zone. **(Affirmative finding)**

(d) District Specific Regulations: Wetland Conservation Zone

(4) Conditional Uses

Except where noted herein, all uses permitted or conditionally permitted in the respective underlying zoning district, including the list of activities below, may be approved within a wetland and its buffer zone after review and approval pursuant to the Conditional Use Review provisions of Article 3 and subject to the requirements and limitations set forth below under Subpart 6 below.

A. The construction of buildings or other structures, and roads, parking areas or other impervious surface.

An approximate portion of the proposed fence lies within the Wetland Conservation Zone, and is subject to conditional use review. See Article 3 above. **(Affirmative finding)**

(6) Criteria for Review

In granting, denying, or conditioning any permit involving a wetland, vernal pool or respective buffer zone, the DRB, in consultation with the conservation board, will consider the project's impact on the functions and values of the wetland, and the measures that the applicant has incorporated into the project to avoid and minimize impacts. The DRB shall only approve a project having an impact on a wetland or wetland buffer zone if an applicant can demonstrate that any adverse impact is de minimus on the significant functions and values of the wetland including:

The proposed fence is not located in the actual subject wetland, nor is it, as the applicant states, within the State regulated 50-foot buffer. According to Map 4.5.4-1 – Natural Resources Overlay District, and the City's GIS program, a portion of the fence is located within the Wetland Conservation Zone, which consists of any area 100 feet upland of a recognized wetland. The applicant states that the GIS mapping of the subject wetland is not entirely accurate, and that it is actually located further to the north, which pushes the boundary of the Wetland Conservation Zone to the north as well, resulting in the applicant's conclusion that, if anything, only an approximate portion of the northern tip of the fence may lie within the Wetland Conservation Zone. However, a new delineation was not conducted and therefore, the applicants are pursuing the conditional use permit to allow the fence.

A. Water storage for floodwater and stormwater;

The only ground disturbance will result from excavation for the fence posts, and the design of the fence itself will allow floodwater to pass, although at a slightly reduced rate, should there ever be flooding. No adverse impacts to floodwater and stormwater are anticipated.

(Affirmative finding)

B. Erosion and sedimentation control through binding and stabilizing the soil or shoreline;
The very minor ground disturbance (postholes) will not create erosion or sedimentation runoff that will negatively affect the wetland and its functions. **(Affirmative finding)**

C. Surface water and groundwater protection, including sediment and toxicant retention, nutrient retention and transformation, and groundwater discharge and recharge;
The fence is not anticipated to negatively impact surface and ground water protection. **(Affirmative finding)**

D. Fisheries habitat;
The applicant states that fisheries habitat is either absent or would be affected de minimis as a result of the new fence. It is clear that the fence location is outside the actual wetland, and its State regulated 50 ft buffer. **(Affirmative finding)**

E. Wildlife Habitat;
The applicant states that the wetland contributes to wildlife habitat due to its proximity to the Barge Canal wetland located a short distance to the north. The proposed fence will locate between a large mixed-use development and the adjacent DPW complex, an area unlikely of supporting wildlife habitat or a corridor. **(Affirmative finding)**

F. Examples of natural community types that are exemplary, rare, or make an important contribution to the natural heritage of Burlington and Vermont;
The wetland consultant notes that the wetland does not have any exemplary natural community types. Further to the south, where the fence is proposed, there is even less likelihood of there being exemplary natural community types. **(Affirmative finding)**

G. Habitat for rare, threatened and endangered species;
There are no identified rare, threatened or endangered species on the property. **(Affirmative finding)**

H. Education and research in natural sciences;
The fence will not be a detriment to any potential education or research in natural sciences. **(Affirmative finding)**

I. Recreational and economic benefits; and
The area of the proposed fence has no recreation or economic benefits. **(Affirmative finding)**

J. Open space and aesthetics.
The fence will not be a detriment to the area's aesthetics as it will provide a visual barrier between the subject property and the adjacent salt storage building on the adjacent property. **(Affirmative finding)**

In addition, the review of a project involving a wetland or wetland buffer zone shall also be subject to the following requirements and limitations:

K. Any land disturbing activities (i.e., vegetation has been removed, or the landscape has been graded or filled resulting in bare soil surfaces) shall include a stormwater management, erosion prevention and sediment control plan pursuant to the requirements of Sec 5.5.3 to be reviewed by the conservation board and approved by the city engineer;

As the proposal will not exceed 400 sf in ground disturbance, an EPSC plan is not required.

(Affirmative finding)

L. No new stormwater outfall shall directly discharge into surface water without approval and implementation of a stormwater management plan approved by the city engineer;

The proposal is not subject to the requirements of Sec. 5.5.3. **(Affirmative finding)**

M. No installation of docks, rip-rap or other shoreline stabilization features shall be installed without review approval by the city engineer;

Not applicable.

N. Agricultural and silvicultural activities shall follow Best Management Practices for the Protection of Water Quality; and,

Not applicable.

O. Stormwater management, erosion, and sedimentation control plans shall be submitted for review by the conservation board who shall consult with the development review board and city engineer prior to issuance of a recommendation to the city engineer who shall render a final decision on such plans.

In making determinations and decisions required herein, the city engineer shall consider the requirements of the most recent State of Vermont Stormwater Management Rules and Guidance document. The city engineer shall require the best practicable means be used to manage stormwater and control erosion and sedimentation and the city engineer is hereby authorized to develop performance standards to ensure conformance with these state stormwater management rules.

The Conservation Board reviewed the application on July 10, 2017, and voted unanimously (6-0) to approve the application as proposed, based on the appearance that only an approximate portion of the northern tip of the fence may be located within the Wetland Conservation Zone. Due to the minimal ground disturbance for the post holes, the Board had no concerns for the fence. **(Affirmative finding)**

Article 6: Development Review Standards

Part 1: Land Division Design Standards

Not applicable.

Part 2: Site Plan Design Standards

Sec. 6.2.2 Review Standards

(m) Landscaping and Fences

Fences may be placed within a required setback along a property line, but shall be setback sufficiently to provide for the maintenance of both sides of the fence without entering onto the adjacent property and shall present a finished side to the adjoining property and public street.

As a condition of approval, the fence will need to be setback sufficiently from the property line to provide for the maintenance of both sides without entering onto the adjacent property, and it will need to present a finished side to the adjoining property. **(Affirmative finding as conditioned)**

Part 3: Review Standards

Not applicable.

II. Conditions of Approval

1. The fence shall be setback sufficiently to provide for the maintenance of both sides without entering onto the adjacent property.
2. The fence shall present a finished side to the adjoining property.
3. Days and hours of construction are limited to Monday – Friday 7:00 AM – 5:00 PM. Saturday construction within those hours may be allowed upon request to the DRB. No construction activity on Sunday.
4. Any future enlargement or alteration of the fence shall be reviewed under the zoning regulations in effect at that time.
5. The Applicant/Property Owner is responsible for obtaining all necessary Building Permits through the Department of Public Works as well as other state or federal permit(s) as may be required.
6. Standard permit conditions 1-15.



Department of Planning and Zoning

149 Church Street, City Hall

Burlington, VT 05401-8415

Phone: (802) 865-7188

Fax: (802) 865-7195

www.burlingtonvt.gov/pz

RECEIVE

APR 27 2017

DEPARTMENT OF
PLANNING & ZONING

Zoning Permit Application

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

PROJECT LOCATION ADDRESS: 128 Lakeside Ave. Burlington VT

PROPERTY OWNER*: FORTIETH BURLINGTON LLC

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

APPLICANT: FORTIETH BURLINGTON LLC

POSTAL ADDRESS: 67 Lewiston Rd

CITY, ST, ZIP: Grosse Pointe Farms MI 48236

DAY PHONE: 313-881-7433

EMAIL: _____

POSTAL ADDRESS: 128 LAKESIDE AVE

CITY, ST, ZIP: BURLINGTON VT 05401

DAY PHONE: 802-863-6903

EMAIL: Cmyers@gilbaneco.com

SIGNATURE: [Signature] (FOR Fortieth LLC)

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

SIGNATURE: [Signature] (FOR FORTIETH)

Description of Proposed Project: Approximately 130' Fence 8' high on eastern parking side of property. Built custom by Gilbane.

Existing Use of Property: ☐ Single Family ☐ Multi Family: #___ Units ☐ Other: Office Bldg

Proposed Use of Property: ☐ Single Family ☐ Multi Family: #___ Units ☐ Other: Office Bldg

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

Estimated Construction Cost (value)*: \$ 2,500

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

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

Office Use Only: Zone: ELM Eligible for Design Review? 4 Age of House 1894 Lot Size _____

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

Check No. Cash Amount Paid \$50. Zoning Permit # 17-1024fe

37010

\$150 DRB fee

paid 6/20/17

RECEIVED

APR 27 2017

DEPARTMENT OF
PLANNING & ZONING

GRAPHIC SCALE

1" = 20' 0"

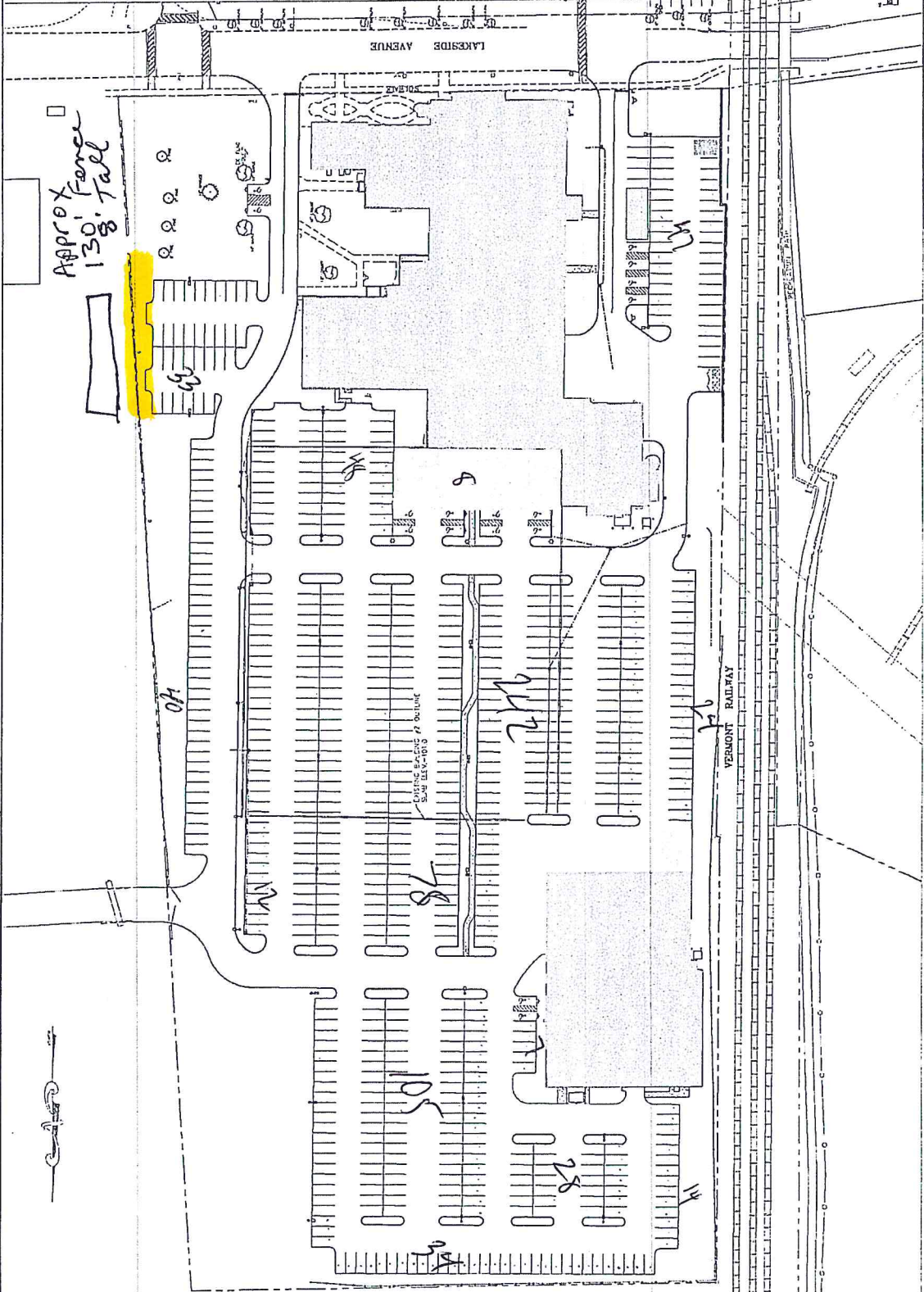
1" = 40' 0"

1" = 80' 0"

INNOVATION CENTER OF VERMONT
GILBANE PROPERTIES, INC.
NORTH PARCEL
HYDRANT LOCATIONS PLAN

CIVIL ENGINEERING ASSOCIATES, INC.
FALL RIVER, MASSACHUSETTS 01936
617-881-1234 FAX 617-881-1235
HYD

Approx Fence
130' Tall



RECEIVED

APR 27 2017

DEPARTMENT OF
PLANNING & ZONING

8
Fall

Oakledge Environmental Services, Inc.

P.O. Box 4065, Burlington, VT 05406 (802) 660-8312

**Wetland Report
For Screening Fence Installation
at
128 Lakeside Avenue
Burlington, Vermont**

This memorandum addresses regulatory compliance with local, state, and federal wetland regulations for the installation of a ± 130 -foot long fence (the Project) on the Gilbane Development Company property located at 128 Lakeside Avenue in Burlington, Vermont. The Project was reviewed to ensure compliance with the Zoning Regulations for the City of Burlington (local), the Vermont Wetland Rules (state), and Section 404 of the Clean Water Act (federal).

A wetland located on the adjacent DPW parcel at 645 Pine Street triggered the wetland review requirements outlined in the Zoning Regulations. This wetland is located entirely on the DPW parcel, as delineated by the City of Burlington for regulatory review of DPW activities. The northern tip of the proposed fence on the Gilbane property will be located approximately 100 feet from the wetland boundary, at its closest point.

Project Description

The ± 130 -foot long and eight-foot tall fence will provide visual screening along the eastern margin of the Gilbane property. The proposed fence will be installed atop a northerly-trending berm located at the eastern edge of an existing paved parking lot. The entire fence will be installed in a previously disturbed location that is maintained as a mowed lawn. The fence will screen Gilbane's view of the rear exterior wall (west side) of the DPW salt storage building, which is adjacent to the shared property boundary in this location. The fence replaces a dense, tall hedge of *Arborvitae* (*Thuja*), planted by Gilbane, which formerly provided visual screening prior to sudden mortality that occurred in 2015.

The fence will be constructed of wood, and will be attached to vertical wooden posts. The posts will be installed in holes excavated with a mechanical post hole digger, and the minor quantities of excavated material will be used to backfill the holes. Any exposed soils will be seeded with a conservation mix and mulched with straw.

Wetland Report for 128 Lakeside Avenue Fence Installation

Burlington Zoning Regulations

The Project was evaluated to ensure compliance with the District Specific Regulations for the Wetland Conservation Zone, which are outlined in Appendix A, Article 4, Section 4.5.4 (d) of the Official Zoning Regulations for the City of Burlington. These regulations specify a 100-foot buffer zone for wetlands in the City. As noted, the northern end of the fence is located approximately 100 feet from the wetland boundary on the DPW parcel, and, therefore, the Project could potentially result in a minor encroachment into the 100-foot wetland buffer zone. The fence installation, therefore, potentially constitutes a Conditional Use within the wetland buffer, which would require review and approval under the applicable regulations for the Wetland Conservation Zone.

Wetland functions and values were evaluated using the criteria outlined in the Burlington Zoning Regulations. The wetland contributes to the following wetland functions: water storage for floodwater and stormwater, surface water and groundwater protection, wildlife habitat and RT&E species habitat. The wetland also provides potential indirect economic benefits to the extent that it filters and/or removes pollutants from storm runoff prior to discharge to the Barge Canal wetland and Lake Champlain.

-
- The wetland is located in a topographical basin that provides storage for storm runoff. This basin includes large and small sub-basins, and the overall storage capacity appears to be controlled by an outlet structure located on the north side of the larger of the two sub-basins.
 - Aerial imagery of the site indicates that some of the sediment load transported by stormwater settles in the sub-basins. The wetland is positioned between open water in the basin and potential surface water pollution sources that include parking lots, roads, and most likely direct stormwater discharge. Aerial imagery indicates that some quantity of sediments transported by stormwater settle in the sub-basins.
 - The wetland provides potential habitat for a state-rare plant that was last documented from the Barge Canal in 1904.
 - The wetland contributes to wildlife habitat due to its proximity to the Barge Canal wetland located a short distance to the north.
 - The wetland provides an indirect economic benefit to the extent that it filters and removes potential pollutants from surface runoff prior to discharge to the Barge Canal and Lake Champlain

The following wetland functions and values are either absent or provided at a non-significant, *de minimus* level: fisheries habitat, exemplary natural community types, open space and aesthetics, education and recreation, and erosion control.

Wetland Report for 128 Lakeside Avenue Fence Installation

The Project avoids wetland impacts and is designed to avoid adverse impacts to wetland functions and values. As noted, the fence location is approximately 100 feet from the wetland at its closest point, and is characterized by a strip of maintained lawn along a berm between a paved parking lot and man-made ditch. The work will result in minimal soil disturbance (post hole excavation) and will be performed in accordance with any applicable municipal and state stormwater management regulations and requirements

Vermont Wetland Rules (State wetland regulations)

The State of Vermont protects significant wetlands under the Vermont Wetland Rules, and the Project is required to comply with these Rules. The Vermont Wetland Rules regulate activities that impact significant (Class I and Class II) wetlands, and associated buffer zones. The Wetland Program in the Vermont Agency of Natural Resources (ANR) previously determined that the wetland on the DPW parcel is a Class Two wetland, which has a designated 50-foot buffer zone. Tina Heath, District Wetland Ecologist for ANR, visited the wetland in 2016 and confirmed the Class Two wetland designation.

A Vermont Wetland Permit is required for certain projects that will impact either a Class Two wetland or the associated 50-foot buffer. The Project is located approximately 100 feet from the Class Two wetland boundary, and, therefore, is not regulated under the Vermont Wetland Rules, and does not require a Vermont Wetland Permit.

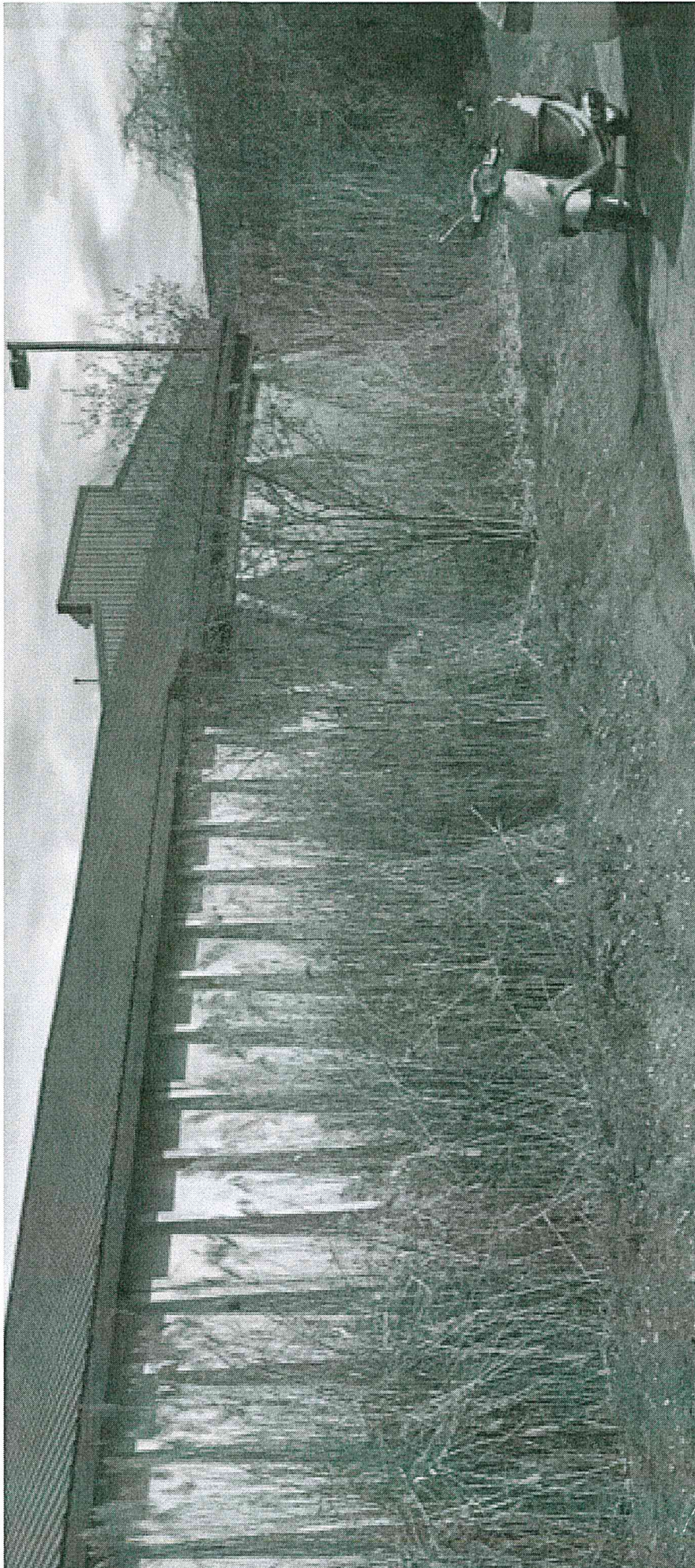
Federal Regulations

The U.S. Army Corps of Engineers regulates the placement of or fill material into the "waters of the United States", which includes wetlands, under Section 404 of the Clean Water Act. The Project is designed to avoid wetland impacts and will not trigger Army Corps jurisdiction.

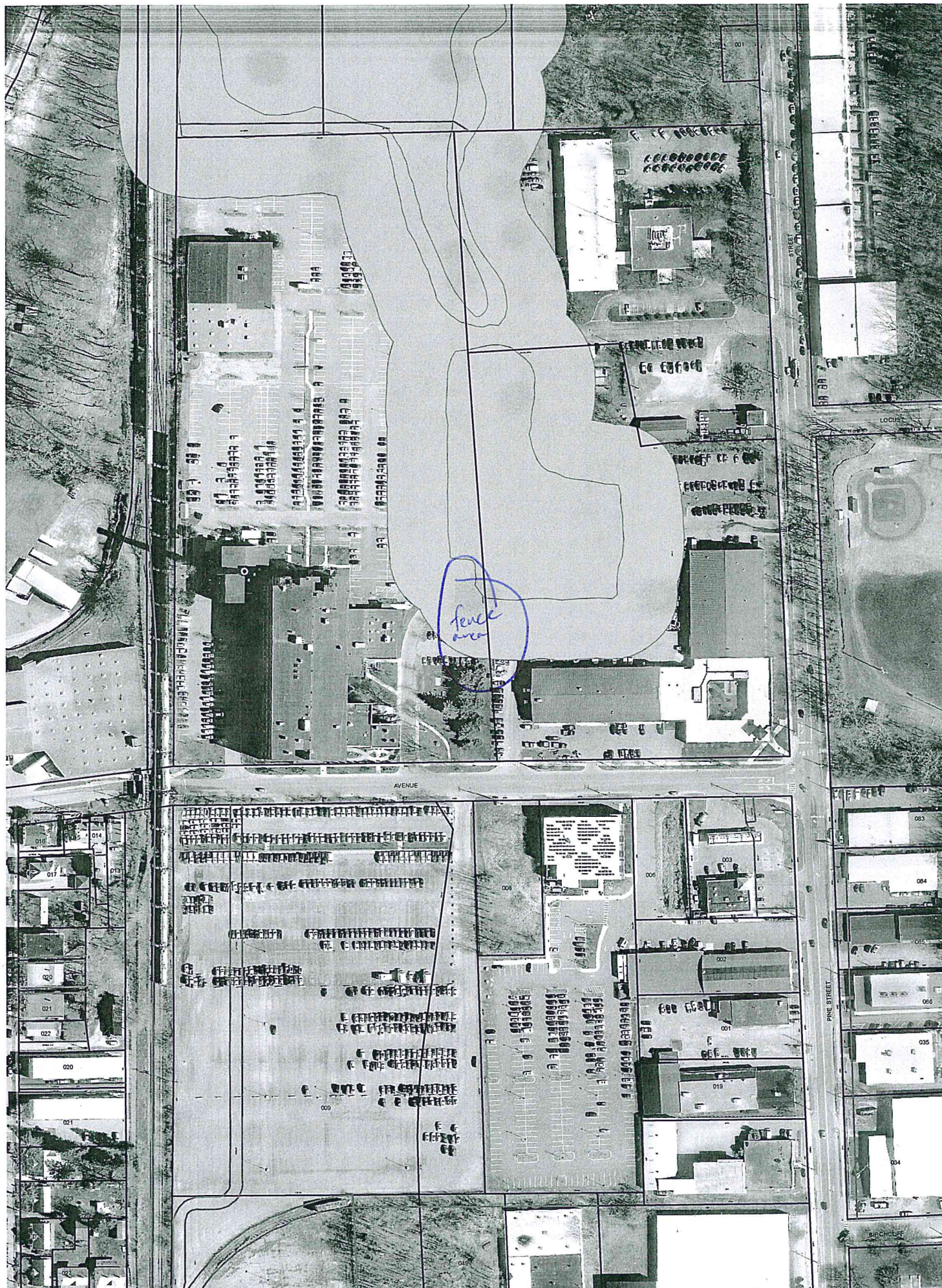
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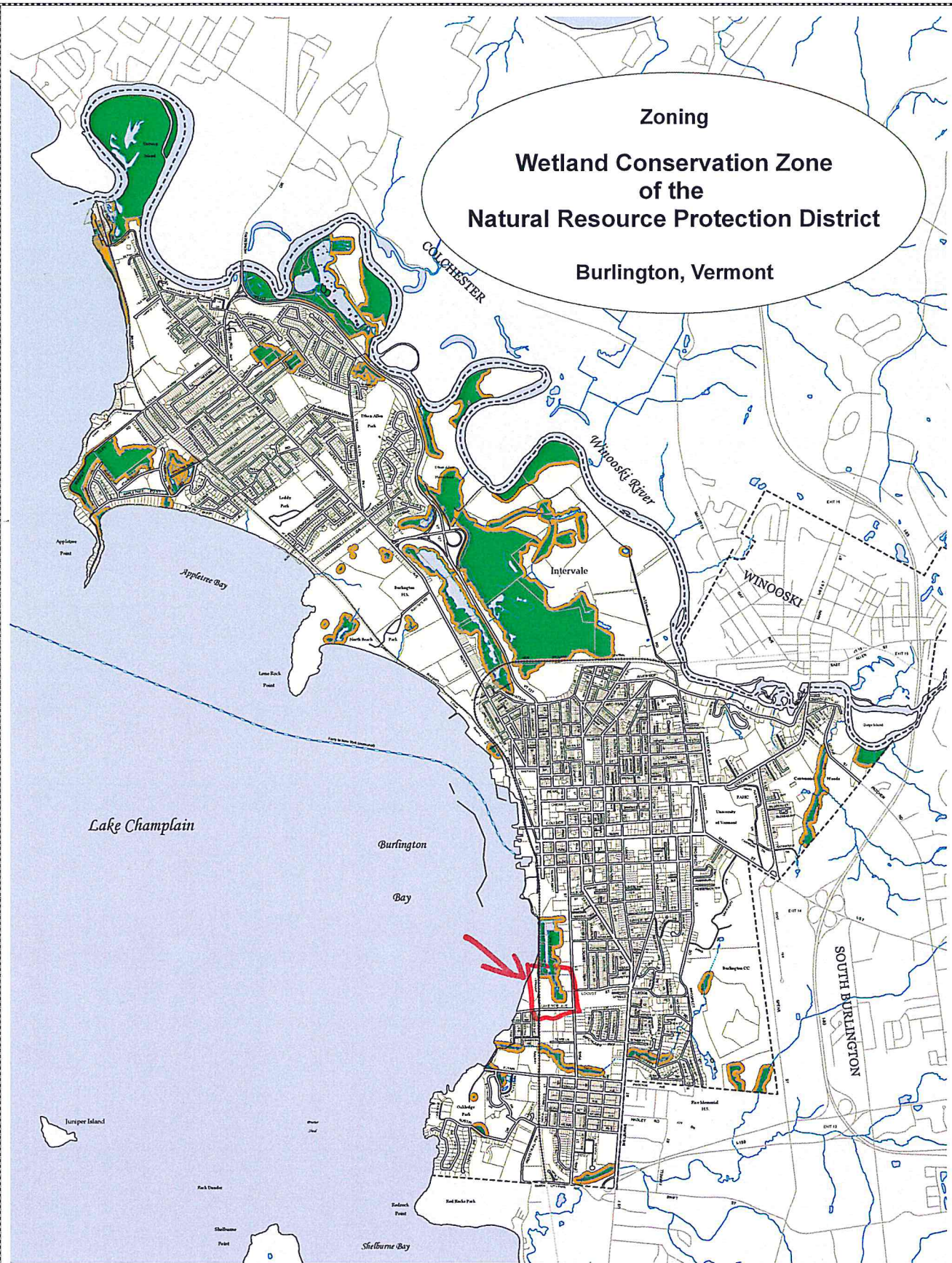
DEPARTMENT OF
PLANNING & ZONING







Zoning
Wetland Conservation Zone
of the
Natural Resource Protection District
Burlington, Vermont



2,000 1,000 0 2,000 4,000 6,000 Feet

Legend:

- Wetland
- Vernal Pool
- Buffer

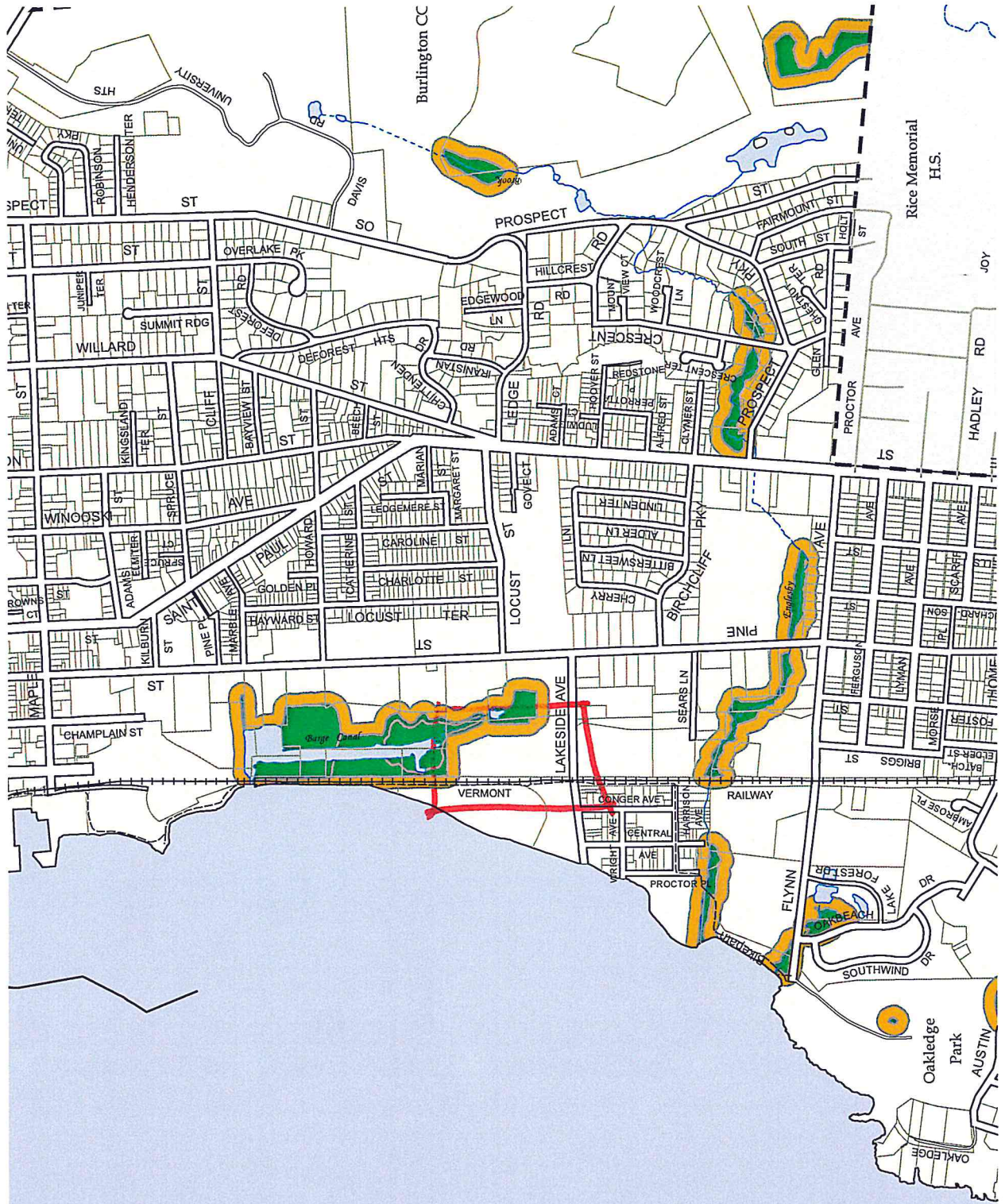
Lake, River or Pond

Stream

City of Burlington GIS
<http://www.burlingtonvt.gov/>



Map Date: 8/15/2012
 MXD Date: 8/15/2012



Bay

Department of Planning and Zoning

149 Church Street
Burlington, VT 05401
<http://www.burlingtonvt.gov/PZ/>
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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
Layne Darfler, Planning Technician
Anita Wade, Zoning Clerk



MEMORANDUM

To: Development Review Board
From: Ryan Morrison
Date: July 18, 2017
RE: ZP17-1076CA; 57 North Winooski Avenue

The DRB hearing for this application is being deferred to a later, to be determined, date. The applicant's have not yet submitted the parking management plan needed in order to consider the parking waiver request.

Burlington Development Review Board

149 Church Street, City Hall
Burlington, VT 05401

www.burlingtonvt.gov/pz/DRB

Telephone: (802) 865-7188

Fax

(802) 865-7195

Austin Hart
Brad Rabinowitz
Israel Smith
AJ LaRosa
Geoff Hand

Alexandra Zipparo

Samantha Tilton

Jim Drummond, (Alternate)

Robert Purvee, (Alternate)



BURLINGTON DEVELOPMENT REVIEW BOARD Tuesday July 18, 2017, 5:00 PM Contois Auditorium, City Hall, 149 Church St, Burlington, VT MINUTES

Board Members Present: Austin Hart, Brad Rabinowitz, Israel Smith, A.J. LaRosa, Geoff Hand, Alexandra Zipparo, Samantha Tilton, Robert Purvee (Alt.),

Board Members Absent: Jim Drummond (Alt.)

Staff Present: Scott Gustin, Mary O'Neil, Ryan Morrison, Layne Darfler

I. Agenda

57 North Winooski requested deferral to August 15th

43 Starr Farm Road requested deferral to later date

II. Communications

None

III. Minutes

Board accepts previous meeting minutes

IV. Consent

1. 17-1076CA; 57 North Winooski Ave (RH, Ward 2C) Elango Del

Convert 3 unit to 4 unit with one or two parking space waiver.

(Project Manager: Ryan Morrison)

A.Hart: Request from applicant to defer to a later date

R.Morrison: Confirms; deferral to August 15th

A.Hart: Motion to defer to August 15th

B.Rabinowitz Seconds the motion

7-0-0

2. 17-1290CA; 212 Elmwood Avenue (RM, Ward 2C) Champlain Housing Trust

Amend condition # 4 of ZP17-0914CA requiring utilities serving the replacement home to be placed underground. Applicant requests allowance to utilize the existing above-ground electric wires that have served the property to continue to be used for the replacement home.

(Project Manager Ryan Morrison.)

G.Hand recused

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

None

A.Hart: Do any Board member object to this project remaining consent or have any further questions?

B.Rabinowitz: Does not object but wants to comment; putting utilities on underground may be less economical but is much neater. In zoning regulations the language is wherever practical to place wiring underground.

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

None

I.Smith: Motion to grant request to amend condition #4 to allow using above ground electrical wiring and adopt staff findings and recommendations

A.LaRosa Seconds the motion

6-0-0

3. 17-1024FC/CU; 128 Lakeside Avenue (ELM, Ward 5S) Fortieth Burlington LLC

Add fence on eastern parking lot side of property- location within a wetland buffer.

(Project Manager: Ryan Morrison)

I.Smith, G.Hand, and A.LaRosa recused

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

None

A.Hart: Do any Board member object to this project remaining consent or have any further questions? Members of the public that wish to comment or have questions regarding the project?

None

A.Hart: This project is to replace a row of a hedge with a fence, why is the fence needed? Is the hedge dead or dying?

R.Morrison: Confirmed the hedge is dying

B.Rabinowitz: Motion to approve and adopt staff findings and recommendations

A.Zipparo Seconds the motion

5-0-0

V. Public Hearing

1. 17-1267AP; 43 Starr Farm Road (RL, Ward 4N) DINSE / Ventas Realty

Appeal of zoning violation notice #334328.

(Project Manager: Jeanne Francis)

A.Hart recuses, B.Rabinowitz Chair for this item

B.Rabinowitz: Request for deferral was made, was there a specific date the appellants want to move to?

S.Gustin: No specific date picked out, August 15th is full. Recommend September 9th.

G.Hand: Motion to move item to September 5th

A.LaRosa Seconds the motion

6-0-0

VI. Other Business

1. Annual Reorganization

DRB Clerk – Layne Darfler

Chair – Austin Hart

Vice Chair – Brad Rabinowitz

Ordinance Committee representative – Robert Purvee

Long Range Planning Committee representative – AJ LaRosa

All votes were unanimous.

2. Report from City Attorney's Office on Recent Settlement

G.Hand Recused

K.Sturtevant went over the Town Center resolution that was received by the City Attorney's Office; Resolution was reached, signed judgment order was received with stipulated facts and stipulated order. Order keeps intact the March 17th DRB decision regarding the lower level parking adding 200 spaces.

A.Hart: What was there before?

S.Gustin: Presented below grade plans

A.Hart: Does it involve more excavation than previously proposed?

Confirmed

R.Purvee- There is storm water flooding in basement, does that effect in any way?

S.Gustin: No exterior changes are pretty minimal

I.Smith: Any expansion of parking on edge of outside wall?

S.Gustin: Plans are unchanged except for entry ramp

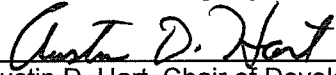
K.Sturtevant: Changes include parking and entrance

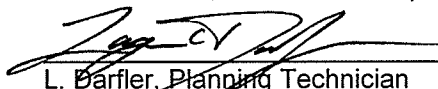
S.Tilton: How many parking spaces in total?

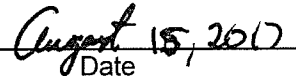
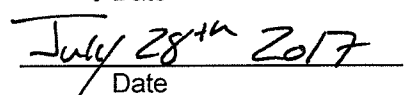
S.Gustin: 200. Required to have 735; the original application was for 761, now they have 961.

VII. Adjournment

The meeting adjourned at 5:32


Austin D. Hart, Chair of Development Review Board


L. Barfler, Planning Technician


Date

Date

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

Participation in the DRB proceeding is a prerequisite to the right to take any subsequent appeal. Please note that ANYTHING submitted to the Planning and Zoning office is considered public and cannot be kept confidential. This may not be the final order in which items will be heard. Please view final Agenda, at www.burlingtonvt.gov/pz/dr/ agendas or the office notice board, one week before the hearing for the order in which items will be heard.